

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE ELIMINATION)	
OF SWITCHED ACCESS SERVICES DISCOUNTS)	ADMINISTRATIVE
AND ADOPTION OF TIME-OF-DAY SWITCHED)	CASE NO. 336
ACCESS SERVICES RATES)	

O R D E R

This matter arising upon petition of South Central Bell Telephone Company ("South Central Bell") filed February 15, 1991 pursuant to 807 KAR 5:001, Section 7, for confidential protection of Attachments D, E, and F of its response to Item 2 of this Commission's data request contained in its Order of January 25, 1991; for confidential protection of the information contained in Attachments D, E, and F of its response to Item 3 of the Attorney General's data request of December 21, 1990; and of the information contained in the attachment to Item 5, the attachment to Item 17, and the attachments to Items 19 A and B of AT&T's data requests of December 21, 1990 on the grounds that disclosure of the information is likely to cause South Central Bell competitive injury; and upon objection of South Central Bell to that portion of Item 5 of AT&T's December 21, 1990 data request for South Central Bell's forecast of intrastate access minutes for 1992 on the grounds that such information is not relevant to these proceedings, and it appearing to this Commission as follows:

On December 4, 1990, the Commission established this proceeding to investigate Switched Access service discounts and Time-of-Day Switched Access service rates. Copies of the Order establishing this proceeding were served on all local exchange carriers, interexchange carriers, resellers, and alternative operator service providers under the jurisdiction of the Commission. The Order establishing the proceeding set forth a procedural schedule under which the parties were permitted to file information requests on or before December 21, 1990. It is information filed in response to certain of these information requests together with information requested by the Commission that South Central Bell seeks to protect from public disclosure.

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

807 KAR 5:001, Section 7, 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.

Item 5 of AT&T's request for information asks for South Central Bell's forecasted access minutes of use for 1991 and 1992. "Access Minutes of Use" refers to the service provided by South Central Bell to long-distance, or interexchange carriers, to transfer long-distance calls between end-users and long-distance carriers. Because only local exchange carriers, like South Central Bell, have direct wire connection to each telephone customer, long-distance carriers must rely on local exchange carriers for the origination and termination of each long-distance call. That service provided by local exchange carriers is measured in "Access Minutes." At the present time, although resellers also serve the intraLATA market and interexchange carriers are allowed to serve the intraLATA market on an incidental basis, local exchange carriers handle most of the intraLATA long-distance calls but do not provide interLATA long-distance service. As a result, current access minutes of use information reveals the size of the interLATA switched access services market. However, this Commission has determined in Administrative Case No. 323¹ that interexchange carriers should be permitted to compete with local exchange carriers to provide intraLATA long-distance services. In that event, the access

¹ Administrative Case No. 323, An Inquiry Into IntraLATA Toll Competition, An Appropriate Compensation Scheme for Completion of IntraLATA Calls by Interexchange Carriers, and WATS Jurisdictionality.

minutes of use will include both interLATA and intraLATA traffic. South Central Bell maintains that to the extent the forecasts assumed that intraLATA competition will be allowed, the information furnished when compared with actual access minutes of use provided in response to Item 1 will reveal to South Central Bell's competitors in the long-distance market the potential size of the long-distance intraLATA market. South Central Bell contends that competitors could use this information to devise market strategies to the detriment of South Central Bell.

The fallacy in South Central Bell's position is that the forecasted access minutes of use relates only to traffic that South Central Bell handles for other carriers. It does not include its own intraLATA traffic. Therefore, disclosure of the forecasted access minutes of use for 1991 and 1992 will not reveal the potential size of the long-distance intraLATA market to South Central Bell's competitors. Therefore, the information should not be protected as confidential.

The remaining information sought to be protected is priceout information derived from the forecasts of intrastate access minutes requested in Item 5 of AT&T's data request. The request for confidential protection is predicated on the assumption that the forecasts furnished in response to Item 5 would also be protected. Since the forecast information is not entitled to protection, responses based upon this information are likewise not entitled to protection.

South Central Bell also objects to furnishing its forecasted minutes of use for 1992 on the grounds that such information is

not relevant to the Commission's decision in this docket. Generally, parties seeking discovery are given wider latitude than they enjoy in a trial or hearing on the issues. Thus, any information which is germane to the proceedings may be obtained through discovery even though such information may not ultimately be relevant to the decision in the case. Therefore, South Central Bell should furnish the 1992 forecasts in the same format and under the same protections as it furnishes the 1991 forecasts.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The objection by South Central Bell to filing its 1992 forecasted minutes of use is overruled.

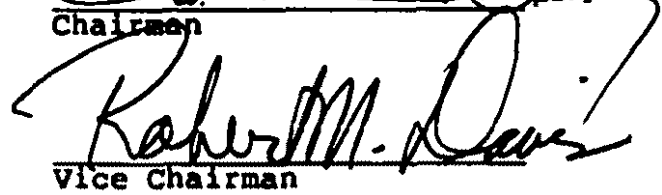
2. The petition to protect as confidential the information contained in Attachments D, E, and F of South Central Bell's response to Item 2 of the Commission's data request of January 25, 1991; the information contained in Attachments D, E, and F to Item 3 of the Attorney General's December 21, 1990 data request; and the information contained in the attachments to Items 5, 17, and 19 A and B of AT&T's data request of December 21, 1990 be and is hereby denied.

3. The information sought to be protected from disclosure shall be held as confidential and proprietary for a period of five working days from the date of this Order, at the expiration of which time, it shall be placed in the public record.

Done at Frankfort, Kentucky, this 6th day of August, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:


Executive Director