

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO DIVERSIFIED )  
OPERATIONS OF LOCAL EXCHANGE ) ADMINISTRATIVE  
TELEPHONE COMPANIES ) CASE NO. 340

O R D E R

This matter arising upon petition of Cincinnati Bell Telephone Company ("Cincinnati Bell") filed December 16, 1991 pursuant to 807 KAR 5:001, Section 7, for confidential protection of the responses to Items 1, 2, 3, 8, 10, and 15 of the Commission's Order of October 25, 1991 on the grounds that the information consists of trade secrets not known outside of Cincinnati Bell and the disclosure of which would impair its ability to compete in the cellular telephone industry, and it appearing to this Commission as follows:

Cincinnati Bell has petitioned the Commission to protect as confidential information it has been directed to produce in accordance with the Commission's Order of October 25, 1991. Pending a ruling on the petition, Cincinnati Bell has submitted redacted responses to the questions with the confidential material omitted. Cincinnati Bell maintains that the information sought to be protected consists of trade secrets which, if publicly disclosed, would impair its ability to compete in the cellular telephone industry.

Information filed with the Commission is required by KRS 61.872 to be maintained for public inspection unless specifically exempted by statute. Exemptions from this requirement are contained in KRS 61.878(1) which lists 10 categories of information which may be protected as confidential. One of the categories exempted under Subparagraph (b) of KRS 61.878(1) is certain commercial information confidentially disclosed to the agency. To qualify for this exemption, it must be established that disclosure of the information is likely to cause substantial competitive harm to the party from whom the information was obtained. 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.

807 KAR 5:001, Section 7, specifies the procedure for obtaining confidential protection of information filed with the Commission. Cincinnati Bell, in requesting confidential protection, has not complied with the procedure and the Commission is unable to rule upon the request. Therefore, the petition must be denied.

This Commission being otherwise sufficiently advised,

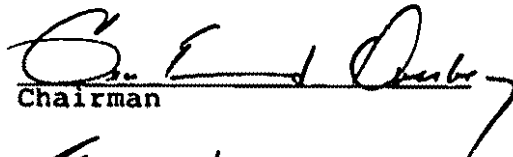
IT IS ORDERED that:

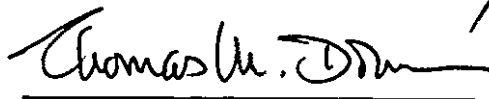
1. Cincinnati Bell shall, within 15 days from the date of this Order, file its responses to Items 1, 2, 3, 8, 10, and 15 of the Commission's Order of October 25, 1991.

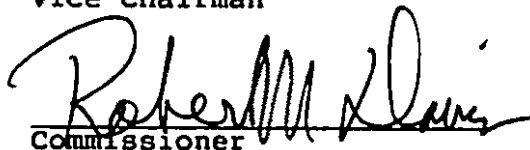
2. If Cincinnati Bell seeks to renew its petition for confidential protection, it shall file its petition and the information sought to be protected in the manner prescribed by 807 KAR 5:001, Section 7.

Done at Frankfort, Kentucky, this 16th day of January, 1992.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director