

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PHOENIX NETWORK, INC.	)	
	)	
_____	)	CASE NO.
	)	92-172
ALLEGED VIOLATION OF KRS 278.020	)	
AND KRS 278.160	)	

O R D E R

This matter arising upon petition of Phoenix Network, Inc. ("Phoenix Network") filed August 27, 1992 pursuant to 807 KAR 5:001, Section 7, for confidential protection of the customer information filed in accordance with Paragraph 4 of the Settlement Agreement approved July 22, 1992 on the grounds that disclosure of the information is likely to cause Phoenix Network competitive injury, and it appearing to this Commission as follows:

In a Settlement Agreement approved by the Commission on July 22, 1992, Phoenix Network agreed to provide a list of the names and addresses of its customers entitled to receive a refund or a credit pursuant to the agreement. By this petition, Phoenix Network seeks to protect the names and addresses of those customers from public disclosure.

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.

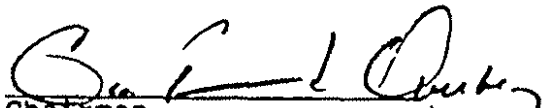
Competitors of Phoenix Network could use the information sought to be protected to identify customers of Phoenix Network and to market their competing services toward them. Therefore, the information has competitive value and should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that the names and addresses of the customers filed in accordance with the Settlement Agreement approved July 22, 1992, which Phoenix 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.

Done at Frankfort, Kentucky, this 21st day of September, 1992.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director