

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 Duo County Telephone Cooperative Corporation, Inc. ("Duo County Telephone") filed February 19, 1992 for confidential protection of Exhibits 1 and 3 of its responses to the Commission's Order of October 25, 1991 on the grounds that disclosure of the information would cause Duo County Telephone competitive injury, and it appearing to this Commission as follows:

As part of its responses to the Commission's Order of October 25, 1991, Duo County Telephone has attached Exhibits 1 and 3 which it seeks to protect as confidential. Exhibit 1 contains journal entries which disclose Duo County Telephone's exact dollar investment in the capitalization of subsidiary corporations involved in the purchase of a general partnership interest in the Cumberland Cellular Partnership formed to provide cellular service in Rural Service Area No. 5. Exhibit 3 provides excerpts from Duo County Telephone's corporate board meeting minutes which reflect the exact amounts authorized by the board to acquire the general partnership interests, the actual amounts expended to make the acquisitions, and the projected capital and investment costs to be

incurred for construction and operation of the cellular system thereafter.

The information sought to be protected is not known outside of Duo County Telephone's business and is known only by Duo County Telephone's employees who are authorized to deal with this subject. Duo County Telephone seeks to preserve and protect the confidentiality of the information by all appropriate means.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That section of the statute exempts 10 categories of information. One category exempted in subparagraph (b) of that section is commercial information confidentially disclosed to the Commission. To qualify for that 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.

Only information which is confidential is entitled to protection. To the extent that the information is presently available from other sources, it must be maintained for public inspection. The investment information provided in Exhibit 1 can be derived from the periodic reports filed with the Commission which are a matter of public record. Therefore, that information

and the same information contained in Exhibit 3 is not entitled to protection as confidential.

The remaining information sought to be protected in Exhibit 3 provides the level of investment Duo County Telephone is prepared to make in acquiring its partnership interests, as well as the amounts it proposes to invest in the future in those partnership interests. However, the petition does not identify the competitors who would benefit from the information, nor does it describe with sufficient specificity how such competitors can use the information to gain a competitive advantage. Therefore, the petition does not establish that the information is entitled to confidential protection.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The petition to protect as confidential Exhibit 1 of Duo County Telephone's responses to the Commission's Order of October 25, 1991 and the amounts invested by Duo County Telephone in its subsidiary corporations for the purchase of general partnership interests contained in Exhibit 3 be and is hereby denied.

2. Exhibit 1 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 without further Order of the Commission.

3. The information providing the amounts Duo County Telephone is prepared to authorize for the purchase of its interests in the general partnership and its projected additional capital and investment costs to be incurred for construction and


operation of the cellular system contained in Exhibit 3, which Duo County Telephone has petitioned be protected from public disclosure, shall be held and retained by this Commission as confidential for a period of 20 days to allow Duo County to supplement its petition by identifying the competitors who would benefit from the information and describing the manner in which the information could be used to gain a competitive advantage. If at the expiration of the 20-day period no supplement to the petition is filed, the information shall be placed in the public record, without further Order of the Commission.

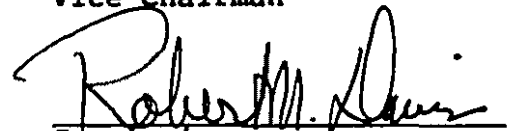
4. If Duo County files a supplemental petition to protect its projected additional capital and investment costs, it shall file as a part of the petition an edited version of Exhibit 3 obscuring only that portion of the exhibit which provides that information.

Done at Frankfort, Kentucky, this 27th day of April, 1992.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director, Acting