

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF MOUNTAINEER CELLULAR)	
GENERAL PARTNERSHIP FOR)	CASE NO.
CONFIDENTIAL TREATMENT OF ITS)	92-147
1991 ANNUAL REPORT)	

O R D E R

This matter arising upon petition of Mountaineer Cellular General Partnership ("Mountaineer Cellular") filed April 30, 1992 for confidential protection of portions of its 1991 Annual Report on the grounds that disclosure of the information is likely to cause Mountaineer Cellular competitive injury, and it appearing to this Commission as follows:

In this petition, Mountaineer Cellular seeks to protect as confidential the information contained on pages 7, 8, 9, 10, 11, 12, 13, and 14 of its 1991 Annual Report. The information sought to be protected consists of Mountaineer Cellular's cost and investments in its capitalization. The information sought to be protected is not generally known outside of Mountaineer Cellular's business and is known only to Mountaineer Cellular's employees who have a business need to know the information. Mountaineer Cellular seeks to preserve and protect the confidentiality of the information through all appropriate means.

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 the cellular telephone companies operate in a competitive market, each cellular company faces competition from only one other operator in the service area in which they are both authorized to provide service. Since both cellular companies are required to file the same information, public disclosure of the information does not provide a competitive advantage to either company. Therefore, the petition for confidentiality should be denied.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:


1. The petition to protect as confidential the financial information contained on pages 7 through 14 of Mountaineer Cellular's 1991 Annual Report 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 disclosure 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