

BEFORE THE TENNESSEE REGULATORY AUTHORITY AT
NASHVILLE, TENNESSEE

IN RE: UNITED TELEPHONE-)
SOUTHEAST, INC. TARIFF NO. 96-201) DOCKET NO. 96-01423
TO REFLECT ANNUAL PRICE CAP)
ADJUSTMENT)

EXECUTIVE SECRETARY
JAN 11 5 PM 9 07
NASHVILLE, TENN.

MOTION TO ADOPT THE UNIFORM RULES OF PROCEDURE FOR HEARING
CONTESTED CASES BEFORE STATE ADMINISTRATIVE AGENCIES
PROMULGATED BY THE SECRETARY OF STATE

Comes the Consumer Advocate and moves the Tennessee Regulatory Authority to adopt the Secretary of State's Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies, Tennessee Administrative Rules and Regulations, Chapter 1360-4-1, pursuant to Tenn. Code Ann. § 4-5-219 for this case. For cause the Consumer Advocate would show:

1. That the Tennessee Regulatory Authority is a state administrative agency.
2. That Tenn. Code Ann. § 4-5-219 provides:

(a) The secretary of state, from time to time, shall adopt, in accordance with the rulemaking requirements of this chapter, model rules of procedure appropriate for use by as many agencies as possible.

* * *

(c) Each agency **shall adopt as much of the model rules as is practicable.**

(d) Any rule or procedure adopted by an agency that differs from the model rules shall be accompanied by a finding stating the reasons why the relevant portions of the model rules were impracticable for such agency. (Emphasis added.)

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3. That the Secretary of State has adopted the Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies as Tenn. Admin. Rule 1360-4-1 et seq. The Consumer Advocate Division requests the Authority to take Official Notice of said rule.
4. That the above referenced proceeding is a contested case and the Consumer Advocate is a party to the proceeding.
5. That the Tennessee Regulatory Authority is empowered to adopt rules of procedure pursuant to Tenn. Code Ann. § 65-2-102(a) which provides:

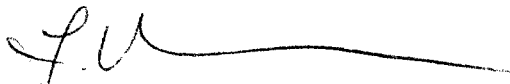
The authority is empowered and directed to adopt rules in the following circumstances and in the following manner:

(1) The authority shall adopt rules governing the procedure prescribed or authorized by this chapter or by any other statute applicable to the authority; these rules shall include, but shall not be limited to, rules of practice before the authority, together with forms and instructions.

6. That the attached Uniform Rules are practicable and should be adopted for this proceeding, and that mandamus is applicable to require the application of said rules, and further, that the application of other rules, or no rules, exceeds the statutory authority of the agency or is arbitrary and capricious or constitutes clear error.

Wherefore, the Consumer Advocate prays the Tennessee Regulatory Authority adopt the Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies, Tenn. Admin. Rule 1360-4-1 et seq., for this contested case proceeding.

Respectfully submitted,


L. Vincent Williams
Consumer Advocate

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion has been mailed postage prepaid to the parties listed below this 5th day of March, 1997.

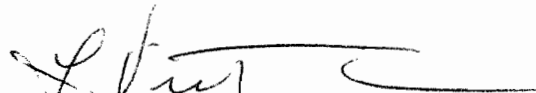
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