

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF AMERICAN COMMUNICATION)
SERVICES OF LOUISVILLE, INC. FOR THE)
ISSUANCE OF A CERTIFICATE OF PUBLIC) CASE NO. 94-268
CONVENIENCE AND NECESSITY TO PROVIDE)
INTRASTATE SERVICES TO CONSUMERS)
LOCATED WITHIN KENTUCKY)

O R D E R

This matter arising upon petition of American Communication Services of Louisville, Inc. ("ACSI"), filed August 10, 1994, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the network construction cost and financial information attached to its application as Exhibits G and H on the grounds that disclosure of the information is likely to cause ACSI competitive injury and it appearing to this Commission as follows:

In this proceeding ACSI has applied for a Certificate of Public Convenience and Necessity to provide intrastate special access and private line telephone service. Attached to its application as Exhibit G are the construction costs for its proposed network and attached as Exhibit H are its projected balance sheet, income statements, and financing commitment letters. ACSI, by this petition, seeks to protect this information as confidential.

The information sought to be protected is not known outside ACSI and is not disseminated within ACSI except to those employees

who have a legitimate business need to know and act upon the information. ACSI 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). 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.

ACSI's potential competitors are providers of telecommunications services such as BellSouth Telecommunications, Inc. and competitive access providers in the Louisville, Kentucky market such as Metropolitan Fiber Systems, Inc. The information sought to be protected would allow such competitors to determine ACSI's network construction cost, its estimated revenues, expenses, net investment, and certain financing arrangements. This information could be used by ACSI's competitors in pricing, marketing, and financing their similar services to the detriment of


ACSI. Therefore, disclosure of the information is likely to cause ACSI competitive injury and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

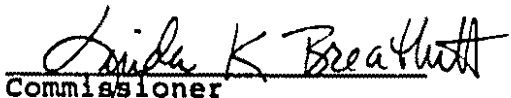
IT IS ORDERED that the network construction cost and the financial information attached to ACSI's application as Exhibits G and H, which ACSI has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 19th day of September, 1994.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director