

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PROPOSED SPECIAL CONTRACT OF SOUTH)
CENTRAL BELL TELEPHONE COMPANY ON)
BEHALF OF THE EXCHANGE CARRIER) CASE NO. 95-151
TELEPHONE GROUP FOR THE KENTUCKY)
INFORMATION HIGHWAY ET-41-95)

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 June 6, 1995, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the cost and design information contained in a contract with Bluegrass Network, Inc. on the grounds that disclosure of the information is likely to cause South Central Bell competitive injury, and it appearing to this Commission as follows:

This proceeding concerns the special contract awarded to the Local Exchange Carrier Telephone Group ("LECTG") to develop and operate a telecommunication system commonly referred to as the "Kentucky Information Highway." South Central Bell is a member of the group. The contract was awarded to LECTG under a competitive bid process in which other telecommunication carriers participated. Two of those competitors, AT&T and MCI, intervened in this proceeding and at a hearing in this case requested a copy of the agreement with Bluegrass Network, Inc. That agreement contains cost and design information which South Central Bell seeks to

protect as confidential on the grounds that disclosure of the information is likely to cause competitive injury.

The information sought to be protected is not known outside of 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, 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 subsection 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.

The cost and design information was used by South Central Bell and LECTG as a basis for formulating their successful bid. Therefore, disclosure of the information would give their

competitors insight into the methods they used in preparing their bid and would assist competitors in formulating bids for future contracts. Therefore, disclosure of the information is likely to cause South Central Bell and LECTG competitive injury and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that the cost and design information contained in the contract with Bluegrass Network, Inc., which South Central Bell has petitioned to 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 21st day of June, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director