

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TELECARE, INC.	)	
_____	)	
ALLEGED VIOLATION OF	)	CASE NO. 92-351
KRS 278.020 AND KRS 278.610	)	

O R D E R

This matter arising upon petition of Telecare, Inc. ("Telecare") filed December 1, 1992 pursuant to 807 KAR 5:001, Section 7, for confidential protection of the customer names filed with the Commission pursuant to a Settlement Agreement approved by the Commission in its Order of October 1, 1992 on the grounds that disclosure of the information is likely to cause Telecare competitive injury, and it appearing to this Commission as follows:

Telecare is a seller of long-distance services presently authorized to operate in this state. Prior to receiving such authorization, however, Telecare offered its services to residents of this state and was ordered to show cause for failing to comply with the applicable statutes and regulations. The dispute was settled by agreement between Telecare and Commission staff approved by the Commission by Order entered October 1, 1992. As part of the agreement, Telecare agreed to refund to its customers all amounts collected prior to receiving its grant of authority to provide long-distance services in this state. The Settlement Agreement also directed Telecare to file monthly reports detailing the

customer names and amounts refunded. By this petition, Telecare seeks to protect the names of the customers contained in the monthly reports presently on file and those to be filed in the future.

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 11 categories of information. One category exempted in subparagraph (c) 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.


Telecare faces competition for its services from both providers of long-distance telecommunications service and other resellers of long-distance telecommunications services. The customer list sought to be protected would enable Telecare's competitors to identify Telecare's high usage customers and then direct their marketing efforts toward them. Therefore, disclosure of the information is likely to cause Telecare competitive injury and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that the customer names now on file or to be filed in the future pursuant to the Order of October 1, 1992, which Telecare 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 13th day of January, 1993.


PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director