

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TOMMY LEE PENDLEY	)	
	)	
COMPLAINANT	)	
	)	
VS.	)	CASE NO. 93-430
	)	
LOGAN TELEPHONE COOPERATIVE, INC.	)	
	)	
AND	)	
	)	
SOUTH CENTRAL BELL TELEPHONE COMPANY	)	
	)	
DEFENDANTS	)	

O R D E R

This matter arising upon petition of BellSouth Telecommunications, Inc. d/b/a South Central Bell Telephone Company ("South Central Bell") filed May 25, 1994 pursuant to 807 KAR 5:001, Section 7, for confidential protection of its responses to Items 1(a), (b), and (c) of the Commission's April 25, 1994 Order on the grounds that disclosure of the information will cause South Central Bell competitive injury and will constitute an unwarranted invasion of its customers' personal privacy, and it appearing to this Commission as follows:

On April 25, 1994, South Central Bell was directed by the Commission to furnish certain information relevant to these proceedings. Specifically, Items 1(a), (b), and (c) requested a list of South Central Bell's customers in certain exchanges, the type of services to which each customer subscribes, and the rates

paid by each customer for these services. By this petition South Central Bell has requested that its responses to these requests be protected as confidential on the grounds that public disclosure of the information would result in competitive injury to South Central Bell and further would constitute an invasion of the customers' personal privacy.

The information sought to be protected is not known outside South Central Bell and is not disseminated within South Central Bell except to those employees who have a legitimate business need to know and act upon the information. South Central Bell seeks to preserve and protect the confidentiality 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). KRS 61.872(1)(c) exempts from public disclosure 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. The petition filed by South Central Bell does not satisfy this test.

In its petition, South Central Bell maintains that disclosure of the information would allow its competitors to determine

individual customer needs and market similar competitive products to these customers. The petition, however, does not identify the competitors nor describe the products which would compete for the services provided by South Central Bell. Therefore, the information is not entitled to protection under the exemption provided by KRS 61.878(1)(c).

KRS 61.878(1)(a) exempts from disclosure "information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy." This provision is intended to protect from public disclosure any information contained in public records that relates to details of an individual's private life when the individual's privacy interest in the information outweighs the public's interest in the information. The information sought to be protected provides specific details of customers' private telephone activities, the disclosure of which would constitute an unwarranted invasion of the customers' personal privacy. Therefore, the portion of the responses which identify the customers by name and telephone number should be protected as confidential. The description of services provided each customer and the applicable tariff, however, are matters of public record and are not entitled to protection when filed with this Commission.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The customers' names and telephone numbers contained in the responses to Items 1(a), (b), and (c) of the Commission's Order

of April 25, 1994, which South Central Bell 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.

2. The petition to protect as confidential the services described in the responses and the applicable tariffs for those services be and is hereby denied.


3. South Central Bell shall within 20 days from the date of this Order file edited copies of its responses to Items 1(a), (b), and (c) of the Commission's Order of April 25, 1994, obscuring only the names of the individual customers and their telephone numbers for inclusion in the public record.

Done at Frankfort, Kentucky, this 13th day of July, 1994.


PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director