

CITY OF CLEVELAND
DEPARTMENT OF PUBLIC UTILITIES
CLEVELAND PUBLIC POWER
ARBITRATION PANEL RULES AND REGULATIONS

The following Rules and Regulations for the Cleveland Public Power (“CPP”) Arbitration Panel (the “Rules”) are hereby adopted by Martin J. Keane, Director of the City of Cleveland Department of Public Utilities (“Director”), as the governing procedures for applications, notice, hearing and determination of disputes submitted to the Arbitration Panel under the authority of Cleveland Codified Ordinances 523.115(e).

ARTICLE I. Purpose. The purpose of the CPP Arbitration Panel is to provide a neutral forum to facilitate an efficient resolution of all pending and future disputes with CPP customers. The Panel should be viewed as a service to customers rather than an extension of Collections. As such, the Panel must act as an objective third party in reviewing all pertinent facts and make an unbiased determination on matters presented to it based upon those facts. Nothing in these Rules or Regulations is intended to alter or diminish the Director’s or CPP staff’s authority to (1) conduct investigations and to take remedial action when necessary or (2) resolve informal disputes under current dispute resolution procedures outlined in Article V, Section A.

ARTICLE II. Authority. The CPP Arbitration Panel has the authority to review all of the facts related to any pending and future disputes between a customer and CPP arising under CPP’s provision of service pursuant to Cleveland Codified Ordinances Chapter 523, and to make a determination with regard to those facts. These factual determinations shall be binding on the City and the customer.

The Panel has the authority to adjust amounts claimed due by CPP or claimed wrongfully charged to a customer and the authority to grant any relief requested. Relief in favor of the customer greater than any amount owed may take the form of a credit to that customer’s account. An adjustment ordered by the Panel cannot be modified for any reason.

The Panel also has the authority to require payment by installment in any case, and shall establish the installment payment terms for any amount found due and owing when part or all of such amount is based on a meter reading reflecting a greater usage in a billing cycle than the estimated or average usage for previous billing cycles and where the customer is deemed unable to pay on demand. Financial arrangements to implement the required payment plan are to be made by the Customer and the Collection Department.

ARTICLE III. The CPP Arbitration Panel.

- A. Composition.** The Panel shall be comprised as required by C.O. 523.115(a).
- B. Attendance of Panel Members.** Unless a member must recuse themselves in accordance with C.O. 523.115(a) (2), all business of the Panel shall be conducted with all of its members present. If a member is absent, the hearing must be rescheduled within thirty (30) days.
- C. Arbitration Panel Hearings.** Under C.O. 523.115(b), the Arbitration Panel has the exclusive authority to review all disputes under C.O. Chapter 523. The Arbitration Panel will review all complaints and make determinations. Hearings shall be conducted in accordance with Article IV and Article V, below. Decisions of the Arbitration Panel are final and binding on both the customer and the City, except that the Commissioner shall have the authority to order that electric service not be terminated pursuant to C.O. 523.115(b).
- D. Other Duties of the Panel.** The Arbitration Panel is responsible for the following:
1. To conduct hearings within thirty (30) business days from the request for such, to reduce and to grant deferment of payments by installment or to order termination of electric services, or to consider any other kind of relief requested and grant that relief if the Panel considers it appropriate; all in accordance with the Codified Ordinances of the City of Cleveland and the rules and regulations of the Department of Public Utilities of the City of Cleveland;
 2. To notify a customer and CPP in writing of a hearing decision with findings and reasons therefore no more than ten (10) business days after the hearing; and
 3. To require payment by installment for any amount found due and owing when part or all of such amount is based on a meter reading reflecting a greater usage in the current billing cycle than the estimated usage, if any, for the previous billing cycle, and where the customer is unable to pay the billed amount on demand.

ARTICLE IV. Hearing Request.

- A. Eligibility to Request a Hearing.** A CPP customer who is an account holder or a legal representative acting on behalf of a CPP account holder may request an Arbitration Panel hearing to settle pending disputes between that customer and CPP related to the customer's ESA. CPP may also request a hearing to settle a dispute with a CPP customer. A request for hearing must be made by the customer or CPP in writing as indicated below within six (6) months of the last communication from CPP about the dispute.

B. Request for Hearing by Customer.

A customer meeting the eligibility criteria outlined in Article IV Section A above shall be granted a hearing before the Panel upon timely written request. A request for a hearing by a customer must occur within 6 months of CPP's last communication with the customer. The request shall contain all relevant details and circumstances of the complaint. The customer or the customer's representative may request such a hearing through the following methods:

1. In writing, via US Mail addressed to the CPP Arbitration Panel, 1300 Lakeside Avenue, Cleveland, Ohio 44114. Any written request must be made using the form provided by CPP for this purpose, a sample of which is attached as Exhibit A;
2. In person, at the offices of Cleveland Public Power, 1300 Lakeside Avenue or 1201 Lakeside Avenue, Cleveland, Ohio 44114. Customer must speak with a customer service representative and fill out the required forms; or
3. On the website through the customer portal (cpp.org).
4. Hearing requests by telephone are **not** permitted. If a customer requests a hearing by telephone, the customer shall be informed of the three methods for requesting a hearing listed above. The customer may also request that a Hearing Request Form be mailed to the customer for them to fill out and return.

C. Request for Hearing by CPP. CPP may request a Hearing with a Customer in writing to the last known address of the Customer or to the Customer's representative. Such writing will be sent by certified mail, receipt requested, or via overnight delivery and must be made within six (6) months of CPP's last communication with the customer.

D. Opportunity for Hearing. The Customer or CPP must be given the opportunity to present any facts, evidence, or testimony and hear any rebuttal facts, evidence or testimony as determined by the Panel. Each party shall have the opportunity to question any witness presented by the opposing party. Only the facts, evidence, and testimony presented at the time of the hearing can be considered by the Panel. The Hearing shall be conducted in accordance with Article VI herein.

E. Continuance of Hearing. The Customer and CPP each shall be permitted one (1) continuance of the hearing as a matter of right, not to exceed thirty (30) business days from the original date of the Hearing. The Customer or CPP must request the continuance twenty-four (24) hours prior to the scheduled Hearing.

- F. Notice of Right to Hearing.** Any written Termination Notice sent to a customer must inform the customer that they may request a hearing to dispute the proposed termination prior to actual termination of service. The notice shall clearly state the reason for the proposed termination, and shall advise the customer of the opportunity for a hearing. Sample Termination Notices are attached as Exhibits B.1 through B.3.
- G. Effect of Request for Hearing on Termination of Service.** C.O 523.11(b) requires the Division of Public Power to provide Notice of Termination at least ten (10) days before the termination occurs. The act of requesting a Hearing will not stop, delay, or modify the timing of the service termination process more fully described in C.O. 523.11. When a customer requests a hearing in response to a Termination Notice, the Panel shall make every reasonable effort to schedule the hearing before the date on which the Notice indicates that service may be terminated.

ARTICLE V. Review Prior to Hearing.

- A. Customer Complaint Review.** Customer complaints will first be reviewed by a customer service representative. The customer service representative shall inform the customer of available complaint resolution options. If the customer is satisfied with the resolution presented by the service representative, then the service representative will send a letter to the customer by, affirming that their complaint has been resolved and the customer no longer wishes to pursue a Hearing/Review. The letter shall also inform the customer that, if the customer is not satisfied with solutions provided by the customer service representative, the customer may always have their complaint reviewed by the Arbitration Panel through the hearing process, substantially in accordance with Article VI herein. A sample Complaint Resolution Letter is attached as Exhibit C. This is a mandatory step in the process before any Arbitration Hearing shall occur and this step cannot be skipped. If the customer is not satisfied with the resolution presented by the customer service representative, the customer must respond in writing to CPP within 30 days of the Complaint Resolution Letter being sent, to inform CPP of the customer's intent to present their complaint to the Panel.
- B. Account Review.** CPP shall direct an employee in Account Review to take immediate steps to ensure that a case file is prepared for the Panel. The file shall include, but is not limited to, the following:
1. Customer Care and Billing records reflecting the current status of the account.
 2. A statement covering the period of time during which the bills are in dispute, if any;
 3. Copies of meter reads for the account;
 4. Any and all written correspondence pertaining to the dispute;

5. A new meter reading if the reading is in dispute;
6. Copies of all investigation reports including reports related to the period of time for which the bills are in dispute, if any; and
7. Other pertinent information.

This file shall be prepared and presented to the Administrator of the Panel at least five (5) days prior to the date of the scheduled hearing, and made available for inspection by the customer upon the customer's request.

In reviewing and preparing the file, Account Review shall order any further investigations, meter reads, meter testing, etc. as its designated employee shall deem necessary in order to present a complete and accurate case file to the Panel. If in the course of preparing the file, the designated employee discovers that an adjustment is in fact warranted, then the Director may grant such an adjustment and the customer service representative shall notify the customer of the adjustment and of their option to move forward with a hearing despite the adjustment being made via letter sent by US Mail (see example letter attached as Exhibit D). The Panel shall also be notified of this determination.

ARTICLE VI. Hearing Process. When a customer or CPP requests a hearing in accordance with these Rules, the following should occur immediately:

- A.** CPP must acknowledge the request by sending a letter to the customer via US Mail when the demand is made by the customer. A sample Hearing Request Acknowledgement Letter is attached as Exhibit E.
- B.** A hearing or review shall be scheduled to take place within thirty (30) days but not sooner than ten (10) days of the customer or CPP's request, and a written notice (see Exhibit F) shall be sent to the customer via certified mail, return receipt requested or via overnight delivery, at least five (5) days prior to the scheduled hearing or review, advising them of the date, time, and place of the hearing/ review, as well as the following options available to the customer:
 1. The option to appear at the hearing with or without legal representation. Such a hearing shall be conducted informally without requiring adherence to any rules of evidence;
 2. The option to present evidence and make oral argument to the Arbitration Panel;
 3. The option to have a new meter reading conducted if the reading is in dispute;

4. The option to reschedule the hearing or review once for their convenience provided they call the Panel Representative at least twenty-four (24) hours before the hearing convenes, emergencies excepted. If the customer fails to appear at the hearing without giving notice of their inability to attend, the Panel may make a determination in their absence.
 5. The option to present and question witnesses; and
 6. The option to examine, at least five (5) business days prior to the scheduled hearing or review, a list of all witnesses who will testify on behalf of the City of Cleveland and all documents, records, and similar materials related to the dispute. The evidence review can be conducted in person at a Department of Public Utilities facility, and must be arranged with the Administrator at least twenty-four (24) hours in advance.
- C.** At the hearing, the Panel Administrator shall present the pertinent facts to the Panel, including, if applicable, the reasons why no adjustment was granted if the termination is for nonpayment.
- D.** CPP shall present its facts. The customer shall be given an opportunity to present any facts and evidence and to rebut any evidence and facts presented by CPP.
- E.** After all hearings scheduled for a particular day are complete, if no continuance is warranted, the Panel shall deliberate and arrive at a decision based only on the evidence and facts which were presented at the hearing.
- F.** The Panel shall notify the customer and CPP of its determination in writing. This notice shall include a statement of the Arbitration Panel's findings, order, and the reasons therefor. The notice of determination shall also state that all determinations of the Panel are final with respect to the Panel. The Panel shall send this notice to the customer via US mail. The Commissioner shall be notified of the determination. A sample Hearing Determination Letter is attached as Exhibit G.

ARTICLE VII. Arbitration Panel Administration

A. Administrator Responsibilities

The Administrative Assistant from Customer Care will be the Panel Administrator. The Administrator of the Arbitration Panel must:

1. Receive and date stamp hearing requests from the Directors' office, e-mails and fax and log them into the billing system.
2. Review correspondence/account for eligibility.
3. Send a "letter of receipt" or contact customer by phone, acknowledging request for hearing.

4. Sort/complete the Log Sheet and forward all other mail received to the appropriate departments for resolution; i.e., Billing, Collections, etc.
5. Contact customer(s) and schedule a hearing date with customers on appointed days.
6. Prepare and mail out hearing notification letters to customers.
7. Send list and copies of letters for scheduled hearings to Customer Account Service for preparing packets.
8. Ensure all documentation for the hearing is available to Panel members on the date and time scheduled.
9. Prepare a determination letter to be sent to customer(s) no later than ten (10) days after the day of the hearing, which will include the following:
 - The signature of at least one Panel Member;
 - A statement of the Panel's findings and order, and the reasons therefore;
 - A notice that all determinations of the Panel are final; and
 - If applicable, the notice shall advise the customer to make the necessary payments on his/her account within ten (10) days prior to termination of service.

B. Customer Account Service Representatives' Responsibilities

The Unit Supervisor from Customer Account Service, who has been designated by the Commissioner, shall serve as the Panel Coordinator. The Coordinator shall be notified of the hearing by the Administrator, via e-mail, along with copies of original letters.

The Coordinator shall keep record of hearing requests, scheduling, and outcomes of the hearing process by using Customer Contacts in the CC & B portal.

The Coordinator will assist with gathering information relative to a customer request for a hearing or review and attempting to resolve the issue prior to a hearing. The Coordinator shall take steps immediately to ensure that a new file, which includes the items listed below, is prepared. This file shall be prepared and made available, upon request, for inspection by the customer at least five (5) business days prior to the date of the scheduled hearing.

In reviewing and preparing the file, the Coordinator shall order any further investigations, meter reads, meter testing, etc. as its designated individual shall deem necessary in order to present a complete and accurate case file to the Arbitration Panel. If in the course of preparing the file, the Coordinator discovers that an adjustment is in fact warranted, he/she may authorize adjustments but only in accordance with Cleveland Public Power Adjustment Policy. The Coordinator shall notify the Administrator of the adjustment.

The file shall include, but is not limited to, the following:

1. A computer print-out reflecting the current status of the account.
2. A statement covering the period of time for which the bills are in dispute, if any.
3. Copies of Meter Reads for the account.
4. Any and all written correspondence pertaining to the dispute over this account.
5. A new meter reading if the reading is in dispute, and
6. Copies of all investigation reports, if any, including reports related to the period of time for which the bills are in dispute.
7. Other pertinent information.

Exhibits

The following attachments serve as examples of the documents that may be sent by CPP to customers in the course of the Hearing Request process. In the course of business, CPP may change the format or wording of its forms and documents. However, all documents referenced in this rulebook should substantially reflect the content of the following examples:

- A. Hearing Request Form
- B. Termination Notices with language advising of right to Hearing
 - 1. First Disconnection Notice
 - 2. Second Disconnection Notice
 - 3. Disconnection Warning Hang Tag
- C. Letter confirming Resolution of Complaint
- D. Notice of Adjustment Resulting from Account Review in Preparation for Hearing
- E. Hearing Request Acknowledgement Letter
- F. Hearing Schedule Notice Letter
- G. Hearing Determination Letter