# Alternative Dispute Resolution by Hearing Commissioner

Alternative dispute resolution (ADR) refers to the various methods that can be used to help attempt to resolve disputes.

ADR is private, confidential, and without prejudice. The term "without prejudice" protects ADR discussions from being used against a party later in a proceeding. It exists to let people discuss and negotiate freely, without worrying that what they say will later be used as evidence, unless all parties agree.

## Principles of ADR by Hearing Commissioner

- Parties are fully informed of the process and their options.
- Approaches are flexible and tailored to fit the circumstances and nature of the dispute.
- ADR is separate and distinct from a hearing on the same applications or appeals.

## ADR By Hearing Commissioner

ADR by hearing commissioner focuses on resolving disputes that would otherwise be decided through the hearing process. ADR may also help parties prepare to participate more effectively in the hearing process.

In ADR, one or more hearing commissioners provide neutral, impartial assistance and support in resolving all or part of a dispute. ADR by hearing commissioner may be initiated in the following ways:

- The AER may direct parties to participate.
- The chief hearing commissioner may assign a hearing commissioner to explore ADR.
- Parties to a proceeding may request ADR at any time.

Participation in ADR by hearing commissioner is voluntary, except when the AER directs a party to attend. The chief hearing commissioner may assign a hearing commissioner for ADR in the following circumstances:

- an application has been referred for hearing
- a regulatory appeal has been granted and referred for hearing
- a request for regulatory appeal where the request for a regulatory appeal has not been decided
- an AER statutory decision maker requests the chief hearing commissioner assign hearing commissioner ADR
- where ADR may assist in resolving any issue or matter in dispute before the regulator

## Connect with us

Tel: **1-855-297-8311** and ask for Hearing Commissioner ADR

Email: **hco@aer.ca**

## Preparing for ADR

Parties are encouraged to consider the following in advance of participating in ADR:

- What are my (or my organization's) interests, wants, needs, goals, and concerns?
- What do I think the interests, wants, needs, goals, and concerns of the other party or parties are?
- Do I and the other party or parties share any mutual interests, wants, needs, goals, or concerns?
- What people from my group or organization have the full authority to make, extend, or accept offers that support resolution and should attend ADR?

## Types of ADR Offered by the Hearing Commissioners Office

**Facilitative Interest-Based Mediation**

The hearing commissioner will facilitate conversations, information sharing, and negotiation between the parties. The hearing commissioner for ADR works to encourage and assist parties to reach their own mutual and voluntary solutions by exploring each other's interests.

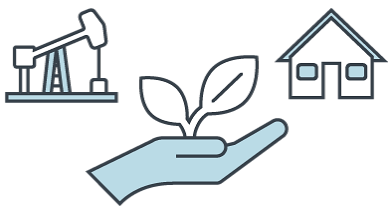
**Evaluative Mediation**

The hearing commissioner will take a more active role and assist parties in assessing and reality testing their expectations and evaluating the merits of their positions and arguments. The hearing commissioner may offer recommendations or provide their opinion about the likelihood of possible outcomes of a hearing.

**Binding Dispute Resolution**

Under section 7.9(1) of the AER *Rules of Practice*, parties to a hearing may request binding dispute resolution, conducted by a hearing commissioner, instead of a hearing.

The hearing commissioner will assist the parties to review the evidence and facilitate an understanding of agreed upon facts and evidence and clarify what is in dispute. The hearing commissioner will facilitate discussions regarding options for settlement and efforts to reach ultimate resolution. If resolution is not possible, the hearing commissioner will make and issue the final decision on the applications or regulatory appeals. If parties agree to binding dispute resolution, the decision is not subject to regulatory appeal.

## Legislation and Governing Information

- *Responsible Energy Development Act*
- *Alberta Energy Regulator Rules of Practice*
- *Directive 031: REDA Energy Cost Claims*