

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO WHETHER WATS
RESELLERS SHOULD BE INCLUDED IN
THE ULAS ALLOCATION PROCESS

) ADMINISTRATIVE
) CASE NO. 328
)

O R D E R

This matter arising upon petition of AmeriCall Systems of Louisville ("AmeriCall"), filed July 3, 1989 and amended August 17, 1989 pursuant to 807 KAR 5:001, Section 7, for confidential protection of certain information filed in response to the Commission's Order of May 1, 1989, and it appearing to the Commission as follows:

AmeriCall seeks to protect from public disclosure the information filed in response to the Commission's Items 2(a), 2(b), 5(a), 9, 10(a), 10(b), 10(c), 10(d), 13(a) and Confidential Exhibits II and III on the grounds that the information is not known outside the business of AmeriCall and is not customarily disclosed to the public, the information is not disclosed to AmeriCall's employees except on a need-to-know basis, and that disclosure of the information would result in competitive injury to AmeriCall in that its competitors could use the information to implement changes within their existing networks and to disparage AmeriCall.

807 KAR 5:001, Section 7, protects information as confidential when it is established that disclosure will result in

competitive injury to the person possessing the information in that it will provide the possessor's competitors with an unfair business advantage. In other words, the person seeking to protect the information must establish that public disclosure is likely to cause substantial harm to the competitive position of that person and that the benefits to be derived from protection of the information from disclosure outweigh the public's interest in disclosure. AmeriCall, in its petition, has not established that disclosure of the information sought to be protected is likely to cause substantial harm to its competitive position, and therefore the petition should be denied.

Items 2(a) and 2(b) require AmeriCall to identify and describe the services it markets to end-users. This information is included in AmeriCall's published tariffs which are, themselves, a matter of public record. Because this information is a matter of public record elsewhere, it is not entitled to confidential protection in this record.

Exhibit II contains schematic diagrams requested in Item 2(c) of the services rendered to end-users. The methods used to provide these services are generally similar from one company to another, and the information does not have substantial competitive value.

Item 5(a) requires AmeriCall to identify the terminating switched-access services it purchases from local exchange companies. Only a limited number of switched-access services are available to AmeriCall under its certificated authority and they are purchased according to published tariffs filed by the local

exchange companies. These tariffs are open for inspection by AmeriCall, all of its competitors, and anyone having an interest in them. Therefore, disclosure to AmeriCall's competitors of the services purchased by AmeriCall will not hinder its competitive position.

Item 9 requires AmeriCall to provide the percentage of interstate traffic which it carries in each feature group, or as a composite of the whole. The response to Item 9 is contained in Exhibit III and does not provide information as to the actual volume of such traffic. Therefore, its disclosure would not result in competitive injury to AmeriCall, and the information is not entitled to confidential protection.

Items 10(a), 10(b), 10(c), and 10(d) all require AmeriCall to furnish information concerning the services that it purchases from intraLATA carriers. Here again, AmeriCall can only purchase the limited number of those services which are available to it under its certificated authority and these services are purchased according to published tariffs which are matters of public record. Disclosure of this information will not affect AmeriCall's competitive position.

Item 13(a) requires AmeriCall to state whether it owns or operates transmission facilities. This item relates to AmeriCall's certificated authority and AmeriCall has responded to similar questions in other public proceedings. Therefore, AmeriCall's response is now a matter of public record and is not entitled to protection in this proceeding.

This Commission being otherwise sufficiently advised,

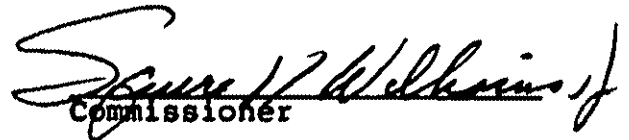
IT IS ORDERED that the petition by Americall to protect from public disclosure the responses to Items 2(a), 5(a), 10(a), 10(b), 10(c), 10(d), and 13(a) filed in response to the Commission's Order dated May 1, 1989 is denied and the information shall be open to public inspection.

Done at Frankfort, Kentucky, this 13th day of September, 1989.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director