

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION BY AT&T COMMUNICATIONS)
OF THE SOUTH CENTRAL STATES, INC.)
FOR ARBITRATION OF CERTAIN TERMS)
AND CONDITIONS OF A PROPOSED)
AGREEMENT WITH GTE SOUTH)
INCORPORATED CONCERNING)
INTERCONNECTION AND RESALE UNDER)
THE TELECOMMUNICATIONS ACT OF)
1996)

CASE NO. 96-478

O R D E R

This matter arising upon petition of GTE South Incorporated ("GTE South"), filed January 30, 1997, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the cost study information filed as a late filed exhibit on the grounds that disclosure of the information is likely to cause GTE South competitive injury, and it appearing to this Commission as follows:

During the course of this hearing, the Commission requested that GTE South provide certain commercial information as a late filed exhibit to the testimony of Ted Morrison, one of its witnesses. Included in the information are cost studies and supporting documentation which GTE South seeks to protect as confidential.

The information sought to be protected is not known outside of GTE South and its internal use is restricted to only those employees who have a legitimate business reason for reviewing it. GTE South attempts to control the dissemination of this material 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.

This proceeding was instituted under the Telecommunications Act of 1996 ("Act") recently enacted by Congress. That Act opens local telephone service to competition and requires incumbent local exchange carriers to interconnect their facilities with competitors who seek to enter the market. Competitors entering the market could use the cost study information to gain valuable market information which they could use to devise competing strategies and marketing practices. 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 study information included in GTE South's late filed exhibit, 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 24th day of February, 1997.

PUBLIC SERVICE COMMISSION

Linda K Breathett
Chairman

Eleanor J. Sherr
Vice Chairman

B. J. Helton
Commissioner

ATTEST:

Don Mills
Executive Director