

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF SOUTH CENTRAL)
KENTUCKY CELLULAR CORP. FOR)
ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO)
PROVIDE DOMESTIC PUBLIC CELLULAR)
RADIO TELECOMMUNICATIONS SERVICE TO)
THE PUBLIC IN KENTUCKY RURAL)
SERVICE AREA NO. 5, WHICH INCLUDES)
ADAIR, BARREN, CLINTON, CUMBERLAND,)
HART, MCCREARY, METCALFE, MONROE,)
RUSSELL AND WAYNE COUNTIES,)
KENTUCKY, ANY OTHER NECESSARY)
APPROVAL, AND ESTABLISHMENT OF)
INITIAL RATES)

CASE NO. 91-183

O R D E R

This matter arising upon petition of South Central Kentucky Cellular Corp. ("South Central Cellular") filed June 11, 1991 pursuant to 807 KAR 5:001, Section 7, for confidential protection of its balance sheet as of May 31, 1991, its construction cost estimate and pro forma income statement for the first 24 months following completion of construction, its Construction Services Agreement with Danbury Cellular Telephone Co. ("Danbury Cellular"), and its Switch Sharing Agreement with Danbury Cellular on the grounds that disclosure is likely to cause South Central Cellular competitive injury and for confidential protection of the personal financial information of its controlling shareholders on the grounds that such information is of a personal nature, the

disclosure of which would constitute an invasion of personal privacy, and it appearing to this Commission as follows:

In support of its application for a Certificate of Public Convenience and Necessity to provide cellular telephone service, South Central Cellular has filed its balance sheet as of May 31, 1991, its construction cost estimate and pro forma income statement for the first 24 months following completion of construction, its Construction Services Agreement with Danbury Cellular, and its Switched Sharing Agreement with Danbury Cellular. In addition, South Central Cellular has filed personal financial information of its controlling shareholders. South Central Cellular seeks to protect all of this information as confidential.

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.

The balance sheet sought to be protected provides information on South Central Cellular's property. The construction cost estimate and pro forma income statement contain construction costs for South Central Cellular's proposed Prewitt's Knob Cell Site and expense of operating the proposed system. The Construction

Services Agreement with Danbury Cellular contains information regarding the construction, management and operation of the proposed cellular system. The Switched Sharing Agreement with Danbury Cellular contains information regarding the switch sharing between Danbury Cellular and South Central Cellular, including service charges and costs. South Central Cellular faces competition in its Rural Service Area No. 5 from GTE Mobilnet Incorporated, who could use the information to structure its rates and to market its services in a manner which would preclude South Central Cellular from competing effectively for customers. In addition, the agreements with Danbury Cellular disclosed information which would assist South Central Cellular's competitors in determining the rates which it must charge for its services in order to break even and would allow competitors to undercut South Central Cellular's rates in the marketplace. Therefore, disclosure of the information is likely to cause South Central Cellular competitive injury and the information should be protected as confidential.

KRS 61.878(1)(a) exempts from disclosure "information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of person privacy." This provision is intended to protect from public disclosure any information contained in public records that relates the details of an individual's private life when the individual's privacy interests in the information outweighs the public's interest in the information. Board of Education of Fayette County vs. Lexington-Fayette Urban County Human Rights Commission, Ky. App.,

4625 S.W.2d, 109, 111 (1981). The personal financial information on the controlling shareholders of South Central Cellular is information which relates to their private life and, in this case, the privacy interests outweighs the public's interests in the information. Therefore, this information should also be protected as confidential.

This Commission being otherwise sufficiently advised,

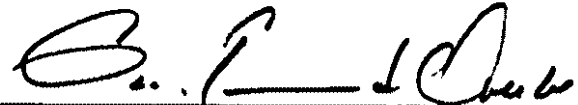
IT IS ORDERED that:

1. The balance sheet as of May 31, 1991, the construction cost estimate and pro forma income statement for the first 24 months following completion of construction, the personal financial information for the controlling shareholders, the Construction Services Agreement with Danbury Cellular, and the Switched Sharing Agreement with Danbury Cellular, which South Central Cellular 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 Cellular shall, within 10 days of the date of this Order, file edited copies of the information with the confidential material obscured for inclusion in the public record, with copies to any party of record.

Done at Frankfort, Kentucky, this 5th day of July, 1991.

PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman

Commissioner

ATTEST:


Executive Director