



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE: August 2, 1996
TO: Interested Persons *DWC*
FROM: Diana Caldwell, Division of Appeals
RE: Undocketed Staff Workshop - Procedures for Alternative Dispute Resolution

Attached is a copy of the proposed agenda for the Staff Workshop to be held August 14, 1996, which was noticed in the Florida Administrative Weekly. Also attached for your information is a copy of the initial report by the Commission staff Task Force.

Thank you for your interest. We look forward to seeing you at the workshop. Should you have any questions, please feel free to contact me.

Attachments

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG _____
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DOCUMENT NUMBER-DATE
08200 AUG-6 96
 FPSC-RECORDS/REPORTING

FLORIDA PUBLIC SERVICE COMMISSION

Staff Workshop

Undocketed: Proposed Rules Relating
to Procedures for Alternative
Dispute Resolutions (ADR)

August 14, 1996

WORKSHOP OBJECTIVES

- To discuss how ADR techniques can be used to settle administrative disputes more efficiently and effectively.
- To identify criteria for the appropriate use of ADR by the PSC from the perspectives of potential users.
- To formulate recommendations for the use of ADR procedures for specific types of cases.

WORKSHOP AGENDA

- 10:00 Welcome and Workshop Plan - Commission Staff
- 10:15 ADR and Administrative Reform - Dan Stengle
- 10:30 ADR Options for the Public Service Commission - Bob Jones
- 10:45 An Industry Perspective on ADR - Pat Wiggins
- 11:00 Desired Outcomes and Concerns from Industry Perspectives
 - Small work groups
 - Small work group reports and discussion
- 12:00 Lunch break (on your own)
- 1:00 Identify Cases Appropriate for ADR
 - Brainstorm a list of potential cases
 - Identify those that may be the most appropriate
 - List criteria to be considered in selecting cases
- 2:00 Break
- 2:10 Suggestions for ADR Procedural Rule Drafting
 - Brainstorm suggestions
 - Review, combine, and refine suggestions
 - Industry group reports and discussion
- 3:00 Formal Workshop Adjourns - Staff and speakers are available to take individual comments from participants

INITIAL REPORT
OF THE
ALTERNATIVE DISPUTE RESOLUTION
TASK FORCE

July 22, 1996

Florida Public Service Commission
Task Force Members:

Diana Caldwell, Chairman
Roberta Bass, EAG
Martha Brown, LEG
Patti Daniel, RRR
Bill Lowe, WAW
Dale Mailhot, AFA
Robin Norton, CMU

ALTERNATIVE DISPUTE RESOLUTION TASK FORCE

INITIAL REPORT

Introduction

At its April 29, 1996, Internal Affairs meeting, the Commission approved a joint proposal from the Commission's Executive Director and General Counsel to expand the use of Alternative Dispute Resolution (ADR) processes in the conduct of Commission cases. The proposal pointed out that even though ADR processes are in use to some extent at the Commission today, the Commission still conducts much of its business by the traditional, formal, quasi-judicial administrative process.¹ The proposal stated that ADR is considered by many to be a viable way to resolve the disputes and policy issues that arise in the regulatory arena, because it can save time and money, it is flexible, and it can foster better understanding and better long-term relationships between participants in the regulatory process.

To begin the implementation of their proposal, the Executive Director and the General Counsel established a task force to address a variety of issues and establish a procedural framework for the use of voluntary ADR processes in Commission proceedings. The procedural framework was to form the basis of workshops leading to proposed rules governing the use of ADR.

The task force has reviewed relevant literature on the uses of ADR in a variety of public sector and regulatory settings. The bibliography attached to this report includes a selection of that literature for your information. This initial report describes what we believe to be the appropriate procedural steps to establish the goal of effective ADR processes at the Commission, and it broadly identifies some of the issues we believe must be addressed in order to achieve that goal. We have described this report as an "initial report", because we believe there is much more work for the task force to do to assist in the implementation of useful, effective ADR at the Commission.

¹ The Division of Records and Reporting's figures on Commission time spent in hearings shows that over the six-year period 1990 through 1995, the Commission spent an average of 130 days of approximately 262 in hearings. Annual Report for the respective years 1990 - 1995.

Procedural framework

One fundamental tenet of alternative dispute resolution, which contributes significantly to its broad appeal, is the precept that ADR provides a flexible, positive setting in which the parties to a dispute can work together, rather than against each other, to resolve the problems that divide them. Unlike adversarial hearings and litigation, the parties retain control, within certain basic guidelines, of the process and the solution to the dispute. The task force has adhered to this principle in developing a procedural framework for voluntary ADR processes at the Commission. Thus we propose that the appropriate way to proceed is to enlist all interested persons' participation in the development of ADR procedures at the outset.

Rarely do stakeholders or their representatives help design the dispute resolution procedures that they must use. The result is frequently an ADR program that looks good on paper or in the corporate operating plan. Given a choice, most stakeholders prefer not to use the program, however, because they feel no connection to it.

The lesson for creating 'the next generation' of conflict management systems is: If you build it, they may or may not use it. If they build it, they will use it, refine it, tell their friends about it and make it their own.

Constantino, Cathy A. and Merchant, Christina Sickles, "How to Design Conflict Management Systems", CPR Institute for Dispute Resolution, Vol. 14, No. 4, April 1996.

We propose to conduct at least two workshops in August and September which we envision will serve two functions; the development of a consensus draft ADR procedural rule, and the education of ourselves and the participants in the purposes, principles, and processes of ADR. The task force will design the agendas, distribute materials, facilitate the workshops, and conduct discussions on the issues identified below and other issues raised by the workshop participants. Depending on the level of participation, the task force may divide the workshops into small work groups to address and resolve specific issues. When the draft rule is developed, the task force will prepare a final report that will chronicle the workshop process, propose the rule for the Commission's approval, and develop a means to measure and evaluate the use of ADR when the rule is implemented.

Questions to be addressed

Administrative agencies differ significantly in function, organization, and responsibilities; and they need the discretion to fashion ADR procedures to suit their specific needs. The 1996 revisions to the Administrative Procedures Act include two new sections that permit administrative agencies to conduct negotiated rulemaking proceedings and offer mediation as an alternative to formal administrative hearings. The new sections encourage agencies to implement ADR processes, but they do not require agencies to do so. They also include a few basic procedural requirements, such as notice, but they do not mandate a particular form that ADR procedures should take. Agencies are free to decide whether, to what extent, and how they will offer ADR processes in the conduct of their proceedings.

The task force recognizes that an effective ADR process must address the specific functions and regulatory responsibilities of the Commission. We have identified the following broad categories of issues that we intend to consider directly in the ADR workshops. (See below) We anticipate to fully develop these issues at the workshops. For example, under the role of the Commission, one issue would be whether the Commission should be able to simply reject or approve an agreement, or should it have the ability to modify the agreement. As a goal of the workshop, it is hoped that several Commission processes can be identified as "ripe" for initial utilization of ADR. Other processes can be targeted for later implementation.

The task force believes that any ADR process developed at the workshops will not be effective unless it is designed to accommodate the identified issues. We do not intend to resolve them in this initial report. Rather, we intend to identify and develop the issues for investigation, consideration, and resolution at the workshops.

- ◆ Role of the Commission.
- ◆ Role of staff.
- ◆ Types of cases appropriate for ADR.
- ◆ Confidentiality.
- ◆ Due process.
- ◆ Role of public/affected parties.

Conclusion

Implementation of an ADR process within the Commission is timely. Both the federal and state telecommunications acts encourage and provide for alternative methods for the Commission to resolve disputes that arise between participants in the newly competitive telecommunications markets. Amendments to Florida's Administrative Procedures Act adopted in the 1996 Legislative session allow for the use of ADR processes by administrative agencies. A recent report by the Governor's Conference on Administrative Dispute Resolution encourages ADR in the public sector and other Florida state agencies are undergoing projects to expand the use of ADR.

We are pleased by the support received from the Commission, administration, and members of the industries encouraging our efforts in developing a procedure that will afford greater input to the resolutions of problems affecting all parties. Part of this support is evidenced by the training of technical staff scheduled for August 26-28, 1996. In addition, attorneys from both the Divisions of Legal Services and Appeals are being trained and certified as circuit civil mediators.

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ORIGINAL
FILE COPY

Jeff Parish
Vice President
Bulk Power and Delivery



August 2, 1996

A

Division of Records & Reporting
Capital Circle Office Center
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

06000

Re: Ten Year Site Plan for Alabama Electric Cooperative, Inc.

Dear Sir or Madam:

A mistake was discovered on DSP Form 2, Page 1, of the 1996 Florida Ten Year Site Plan. The "Average No. Of Customers" number in column five for 1996 was changed from 76077 to 66077, and for 1997 was changed from 78154 to 68154.

Attached is a copy of the corrected form. If you should have any questions or need additional information, please do not hesitate to call.

Sincerely,

Jeff Parish
Vice-President
Bulk Power and Delivery

- ACK _____
- AFA _____
- APP _____ JP/cb
- CAF _____
- CMU _____ Attachment
- CTR _____
- EAG _____ I
- LEG _____
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- OPC _____
- RCH _____
- SEC _____ I
- WAS _____
- OTH *orig to "A"*

THE SOUTH'S MOST EXPERIENCED POWER SUPPLY COOPERATIVE

DOCUMENT NUMBER-DATE

08202 AUG -6 8

FPSC-RECORDS/REPORTING

Existing Generating Facilities
History and Forecast of Energy Consumption and Number of Customers by Customer Class

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Rural and Residential						Commercial		
Year	Population	Members Per Household	GWH	Average No. of Customers	Average KWH Consumption Per Customer	GWH	Average No. of Customers	Average KWH Consumption Per Customer
1984			430	43728	9828	107	4600	23250
1985			451	45334	9953	116	5247	22152
1986			497	47018	10562	125	5528	22697
1987			525	48985	10709	130	5772	22559
1988			549	50782	10811	134	5912	22618
1989			594	52510	11312	141	6007	23473
1990			619	54141	11428	151	5958	25311
1991			638	55857	11430	161	6018	26825
1992			672	57436	11700	166	6235	26624
1993			720	59493	12102	180	6360	28302
1994			727	61593	11803	188	6668	28194
1995			784	63928	12264	200	6845	29218
1996			826	66077	12501	211	7027	30027
1997			863	68154	12662	220	7213	30500
1998			898	70213	12790	228	7407	30782
1999			932	72273	12896	236	7610	31012
2000			965	74209	13004	244	7821	31198
2001			997	76103	13101	251	8040	31219
2002			1029	77971	13197	259	8267	31329
2003			1061	79807	13295	266	8503	31283
2004			1094	81754	13382	274	8748	31321
2005			1128	83737	13471	281	9003	31212
2006			1163	85852	13578	289	9268	31183
2007			1199	87637	13681	297	9544	31119
2008			1236	89645	13788	305	9830	31027
2009			1272	91591	13888	313	10129	30901
2010			1309	93550	13993	321	10441	30744
2011			1346	95530	14090	329	10764	30565
2012			1385	97563	14196	337	11101	30358
2013			1423	99493	14303	345	11452	30126
2014			1462	101453	14411	353	11817	29872