

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BELLSOUTH TELECOMMUNICATIONS, INC.'S )  
REQUEST FOR CONFIDENTIAL TREATMENT ) CASE NO. 96-483  
OF INFORMATION FILED IN SUPPORT OF ITS )  
PROPOSED CONTRACT WITH PEPSICO, INC. )

O R D E R

This matter arising upon petition of BellSouth Telecommunications, Inc. ("BellSouth"), filed October 11, 1996, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the cost support data developed in connection with a special service arrangement contract with PepsiCo, Inc. ("PepsiCo") for WATSAVER® Service on the grounds that disclosure of the information is likely to cause BellSouth competitive injury, and it appearing to this Commission as follows:

BellSouth has entered into a contract service arrangement with PepsiCo for WATSAVER® Service. In support of the contract BellSouth has submitted cost information which it seeks to protect 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 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 for WATSAVER® Service are interexchange carriers.<sup>1</sup> Disclosure of the information sought to be protected would enable its competitors to determine BellSouth's cost and contribution from the service, which they could use in marketing their competing services to the detriment of BellSouth. Therefore, disclosure of the information is likely to cause BellSouth competitive injury, and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that the cost support data filed in support of the proposed contract with PepsiCo for WATSAVER® Service, which BellSouth has petitioned to be withheld from

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BellSouth also maintains in its petition that in addition to interexchange carriers its competitors for WATSAVER® Service include cellular carriers. However, because cellular carriers currently serve only a limited market, the services they offer do not compete significantly with those offered by BellSouth.

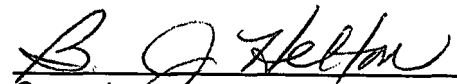
public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 14th day of November, 1996.

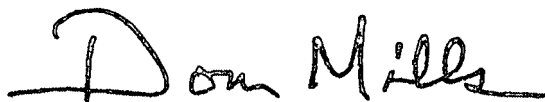
PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director