



Bureau of
Energy Resources,
United States
Department of State



National
Association of
Regulatory
Utility
Commissioners

Alternative Dispute Resolution

PURA Mediation Rules and Procedures

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Authority**

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Alternative Dispute Resolution is the use of a neutral individual who can assist disputing parties in resolving their disagreements.

Common Techniques and Methods:

- Mediation
- Binding arbitration
- Settlement conferences
- Dispute panels
- Minutials
- Cooperative problem-solving
- Alternative discipline
- Negotiated rulemaking
- Conciliation



Mediation

- Use of an acceptable, impartial and neutral third party who has no decision-making authority to assist the parties in voluntarily reaching an acceptable resolution of issues
- Informal non-adversarial process
- The mediator assists parties in identifying issues, fostering joint problem-solving and exploring alternatives
- Useful in highly-polarized disputes where parties have been unable to initiate a productive dialogue or parties have reached an impasse
- The decision-making authority rests with parties not the mediator





Initiation of Mediation and Selection of Mediator at PURA

- The Authority, on its own motion, may recommend or order that parties attempt mediation to settle some or all issues or facts in dispute
- Any party may request mediation with the Authority at any time
- Mediations may be utilized to facilitate compliance with settlement terms and conditions
- There is no fee charged by the Authority for use of its mediation services
- The Director of Advocacy designates the staff members assigned to mediate a matter on a case-by-case basis





Initiation of Mediation and Selection of Mediator at PURA

(continued)

- Mediation teams generally consist of two or more staff members
- At least one member of the mediation team shall, whenever possible, have expertise in the particular subject matter involved in the dispute (i.e. consumer, rate of return, engineering etc.)
- At a minimum, at least one member of the mediation team shall have received training as a mediator
- The mediation team shall consist of members of the Authority who have not been assigned as staff on the subject docket
- The mediation team may not discuss the substance of the settlement discussions with assigned Authority staff (ex parte rules)





Code of Conduct for Mediators



- Mediators shall be impartial and neutral
- Mediators shall encourage and facilitate negotiations among the parties
- Mediators shall inform all participants that mediators do not represent or favor any particular party
- Mediators have an obligation to disclose any potential conflict at the earliest possible opportunity
- Mediators shall notify all participants of the mediation process and dates and times of mediation sessions
- Mediators may request discovery to share information among the parties to allow for settlement negotiations (however, such information shall not be filed with nor retained by the mediators)



Code of Conduct for Mediators

- Mediators shall maintain the confidentiality of the negotiation process
- Mediators may meet either individually or together with the parties
- Mediators shall periodically inform the Authority of the progress of the mediation process (if more time is needed or whether further mediation efforts are not worthwhile)
- Mediators shall also advise the Authority of any party's failure to negotiate in good faith





Mediation Process - Generally

- Parties shall assign at least one individual with decision making authority to the mediation
- At least one individual with decision making authority shall be present at mediation sessions
- Parties shall negotiate in good faith
- No stenographic record is utilized during the mediation process
- No docket file is maintained at the Authority for the mediation process





Mediation Process – Generally

(continued)

- Negotiations conducted during the mediation process shall be confidential and may not be disclosed by any participant to the negotiations
- The mediation process may settle all or a portion of the outstanding issues of the dispute
- Parties shall not be required to enter into an agreement
- When a settlement is reached for some or all of the issues, by some or all of the mediating parties, the mediator or settling parties file the settlement agreement with the Authority





Mediation Process – Generally

- The parties may file the comments in support of or in opposition to the proposed settlement
- The complaining party shall also file a request to withdraw the complaint with the Authority at which time the docket will be closed without further Authority action





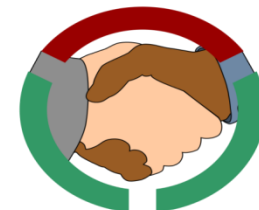
PURA Action On Proposed Settlements



- Once it has received a proposed settlement, the Authority may proceed with such discovery, prefiled testimony and hearings as deemed necessary to determine whether the proposed settlement complies with the applicable laws, is in the public interest and should be adopted
- The Authority may approve, reject or suggest changes to the proposed settlement
- If the Authority recommends changes, the settling parties shall review the recommendations and advise the Authority whether the recommended changes are accepted
- If the proposed or accepted revised settlement resolves all issues in the case and is approved by the Authority after appropriate proceedings, the Authority shall issue a decision approving the proposed settlement and closing the docket.



PURA Action



- If the proposed or accepted revised settlement resolves all issues in the case and is approved by the Authority after appropriate proceedings, the Authority issues a decision approving the proposed settlement and closing the docket
- If the proposed settlement is rejected, amended or referred back to the mediator or if the proposed settlement does not settle all issues in the case, the Authority may continue with the docket proceedings and/or the Authority may provide additional time for further mediation
- If a settlement is not reached or if the proposed settlement is rejected by the Authority, parties involved in the mediation are not bound by concessions made during the mediation, and may revert to their initial position or take a new position during the docket proceedings