

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INQUIRY INTO THE PROVISION AND REGULA-) ADMINISTRATIVE
TION OF CELLULAR MOBILE TELEPHONE IN) CASE NO. 344
KENTUCKY)

O R D E R

This matter arising upon petition of First Kentucky Cellular Corporation ("First Kentucky"), filed September 20, 1993 pursuant to 807 KAR 5:001, Section 7, for confidential protection of the computations made to calculate the company's rate of return in response to Item 18 of the Commission's June 21, 1993 Order on the grounds that disclosure of the information is likely to cause First Kentucky competitive injury and it appearing to this Commission as follows:

In its Order of June 21, 1993, the Commission propounded 40 data requests to the parties in this proceeding. Item 18 of that Order inquired whether the companies responding had computed their rate of return and if so, requested that they provide the computations for the calculation. By this petition, First Kentucky seeks to protect as confidential the computations used to make the calculation.

First Kentucky treats the information sought to be protected as confidential business information. In this regard First Kentucky strictly limits the distribution of the information to

employees who need access in order to conduct First Kentucky's business.

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 computations used to calculate First Kentucky's projected rate of return contain costs and anticipated revenues that competitors could use in structuring their own rates. Therefore the information has competitive value and should be protected as confidential.


This Commission being otherwise sufficiently advised,

IT IS ORDERED that the computations used to calculate the projected rate of return provided in response to Item 18 of the Commission's June 21, 1993, Order, which First Kentucky 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.

Done at Frankfort, Kentucky, this 14th day of December, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director