

Proposed Alternative Dispute Resolution Process

Before filing a complaint or request for declaratory ruling at the Oregon Public Utility Commission regarding PURPA Issues (defined below), the complainant must certify that it has either (i) completed the mandatory mediation process outlined below or (ii) obtained written consent from each defendant to waive the requirement to complete the mandatory mediation process. PURPA Issues shall include issues that arise under the power purchase contracting and interconnection processes, or under agreements that relate to either (i) the purchase of the output from a QF or (ii) the interconnection of a QF. For QFs that are required or elect to negotiate a power purchase agreement, the QF must also have followed the procedures set forth in the applicable public utility's schedule regarding negotiated power purchase agreements.

The purpose of the mandatory mediation is to:

- Assist parties in resolving disputes concerning PURPA Issues;
- Determine whether the entire claim, or any portion thereof, can be settled by agreement;
- Determine, if the claim cannot be settled, whether one or more issues can be resolved to the satisfaction of the parties; and
- Discuss any other methods of streamlining or reducing the cost of litigation.

A QF or public utility that is potentially interconnecting with, or contracting to purchase the output from, a QF may petition the Commission to mediate a dispute arising under the QF contracting process, the interconnection process, or agreements to purchase the output from a QF or related to the interconnection of a QF. The Petition to Mediate shall include the following:

- A statement of unresolved issues in dispute;
- A statement of each party's position on the unresolved issues;
- A statement of the relief requested; and
- A list of the parties to participate in the mediation;

The respondent shall file a response within 15 calendar days of the filing of the Petition to Mediate. In the response, the respondent must address each material issue in the Petition to Mediate, describe the respondent's position on those issues, and present any additional issues for which the respondent seeks resolution.

The Administrative Hearings Division will appoint an administrative law judge to serve as the Mediator. The Mediator shall schedule an initial mediation conference to occur no later than 15 business days after the respondent files its response to the Petition to Mediate unless otherwise agreed by both parties. Each party shall have representatives attend the initial mediation

conference who have authority to bind each party to a settlement in principle. At the conclusion of the initial mediation conference, the Mediator may schedule future mediation conferences if both parties agree.

The mandatory mediation process shall be deemed completed after the conclusion of the initial mediation conference if either party elects in its sole discretion to terminate the process by providing written notice to the other party and the Mediator of its election. Alternatively, the mandatory mediation process will be deemed completed upon memorialization of a mutually agreeable written agreement resolving the claims at issue in the Petition to Mediate.

The filing of a Petition to Mediate and the mandatory mediation process shall not affect (i) the QF's position in the interconnection queue, (ii) any deadlines or milestones in the interconnection process or power purchase contracting process, or (iii) the QF's ability to otherwise achieve the "legally enforceable obligation" milestone.

All filings and communications in connection with the mandatory mediation process shall be confidential under ORS 40.190 and Fed. R. Evid. 408. The mediation process will not result in a binding resolution of claims at issue unless such resolution is memorialized in a mutually agreeable written agreement signed by both parties.

In the event that a dispute that has completed the mandatory mediation process is filed as a formal complaint, the Hearings Division shall not assign the Mediator as the ALJ presiding over the formal complaint proceeding.

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