

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

'97 APR 18 PM 12 02

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

)
) Docket No. 96-01423
) EXECUTIVE SECRETARY
)
)

OFFICIAL FILE

PLEASE

MOTION FOR DISCLOSURE

DO NOT REMOVE

Comes the Consumer Advocate Division and respectfully moves for disclosure of the administrative judge or hearing officers advice to agency members as to the law of the case and to propose the law of the case to said administrative judge or hearing officer supported by briefs, if warranted. For cause the Consumer Advocate Division would show:

1. That the law for the conduct of contested cases in this state is provided by Tenn. Code Ann. § 4-5-301 which provides in pertinent part:

(b) It is the duty of the administrative judge or hearing officer to preside at the hearing, rule on questions of the admissibility of evidence, swear witnesses, **advise the agency members as to the law of the case**, and ensure that the proceedings are carried out in accordance with the provisions of this chapter, other applicable law and the rules of the respective agency. At no time shall the administrative judge or hearing officer hearing a case with agency members under subsection (a) take part in the determination of a question of fact, unless the administrative judge or hearing officer is an agency member. An administrative judge or hearing officer shall, upon his own motion, or timely motion of a party, decide any procedural question of law. (Emphasis added).

2. That the administrative judge or hearing officer has no authority to secretly advise the agency members in contested case proceedings.
3. That the agency has promulgated no contested case rules of procedure regarding the

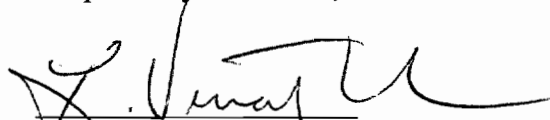
provision of advice to agency members and therefore the only authoritative "law" regarding the provision of such advice Tenn. Admin. Rule 1360-4-1-.14 (q) which provides in relevant part:

The administrative judge prepares to turn proceedings over to the agency by charging the agency as to the applicable law, requisites of the final order, voting procedure, and other pertinent matters....

4. That the issues in this contested case are peculiarly dependent upon the applicable law and that all parties have a right to know the applicable law being charged to the agency.
5. That the parties should be permitted to submit and argue the proposed charges of law to the administrative judge or hearing officer and that the administrative judge or hearing officer should then disclose the charge which he/she proposes to give the agency.

Wherefore the Consumer Advocate Division prays that the parties be permitted to submit proposed charges of law to the administrative judge or hearing officer, supported by briefs if warranted and that the administrative judge or hearing officer disclose the charges of law made to the agency.

Respectfully submitted,


L. Vincent Williams

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Document has been faxed and mailed postage prepaid to the parties listed below this 18th day of April, 1997.

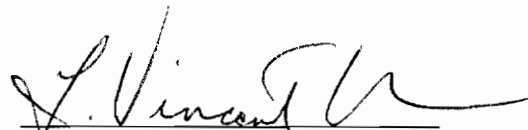
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