BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

AR 679

In the Matter of Rulemaking to Revise OAR 860-002-0000 Regarding Alternative Dispute Resolution.	RENEWABLE ENERGY COALITION, COMMUNITY RENEWABLE ENERGY ASSOCIATION, AND OREGON SOLAR + STORAGE INDUSTRIES ASSOCIATION'S COMMENTS ON REVISED RULES

I. INTRODUCTION

In accordance with the Administrative Law Judge's ("ALJ") Memorandum dated March 4, 2026, the Renewable Energy Coalition (the "Coalition"), the Community Renewable Energy Association ("CREA"), and the Oregon Solar + Storage Industries Association ("OSSIA") (the "QF Trade Groups") respectfully submit these comments on the Revised Draft Proposed Rules[1] related to alternative dispute resolution ("ADR") in OAR 860-002 for the Oregon Public Utility Commission's ("Commission" or "OPUC") consideration. Generally, the QF Trade Groups support the Revised Draft Proposed Rules, but have the following recommendations and clarifications:

1. Support the revisions to OAR 860-002-0030(2) to allow an outside facilitator if the ALJ is overburdened or the OPUC does not have the resources to allocate to the facilitator role for ADR.

2. Broaden the scope of disputes that can be resolved through the ADR process such that the dispute does not need to be tied to a specific stage in power purchase or interconnection and a complaint does not need to be filed first.

[1] Revised Draft Proposed Rules (Mar. 4, 2026).

3. Expand OAR 860-002-0030(9) such that if the ALJ serves as the facilitator, the ALJ shall be prohibited from communicating with anyone else at the Commission about the merits of the dispute.

II. COMMENTS

A. Support Revisions to OAR 860-002-0030(2) to Allow an Outside Facilitator if the ALJ is Overburdened

The Revised Draft Proposed Rules state an ALJ will be appointed to serve as the facilitator unless "workload constraints necessitate the use of an outside facilitator."[2] The QF Trade Groups previously raised a concerned about the ALJ being the only facilitator because the Commission can be resource strained.[3] The revisions to this rule address the QF Trade Groups' concerns and recommend the Commission adopt these revisions.

B. Broaden the Scope of Disputes that Can Be Resolved Through the ADR Process Such that the Dispute Does Not Need to Be Tied to a Specific Stage in Power Purchase or Interconnection and a Complaint Does Not Need to Be Filed First

Previously the proposed rules only allowed parties to go through the ADR process if a complaint has already been filed.[4] The QF Trade Groups expressed concern and recommended that parties be able to use the ADR process without being required to file a complaint and that the scope of disputes covered be expanded to include any dispute related to power purchase and interconnection.[5] It appears the ALJ is proposing revisions to OAR 860-002-0030(1)(a)-(b) that attempt to remove these requirements, but the QF Trade Groups do not believe they do.[6]

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2 Revised Draft Proposed Rules at OAR 860-002-0030(2).
3 QF Trade Groups Comments at 2 (Oct. 6, 2025).
4 Draft Proposed Rules at OAR 860-002-0030(1) (Sept. 11, 2025).
5 QF Trade Groups Comments at 2-3, 5.
6 Revised Draft Proposed Rules at OAR 860-002-0030(1)(a)-(b).

First, OAR 860-002-0030(1)(a) states "[a] Qualifying Facility must have followed provisions of OAR 860-029-0100(2) and procedures set forth in the applicable public utility's tariff regarding negotiated power purchase agreements[.]"[7] This implies that a party must comply with those power purchase rules before using the ADR process. However, OAR 860-029-0100 governs disputes related to negotiation of non-standard power purchase agreements ("PPAs"). Thus, the ADR rule could be interpreted to only apply to disputes related to negotiation of non-standard PPAs. It is unclear if the ADR process would apply to disputes related to negotiation of standard PPAs, interpretation of executed standard PPAs, and interpretation of executed non-standard PPAs. In addition, the nature of the underlying complaint could be a dispute about whether the qualifying facility has followed the procedures in the applicable public utility's tariff. Dispute resolution is a voluntary process, and there is no need to exclude this option for any subset of qualifying facility and utility disputes. Thus, the rule should be expanded to include any dispute related to power purchase whether related to negotiations of standard or non-standard PPAs or interpretation of executed standard or non-standard PPAs.

Second, OAR 860-002-0030(1)(b) states "[a] party to a dispute relating to the enforcement of an interconnection dispute must comply with notice requirements required by OAR 860-082-0085."[8] This implies a party must comply with those interconnection rules before using the ADR process. However, OAR 860-082-0085 relates to the notice requirements before filing a complaint related to interconnection agreement disputes for small generators. Thus, the

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7 Revised Draft Proposed Rules at OAR 860-002-0030(1)(a).
8 Revised Draft Proposed Rules at OAR 860-002-0030(1)(b).

ADR rule could be interpreted that the party must file the interconnection complaint before using ADR. Further, the rule referenced is for small generator interconnections. It is unclear if the ADR process would apply to disputes for large generator interconnections and disputes prior to signing an interconnection agreement. Thus, the rule should be expanded to include any dispute related to interconnection whether small or large generators or pre- or post-execution of the interconnection agreement.

Finally, OAR 860-002-0030(1) implies a request for ADR can be filed for complaints under ORS 757.500.[9] ORS 757.500 relates to contracts between public utilities. This could inadvertently limit the scope of disputes that can be brought for ADR. For example, there can be disputes related to interconnection requests or legally enforceable obligations with power purchase that arise before a contract is executed. Thus, the QF Trade Groups recommend revising that qualifier so that it can encompass pre-contract disputes.

C. If the ALJ Serves as the Facilitator, then the ALJ Shall Be Prohibited from Communicating with Anyone Else at the Commission About the Merits of the Dispute

The Revised Draft Proposed Rules prohibit an ALJ that served as a facilitator from presiding over any related complaint.[10] The QF Trade Groups support this revision, but recommend it be expanded such that if the ALJ serves as the facilitator, then the ALJ should also be prohibited from communicating with anyone else at the Commission about the merits of the dispute. ADR is supposed to be confidential, and the facilitator should not be communicating with anyone in the position of making the decision in adjudication after ADR fails. Parties will

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9 Revised Draft Proposed Rules at OAR 860-002-0030(1).

10 Revised Draft Proposed Rules at OAR 860-002-0030(9).

be less willing to participate in, and less frank in discussing, positions and solutions in ADR if they fear the facilitator is not truly independent and separate from Staff, the Commission, or the ALJ overseeing the complaint. Otherwise, the process is transformed from ADR to a normal settlement discussion. Thus, the Commission should expand OAR 860-002-0030(9) to prohibit the ALJ that served as the facilitator from communicating with anyone else at the Commission about the merits of the dispute.

III. CONCLUSION

The Commission should adopt the recommendations above regarding the ADR process.

Dated this 18th day of March 2026.

Respectfully submitted,

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