

Subject: REGULATION GOVERNING COMPLAINTS		Policy No: 52
Original Issue: 08/22/1986	Last Revised: 10/15/2021	Last Reviewed: 10/13/2023

## **I. REGULATION - SCOPE AND PURPOSE**

- A. By this Regulation, Empire Electric Association, Inc., sets forth a procedure for its members and consumers to register complaints and be given an opportunity to be heard by the Board of Directors, or its designee, regarding the rates charged by EEA, the manner in which the electric service is provided, or proposed changes in the rates or regulations, in compliance with § 40-9.5-109, C.R.S., as the same may be amended, superseded, or replaced.
- B. This Regulation is promulgated in the best interests of EEA and its members and consumers. This Regulation shall be liberally construed to secure the just, speedy, and inexpensive determination of matters presented under the foregoing statute and this Regulation.

## **II. DEFINITIONS**

As used in this Regulation, the following words shall have the meanings indicated unless the context otherwise requires:

- A. "Board" shall mean the Board of Directors of Empire Electric Association, Inc.
- B. "Board Decision" means the decision made by the Board on a Formal Complaint.
- C. "Board's Review" means the Board's review of the Manager's Response in the Informal Complaint process.
- D. "EEA" shall mean Empire Electric Association, Inc.
- E. "Complainant" shall mean a Person who files a Complaint under this Policy, to file a Complaint, the Complainant must either be a recognized member or consumer of EEA.
- F. "Formal Complaint" means a complaint filed by a Complainant after the Informal Complaint and pursuant to this Regulation.
- G. "Manager" means the general manager of EEA.
- H. "Manager's Response" means the response of the Manager to an Informal Complaint.
- I. "Informal Complaint" means a complaint filed by a Complainant pursuant to this Regulation.
- J. "Party" shall mean any Person named in the formal complaint, including the Complainant and EEA.
- K. "Person" shall mean any natural person, firm, partnership, corporation, company, cooperative, joint venture, or any other legal entity.
- L. "President" shall mean the President of the Board.
- M. "Pro se" shall mean any person appearing on his or her own behalf without legal counsel in a proceeding under the foregoing statute and this Regulation.

## **III. REGULATION**

### **A. INFORMAL COMPLAINT PROCESS**

1. Manager Review. Any Complainant may file a complaint with EEA. To begin the complaint process, the Complainant must file an Informal Complaint with the Manager. The Informal Complaint must be in some form of legible writing and be signed by the Complainant and state that it is being filed pursuant to this Regulation. The Informal Complaint must set forth the facts and other information forming the basis for the complaint and set forth the relief the Complainant seeks. The Informal Complaint must be addressed to the Manager. The Manager must notify the Complainant of the receipt of the Informal Complaint within seven (7) days of receipt. The Manager may request additional information from the Complainant. The Manager will provide the Complainant with a written response to the Informal Complaint within thirty (30) days of receiving all information necessary for the Manager to decide the Informal Complaint. If the Complainant is not satisfied with the Manager's Response, then the Complainant may ask for a Board review.
2. Board Review. No later than thirty (30) days after receiving the Manager's Response, the Complainant shall notify the Manager that the Complainant wishes to seek Board review of the Response. If the Complainant fails to notify the Manager within this thirty (30) day time period, the matter will be deemed satisfied and the Manager will close the file and take no further action. If a Board Review is requested, the Manager will include the Informal Complaint in the agenda for the next available Board meeting that satisfies all statutory notice requirements. At the meeting, the Board will consider the Informal Complaint and direct the Manager or EEA's attorney regarding a response. The Manager or attorney will present the Board's Review to the Complainant within a reasonable time following the Board meeting. If the Complainant is not satisfied with the Board's Review, then the Complainant may file a Formal Complaint. The Formal Complaint will only be reviewed if the Complainant has completed the Informal Complaint process as set forth above.

#### B. FORMAL COMPLAINT PROCESS

1. Time Limit to File. No later than thirty (30) days after receiving the Board's Review, the Complainant may file a Formal Complaint with EEA. If the Complainant fails to file the Formal Complaint within this thirty (30) day time period, the matter will be deemed satisfied and the file will be closed with no further action taken.
2. Formal Complaint Requirements. The Formal Complaint must be addressed to the Board. The Formal Complaint shall be in legible writing and shall be signed by the Complainant. The Formal Complaint shall include the Informal Complaint and all responses as supplemental documents. The Formal Complaint shall state the name and address of the Complainant, set forth a clear and concise statement of the facts supporting the Formal Complaint, and set forth the relief the Complainant seeks. The Formal Complaint may be dismissed by the Complainant at any time during the Formal Complaint Process. If the Complainant is a business entity of any type, it may be represented by its owner or any officer, manager, or duly authorized employee. The Complainant may appear Pro Se or may be represented by an attorney. If the Complainant is represented by an attorney, the Formal Complaint shall be signed by the attorney and set forth his/her registration number, address and telephone number. The signature of the attorney certifies that he/she has read the Formal Complaint; that to the best of his/her knowledge, information and belief there are good grounds to support it; and that it is not interposed for purposes of delay. An attorney of record

may withdraw from a proceeding only upon motion and notice to all Parties, including the Party represented by such attorney.

3. Formal Response. The Manager or EEA's attorney shall submit a Formal Response within thirty (30) days of receiving the Formal Complaint. To submit the Formal Response, the document shall be delivered to Board, with a copy delivered to the Complainant.
4. Hearing.
  - a. Hearing Date. After the Formal Response is submitted, the Board President shall be responsible for setting the Hearing date and shall preside in all matters related thereto.
  - b. Notice of Hearing. EEA shall deliver written notice of the Hearing, setting forth the time, place, and date of the Hearing, to (i) each Party, (ii) any other person who, in the opinion of the President, would be interested in or affected by the proceeding involved in the Hearing, and (iii) any member or consumer of EEA who has asked to receive notice of the Hearing. The Notice shall be delivered no later than ten (10) days before the Hearing.
  - c. Pre-Hearing Conference. At any time before the commencement of the Hearing, the President may order that a pre-hearing conference be held to expedite the Hearing or settle issues, or both.
  - d. Hearing. The Hearing shall be conducted by the President, at the time and date set forth in the Notice of Hearing. The Hearing shall be open to the public, but the Board, upon motion may go into executive session as authorized by statute. Any person who is disruptive, abusive, or disorderly at a Hearing may be excluded from the Hearing by the President. Any Hearing shall be recorded at the request of any Party; the cost of such recording shall be borne by the Party who requested that the Hearing be recorded. The Hearing will be conducted, as nearly as practicable, in accordance with the Colorado Rules of Procedure and the Colorado Rules of Evidence. The President shall decide all issues related to the conduct of the Hearing, the admission of evidence, and the management of the Parties and the hearing room, and his/her decision shall be conclusive on the issue.
  - e. Burden of Proof. The burden of proving the claims in the Formal Complaint shall be on the Complainant.
5. Board Decision. Following the Hearing, the Board will issue a written decision on the Formal Complaint. Such decision shall be delivered to all Parties who participated in the Hearing within thirty (30) days of the conclusion of the Hearing. The Board's Decision on the Formal Complaint shall be final.


C. NOTIFICATION REQUIREMENTS. All notices, responses, decisions, or any other documents provided to a Party in furtherance of the Complaint process set forth above shall be delivered via email. The Complainant shall provide a valid email address on the first page of the Informal Complaint and the Formal Complaint. EEA shall provide the Complainant with a valid email address to use during the pendency of the Complaint process when the Manager acknowledges receipt of the Informal Complaint. Any items delivered to these email addresses shall be deemed delivered when sent.

#### IV. EXHAUSTION OF REMEDIES

- A. No Complainant may make a complaint to any agency or court about any matter within the scope of this Regulation without first following the procedures and exhausting the Complainant's remedies as set forth in this Regulation, except when permitted by law.

V. RESPONSIBILITY

- A. The Board shall be responsible for administration applicable to their responsibility and for any change or revision of this Regulation.
- B. The Manager is responsible for administering those portions applicable to his/her responsibility and for making recommendations for changes.

	President's Signature	Date: 10/13/2023
---	-----------------------	------------------