

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BELLSOUTH TELECOMMUNICATIONS, INC.'S )  
REQUEST FOR CONFIDENTIAL TREATMENT ) CASE NO. 97-031  
OF INFORMATION FILED IN SUPPORT OF ITS )  
CONTRACT FOR INTERCEL )

O R D E R

This matter arising upon petition of BellSouth Telecommunications, Inc. ("BellSouth"), filed January 23, 1997, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the cost support data developed in connection with BellSouth's special service arrangement contract with INTERCEL for MegaLink® 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 with INTERCEL to provide MegaLink® service. In support of its application for approval of the contract, BellSouth has provided cost data which it seeks to protect as confidential.

The information sought to be protected is not known outside BellSouth and is not disseminated within BellSouth except to those employees with a legitimate business need to know and to 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 section of the statute exempts 11 categories of information. One category exempted in subparagraph (c) 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 from whom the information was obtained. To qualify for that exemption, it must be established that disclosure of the information is likely to cause substantial competitive harm to the party from whom the information was obtained. To satisfy this test, 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.

MegaLink® service is a private line service. BellSouth's competitors for private line networks are providers of microwave service, digital radio, and fiber networks. Disclosure of the information would enable its competitors to determine BellSouth's cost and contribution from the service. BellSouth's competitors could use the information to market their competitive service 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 developed by BellSouth in connection with its special service arrangement contract with INTERCEL for MegaLink® service, 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 24th day of February, 1997.

PUBLIC SERVICE COMMISSION

Aida K. Breathitt  
Chairman

Elmer J. Hines  
Vice Chairman

B. J. Helton  
Commissioner

ATTEST:

Don Mills  
Executive Director