
Case Studies on Dispute Prevention
(Power Companies Case Study)
(prepared 2022)

Description of parties:	Several major United States electric power companies.
Brief history of relationship and arrangement:	These power companies had traditionally fought each other repeatedly for many years over competing power distribution rights and other issues with respect to access to the national power grid.
Nature of issue, conflict, or dispute:	The power companies were frustrated by the high transaction costs and wasted time of the repeated high-dollar disputes that had continually occurred between them, and looked for a more cost-effective alternative.
Nature of dispute prevention mechanism deployed:	<p>The power companies collectively hired as their “Advisor” an expert negotiator, to help them design a mediation and arbitration system for handling their disputes.</p> <p>The power companies, assisted by the Advisor, engaged in a series of “knock-down, drag-out” discussions between them to identify each company’s concerns. Ultimately, this led to development of a mediation and arbitration system that required two panels of renowned experts. Famous names in the field were recruited to be available to help resolve disputes, and their names were made known to the power companies.</p>
How was the actual or potential conflict or dispute prevented or resolved?	<p>Following the creation of the arbitration and mediation system:</p> <ul style="list-style-type: none">• Not a single member of either panel was ever called on to help resolve a dispute.• Whenever an issue arose between any of the power companies, they discovered that, during the negotiations between them to set up either a mediation or arbitration panel for a hearing, the parties themselves, without assistance from any panel members, managed to resolve every issue between them.

**If none deployed,
nature of dispute
prevention mechanism
that might have been
deployed:**

**Lessons from the case
study:**

The “knock-down drag-out” discussions between all the power companies necessary to develop a dispute resolution system actually itself resulted in a greater understanding of each other’s needs, traditions, expectations, and cultures. This understanding, in turn, facilitated the resolution of conflict when it arose.

Perhaps the parties’ awareness that any intractable dispute between them would immediately become known to and be resolved by a trusted and expert arbitrator or mediator, caused them to behave more constructively - similar to the “Hawthorne Effect” that applies in the Standing Neutral context: Parties who know they are being observed - or might be observed - generally behave more constructively.

Pre-dispute steps taken to set up a dispute resolution system can have the effect of preventing disputes altogether.