

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF KENTUCKY RSA 3 CELLULAR)
GENERAL PARTNERSHIP, KENTUCKY RSA 4)
CELLULAR GENERAL PARTNERSHIP,) CASE NO. 96-134
CUMBERLAND CELLULAR PARTNERSHIP FOR)
CONFIDENTIAL TREATMENT OF CERTAIN)
PARTS OF THEIR ANNUAL REPORTS)

O R D E R

This matter arising upon joint petition of Kentucky RSA 3 Cellular General Partnership, Kentucky RSA 4 Cellular General Partnership, and Cumberland Cellular Partnership (collectively "Bluegrass Cellular"), filed April 2, 1996 pursuant to 807 KAR 5:001, Section 7, for confidential protection of the customer information contained in their annual reports on the grounds that disclosure of the information is likely to cause Bluegrass Cellular competitive injury, and it appearing to this Commission as follows:

Kentucky RSA 3 Cellular General Partnership, Kentucky RSA 4 General Partnership, and Cumberland Cellular Partnership, although under common ownership and control, are separate entities and are required to file annual reports individually. Included in the reports are the number of customers each of the cellular companies serve in the areas in which they are authorized to operate. By this petition Bluegrass Cellular has requested that this information be protected as confidential on the grounds that disclosure is likely to cause competitive injury.

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 subsection of the statute exempts several categories of information. One category exempted in paragraph (c)1 of that subsection is commercial information confidentially disclosed to the Commission which if made public would permit an unfair commercial advantage to competitors of the party from whom the information was obtained. To qualify for the exemption, 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 cellular telephone market is divided into service areas, each of which is served by two cellular companies. This ensures that customers have a choice of cellular carriers. Bluegrass Cellular maintains that disclosure of the number of customers in each service area served by the companies under its control would enable its competitors easily to determine Bluegrass Cellular's share of the market in those service areas. This service information would not be available to Bluegrass Cellular because its competitors operate in several service areas and their annual reports reveal only the aggregate number of the customers they serve. Therefore, Bluegrass Cellular alleges, as the basis for its petition, that disclosure of the number of customers served by each of the companies under its control would place it at a competitive disadvantage.

While disclosure of the information sought to be protected would reveal Bluegrass Cellular's market share in each of the service areas in which its cellular companies

operate, there is no evidence that the information would have significant value to its competitors. Therefore, the petition to protect the information should be denied.

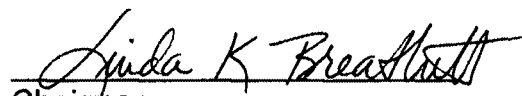
This Commission being otherwise sufficiently advised,

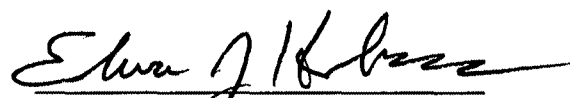
IT IS ORDERED that:

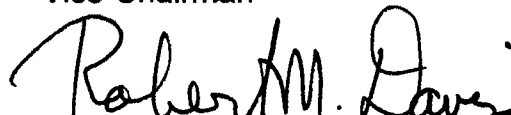
1. The petition to protect as confidential the number of customers in each of the cellular companies' annual reports be and is hereby denied.
2. The information sought to be protected shall be held and retained by the Commission as confidential and shall not be open for public inspection for 20 days from the date of this order, at the expiration of which it shall be placed in the public record without further orders herein.

Done at Frankfort, Kentucky, this 11th day of June, 1996.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director