

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INQUIRY INTO THE PROVISION AND)	
REGULATION OF CELLULAR MOBILE)	ADMINISTRATIVE
TELEPHONE SERVICE IN KENTUCKY)	CASE NO. 344

O R D E R

This matter arising upon separate petitions of Appalachian Cellular General Partnership ("Appalachian Cellular") filed December 18, 1992; Alpha Cellular Telephone Company ("Alpha Cellular"), BellSouth Mobility, Inc., Kentucky CGSA, Inc., Lexington MSA Limited Partnership, and Nashville/Clarksville MSA Limited Partnership (collectively "BellSouth Mobility"), Contel Cellular of Louisville, Inc., Central Kentucky Cellular Telephone Company, Cumberland Cellular Telephone Company, Evansville MSA Limited Partnership, and Kentucky RSA No. 1 Partnership (collectively "Contel Cellular"), Danbury Cellular Telephone Company ("Danbury Cellular"), Evansville Cellular Telephone Company and United States Cellular Operating Company of Evansville (collectively "Evansville Cellular"), First Kentucky Cellular Corp. ("First Kentucky Cellular"), Mo-Tel Cellular, Inc. ("Mo-Tel Cellular"), Southern Ohio Telephone Company ("SOTCo"), and West Virginia Cellular Telephone Corp. ("West Virginia Cellular") filed January 8, 1993; and Mountaineer Cellular General Partnership ("Mountaineer Cellular") filed January 11, 1993 for confidential protection of certain responses to the Commission's Order of

October 9, 1992 on the grounds that disclosure of the information is likely to cause the petitioners competitive injury, and it appearing to this Commission as follows:

By Order of October 9, 1992, the petitioners were directed to furnish certain information relative to the matters under inquiry in this proceeding. In responding to the Order, each of the petitioners has requested that some of its responses be protected as confidential on the grounds that disclosure of the information is likely to cause substantial competitive injury. The responses for which confidential protection has been petitioned are Items 4, 7, 8, 9, 10, 14, 16, 23, 24, 25, 26, 27, and 29. Each of the petitioners has requested confidential protection of some, but not all, of its responses to those items.

The cellular telephone market is divided into rural and metropolitan service areas. To ensure competition in each service area, two cellular carriers are authorized to provide service in each area. In addition to competing with each other, the two cellular carriers must also compete with other providers of telecommunications services such as cellular resellers, conventional mobile telephone services, paging services, dispatch services, long-distance services, and the local exchange company. Therefore, any information derived from the petitioners' private records which would serve to assist their competitors in competing against the petitioners is entitled to protection under the statute.

The responses to Item 4 contain price-out information for the petitioners' tariffed service offerings and the responses to Item 9 contain complete price-out information for the petitioners' non-tariffed service offerings. The information provides the total revenues derived from the service offerings, the total number of subscribers to the service offerings, and average monthly revenues. The information is very general and is not likely to assist competitors in analyzing the petitioners' service plans or markets. Therefore, the information is not entitled to protection as confidential.

The responses to Item 7 provide a list and brief description of all non-tariffed service offerings and prices charged to the public. The responses to Item 8 provide a comparison of the companies' non-tariffed service offerings and prices with those of their cellular competitors. This same information can be obtained by "shopping" the companies' retail outlets, or normal competitive activity, or simply requesting it from the companies' sales personnel or sales agents. Therefore, this information is publicly available and not entitled to protection as confidential.

Item 10 requests the petitioners to state whether they use sales agents to market their services and, if so, to describe in detail the contractual and compensation arrangements with those agents. Cellular companies use a variety of sales agents to market their services. In some instances, agents specialize in cellular equipment, others sell all types of telecommunications equipment, and others offer a broad line of products. Agents may include

automobile dealerships and department stores, as well as retailers of telephone equipment, and the contractual arrangements under which they operate vary from company to company and agent to agent. Cellular companies compete with each other for productive agents and disclosure of this information would assist competitors in enticing productive agents to their companies and detrimentally affect the petitioners' ability to compete. Therefore, the information has competitive value and should be protected as confidential.

Item 14 requests petitioners to provide a list of all their sales agents, including their names, addresses, and telephone numbers. Since cellular companies rely on such agents to sell their services, it is unlikely that this information would be withheld from the public as confidential by them. Therefore, the information is not entitled to protection as confidential.

Item 16 requests in part that the petitioners describe in detail the manner in which their direct sales forces market the companies' services. In their responses, the petitioners generally described the activities normally associated with the sale of their services. The descriptions provided are too general in nature to have any competitive value and are not entitled to protection as confidential.

The responses to Item 23 provide a map of each petitioners' service area showing all cell site locations and their coverage of the service area. This information is available from public

records and, therefore, is not entitled to protection as confidential.

The responses to Item 24 provide a schematic diagram of each of the petitioners' service configurations, including the methods of interconnection with local exchange carriers. Although this information reveals the methods chosen to route facilities, as well as the type and location of interconnection to the land line network, no competitive value has been shown by its disclosure. Therefore, confidential protection of the information should be denied.

The responses to Item 25 provide a best estimate of the maximum number of access numbers each of the petitioners can service and the maximum number of simultaneous calls the petitioners' switches can process. This information reveals the strength and capabilities of each of the cellular companies to market their services in the service area in which they are authorized to operate. Competitors could use this information to determine areas of weak coverage and direct their marketing efforts and construction program to take advantage of these weaknesses. Therefore, this information has competitive value and should be protected as confidential.

Item 26 requests the petitioners to identify the market segments they market for their service and to describe the company's marketing rationale. It is contended that disclosure of this information will assist competitors in designing counter strategies and in emulating successful strategies. However,

successful marketing strategies quickly become evident to competitors through observation, and the information, therefore, has no substantial competitive value.

The responses to Item 27 provide an analysis of each company's average monthly bills by bill component. The information provided is too general to be of assistance to competitors and, therefore, confidential protection of the information should be denied.

The responses to Item 29 provide a best estimate of each company's market and its penetration in its service area, i.e., what proportion of all potential customers are served by the companies. Competitors could use this information to determine what markets of the petitioners are the most lucrative in devising their own marketing strategies. Therefore, this information has competitive value and should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. Appalachian Cellular's petition for confidential protection of its responses to Items 10, 25, and 29 of the Commission's Order of October 9, 1992 be and is hereby granted.

2. Alpha Cellular's request for confidential protection of its responses to Items 25 and 29 as contained in Exhibits 10 and 13 of its responses to the Commission's Order of October 9, 1992 be and is hereby granted.

3. The petition of BellSouth Mobility for confidential protection of its responses to Items 25 and 29 as contained in

Exhibit I to its responses to the Commission's Order of October 9, 1992 be and is hereby granted.

4. The petition of Contel Cellular for confidential protection of its responses to Items 10, 25, and 29 to the Commission's Order of October 9, 1992 be and is hereby granted.

5. The petition of Danbury Cellular to protect as confidential its responses to Item 29 as contained Exhibit L to its responses to the Commission's Order of October 9, 1992 be and is hereby granted.

6. The petition of Evansville Cellular for confidential protection of its responses to Items 25 and 29 as contained in Exhibits 8 and 12 to the Commission's Order of October 9, 1992 be and is hereby granted.

7. The petition of First Kentucky Cellular to protect as confidential its responses to Items 25 and 29 as contained in Exhibits G and J to the Commission's Order of October 9, 1992 be and is hereby granted.

8. The petition of Mo-Tel Cellular to protect as confidential its responses to Items 25 and 29 as contained in Exhibits 10 and 14 to the Commission's Order of October 9, 1992 be and is hereby granted.

9. The petition of SOTCo to protect as confidential its responses to Items 25 and 29 to the Commission's Order of October 9, 1992 be and is hereby granted.

10. The petition of West Virginia Cellular to protect as confidential its responses to Item 29 as contained in Attachment 12

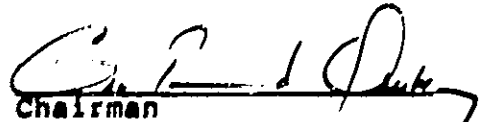
to its responses to the Commission's Order of October 9, 1992 be and is hereby granted.

11. The petition of Mountaineer Cellular to protect as confidential its responses to Item 29 to the Commission's Order of October 9, 1992 be and is hereby granted.

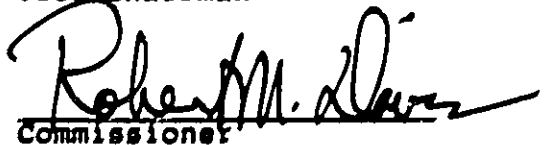
12. All other information for which petitioners have requested confidential protection shall be held and retained by this Commission as confidential and shall not be open for public inspection for a period of 20 days from the date of this Order, at the expiration of which it shall be placed in the public record.

Done at Frankfort, Kentucky, this 25th day of June, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Don Mills
Executive Director