

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INQUIRY INTO THE STATE ) CASE NO. 2016-00059  
UNIVERSAL SERVICE FUND )

ORDER

On September 15, 2016, KDDI America, Inc. ("KDDI America") filed a motion, pursuant to KRS 61.878 and 807 KAR 5:001, Section 13, requesting that certain materials contained in its response to Commission Staff's Second Request for Information ("Staff's Second Request"), Item 1, Exhibit A, be afforded confidential treatment for an indefinite period of time. The designated materials are more particularly described as the total number of access lines KDDI America had in service in Kentucky, the amount of surcharge remitted to the Kentucky Universal Service Fund ("USF"), and the amount of reimbursement requested from Kentucky USF for providing Lifeline service, which is contained on Lines 1, 3, and 5, respectively, on the Commonwealth of Kentucky Universal Service Fund forms ("KUSF Form") submitted by KDDI America for January 2014 through June 2016.

In support of this motion, KDDI America argues that the designated materials on Lines 1, 3, and 5 of the KUSF Forms are commercially sensitive and proprietary information that provides potential competitive market opportunity information that competitors could use to target KDDI America's customers in the service area. KDDI America asserts that public disclosure of the designated materials would permit an unfair commercial advantage to KDDI America's competitors, and thus these materials

are generally recognized as confidential and are exempt from public disclosure pursuant to KRS 61.878(1)(c)(1).

Having carefully considered the petition and the materials at issue, the Commission finds that the designated materials on Lines 1, 3, and 5 of the KUSF Form are not materials that meet the criteria for confidential treatment under KRS 61.878(1)(c)(1). KRS 61.878(1)(c)(1) applies to material generally recognized as confidential or proprietary, which would permit an unfair commercial advantage to competitors if openly disclosed. The Commission finds that KDDI America has not established that disclosure of these materials could result in an unfair commercial advantage to its competitors, as the total number of KDDI America's subscriber lines is publicly available from other sources.

Pursuant to KRS 278.140, utilities are required annually to file with the Commission a report of gross earnings from intrastate business. In these reports, telecommunications carriers are required to report the number of access lines, as well as their annual revenue derived from intrastate business. KDDI America began filing these reports in 2007, has included the number of its access lines in the report, and has neither sought nor received confidential treatment for this information. These gross earnings reports are public records, available for public inspection. Therefore, because the information for which KDDI America seeks confidential protection is publicly available elsewhere, KDDI America has failed to demonstrate that designated materials meet the criteria for confidential treatment pursuant to KRS 61.878(1)(c)(1), and its request for confidential treatment of the designated materials should be denied.

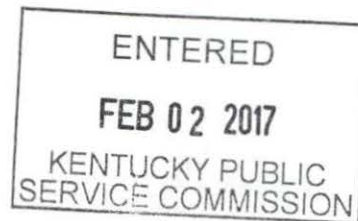
IT IS THEREFORE ORDERED that:

1. KDDI America's motion for confidential protection for its response to Staff's Second Request, Item 1, Exhibit A, is hereby denied.

2. Within seven days of the date of this Order, KDDI America shall file a revised version of its response to Staff's Second Request, Item 1, Exhibit A, for which confidential protection was denied, reflecting as unredacted the information that has been denied confidential treatment.

3. The materials for which KDDI America's request for confidential treatment has been denied shall neither be placed in the public record nor made available for inspection for 20 days from the date of this Order in order to allow KDDI America to seek a remedy afforded by law.

By the Commission



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