

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INQUIRY INTO THE STATE UNIVERSAL)	CASE NO.
SERVICE FUND)	2016-00059

ORDER

On May 9, 2016, Birch Communications of Kentucky, LLC (“Birch”), filed a motion, pursuant to 807 KAR 5:001, Section 13, requesting that certain materials filed with the Commission be afforded confidential protection and not be placed in the public record subject to public inspection.

In support of its request, Birch states that the information it is requesting to be held confidential is contained in its Response to the Commission Staff’s First Request for Information to All Parties of Record (“Staff’s First Request”), Item 1. The material requested to be held confidential is described as non-public discussions regarding investigations or actions relating to participation in the Lifeline Program.

Having considered the petition and the material at issue, the Commission finds that the information contained in Birch’s Response to Staff’s First Request, Item 1, meets the criteria for confidential treatment and is exempted from public disclosure pursuant to KRS 61.878(1)(c)(1). The materials requested to be held confidential further meet the requirements to be exempted as a “trade secret” under the two-pronged test set out in KRS 365.880.

IT IS THEREFORE ORDERED that:

1. Birch's motion for confidential protection for its Response to Staff's First Request, Item 1, is granted.

2. The materials requested to be held confidential shall not be placed in the public record or made available for public inspection for an indefinite time period, or until further Orders of this Commission.

3. Use of the material in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

4. Birch shall inform the Commission if the material in question becomes publicly available or no longer qualifies for confidential treatment.

5. If a non-party to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Birch shall have 20 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Birch is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the requested material available for inspection for 20 days following an Order finding that the material no longer qualifies for confidential treatment in order to allow Birch to seek a remedy afforded by law.

By the Commission



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