

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BELLSOUTH TELECOMMUNICATIONS, INC.'S)
APPLICATION TO RESTRUCTURE RATES) CASE NO. 97-074

O R D E R

This matter arising upon the motion of ICG Communications, Inc. ("ICG"), for full intervention, and it appearing to the Commission that ICG has a special interest which is not otherwise adequately represented, and that such intervention is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings, and this Commission being otherwise sufficiently advised,

IT IS HEREBY ORDERED that:

1. The motion of ICG to intervene is granted.
2. ICG shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. Should ICG file documents of any kind with the Commission in the course of these proceedings, it shall also serve a copy of said documents on all other parties of record.

Done at Frankfort, Kentucky, this 30th day of April, 1997.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Director


For the Commission

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BELLSOUTH TELECOMMUNICATIONS, INC.'S) CASE NO. 97-074
APPLICATION TO RESTRUCTURE RATES)

O R D E R

This matter arising upon petition of BellSouth Telecommunications, Inc. ("BellSouth"), filed March 21, 1997, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the price-out information filed in support of its proposed tariffs on the grounds that disclosure of the information is likely to cause BellSouth competitive injury, and it appearing to this Commission as follows:

BellSouth has filed revisions to its tariff structure which it maintains are necessary to establish rates that facilitate the company's participation in a competitive local exchange market. In support of the new rates, BellSouth has filed price-out information relating to revenue and demand, which it seeks to protect as confidential.

The information sought to be protected is not known outside of BellSouth, except by the Attorney General, Office of Rate Intervention, who has executed a confidentiality agreement to protect the information. The information is not disseminated within BellSouth except to those employees who have a legitimate business need to know and to act upon the information, and 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 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.

BellSouth's competitors for local exchange service include AT&T, MCI, Sprint, ACSI, Unidial, Annox, and SouthEast Telephone Company. Disclosure of the price-out information would permit these competitors to explore BellSouth's entire market demand for their competitive service, to craft strategies to capture specific market niches, and to package services based on those demand quantities. Therefore, disclosure of the information is likely to cause BellSouth competitive injury, and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that the price-out information filed in support of its proposed tariffs, 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 for public inspection.

Done at Frankfort, Kentucky, this 30th day of April, 1997.

PUBLIC SERVICE COMMISSION

Ayida K. Breathitt
Chairman

Ed J. Helms
Vice Chairman

B. J. Helton
Commissioner

ATTEST:

Don Mills
Executive Director