



Ohio Administrative Code Rule 4901-5-05 Railroad complaints.

Effective: December 11, 2014

(A) Complaint and conference

(1) Complaints under sections 4905.04 and 4907.08 of the Revised Code shall be made in writing, setting forth briefly the facts alleged to constitute a violation of the Revised Code, Administrative Code, or commission order, or to support the promulgation of an order under section 4905.04 of the Revised Code. The name of the railroad or railroads complained against shall be stated in full and the address of the complainant and the name and address of complainant's attorney, if any, must appear upon the complaint.

(2) Two or more complaints involving the same principle, subject, or state of facts may be included in one complaint. One or more persons may join in one complaint against one or more railroads if the subject matter of the complaint involves substantially the same principle, subject, or state of facts.

(3) The complaint shall be mailed or delivered to: "Public Utilities Commission of Ohio, Railroad Division, 180 East Broad Street, Columbus, Ohio 43215-3893."

(4) The complaint shall aver that a reasonable but unsuccessful effort has been made by the parties to reach an amicable agreement. Such complaint shall be referred to the railroad division for an investigation and the preparation of a report. The railroad division shall serve copies of the report upon all parties in the case. The railroad division shall promptly proceed to hold a conference with the involved parties attempting an equitable satisfaction of the complaint without necessitating a formal hearing. The terms of the agreement arrived at through such an informal conference shall be reduced to writing and the matter would then be considered closed. Should the informal conference fail to bring about an agreement, the matter shall be docketed and assigned a formal case number.

(5) The commission will then formally serve another copy of the complaint upon each respondent with a notice to satisfy or answer the complaint.



(B) Answers

(1) Unless otherwise ordered by the commission, a railroad shall file its answer within twenty days from service of the complaint by the commission.

(2) The answer shall be filed with the commission and a copy served upon the complainant. The answer shall specifically admit or deny the material allegations of the complaint and may set forth the facts which will be relied upon to support any such denial. If a railroad satisfies the complaint before answering, such fact without other matter may be set forth in the answer. If the cause of the complaint is removed after the filing and service of an answer, but before hearing, the railroad shall forthwith advise the commission. The filing of an answer constitutes a waiver of all matters, other than jurisdiction, which could be objected to by motion. In case of a failure to answer without cause, the commission will take such proof of facts as it deems proper and will make such order as it deems appropriate in the premises.

(3) When a complaint is properly subject to objection by motion, such motion shall be made before or concurrent with filing an answer except any motion attacking the jurisdiction of the commission.

(C) Investigation report

(1) The written report and recommendation of this commission's railroad division, prepared in connection with the settlement conference, shall be filed with the docketing division if the complaint is filed.

(2) Not later than fifteen days before the first day of hearing, either party to the complaint may file a written request that a supplemental investigation and report be made by the railroad division. The supplemental report shall be filed with the docketing division and served on the parties.

(3) Any party or the staff may request that either or both reports be received into evidence. Staff shall be made available at the hearing for examination concerning the reports.

(D) Orders to show cause



(1) If a complaint or a staff report of investigation indicates a violation of the Revised Code, Administrative Code, or of an order of the commission, the commission may issue an order to the railroad to show cause.

(2) A copy of such order shall be served by the commission upon each of the parties to such proceeding in such manner as the commission directs.

(E) Hearings

(1) Upon finding that reasonable grounds for complaint exist, the commission, the legal director, or the attorney examiner assigned to the case shall assign a time and place for hearing and cause reasonable notice to be given to all parties.

(2) The burden of proof in a complaint proceeding is on the complainant.

(3) Matters of practice and procedure not specifically covered by rules in this chapter shall be governed by the applicable provisions of Chapter 4901-1 of the Administrative Code.

(F) Designation of agent by railroad

Every railroad defined in sections 4907.02 and 4907.03 of the Revised Code shall designate an agent upon whom notices and papers required under this rule shall be served, and shall advise the commission, in writing, of the name and address of such agent.