

GROUND RULES

When you file a complaint with the Régie de l'énergie to contest a decision made by a distributor of electric power or natural gas, you should bear in mind that the Régie's decision will be final and cannot be appealed. It is therefore important to be well prepared for the hearing or the examination of the file and leave nothing to chance. This brochure will guide you through the process.

The distributor which is the object of your complaint to the Régie must be informed of the reason for your complaint and the supporting evidence so it can respond. Therefore, you must send the distributor a copy of all your correspondence with the Régie, and the distributor must send you a copy of all its correspondence with the Régie in connection with your case.

The Régie will make its decision on the basis of the evidence presented to it. It is up to you to demonstrate the merits of your complaint as fully as possible. If you fail to convince the commissioner that you have legitimate grounds, your complaint will be dismissed. Therefore, it is very important that you be able to support your case with documentation or testimony from witnesses who can back up your statements.

Bear in mind that you are the one who is challenging a decision made by the distributor and it is up to you to prove that the distributor's decision is unjustified.

EXAMINATION OF YOUR CASE

The Regulation respecting the procedure of the Régie de l'énergie stipulates that, as a rule, the Régie will study complaints on the basis of the file unless one of the parties specifically requests a hearing. However, the Régie may call a hearing of its own accord if it considers it useful to do so. It may also suspend its examination of a complaint to allow for conciliation, if it considers it expedient and if both parties consent.

REQUEST FOR THE DISTRIBUTOR'S IN-HOUSE EXAMINATION FILE

When it acknowledges receipt of your complaint, the Régie will send a copy of the complaint to the distributor in question and ask it to provide, within 15 days, a copy of its in-house examination file on your complaint. The examination file will contain any exchange of correspondence between you and the distributor, reports produced by the distributor's employees (meter inspection, visits to your home, accounts of communication with you), computer records of your energy consumption and billing, and so forth.

THE PROCESS

CONCILIATION

After thoroughly studying the file, including your complaint and the distributor's in-house examination file, the Régie may suspend its examination of your complaint for a period of up to 30 days to allow for conciliation, if it considers it expedient and reasonable in the circumstances, and if both parties agree.

Conciliation is a fast, simple and free service that helps you find a solution to your dispute with the distributor through dialogue.

If an agreement is reached, it must be confirmed in writing and signed by the parties. Such an agreement is binding. The Act stipulates that if no agreement is reached, nothing that was said or written during the conciliation session will be admissible as evidence before the Régie or in court without the consent of both parties. In this event, the case will be turned over to a commissioner, who will render a decision after considering the evidence you present at the hearing or in writing, without knowing what was said at the conciliation session.

If conciliation is not attempted or fails, the Régie may decide, after studying the distributor's in-house examination file and your complaint, to examine your complaint on the basis of the file, unless one of the parties requests a hearing.

The Régie will inform you in writing that it intends to proceed on the basis of the file and ask you to complete your file by providing any evidence or arguments that you may wish to add in order to help the Régie reach a decision. The Régie will set a deadline for submitting additional information.

EXAMINATION OF THE COMPLAINT ON THE BASIS OF THE FILE

After receiving your copy of the in-house examination file, which the distributor will have forwarded to you and to the Régie, you will be able to determine whether you need to add any information to the file.

Bear in mind that it is up to you to prove each point in your complaint. Allegations are usually not enough.

If you feel you need to add information to your file, you must send it to the Régie and the distributor by the prescribed deadline. To get an extension, you must request it in writing and provide a reason.

The distributor will also be asked whether it wishes to add any evidence or arguments to the file. It must send you a copy of any additional information it submits to the Régie.

If the additional information provided by the parties fails to clarify all the points at issue or raises new questions, the Régie may send one or both parties a letter containing a list of questions and requesting written answers by a prescribed date.

Once the Régie has received all the information it requires, it will take the case under advisement and inform you of its decision, based on the evidence you and the distributor have submitted, as soon as possible.

THE ORAL HEARING

The Régie may decide to hold a hearing after studying the distributor's in-house examination file and your complaint, or if one of the parties requests one.

The Régie can call a hearing for a variety of reasons: for example, it may wish to hear the parties and their versions of the facts in order to assess their credibility, or it may want to obtain explanations beyond what the parties have provided.

If the Régie decides to call a hearing, it will send you a written notice at least three weeks in advance to inform you of its date, time and place.

POSTPONEMENT

In some cases, you or the distributor may have a significant impediment that prevents you from appearing at the hearing on the scheduled date. There may also be other valid reasons for postponing a hearing, such as unavailability of a key witness.

In such cases, you can obtain a postponement by producing a written consent from the other party.

If you have not obtained the other party's consent, you or your representative may apply for a postponement by submitting a written request in due time and providing reasons. In this case, it will be up to the commissioner to accept or deny the request, depending on the reasons provided and the circumstances of the case.

REPRESENTATIVES

An individual who is a party to a dispute that is to be heard by the Régie does not need legal representation. However, the distributor will generally be represented by a lawyer.

If you cannot appear at the hearing yourself, you may mandate another person - a lawyer, your spouse, a friend, a relative - to represent you. In this case, you must provide a written mandate, signed by yourself, and indicate the reasons for your absence.

A corporation, a cooperative or other legal entity may be represented by one of its officers, a director, a person in its sole employ, or a lawyer. Except in the case of a lawyer, the representative of an entity of this type must be authorized to act on its behalf by a resolution of the Board of Directors.

At the hearing, your representative will act on your behalf. He or she must therefore have personal knowledge of the facts or be able to prove the facts through the testimony of witnesses or by other means, as you yourself would have done.

EVIDENCE

You must prove each point of your complaint by providing documentation or witnesses.

You must make sure that any witnesses you want to call in support of your complaint are present at the time of the hearing. In some cases, witnesses will appear willingly at your request. In others, they will have to be subpoenaed. Since the subpoenas are issued by a commissioner, it is important to inform the Régie in due time of the names and addresses of the witnesses you want summoned to testify. It will then be up to you to have the subpoenas served by a bailiff, at your expense.

The witnesses you call should have personal knowledge of the facts. Having heard that something happened or that something was said does not prove that it is so. Therefore, the testimony of a witness who has direct knowledge of the facts or was present at or involved in a conversation carries greater weight than does hearsay testimony.

In some cases, you may need to present testimony from an expert witness or an inspector. It is preferable that a witness of this type be present at the hearing to give his or her expert testimony or present his or her report in person, and to be cross-examined by the distributor's lawyer.

You should bring any original documents which you intend to quote or enter into evidence.

It is advisable to organize all your documents, clearly label them and place them in chronological order before the hearing so you can locate them easily when you need them. This will avoid wasting time during the hearing.

THE DAY OF THE HEARING

You must appear at the time indicated on the notice you received from the Régie. If you fail to appear, the commissioner may dismiss your complaint.

Since the Régie is a tribunal, you and your witnesses must be appropriately dressed and conduct yourselves respectfully.

Your complaint will be heard by a commissioner and the proceedings will be tape recorded. At the hearing, the commissioner will provide both parties with even-handed, impartial assistance and make sure that everyone understands the elements of the case and the process.

At the beginning of the hearing, the parties must identify themselves. The commissioner will then ask you to present your evidence. You and your witnesses must make a solemn affirmation to tell the truth. You and your witnesses may be cross-examined by the distributor's lawyer about your testimony and the documents you have entered into evidence. The Régie's lawyer, who is there to help the commissioner shed light on the case, and the commissioner may also question your witnesses.

The distributor will then present its evidence and you will have the opportunity to cross-examine its witnesses. The Régie's lawyer and the commissioner may also question the distributor's witnesses.

The hearing will deal only with the content of your complaint. The commissioner may refuse to hear a witness or to accept evidence that he or she deems to be irrelevant to the matter at hand.

After the evidence has been presented, the parties will have an opportunity to make closing comments.

QUESTIONS THAT MAY BE RAISED PRIOR TO EXAMINATION OF YOUR CASE

The distributor may make certain preliminary motions or arguments when it files its in-house examination file or subsequently, and it may ask the Régie to dismiss your complaint for these preliminary reasons alone, without hearing the substance of your case. The most frequent preliminary arguments are the following:

SECTION 94 OF THE ACT RESPECTING THE RÉGIE DE L'ÉNERGIE

Section 94 stipulates that you must file your complaint within 30 days after the distributor's decision is forwarded to you. It also provides, however, that the Régie may examine a complaint filed after the deadline if you were unable, for serious and valid reasons, to act sooner and if no grave injury to the distributor will result.

Therefore, if your complaint was not filed within the 30-day deadline, it is up to you to explain why you were unable to act sooner and the Régie will decide whether your reasons are serious enough to override the distributor's objection that you missed the deadline. If not, your complaint will be dismissed.

SECTION 99 OF THE ACT RESPECTING THE RÉGIE DE L'ÉNERGIE

Section 99 provides that the Régie may refuse or cease to examine a complaint

1. if it has reasonable grounds to believe that the complaint is unfounded, vexatious or in bad faith or that an intervention on its part would serve no useful purpose (for example, if the points in dispute have been settled);
2. if more than one year has elapsed since you became aware of the facts on which your complaint is based, unless the delay is justified by exceptional circumstances. It will therefore be up to you to demonstrate to the Régie when you became aware of the facts and to prove any exceptional circumstances that prevented you from filing your complaint earlier.

THE COMPLAINT IS NOT WITHIN THE RÉGIE'S JURISDICTION

The Régie's jurisdiction over complaints is limited by the provisions of the Act respecting the Régie de l'énergie.

Therefore, some disputes do not fall within the Régie's jurisdiction but that of other tribunals. Here are some examples:

1. Your complaint concerns relations between you and your landlord or tenant and its purpose is only to determine which of you is responsible for paying the electricity or gas bill according to the lease. This complaint falls under the jurisdiction of the Régie du logement, the Court of Québec or Superior Court, depending on the case.
2. Your complaint concerns a claim for damages against your distributor. This complaint falls under the jurisdiction of the Court of Québec or Superior Court, depending on the amount in dispute.

THE DECISION

The commissioner who hears your complaint is required under the Act to render a decision in writing. Therefore, you should not expect an oral decision at the hearing. In most cases, the decision will be rendered within a few weeks after the hearing. It will be sent to the parties by mail.

Once the decision has been rendered, the Régie has no further authority to act in the case. The decision is final and cannot be appealed. In some very specific cases, it is possible to request a review of the decision. You can contact the Régie for this purpose.

For more information, please contact the Régie's Secretariat (secretariat@regie-energie.qc.ca) or the Office of the Clerk:

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MAKING A COMPLAINT TO THE RÉGIE DE L'ÉNERGIE

A PRACTICAL GUIDE FOR CONSUMERS