

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INQUIRY INTO THE USE OF CONTRACT SERVICE)	
ARRANGEMENTS BY TELECOMMUNICATIONS)	CASE NO.
CARRIERS IN KENTUCKY)	2002-00456

CONFIDENTIALITY PETITION
PURSUANT TO 807 KAR 5:001 SECTION 7

Petitioner, BellSouth BSE, Inc. (“BSE”), hereby moves the Public Service Commission of the Commonwealth of Kentucky (the “Commission”), pursuant to KRS 61.878 and 807 KAR 5:001, §7, to classify as confidential the following described information:

Information highlighted with transparent ink in the Attachment filed in response to the Commission’s orders in the above-captioned case.

The Kentucky Open Records Act exempts certain commercial information from the public disclosure requirements of the Act. KRS 61.878 (1)(c)(1). To qualify for this commercial information exemption and, therefore, to keep the information confidential, a party must establish that disclosure of the commercial information would permit an unfair advantage to competitors of the party seeking confidentiality if the information were openly disclosed. KRS 61.878 (1)(c)(1); 807 KAR 5:001, §7. The Commission has taken the position that the statute and rules require the party to demonstrate actual competition and a likelihood of competitive injury if the information is disclosed.

In this filing, BSE is responding to the Commission’s Orders dated December 19, 2002 and January 28, 2003, in Case No. 2002-00456 (the “Orders”). In the Orders, the Commission required BSE to file with the Commission responses to certain data requests

relating to CSAs it entered into during 2001 and 2002. Included in the required information were, for each CSA, customer name, services involved, total value of the contract, net savings to the customer and similar information.

The names of customers who have obtained CSAs from BSE, as well as the description of services purchased by those customers, the number of units of such services, the total tariffed price for such units, the expiration date of the CSAs, as well as the CSA pricing would all provide valuable proprietary and confidential information to BSE's competitors. This information would allow competitors to target unfairly specific customers of BSE. By learning the units of services purchased by BSE's customers, the types of services purchased under a CSA, the total contract tariff price, the specific CSA pricing of BSE's services to particular customers, the expiration dates of current contracts and the total value of the contracts, competitors would be able to identify which BSE customers would be best for them to target. This information would also provide those competitors with data revealing the pricing levels these competitors would likely have to offer to win BSE's customers. All this would be available to BSE's competitors in an easy to obtain, easy to use format, thereby giving them an unfair competitive advantage.

BSE recognizes that this information may be helpful to the Commission. However, to require that this information be divulged to BSE's competitors creates a substantial unfair disadvantage to BSE. In addition, the Commission should accord confidential treatment to this information for the following reasons:

- (1) The information as to which BSE is requesting confidential treatment is not known outside of BellSouth;

- (2) The information is not disseminated within BSE and is known only by those of BSE's employees who have a legitimate business need to know and act upon the information;
- (3) BSE seeks to preserve the confidentiality of this information through all appropriate means, including the maintenance of appropriate security at its offices;
- (4) The disclosure of this information would cause competitive injury to BSE in that it would provide BSE's competitors with sensitive financial data with respect to BSE's services;
- (5) By granting BSE's petition, there would be no damage to any public interest in disclosure. In fact, the public would be best served by non-disclosure because competition would thereby be promoted; and

For these reasons, the Commission should grant BSE's request for confidential treatment of the information highlighted with transparent ink in the Attachment filed in response to the Commission's orders.

Respectfully submitted,

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