

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF ALPHA CELLULAR )  
TELEPHONE COMPANY, A FLORIDA GENERAL )  
PARTNERSHIP, FOR THE ISSUANCE OF A )  
CERTIFICATE OF PUBLIC CONVENIENCE AND )  
NECESSITY TO PROVIDE DOMESTIC PUBLIC )  
CELLULAR RADIO TELECOMMUNICATIONS )  
SERVICE TO THE PUBLIC IN THE KENTUCKY )  
RURAL SERVICE ARE WHICH INCLUDES )  
ELLIOTT, LAWRENCE, MORGAN, MAGOFFIN, )  
JOHNSON, MARTIN, FLOYD AND PIKE )  
COUNTIES IN KENTUCKY, FOR APPROVAL OF )  
FINANCING, AND FOR ESTABLISHMENT OF )  
INITIAL RATES )

CASE NO. 91-377

O R D E R

This matter arising upon petition of Alpha Cellular Telephone Company ("Alpha Cellular") filed October 21, 1991 pursuant to 807 KAR 5:001, Section 7, for confidential protection of its Balance Sheet as of August 15, 1991 (Exhibit 5), its Business Plan which includes estimates of the cost of construction and pro forma financial statements (Exhibit 6), and its Vendor Financing Term Sheet with NovAtel Finance, Inc. (Exhibit 7) on the grounds that disclosure of the information is likely to cause Alpha Cellular competitive injury, and it appearing to this Commission as follows:

Alpha Cellular has applied for a Certificate of Public Convenience and Necessity to provide domestic public cellular telecommunications service to the public in its authorized rural service area. As part of its application, Alpha Cellular has

filed, as Exhibit 5, its Balance Sheet as of August 15, 1991; as Exhibit 6, its Business Plan which includes estimates of the cost of construction and pro forma financial statements; and, as Exhibit 7, its Vendor Financing Term Sheet with NovAtel Finance, Inc. Alpha Cellular contends that disclosure of this information is likely to cause it competitive injury and has petitioned that the information be protected as confidential.

The information sought to be protected is not generally known outside of Alpha Cellular's business and is not generally known by its employees except those who have a business need to know the information. Alpha Cellular has sought to protect and preserve the confidentiality of the information by all appropriate means.

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 cellular telephone market is a competitive industry and Alpha Cellular will have competition in the rural service area in which it proposes to construct its system described in its application for a Certificate of Public Convenience and Necessity. Potential competitors could use the information sought to be protected to structure their rates and market their services in a

manner that would prevent Alpha Cellular from competing effectively for customers. Therefore, disclosure of the information is likely to cause Alpha Cellular competitive injury and the information is entitled to protection as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The Balance Sheet as of August 15, 1991, the Business Plan which includes estimates of the cost of construction and pro forma financial statements, and the Vendor Financing Term Sheet with NovAtel Finance, Inc., which Alpha 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. Alpha Cellular shall, within 10 days of the date of this Order, file edited copies 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

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Commissioner