

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

IN THE MATTER OF THE APPLICATION OF)
A.B.T.S. INTERNATIONAL CORP., d/b/a)
INTELNET FOR PERMISSION, APPROVAL)
AND A CERTIFICATE OF AUTHORITY TO) CASE NO. 96-211
TRANSACTION THE BUSINESS OF A RESELLER)
OF TELECOMMUNICATIONS SERVICES WITHIN)
THE COMMONWEALTH OF KENTUCKY)

O R D E R

This matter arising upon petition of A.B.T.S. International Corp., d/b/a Intelnet ("Intelnet"), filed May 17, 1996, pursuant to KRS 61.878 and 807 KAR 5:001, Section 7, for confidential protection of certain commercial information filed in support of its application for Certificate of Public Convenience and Necessity on the grounds that disclosure of the information is likely to cause Intelnet competitive injury, and it appearing to this Commission as follows:

Intelnet has applied for a Certificate of Public Convenience and Necessity to engage in the business of reselling telecommunication services within this state. Attached to its application, as Appendix A, is Intelnet's statement of income and retained earnings and its balance sheet for the year ending September 30, 1995. By this petition, Intelnet seeks to protect as confidential the amounts assigned to each category of those documents. Intelnet maintains that disclosure of the information is likely to

cause it competitive injury and, therefore, the information qualifies for protection under the provisions of KRS 61.878(1)(b)¹.

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.

The petition filed by Intelnet does not identify its competitors who would benefit from the information, nor does it demonstrate how the information could be used by competitors. Therefore, Intelnet has not established that the information is entitled to be protected under the statute and confidentiality of the information should be denied.

This Commission being otherwise sufficiently advised,

IT IS ORDERED:

1. The petition to protect as confidential the financial information appended to Intelnet's application for Certificate of Public Convenience and Necessity is hereby denied.


¹ KRS 61.878 was amended by the 1994 General Assembly and it would appear from the petition that the exemption relied upon by Intelnet under the current statute is contained in KRS 61.878(1)(c).

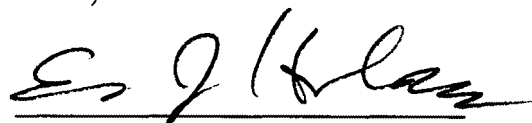
2. The information sought to be protected shall be held and retained by this Commission as confidential and shall not be opened for public inspection for a period of 20 days from the date of this order to allow Intelnet an opportunity to file a petition in conformity with the requirements of the statute.

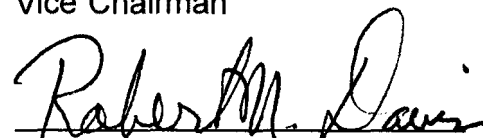
3. If at the expiration of the 20 day period no petition is filed, the information shall, without further orders herein, be placed in the public record.

Done at Frankfort, Kentucky, this 13th day of June, 1996.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director