

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BELLSOUTH)
TELECOMMUNICATIONS, INC., D/B/A)
SOUTH CENTRAL BELL TELEPHONE) CASE NO. 94-121
COMPANY TO MODIFY ITS METHOD OF)
REGULATION)

O R D E R

This matter arising upon petition of BellSouth Corporation ("BellSouth"), filed February 9, 1995, pursuant to 807 KAR 5:001, Section 7, for confidential protection of certain of its responses to the Attorney General's data request on the grounds that disclosure of the information is likely to cause BellSouth competitive injury, and it appearing to this Commission as follows:

As a part of this proceeding the Attorney General has submitted a series of data requests to BellSouth Telecommunications, Inc., d/b/a South Central Bell Telephone Company ("South Central Bell"). BellSouth is the parent company of South Central Bell and some of the information requested is in its sole custody and control and even though BellSouth is not a party to this proceeding, it has voluntarily filed the information. In doing so, however, BellSouth has requested that some of the information filed be protected as confidential on the grounds that disclosure is likely to cause BellSouth competitive injury.

The information sought to be protected is not known outside of BellSouth and is not disseminated within BellSouth except to those

employees who have a legitimate business need to know and act upon the information. BellSouth 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 several categories of information. One category exempted in paragraph (c)1 of that subsection is commercial information confidentially disclosed to the Commission which if made public would permit an unfair commercial advantage to competitors of the party from whom the information was obtained. To qualify for the exemption, 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.

Item 27 requests a financial statement for each of BellSouth's subsidiaries. In responding to this request, BellSouth has provided the financial statements for those subsidiaries which had cost-based transactions with South Central Bell during 1993. This information would provide competitors of BellSouth's non-regulated lines of business in mobile systems, advertising, and financial information while allowing the competitors to keep their similar financial information confidential. Therefore, disclosure of the information would be of benefit to the competitors and the information should be protected as confidential.

Item 32(c) seeks information on costs incurred by BellSouth affiliates and the allocation or assignments of such costs among the affiliates and states. The information would provide competitors with a complete understanding of the sales, profitability, and internal operations from BellSouth and its affiliates which competitors could use to the detriment of BellSouth. Therefore, the information should be protected as confidential.

Items 110 seeks cost assignment forms for individuals of BellSouth D.C., and Item 111 seeks financial information for BellSouth. Item 130 seeks information concerning BellSouth's expenses charged to certain groups and certain affiliates, and Item 132 seeks a copy of the most recent policy and procedures manual of BellSouth. Disclosure of this information would provide competitors with an understanding of BellSouth's cost structure which competitors could use to the detriment of BellSouth. Therefore, the information should be protected as confidential.

Items 133 and 135 requests copies of cost assignment materials concerning BellSouth's dealings with its affiliates. Competitors of BellSouth could use this information to compete in the wireless, PCS, cellular, publishing, and international unregulated lines of business. Therefore, disclosure of the information is likely to cause BellSouth competitive injury, and the information should be protected as confidential.

Item 138 seeks the income statement and balance sheet for BellSouth. Although BellSouth maintains that disclosure would have

a detrimental impact on all non-regulated lines of business currently owned and operated by BellSouth, the petition does not demonstrate what that impact would be. Furthermore, the information is regularly filed with other governmental agencies, including the FCC in the form of quarterly and annual reports and is, therefore, a matter of public record. Therefore, the information cannot be protected as confidential.

Item 158 seeks certain information concerning BellSouth's headquarters. Disclosure of this information would provide leasing and other information to competitors in the market to lease office space which they could use in negotiating leases with tenants in other buildings. Therefore, disclosure of the information is likely to cause BellSouth competitive injury and the information should be protected as confidential.

Items 227, 228, 229, 240, 245, 589, and 591 seek information concerning BAPCO, a subsidiary corporation of BellSouth engaged in the directory and publishing market. This market is highly competitive and disclosure of this information would affect BAPCO's ability to compete. Therefore, the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The responses to Items 27, 32(c), 110, 111, 130, 132, 133, 135, 158, 227, 228, 229, 240, 245, 589, and 591, which BellSouth has petitioned to be withheld from public disclosure,

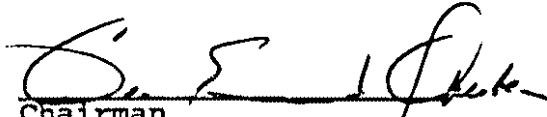
shall be held and retained by this Commission as confidential and shall not be open to public inspection.

2. The petition to protect as confidential BellSouth's response to Item 138 be and is hereby denied.

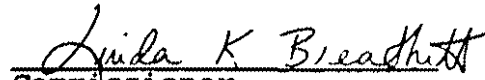
3. The information filed in response to Item 138 shall be held and retained by this Commission as confidential for a period of 20 days from the date of this Order, at the expiration of which it shall be placed in the public record without further Orders herein.

Done at Frankfort, Kentucky, this 17th day of May, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director