

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION BY MCI FOR ARBITRATION OF)
CERTAIN TERMS AND OF A PROPOSED)
AGREEMENT WITH GTE SOUTH)
INCORPORATED CONCERNING) CASE NO. 96-440
INTERCONNECTION AND RESALE UNDER)
THE TELECOMMUNICATIONS ACT OF)
1996)

O R D E R

This matter arising upon petition of GTE South Incorporated ("GTE South"), filed December 12, 1996, pursuant to 807 KAR 5:001, Section 7, for confidential protection of certain market information filed in response to the Commission's request on the grounds that disclosure of the information is likely to cause GTE South competitive injury, and it appearing to this Commission as follows:

This is an arbitration proceeding initiated by MCI under the Telecommunications Act of 1996 recently enacted by Congress. The purpose of the arbitration is to establish reasonable rates that GTE South would be permitted to charge MCI for providing local telecommunications service using GTE South's telephone network. As part of the proceeding, GTE South has filed, pursuant to the Commission's request, a late-filed exhibit which consists of cost studies and supporting documents, as well as other market-related information. GTE South seeks to protect that information as confidential.

The information sought to be protected is not known outside of GTE South nor it provided to the public, and its internal use is restricted to those employees who have a

legitimate business reason for reviewing it. GTE South considers this information proprietary and attempts to control its dissemination through all reasonable 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 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.

Although GTE South does not specifically identify its competitors in the petition, the purpose of this proceeding is to establish competition in the local exchange market. Potential competitors could use the information sought to be protected to develop marketing strategy to the detriment of GTE South. Therefore, disclosure of the information is likely to cause GTE South competitive injury, and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that the cost studies and supporting documentation, as well as other market-related information, which GTE South 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 23rd day of January, 1997.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director