

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of An Investigation into the)
Intrastate Switched Access Rates of All) Administrative Case No.
Kentucky Incumbent and Competitive) 2010-00398
Local Exchange Carriers)

**PETITION FOR CONFIDENTIAL TREATMENT OF CINCINNATI BELL
TELEPHONE COMPANY LLC’S RESPONSES TO DATA REQUESTS**

Pursuant to 807 KAR 5:001 §7 and KRS 61.878(1)(c), Cincinnati Bell Telephone Company LLC (“CBT”) moves the Public Service Commission of Kentucky (the “Commission”) to accord confidential treatment to the certain information contained in CBT’s responses to the second set of data requests served upon it in this proceeding.¹ In support of its Petition, CBT states 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 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:

¹ Responses of Cincinnati Bell Telephone Company LLC to Second Set of Data Requests From twtc, Level 3 and PAETEC. CBT is filing electronically and serving redacted versions of its responses to data requests to all parties. CBT is filing both redacted and unredacted paper versions with the Commission, with the confidential information removed from the redacted versions and highlighted in the unredacted versions.

[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. CBT’s Financial Information Should Be Classified As Confidential.

Read in conjunction, 807 KAR 5:001 §7(2)(a)(1) and KRS 61.878(1)(c) provide that the Commission may classify 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 highlighted information contained in CBT’s responses to the data requests is sensitive financial information that the Commission has required CBT to file as part of the current proceeding. These responses contains confidential data regarding CBT’s business, including access usage and revenue data and the calculation of the expected amount of revenue shift that CBT would hypothetically experience under alternative assumptions. The responses include specific information regarding the amount of traffic and access revenue CBT receives for certain switched access rate element. None of this

information is public.

The disclosure of this highly sensitive information would result in an unfair commercial advantage to CBT's competitors and a compromised competitive position for CBT. It has the potential to allow CBT's competitors "to ascertain the economic status of [CBT] without the hurdles systematically associated with acquisition of such information." *Marina Management Servs.*, 906 S.W.2d at 319. The information for which CBT seeks confidential treatment is of such a sensitive nature that it is not known outside of the company, and even within the company it is known only by those 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 highlighted information in CBT's data responses 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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