

**HOW TO PRESENT YOUR
FORMAL COMPLAINT
BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION**



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Contents

INTRODUCTION	2
THE COMPLAINT PROCESS	3
WHAT IS A COMPLAINT?	3
INFORMAL COMPLAINT	3
FORMAL COMPLAINT.....	3
SMALL FORMAL COMPLAINT	4
HOW TO START A FORMAL COMPLAINT PROCEEDING.....	4
FORMAL COMPLAINT PROCEDURE.....	5
HOW THE PSC WORKS.....	7
WHAT IS THE PSC?	7
STATUTES, TARIFFS, REGULATIONS AND ORDERS	7
OTHER LAW	8
WHO IS WHO AT THE PSC?.....	9

INTRODUCTION

This guide describes the Missouri Public Service Commission (“PSC”) complaint process and how you can present your case to the PSC without a lawyer. In every case, the PSC wants to make the best decision possible. Therefore, the PSC wants to hear the best presentation from all sides.

The PSC has a Consumer Hotline to assist you. If you have talked over your problem with the utility, and have not reached a satisfactory resolution, you can call the PSC’s Consumer Hotline. The number is 800-392-4211. The PSC also has a website. The PSC website has information, and links to other sites, addressing a wide range of utility issues. The address is <http://psc.mo.gov/>. The PSC does not discriminate on the basis of disability in the provision of programs, services, or employment. Anyone with an impairment of speech, hearing or vision, or

needing other such assistance, may call 800-392-4211 or TDD hotline 1-800-829-7541. The Commission will make every effort to get this information to you in a usable form.

All complaints are unique so you will probably have an issue not addressed in this guide. This guide therefore references other resources including sources of law. This guide is not law. If the law ever conflicts with this guide, the law controls. Neither this guide nor any other document can substitute for hiring your own lawyer.

THE COMPLAINT PROCESS

WHAT IS A COMPLAINT?

A complaint is a statement that a utility has violated a statute, tariff, or Commission order or regulation. The statutes and PSC regulations provide for an informal complaint and a formal complaint. PSC regulations provide a small formal complaint process designed to be more accessible and easier to use.

INFORMAL COMPLAINT

An informal complaint addresses your dispute with the utility without legalistic procedures. Staff can explain the statute, tariff, or Commission order or regulation governing your complaint. Staff can also serve as an intermediary with the utility. Staff does not speak on the Commission's behalf so, when Staff discusses your informal complaint, that discussion is not the Commission's decision. You have the right to make a formal complaint to the Commission.

FORMAL COMPLAINT

A formal complaint starts a proceeding that resembles a trial in circuit court and leads to a legally binding decision on whether the utility violated a statute, tariff, or Commission order or regulation. That decision is so important that the statutes provide all parties with the right to a

hearing. In addition, the PSC’s regulations provide pre-hearing procedures including discovery and dispositive motions. A formal complaint is much like a trial in circuit court without a jury.

SMALL FORMAL COMPLAINT

A small formal complaint is a formal complaint in which the amount at issue is less than \$3,000. A small formal complaint differs from other formal complaints in that the hearing must be near where you live: in St. Louis City if that is where you live, your county seat, or within 30 miles of where the utility service was provided. Also, the order deciding your complaint on the merits can issue within 100 days after you file it, though most complainants need more time than that to prepare their case.

HOW TO START A FORMAL COMPLAINT PROCEEDING

First you must write down your formal complaint. You may use the sample complaint form in the back of this guide and fill in the blanks. Or you may draft your own document. Either way, a formal complaint must allege conduct that violates a statute, tariff, or Commission order or regulation. If a formal complaint does not allege conduct that violates a statute, tariff, or Commission order or regulation, the Commission can do nothing with the formal complaint except dismiss it.

Next, you must file that written formal complaint. Filing means that the Commission receives the formal complaint. Send the complaint to:

Secretary
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102-0360

Or use the Commission’s Electronic Filing and Information System (“EFIS”) at psc.mo.gov.

Once you have filed your formal complaint, the Commission will assign it a file number. Use the file number when discussing your formal complaint in writing or in person. It helps avoid confusion.

FORMAL COMPLAINT PROCEDURE

Your formal complaint is a type of action called a “contested case,” meaning a formally “contested” proceeding before the Commission. It is similar to a trial in circuit court. Formality is reduced but the decision must stand on the law and evidence entered into the record. Generally, see the following authorities:

- Chapter 536, RSMo is the chapter of the Missouri Revised Statutes that sets forth administrative procedure in general. It sets forth the basics of contested case procedure.
- Chapter 386, RSMo is the chapter of the Missouri Revised Statutes that sets forth PSC procedure specifically. It contains several provisions regarding PSC hearings and formal complaints.
- 20 CSR 4240-2.070. This is the regulation that applies to PSC formal complaint procedure specifically.

Other laws cited above also apply.

Your formal complaint may proceed through several phases before the Commission’s resolution.

- Pleadings include your formal complaint and responsive documents in which the parties set forth what they want, the law that allows that relief, and facts relevant under that law.

- Discovery is the process by which the parties learn about what the other parties know and how they know it. It includes devices like data requests, depositions, interrogatories, document production requests, and subpoenas.
- Pre-Hearing Motions ask the Commission to do something in preparation for hearing, like set a schedule or enforce discovery.
- Dispositive Motions ask the Commission to dispose of the formal complaint without a hearing. Dismissal means the Commission has no authority to address the formal complaint. Summary determination means that no hearing is necessary to decide who wins. Both must have support in the record, like admissions in an opponent's pleadings, or an affidavit to support an allegation outside the pleadings.
- Hearing is where the parties offer the Commission evidence on which the Commission decides the formal complaint. Though statutes and regulations relax the law of evidence, certain fundamentals still apply. Consult the authorities cited above.
- Briefs are written arguments in which parties tell the Commission why they should win by citing the statute, tariff, or Commission regulation or order violated; and citing something in the record, like testimony in the transcript, showing that the violation occurred.
- Report and Order is the Commission's name for a decision made after a hearing on a formal complaint. If no hearing occurs, the Commission calls the decision an order. The Regulatory Law Judge drafts a recommended decision but the Commission is the final decision-maker.

The Commission votes on the decision at an open meeting under an agenda posted in advance. The Commission webcasts its agenda meetings so you can listen on your computer.

The Commission's decision is subject to rehearing until the effective date set forth in the decision. This means that you may ask the Commission to look at the formal complaint some more, including facts that arose after the Commission voted on the decision. But you **must** file your application for rehearing **before the decision's effective date**. An application for rehearing filed **on the effective date is too late**. If the Commission denies an application for rehearing the party who filed it may appeal to a court of law as the statutes provide. If you appeal the Commission's decision, the reviewing court will only look at the issues you set out in an application for rehearing.

HOW THE PSC WORKS

WHAT IS THE PSC?

The PSC is an executive-branch agency of Missouri government that regulates investor-owned utilities and some manufactured houses. The legislative branch of Missouri government created the PSC in 1913 and continues to set legal standards for the PSC to follow. The judicial branch of Missouri government reviews decisions of the PSC for compliance with the law. Subject to those branches of government, the PSC operates its own internal legislative, judicial, and executive functions.

STATUTES, TARIFFS, REGULATIONS AND ORDERS

The subject of the complaint must be a violation of at least one of the following.

- Statutes: The Missouri Revised Statutes. The statutes are laws made by elected officials—your State representatives and State senators—in the Missouri General Assembly. Chapters 386, 392, 393, and 536 contain most of the statutes that

govern your complaint. You can view the statutes online at

<https://revisor.mo.gov/main/Home.aspx>.

- Tariffs. Tariffs are schedules of rates, charges, and terms of service that every utility must have on file with the PSC. You can view tariffs online through the Commission's Electronic Filing and Information System ("EFIS") at <https://efis.psc.mo.gov/mpsc/TariffSearch.html>.
- Regulations. The Code of State Regulations. Regulations (or "rules") are laws made by officials like the Commissioners of the PSC. The PSC's regulations are at 20 CSR 4240. You can view the regulations online at <http://www.sos.mo.gov/adrules/csr/csr.asp>.
- Orders. the PSC might also impose other requirements on a utility by order directed to that utility alone. You can view orders online through the Commission's Electronic Filing and Information System ("EFIS") at <https://efis.psc.mo.gov>.

OTHER LAW

Other sources of law that determine your complaint are published in hard copy, which might be available at a public library or law library, and online. The most important laws include:

- Case Law. Case law is made by Missouri appellate courts—the Missouri Court of Appeals and the Missouri Supreme Court—when they decide an appeal from another governmental body. Missouri appellate court opinions are posted at <http://www.courts.mo.gov/page.jsp?id=1944>.

- Commission Decisions. Decisions in other cases can give you an idea of how the Commission analyses formal complaints like yours.
- Federal Authorities. These may include federal statutes, regulations, and case law.

You can also consult secondary sources—books and journal articles that generally outline legal processes and explore specific legal issues. They include the Missouri Bar’s deskbook series, Thomson Reuter’s Missouri Practice Series, and the Journal of the Missouri Bar. Each of those bodies of law is available from other hard copy and online sources, but some online sources are expensive, and some are not as easy to use as the hard copies of authorities listed here. You may find secondary sources at a public library or a law library.

WHO IS WHO AT THE PSC?

The PSC consists of five commissioners, each appointed by the governor subject to confirmation by the Missouri Senate. The commissioners serve staggered six-year terms. Biographies of the commissioners are available online at <https://psc.mo.gov/Commissioners/>.

The Commissioners employ the following persons to help them process complaints.

- Data Center. The PSC’s Data Center operates EFIS, receives filings, transmits order and notices, and keeps the Commission’s records.
- Staff. The PSC hires neutral experts in engineering, accountancy, economics, and others, to help it make the best decisions possible. So that everyone knows what Staff is telling the Commission, the Commission’s regulations provide that Staff is a party—like you and the utility—to your complaint. Staff will investigate your complaint and file a report of its findings in your complaint file.
- Staff Counsel. Staff Counsel is a group of lawyers that the PSC hires to represent Staff in actions including your complaint.

As in an informal complaint, Staff does not speak on the Commission's behalf, nor does Staff Counsel. Staff reports to the Commission, and sometimes the Commission agrees with Staff, but sometimes the Commission does not. So when Staff issues a report or a recommendation, it does not determine your complaint. In a formal complaint, you have the right to make your case to the Commission.

You may contact any of those persons about your complaint but none of them is your advocate in a formal complaint. Unlike a criminal prosecution, there is no right to appointed counsel before the PSC.

In addition, the Commission assigns to your formal complaint a:

- Regulatory Law Judge ("RLJ"). An RLJ is a lawyer employed by the PSC to conduct proceedings in a variety of actions including your formal complaint. The RLJ will manage your case, issue orders on motions or on the RLJ's own initiative, convene conferences and an evidentiary hearing, and issues orders addressing your formal complaint. The RLJ's order may constitute a recommendation to the Commission for the commissioners to vote on, or an order may be effective right away.

Do not contact the RLJ about your case except in writing copied to all parties.

To represent all ratepayers, the statutes also create:

- The Office of Public Counsel ("OPC"). OPC is an office of Missouri government independent of the PSC. But OPC represents the public in general and no one person in particular. PSC regulations make OPC a party to every case.

FORMAL COMPLAINT FORM

Attach extra pages as necessary.

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

_____)	
(Your name here))	
)	
Complainant,)	
)	
v.)	File No.
)	
_____)	
)	(PSC fills this in)
_____)	
(Utility's name here))	
)	
Respondent,)	

FORMAL COMPLAINT

1. Complainant resides at:

_____ (Address of complainant)

_____ (City) (State) (Zip Code)

2. The utility service complained of was received at:

a. Complainant's address listed in paragraph 1.

b. A different address:

_____ (Address where service is provided, if different from Complainant's address)

_____ (City) (State) (Zip Code)

