

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF MO-TEL CELLULAR, INC.,)	
A GEORGIA CORPORATION D/B/A CELLULAR)	
ONE WESTERN KENTUCKY CELLULAR TELEPHONE)	
COMPANY, AND D/B/A WESTERN KENTUCKY)	
CELLULAR TELEPHONE COMPANY FOR THE)	
ISSUANCE OF A CERTIFICATE OF PUBLIC)	
CONVENIENCE AND NECESSITY TO PROVIDE)	CASE NO. 91-290
DOMESTIC PUBLIC CELLULAR RADIO)	
TELECOMMUNICATIONS SERVICE TO THE)	
PUBLIC IN THE KENTUCKY RURAL SERVICE)	
AREA WHICH INCLUDES COUNTIES IN)	
KENTUCKY, FOR APPROVAL OF FINANCING,)	
AND FOR ESTABLISHMENT OF INITIAL RATES)	

O R D E R

This matter arising upon petition of Mo-Tel Cellular, Inc. d/b/a Cellular One Western Kentucky Cellular Telephone Company and d/b/a Western Kentucky Cellular Telephone Company ("Mo-Tel Cellular") filed October 7, 1991 pursuant to 807 KAR 5:001, Section 7, for confidential protection of its Summary of Bridge Loan Financing, Bridge Loan Notes and Pledge and Escrow Agreement (Exhibit 31); System Sales Agreement (Exhibit 32); Summary of Permanent Financing and Loan and Security Agreement (Exhibit 33); Working Capital Note and Equipment Note (Exhibit 34); and Schedule of Estimated Draws and Amortization Schedule (Exhibit 35) on the grounds that disclosure of the information is likely to cause Mo-Tel competitive injury, and it appearing to this Commission as follows:

In this proceeding, Mo-Tel Cellular seeks a Certificate of Public Convenience and Necessity to provide cellular radio telecommunications service in its assigned Rural Service Area. In support of its application, Mo-Tel Cellular has filed a Summary of Bridge Loan Financing, Bridge Loan Notes and Pledge and Escrow Agreement; a System Sale Agreement; a Summary of Permanent Financing and Loan and Security Agreement; Working Capital Note and Equipment Note; and a Schedule of Estimated Draws and Amortization Schedule. Mo-Tel Cellular seeks to protect this information as confidential on the grounds that disclosure of the information is likely to cause it competitive injury.

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.

Operators of cellular telephone systems such as Mo-Tel Cellular face competition in their Rural Service Areas. In this case, Mo-Tel Cellular faces competition from the wireline permittee, Contel Cellular, Inc. The information sought to be protected could be used by its competitors to gain an unfair business advantage by structuring their rates and marketing their services in a manner which would preclude Mo-Tel Cellular from

competing effectively for customers. Thus, disclosure of the information is likely to cause Mo-Tel Cellular competitive injury and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The Summary of Bridge Loan Financing, Bridge Loan Notes and Pledge and Escrow Agreement (Exhibit 31); the System Sale Agreement (Exhibit 32); the Summary of Permanent Financing and Loan and Security Agreement (Exhibit 33); the Working Capital Note and Equipment Note (Exhibit 34); and the Schedule of Estimated Draws and Amortization Schedule (Exhibit 35), which Mo-Tel 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. Mo-Tel Cellular shall, within 10 days of the date of this Order, file an edited copy of the exhibits with the confidential material obscured for inclusion in the public record, with copies to all parties of record.

Done at Frankfort, Kentucky, this 4th day of November, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:


Executive Director

Commissioner