

REPUBLIC OF MOLDOVA

DISPUTE RESOLUTION
AND
LICENSE ENFORCEMENT PROCEDURES

**Regulatory Development
and Power Market Operations**

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1. INTRODUCTION

The purpose of the attached “Regulation: Procedures and Standards For Complaint Resolution and License Enforcement” is to create a formalized complaint resolution and license enforcement process. This is distinct from the informal process, which is discussed briefly in the Regulation. A formal process is necessary to deal with disputes and license condition violations that are not resolvable in the informal process and to resolve requests for adoption or amendment of regulations.

The staff of the Agency cannot adjudicate disputed facts, resolve disputed interpretations of law, regulations or standards, establish or amend regulations, order corrective conduct, or impose penalties. Those authorities are vested only in the Administration Council of the Agency.

A transparent and predictable process based on appropriate standards needs to be established so that consumers, licensees and the Agency will know how to proceed and what to do when it is necessary for a consumer or a licensee to invoke the dispute resolution, the tariff setting or rule making authority of the Agency. The tariff setting authority of the Agency should only be invoked through a complaint in exceptional circumstances. The complaint process is not a substitute for the normal tariff setting schedule.

The complaint process should only be used to establish a price for a new service for which a tariff does not currently exist or to challenge the price of an existing tariff. The overall revenue requirement of a licensee should not be challenged in a complaint proceeding. Moreover, a licensee will have waived any right to a broad based tariff review through a complaint proceeding as a result of utilizing a tariff methodology that is intended to be in effect for a fixed period of time, especially if automatic price adjustments are provided.

2. COMPLAINT AND EMERGENCY COMPLAINT

The Regulation provides a process for resolving complaints or disputes between a consumer and a licensee related to any aspect of a regulated service. The Regulation also provides for the Agency, upon application, to order certain types of interim relief in defined emergency circumstances.

These powers of the Agency are invoked by a person or entity, the Complainant, submitting to the Agency, in proper form and substance, a Complaint Petition or an Emergency Complaint Petition. The party against whom the complaint is directed, the Respondent, must be provided a copy of the Petition and is obligated to submit to the Agency and the Complainant, in proper form and substance, its Reply to the Petition.

The Regulation obligates the Respondent to specifically respond to all allegations contained in the Petition or, pursuant to the Regulation, be deemed to have agreed with the allegation. This

provision is intended to clearly identify the facts that are in dispute and the law, regulation or operating practice of a licensee that is relied upon as justification for the conduct of the Respondent. The Agency must strictly enforce the specificity required by the Reply provision in order to narrow the focus of the hearing to only those matters that must be resolved by the Agency, in the interest of efficient utilization of Agency resources.

The Emergency Complaint is intended to permit a Complainant to request the Agency to intervene in a dispute for the purpose of preventing an impending action or for the purpose of reversing an action that has recently occurred in order to maintain a specific relationship between the parties until the Agency has had an opportunity to at least review if not resolve the dispute.

The alleged emergency situation must be clearly stated in the complaint and it must “present an imminent risk of serious harm to persons, entities or property”. Prior to granting an emergency order, that would prohibit an action or reverse a recent action, the Agency must conclude that the Complainant has a reasonable prospect of obtaining the permanent relief requested in the Complaint. If an Emergency Order is issued, the Complaint must be scheduled as the first order of business on the agenda of the Agency.

3. AGENCY COMPLAINT

All of the powers and authorities granted to the Agency by Law must be accessible by both consumers and licensees in order to assure transparent and responsive regulation. Any problems related to the reasonableness or effectiveness of rules and tariffs should be initially discussed among the affected parties and the Staff for the purpose of fully understanding the nature of the problem and the consequences of possible solutions.

The Staff should informally assess the merits of the problem and if it believes remedial action is warranted the Staff should endeavor to develop a consensus solution that can be presented to the Administration Council for review and adoption. Resolving problems with rules and tariffs in this manner is more efficient and expeditious than the formal hearing process. However, a consensus is not always possible because of conflicting interests among the affected parties. In such instances, a formal resolution process is necessary.

The Regulation provides a process for persons or entities, through a complaint petition, to invoke the tariff setting or rule making powers of the Agency. The Agency Complaint process is primarily intended to provide a means for persons or entities to request the Agency to adopt a new rule or amend or abolish an existing rule that the Complainant believes is necessary in order to properly protect or advance the interests of the Complainant or a class of consumers or licensees represented by the Complainant.

Another purpose of the Agency Complaint process is to provide a means for persons and entities to request the Agency to establish a new tariff or modify or abolish an existing tariff. However,

as discussed above, this complaint process is not intended to be a substitute for the standard tariff setting process for regulated tariffs.

4. LICENSE ENFORCEMENT ORDER

The Regulation provides a process for the Agency to invoke its authority to review and resolve alleged violations of conditions contained in Licenses. Consistent with efficient utilization of Agency resources, an alleged violation of a license condition should first be investigated by the Staff for the purpose of determining the existence of a violation. If the Staff concludes that a violation does exist, it should endeavor to obtain immediate compliance by the licensee.

If this informal process fails to adequately resolve the matter, then either the Staff or the Administration Council on its own motion should invoke the formal adjudicatory powers of the Agency, which include fact finding, application and interpretation of laws, regulations and license conditions and, in appropriate cases, directing remedial action.

Remedial action may encompass a directive to comply with the decision of the Agency, the imposition of a fine, license suspension or even license termination. The remedy appropriate to the circumstances of a case is a matter of judgement and within the discretion of the Administration Council. However, the Administration Council must be consistent when it imposes a remedy for similar violations occurring under similar circumstances. Predictability and consistency are key ingredients of sound regulation.

Fines are limited by the Regulation on a not to exceed basis:

- first violation – one day's average sales revenue;
- second violation – five day's average sales revenue; and
- for subsequent violations – ten day's average sales revenue.

The Regulation specifies the basis for calculating an average day's sales revenue. The Regulation also permits the Agency to impose a suspension or, in extreme circumstances, termination of the license. However, a suspension may be imposed only upon a finding that a fine is an inadequate measure for insuring future compliance. And termination may be imposed only upon a finding that a fine or suspension is an inadequate measure for insuring future compliance. The Administration Council must explain the basis for such findings.

5. PROCEDURES AND STANDARDS

The Regulation provides for Staff investigation of a complaint or license violation if the Administration Council directs the Staff to do so. The results of this formal investigation are intended to be presented at the hearing for the Administration Council's consideration of the

merits of the case. License Enforcement cases will be based on information provided by the Staff.

The Regulation provides that written Pre-hearing Statements must be filed by all parties to the hearing at least ten days before the scheduled hearing. The purpose of this requirement is to provide the Administration Council with advance notice of the facts and arguments each party intends to rely upon in support of its position in the case. This information will allow the Administration Council to identify additional information that it may want to have available at the hearing and direct the parties to provide it.

The Regulation specifies the hearing process, order of presentations, order of questioning and the contents of Post-hearing Statements submitted by parties.

The Regulation specifies that the decision of the Administration Council must be in writing, state the facts as found by the Administration Council and the reasons for such findings, state the laws and regulations relevant to the facts, state the proper application of same to the facts and the reasons for such legal conclusions, and identify the remedy if any.

The Regulation specifies that any party dissatisfied by a decision of the Administration Council may submit a Request for Reconsideration, subject to a specified form and content. A party may appeal to Court only those matters that the Administration Council has denied as a result of a decision issued on a Request for Reconsideration.

ANNEX A

REPUBLIC OF MOLDOVA

NATIONAL ENERGY REGULATORY AGENCY

REGULATION

PROCEDURES AND STANDARDS

FOR COMPLAINT RESOLUTION

AND LICENSE ENFORCEMENT

1. General

- 1.1 This regulation is issued pursuant to the authority granted to the National Energy Regulatory Agency (ANRE) under the Electricity and Gas Laws of the Republic of Moldova. The objective of the regulation is to effectuate, implement and enforce conditions contained in the energy sector licenses issued by ANRE.
- 1.2 The following definitions are used in these Regulations:

Complaint	A disagreement or dispute between a consumer and a licensee or between licensees involving a regulated tariff or service provided by a licensee.
Complainant	A person or entity who submits a complaint to the Agency for resolution.
Respondent	A person or entity who is designated in a complaint petition as the other party to the dispute or disagreement.
Complaint Petition	A request submitted to the Agency by a consumer or a licensee invoking the complaint and dispute resolution authority of the Agency.

Agency Complaint	An allegation by a consumer or a licensee asserting that the Agency should establish a new regulated tariff or regulation, or that the Agency should amend , modify or abolish an existing regulated tariff or regulation.
Agency Complaint Petition	A request submitted to the Agency by a consumer or licensee invoking the tariff setting or rule making authority of the Agency.
Emergency Complaint Petition	A request submitted to the Agency by a consumer or licensee invoking the complaint resolution authority or the tariff setting or rule making authority of the Agency in an emergency.
Emergency	The existence of circumstances that present an imminent risk of serious harm to persons, entities or property.
License Enforcement Order	An order of the Agency invoking its authority to enforce license conditions and, for violations, to exact fines or impose license suspension or termination.

- 1.3 The objective of complaint resolution and is to insure that all complaints are resolved in a fair and equitable manner for both consumers and licensees. The objective of license enforcement is to verify license condition compliance, rectify non-compliance, and exact fines, suspension or termination for violations.
 - 1.4 The Agency is authorized to review and analyze complaints and license compliance, investigate the facts and circumstances related to the matters stated in the complaint petition or the license enforcement order, resolve disputed facts, interpret and apply the laws and regulations applicable to the circumstances of the complaint or the license condition, issue decisions, order compliance with such decisions, exact fines, suspension or termination where warranted, and in appropriate cases establish new tariffs and regulations, or amend, modify or abolish existing tariffs or regulations.
 - 1.5 All parties to a complaint, or a license enforcement order, and all persons and entities subject to a tariff or regulation established, amended, modified or abolished by the Agency shall be legally bound by the decision of the Agency.
 - 1.6 The Agency shall assign to its staff responsibility for providing to consumers and licensees an informal complaint resolution service. The staff shall receive complaints related to regulated services, inform the respondent about the complaint, investigate the facts stated in the complaint, review tariffs and regulations applicable to the circumstances of the complaint, evaluate relevant facts and applicable tariffs and regulations, endeavor to
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determine the merits of the complaint, and advise the parties of the opinion of the staff regarding the merits of the complaint. The staff of the Agency shall not possess the authority to issue an order legally requiring any party to the complaint to perform any act or to refrain from performing any act. A decision of the Staff resulting from the informal complaint resolution service shall be advisory for the parties. The Agency expects the parties to the complaint to seriously consider the advisory opinion of the staff and to seriously consider implementing the recommended resolution of the staff.

2. Petition

2.1 Complaint Petition

- 2.1.1 All complaint petitions shall be in writing, contain the name, address and telephone number (if available) of the complainant and the respondent, a statement that clearly explains the facts which constitute the basis of the complaint and a statement of the relief sought. If the complaint alleges discrimination, the facts which the complainant believes constitute discrimination must be stated in detail.
 - 2.1.2 Upon receipt of the complaint petition, the staff of the Agency shall provide a copy of the complaint petition to the respondent(s), along with instructions to submit a written reply to the complaint petition. The respondent shall submit to the Agency its written reply to the complaint petition within twenty days of receipt, or such other period of time as directed by the Administration Council, and shall provide a copy of the reply to the complainant. After the respondent has provided a copy of the reply to the complainant, the respondent shall submit to the Agency a written statement that verifies the reply was provided to the complainant and the date when that occurred.
 - 2.1.3 The reply of the respondent shall clearly state the respondent's belief regarding the accuracy and correctness of factual matters alleged in the complaint petition. The respondent shall be obligated to obtain and include in the reply all factual matters known to, or ascertainable by, the respondent related to the complaint. In the event the respondent is unable to obtain knowledge or verification of relevant facts before the date the reply is due to be submitted, the respondent may request the Agency for a specific extension of time, but not more than twenty days, for submitting the reply.
 - 2.1.4 The reply of the respondent shall admit or deny each allegation contained in the complaint petition. The reply of the respondent shall clearly state and fully explain all defenses, including lack of Agency jurisdiction over the subject matter of the complaint, which the respondent reasonably believes exonerates the respondent from the relief requested in the complaint petition.
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- 2.1.5. If the respondent in its reply fails to dispute any factual matter alleged in the complaint petition and, if disputed, the respondent fails to assert respondent's belief as to the correct or accurate facts, the facts stated in the complaint petition shall be deemed as accepted by the respondent. If the respondent in its reply fails to state any other facts, the respondent shall not be permitted to use such other facts for the purpose of exoneration from the relief requested in the complaint petition. If the respondent in its reply fails to assert one or more defenses to the complaint, the respondent shall be deemed to have waived such defense(s). If the respondent to a complaint petition is a consumer, the Agency for good cause shown may waive these requirements. If the respondent to a complaint petition is a licensee, the Agency may waive these requirements only in circumstances where it finds that such a waiver is necessary to avoid a decision that may permit a gross injustice to occur.
- 2.1.6 At any time the complainant and the respondent may resolve the complaint and, in writing, jointly request the Agency to dismiss the complaint petition.

2.2 Agency Complaint Petition

- 2.2.1 All Agency complaint petitions shall be in writing, contain the name, address and telephone number (if available) of the complainant, a statement that clearly explains any facts that are relevant to the relief requested in the complaint and a statement of the relief requested. If the complaint alleges discrimination, the facts which the complaint believes constitute discrimination must be stated in detail. The complaint shall identify all persons and entities (large groups by class description) who will be affected in any manner if the relief requested in the complaint is adopted and the precise nature and extent of such affects including financial affects.
- 2.2.2 Upon receipt of the Agency complaint petition, the staff of the Agency shall forward a copy of same to the Administration Council. Within twenty days of receipt of the complaint the staff shall submit to the Administration Council a report that contains the staff's evaluation of the persons and entities likely to be affected if the relief requested in the complaint is adopted or denied, the staff's recommendations for providing appropriate notice of the complaint to affected persons and entities and the staff's recommendation for a procedural schedule to be adopted by the Administration Council. The staff report shall be available to the public. The Administration Council shall issue a procedural order that specifies the notice requirements and the procedural schedule adopted by the Administration Council.
- 2.2.3. Notice of the Agency complaint petition may be achieved by providing a copy of the petition to affected persons and entities, to the extent feasible. Notice of all Agency complaint petitions shall be provided to all licensees. Notice of all Agency complaint petitions shall be published in at least one newspaper of general
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circulation and such other newspapers and publications as the Agency determines may be useful for providing notice to potentially affected persons and entities. The Administration Council may direct the complainant:

- a. to provide a copy of the complaint petition to the licensees and such other persons and entities the Administration Council determines should receive a copy of the complaint
- b. to undertake the notice publication adopted by the Administration Council
- c. to verify that the complainant has complied with these directives.

2.2.4. The Administration Council shall also determine the procedural schedule for processing the Agency complaint petition. The procedural schedule shall:

- a. establish the schedule for notice of the complaint petition and verification of notice
- b. establish the schedule for interested persons and entities to file statements of interest and the requirements for providing same to the complainant and other interested parties
- c. establish the schedule for the completion of the staff investigation, if ordered by the Administration Council
- d. establish the schedule for the hearing and notice requirements for the hearing.

The Administration Council may include other matters in the procedural schedule, including requirements for the complainant, the staff and interested parties to provide specific information and data. The Administration Council may modify or amend the procedural schedule at any time. Notice of the modification or amendment shall be specified in the new procedural order.

2.2.5. Any person or entity having an interest in the matters contained in an Agency complaint petition or having an interest in the relief requested in an Agency complaint petition may submit to the Agency a statement of interest. A statement of interest shall contain the factual basis for the interest of the party, the position of the party relative to the relief requested in the Agency complaint petition and, if applicable, the request of the party to participate in the hearing of the complaint petition.

2.3. License Enforcement Order

- 2.3.1 Upon request of the staff or upon its own motion, the Administration Council may issue a license enforcement order. A license enforcement order initiates a proceeding before the Administration Council that will determine:
- a. the existence or non-existence of a license condition violation
 - b. the resolution of a violation if one is found to exist
 - c. the fine to be exacted for a violation
 - d. the suspension period of the license for a violation
 - e. the termination of the license for a violation.

2.3.2. The license enforcement order shall:

- a. identify the respondent licensee
- b. state the facts and circumstances that may be the basis for a license condition violation
- c. identify the license condition that may have been violated.

A copy of the license enforcement order shall be provided to the respondent licensee, along with instructions to submit a written reply to the license enforcement order.

- 2.3.3. Notice of the license enforcement order shall be achieved in accordance with the requirements of Paragraph 2.2.3.

- 2.3.4. Within twenty days after receipt of the license enforcement order the respondent licensee shall submit a written reply to the Administration Council in accordance with, and subject to, the requirements of Paragraphs 2.1.3, 2.1.4 and 2.1.5.

- 2.3.5. The Administration Council shall issue a procedural order in accordance with the requirements of Paragraph 2.2.4.

- 2.3.6. Any person or entity having an interest in the matters contained in a license enforcement order may submit to the Agency a statement of interest in accordance with the requirements of Paragraph 2.2.5.

2.4. Emergency Complaint Petition

- 2.4.1. Upon submission of an emergency complaint petition, the Administration Council shall determine the existence of an emergency. If an emergency exists, the Administration Council may immediately order any person or entity to perform or

cease and desist from performing any act or activity provided both the act or the activity and the person or entity are subject to the jurisdiction of the Agency.

2.4.2. An emergency order shall not be issued unless:

- a. the Administration Council has reason to believe the relief requested in the petition may be granted by the Administration Council after hearing and decision;
- b. the Administration Council decides that existing or prior circumstances should be maintained until the Administration Council investigates or conducts a hearing on the merits of the complaint.

2.4.3. An emergency order shall be based on a written decision by the Administration Council specifying the reasons for finding that an emergency exists and the reasons the emergency order is in accordance with Paragraph 2.3.2.

2.4.4. An emergency order shall remain in effect:

- a. during the period of the emergency
- b. until revoked by the Administration Council
- c. until a decision by the Administration Council is issued on the complaint petition.

2.4.5. The complaint stated in the emergency complaint petition shall be the first order of business on the Agency's agenda if an emergency order is in effect.

3. Staff investigation

3.1. The Administration Council may direct the staff of the Agency to undertake an investigation of the matters specified in any complaint petition or license enforcement order or any aspect of it, if the Administration Council determines that a staff investigation and report will assist the Administration Council with proper resolution of the complaint or order. The staff investigation report shall be submitted to the Administration Council, the complainant, the respondent and provided to persons and entities who submit statements of interest.

4. Pre-hearing statement

4.1. At least ten days prior to the scheduled hearing of a complaint or order, the respondent and interested parties who intend to participate in the hearing shall submit in writing a pre-hearing statement to the Administration Council, the staff and to all other parties. The Administration Council may waive this requirement for parties who are small consumers as determined by the Administration Council on a case by case basis.

- 4.2. The pre-hearing statement shall contain a comprehensive outline of the facts and information the party intends to present at the hearing and the arguments the party intends to advocate as justification for the resolution of the complaint or order that the party believes is appropriate. Each party submitting a pre-hearing statement shall provide a copy of its pre-hearing statement to all other parties(the complainant, respondent and interested parties).
- 4.3. After reviewing the pre-hearing statements the Administration Council may issue a new procedural order that directs the staff or any party who submitted a pre-hearing statement to provide information and data or respond to questions of the Administration Council within the time and in the form directed by the Administration Council. The Administration Council may delay the scheduled hearing date. A copy of the procedural order shall be provided to all parties.

5. Hearing

- 5.1. At least five days prior to the hearing, notice of the hearing date, time and location shall be provided to:
 - a. all parties; and
 - b. in the event the hearing concerns an Agency complaint petition or license enforcement order, to the public through publication in the mass media.
- 5.2. The hearing shall be convened by the Administration Council. The General Director or his designee shall preside and control the hearing. At least two members of the Administration Council shall be present at all times during the hearing.
- 5.3. The hearing order shall be:
 - a. complainant;
 - b. respondent;
 - c. interested parties, in the order determined by the presiding member;
 - d. the staff, if ordered by the Administration Council to participate in the hearing;
 - e. other persons, at the discretion of the presiding member.

More than one person may make a presentation on behalf of a party.

- 5.4. The presiding member shall administer the following oath or affirmation to all persons presenting testimony at the hearing: "Do you hereby swear or affirm that the testimony you are about to give is true and correct to the best of your knowledge?" The reply must be affirmative in order for the person to be qualified to testify.
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- 5.5. After each person completes his presentation to the Administration Council, the other parties, following the order specified in Paragraph 5.3, may question that person regarding the matters contained in the presentation or other matters relevant to the complaint or the order.
- 5.6. At any time members of the Administration Council may question the person making a presentation.
- 5.7. The hearing may be continued from day to day as necessary to complete all of the presentations.
- 5.8. After all presentations at the hearing have been completed, the Administration Council shall close the hearing. The Administration Council may request the parties to submit written post-hearing statements within the time and in the form determined by the Administration Council. The post-hearing statement of a party may contain:
 - a. the party's evaluation of the disputed facts presented at the hearing;
 - b. the party's opinion regarding which facts were proved and the reasons in support thereof;
 - c. the party's opinion regarding the correct application of relevant law and regulations and rules to the proven facts and the reasons in support of those conclusions;
 - d. the party's assessment of any other matters as may be requested by the Administration Council.

6. Decision

- 6.1. As soon as practicable after the completion of the hearing and the submission of post-hearing statements, if any, the Administration Council shall render a decision. The decision shall not be based on or rely upon any factual matters not disclosed in the hearing. The decision shall be written, provided to the parties and available to the public.
 - 6.2. The decision shall state:
 - a. the proven facts as found by the Administration Council and the reasons for such findings;
 - b. the laws, regulations and rules that are relevant to the proven facts as determined by the Administration Council and the reasons for such determination;
 - c. the correct and proper application of the relevant laws, regulations and rules to the proven facts as concluded by the Administration Council and the reasons for such conclusions;
 - d. the corrective action, if any, that a party must undertake in order to properly effectuate or implement the decision;
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- e. for license enforcement orders, in accordance with applicable law and license conditions:
 - the fine to be exacted;
 - the period of suspension;
 - termination of the license.
- 6.3 If the decision establishes a new tariff or regulation, or amends, modifies or abolishes an existing tariff or regulation, the Administration Council shall:
- a. establish an effective date, not sooner than thirty days after the decision unless the Administration Council finds that an earlier effective date is required in the public interest; and
 - b. establish requirements for appropriate notice to the affected parties and the time schedule therefor.
- 6.4 The fine that may be exacted by the Administration Council for violation of a license condition shall be in proportion to the violation. The fine shall not exceed:
- a. for the first violation, one day's average sales revenue;
 - b. for the second violation of the same or similar license condition, five day's average sales revenue;
 - c. for subsequent violations of the same or similar license condition, ten day's average sales revenue.
- A day's average sales revenue shall be determined by dividing the licensee's billing sales for the three full billing months prior to the issuance of the license enforcement order by the number of calendar days in the three billing months, as determined by the Administration Council. Failure of the licensee to provide to the Administration Council, within thirty days of a written request, correct information and data relative to its billing sales, for purposes of this Paragraph, or failure of the licensee to pay a fine within thirty days of the decision, shall constitute a second violation under this Paragraph, or, at the discretion of the Administration Council, shall constitute a first suspension under Paragraph 6.5.
- 6.5 The suspension period that may be imposed by the Administration Council for violation of a license condition shall be in proportion to the violation. A license suspension shall not be imposed unless the Administration Council concludes that a fine is an inadequate measure for insuring future compliance by the licensee and states the basis for that conclusion in the decision. The suspension shall not exceed:
- a. for the first suspension, not more than thirty days;
 - b. for each subsequent suspension related to the same or similar license condition, not more than ninety days.
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- 6.6 Termination of the license by the Administration Council shall not be imposed unless the Administration Council concludes that a fine or suspension is an inadequate measure for insuring future compliance by the licensee and states the basis for that conclusion in the decision.

7. Request for reconsideration of decision

- 7.1 Any party (complainant, respondent or interested party) aggrieved by a decision of the Administration Council may, within twenty days of the decision, submit to the Administration Council a written request for reconsideration of the decision. A copy of the request shall be provided to all parties who participated in the hearing.
- 7.2. A request for reconsideration of a decision must allege that the decision erred with respect to one or more of the following:
- a. the finding of facts;
 - b. the determination of relevant laws, regulations and rules;
 - c. the conclusion regarding the proper application of laws, regulations and rules to the proven facts;
 - d. corrective action ordered by the Administration Council.
 - e. appropriateness of the fine, suspension or termination of the license.
- 7.3. A party who submits a request for reconsideration shall identify precisely the matters alleged to be erroneous and the reasons the party believes such matters are erroneous.
- 7.4 Within ten day of the submission of a request for reconsideration, any other party to the hearing may submit to the Administration Council a written statement which shall contain the party's position regarding the request for reconsideration and the reasons therefor. A copy shall be provided by the party submitting the statement to all parties who participated in the hearing.
- 7.5 Submission of a request for reconsideration of a decision shall suspend the effective date specified in Paragraph 6.3. A new effective date shall be established by the Administration Council consistent with the request for reconsideration decision and with the requirements of Paragraph 6.3.
- 7.6. Within twenty days of the submission of a request for reconsideration, the Administration Council, in writing, may deny the request, approve the request in whole or in part, or reconvene the hearing for specifically designated purposes upon proper notice to the parties who participated in the hearing. Any modification or change to the decision adopted as a result of a request for reconsideration shall not be based on or rely upon any factual matters not disclosed in the hearing.
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8. Appeal to Court

- 8.1. Any party who has submitted a request for reconsideration that the Administration Council denied may appeal the matters denied by the Administration Council to Court.

ANNEX B

Anderson's Ohio Administrative Code

CHAPTER 4901-9

Complaint Proceedings

4901-9-01 Complaint proceedings.

(A) All complaints filed under section 4905.26 of the Revised Code, except complaints filed by a public utility concerning a matter affecting its own product or service, shall be in writing and shall contain the name of the public utility complained against, a statement which clearly explains the facts which constitute the basis of the complaint, and a statement of the relief sought. If discrimination is alleged, the facts which allegedly constitute discrimination must be stated with particularity. Upon receipt of such a complaint, the docketing division shall serve a copy of the complaint upon the public utility complained against, together with instructions to file an answer with the commission in accordance with the provisions of this rule. The public utility complained against shall file its answer with the commission within twenty days, or such period of time directed by the commission, the legal director or attorney examiner assigned to the case, after the mailing of the complaint, and shall serve a copy upon all parties in accordance with rule 4901-1-05 of the Administrative Code. An answer must be filed in accordance with this paragraph, whether or not the public utility files a motion to dismiss the complaint or any other motion in response to the complaint.

(B) Each defense to a complaint shall be asserted in an answer, in addition, the following defenses or assertions may, at the option of the public utility complained against, also be raised by motion:

- (1) Lack of jurisdiction over the subject matter;
 - (2) Lack of jurisdiction over the person;
 - (3) Failure to set forth reasonable grounds for complaint; and
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(4) Satisfaction of the complaint or settlement of the case.

- (C) The public utility shall state in its answer, in short and plain terms, its defenses to each claim asserted, and shall admit or deny the allegations upon which the complainant relies. If the public utility is without sufficient knowledge or information to form a belief as to the truth of an allegation, it shall so state and this has the effect of a denial. If the public utility intends in good faith to deny all of the allegations in the complaint, it may do so by general denial. If it does not intend to deny all of the allegations in the complaint, it shall either make specific denials of designated allegations or paragraphs, or generally deny all allegations except those allegations or paragraphs which it expressly admits. Unless otherwise ordered by the commission, the legal director, or the attorney examiner assigned to the case, all material allegations in the complaint which are not denied in the answer shall be deemed admitted for purposes of the proceeding.
- (D) If the public utility complained against files an answer or motion which asserts that the complaint has been satisfied or that the case has been settled, the complainant shall file a written response within fifteen days after the service of the answer or motion, indicating whether the complainant agrees or disagrees with the utility's assertions, and whether he or she wishes to pursue the complaint. If no response is filed within the prescribed period of time, the commission may presume that satisfaction or settlement has occurred and dismiss the complaint.

HISTORY: Eff 1-20-63; 3-1-81; 4-4-96

Rule promulgated under: RC 111.15

Rule authorized by: RC 4901.13

Rule amplifies: RC 4901.13, 4905.26
