

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EASTERN TELECOM )  
CORPORATION FOR A CERTIFICATE OF )  
PUBLIC CONVENIENCE AND NECESSITY ) CASE NO. 93-356  
TO RESELL TELECOMMUNICATIONS )  
SERVICES IN THE STATE OF KENTUCKY )

O R D E R

This matter arising upon petition of Eastern Telecom Corporation ("Eastern Telecom") filed December 22, 1993, pursuant to 807 KAR 5:001, Section 7, for confidential protection of its contract with RCI Long Distance, Inc., for the provision of operator services on the grounds that disclosure of the information is likely to cause Eastern Telecom competitive injury and it appearing to this Commission as follows:

Pursuant to an Order of the Commission, Eastern Telecom was directed to respond to certain data requests relative to its application for a certificate of public convenience and necessity. The data requests sought copies of any contract Eastern Telecom has with underlying carriers, contractors, or other operator services providers for the provision of operator services in this state. In compliance with that request Eastern Telecom has filed a copy of its contract with RCI Long Distance, Inc. which it now seeks to protect as confidential.

The information sought to be protected is not known outside Eastern Telecom. Employees and others involved in Eastern

Telecom's business do not have access to the information except on a need-to-know basis.

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.

Eastern Telecom's competitors are other resellers of intra-state telecommunications services in this state. Such competitors could use this information to negotiate more favorable terms with other providers of operator services and thereby gain a competitive advantage over Eastern Telecom. The information, therefore, has competitive value and should be protected as confidential.

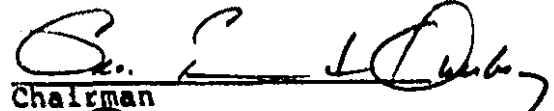
This Commission being otherwise sufficiently advised,

IT IS ORDERED that the contract by Eastern Telecom for the provision of operator services, which Eastern Telecom 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 12th day of January, 1994.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director