

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INQUIRY INTO INTRALATA TOLL)
COMPETITION, AN APPROPRIATE COMPENSATION) ADMINISTRATIVE
SCHEME FOR COMPLETION OF INTRALATA CALLS) CASE NO. 323
BY INTEREXCHANGE CARRIERS, AND WATS)
JURISDICTIONALITY)

O R D E R

This matter arising upon petition of GTE South Incorporated ("GTE"), filed July 29, 1994, pursuant to 807 KAR 5:001, Section 7, for confidential protection of its response to Item 5 of the post hearing data request of AT&T Communications of the South Central States, Inc. ("AT&T") on the grounds that disclosure of the information is likely to cause GTE competitive injury, and it appearing to this Commission as follows:

On June 23, 1994, the Commission directed GTE to respond to certain data requests submitted by AT&T including the request that GTE provide its schedule for deploying Advanced Intelligent Network ("AIN") in Kentucky. GTE has agreed to furnish that information to AT&T under a confidentiality agreement and by this petition is requesting that the information be protected as confidential.

The information sought to be protected is not known outside GTE and its internal use is restricted to those employees who have a legitimate business need for the information. GTE attempts to control the dissemination of the information through all appropriate means.

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.

AIN is the fundamental platform utilized by GTE to provide discretionary and custom calling services which are subject to competition from competing vendors of telecommunications products and services. The information would permit such competitors to see when GTE intends to offer such services and in what specific areas the services would be deployed. Competitors could use this information in formulating competing marketing strategies. Therefore, disclosure of the information is likely to cause GTE competitive injury and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that GTE's responses to Item 5 of AT&T's information request, which GTE 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 9th day of September, 1994.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director