



EUB Appropriate Dispute Resolution Annual Report Summary, January - December 2001

The mission of the Alberta Energy and Utilities Board (EUB) is to regulate the safe, responsible, and efficient development of Alberta's energy resources—natural gas, as well as oil, coal, oil sands, and electrical energy. It also regulates the pipelines and transmission lines that move these resources to market.

In the mid-1980s, the EUB expanded its expectations for public consultation. Albertans quite legitimately wanted to have meaningful input on issues that affected them, and this was adding up to a much greater investment of time and effort for the energy industry, landowners, and public interest groups.

ADR Program Responds

The EUB's Appropriate Dispute Resolution (ADR) Program was developed during the year 2000 in response to concerns of many stakeholders who were looking for more options, direct involvement, and control over resolving their disputes.

In June 2000, a multiparty stakeholder committee provided the EUB with a framework for the ADR Program in its *Report for Implementation of an Appropriate Dispute Resolution System for Alberta's Upstream Petroleum Applications*. Through the summer and fall of 2000, the framework was broadly shared with the various stakeholder organizations representing the energy industry, landowners, environmental groups, and government departments.

The committee then helped the EUB to develop *Informational Letter (IL) 2001-1: Appropriate Dispute Resolution (ADR) Program and Guidelines for Energy Industry Disputes*, which was published on January 8, 2001, formally launching the ADR Program.

Appropriate Options

The stakeholder committee purposely selected the term "appropriate," rather than the term "alternative," which is also commonly used to refer to dispute resolution processes. They chose this term to indicate to participants that there are dispute resolution options available and that they should choose the one appropriate to their situation. The two main options are:

- EUB staff facilitations, and
- a Preliminary ADR (PADR) meeting, which is run by independent mediators, and then, if the parties wish, followed by further mediation.

If no resolution or only a partial resolution occurs using the above options, a dispute likely goes to an EUB hearing for decision.

The majority of disputes are resolved without the involvement of EUB staff or service providers and mediators. The ADR Program is actually used for only a very small percentage of the total applications considered by the EUB in a year. However, when disputes do arise, the purpose of the ADR Program is to help people explore and understand each other's interests and develop acceptable solutions together.

Groundwork Laid

In 2001, the stakeholder committee's role was to develop and maintain a roster of third-party service providers and mediators, monitor and evaluate the ADR Program, recommend improvements or alterations to the program, and issue periodic progress reports. The committee also helped to develop evaluation forms to generate feedback from participants.

Over 120 EUB staff received training in 2001 to provide help in the ADR process through facilitation. When third-party professional assistance is needed, parties can consult the ADR Program's roster of 3 service providers and 26 mediators. The roster is located on the EUB's Web site.

A unique and innovative feature of the ADR Program is the opportunity it provides to potentially affected parties in a dispute to attend a Preliminary ADR meeting to explore whether an ADR option, such as mediation, would be appropriate to their situation.

ADR Program Succeeding

The evaluation process for the ADR Program, which includes written feedback from participants and analysis of the data, has yielded the following highlights:

- **The program has been successful, indicated by the high level of support received from participants.**
 - ◆ 97% of those who provided feedback said they would participate in ADR again, and
 - ◆ 94% indicated they would recommend the program to others.

- **Participation of EUB staff is a key component in the success of the ADR Program.**
 - ◆ In 2001, 161 field staff facilitations were initiated between landowners and companies, and 115 were completed, with 98 fully resolved (85%).
 - ◆ All mediation participants indicated that EUB staff involvement was highly satisfactory; it greatly assisted in the legitimacy of the process, enabled the development of reasonable options, and led to successful resolutions.

- **Third-party dispute resolution experts (service providers and mediators) dealt successfully with many of the more difficult conflicts.**
 - ◆ In 2001, 30 disputes were referred to dispute resolution experts, and 23 were completed, with 19 resolved (82%).
 - ◆ The average time to reach resolution from the point of referral was 28 days, and the average cost for the service has been estimated at \$4,300. These timelines and costs are substantially less than those of an EUB hearing.

- **The Preliminary ADR (PADR) meeting is a key component of the program.**
 - ◆ PADR meetings allowed the parties to make informed decisions about their resolution options.
 - ◆ PADR meetings also allowed the parties, often for the first time, to work together. The parties discussed and agreed to information requirements, levels of authority, commitments, costs, and deadlines.

- **Feedback from participants suggested areas for improvement, including the need to**
 - ◆ increase awareness of ADR;
 - ◆ ensure that the intent of the PADR meeting is achieved by more thoroughly investigating the pros and cons of all options—in addition, mediators and EUB staff should ask more "what if " questions;
 - ◆ review the timing of EUB staff facilitations and the PADR meeting.

- **Escalation of conflicts may be avoidable.**
 - ◆ It often appeared that some concerns escalated to disputes when the parties did not first recognize and address matters of communication, trust, and their need to develop and maintain ongoing relationships.

HIGHLIGHTS FOR 2001

Conflicts resolved by ADR

98 out of 115 EUB staff facilitations, or 85%
 19 out of 23 third-party mediations, or 82%

Participant support for mediation

97% said they would try it again
 94% would recommend ADR to others

Cost and timing of mediation

Average cost was \$4,300
 Average duration from referral to end of mediation was 28 days

**For additional information,
 see the *EUB Appropriate
 Dispute Resolution Annual
 Report, January - December
 2001***

For more information

Report for Implementation of an Appropriate Dispute Resolution System for Alberta's Upstream Petroleum Applications (May 2000)

This report was developed and endorsed by a multistakeholder committee to provide the EUB with a framework for introducing ADR concepts and tools into Alberta's energy sector.

EUB Informational Letter 2001-1: Appropriate Dispute Resolution (ADR) Program and Guidelines for Energy Industry Disputes (January 2001)

This regulatory letter and its attached guidelines formalize the use of ADR and explain the EUB's expectations and requirements.

What About Appropriate Dispute Resolution? (May 2001)

This pamphlet briefly explains what ADR is and some of the ways people may use it to discuss concerns and work towards finding mutually agreeable solutions.

Exploring Your Options: Preliminary ADR Meeting (May 2001)

This pamphlet describes how people may get together to find out if mediation or some other ADR option is right for them.

Resolving Issues Through Mediation: Appropriate Dispute Resolution in Alberta's Energy Industry (February 2002)

This booklet helps people understand the process of deciding to use the option of mediation and how to use it to resolve disputes.

EUB Appropriate Dispute Resolution 2001 Annual Report (May 2002)

The report contains detailed feedback and data, in addition to an overview of the ADR Program during 2001.

EUB Web site: www.eub.gov.ab.ca

Phone: Help Line established to record and respond to inquiries
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