

Your Complaint to the Régie de l'énergie

A step by step guide
for energy consumers

Régie
de l'énergie

Québec



For further information,
contact the Secretariat
of the Régie:

MONTRÉAL OFFICE
Régie de l'énergie
Post Office Box 001
Tour de la Bourse
800 Square Victoria Street
Bureau 2.55
Montréal (Québec) H4Z 1A2

Tel: 514 873-2452
Fax: 514 873-2070
Toll-free: 1 888 873-2452

greffe@regie-energie.qc.ca
www.regie-energie.qc.ca

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This document is a summary guide for energy consumers who wish to ask the Régie de l'énergie (the Régie) to examine their complaint against a decision made by their energy distributor.

You will find general information on the Régie, the types of cases it can deal with, and the different stages in the handling of a case, as well as certain questions that may arise during the process.

This document does not include, however, all of the rules and exceptions provided for under the *Act respecting the Régie de l'énergie* (the Act), and also does not constitute an opinion or legal advice. Its contents should not be used to try to respond to a particular situation.

Where the masculine form is used, this could, depending on the context, refer to women or men.



NOTE:

This brochure is a condensed version of a more complete document available on the Régie website at www.regie-energie.qc.ca.

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The Régie de l'énergie

An Independent Tribunal

The Régie was created in 1997, notably to provide consumers who are unhappy with decisions made by their energy distributor (electricity or natural gas) a way to contest the decision and obtain a final judgement that cannot be appealed, by putting their case to an independent and impartial body.

The Commissioners

The Régie's commissioners are administrative judges who are subject to a code of ethics that requires their total impartiality towards the parties in front of them, and a strict avoidance of conflicts of interest. Their role is:

- To consider the issue and the arguments;
- To render decisions.

However, commissioners are not intended to be advisors or personal guides to one or another of the parties.

The Personnel of the Régie

The Régie's personnel can provide you with assistance and general advice on Régie procedures. They can, for example:

- Tell you which forms you need, how to fill them out, and what documents you may need, as the case may be;
- Inform you on the formulation of your complaint;
- Provide information on previous decisions rendered by the Régie.

The Régie personnel cannot, however, give you legal advice on:

- Your rights;
- The validity of your complaint;
- Your chances of success;
- What evidence you should present;
- What witnesses you must produce.



REMEMBER:

You must not count on the advice of the commissioner to help you present your case during the hearing.

The Preliminary Steps

Complaint to the Distributor

Before you can submit a complaint to the Régie to contest a decision of your distributor (Hydro-Québec, Gaz Métro or Gazifère), you must first present it to your distributor, who has 60 days to provide a written response. Failing an answer within this period, the distributor is presumed to have rejected your complaint.

Recourse to the Régie

If you are not satisfied with your distributor's decision, you can ask the Régie to examine your complaint, within 30 days of the decision of your distributor or the date a decision is presumed to have been taken.

How to make your complaint to the Régie

The complaint to the Régie is made using a form available on the Régie's website (http://www.regie-energie.qc.ca/en/consommateur/Complaint_form.pdf) or by telephone, or by a letter to the Régie.

Your complaint must:

- Indicate your name, address, telephone number, electronic address, and, if needed, your fax number, as well as the coordinates of your representative if you have one;
- Include a clear and brief summary of the facts, the grounds for the complaint, i.e. your reasons for contesting the decision, and what conclusion you seek;
- Be signed by you or your representative;
- Include all of the documents to support your complaint – the distributor's decision in question and any other information related to the complaint (such as bills);
- Be accompanied by a cheque or money order to the Régie de l'énergie for \$30, to cover the cost of opening and handling your case.

Some advice for your preparation

- Keep a copy of each document that you send so you can have them in hand and refer to them throughout the process;
- Keep in mind that it is you who are contesting the decision of your distributor, and it is up to you to demonstrate that your complaint is well-founded. If you do not succeed in this demonstration, your complaint will be rejected. It is therefore essential that you support your complaint with documents and witnesses.

You can submit your complaint to the Régie

- In person to the Secretariat of the Régie located at its Montréal office;
- By fax, email or regular mail to the Secretariat of the Régie.



REMEMBER:

- It is you who are contesting the decision of your distributor, and it is up to you to demonstrate that this decision is wrong;
- Be sure that your complaint to the Régie is signed, that it has all of the information required, and includes a payment of \$30;
- Keep a copy of your complaint and each document that is included with it;
- Send your complaint correctly within the 30-day deadline;
- Inform the Régie of any change in your address information.

Your Complaint to the Régie

Some Basic Rules

The Choice to Be Represented by a Lawyer

You can appear on your own at the Régie, or you can choose to be represented by a lawyer, even if it is your company that is contesting the distributor's decision. In the latter case, the company can also be represented by one of its managers, except for the final pleading.

You should be aware that:

- The distributor will be represented by a lawyer;
- A lawyer may help you with one or another of the steps in the process (submitting your complaint, identifying the relevant document to submit, preparing your case, acting for you at the hearing), but not necessarily all of them;
- The Régie does not pay your legal fees. Find out what a lawyer could cost. You may also be eligible for legal aid. For more information consult the website of the *Commission des services juridiques* at www.csj.ca.

When should you act on your own?

- Your case is simple and raises questions that can easily be explained;
- You have a good understanding of your case and can explain it verbally and in writing;
- You are able to draft the documents necessary for your case;
- You are at ease talking in public;
- You understand the Act, its regulations and the relevant deadlines;
- You are comfortable talking to the lawyer for the other side, you are able to examine and cross-examine the witnesses, and you can remain calm when the lawyer for the distributor asks you questions.

If you choose to be represented by a lawyer and need help in finding one, the Quebec Bar has links on its website that lead to referral services by region or field of law: <http://www.barreau.qc.ca/en/public/trouver/avocat/index.html>.

Copies to all Parties

You must copy to your energy distributor all of the correspondence that you send to the Régie. The distributor is also required to copy you on all correspondence that he sends to the Régie.

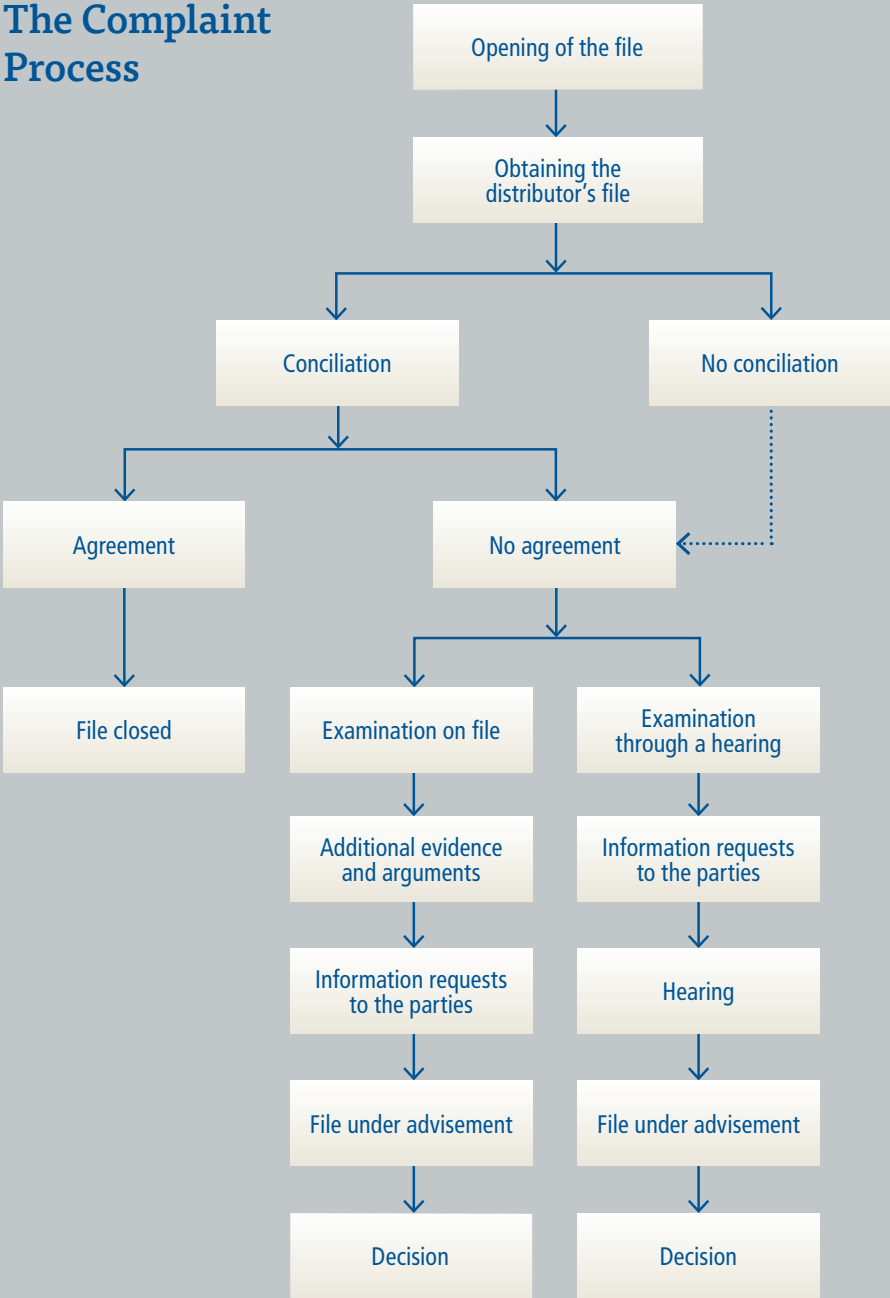


REMEMBER:

- You have the choice to act on your own or to be represented;
- Even if you choose to act on your own, you can consult a lawyer to know your rights and guide you in putting together your complaint or its presentation;
- If you choose to act on your own, the rules of procedure apply to all in the same manner. You must learn them, understand them and follow them, because you will not be offered any special treatment;
- If you choose to be represented, choose your lawyer based on his competence and understanding of the applicable field of law.

Your Complaint to the Régie

The Complaint Process



**NOTE:**

At any time, you can decide to cancel your complaint by sending a withdrawal to the Régie.

Step 1

Acknowledgement

The Secretariat of the Régie will acknowledge receipt of your complaint and indicate your case number at the Régie. Keep this number because you must mention it in all of your communications with the Régie.

The Distributor's In-house Examination File

When it acknowledges receipt of your complaint, the Régie sends a copy to the distributor concerned and requests that he sends a copy of its in-house examination file on your complaint, with a copy to you, within 15 days.

The in-house examination file is the file that the distributor compiled based on the correspondence that you already have had about the complaint. It includes your correspondence, reports produced by the distributor's personnel (meter inspection, visits to your residence or summaries of communications with you) and possibly the computer reports on the statements of your energy consumption and your billing.

Questions Which Might Be Raised

Your distributor might consider that your complaint should not be handled by the Régie because it is not admissible or that it falls outside the jurisdiction of the Régie.

Questions of inadmissibility must be raised at the time the in-house examination file is sent.

Your Complaint to the Régie

The arguments regarding inadmissibility made most frequently by distributors are:

Section 94 of the Act:

This section requires that complaints be submitted within 30 days of the date when the decision of the distributor was sent to you. However, it also allows the Régie to proceed with the examination of a complaint submitted after the expiry of this 30-day time limit if you were not able, for serious and legitimate reasons, to act sooner, and providing it does not result in serious prejudice to the distributor.

Section 99 of the Act:

Under this section, the Régie may refuse or cease to examine a complaint:

1. If the Régie 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 matter of the complaint has been settled); or
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. In this case, it is up to you to show the Régie when you became aware of the facts supporting your complaint, and the exceptional circumstances that made it impossible for you to make your complaint earlier.

The complaint does not fall within the jurisdiction of the Régie:

The jurisdiction of the Régie regarding complaints is limited by the terms of the Act. Some matters are therefore under the jurisdiction of other tribunals. For example:

1. Your complaint deals with relations between you and your landlord or tenant, and is concerned only with whether you or your landlord or tenant should be paying for the electricity or natural gas supply under your lease. This type of complaint would be under the jurisdiction of the *Régie du logement*, Court of Québec or the Superior Court;
2. Your complaint deals with a claim for damages and interest against your distributor. This complaint would go to the Court of Québec or the Superior Court, depending on the amount of the claim.



Conciliation session between both parties and the conciliator.

Step 2

The Régie Examines Your Case

Under the Régie's Rules of Procedure, normally the Régie examines a case on the basis of the file. It can also, if you or your distributor request it, or if the Régie judges it necessary, schedule a hearing.

Before proceeding to examine your complaint, the Régie may take the preliminary step of suspending the examination of the complaint in order to try conciliation, with the consent of both parties.

Conciliation

Conciliation is a free, fast and simple way to find a solution.

Conciliation's goal is to help you communicate, exchange information, negotiate, express yourself, evaluate your position and explore mutually satisfactory solutions with your distributor's representative. It is a free service offered by the Régie intended to help you reach an amicable solution with your distributor.

It takes place in the presence of a conciliator who is neutral and unbiased. He takes no decision on the subject of your complaint and gives no opinion on the validity of the positions of the parties. His role is to help the two parties to discuss and to find solutions.

Your Complaint to the Régie

The date of the conciliation session is set after consulting the two parties on their availability. A letter is sent to you indicating the day, time and place of the session. You must be present at this session and you may be helped by a lawyer or accompanied by a person of your choice. The session is private.

If there is agreement, your complaint is resolved and the Régie closes your file.

If there is no agreement, the conciliation may still be useful to you since the exchanges will help you better understand the situation and its rules, and be more prepared to complete your case or prepare for a hearing as your case is examined.

Note that nothing said or written during a conciliation session may be revealed to the Régie or admissible as evidence before it or another tribunal, unless this is agreed by both parties.



NOTE:

Nothing said or written during a conciliation session may be revealed to the Régie or admissible as evidence before it or another tribunal, unless this is agreed by both parties.

Examining the Complaint on File

If there is no conciliation or if the conciliation process fails, and neither you nor your distributor demands a hearing, the Régie proceeds to examine your case on file.

It will write to you or your lawyer to inform you of this and to ask you to complete your file by sending the Régie and your distributor any evidence or arguments that you wish to add to your file. The Régie will set a deadline for doing so.

How to complete your file

After you have considered your copy of the in-house examination file that your distributor will have sent to you, consider what you may need to complete your case. For example, you might add:

- Bills, receipts, contracts, photos, or electrician reports that support your position;
- Previous Régie decisions in similar cases (which you can find on the SOQUIJ website at <http://citoyens.soquij.qc.ca/> or by contacting the Régie's documentation centre by email at centrededoc@regie-energie.qc.ca, or by telephone.



REMEMBER:

**It is up to you to prove each element of your complaint.
Simple allegations generally are not enough.**

Your Complaint to the Régie

How the Régie may complete its file

If the additional information provided by the parties does not clarify all of the points at issue, or raises further questions, the Régie might send information requests to one or the other of the parties. This is a letter in which the Régie asks questions it wishes to have answered, in writing, within the deadline that it sets, so that it can make a properly informed decision.

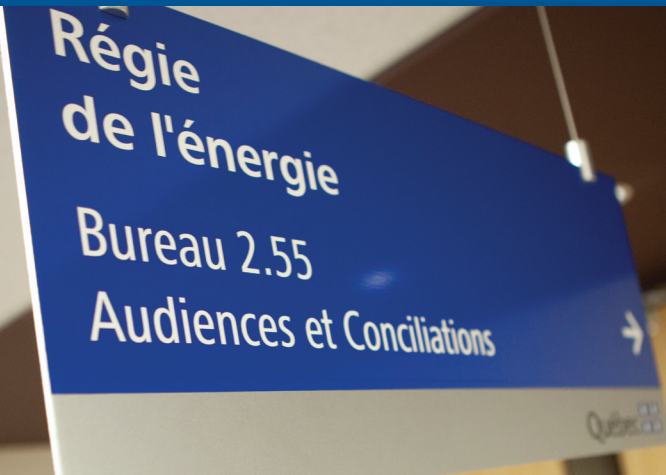
When the Régie has received all of the information it needs to decide on your complaint, it will take the file under advisement and then send you its decision, rendered on the basis of the evidence that you and the distributor have provided.

The *Act* does not provide a deadline for the decision, but it will be rendered as soon as possible.



REMEMBER:

The decision of the Régie is final and cannot be appealed. It is therefore important to make your file complete and not leave anything to chance in order to convince the Régie of the validity of your complaint.



Régie
de l'énergie
Bureau 2.55
Audiences et Conciliations →

The Régie's offices for hearings and conciliation sessions.

The Hearing

If you or your distributor have requested it, or if the Régie judges it appropriate, it may call a hearing.

There are many possible reasons for this: the Régie may wish to listen to the parties and their versions of the facts in order to determine their credibility, or it may want more explanations than the parties have provided.

It will communicate with you and your energy distributor to propose dates for the hearing. Then it will send you a written notice confirming the date, time and place where you must appear for the hearing.

Postponement

It may happen that you or your distributor have a major problem (illness, witness not available) that prevents appearing on the date set for your hearing at the Régie. In such a case, you can obtain a postponement of the hearing to a later date by sending a written request to the Régie as soon as possible. You must explain your reasons for this postponement. It will be up to the commissioner to accept or refuse the request for postponement, depending on the reasons given and the circumstances of the case.

Your Complaint to the Régie

If you are unable to appear on the scheduled day because of an unexpected event (for example, a death in the family, severe weather conditions), you must advise the Régie of this. If you do not obtain a postponement and you are not present at the hearing, the Régie may hold the hearing in your absence and render its decision.

Translation services

At the hearing, you can express yourself in French or in English. If you wish to do so in English, it is important to let the Régie know as soon as possible, so that it can make any needed arrangements.

If you need the services of a translator because you (or a witness) do not speak French or English, it is up to you to hire these services at your cost. The Régie will, however, pay the costs of translation to Sign language if you have a hearing disability.

Preparing for the hearing and evidence

Preparing your case is a key factor and has a direct impact on the Régie's decision. You have an important role in the explanation of the facts that led to your complaint to the Régie.

Documents

To convince the Régie that the decision of your distributor should be modified or cancelled, you must present your evidence during the hearing, which means proving each element of your request by documentation (bills, receipts, contracts, photos, electrician reports, etc.), by witnesses or by all of these elements.

Depending on the nature of your complaint, you might need the services of an expert (engineer, inspector, specialist in energy or other fields). It is up to you to hire the services of this expert at your own expense, and to send his report to the Régie and to your distributor at least 30 days before the date set for the hearing. You should plan for this witness being required to testify at the hearing.

Previous decisions of the Régie in similar cases to yours can be useful to you. As mentioned earlier, you can find them at the SOQUIJ website at <http://www.citoyens.soquij.qc.ca> or by contacting the Régie's Documentation Centre by email at centrededoc@regie-energie.qc.ca or by phone.

Witnesses

As well as the documents you intend to use, it is possible that you will have to testify and produce other witnesses. You must first ask yourself if, by your own testimony alone, you can convince the Régie that you are right. If not, you should identify the other witnesses you will need.

You should also anticipate who will be the witnesses for your distributor, and consider who might be able to counter their testimony.

When you have identified all of the people whose testimony is important, you have to be sure that all of the witnesses you want to have heard will be present at the date and time set in the notice that the Régie sent you.

In some cases, the witnesses will agree to be present simply if you ask them. In other cases, it is necessary to send them a subpoena, i.e. an order from the Régie requiring a person to appear at the hearing to give testimony. Since the subpoena is issued by a commissioner, it is important to notify the Régie in sufficient time of the names and addresses of the people you wish to produce as witnesses. The Régie will prepare the subpoena accordingly, and then it will be up to you to notify them by bailiff, at your cost.

The witnesses that you wish to have heard must have a personal knowledge of the facts. Having heard the facts from someone else, or that words were said, does not prove either the facts or the words. Therefore the testimony of a person who has direct knowledge of the facts or who took part in, or was present at, a conversation will have much greater weight than the testimony of a person who does not have direct personal knowledge of the facts.

Your Complaint to the Régie

Organizing

Before the hearing, it is important to gather together all of the documents needed to make your evidence, to identify them clearly and put them in chronological order, so that you won't have to look for them at the hearing.

If you are not represented by a lawyer, you are the one who will ask your witnesses the questions, so that they can clearly explain their version of the facts to the Régie. It is therefore important to prepare for their questioning as well as for the cross-examination of the distributor's witnesses.

Write down your questions before the hearing. This is a good way to ensure that you won't forget an important item during the questioning.

While you may well be convinced that you are right, remember that your distributor has the same conviction that he is right. He will try, just as you will, to convince the Régie that his position is correct.



REMEMBER:

- Take the time to review your case and assure yourself that it is complete.
- Identify the elements at issue to determine what you want to emphasize and bring out to the Régie.
- Determine which witnesses will be needed and review their testimony.
- If you wish to present an expert report, be sure to submit it to the Régie at least 30 days before the hearing.
- Plan to bring enough copies for the commissioner and the distributor.



A hearing before the Régie.

The day of the hearing

You must appear at the time indicated on the notice of hearing sent to you by the Régie. If you are not present, the commissioner may reject your complaint.

When you present your case to the Régie, show respect, courtesy and self-control towards the commissioner, your distributor's lawyer, and the Régie personnel. You should be suitably dressed, turn off your cell phone, and speak respectfully and formally with the commissioner and the distributor's representative. Do not interrupt other people. Listen attentively. Address yourself directly to the commissioner and avoid arguing with anyone.

The Régie hearing is public, which means that anyone may attend.

The hearing will be audio-recorded. However, if you believe the services of a stenographer would be useful, you can hire one at your expense.

At the hearing, the commissioner will bring fair and impartial help to each of the parties and ensure that everyone understands the elements of the case and the procedure of the hearing.

Your Complaint to the Régie

Procedure for the hearing:

1. The parties must identify themselves;
2. As the plaintiff you will begin;
3. You and your witnesses will swear a solemn oath to tell the truth, and then tell the facts and produce the documents you have prepared:
 - You and your witnesses can be cross-examined by the distributor's lawyer;
 - The Régie's lawyer, responsible for helping the commissioner to clarify the case, may also ask questions of you and your witnesses;
 - The distributor will present his evidence;
 - You may, in turn, cross-examine his witnesses;
 - The Régie's lawyer and the commissioner might also ask questions of the distributor's witness.

The hearing must only deal with the substance of your complaint. The commissioner might refuse to hear a witness, or refuse the production of a document, that he considers irrelevant.

After the presentation of their evidence, the parties can complete their presentations with more general comments on the matter. This is the moment at which it may be useful to cite previous decisions of the Régie in similar cases.

The Decision

A commissioner who hears a complaint is required by law to render a written decision. Therefore you cannot expect a verbal decision on the same day as the hearing. In most cases, the decision will be rendered within a few weeks after the hearing. It is sent to both parties in the mail.

When the decision is rendered, the Régie has no further power to intervene in your case. Its decision is final and cannot be appealed.

In some very specific cases, it is possible to request a review of the decision. The Secretariat of the Régie can inform you regarding this ultimate recourse.

This pamphlet is a condensed version of a more complete document available on the Régie's website at <http://www.regie-energie.qc.ca/en/consommateur/plaintes.html>.

For further information,
contact the Secretariat
of the Régie:

MONTREAL OFFICE
Régie de l'énergie
Post Office Box 001
Tour de la Bourse
800 Square Victoria Street
Bureau 2.55
Montréal (Québec) H4Z 1A2

Tel: 514 873-2452
Fax: 514 873-2070
Toll-free: 1 888 873-2452

greffe@regie-energie.qc.ca
www.regie-energie.qc.ca

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energy consumers
efficiency activities
examine Act
public interest plan
electricity sustainable development
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authorize regulation
geothermal
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