

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)	

**AMENDED PETITION FOR CONFIDENTIAL TREATMENT OF THE DATA
CONTAINED IN THE RLECS' EXPECTED REVENUE SHIFT FILING**

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 the highlighted information (the "Information")² contained in the RLECs' access revenue shift filings showing the amount of revenue loss they will experience if their intrastate switched access rates mirror their interstate switched access rates as AT&T³ has proposed (the "Revenue Shift Filing"). This amended Petition corrects a previous filing of the RLECs' access revenue shift data that inadvertently included confidential material as part of the redacted copy of the Revenue Shift Filing. In support of their amended 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

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 includes a of the data in each of the spreadsheets.

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").

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 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)(1) 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, [i]s generally recognized as

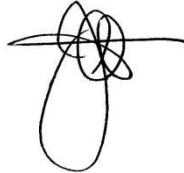
confidential or proprietary, which if openly disclosed would present an unfair commercial advantage to competitors of the entity that disclosed the records” See KRS 61.878(1)(c). The Information contained in the spreadsheets attached to the RLECs’ Revenue Shift Filing as Exhibits 1–14 is sensitive financial and network information that the Commission has required the RLECs to file as part of the current proceeding. These spreadsheets contain the access revenue data associated with each RLECs’ intrastate access billing for all of 2010, along with associated minutes of use. They also contain the expected amount of revenue shift that each RLEC will experience under the AT&T Plan. In addition, the spreadsheets include information regarding each RLECs’ trunking facilities and switches, as well as the amount of traffic and access revenue (and corresponding loss of that revenue under the AT&T Plan) that is associated with each.

Undoubtedly, the disclosure of this highly sensitive financial and network Information would result in an unfair commercial advantage to the RLECs’ competitors, which would, likewise, result in a compromised competitive position for the RLECs. It has 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' Revenue Shift Filing as confidential pursuant to 807 KAR 5:001 §7 and KRS 61.878(1) (c), and accordingly prevent the public disclosure of the Information.

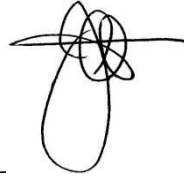
Respectfully submitted,



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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 21, 2011; that an original and one copy of the filing will be delivered to the Commission on April 21, 2011; and that, on April 21, 2011, electronic mail notification of the electronic filing will be provided through the Commission's electronic filing system.



Counsel to the RLECs