

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CUMBERLAND CELLULAR)
PARTNERSHIP FOR ISSUANCE OF A)
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY TO CONSTRUCT A) CASE NO. 92-135
CELLULAR CELL SITE (COLUMBIA) IN)
RURAL SERVICE AREA #5 (BARREN) OF)
THE COMMONWEALTH OF KENTUCKY)

O R D E R

This matter arising upon petition of Cumberland Cellular Partnership ("Cumberland Cellular") filed March 30, 1992 pursuant to 807 KAR 5:001, Section 7, for confidential protection of the cost of constructing and operating its Columbia cell site on the grounds that disclosure of the information is likely to cause Cumberland Cellular competitive injury, and it appearing to this Commission as follows:

As part of its application for a Certificate of Public Convenience and Necessity to construct a cellular cell site near Columbia in Rural Service Area #5, Cumberland Cellular has submitted as Exhibit A the cost of constructing and operating the cell site. Cumberland Cellular maintains that this information should be protected on the grounds that disclosure is likely to cause it competitive injury.

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.

Although cellular telephone companies operate in a competitive market, each cellular company faces only one other operator in the service area in which it is authorized to provide service. Since every cellular company must file the same information with the Commission, no competitive advantage is gained by making that information public. Therefore, disclosure of the information is not likely to cause Cumberland Cellular competitive injury and the petition should be denied.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

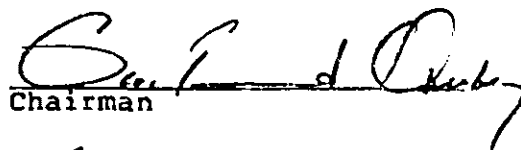
1. The petition to protect as confidential Cumberland Cellular's cost of constructing and operating its Columbia cell site be and is hereby denied.

2. The information sought to be protected shall be held and retained by this Commission as confidential and shall not be open for public inspection for a period of 20 days from the date of

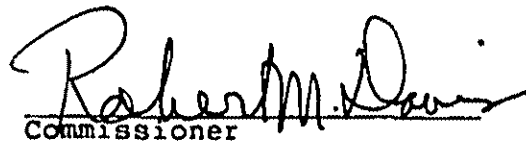
this Order, at the expiration of which it shall be placed in the public record without further Order of the Commission.

Done at Frankfort, Kentucky, this 18th day of May, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director, Acting