

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF U.S. DIGITAL NETWORK )  
LIMITED PARTNERSHIP FOR A CERTIFICATE ) CASE NO. 93-479  
TO RESELL TELECOMMUNICATIONS SERVICE )

O R D E R

This matter arising upon petition of U.S. Digital Network Limited Partnership ("U.S. Digital"), filed March 1, 1994, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the customer information contained in Exhibit A of U.S. Digital's application on the grounds that disclosure of the information is likely to cause U.S. Digital competitive injury and it appearing to this Commission as follows:

U.S. Digital has applied for a certificate of public convenience and necessity to operate as a reseller of telecommunications services in this state. In support of its application, U.S. Digital has filed a list of its customers with addresses and each customer's billing and collection records for the period of December 31, 1993 to February 1, 1994 and will file within 10 days of receiving it similar information for the period beginning February 1, 1994 until it receives its certificate. By this petition, U.S. Digital has requested that the customer information now on file and the customer information to be filed in the future be withheld from public disclosure.

The information sought to be protected is treated by U.S. Digital as confidential and is not known outside of U.S. Digital's business. Employees and others involved in U.S. Digital'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.

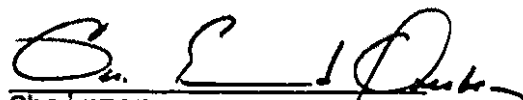
U.S. Digital's competitors could use the information sought to be protected to gain information on U.S. Digital's customers. In particular, competitors could use the information to market their services to U.S. Digital's customers to U.S. Digital's detriment. Therefore, disclosure of the information is likely to cause substantial competitive harm to U.S. Digital and the information should be protected as confidential.


This Commission being otherwise sufficiently advised,

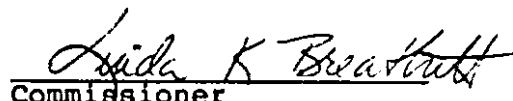
IT IS ORDERED that the customer information contained in Exhibit A to U.S. Digital's amended application, which U.S. Digital has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 14th day of March, 1994.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director