

**BEFORE THE
KENTUCKY PUBLIC SERVICE COMMISSION**

In the Matter of)	
)	
Application of Time Warner Cable)	
Information Services (Kentucky), LLC for)	Docket No. 2021-00005
Designation as an Eligible)	
Telecommunications Carrier to Receive Rural)	
Digital Opportunity Fund Auction (Auction)	
904) Support for Voice and Broadband)	
Services)	

**TIME WARNER CABLE INFORMATION SERVICES (KENTUCKY), LLC’s
PETITION FOR CONFIDENTIAL TREATMENT**

Time Warner Cable Information Services (Kentucky), LLC (“TWCIS”), by counsel and pursuant to 807 KAR 5:001, Section 13, respectfully requests the Public Service Commission to grant confidential protection to Exhibit E of its Application. Specifically, TWCIS seeks confidential treatment for Exhibit E because it contains information related to TWCIS’s investment in Kentucky.

Administrative Regulation 807 KAR 5:001, Section 13(2) sets forth the procedure by which certain information filed with the Commission shall be treated as confidential. Specifically, the party seeking confidential treatment must establish “specific grounds pursuant to KRS 61.878 [the Kentucky Open Records Act] for classification of that material as confidential.” 807 KAR 5:001, Section 13(2)(a)(1).

The Kentucky Open Records Act exempts certain records from the requirement of public inspection. *See* KRS 61.878. In particular, KRS 61.878(1)(c)(1) exempts from disclosure:

Records 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.

This exception “is aimed at protecting records of private entities which, by virtue of involvement in public affairs, must disclose confidential or proprietary records to a public agency, if disclosure of those records would place the private entities at a competitive disadvantage.” Ky. OAG 97-ORD-66 at 10 (Apr. 17, 1997). As an example, in *Hoy v. Kentucky Indus. Revitalization Authority*, 907 S.W.2d 766, 769 (Ky. 1995), the Kentucky Supreme Court found that without protection for confidential information provided to a public agency, “companies would be reluctant to apply for investment tax credits for fear the confidentiality of financial information would be compromised.”

The Open Records Act also exempts from disclosure “[a]ll public records or information the disclosure of which is prohibited by federal law or regulation.” KRS 61.878(1)(k) With respect to this particular information, regulations promulgated by the Federal Communications Commission prohibits disclosure of certain information related to the incentive auctions. The regulation states:

all applicants are prohibited from cooperating or collaborating with respect to, communicating with or disclosing, to each other or any nationwide provider that is not an applicant, or, if the applicant is a nationwide provider, any non-nationwide provider that is not an applicant, in any manner the substance of their own, or each other's, or any other applicants' bids or bidding strategies (including post-auction market structure), or discussing or negotiating settlement agreements, until after the down payment deadline, unless such communications are within the scope of an agreement described in paragraphs (a)(2)(ix)(A) through (C) of this section that is disclosed pursuant to paragraph (a)(2)(viii) of this section

47 C.F.R. § 1.2105(c)

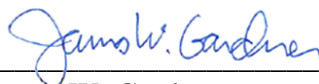
Exhibit E of the Application discusses the amount of capital TWCIS plans to invest is

certainly confidential and proprietary information. Disclosure of TWCIS's specific monetary commitment will result in a commercial advantage to its competitors, as it would give competitors an understanding of TWCIS's costs, marketing strategy, and activities, thereby providing competitors with an advantage that would hinder TWCIS's ability to compete. Moreover, TWCIS's anticipated investment is a significant factor in the substance of TWCIS's bid and bidding strategy for FCC's Rural Digital Opportunity Fund Phase I Auction (Auction 904). TWCIS is therefore prohibited from disclosure pursuant to 47 C.F.R. § 1.2105(c). Accordingly, this information is properly exempt from disclosure pursuant to both paragraphs (c)(1) and (k) of KRS 61.878(1).

Because the disclosure of the confidential information would result in an unfair commercial advantage to TWCIS's competitors for an indefinite amount of time, TWCIS respectfully requests confidential treatment of the above-referenced information in perpetuity.

Respectfully submitted,

Time Warner Cable Information Services
(Kentucky), LLC



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