

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF SOUTH CENTRAL BELL)	
TELEPHONE COMPANY FOR CONFIDENTIAL)	
TREATMENT OF INFORMATION FILED IN)	
SUPPORT OF ITS SPECIAL SERVICE)	CASE NO. 90-318
ARRANGEMENT CONTRACT WITH KENTUCKY)	
STATE GOVERNMENT FOR T-1)	
TERMINATION INTO AN ANALOG ESSX)	

O R D E R

This matter arising upon petition of South Central Bell Telephone Company ("South Central Bell") filed March 28, 1990, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the cost support data developed in connection with a Special Service Arrangement Contract with Kentucky State Government for a T-1 Termination into an Analog ESSX on the grounds that disclosure of the information is likely to cause competitive injury, and it appearing to this Commission as follows:

South Central Bell seeks to protect as confidential the cost support data developed in connection with a Special Service Arrangement Contract with Kentucky State Government for a T-1 Termination into an Analog ESSX. South Central Bell only seeks protection of the specific dollar amounts of the T-1 Termination and the cost backup for the monthly rate and non-recurring charges. The information sought to be protected is not known outside of South Central Bell and is not disseminated within South Central Bell except to those employees with a legitimate business

need to know and act upon the information. South Central Bell seeks to preserve the confidentiality of this information through all appropriate means including the maintenance of appropriate security at its offices.

In support of its position, South Central Bell relies in part upon Board of Education v. Lexington-Fayette Urban County Human Rights Commission, Ky. App., 625 S.W.2d 109 (1981). That case, however, involved KRS 61.878(1)(a) which exempts from public disclosure "information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy." If the information is entitled to protection under this section, the agency must determine whether the public's interest in the information outweighs the right of privacy of the individual to whom the information pertains. Since disclosure of the information involved in this petition will not affect the privacy right of any individual, that section is not applicable and no balancing of the public interest is required.

807 KAR 5:001 protects information as confidential when it is established that disclosure is likely to 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. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

South Central Bell's ESSX offerings compete with suppliers of PBX and comparable multiplexing equipment. Since this contract

provides information on additional equipment for ESSX, disclosure of the cost data could give competitors information which would allow them to more readily compete with South Central Bell services by knowing South Central Bell's capital and operating costs, as well as contribution for the service. Therefore, the information should be protected as confidential.

This Commission being otherwise sufficiently advised,


IT IS ORDERED that:


1. The cost support data developed in connection with the Special Service Arrangement Contract with Kentucky State Government for a T-1 Termination into an Analog ESSX, which South Central Bell 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.

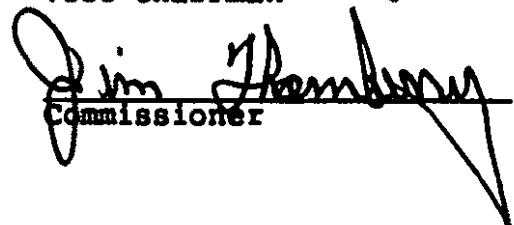
2. South Central Bell shall, within 10 days of the date of this Order, file an edited copy of the information with confidential material obscured for inclusion in the public record, with copies to all parties of record.

Done at Frankfort, Kentucky, this 25th day of October, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director