

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

US SPRINT'S APPLICATION FOR APPROVAL)	CASE NO.
OF FTS 2000 SERVICE )	89-170

O R D E R

This matter arising upon petition of US Sprint Communications Company Limited Partnership ("US Sprint"), filed September 7, 1989 for confidential protection of certain portions of a contract on the grounds that public disclosure will result in competitive injury to US Sprint, and it appearing to this Commission as follows:

US Sprint seeks to protect as confidential portions of a contract it has entered into with the federal government to provide long-distance service under a program referred to as "FTS 2000 Service." The contract was filed pursuant to an August 24, 1989 Order of the Commission requiring US Sprint to file the "Kentucky-specific portion" of the contract. The information which US Sprint has petitioned to be protected as confidential is contained in Exhibit C of the contract, which is a redacted portion of US Sprint's best and final offer submitted to the federal government and which reflects US Sprint's specific plans for the provisioning of the FTS 2000 network in Kentucky. After US Sprint's offer was accepted, Exhibit C was made a part of the contract.

The information for which confidential treatment is requested is network information consisting of network configuration information, access channel capacity, and related data setting forth the network configuration and the capacity which US Sprint expects to use in the provision of FTS 2000 network services in Kentucky. This information would be especially useful to competitors since it would allow them to determine the engineering economics and, thus, the cost of US Sprint's provision of service to locations in this state.

The contract with the federal government of which the information sought to be protected is a part, is effective for a period of 10 years and must be rebid at the end of the fourth and seventh year. The purpose of the rebidding process is to ensure continued competition throughout the life of the contract. The information contained in Exhibit C would be especially useful to potential bid competitors since it would allow them to determine the engineering economics and, thus, the cost to US Sprint of providing service to locations in Kentucky. Knowledge of US Sprint's costs would assist its competitors in preparing their own bids to the disadvantage of US Sprint.

In addition to disadvantaging US Sprint in the rebidding process for the contract, disclosure of the designated information would also work a more generalized competitive harm to US Sprint. Some of the designated confidential information provides a "before and after" look at the impact of FTS 2000 on US Sprint's network capacity. Thus, disclosure of this information would give US Sprint's competitors access to confidential network capacity data

that could be used to US Sprint's competitive disadvantage in various markets quite apart from the FTS 2000 rebidding process.

807 KAR 5:001, Section 7, protects information as confidential when it is established that disclosure will cause substantial competitive harm to the party from whom the information was obtained. In order to satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Since knowledge of the information would improve the ability of US Sprint's competitors to formulate competitive bids for the FTS 2000 contract, and would also provide competitors with information concerning US Sprint's network capacity that would be of substantial competitive value in the market generally, the information should be treated as confidential and proprietary.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

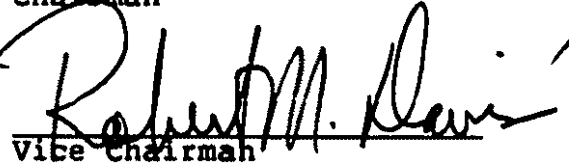
1. The provisions of Exhibit C to the contract between US Sprint and the federal government, which US Sprint has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

2. US Sprint shall, within 10 days from the date of this Order, file an edited copy of the contract with the confidential material obscured for inclusion in the public record, with copies to all parties of record.

Done at Frankfort, Kentucky, this 17th day of October, 1989.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

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Executive Director