

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF HORIZON CELLULAR)
TELEPHONE COMPANY OF CENTRAL) CASE NO. 93-343
KENTUCKY, L.P., A DELAWARE LIMITED)
PARTNERSHIP, FOR AUTHORITY TO ASSUME)
CERTAIN LIABILITIES)

O R D E R

This matter arising upon petition of Horizon Cellular Telephone Company of Central Kentucky, L.P. ("Horizon Cellular") filed September 14, 1993, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the financial information contained in the term sheet and the business plan filed by Horizon Cellular on the grounds that disclosure of the information is likely to cause Horizon Cellular competitive injury and it appearing to this Commission as follows:

Horizon Cellular has applied for approval of financing to be obtained by its limited partner, Horizon Cellular Telephone Company. In support of its application, Horizon Cellular has filed a term sheet setting forth the terms and conditions of the proposed loans and its business plans to operate as a cellular telephone company. Both the term sheet and the business plan provide terms and costs associated with the financing transaction which Horizon Cellular seeks to protect as confidential on the grounds that disclosure is likely to cause competitive injury.

The information sought to be protected has not been publically disclosed. Horizon Cellular has limited distribution of the information to those employees and its affiliates who need access to the information in order to conduct Horizon Cellular'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 information sought to be protected includes information about Horizon Cellular's business affairs, specifically financial information concerning Horizon Cellular's and its limited partner's costs. Competitors of Horizon Cellular could use this information to structure rates and services so as to effectively exclude Horizon Cellular from the market. Therefore, disclosure of the information is likely to cause Horizon Cellular competitive injury and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

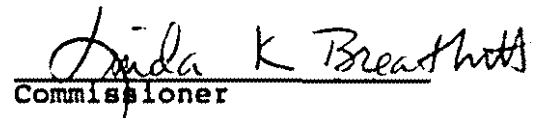
IT IS ORDERED that the financial information contained in the term sheet and the business plan, which Horizon Cellular has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 1st day of October, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director