

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  
THE PREFILED DIRECT TESTIMONY OF EMMANUEL STAURULAKIS  
FILED ON BEHALF OF THE RLECS**

The RLECs<sup>1</sup> 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 afford confidential treatment to the highlighted information (the “Information”) contained in the Prefiled Direct Testimony of Emmanuel Staurulakis (the “Testimony”) on behalf of the RLECs. For ease of reference, this Information is located in answers A10 (footnote), A12, A14, A15, A17, and A22 (footnote). This Information, moreover, is of the same type as that previously afforded confidential treatment by the Commission in this proceeding by Letter dated May 25, 2011. 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

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<sup>1</sup> 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”).

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 and Proprietary Network 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 contained in the Testimony is both sensitive financial and proprietary network information that the RLECs are required to file in order to participate fully in the current administrative proceeding.

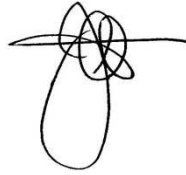
The Testimony contains, among other things, revenue data, access line information, minutes of use, pricing data for network and rate elements, subscriber data, as well as federal support funds data. Undoubtedly, the disclosure of this highly sensitive financial and proprietary network information would 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 or consultants 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. The Commission has, in fact, determined previously in this proceeding that Information of this character should be afforded confidential treatment. *See Commission Letter to John E. Selent dated May 25, 2011.*

### **III. Conclusion.**

For these reasons, the Commission should classify the Information in the Testimony 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,

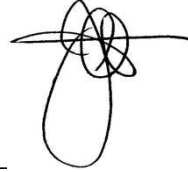
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**CERTIFICATE OF SERVICE**

In accordance with Ordering Paragraph No. 5 of the Commission's March 10, 2011 Order, this is to certify that the RLECs' July 8, 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 July 8, 2011; that an original and one copy of the filing will be delivered to the Commission on July 8, 2011; and that, on July 8, 2011, electronic mail notification of the electronic filing will be provided through the Commission's electronic filing system.



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*Counsel to the RLECs*