

## Utility Wrongdoing (Whistleblower) Process

### Investigations of Utility Wrongdoing

As part of its legislative mandate to set rates that are just and reasonable and sufficient to ensure safe and adequate service, the Public Service Commission – through the Department of Public Service (Department) Staff – conducts both formal and informal investigations of utility practices and procedures. Utility wrongdoing – based on the utility’s act(s) or omission(s) – could, if not disclosed and corrected, pose a threat to the health or safety of utility employees, customers and the public and result in the utility’s failure to provide safe and adequate service at just and reasonable rates. It is the policy of the Department to investigate allegations of utility wrongdoing in a fair and consistent manner. Individuals reporting alleged wrongdoing are commonly referred to as “whistleblowers.” Utilities are business entities providing essential services regulated by the Commission. Energy Service Companies (ESCOs), as such business entities, are subject to the Commission’s whistleblower complaint oversight.

### Complaint Intake and Investigation

Allegations of utility wrongdoing typically come to the Department from many sources, including: utility employees, the general public, state and local agencies, and contractors. Complaints may be filed either anonymously or by name. It is the Department’s position that these records are compiled for law enforcement purposes (to determine whether or not utilities are fulfilling their statutory responsibilities including the obligation to provide safe and adequate service at just and reasonable rates); and, because public disclosure of complaints would interfere with law enforcement investigations and could subject a whistleblower to an increased risk of retribution by the subject utility, the complaints filed are exempt from disclosure pursuant to the Freedom of Information Law (FOIL) (*see* Public Officer’s Law § 87(2)(e)(i)). **Before completing and submitting a complaint, a reporting individual who is a utility employee needs to be aware that a whistleblower may be protected from retaliation by the utility in certain circumstances, as provided for in Labor Law §740.** You can read the full text of Labor Law §740 by clicking on the highlighted link ([Labor Law §740](#)). You may also wish to speak with an attorney before submitting your complaint to fully understand your rights.

Complaints should be submitted, or immediately forwarded, to the Department's Office of General Counsel for review. The Office of General Counsel, with the assistance of other Department offices, will make a preliminary assessment whether the allegations: 1) are sufficient to commence an investigation; 2) require additional information before a determination to investigate further can be made; 3) should be investigated in the context of an on-going or pending Commission proceeding; 4) should be handled as a standard complaint regarding consumer service; or, 5) do not warrant an in-depth investigation. Upon a determination to conduct an in-depth investigation of the allegations as a whistleblower complaint, a lead office or lead offices of the Department will be assigned to conduct that investigation.

The nature of the allegations and whether the whistleblower has requested anonymity may impact whether the utility is informed that an investigation has commenced. An initial (non-public) report will be prepared by the technical staff of the lead office(s) at the conclusion of the investigation indicating: 1) whether the allegations appear to be founded and, if so, the likelihood that the utility's act(s) or omission(s) resulted or may result in an adverse impact on the provision of safe and adequate service and/or just and reasonable rates; 2) whether further investigation is warranted, either by technical staff or pursuant to a proceeding instituted by the Commission; or, 3) that the investigation should be closed. If the complaint allegations or preliminary findings warrant, referrals may also be made to other appropriate agencies for their consideration and appropriate action.