

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Chief Administrative Law Judge's  
Notices to the Public

Docket No. AD20-12-000

NOTICE TO THE PUBLIC

NOTICE OF REMOTE HEARINGS

(Issued April 23, 2020)

1. Effective immediately and until further notice, the Office of Administrative Law Judges (OALJ) will conduct all hearings remotely. This action is taken pursuant to sections 554, 556, and 557<sup>1</sup> of the Administrative Procedure Act and authority duly delegated by the Chairman of the Commission.<sup>2</sup>
2. In light of the existing public health emergency and to protect the health of the public and the individuals who work for the Commission, it is necessary to modify the venue for future hearings by conducting them remotely through video conference software. Despite the change of venue, the Presiding Judge and all participants can comply with the relevant Commission Rules, guidance, and due process procedures that apply to the hearing in each proceeding. The Presiding Judge will be able to fulfill the required duties under Subpart E of the Commission's Rules of Practice on Procedure,<sup>3</sup>

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<sup>1</sup> Administrative Procedure Act, 5 U.S.C. §§ 554, 556, and 557 (2012).

<sup>2</sup> 18 C.F.R. § 375.304(b)(1)(v) (2019). This Order also serves as notice of the place of a conference with purpose to conduct the entire hearing, which will now be convened by videoconference. 18 C.F.R. § 385.601 (a)-(b)(1) (permitting the decisional authority to convene conferences "at any time for any purpose related to the conduct or disposition of the proceeding[,]" provided, in part, that the participants are "given due notice of the time and place" of the conference); 18 C.F.R. § 375.304(a) ("The Commission authorizes the Chief Administrative Law Judge ... to exercise the power granted to a Presiding Officer by part 385 ...").

<sup>3</sup> 18 C.F.R. § 385 Subpart E—Hearings.

including Rule 504 thereof,<sup>4</sup> by conducting the hearing using video conference software. The Electronic Hearing Rules, which allow exhibits to be uploaded remotely through SharePoint,<sup>5</sup> will continue to apply and be used in conjunction with the video conference software. The Electronic Hearing Rules also assure compliance with the obligation to create a record.<sup>6</sup> In short, nothing about the hearing changes, except its venue, which will now be remote.

3. Further, conducting hearings through video conference software will also serve the public interest. It allows the Commission to continue to fulfill its mission<sup>7</sup> while FERC's headquarters remains closed due to the ongoing national health emergency.<sup>8</sup> This also promotes the Commission Guiding Principles of Organizational Excellence, Regulatory Certainty, and Timeliness by using “resources efficiently and effectively”, providing “consistent approaches and actions”, and reaching “an appropriate resolution of each proceeding *in an expeditious manner*.”<sup>9</sup>

4. Indeed, this Notice also allows participants to save travel expenses to Commission headquarters in Washington, among other expenses, and permits the Office of Administrative Law Judges (OALJ) to utilize Commission investments in technological upgrades in a manner that will enable OALJ to continue to ensure the consistent and timely administration of justice.

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<sup>4</sup> 18 C.F.R. § 385.504.

<sup>5</sup> Office of Administrative Law Judges (OALJ), *Electronic Hearing Rules and Procedures* (Jan. 14, 2020), <https://www.ferc.gov/legal/admin-lit/Electronic-Hearing-Rules.pdf>.

<sup>6</sup> See 5 U.S.C. §§ 556(e), 557 (describing the record agencies must develop when utilizing a presiding officer in its development).

<sup>7</sup> FERC's Mission is to “[a]ssist consumers in obtaining economically efficient, safe, reliable, and secure energy services at a reasonable cost through appropriate regulatory and market means, and collaborative efforts.” *About FERC* (Mar. 31, 2020), <https://www.ferc.gov/about/about.asp> (About FERC).

<sup>8</sup> See *FERC Coronavirus Update: March Meeting Canceled, Staff Telework Encouraged, Building Closed to Public* (Mar. 13, 2020), <https://www.ferc.gov/media/news-releases/2020/2020-1/03-13-20.asp#.XnDs9D9KhPZ>.

<sup>9</sup> About FERC, available at <https://www.ferc.gov/about/about.asp> (emphasis added).

5. The Presiding Judge in each remote hearing will also ensure that the participants have access to an IT Day prior to the hearing to allow all participants, witnesses, and the public who will attend the hearing to learn more about the remote hearing software and to get their technical questions answered by the appropriate Commission staff.

6. Lastly, in light of the current circumstances, the Chief Judge urges all participants in proceedings pending before OALJ to renew their efforts to settle their disputes. Please contact the Chief Judge's staff if a settlement judge or dispute resolution facilitator should be designated in your proceeding.

SO ORDERED.

Carmen A. Cintron  
Chief Administrative Law Judge