

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION BY AMERICAN COMMUNICATIONS )  
SERVICES, INC., AND CERTAIN OF ITS LOCAL )  
EXCHANGE OPERATING SUBSIDIARIES FOR )  
ARBITRATION WITH GTE SOUTH, INC. AND )  
CONTEL OF KENTUCKY, INC. PURSUANT TO )  
THE TELECOMMUNICATIONS ACT OF 1996 )

CASE NO. 96-467

O R D E R

This matter arising upon petition of American Communications Services, Inc. ("ACSI"), filed November 21, 1996, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the financial information in Exhibit 8 to the testimony of Dr. Marvin Kahn on the grounds that disclosure of the information is likely to cause ACSI competitive injury , and it appearing to this Commission as follows:

Pursuant to the Telecommunications Act of 1996 ("the Act"); ACSI has petitioned the Commission to arbitrate its dispute with GTE South Incorporated and Contel of Kentucky, Inc. ("GTE South") over the rates they will be permitted to charge ACSI for the use of their facilities in providing local telephone service. As part of the proceeding, ACSI has submitted the rebuttal testimony of Dr. Marvin Kahn. Attached to that testimony as Exhibit 8 is certain financial information that was furnished to ACSI by GTE South. This information concerns the calculation of rates and charges for interim number portability. GTE South generally regards this information as proprietary and has furnished it to ACSI under a confidentiality agreement.

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 several categories of information. One category exempted in paragraph (c)1 of that section is commercial information confidentially disclosed to the Commission which if made public would permit an unfair commercial advantage to competitors of the party for whom the information originated. To qualify for the exemption, actual competition must be established and must be demonstrated that disclosure of information is likely to cause the source of the information competitive injury.

The financial information sought to be protected would enable GTE South's competitors to determine GTE South's cost of doing business in the competitive market such as that envisioned by the Act of 1996. Such information would provide GTE South competitors with an unfair business advantage to the detriment of GTE South. Therefore, the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that the financial information attached to the testimony of Dr. Marvin Kahn as Exhibit 8, which ACSI 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 10th day of January, 1997.

PUBLIC SERVICE COMMISSION

Janita K. Breadwell  
Chairman

Errol Long  
Vice Chairman

B. J. Helton  
Commissioner

ATTEST:

Don Mills  
Executive Director