

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Division of Consumer Counsel,
et al.

Report of Hearing Officer

vs.

Docket #FIC79-151

Division of Public Utility
Control, et al.

January 23, 1980

The above entitled matter was scheduled for hearing August 15, 1979, at which time the complainant and respondents appeared.

After hearing arguments on motions to dismiss, the Hearing Officer adjourned the proceedings to a date certain. The respondent Division of Public Utility Control then obtained an ex parte order restraining the Freedom of Information Commission from holding further proceedings. On September 13, 1979, after hearing, the court limited the Freedom of Information Commission to a determination of whether it had jurisdiction in the matter.

A hearing limited to jurisdiction was scheduled for October 9, 1979, at which time all parties appeared and presented argument on the jurisdictional question.

After consideration of the entire record, the following facts are found:

1. The respondents are public agencies within the meaning of §1-18a(a), G.S.
2. At hearing there appeared additional persons and entities who made motions to be parties to the instant proceeding.
3. It is found that all those persons and entities who have petitioned to become parties herein may be parties to the instant proceeding.
4. Those who have been formally designated complainants herein include the Connecticut Citizen Action Group, Inc.; the Low Income Planning Agency, Inc.; Charles Sulham, Candace Leavitt, and George Kanakos.
5. Those who have formally been designated respondents herein include the Connecticut Light and Power Company; and Hartford Electric Light Company.
6. By complaint filed with the Commission July 3, 1979, the complainant, Division of Consumer Counsel, alleged that a panel of the respondent, Division of Public Utility Control, had conducted secret meetings at which it discussed and acted upon an application for a rate increase of the Connecticut Light and Power Company and the Hartford Electric Light Company.

7. The complaint alleged that an agreement concerning the amount of the rate increase was reached prior to the public vote of the panel on that increase on June 29, 1979.

8. The complaint further alleged that the aforesaid agreement was reached during secret discussions which were termed "negotiations" during which the three commissioners who made up the panel met in pairs until a consensus was reached.

9. The three commissioners who made up the panel were authorized to make a final agency decision under the provision of §16-2(c), G.S.

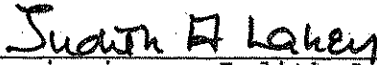
10. §1-18a(b), G.S. provides in relevant part that "meeting" means any hearing or other proceeding of a public agency, any convening or assembly of a quorum of a multimember public agency, any communication by or to a quorum of a multimember public agency, whether in person or by means of electronic equipment, to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction or advisory power.

11. It is found that the allegations of the complaint are sufficient to constitute an alleged violation of the Freedom of Information Act. It is concluded, therefore, that the Commission has jurisdiction to conduct an investigation pursuant to §1-21j(d), G.S.

The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint:

1. The Clerk of the Freedom of Information Commission is hereby ordered to schedule a hearing for the purpose of investigating the violation of the Freedom of Information Act which is alleged in the complaint, docket #FIC 79-151.

2. This order is to be stayed until further order of the Court.



Commissioner Judith A. Lahey
as Hearing Officer

Approved by order of the Freedom of Information Commission on February 13, 1980.



Leslie Ann McGuire
Clerk of the Commission