

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SOUTH CENTRAL TELCOM LLC)
)
 Complainant)
)
 v.)
)
 WINDSTREAM KENTUCKY)
 EAST, INC.)
)
 Defendant)

Case No. 2008-126

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PUBLIC SERVICE
COMMISSION

**PETITION FOR CONFIDENTIAL TREATMENT OF CERTAIN INFORMATION
IN SOUTH CENTRAL'S AMENDED FORMAL COMPLAINT**

South Central Telcom LLC ("South Central"), by counsel, pursuant to 807 KAR 5:001 §7 and KRS 61.878(1)(c)(1), requests that the Public Service Commission of Kentucky ("the Commission") accord confidential treatment to: (i) the specific billing information included within paragraphs 25 through 28, 30, 34, and 53 and Exhibit 5 of South Central's amended formal complaint (the "Amended Complaint"); (ii) the routing and account numbers contained within Exhibit 5 to the Amended Complaint; (iii) the specific billing information, and information related to a company that is not a party to this matter, contained in Exhibit 6 of the Amended Complaint; and (iv) the bills attached as Exhibits 3 and 4 to the Amended Complaint (collectively, the "Information").¹ In support of its motion, South Central states as follows.

¹ Pursuant to 807 KAR 5:001 §7(2)(a)(2), a copy of the Information, highlighted in transparent ink, is attached to the original (only) of this motion. South Central notes that all of the material within Exhibits 3 and 4 is confidential and, in the interest of efficiency, South Central did not highlight the Information contained within those exhibits, but instead asks that the Commission treat the entirety of those exhibits as confidential.

I. Applicable Law.

807 KAR 5:001 §7(2) sets forth a procedure by which certain information filed with the Commission may be treated as confidential. Specifically, the party seeking such confidential treatment of certain information must "[set] forth specific grounds pursuant to KRS 61.870 et seq., the Kentucky Open Records Act, upon which the commission should classify that material as confidential." 807 KAR 5:001 §7(2)(a)(1).

The Kentucky Open Records Act, KRS 61.870 et seq., exempts certain records from the requirement of public inspection. See KRS 61.878. In particular, KRS 61.878 provides as follows:

- (1) The following public records are excluded from the application of [the Open Records Act] and shall be subject to inspection only upon order of a court of competent jurisdiction:
 - (c) 1. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.

Id.

II. The Information Should Be Classified Confidential.

Read in conjunction, 807 KAR 5:001 §7(2)(a)(1) and KRS 61.878(1)(c)(1) provide that the Commission may classify the Information as confidential if the open disclosure of the Information to the general public "would permit an unfair commercial advantage to competitors of the entity that disclosed the records." See KRS 61.878(1)(c)(1). For the reasons set forth below, the disclosure of the Information to the general public "would permit an unfair

commercial advantage to competitors of [South Central]." *Id.* Accordingly, the Information should be classified as confidential.

In paragraphs 25 through 28, 30, 34, and 53² of the Amended Complaint, South Central refers to specific billing information in the form of monthly facility bills and charges. Exhibits 3³ and 4⁴ to the Amended Complaint are composed entirely of Windstream bills to South Central. Exhibit 5⁵ to the Amended Complaint, a disconnect notice sent from Windstream to South Central, contains specific billing information identifying South Central's facility charges, as well as routing and account numbers for Windstream. Lastly, Exhibit 6⁶ to the Amended Complaint, which consists of correspondence between South Central and Windstream, contains reference to specific billing information and facility charges, as well as similar information related to a company that is not a party to this matter.

The disclosure of this Information to the public would permit South Central's competitors and potential competitors, while investing only minimal amounts of their own time and resources, to use South Central's cost data to reverse-engineer their own rate structure and business development strategy. Additionally, the disclosure of the Information would provide competitors, and potential competitors, with confidential information regarding the financial conditions of South Central, Windstream, and the company that is not a party to this matter (collectively, the "Companies"). Ultimately, competitors' access to such cost data and financial condition information would provide them a blueprint by which they could exploit the Information to gain an unfair competitive advantage and undercut the Companies. If, however, the Commission classifies the Information as confidential, competitors will be rightly forced to

² Pages containing these paragraphs are included as Attachment 1.

³ Included as Attachment 2.

⁴ Included as Attachment 3.

⁵ Included as Attachment 4.

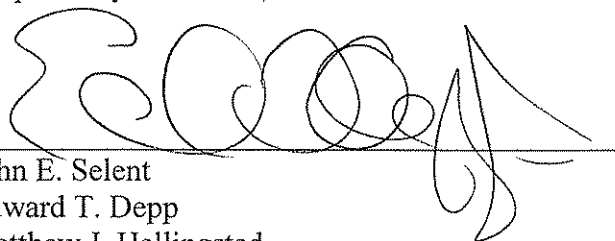
⁶ Included as Attachment 5.

bear their own cost of perpetuating or starting-up their own competitive ventures and developing their own cost structure.

In an abundance of caution, South Central redacted the routing and account numbers located in Exhibit 5 to protect the security of Windstream's finances.

807 KAR 5:001 §7(2)(a)(1) and KRS 61.878(1)(c)(1) expressly authorize the Commission to classify the Information as confidential (and thereby restrict public access to the Information) because the disclosure of the Information to the public would permit an unfair competitive advantage to competitors of the Companies. For the reasons set forth above, the disclosure of the Information will provide competitors with an unfair competitive advantage over the Companies. Accordingly, the Commission should classify the Information as confidential pursuant to 807 KAR 5:001 §7 and KRS 61.878(1)(c)(1) and prevent the public disclosure of the Information.

Respectfully submitted,



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