In recognition of the many administrative disputes plaguing the Florida Public Services Commission, I have been asked to seek and design an efficient dispute resolution procedural design. The request was brought to the attention of the FPSC, by way of, several unsuccessful attempts at mediation.

Through an examination of several cases involving administrative disputes linked to the FPSC, I have designed a mediation technique to solve such problems in an effective, yet, timely manner.

Attached is a copy of the procedural design, including the purpose, process, management techniques, and procedures for institutionalization of the design. Please read these materials and send any comments or criticism to me at maw2314@garnet.acns.fsu.edu.

Sincerely,

Mike Woodman
PROPOSAL PURPOSE

The reason for designing this resolution procedure is the number of unsuccessful mediation attempts taken by the FPSC. They have resulted in untimely solutions and broken relationships between both the regulated utilities, and the FPSC and the various utilities involved in each case. An example of this is a case involving the provision of water and wastewater services to 50 lots in the Links Subdivision in Charlotte County. Included in the dispute are Lake Suzy Utilities, Florida Water Services Corporation, Charlotte County, and FPSC. Lake Suzy Utilities applied for the rights to provide services to this area, but FWSC and Charlotte County challenged the application. For many months, the groups remained at a stalemate waiting for the hearing. Eventually, all groups received a letter by FPSC indicating a promotion of mediation, but the groups decided against because of the lack of objectivity of the FPSC. Because of the untimely management, complexity of issues, distrust for the FPSC, and numerous cases it is necessary that a standard procedural design be implemented to increase the effectiveness of the traditional design. Some objectives this procedure would achieve are:
1. involve all stakeholders
2. neutral selection of mediator
3. timely initiation of negotiation
4. build relationships between all parties including the FPSC
5. provide a negotiation where all parties share in the decision-making process
6. determination of a win/win decision in a timely manner
7. create an implementation process that is monitored

**PROPOSED PROCESS**

The traditional process currently employed by the FPSC includes the parties’ application, followed by a challenge. At this point parties wait until an administrative hearing occurs at which time the five-member commission reviews the record and makes a policy decision with respect to the case. Any party may appeal the decision of the FPSC to the state appellate court system. The FPSC is required by Section 120.573, Florida Statutes to promote mediation of administrative disputes. This step, as seen in the Lake Suzy case, was taken late in this process, near the hearing date. If mediation is desired then the parties will engage in mediated meetings concluded within 60 days. In the event that agreement is not met, the FPSC will notify each party that the administrative hearing process will continue.
This traditional process employed by the FPSC is somewhat effective, but could include some of the following alternatives and stipulation that would define a standard process for similar cases. FPSC does not specify when the mediation letter shall be sent to parties to initiate this process. Under the standard design, initiation of mediation would occur within one week of FPSC receiving a challenge by any party. This would ensure that parties see the desire by the FPSC to resolve such a problem in a timely and fair manner. A response letter indicating willingness of all parties to employ mediation will initiate mediated meetings. The first of these meetings would essentially be a pre-negotiation meeting where such issues as mediator selection costs for mediators, and meeting schedule is discussed. The FPSC will provide a list of at least three mediators from which to choose and the FPSC will incur the expenses associated with the mediator. If the parties should decide to draw on a mediator outside this list, the parties would incur the cost of the mediator. Mediator selection will be a shared decision-making process where consensus must be reached by the group in order to employ a mediator. The following mediated meetings would involve resolving the dispute and subsequent implementation process. The implementation process would include the FPSC where an agreement reached by the parties is submitted to the Commission who in turn enter a final order on the matter. At this point the dispute has been resolved and incorporated into a Commission decision. The entire process from initiation of mediation to the final settlement shall take no longer than 60 days. If agreement is not met by this time, the mediator will assess the likelihood of the dispute being successfully resolved and make a determination for action. If any group/party chooses to drop out of the mediation process, the case will go to administrative hearing for a decision by the FPSC.
PROCESS MANAGEMENT

The FPSC is responsible to initiate the mediation process as said by Section 120.573, Florida Statutes. In the standard procedure, this would remain the same. The FPSC would provide a list of mediators available to the parties at the expense of the FPSC. The parties shall obtain mediators used outside of this list. Monitoring will involve the FPSC with follow-up letters being sent to all participating parties. If any party is found non-compliant with the resolution, the FPSC will be responsible to ensure compliance of that party through possible further mediation if required. Any type of technical data expenses required by this process shall be incurred by the parties. Overall, the FPSC is responsible for initiating the mediated meetings and providing funding for specified mediators, where as, the selected mediator shall determine the agenda for meeting through intervention with the associated parties. The mediator must also manage the meeting process where he/she directs the disputing parties toward a final agreement.
PROCESS INSTITUTIONALIZATION

In order to gain acceptance for this procedural design, it is necessary to educate the decision-maker. This can be done by reviewing the history and context of the problem in the traditional process, identifying the issues, discussing interests, and weighing the advantages and disadvantages of this process. Section 120.573, Florida Statutes needs amending by the legislature to include such details as when to initiate mediation. As for potential process participants, it is necessary to review the general procedures, agree upon the ground rules, and design and apply the ground rules. The traditional process use the FPSC as the implementing body for all mediated resolution, so no further training by the Commission will be necessary.