

Alternative Dispute Resolution Procedures from NYISO Market Admin. And Control Area Services Tariff

Internal Dispute Resolution Procedures (Section 11.1 of Services Tariff)

- Dispute presented directly to a senior representative of each party to the dispute for resolution on an informal basis as promptly as practicable
- If designated representatives unable to resolve dispute within thirty (30) days by mutual agreement, dispute may be submitted to the ISO's Dispute Resolution Administrator ("DRA") (an outside party retained as a consultant by the NYISO)
 - Party submitting issue to DRA includes written statement describing nature of dispute and issues to be resolved
 - Any subsequent mediation or arbitration process limited to the issues presented for resolution
- DRA may submit disputes to non-binding, mediation where subject matter involves proposed change or modification of a Service Agreement or ISO Services Tariff provision
- DRA may submit disputes to binding arbitration if involves interpreting Service Agreement or ISO Services Tariff provisions.
- Both mediator and arbitrator have authority to dismiss if (1) dispute did not arise under the ISO Services Tariff; or (2) claim is de minimis.

Non-Binding Mediation Steps (Section 11.2 of Services Tariff)

- DRA distributes list of ten qualified mediators to disputing parties within 10 days of referral of issue
- parties either agree on mediator or take turns striking names from a list supplied by DRA, with party chosen by lot first striking a name; last remaining name designated as mediator
- Parties attempt good faith resolution within mediator's time schedule, but no schedule may extend beyond 90 days from the mediator's appointment
- The mediator may require written statements of issues and positions, meetings, compliance with DRA-designated procedures
- If parties cannot resolve dispute within ninety days, mediator provides parties and the DRA a written, confidential, non-binding recommendation for resolution

- If the parties are still unable to resolve the dispute, then any dispute not involving a proposed change to Service Agreement or ISO Services Tariff provision may be referred to the arbitration process described below or any disputing party may resort to regulatory or judicial

Arbitration Procedures (Section 11.3 of Services Tariff)

- If the DRA refers the dispute to arbitration, DRA has ten days to distribute list of qualified arbitrators to the parties
 - parties agree upon an arbitrator or take turns striking names from a list of ten qualified individuals; party to first strike a name should be chosen by lot; last remaining name designated as arbitrator
 - Within ninety days of appointment, and after providing the parties with an opportunity to be heard, arbitrator renders written decision, including findings of fact and the legal basis for the decision
 - Arbitrator's decision final and binding if parties agree that the decision will be binding or the dispute is less than \$500,000
 - All arbitrator's costs are borne by losing party and each party bears its own individual litigation costs
- Arbitration decisions affecting matters subject to FERC jurisdiction must be filed with FERC
- Arbitration decisions affecting matters subject to NYPSC jurisdiction must be filed with the NYPSC
- Arbitrator's decision and award can serve as basis for entry of judgment by any court in New York having jurisdiction
- Within one (1) year of arbitration decision, a party may request that FERC or any other appropriate jurisdictional federal or New York State regulatory or judicial authority vacate or modify or arbitration decision that is
 - based upon an error of law,
 - contrary to statutes, rules or regulations,
 - violates Federal Arbitration Act or Administrative Dispute
 - is based on conduct by an arbitrator violative of the Federal Arbitration Act