

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF PHOENIX NETWORK	)	
CORPORATION FOR A CERTIFICATE OF PUBLIC	)	CASE NO.
CONVENIENCE AND NECESSITY TO PROVIDE	)	89-288
LONG DISTANCE TELECOMMUNICATIONS	)	
SERVICES STATEWIDE AS A RESELLER WITHIN	)	
THE COMMONWEALTH OF KENTUCKY	)	

O R D E R

This matter arising upon petition of Phoenix Network Corporation ("Phoenix Network") filed October 3, 1989, pursuant to 807 KAR 5:001, Section 7, for confidential protection of its financial statements incorporated as Exhibits C and D in its application for a Certificate of Public Convenience and Necessity, on the grounds that disclosure of the information is likely to result in competitive injury, and it appearing to this Commission as follows:

Phoenix Network seeks to protect as confidential Exhibits C and D to its application for a Certificate of Public Convenience and Necessity. The financial statements include balance sheets and operating statements of Phoenix Network and its affiliate, Charter Network Company, both of which serve clearly defined market areas in a limited number of states. Because their operations are limited to these areas, the operating statements can be used to reveal significant operating information on the companies. Phoenix Network maintains that large telecommuni-

cations companies can use this information to gain an unfair and competitive advantage, but does not describe how the information can be used in this matter.

807 KAR 5:001, Section 7, protects information as confidential only when it is established that disclosure will result in competitive injury to the person possessing the information. To satisfy this requirement a party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Although Phoenix Network has demonstrated actual competition, it has not demonstrated the likelihood of competitive injury. Therefore, confidential protection should not be granted.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The petition by Phoenix Network for confidential protection of financial statements named in Exhibits C and D with its application for a Certificate of Public Convenience and Necessity shall be held in abeyance to allow Phoenix Network to supplement its petition with a statement setting forth with specificity its reasons for believing that disclosure of the information sought to be protected can be used by its competitors to cause it substantial competitive injury.

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

Done at Frankfort, Kentucky this 8th day of November, 1989.

PUBLIC SERVICE COMMISSION

  
For the Commission

ATTEST:

Executive Director