

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 motion of LDDS of Kentucky, Inc. and LDDS of Indiana, Inc. (jointly "LDDS") filed September 8, 1989 for reconsideration of the Commission's Order of August 31, 1989 denying confidential protection of certain information filed pursuant to the Commission's data requests in its Order of May 1, 1989, and it appearing to the Commission as follows:

On May 1, 1989, the Commission, by Order, requested each of the parties participating in this proceeding to furnish certain information concerning their operations. Included in the Order were 13 information requests to those parties, including LDDS, identified as WATS resellers. In its original petition for confidentiality, LDDS sought protection of its responses to 9 information requests. In the motion for reconsideration, LDDS seeks protection of its responses to 8 information requests--namely, Items 2(b)-(e), 4, 5, 6, 7, 9, 10, and 12.

Item 2 requires LDDS to identify the services it markets to end-users and for each such service to provide a description of the nature of the service and end-service configuration, a schematic diagram showing an end-to-end service configuration,

whether the service is marketed for interstate use, intrastate use, or combined jurisdictional use, and whether the services marketed for intrastate use are also marketed for interLATA use, intraLATA use, or state-wide use. LDDS does not object to disclosing for public record the services it markets to end-users which are, in fact, identified in its published tariffs, but it does object to disclosing the way in which the networks are assembled to offer these services. LDDS contends that it has expended resources to develop its network configurations, and disclosure of this information would enable competitors of LDDS to determine LDDS's cost of service from which, coupled with LDDS's published rates, competitors could determine LDDS's gross profit margin. This information, in turn, would aid competitors in formulating competitive responses to LDDS's service offerings.

While the network configurations of each service offered by LDDS is not a matter of public record, because of the limited number of services available to WATS resellers, the configurations used to establish a service network are also limited in number. Thus, knowledgeable persons in the industry would be able to reconstruct such configurations from the published descriptions of the services offered and thereby determine the approximate cost to LDDS of furnishing each service. Therefore, the information sought to be protected would not provide information substantially different than what is available now in the public record to LDDS's competitors and its disclosure will not result in competitive injury.

Items 4, 5, 6, and 7 require LDDS to identify the access services purchased from local exchange companies and to indicate whether the services are used in conjunction with intrastate jurisdictional traffic, intrastate interLATA jurisdictional traffic, or intrastate intraLATA jurisdictional traffic. LDDS contends that even though a limited number of access services are available to WATS resellers, the combination of those services in its network should be protected under the same rationale relied upon for protecting the responses to Items 2(b)-(e). However, here again, because of the limited number of access services available to WATS resellers, all of which are sold according to published tariffs, knowledgeable persons in the industry should be able to determine the combination of services acquired by LDDS from a description of the services LDDS offers. Therefore, disclosure of the information would not cause competitive injury to LDDS.

The same reasoning also applies to the information furnished in the response to Items 10 and 11. Therefore, public disclosure of that information will not result in competitive injury to LDDS.

Item 9 requires LDDS to provide the percentage of interstate traffic in each feature group or as a composite as a whole. LDDS in its petition for reconsideration contends that the response contains usage patterns and other specific information which LDDS's competitors could use in their marketing efforts against LDDS. The information, however, is furnished in such general terms that it is highly unlikely to be of significant value to the

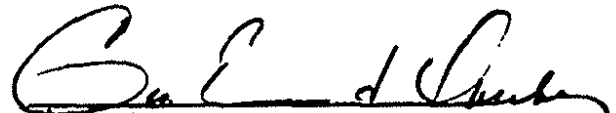
competitors of LDDS for that purpose. Therefore, disclosure of the responses to Item 9 will not result in competitive injury to LDDS.

And this Commission being otherwise sufficiently advised,

IT IS ORDERED that the motion for reconsideration of the Commission's Order of August 31, 1989 be and it hereby is denied.

Done at Frankfort, Kentucky, this 12th day of October, 1989.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director