

# DRS



# ADR



**DRS Help Line: 1-877-FERC-ADR (337-2237)**



"ADR provides a forum that allows parties to avoid costly litigation and resolve their disputes effectively and efficiently while addressing their business or resource interests."

Patrick Wood, Chairman

# WHAT IS ALTERNATIVE DISPUTE RESOLUTION (ADR)?

- **Alternative Dispute Resolution (ADR) encompasses a variety of dispute resolution methods that are used in lieu of adjudicative or adversarial methods**
- **ADR involves a third-party neutral who assists the parties to design and conduct a process to find mutually acceptable solutions to resolve their disputes**
- **Generally, ADR is a voluntary process that can focus parties on their interests rather than their positions or demands, or if appropriate, ADR can be evaluative to assist negotiations**

# WHAT ARE SOME ADR METHODS?

- \* *Collaborative processes*
- \* *Fact finding*
- \* *Facilitated negotiations*
- \* *Early neutral evaluation*
- \* *Mediation*
- \* *Settlement judge procedures*
- \* *Mini-trials*
- \* *Binding and non-binding arbitration*

# WHAT IS THE DISPUTE RESOLUTION SERVICE (DRS)?

*The DRS, established in February 1999, is an independent unit within FERC, which fosters increased ADR use.*



**Mediation**

**Conciliation**

**Facilitation**

# WHAT DOES THE DRS DO?

**The DRS' two major services and activities are:**

- \* **ADR-related services**
- \* **Outreach activities**

## **DRS' ADR-RELATED SERVICES ARE TO:**

- √ **Provide ADR services, such as mediation and facilitation**
- √ **Advise the Commission of opportunities to use ADR effectively**
- √ **Assist FERC staff and outside parties to identify disputes suitable for ADR**
- √ **Provide notice for, manage, and track disputes using ADR**
- √ **Conduct convening sessions to explore using or initiating an ADR process**
- √ **Identify potential neutrals that parties may select for an ADR process**
- √ **Evaluate and report on DRS' ADR services and activities**

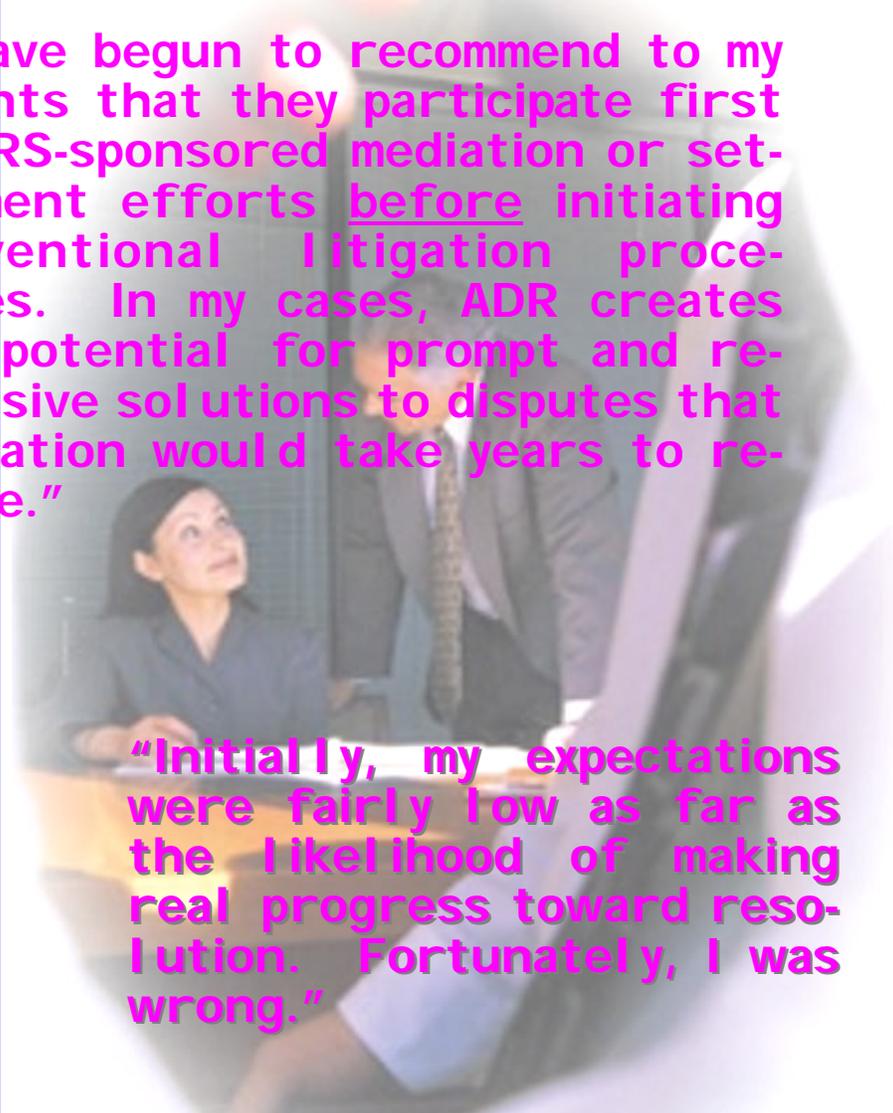
# **DRS OUTREACH ACTIVITIES ARE TO:**

- Promote and enhance the use of ADR inside and outside of FERC
- Act as the focal point for FERC's ADR activities and disseminate FERC's dispute resolution policies
- Provide information to the public, regulated entities, and FERC staff on ADR use, applicability and suitability
- Design and conduct ADR training and education
- Consult with entities inside and outside FERC on how to integrate ADR into various dispute resolution processes at the earliest practicable time
- Promote understanding of various cultural viewpoints to help ensure that all interests are met
- Publish a newsletter on FERC's ADR activities
- Coordinate ADR services with other agencies

# WHAT ARE THE BENEFITS OF THE ADR SERVICES THAT DRS

- √ **The DRS staff is committed full time to the use of ADR**
- √ **The office is independent and neutral. The DRS staff members are not decisional employees, trial staff or investigators**
- √ **The DRS can assist parties before or after they file with FERC or whenever a dispute arises between or among entities that FERC serves**
- √ **With the help of the DRS, the parties design and retain control over the process and the outcome**
- √ **The use of ADR typically is less costly and less time-consuming than adversarial processes and results in a mutually-acceptable solution. In most instances, ADR focuses on meeting the parties' interests rather than deciding which party has the better legal position**
- √ **The DRS' assistance is part of the Commission's long-standing policy of achieving agreement through consensual resolution**
- √ **The DRS values the importance of confidentiality in negotiations and adheres to the Commission's Separations of Functions Rules**

## *Comments from users of DRS mediation and training services:*



"I have begun to recommend to my clients that they participate first in DRS-sponsored mediation or settlement efforts before initiating conventional litigation procedures. In my cases, ADR creates the potential for prompt and responsive solutions to disputes that litigation would take years to resolve."

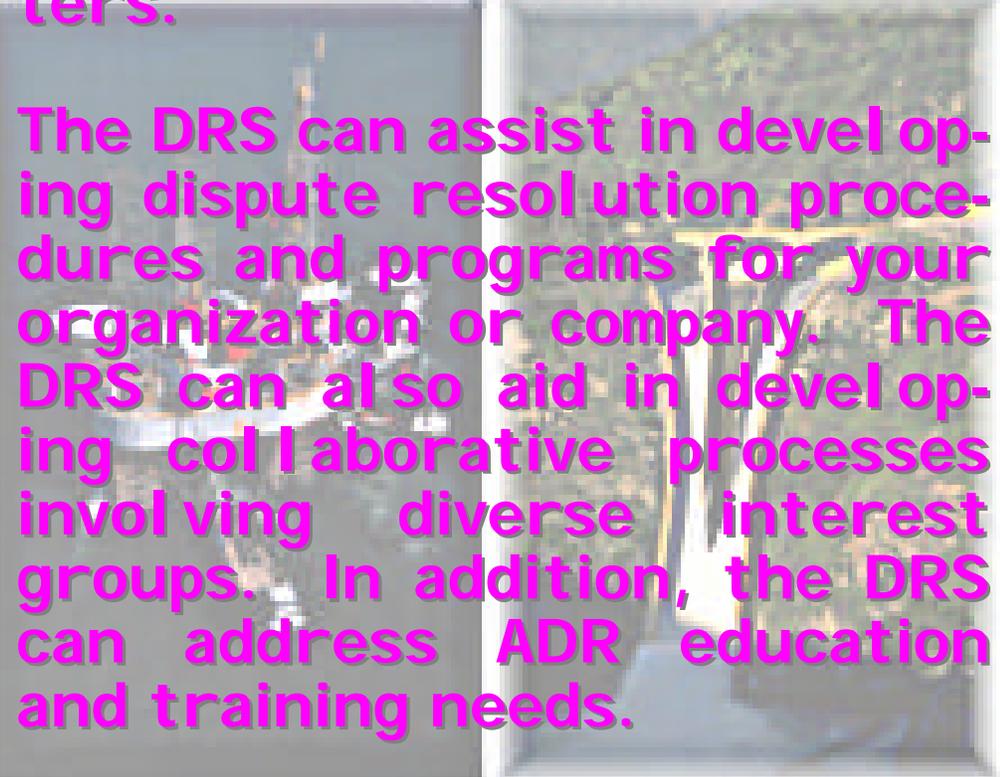
"Initially, my expectations were fairly low as far as the likelihood of making real progress toward resolution. Fortunately, I was wrong."

"I was very impressed by the potential that DRS provides for working out problems and helping to mediate disputes. I would certainly suggest using your services if a situation came up where I thought it would be useful."

## CAN THE DRS HELP WITH MY DISPUTE?



The DRS has successfully used mediation or facilitation to assist parties with disputes involving environment and natural gas pipelines and hydropower facilities; hydropower re-licensing and gas certification processes; electric, gas and oil tariff, and rate issues; and other business and contractual matters.



The DRS can assist in developing dispute resolution procedures and programs for your organization or company. The DRS can also aid in developing collaborative processes involving diverse interest groups. In addition, the DRS can address ADR education and training needs.

# HOW DOES A PARTY BEGIN THE ADR PROCESS?

1. Any entity (internal or external) may contact the DRS about a potential ADR process. No formal filing is required
  - DRS will explain alternatives
  - DRS will contact other parties and prepare any necessary notices
2. If all relevant parties agree to try ADR, the DRS will convene parties in a mutually agreeable location to discuss ADR options and processes
  - If parties then agree to use ADR, the DRS representative will help parties understand, design and begin a process to select a third-party neutral from DRS or another source, to define the neutral's role, and to identify issues
3. With the neutral's assistance, the parties will control the process, establish confidentiality and procedural guidelines, and use interest-based techniques to move toward agreement
4. After agreement is reached, the parties file it with FERC, if required
5. If no agreement is reached, another decision-maker (Commission, courts, etc.) will decide the outcome, or the parties can decide the matter without third-party assistance
6. The process is completely voluntary

