

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INQUIRY INTO THE STATE)
UNIVERSAL SERVICE FUND)

CASE NO. 2016-00059

ORDER

On September 16, 2016, SI Wireless, LLC dba MobileNation (“SI Wireless”) filed a motion, pursuant to KRS 61.878 and 807 KAR 5:001, Section 13, requesting that certain materials contained in its response to Commission Staff’s First Request for Information (“Staff’s First Request”), Item 1, Exhibit 1, be afforded confidential treatment for an indefinite period of time. The designated materials are more particularly described as the total number of access lines SI Wireless had in service in Kentucky and the amount of surcharge remitted to the Kentucky Universal Service Fund (“USF”), which is contained on Lines 1 and 3, respectively, on the Commonwealth of Kentucky Universal Service Fund forms (“KUSF Form”) submitted by SI Wireless for January 2014 through July 2016.

In support of this motion, SI Wireless argues that the commercial mobile radio service (“CMRS”) market is one of the most competitive segments of the telecommunications market, and that potential customers may choose to obtain telecommunications service from one of multiple CMRS carriers. SI Wireless further argues that, because the CMRS market is highly competitive, the number of SI Wireless subscribers is highly confidential trade-secret information. The number of SI Wireless

subscribers can be discerned from Line 1 of the KUSF Form or by calculating the amount of remittance on Line 3 of the KUSF Form by the remittance amount on Line 2 of the KUSF Form. SI Wireless asserts that public disclosure of the designated materials on Lines 1 and 3 of the KUSF Forms would permit an unfair commercial advantage to SI Wireless's competitors, and thus these materials are generally recognized as confidential and are exempt from public disclosure pursuant to KRS 61.878(1)(c)(1). SI Wireless further asserts that the KUSF Form includes information about the number of SI Wireless subscribers that do not participate in the Lifeline program, and thus is not relevant to the instant proceeding, which is investigating the status of the Kentucky Lifeline program.

Having carefully considered the petition and the materials at issue, the Commission finds that the designated materials on Lines 1 and 3 of the KUSF Form, are not materials that meet the criteria for confidential treatment under KRS 61.878(1)(c)(1). KRS 61.878(1)(c)(1) applies to material generally recognized as confidential or proprietary, which would permit an unfair commercial advantage to competitors if openly disclosed. The Commission finds that SI Wireless has not established that disclosure of these materials could result in an unfair commercial advantage to its competitors, as the total number of SI Wireless' subscriber lines is publicly available from other sources.

Pursuant to KRS 278.140, utilities are required annually to file with the Commission a report of gross earnings from intrastate business. In these reports, telecommunications carriers are required to report the number of access lines, as well as their annual revenue derived from intrastate business. SI Wireless began filing these

reports in 2011, has included the number of its access lines in the report, and has neither sought nor received confidential treatment for this information. These gross earnings reports are public records, and available for public inspection.

Therefore, because the information for which SI Wireless seeks confidential protection is publically available elsewhere, SI Wireless has failed to demonstrate that materials on Lines 1 and 3 of the KUSF Form meet the criteria for confidential treatment pursuant to KRS 61.878(1)(c)(1). SI Wireless's request for confidential treatment should be denied for the designated materials on Lines 1 and 3 of the KUSF Form.

IT IS THEREFORE ORDERED that:

1. SI Wireless's motion for confidential protection for its response to Staff's First Request, Item 1, Exhibit 1 is hereby denied.
2. Within seven days of the date of this Order, SI Wireless shall file a revised version of its response to Staff's First Request, Item 1, Exhibit 1, for which confidential protection was denied, reflecting as unredacted the information that has been denied confidential treatment.
3. The materials for which SI Wireless's request for confidential treatment has been denied shall neither be placed in the public record nor made available for inspection for 20 days from the date of this Order in order to allow SI Wireless to seek a remedy afforded by law.

By the Commission

ENTERED
FEB 02 2017
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2016-00059

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