

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

O R D E R

This matter arising upon petition of Cumberland Cellular General Partnership ("Cumberland Cellular") filed September 24, 1993 pursuant to 807 KAR 5:001, Section 7, for confidential protection of its responses to Items 18, 19(b), 23, and 25 of the Commission's June 21, 1993 Order on the grounds that disclosure of the information is likely to cause Cumberland Cellular competitive injury and it appearing to this Commission as follows.

On June 21, 1993, the Commission directed the parties to this proceeding to respond to a series of data requests relating to the matter under inquiry. Item 18 requested the company's rate of return and the manner of its computation. Item 19(b) requested information concerning the cost of acquisition of the company's license. Item 23 requested copies of each company's contracts and the number of people served under each contract. Item 25 requested the number of companies with whom each responding company has roaming agreements. By this petition, Cumberland Cellular seeks to protect this information as confidential.

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.

In response to Item 18, Cumberland Cellular furnished the equity at the beginning of the year, the equity at the end of the year, the average equity for the year, earnings for the year, and return on average equity. The same information is contained in or can be derived from Cumberland Cellular's annual report, which is a matter of public record and, therefore, may not be protected as confidential.

In its response to Item 19(b), Cumberland Cellular provided the purchase price paid by the partners to acquire the license. This same information is found in Case No. 91-421, wherein this Commission approved the division of a 50 percent interest owned by GTE Mobilenet, Inc., among the four partners in Cumberland Cellular. This information is a matter of public record in that case and is, therefore, not entitled to protection as confidential.

In its response to Item 23, Cumberland Cellular has furnished a number of customers that it serves. This same information is not confidential, but is contained in the annual report and, therefore, it is not entitled to protection.

Cumberland Cellular's response to Item 25 provides the name of each company with whom Cumberland Cellular has roaming agreements. This same information is generally furnished by cellular companies to their customers and prospective customers; therefore, the information is not confidential and not entitled to protection.

This Commission being otherwise sufficiently advised,

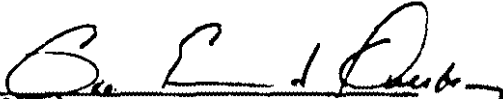
IT IS ORDERED that:

1. The petition to protect as confidential Cumberland Cellular's responses to Items 18, 19(b), 23, and 25 be and is hereby denied.

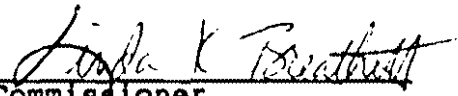
2. The information sought to be protected shall be held and retained by this Commission as confidential and shall not be open for public inspection for a period of 20 days from the date of this Order, at the expiration of which it shall be placed, without further Orders herein, in the public record.

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

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director