



**FILED**

11-24-10  
03:02 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Tessera Solar,

Complainant,

vs.

BNSF Railway Company,

Defendant.

Case 10-10-015  
(Filed November 4, 2010)

**ADMINISTRATIVE LAW JUDGE'S RULING REQUIRING  
PREHEARING CONFERENCE STATEMENTS**

This ruling confirms an informal ruling made by electronic mail (e-mail) sent on November 22, 2010, requiring the claimant and defendant in Case 10-10-015 to file prehearing conference statements in advance of the prehearing conference (PHC) scheduled for November 30, 2010. The purpose of a PHC is to gather information for determining the scope and schedule of a proceeding. The filing and service of statements in advance of the PHC will facilitate discussion at the PHC. PHC statements addressing the issues described in this ruling shall be filed with the Commission's docket office and served on parties on the most recent service list for this proceeding posted on the Commission's Web site not later than 9:00 a.m. on November 30, 2010. As stated in the hearing notice distributed on November 15, 2010, the PHC in this case will be held in a Commission Courtroom at the State Office Building, 505 Van Ness Avenue, San Francisco, California at 1:30 p.m. on November 30, 2010.

## **1. Alternative Dispute Resolution**

The Commission's Alternative Dispute Resolution (ADR) program offers mediation, early neutral evaluation, and facilitation services, and uses Administrative Law Judges who have been trained as neutrals. ADR can do more than merely assist in negotiations after exhibits have been served. For example, it can be used to help resolve discovery issues, to hold workshops where parties exchange information and, more importantly, to gain an understanding of the other parties' positions and concerns. This complaint appears to involve issues that may be appropriate for settlement discussions or ADR. ADR has many advantages for parties over the traditional Commission process, including avoidance of litigation risk, increased control over outcomes, and (in many cases) faster resolution of disputes.

The Commission offers free, voluntary, and confidential mediation and ADR services to parties engaged in disputes related to formal Commission proceedings. Parties shall come to the PHC prepared to discuss the appropriateness of this case for ADR or mediation, and the scheduling of settlement talks and ADR sessions, if appropriate. I encourage the parties to take full advantage of the Commission's ADR services.

## **2. Contents of PHC Statements**

PHC statements filed by parties shall include answers to the following questions:

1. What issues should be decided in this proceeding?
2. What issues, if any, may require evidentiary hearings?  
Any party that believes hearings are necessary must list and describe the factual issues that should be addressed at the evidentiary hearings and summarize the evidence the party intends to offer.

3. What issues should be ruled outside of the scope of this proceeding?
4. Is your party interested in receiving mediation services through the Commission's ADR program?
5. What schedule for resolving this complaint (including settlement discussions or mediation) does your party propose?

All parties intending to participate in the PHC shall file PHC statements containing the answers to these questions with the Commission's docket office not later than 9:00 a.m. on November 30, 2010. Parties shall also serve their statements via e-mail by 9:00 a.m. that same day on all parties on the most recent service list for this proceeding posted on the Commission's Web site.

**IT IS RULED** the e-mail ruling sent on November 22, 2010, and attached to this ruling, is confirmed. As required in that e-mail, parties shall file and serve PHC statements responding to the questions contained in Section 2 of this ruling by 9:00 a.m. on November 30, 2010. PHC statements shall be served electronically on all parties on the service list that have provided their e-mail address.

Dated November 24, 2010, at San Francisco, California.

/s/ JESSICA T. HECHT  
Jessica T. Hecht  
Administrative Law Judge

## ATTACHMENT A

**From:** Hecht, Jessica T.

**Sent:** Monday, November 22, 2010 2:34 PM

**To:** 'Douglas.Werner@bnsf.com'; 'felicia.bellows@tesseractolar.com'; 'cem@newsdata.com'; Hecht, Jessica T.; Laya, Virginia; Gilbert, Daren S.

**Cc:** 'todd.edmister@bingham.com'; Hecht, Jessica T.

**Subject:** C.10-10-015: Pre-Hearing Conference Statements and Potential for Alternate Dispute Resolution

**Importance:** High

**Parties to C.10-10-015,**

With this message, I am requiring the complainant and defendant in Complaint 10-10-015 to file prehearing conference statements in advance of the prehearing conference (PHC) scheduled for this proceeding. As previously announced in a notice issued on November 15, 2010, the PHC in this case will be held in a Commission Courtroom at the State Office Building, 505 Van Ness Avenue, San Francisco, California, at 1:30 p.m. on November 30, 2010. The purpose of a PHC is to gather information for determining the scope and schedule of a proceeding. The filing and service of statements in advance of the PHC will facilitate discussion at the PHC. PHC statements addressing the issues described below shall be filed with the Commission's docket office and served on parties on the most recent service list for this proceeding posted on the Commission's Web site not later than 9 a.m. on November 30, 2010.

### **1. Alternative Dispute Resolution**

The Commission's Alternative Dispute Resolution (ADR) program offers mediation, early neutral evaluation, and facilitation services, and uses ALJs who have been trained as ADR neutrals. ADR can do more than merely assist in negotiations after exhibits have been served in a proceeding. For example, it can be used to help resolve discovery issues, to hold workshops where parties exchange information, and to gain an understanding of the other parties' positions and concerns. This complaint appears to involve issues that may be appropriate for settlement discussions or ADR. ADR has many advantages for parties over the traditional Commission process, including avoidance of litigation risk, increased control over outcomes, and (in many cases) faster resolution of disputes.

The Commission offers free, voluntary, and confidential mediation and ADR services to parties engaged in disputes related to formal Commission proceedings. Parties shall come to the PHC prepared to discuss the appropriateness of this case for ADR or mediation, and the scheduling of settlement talks and ADR sessions, if appropriate. I encourage parties to take full advantage of the Commission's voluntary ADR services.

## **2. Contents of PHC Statements**

PHC statements filed by parties shall include answers to the following questions:

1. What issues should be decided in this proceeding?
2. What issues, if any, may require evidentiary hearings? Any party that believes hearings are necessary must list and describe the factual issues that should be addressed at the evidentiary hearings and summarize the evidence the party intends to offer.
3. What issues should be ruled outside of the scope of this proceeding?
4. Is your party interested in receiving mediation or ADR services through the Commission's ADR program?
5. What schedule for resolving this complaint (including settlement discussions or mediation) does your party propose?

All parties intending to participate in the PHC shall file PHC statements containing the answers to these questions with the Commission's docket office not later than 9 a.m. on November 30, 2010. Parties shall also serve their statements via e-mail by 9 a.m. that same day on all parties on the most recent service list for this proceeding posted on the Commission's Web site.

I will memorialize this informal ruling with a formal ruling in the near future. Please feel free to contact me if you have procedural questions in advance of the PHC.

Jessica T. Hecht  
Administrative Law Judge  
California Public Utilities Commission  
(415)703-2027  
jessica.hecht@cpuc.ca.gov

**(END OF ATTACHMENT A)**

**INFORMATION REGARDING SERVICE**

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated November 24, 2010, at San Francisco, California.

/s/ ANTONINA V. SWANSEN  
Antonina V. Swansen

C.10-10-015 JHE/avs

\*\*\*\*\* PARTIES \*\*\*\*\*

\*\*\*\*\* SERVICE LIST \*\*\*\*\*

**Last Updated on 16-NOV-2010 by: JVG  
C1010015 LIST**

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C.10-10-015 JHE/avs