

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of The Lincoln Telephone ) Application No. C-636  
and Telegraph Company, Petition for )  
Declaratory Ruling as to the Sale of )  
White Page Telephone Directory Listings.) Entered: April 29, 1986

PROTECTIVE ORDER

Intervenor, U S West Direct Company, and Applicant, The Lincoln Telephone and Telegraph Company and Protestor, The American Association of Yellow Pages Publishers (hereinafter the "Parties"), represent to the Commission, and the Commission finds:

A. The Parties anticipate the need for comprehensive discovery programs involving the production and disclosure of documents, data and other materials and information, the answering of interrogatories, and the taking of testimony by oral deposition; and

B. The Parties maintain voluminous files of documents, data and information in the form of printed and typewritten documents and records of other, various types; and

C. Documents, data and information, answers to interrogatories, answers to depositions, responses to requests for production, affidavits and such other material and information as may be provided among these Parties during the course of this litigation (hereinafter referred to collectively as "Discovery Material") may represent or contain trade secrets or other confidential research, development or commercial information within the meaning of Rule 26 of the Nebraska Discovery Rules (hereinafter referred to as "Rule 26"); and

D. Neither Party is willing to waive any of the rights with respect to Discovery Material which constitutes confidential material, within the meaning of Rule 26; and

E. The need of prompt and orderly discovery in this proceeding may make it impossible for these Parties to insure that their rights under Rule 26 are fully protected at the time Discovery Material is produced or disclosed.

Accordingly, the Parties having submitted a Joint Motion for entry of this Protective Order, and the Commission finding good cause for entry of this Protective Order:

IT IS ORDERED

1. This Order shall govern all discovery material, as defined above, produced or disclosed during the proceedings in Application No. C-636 between the parties. The Commission may extend the terms of this Order to apply to other parties and other discovery in this case.

2. For purposes of this Order, "Confidential Information" means trade secrets, or confidential research, development or commercial information within the meaning of Rule 26 which is contained or disclosed in any Discovery Material governed by this Order, and designated in good faith as confidential by one of these Parties. Discovery Material shall be so designated in accordance with the procedures set forth in paragraph 3 of this Order.

3. Information contained in Discovery Material that is produced in written form for which a claim of confidential status is made shall be designated as "Confidential" by the producing party by printing or otherwise indicating on the face of such material "[Name of Producing Party] - Confidential" the printing or identifying of such Discovery Material may be done by the producing party prior to the production of such material.

4. All Discovery Material designated in good faith in accordance with paragraph 3 above, shall be treated by counsel for the Parties as required by subparagraph (a) below and shall be used by such counsel solely for the purpose of the preparation and trial of this action. Information so designated may be reviewed and copied by counsel of record for the receiving party, but shall not be used or disclosed by such counsel to any other person except as set forth herein or unless agreed to in writing by counsel for the designating party, or as may be permitted by subsequent order of the Commission. Information so designated may be disclosed by counsel for one of the parties only as follows, and only after complying with the procedures set forth herein.

(a) Confidential information may be disclosed;

(i) to attorneys of record of the Parties, their associated attorneys, paralegals and clerical staff employed in the preparation and trial of this action; provided that each lawyer, paralegal or clerical employee who retains a copy of information so designated shall maintain the information in a separate, identifiable file, access to which is appropriately restricted;

(ii) to any other person requested by counsel for one of the Parties to furnish technical or other expert services or to give testimony, or otherwise to prepare for the trial of this action; provided that such counsel designating the information as "Confidential" shall be given no less than five days prior to the proposed disclosure, a notice of intent to disclose, which notice shall contain the name, title and business address of the person to whom the information will be disclosed, and a description of the information which will be disclosed; that within that five days after receipt of the notice, counsel for the designating party does not object to the disclosure, and that the person to whom the information is disclosed first shall be advised and shall agree to the terms and conditions of this Order and shall maintain the information in a separate and identifiable file, access to which is appropriately restricted.

If within five days of receipt of the notice of an intent to disclose pursuant to subparagraph 4(a)(ii) above, the party designating the information as "Confidential" objects to such intended disclosure, the intended disclosure shall not be made until such objection is resolved. If the parties are unable to resolve the issue by negotiation, the party intending to disclose the information may seek a ruling permitting the intended disclosure, and pending such ruling the intended disclosure shall not be made.

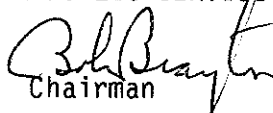
5. All Discovery Materials designated as "Confidential" which are filed with the Commission, and any pleading, motion or other paper filed with the Commission containing or disclosing such information, shall be filed and kept under seal until further notice of the Commission; provided, however, that such information shall be available to the commission and to counsel for the parties. Where possible, portions of filing so designated shall be filed under seal.

6. Upon final termination of this litigation, the Parties may request the return to them of all previously furnished Discovery Material, including any copies thereof, and each person to whom such discovery material has been furnished or produced shall be obligated to return the same, including all copies.

7. The entry of this Order shall be without prejudice to the rights of the parties to apply for additional or different protection where it is deemed necessary.

Approved this 29th day of April, 1986.

NEBRASKA PUBLIC SERVICE COMMISSION

  
Chairman

ATTEST:

  
Acting Executive Secretary

COMMISSIONERS CONCURRING:

Bob Brayton  
Duane D. Gay  
James F. Munnelly  
Harold D. Simpson