

STATE OF CALIFORNIA

PUBLIC UTILITIES COMMISSION

Public Advisor's Office



Phone: (866) 849-8390 (toll free)

E-mail: public.advisor@cpuc.ca.gov

**FORMAL COMPLAINT PROCEDURES and
ALTERNATIVE DISPUTE RESOLUTION PROGRAM**

The California Public Utilities Commission (CPUC) and its staff are always ready to answer questions about regulation of investor-owned utilities. Many of these utilities operate under tariff rates and rules, which are on file with the CPUC and are open to public inspection at utility offices. Each utility also posts their tariff rates on their website. Consumers should seek information on rules, service, or rates directly from the utility. In general, utilities answer most consumer questions and satisfactorily settle disputes. If they do not, please contact the CPUC and we will assist you through our formal complaint processes, or Alternative Dispute Resolution Program.

Formal Complaints

Through the formal complaint procedure, the CPUC can order the utility to take corrective action on a variety of formal complaints, including an adjustment to a customer's bill. The CPUC can also order reparations if a service which has been paid for has not been provided. It is important to note, however, that the CPUC is not allowed to award damages for such things as personal injury, property damage, emotional distress, or loss of wages or profits. To request compensation for damages, the customer must file a claim in a civil court.

Privacy Notice

Whether or not your formal complaint is filed in paper form or electronically, formal complaints filed with the CPUC become a public record and may be posted on the CPUC's website. Therefore, any information you provide in the formal complaint, including, but not limited to, your name, address, city, state, zip code, telephone number, e-mail address, and the facts of your case may be available on-line for later public viewing.

**If you need help with or have any questions about filing your formal complaint, contact the
CPUC Public Advisor's Office**

The Public Advisor - CPUC
505 Van Ness Avenue, Room 2103
San Francisco, CA 94102
(866) 849-8390 (toll free); (415) 703-2074
public.advisor@cpuc.ca.gov

Alternative Dispute Resolution Program

The Alternative Dispute Resolution Program (ADR) commonly describes processes, such as facilitation, negotiation, mediation, and early neutral evaluation, to help disputants resolve a conflict without a formal decision by a court or agency. When successful, ADR may achieve results that a court or agency could not order, give the parties more ownership in the result, and reduce litigation and agency costs.

Our Administrative Law Judge (ALJ) Division administers the ADR program and trained experienced ALJs serve as neutrals in the program.

Because ADR focuses on the parties' basic interests, a dispute may be settled on terms more favorable to each of the parties. Since the process is voluntary, free, and normally confidential, parties have little "down-side" risk in trying ADR. If it results in a full settlement, ADR may save time and litigation expenses. Even if a complete settlement is not possible, agreement may be reached on some important points and this, also, may save time.

ADR can occur at any time during a formal proceeding. We encourage the early use of ADR to save the parties' time and money and to avoid unnecessary escalation of a dispute. In addition, ADR may be available to help resolve disputes that are still informal and have yet to be filed as formal complaints. Most ADR sessions are completed in ½ to 2 days. Some ADR sessions continue over several weeks, with the parties meeting for a day or two at a time.

For additional information, visit www.cpuc.ca.gov/PUC/ADR/.

INSTRUCTIONS FOR FILLING OUT THE ENCLOSED FORMAL COMPLAINT FORM

This step-by-step guide is designed to assist you in filing your formal complaint. You may file a complaint by mail as described in these instructions, or you may file electronically by visiting www.cpuc.ca.gov and clicking on the "E-File Documents" link. We do not charge fees for filing a formal complaint.

We have tried to simplify the process by assigning letters corresponding to the blanks on the form. However, you should become familiar with the CPUC's Rules of Practice and Procedure, as they must be followed in all formal proceedings. A complete set of Rules may be obtained upon request from the Public Advisor's office, and is also available on our website www.cpuc.ca.gov, first click on "online documents" and then "General Orders, Codes, Laws, Policies, Rules of Practice & Procedure."

The instructions below correspond to the sections on the formal complaint form.

- A. The individual filing the complaint is the complainant. Provide the name(s) of each complainant.

Example: Mary Smith

B. The defendant is the utility you have a complaint against. Provide the name(s) of defendant(s).

Example: Acme Utility Company

C. A complaint that does not allege that the matter has first been brought to the CPUC staff for informal resolution (complaint filed with the CPUC's Consumer Affairs Branch) may be referred to the staff to attempt to resolve the matter informally. (Rule 4.2(c)).

D. Provide mailing address and **daytime** telephone number.

Example: Mary Smith, 444 W. 4th Street, Los Angeles, CA, 90012, (213) 400-5005

E. Provide the utility (defendant's) name and address. Use the address on your bill or contact the Public Advisor's office for the address.

F. Clearly describe your complaint: Explain the problem you are having with the utility.

G. You must provide your suggestions regarding several things the CPUC will need to consider in handling your case (this is called Scoping Memo Information). These items include: The proposed category "adjudicatory" or "ratesetting." See Categorization of Proceedings Section on page 12 for additional information. Most complaints are "adjudicatory" unless they challenge the reasonableness of a utility's rate; do you believe that there are facts in dispute that require a hearing before a judge; see page 11 on difference between regular and expedited complaints; the issues to be considered; and a proposed schedule. Include as attachments copies of any documentation you feel will support your case. **NOTE: Please see page 11 for information regarding various ways to challenge the reasonableness of a rate (Rule 4.1).**

H. You must state the exact relief you are requesting.

Example: The utility should refund the overbilled amount of \$78.00.

I. (OPTIONAL) If you would like to receive the defendant's answer and other filings, including information and notices from the CPUC, by electronic mail (e-mail) instead of by U.S. Mail, provide your e-mail address.

REMINDER: BY LAW, THE CPUC CANNOT AWARD DAMAGES. For example, the CPUC cannot order the utility to pay you \$40.00 to replace a plant the utility drove over. If you are unsure whether the relief you are requesting is an award of damages, please call the Public Advisor's Office.

J. Date and Sign.

Example: Los Angeles this 22nd day of April 2009.

K. Provide information for your representative, if applicable.

L, M. Sign Verification Form.

Example for individual: April 22, 2009 at Los Angeles Ms. Mary Smith

N. If you are filing your formal complaint on paper, then submit one (1) original, six (6) copies, plus one (1) copy for each named defendant. For example, if your formal complaint has one defendant, then you must submit a total of eight (8) copies (Rule 4.2(b)).

If you are filing your formal complaint electronically (visit <http://www.cpuc.ca.gov/PUC/efiling> for additional details), then you are not required to mail paper copies.

O. Mail paper copies to: CALIFORNIA PUBLIC UTILITIES COMMISSION

ATTN: DOCKET OFFICE
505 VAN NESS AVENUE, ROOM 2001
SAN FRANCISCO, CALIFORNIA 94102

EXPEDITED AND REGULAR COMPLAINT PROCEDURES

The CPUC has two kinds of formal complaints: The expedited complaint procedure (ECP) and the regular complaint procedure. The following explains the major differences.

EXPEDITED COMPLAINT (ECP)

Only for cases where the disputed amount is under \$10,000¹ if filed by a natural person or under \$5,000² if filed by a corporation or other group.

No attorneys may represent either party.

No court reporter present and no hearing transcript prepared.

Hearing held usually within 30 days after defendant utility's answer is filed.

If appealed by either party, and rehearing is granted, the whole case must be reheard under regular complaint procedure.

In filing your formal complaint, you may request that your complaint be handled under the CPUC's regular formal complaint procedure. If you do not indicate which procedure you prefer (and if the amount is less than \$10,000 in a complaint filed by a natural person or \$5,000 in a complaint filed by a corporation or other group), the Docket Office will generally consider it as an expedited complaint.

Regardless of the type of formal complaint you have filed, you have the burden to present your case and prove any act or thing done or omitted to be done by the utility which you allege violates the utility's tariff rules, a CPUC order, or the law.

If your complaint concerns the reasonableness of a utility's rates, it must be signed by the mayor or president or chairperson of the board of trustees or a majority of the council, commission, or other legislative body of the city or city and county within which the alleged violation occurred or signed by not less than 25 actual or prospective consumers or purchasers of the utility's service. (Rule 4.1)

¹ The \$10,000 limit may be subject to change due to exceptions; please see Sections 116.210-116.270 of the California Code of Civil Procedure.

² The \$5,000 limit may be subject to change due to exceptions; please see Sections 116.210-116.270 of the California Code of Civil Procedure.

If requested in your complaint and if administratively possible, the hearing may be held in a location within your community. If you have a situation that prevents you from traveling, please indicate your restriction in your request.

WHAT WILL HAPPEN NEXT

The Docket Clerk will review your formal complaint to ensure it complies with all of the Rules of Practice and Procedure, and that you have provided all of the needed information.

If your formal complaint has been rejected for any reason, the Docket Clerk will notify you why it was not accepted and what you must do to correct the filing. They may refer to the CPUC's "Rules of Practice and Procedure," which is available from the Public Advisor's Office and is on our website www.cpuc.ca.gov.

Once the formal complaint has been accepted for filing, the Docket Clerk will issue a case number. If you want the Docket Office to send you an official copy of your complaint with the case number, you should send an extra copy of the complaint with a self-addressed, stamped envelope at the time you file your complaint.

You are not required to serve the complaint to the defendant utility. Instead, the Docket Office will mail a copy of the formal complaint to the defendant utility, with the instruction sheet directing an answer in 30 days, or 20 days under the expedited procedure. You will receive a copy of the instruction sheet that was sent to the defendant utility with the case number and the date the answer is due from the defendant utility. The instruction sheet will indicate the Administrative Law Judge (ALJ) that has been assigned to hear your case. If your complaint is a regular complaint, and not an ECP, the instruction sheet will also note the category assigned to your case. The utility will send you a copy of its answer to your complaint. The ALJ may schedule a prehearing conference. Prehearing conferences may be held by telephone or in person. A prehearing conference is held to determine the parties, the issues, and the hearing schedule. You will be notified of the date, time and location for the hearing, the positions of the parties, and other procedural matters.

Under the expedited procedure, a hearing date may be set at the time the complaint is served on the defendant utility or it may be deferred until after the Answer has been filed. A hearing is usually held within 30 days after the Answer of the defendant utility has been filed. An ECP hearing will usually be held on Thursday in San Francisco and on Friday in Los Angeles with some exceptions to this schedule as necessary. If you request your hearing be held in a location other than San Francisco or Los Angeles, it may not be possible to set the hearing within 30 days of the answer but it will be as close to that time frame as possible.

If you cannot attend the scheduled hearing date, you should notify the ALJ as soon as possible to avoid any unnecessary expenditures by the parties. Please call the ALJ through the CPUC's toll-free number 1-800-848-5580.

CATEGORIZATION OF PROCEEDINGS

Formal proceedings are divided into three categories: Adjudicatory, Ratesetting, and Quasi Legislative. Most formal complaints will be Adjudicatory. Those formal complaints which require 25 signatures are not considered adjudicatory; they will likely be categorized as Ratesetting. (Rule 1.3)

Adjudicatory proceedings require a Commission final decision within 12 months of the filing date, barring unusual circumstances. The 12 month time period begins when the complaint is accepted for filing with the Commission's Docket Office.

The ALJ will write a draft decision for the Commission. The five-member Commission can accept, reject, or modify the ALJ's draft decision, and the Commission considers and issues its ultimate decision at its publicly noticed business meetings. The Commission can award an adjustment to your bill if you prove you are entitled to it (reparation), but it cannot award damages, such as lost wages.

In adjudicatory proceedings where hearings have been held, the presiding officer's (ALJs) draft decision becomes the Commission's final decision 30 days after the draft decision is mailed to the parties in the proceeding but only if no appeal or request for review was filed during that 30 day period. If an appeal or request for review is filed, the Commission will consider the draft decision at a Business Meeting, and adopt a final decision.

Commission final decisions in adjudicatory cases can be appealed. To appeal a final decision, a complainant must first file an application for rehearing with the Commission. If, after the Commission issues a decision on the application for rehearing (or 60 days after filing the application for rehearing), the Complainant is not satisfied, he/she may appeal the Commission's decision to the State Court of Appeal in the District in which he/she resides.

Applications for rehearing shall follow Article 16 of the Rules of Practice & Procedure, and in any appeal you are responsible to specifically explain in what manner the Commission's Decision is unlawful or erroneous.

EX PARTE INFORMATION

Special restrictions apply to conversations with the ALJ or Commissioners when the conversations are about substantive issues in your case. Such "ex parte communications" are prohibited in adjudicatory cases. An ex parte communication is a written communication (including a communication by letter or electronic medium) or oral communication (including a communication by telephone or in person) that:

- (1) concerns any substantive issue in a formal proceeding, and
- (2) takes place between an interested person (like yourself) and a decisionmaker (like the ALJ), and

(3) does not occur in a public hearing, workshop, or other public setting, or on the record of the proceeding, where all interested parties would have the opportunity to attend.

Communications limited to inquiries regarding the schedule, location, or format for hearings, filing dates, identity of parties, and other such non-substantive information are likely to be considered procedural inquiries not subject to any restriction or reporting requirement. If you need help in determining the nature of an intended communication, call the Public Advisor's Office for assistance.

If your case is not classified as adjudicatory, different ex parte rules may apply. Please refer to the complete text of the ex parte rules in Article 8 of the CPUC's Rules of Practice and Procedure. You may also want to refer to the law upon which the rules are based (Public Utilities Code Sections 1701.1, 1701.2 and 1701.3). If you have any questions, please contact the Public Advisor's Office.

Reminder

If you have any questions about any part of the formal complaint procedures, please feel free to call the Public Advisor's Office in San Francisco. We will be glad to answer your questions regarding the process.