

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REQUEST FOR CONFIDENTIAL TREATMENT )  
OF THE CAPITAL BUDGET INFORMATION ) CASE NO. 96-283  
FILED WITH THE COMMISSION ON )  
JUNE 19, 1996 )

O R D E R

This matter arising upon petition of BellSouth Telecommunications, Inc. ("BellSouth"), filed June 19, 1996, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the budget amounts provided in the 1996 BellSouth Capital Budget on the grounds that disclosure is likely to cause BellSouth competitive injury and it appearing to this Commission as follows:

BellSouth has filed its 1996 Capital Budget for this State in response to a request from Commission staff. The information provides the amount of capital BellSouth plans to invest in specific areas of its operations and BellSouth has petitioned that these amounts be protected as confidential.

The information sought to be protected is not known outside of BellSouth and is not disseminated within BellSouth except to those employees who have a legitimate business need to know and act upon the information. BellSouth seeks to preserve and protect the confidentiality of the information through all appropriate means, including the maintenance of appropriate security at its offices.

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.

BellSouth's competitors include interexchange service carriers, competitive access providers, and may include in the future cable TV providers.<sup>1</sup> Disclosure of the information sought to be protected would enable BellSouth's competitors to determine its plans for capital deployment. BellSouth's competitors could use this information to plan market strategies for their competitive services to the detriment of BellSouth. Therefore, the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

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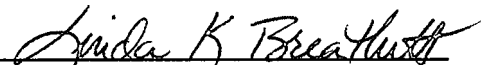
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BellSouth, in its petition, also includes cellular carriers as competitors, however, the Commission has determined because cellular carriers serve only a small and selective segment of telecommunications users they do not, at this time, present a significant competitive threat to BellSouth, or other local exchange carriers.

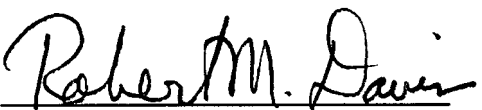
IT IS ORDERED that the budget amounts for BellSouth's 1996 Capital Budget, which BellSouth has petitioned to be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 9th day of July, 1996.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director