

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF VISTA INTERNATIONAL)
COMMUNICATIONS, INC. FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY TO) CASE NO. 93-367
OPERATE AS A RESELLER OF TELECOMMUNICA-)
TIONS SERVICES WITHIN THE COMMONWEALTH)
OF KENTUCKY)

O R D E R

This matter arising upon a combined request of Vista International Communications, Inc. ("Vista") filed January 4, 1994, for reconsideration of the Commission's Order of December 15, 1993, denying confidential protection of Vista's contract with its underlying carrier and a modified petition for confidential protection on the grounds that disclosure of the information sought to be protected is likely to cause competitive injury and it appearing to this Commission as follows:

On December 21, 1993, the Commission approved an application by Vista for a Certificate of Public Convenience and Necessity to provide intrastate, long-distance telecommunications services as a reseller within this state. In granting the application, the Commission considered among other information, a contract between Vista and LDDS Communications, Inc., its underlying carrier, which Vista filed in the record in response to a Commission data request together with the petition to protect the contract in its entirety as confidential. The Commission, on December 15, 1993, denied the petition but ordered that the contract be withheld from the public

record for twenty days to allow Vista to file a new petition. On January 4, 1994, Vista filed this combined request, which unlike the original petition, identifies those portions of the contract which Vista contends are entitled to confidential protection.

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.

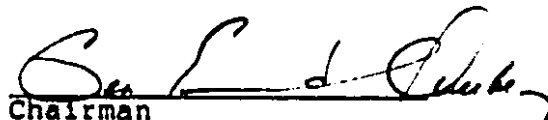
The information sought to be protected provides the length of the contract term between Vista and its underlying carrier and the rate to be charged Vista by the underlying carrier for the services provided. Vista's competitors could use this information to determine Vista's operating costs which would assist them in developing competing market strategies. Therefore, disclosure of the information is likely to cause Vista competitive injury and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

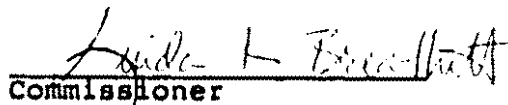
IT IS ORDERED that the term, prices, and cost information contained in the contract with its underlying carrier, which Vista has petitioned to be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 13th day of January, 1994.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director