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About this guide

This guide explains the dispute resolution process in the NEMS. It guides you through each step of dispute resolution and provides an understanding of the overall process, including the time frame and the outcome for each step.

You can find more details about the process in section 3 of chapter 3 of the Singapore Electricity Market Rules, which remains the authoritative source.

An introduction to resolving a dispute in the NEMS

In the NEMS, disputes are intended to be resolved outside of the courts through a process which is fair, efficient and cost-effective. This has the merits of saving time and costs for the disputants and maintaining relationships in the market.

We use a holistic approach to dispute resolution consisting of three distinct processes: negotiation, mediation and arbitration.

It is hoped that most disputes can be resolved between the disputants through negotiation, with or without the help of the DRC. Disputes that cannot be resolved through negotiation proceed to mediation, and those that cannot be resolved through mediation proceed to arbitration.

Key Terms

disputant	A party to a dispute
DRC	Dispute Resolution Counsellor
EMC	Energy Market Company
NEMS	National Electricity Market of Singapore
PSO	Power System Operator, a division of the Energy Market Authority

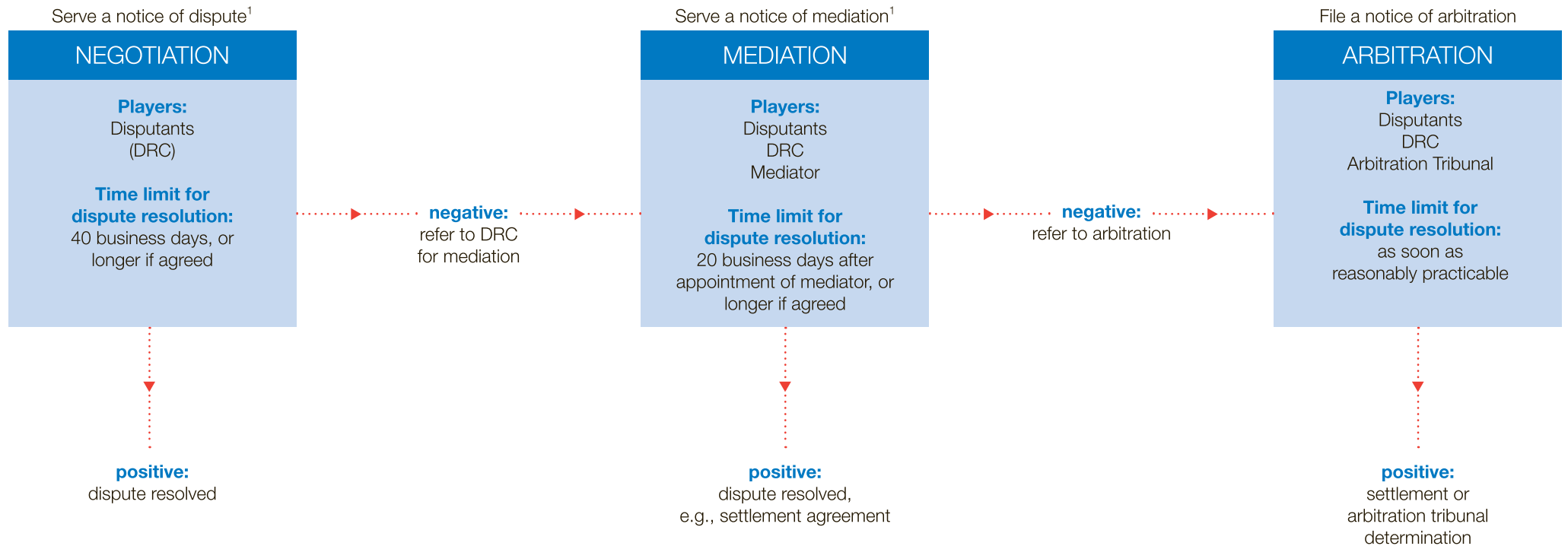
What types of disputes are covered?

The table below indicates the types of disputes each market player may be involved in. The dispute resolution process is mandatory for all disputes listed, except where indicated.

Dispute between	Applicant	EMC
Applicant		<ul style="list-style-type: none"> • EMC's denial to register applicant as market participant • EMC's denial to authorise the applicant as a market support services licensee
EMC	<ul style="list-style-type: none"> • EMC's denial to register applicant as market participant • EMC's denial to authorise the applicant as a market support services licensee 	
Market Participant		<ul style="list-style-type: none"> • market rules • market manual • system operation manual • agreement referred to in any of the above 3 categories to which the relevant disputants are parties • request for compensation under the market rules
Market Support Services Licensee		<ul style="list-style-type: none"> • market rules • market manual • system operation manual • agreement referred to in any of the above 3 categories to which the relevant disputants are parties • request for compensation under the market rules
PSO		<ul style="list-style-type: none"> • market rules • market manual • system operation manual • agreement to which the disputants are parties and relates to the functions, powers and duties of EMC or the PSO in any of the above 3 categories

Market Participant	Market Support Services Licensee	PSO
<ul style="list-style-type: none"> • market rules • market manual • system operation manual • agreement referred to in any of the above 3 categories to which the relevant disputants are parties • request for compensation under the market rules 	<ul style="list-style-type: none"> • market rules • market manual • system operation manual • agreement referred to in any of the above 3 categories to which the relevant disputants are parties • request for compensation under the market rules 	<ul style="list-style-type: none"> • market rules • market manual • system operation manual • agreement to which the disputants are parties and relates to the functions, powers and duties of the EMC or the PSO in any of the above 3 categories
<ul style="list-style-type: none"> • market rules • market manual • system operation manual • connection agreement • retailer UoS agreement • any other agreement to which the relevant disputants are parties and where disputants agree to apply the dispute resolution process 	<ul style="list-style-type: none"> • market rules • market manual • system operation manual • market participant – market support services licensee agreement • market support services agreement • vesting contract • any other agreement to which the relevant disputants are parties and where disputants agree to apply the dispute resolution process 	<ul style="list-style-type: none"> • market rules • market manual • system operation manual • agreement referred to in any of the above 3 categories to which the relevant disputants are parties • request for compensation under the market rules
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How are disputes resolved in the NEMS?



¹ Negotiation and mediation do not apply to a dispute over a request for compensation under the market rules or a dispute over a final settlement statement. Separate procedures under the market rules apply. However, such disputes, if unresolved, can be referred for arbitration.

Are there time limits for raising disputes?

The following time limits apply. In general, a disputant will need to serve a notice of dispute within 120 business days unless otherwise specified below. Under the market rules, a disputant that does not comply with a time limit waives its right to resolve the dispute using the dispute resolution process or any other proceeding.

Parties	Type of dispute	Time limit to begin process
All	General	Serve notice of dispute 120 business days from knowing or reasonably knowing of event
■ ■	Connection agreement	Serve notice of dispute 750 business days from knowing or reasonably knowing of event
■ ■ ■ ■	Final settlement statement	For dispute relating to accuracy of metering data, file notice of arbitration within 40 business days of issue of final settlement statement For other disputes, file notice of arbitration within 20 business days of issue of final settlement statement
■ ■ ■ ■ ■ ■	Request for compensation	Make request within 10 business days of event, or knowing or reasonably knowing of event, whichever is later
■ ■	Retailer UoS agreement	Serve notice of dispute 370 business days from event

Legend:
■ EMC
 ■ market participant
 ■ market support services licensee
 ■ PSO

What is the role of the DRC?

The DRC is appointed by the EMC Board. The DRC is responsible for the effective operation of the dispute resolution process. He plays a central role in the process and also makes appointments to the dispute resolution and compensation panel, from which mediators and arbitrators are selected. The Market Assessment Unit of EMC assists the DRC in facilitating dispute resolution.

Dispute resolution process

The DRC:

- helps people to become familiar with the dispute resolution process
- assists market participants in setting up dispute management systems by issuing guidance notes
- acts as a case manager in monitoring disputes and guiding disputants to resolve them through the dispute resolution process
- considers requests to extend time limits prescribed under the dispute resolution process

Dispute resolution and compensation panel

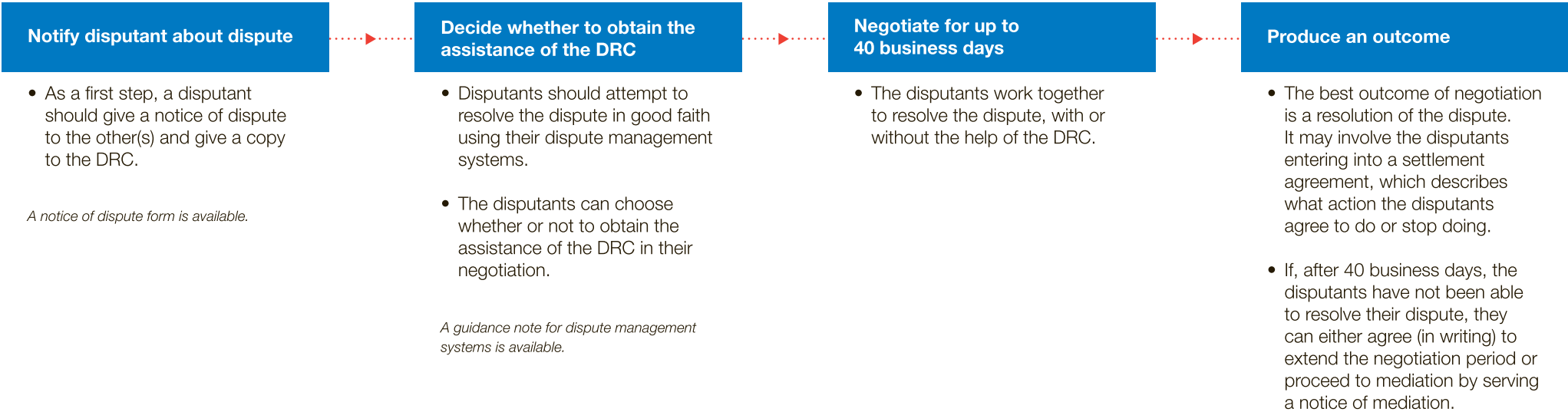
The dispute resolution and compensation panel consists of a mediation panel and an arbitration panel. The DRC appoints people to serve on the mediation and arbitration panels. He also appoints members of the mediation panel to act as mediators for specific disputes. The DRC only appoints arbitration tribunals from the arbitration panel when disputants do not make their own appointments from the arbitration panel.

Biographies of the DRC and the panel members are available.

What is the negotiation process?

When should negotiation be used?

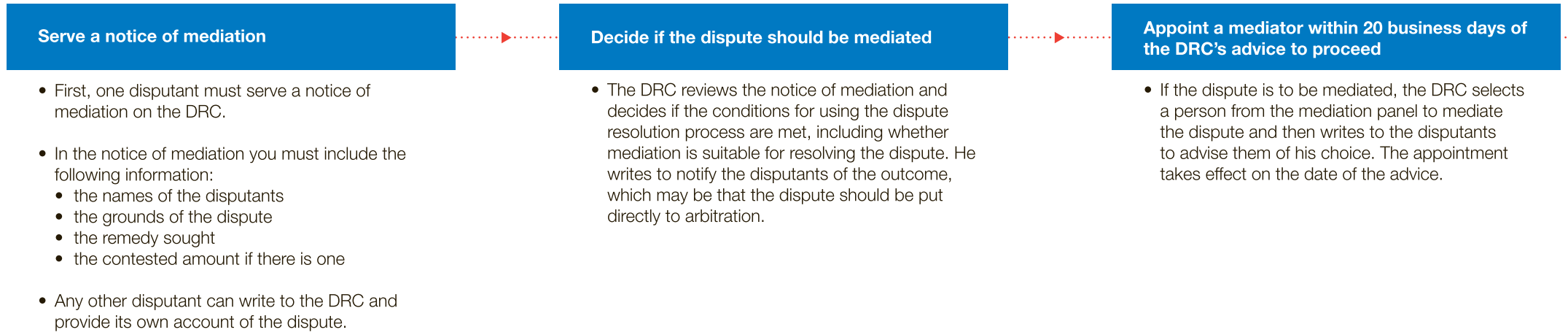
The best solution to any dispute is achieved through negotiation between the disputants.



What is the mediation process?

When is mediation necessary?

When negotiation has been unsuccessful in securing a settlement, the disputants may submit the matter to the DRC for mediation.



A notice of mediation form is available.

Conduct a mediation session within 20 business days of appointment

- The mediator conducts a mediation session to help the disputants solve the problem jointly, taking into account their respective interests. The time limit for the session can be extended if all disputants agree in writing.
- The mediation session is confidential.

Produce an outcome

- The best outcome of mediation is that the dispute is resolved. The disputants find their own solution to their dispute and may enter into a settlement agreement in writing as a result of the mediation. The agreement describes what action the disputants agree to do or stop doing. The market rules support the performance of the settlement agreement.
- If a settlement is not achieved, one of the disputants can refer the dispute for arbitration.

Who pays for mediation?

Unless otherwise agreed, each disputant pays its own costs and legal expenses and shares equally any costs charged by the mediator.

The fees of mediators and arbitrators are available on request.

What is the arbitration process?

When is arbitration necessary?

- when mediation has been unsuccessful in resolving a dispute
- when mediation is not an appropriate means of resolving a dispute
- if the dispute is over a request for compensation or a final settlement statement

File a notice of arbitration

- First, one disputant must file a notice of arbitration with the DRC.
- In the notice of arbitration you must include the following information (unless it has been provided in the notice of mediation):
 - the names of the disputants
 - the grounds of the dispute
 - the remedy sought
 - the contested amount if there is one
- Any other disputant can write to the DRC and provide its own account of the dispute.

A notice of arbitration form is available.

Decide if the dispute should be arbitrated

- The DRC reviews the notice of arbitration and decides if certain conditions for using the dispute resolution process are met. He writes to notify the disputants of the outcome.

Publish a summary of the dispute

- If the dispute is to be arbitrated, the DRC files a summary of the dispute with EMC for publication. For certain types of dispute, all disputants must consent before publication.
- EMC publishes a summary of the dispute on its website.

Appoint an arbitration tribunal within 20 business days of the DRC's advice to proceed

- The disputants select either one or three people from the arbitration panel to act as the arbitration tribunal. They write to the DRC with their selection and he then writes to the panellists to advise them. The appointment takes effect on the date of the advice.
- If the disputants fail to select an arbitration tribunal, the DRC selects one person to be the arbitration tribunal. If any disputant prefers three people, the DRC will oblige. The DRC advises the panellists of their selection. The appointments take effect on the date of the advice.
- If the arbitration tribunal consists of three people, the DRC selects one person to be chairperson.

Publish the appointment of the tribunal and allow intervention within 10 business days

- The DRC files a notice of appointment with EMC. For certain types of dispute, all disputants must consent before the DRC files the notice with EMC.
- EMC publishes the notice of appointment on its website and invites anyone who might be affected directly by the resolution of the dispute to apply to the arbitration tribunal to intervene in the arbitration.
- If anyone applies to intervene, the arbitration tribunal decides whether or not to allow the intervention.

Conduct an arbitration

- The arbitration tribunal decides how it wishes to proceed. It decides where and when it will hold the arbitration and what procedures it will follow. It may require the disputants to exchange submissions, documents and information.
- If appropriate and the disputants consent, the tribunal may even consolidate a number of disputes for resolution in the same arbitration.
- All disputants have an opportunity to present their cases.
- With the consent of the disputants, the tribunal may appoint assessors to assist with technical issues.
- The arbitration session is confidential, except where the market rules provide otherwise.
- The arbitration tribunal completes the arbitration as soon as reasonably practicable.

Produce an outcome

- In the course of the arbitration, the disputants may settle their dispute. If not, the arbitration tribunal has the power to resolve the dispute by directing a disputant to do or refrain from doing something by a certain time. It may also assess damages against a disputant and determine whether a market participant or market support services licensee should receive any compensation.
- A settlement agreement or arbitration tribunal determination is binding and is not subject to appeal except in the limited circumstances under the Arbitration Act. With permission from a Singapore court, the determination is enforceable as if it were a judgment of a Singapore court. The market rules also support compliance with the arbitration tribunal determination.
- The arbitration tribunal will refer any breach of a market manual, the market rules or the system operation manual to the Market Surveillance and Compliance Panel.

Publish the result of the tribunal

- The tribunal sends a summary of the determination or the settlement to the DRC, who then forwards it to EMC.
- EMC removes any confidential data from the summary before publishing it on its website. For certain types of dispute, all disputants must consent before publication.

Who pays for arbitration?

Until the arbitration tribunal determines an outcome, the disputants share equally the fees charged by the tribunal and any experts it appoints. As part of its determination, the tribunal may allocate the expenses of the arbitration as it sees fit.

More information on the dispute resolution process

Further information about the dispute resolution process can be found on www.emcsg.com or by contacting:

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Mr Lim is the Dispute Resolution Counsellor for the NEMS, a position to which he was appointed in 2003. A partner in the law firm of Messrs Wee Tay & Lim, he practises as a trial lawyer, arbitrator and mediator.

Mr Lim served as President of the Law Society of Singapore from 1998 to 1999.

He was trained in mediation in the United Kingdom at the Centre for Effective Dispute Resolution (CEDR) and has also undergone mediation training at Harvard Law School. He was involved in setting up the Singapore Mediation Centre (SMC) in 1997, is on its panel of trainers and conducts mediations regularly at the centre.

Mr Lim has helped to train lawyers and judges in mediation for the Bar Council of Malaysia and the Philippine Judicial Academy.

He sits on the Panel of Arbitrators of the Singapore International Arbitration Centre and the Singapore Institute of Architects. In 2004, he was appointed by the Minister of Trade & Industry to chair an Appeals Tribunal relating to the gas industry under the Gas Act, Singapore.

Professional Activities

Senate member, Singapore Academy of Law (since 2006)

Honorary Editorial Consultant, *Asian Journal on Mediation* (since 2005)

Member, Regional Panel of Arbitrators of the Singapore International Arbitration Centre (since 2003)

Member, Board of Legal Education (since 2001)

Member, Panel of Arbitrators Singapore Institute of Architects (since 2000)

President, Law Society of Singapore (1998 and 1999)

Vice-President, Singapore Academy of Law (1998 and 1999)

Director, Board of Singapore Mediation Centre (since 1997)

Council Member, Law Society of Singapore (1987-2000)

Qualifications & Awards

Public Service medal for contribution to the legal profession (2005)

Accredited Mediator, Centre for Effective Dispute Resolution, UK (1996)

Admitted to the bar as an Advocate and Solicitor of the Supreme Court of Singapore (1982)

LLB (Hons), National University of Singapore (1981)



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