

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 Brandenburg Telephone Company, Inc. ("Brandenburg Telephone") filed December 20, 1991 pursuant to 807 KAR 5:001, Section 7, for confidential protection of copies of the minutes of Brandenburg Telephone's board of directors' meetings filed pursuant to the Commission's Order of October 25, 1991 on the grounds that disclosure of the information is likely to cause Brandenburg Telephone competitive injury, and it appearing to this Commission as follows:

In its Order of October 25, 1991, the Commission requested "copies of minutes of the board of directors' meetings where cellular activities have been discussed." In submitting this information, Brandenburg Telephone has petitioned that the information be protected as confidential on the grounds that it is exempt from public disclosure. In particular, Brandenburg Telephone maintains that "if the information regarding the amount of [its] investments in its cellular interests becomes readily available to a competitor, that competitor will probably be able to extrapolate from this information [its] cellular interests' capital and cost bases."

Information filed with the Commission is required by KRS 61.872(1) of the Kentucky Open Records Act to be maintained for public inspection unless specifically exempted by statute. Exemptions from disclosure are provided by KRS 61.878(1). That section of the statute exempts 10 separate categories of information. One of the exemptions included in Subparagraph (b) of that section is for commercial information confidentially disclosed to a public agency. To qualify for this exemption, it must be established that the information is not publicly available and 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.

The information sought to be protected is information that public utilities are required to include in their periodic reports filed with this Commission and made a part of the public record. Inasmuch as the information is available from other sources, it is not confidential and the petition for confidential protection should be denied.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

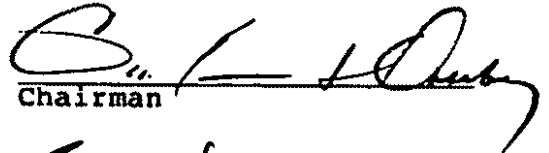
1. The petition to protect as confidential copies of Brandenburg Telephone's board of directors' meetings filed

pursuant to the Commission's Order of October 25, 1991 be and is hereby denied.

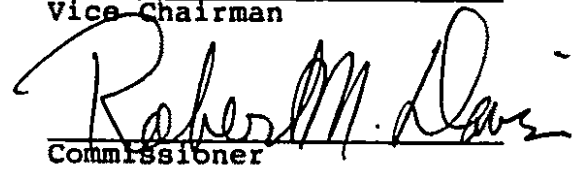
2. The information sought to be protected shall be held and retained by this Commission as confidential for a period of 20 days from the date of this Order, at the expiration of which it shall be placed in the public record.

Done at Frankfort, Kentucky, this 11th day of February, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director