

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION BY AMERICAN COMMUNICATIONS )  
SERVICES, INC., AND ITS LOCAL EXCHANGE )  
OPERATING SUBSIDIARIES, FOR ARBITRATION ) CASE NO. 96-467  
WITH GTE SOUTH, INC. AND CONTEL OF )  
KENTUCKY PURSUANT TO THE TELECOM- )  
MUNICATIONS ACT OF 1996 )

O R D E R

This matter arising upon petition of GTE South Incorporated ("GTE South"), filed December 20, 1996, pursuant to 807 KAR 5:001, Section 7, for confidential protection of cost studies and supporting documentation filed in response to the Commission's request on the grounds that disclosure of the information is likely to cause GTE South competitive injury, and it appearing to this Commission as follows:

During the course of the arbitration proceeding between GTE South and American Communications Services, Inc. ("ACSI"), the Commission requested GTE South file additional information as a late-filed exhibit. Specifically, the Commission requested GTE South to provide a cost comparison between the use of non-integrated digital loop carriers and the use of next generation digital loop carriers for unbundled loops. In providing the information, GTE South has petitioned to protect the cost studies as confidential.

The information sought to be protected is neither known outside of GTE South nor provided to the public, and its internal use is restricted to those employees who have a

legitimate business reason for reviewing it. GTE South attempts to control the dissemination of this material through all reasonable means.

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 recent enactment by Congress of the 1996 Telecommunications Act establishes competition in the local exchange market. In fact, a purpose of this arbitration is to establish the rates GTE South will be permitted to charge ACSI for the use of GTE South's facilities in providing a competing service in areas currently serviced by GTE South. The cost study information sought to be protected would enable ACSI and other potential competitors to obtain market information about GTE South and its customers. Competitors could use this information to develop marketing strategies to the detriment of GTE South. Therefore, disclosure of the information is likely to cause GTE South competitive injury, and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that the cost studies and supporting documentation filed in response to the Commission's request, which GTE South 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 23rd day of January, 1997.

PUBLIC SERVICE COMMISSION

Linda K. Brewster  
Chairman

Eric J. Hines  
Vice Chairman

B. J. Helton  
Commissioner

ATTEST:

Don Mills  
Executive Director