

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF CONTEL CELLULAR OF)
LOUISVILLE, INC. FOR CONFIDENTIAL) CASE NO. 92-153
TREATMENT OF ITS 1991 ANNUAL REPORT)

O R D E R

This matter arising upon petition of Contel Cellular of Louisville, Inc. ("Contel Cellular") filed April 30, 1992 pursuant to 807 KAR 5:001, Section 7, for confidential protection of its 1991 Annual Report and its 1991 Report of Gross Operating Revenues on the grounds that disclosure of the information is likely to cause Contel Cellular competitive injury, and it appearing to this Commission as follows:

Contel Cellular has petitioned the Commission for confidential protection of certain financial information in its 1991 Annual Report and 1991 Report of Gross Operating Revenues on the grounds that such information could be used by its competitors in structuring their rates and marketing their services in a manner that would preclude Contel Cellular from competing effectively for customers. The information sought to be protected is not generally known and is disclosed only to those Contel Cellular employees who have a business need to know the information.

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 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 the information public. Therefore, disclosure of the information is not likely to cause Contel Cellular competitive injury and the petition should be denied.

Furthermore, the information sought to be protected is presented by Contel Cellular in summary form. It is therefore too general in nature for a competitor to derive any significant benefit.

This Commission being otherwise sufficiently advised,

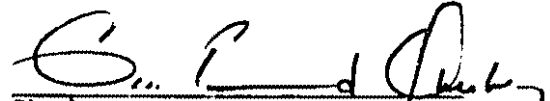
IT IS ORDERED that:

1. The petition to protect as confidential the 1991 Annual Report and 1991 Report of Gross Operating Revenues filed by Contel Cellular 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