

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TELECARE, INC.)	
)	
_____)	CASE NO.
)	92-351
ALLEGED VIOLATION OF)	
KRS 278.020 AND KRS 278.610)	

O R D E R

This matter arising upon petition of Telecare, Inc. ("Telecare") filed November 2, 1992 pursuant to 807 KAR 5:001, Section 7, for confidential protection of the customer names and refund amounts filed with the Commission in accordance with the Settlement Agreement approved by Order of October 1, 1992 on the grounds that disclosure is likely to cause Telecare competitive injury, and it appearing to this Commission as follows:

Telecare is a reseller of long-distance services which it is authorized to provide in Kentucky and 17 other jurisdictions. By Order dated October 1, 1992, the Commission approved the Settlement Agreement requiring Telecare to refund to its customers all amounts collected prior to Telecare's authorization to provide service in this state. The Settlement Agreement also directed Telecare to file monthly reports detailing the customers' names and amounts refunded. By this petition, Telecare seeks to protect as confidential the customer names and amounts refunded filed in accordance with the Settlement Agreement.

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 11 categories of information. One category exempted in subparagraph (c) 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.

The resale of long-distance telecommunications services is a competitive business. Telecare's competitors include all other providers of long-distance service, including other long-distance resellers. Competitors of Telecare could use the customer names sought to be protected in marketing their competing services. Therefore, the identity of the customers should be protected as confidential.

While the billing information sought to be protected would have competitive value when matched to a particular customer, such value is lost when the customer's identity is protected. Therefore, the billing information is not entitled to protection as confidential and an edited copy of the report obscuring the

customers' names but showing the amounts to be refunded each customer should be filed for inclusion in the public record.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The identity of Telecare's customers contained in its report filed in accordance with the Settlement Agreement, which Telecare 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. The petition to protect as confidential the amounts refunded to each customer be and is hereby denied.

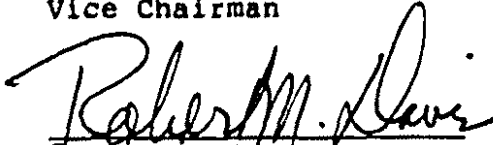
3. Telecare shall, within 20 days from the date of this Order, file an edited copy of the report obscuring only the identity of the customers but revealing all other information required, including the amounts refunded to each customer.

Done at Frankfort, Kentucky, this 25th day of November, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director