

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 February 2, 1995, pursuant to 807 KAR 5:001, Section 7, for confidential protection of its loan commitment letter on the grounds that disclosure of the information is likely to cause ACSI competitive injury, and it appearing to this Commission as follows:

ACSI has applied for a Certificate of Public Convenience and Necessity to provide intrastate telecommunication service to its customers in this state. As Exhibit J to its application, ACSI has submitted its loan commitment letter which summarizes its financing arrangements. ACSI seeks to protect this exhibit as confidential.

The information sought to be protected is not known outside of ACSI or its parent corporation, American Communications, Inc., except pursuant to appropriate non-disclosure agreements. The information 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 protect the confidentiality of the

information through all appropriate means including the maintenance of appropriate security at its offices.

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 competitors for the service it seeks to provide are local telephone companies such as BellSouth Telecommunications, Inc. and access providers in the Louisville market such as Mid American Cable Corporation, Access Transmission Services, Inc., Metropolitan Fiber Systems, Inc., and IteCom Group, Inc. Although the petition alleges that such competitors could use the information sought to be protected in financing their similar services, their petition does not demonstrate how such use of the information would have a detrimental affect upon ACSI. Therefore, the petition should be denied.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:


1. The petition to protect as confidential the loan commitment letter contained in Exhibit J to ACSI's application be and is hereby denied.


2. The information sought to be protected shall be held and retained by this Commission as confidential and shall not be open for public inspection 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.

Done at Frankfort, Kentucky, this 21st day of April, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director