

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF NORSTAN NETWORK)	
SERVICES, INC. FOR AUTHORITY TO)	CASE NO.
OPERATE AS A LONG DISTANCE RESELLER)	92-041
IN KENTUCKY)	

O R D E R

This matter arising upon petition of Norstan Network Services, Inc. ("Norstan Network") filed May 18, 1992 pursuant to 807 KAR 5:001, Section 7, for confidential protection of Norstan Network's agreements with US Sprint on the grounds that disclosure of the information is likely to cause Norstan Network competitive injury, and it appearing to this Commission as follows:

Norstan Network is seeking authority in these proceedings to operate as a non-facilities based reseller of interexchange telecommunications services. On March 24, 1992, the Commission ordered Norstan Network to furnish certain information relating to its application. Included in the information furnished was a Bulk Services Agreement with US Sprint dated April 27, 1990 and an amendment to the agreement dated September 19, 1991. By this petition, Norstan Network seeks to protect these agreements as confidential.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS

61.878(1). That section of the statute exempts 10 categories of information. One category exempted in subparagraph (b) of that section is commercial information confidentially disclosed to the Commission. To qualify for that exemption, it must be established that disclosure of the information is likely to cause substantial competitive harm to the party from whom the information was obtained. To satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

The interexchange telecommunications market is a highly competitive industry with several facility-based interexchange carriers and nonfacility-based resellers operating in Kentucky. Norstan Network will be required to compete with all interexchange carriers and resellers who operate in this state. Norstan Network contends that, if the information sought to be protected is not treated as confidential, its competitors will be able to learn the cost of the interexchange services which it purchases from US Sprint for resale to end-users. This information would enable Norstan Network's competitors to set their rates and services so as to effectively exclude Norstan Network from the Kentucky interexchange market.

The agreement containing the information sought to be protected sets forth the terms and conditions under which Norstan Network will obtain from US Sprint the telecommunications services which Norstan Network plans to resell to its customers. While US

Sprint provides those services under published tariffs which are a matter of public record, the discount that US Sprint may negotiate, although permitted under those tariffs, are apparently not a matter of public record. Therefore, knowledge of the discount agreed to between Norstan Network and US Sprint would provide Norstan Network's competitors insight into its costs in acquiring those services and therefore such information should be protected as confidential. That information is specifically found on the first page of Schedule A under the column designated BSA Discounts and on the first page of the amended Schedule A under the two columns designated BSA Discounts. The remaining information sought to be protected consists of general terms and conditions agreed to by Norstan Network and US Sprint, the disclosure of which would not provide any information of competitive value and is not entitled to protection.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The information in the columns designated as BSA Discounts in Schedule A and Schedule A as amended to the Bulk Services Agreement between Norstan Network and US Sprint, which Norstan Network has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.


2. The petition to protect as confidential other provisions of the Bulk Services Agreement be and is hereby denied.

3. Norstan Network shall, within 20 days from the date of this Order, file an edited copy of its Bulk Services Agreement

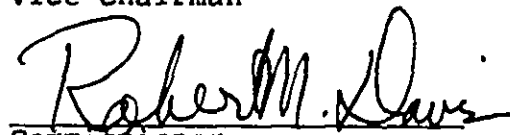
with US Sprint with the information protected as confidential by this Order obscured for inclusion in the public record.

Done at Frankfort, Kentucky, this 6th day of July, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director, Acting