

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE)	ADMINISTRATIVE
INTRASTATE SWITCHED ACCESS RATES)	CASE NO.
OF ALL KENTUCKY INCUMBENT AND)	2010-00398
COMPETITIVE LOCAL EXCHANGE)	
CARRIERS)	

**PETITION FOR CONFIDENTIAL TREATMENT OF CERTAIN INFORMATION
CONTAINED IN THE RLECS' PRELIMINARY COMMENTS**

The RLECs¹ by counsel, and pursuant to 807 KAR 5:001 §7 and KRS 61.878(1)(c), move the Public Service Commission of the Commonwealth of Kentucky (the "Commission") to accord confidential treatment to certain highlighted information (the "Information")² contained in the RLECs' preliminary comments ("Preliminary Comments") regarding the amount of access revenue shift they will experience if their intrastate switched access rates mirror their interstate switched access rates as AT&T³ has proposed. In support of their Petition, the RLECs state as follows.

I. Applicable Law.

807 KAR 5:001 §7(2) sets forth a procedure by which certain information filed with the Commission may be treated as confidential. Specifically, the party seeking confidential treatment of certain information must "[set] forth specific grounds pursuant to KRS 61.870 et

¹ Ballard Rural Telephone Cooperative Corporation, Inc., Brandenburg Telephone Company, Duo County Telephone Cooperative Corporation, Inc., Foothills Rural Telephone Cooperative, Inc., Gearhart Communications Co., Inc., Highland Telephone Cooperative, Inc., Logan Telephone Cooperative, Inc., Mountain Rural Telephone Cooperative, Inc., North Central Telephone Cooperative Corporation, Peoples Rural Telephone Cooperative, Inc., South Central Rural Telephone Cooperative Corporation, Inc., Thacker-Grigsby Telephone Company, Inc., and West Kentucky Rural Telephone Cooperative Corporation, Inc. (collectively the "RLECs").

² For ease of reference, this information appears on page seven of the RLECs' Preliminary Comments.

³ BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky, AT&T Communications of the South Central States, LLC, BellSouth Long Distance, Inc. d/b/a AT&T Long Distance Service, and TCG Ohio (collectively "AT&T").

seq., the Kentucky Open Records Act, upon which the commission should classify that material as confidential.” 807 KAR 5:001 §7(2)(a)(1).

The Kentucky Open Records Act, KRS 61.870 et seq., exempts certain records from the requirement of public inspection. See KRS 61.878. In particular, KRS 61.878(1)(c) provides as follows:

[r]ecords confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would present an unfair commercial advantage to competitors of the entity that disclosed the records.

Id. Applying this provision to the financial information of a corporation, the Supreme Court of Kentucky has held that “disclosure of [this financial information] would unfairly advantage competing operators. The most obvious disadvantage may be the ability to ascertain the economic status of the entities without the hurdles systematically associated with acquisition of such information.” *Marina Management Servs. v. Cabinet for Tourism, Dep’t of Parks*, 906 S.W.2d 318, 319 (Ky. 1995); see also *Hoy v. Kentucky Indus. Revitalization Auth.*, 907 S.W.2d 766, 768 (Ky. 1995) (“It does not take a degree in finance to recognize that such information concerning the inner workings of a corporation is ‘generally recognized as confidential or proprietary’ and falls within the wording of KRS 61.878(1)(c).”)

II. The RLECs’ Financial Information Should Be Classified Confidential.

Read in conjunction, 807 KAR 5:001 §7(2)(a)(1) and KRS 61.878(1)(c) provide that the Commission may classify the Information as confidential if the open disclosure of the Information “required by the [Commission] to be disclosed to it, [is] generally recognized as confidential or proprietary, which if openly disclosed would present an unfair commercial advantage to competitors of the entity that disclosed the records” See KRS 61.878(1)(c). The

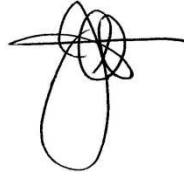
Information that the RLECs seek to have treated as confidential information contained in the RLECs' Preliminary Comments and relates to access information that the Commission has required the RLECs to file as part of the current proceeding. The Information included in the RLECs's Preliminary Comments consists of a number of ways in which the amount that AT&T has offered to purchase T-Mobile compares to the amount of revenue loss that the RLECs will experience under the AT&T Plan. The Information is of a sensitive financial nature and relates to the amount of intrastate access revenue the RLECs received during 2010.

Undoubtedly, the disclosure of such highly sensitive financial information would result in an unfair commercial advantage to the RLECs' competitors resulting in a compromised competitive position for the RLECs. The disclosure of this information would allow competitors and/or the public to "reverse engineer" the revenue data associated with the RLECs' combined total intrastate access billing for all of 2010. Such disclosure would have the potential to allow the RLECs' competitors "to ascertain the economic status of the [RLECs] without the hurdles systematically associated with acquisition of such information." *Marina Management Servs.*, 906 S.W.2d at 319. The Information for which the RLECs seek confidential treatment is of such a sensitive nature that it is not known outside of their respective companies, and even within their respective companies it is known only by those of their employees who have a legitimate business need to know and act upon the information. "[S]uch information concerning the inner workings of a corporation is 'generally recognized as confidential or proprietary' and falls within the wording of KRS 61.878(1)(c)(2)." *Hoy*, 907 S.W.2d at 768.

III. Conclusion.

For these reasons, the Commission should classify the Information in the RLECs' Preliminary Comments as confidential pursuant to 807 KAR 5:001 §7 and KRS 61.878(1)(c), and accordingly prevent the public disclosure of the Information.

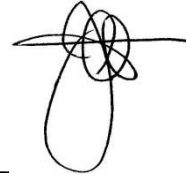
Respectfully submitted,



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CERTIFICATE OF SERVICE

In accordance with Ordering Paragraph No. 5 of the Commission's March 10, 2011 Order, this is to certify that the RLECs' April 15, 2011 electronic filing is a true and accurate copy of the documents to be filed in paper medium; that the electronic filing has been transmitted to the Commission on April 15, 2011; that an original and one copy of the filing will be delivered to the Commission on April 15, 2011; and that, on April 15, 2011, electronic mail notification of the electronic filing will be provided through the Commission's electronic filing system.



Counsel to the RLECs