

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF FORD COMMUNICATIONS)
FOR A CERTIFICATE OF PUBLIC CONVENIENCE) CASE NO.
AND NECESSITY TO OPERATE AS A RADIO) 89-242
COMMON CARRIER)

O R D E R

This matter arising upon petition of Joe L. Ford, filed August 31, 1989 and amended September 2, 1989 for confidential protection of his personal financial statement, attached as Exhibit G, to the application for Certificate of Public Convenience and Necessity, and for confidential protection of the projected statements of revenue and expenses attached to the application as Exhibits F and H on the grounds that the information contained in the Exhibits are proprietary and confidential, and it appearing to this Commission as follows:

Joe L. Ford has petitioned the Commission for protection from public disclosure of his personal financial statement, attached to the application of Ford Communications for a Certificate of Public Convenience and Necessity as Exhibit G, and for protection from public disclosure of the statements of revenue and expenses attached to the application as Exhibits F and H. Such information filed with the Commission qualifies as a public record as defined by KRS 61.870(2) and is available for public inspection pursuant

to KRS 61.872 unless specifically exempted by statute. KRS 61.878 permits the exclusion from public access of various types of public records including public records containing information of a personal nature and public records containing confidential commercial information.

KRS 61.878(1)(a) exempts "information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy." To satisfy this requirement the party claiming confidentiality must demonstrate that the information is of a personal nature and that the disclosure of the information would be an invasion of the persons personal privacy which outweighs the public's interest in the information.

KRS 61.878(1)(b) exempts from public disclosure confidential commercial information which meets the criteria of the statute. That statute has been interpreted by this Commission in 807 KAR 5:001, Section 7, to protect information as confidential only when it is established that disclosure will result in competitive injury to the party from whom the information was obtained. To satisfy this requirement the party claiming confidentiality must demonstrate actual competition and the likelihood of substantial competitive injury if the information is disclosed.

The motion filed by Joe L. Ford does not state or explain how disclosure of the information sought to be protected will result in either an unwarranted invasion of his personal privacy or in competitive injury and therefore does not meet the requirements of the statute and the regulation.

This Commission being otherwise sufficiently advised,

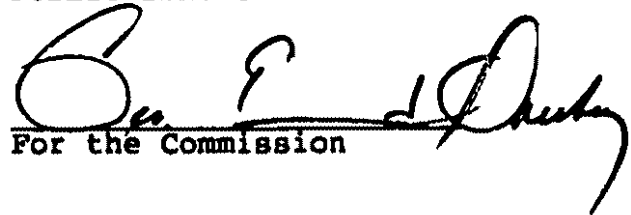
IT IS ORDERED that:

1. The petition by Joe L. Ford for confidential protection of the information contained in Exhibits F, G, and H to the application for Certificate of Public Convenience and Necessity shall be held in abeyance to allow Joe L. Ford to supplement the petition with a statement setting forth, with specificity, the reasons for believing that public disclosure of the information will result in an unwarranted invasion of his personal privacy, or will cause him substantial competitive injury, or both.

2. If such statement is not filed with 10 days, the petition for confidentiality shall, without further Orders herein, be denied.

Done at Frankfort, Kentucky, this 31st day of October, 1989.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:

Executive Director