

REMOTE HEARING GUIDANCE FOR PARTICIPANTS

Office of Administrative Law Judges



Last Updated: July 13, 2020

Federal Energy Regulatory Commission
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Washington, DC 20426

I. INTRODUCTION

Due to 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 venue by conducting Commission hearings remotely, as required by the Chief Judge's Notice to the Public on Remote Hearings.¹

The use of remote hearings is designed to protect the health of the public, staff at the Commission, and the participants in Commission proceedings during the Covid-19 pandemic. The use of remote hearings ensures no participant or member of the public is required to congregate or travel, whether to the Federal Energy Regulatory Commission or anywhere else, for hearing procedures. The use of remote hearings is designed to protect not only attorneys, witnesses, and clients; it is also intended to protect court reporters and Commission staff. In this context, the participants will use computer and internet connections to access WebEx and SharePoint, the two platforms that will be used for all remote hearings.

This guidance will assist you in learning how to navigate WebEx and contains some reminders about the Hearing Site which uses the SharePoint platform. It does not replace the need to take initiative to become familiar with WebEx, to read the Electronic Hearing Rules, or to attend the IT Days or other events scheduled by the Presiding Judge for the participants to become familiar with the technology used in remote hearings. This guidance covers the following topics:

- [System Requirements and Suggestions for Using WebEx](#)
- [OALJ Electronic Hearing Rules and the SharePoint Hearing Site](#)
- [Joining the WebEx Video Conference](#)
- [Establishing an Audio Connection](#)
- [General Remote Hearing Logistics](#)
- [Witness Communications](#)
- [Stopping the Proceeding Due to Technical Issues](#)

¹ Chief Administrative Law Judge's Notices to the Public, [Notice of Remote Hearings](#), Docket No. AD20-12-000 (issued April 23, 2020).

- **Conclusion**

II. System Requirements, and Suggestions for Using WebEx

- a. Minimum Requirements for WebEx: Minimum bandwidth requirements recommended by WebEx can be found [here](#).
- b. Suggested Hardware Requirements: Based on past experience, the Office of Administrative Law Judges (OALJ) makes the following suggestions for a better experience:
 1. Use at least two (2) display monitors to allow the user to view both the proceeding and exhibits simultaneously.
 2. Bandwidth can be improved by directly connecting your computer to an internet modem with an ethernet or CAT-5 cable.
 3. Bandwidth can be improved by disconnecting from any virtual private network (VPN) when running WebEx on the same computer.

III. OALJ Electronic Hearing Rules and the SharePoint Hearing Site

- a. The Electronic Hearing Rules, which allow exhibits to be uploaded remotely through SharePoint,² will continue to apply and be used in conjunction with WebEx.
- b. The Presiding Judge's law clerk or paralegal will email the service list in advance of the hearing to request two (2) lists:
 1. A list of names and email addresses of individuals who will need access to the electronic hearing site to upload your exhibits and who will need to access the exhibits in the Shared Folder. These individuals will be your authorized representatives for the course of the hearing.
 2. If applicable, a list of the individuals who signed the relevant non-disclosure certificate for this proceeding.

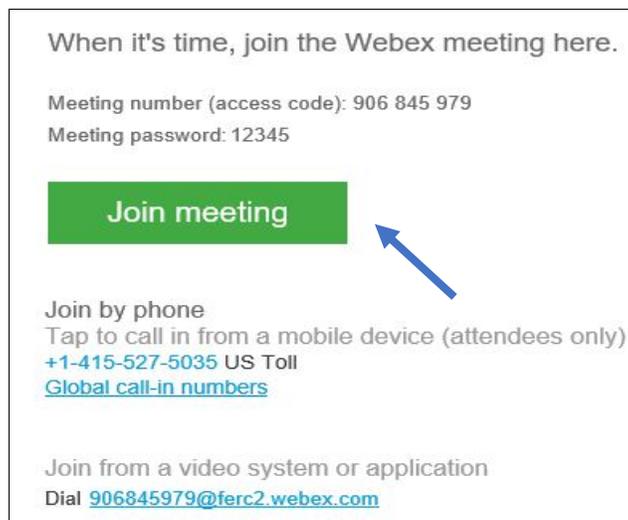
² Office of Administrative Law Judges (OALJ), [Electronic Hearing Rules and Procedures](#), Docket No. AD20-12-000 (June 3, 2020).

- c. At least five (5) business days prior to the hearing start date, each authorized representative will remotely upload to its participant’s folder (as separate files in the subfolders) the participant’s pre-filed exhibits that the participant anticipates introducing at the hearing. This step ensures a participant’s access to the Hearing Site.

IV. Joining the WebEx Video Conference

- a. Thirty Minute Requirement: All participants should plan to log onto WebEx thirty (30) minutes before the start of each session, to allow time to resolve any video, audio and connection issues that may arise from time to time.
- b. Joining the Meeting: Participants will receive a WebEx link to the virtual hearing. You may be prompted to download the Cisco WebEx software if you have not already done so. The WebEx App or the Google Chrome web browser will provide a better user experience with less technical difficulties
- c. Use the following four (4) steps to join a WebEx meeting for the first time:

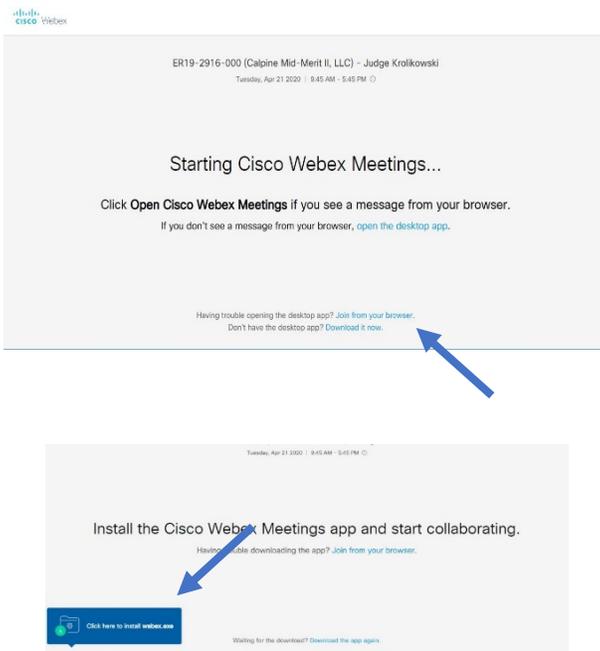
Step 1: Open the email that contains the meeting invitation and click “Join meeting.”³



³ If Google Chrome is not your default browser, you will need to right click on the “Join meeting” button, click on “copy hyperlink,” and paste the link (Ctl-v) into a Chrome Browser to have a better experience using WebEx.

Step 2: If you have already downloaded the WebEx app already, selecting “Join meeting” should automatically direct you to the WebEx app.

1. Be patient; it can take some time. If you are not directed to the app, and find that you are still in the browser, at the middle of the next screen, select “open the desktop app.”
2. Also, if nothing happens after several minutes, you may need to close the browser entirely and launch WebEx again.
3. If the desktop app does not open or automatically download, you may need to download it. In that case, please select “Download it now” and follow the prompts.



Step 3: Please enter your first and last name, if prompted. If your first and last name do not appear when you initially enter the hearing, the Presiding Judge or the law clerk will ask you to identify yourself.

1. Some users may not be prompted to enter a name, and instead, WebEx will automatically populate your name based on your username for your company. Please email the law clerk and paralegal, or alternatively identify yourself for the Presiding Judge.

Event Information: WebEx

Event status: Not started

Date and time: Friday, June 9, 2017 1:30 pm
Eastern Daylight Time (New York, GMT-04:00)
[Change time zone](#)

Duration: 3 hours

Description:

By joining this event, you are accepting the Cisco WebEx [Terms of Service](#) and [Privacy Statement](#).

Before you join the event, please [click here](#) to make sure that you have the appropriate players to view UCF (Universal Communications Format) rich media files in the event.

[Privacy Policy](#) - [Ethics](#) - [Accessibility](#) - [Enforcement Hotline](#)
[Disclaimers](#) - [Webmaster](#) - [Home](#) - [Top](#) - [USA.gov](#)

Join Event Now

To join this event, provide the following information.

First name:

Last name:

Email address:

Event password:

[Join Now](#)

Step 4: Now, click on the green “Join meeting” button. You can also choose to mute your audio and video at this time, if not already muted.

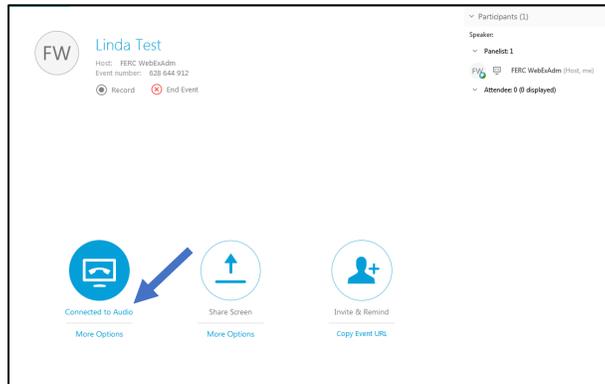


1. When joining, you may receive a notification that says the following: “You cannot connect to audio or video because the security certificate for your WebEx site is not trusted.” We are informed that this notification is normal. We recommend you select “Connect Anyway.”

V. Establishing an Audio Connection

- a. Active participants must be connected to the virtual hearing through both WebEx audio and video. Upon joining the WebEx meeting, you will be

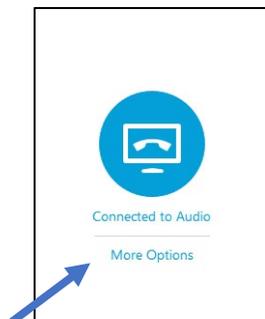
prompted to determine your audio settings, asking you if you want to dial into an audio connection, have the audio connection call you, or use the computer for audio.



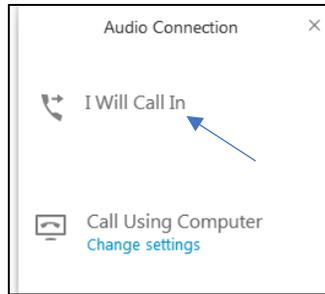
b. Connecting through Computer Audio or Phone Audio:

1. The Presiding Judge may require participants to connect by phone or computer audio during public or privileged sessions.
2. If you are not automatically prompted to select your audio settings in WebEx, please do the following:

c. For Phone Audio: click the WebEx “More Options” link located under the WebEx “Connected to Audio” button.

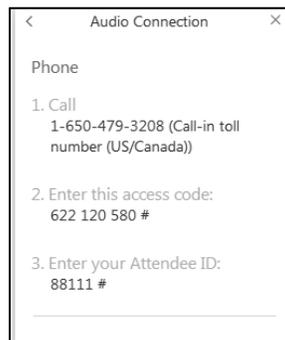


1. Select and click the “I Will Call In” option.

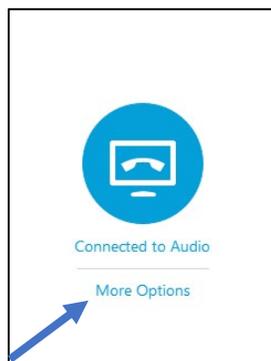


2. Call the WebEx conference call number and when prompted, enter the access code and attendee ID shown.
3. NOTE: If you do not enter the Attendee ID shown for you, your audio will not be connected to your video and you will appear as “Call-In User #” instead of your name.

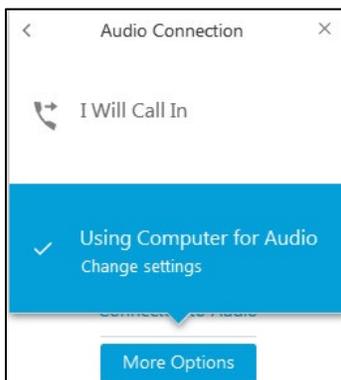
(Please note: the telephone, access and ID numbers below are for illustrative purposes only)



- d. For Computer Audio: click the WebEx “More Options” link located under the WebEx “Connected to Audio” button.



1. Select and click “Using Computer for Audio”



e. WebEx Audio Tips:

1. Do not use your phone and your computer microphone at the same time for WebEx audio. You will not be able to be understood as there will be interference between the two formats.
2. Please mute your audio when not in use. Be sure to unmute when you want to speak.

VI. General Remote Hearing Logistics

- a. Participant Obligations: Each participant must observe the following:
 - i. Undertake reasonable and responsible use of the video conference platform;
 - ii. Avoid using equipment that interferes with connectivity;
 - iii. Refrain from any unauthorized recording;
 - iv. Avoid wasting time during the hearing;
 - v. Take whatever measures or practices are necessary to support the procedural efficiency of the hearing;
 - vi. Become proficient in the virtual hearing technology, including conducting and participating in scheduled IT Days to ensure your service, equipment, technical specifications and requirements are adequate for your participation in the hearing. This requirement includes ensuring witnesses meet these requirements, including making the witnesses available for IT Days; and

- vii. At least one week prior to the hearing, participants, except for Commission Trial Staff, must contact Ace-Federal Reporters, Inc. to get access to the Live Litigation Stream, and provide a list of those who have access to the judge's law clerk.
- b. Identifying Yourself: Each participant must identify its lead speaker. Additionally, a speaker must identify themselves before speaking, unless it is obvious and on the screen: i.e., as the cross-examining attorney, or as the witness on the stand.
- c. Muting Audio and Stopping Video: If you are not actively participating, please mute your audio and stop your video. For example, active participants would be the Presiding Judge, witness on the stand, attorney for witness, cross-examining attorney, and court reporter. All others are asked to please turn off your video to lower the bandwidth requirements unless you need to speak (unmute audio and turn on your video).
- d. Members of the Public: Members of the public, who contact the Presiding Judge's law clerk ahead of the hearing, will be provided with the audio only call-in information for the hearing, and will not be permitted to access the video feed due to bandwidth considerations.
- e. Objections: Please allow a three (3) second pause after someone speaks. This is particularly important for witnesses to allow time for objections before they answer a question. The Presiding Judge, in consultation with the parties, shall set the mechanism for objections.
- f. Objection Not Heard Due to Technical Issues: If you believe that your objection was not heard due to technical issues with WebEx, please use the WebEx chat feature (to all participants) which will allow you to send an instant message to the participants in the proceeding to indicate that you made an objection.
- g. Prohibition of Chat with Specific Participants in WebEx: The WebEx chat feature permits participants to chat directly to specific participants during the hearing. This feature will not be used to communicate with specific participants during the hearing as it is not secure, and the Presiding Judge does not permit its use, except as an alternative of last resort to report technical issues (as stated above).

- h. Transcript edits: Edits to the transcript should be provided as soon as practicable. The Presiding Judge and Trial Staff will have access to Live Litigation through Ace Reporting, the Commission’s court reporting service. Please identify errors promptly in the transcript and communicate them to all the participants simultaneously.
- i. Moving Exhibits into the Shared Folder’s Subfolders: In order to ensure a complete record, the law clerk will share the computer screen to show exhibits being moved into the appropriate subfolders (admitted or rejected). Each participant must refresh SharePoint to ensure the correct exhibits were moved into the appropriate subfolders.⁴ Any discrepancies should be promptly identified during the hearing or as soon as practicable thereafter.
- j. Arranging and Pinning Video Tiles: You can arrange the screen layout in WebEx to show the active speaker or show all participants. You can choose the video layout option by using the buttons in the top right corner. You can also choose to pin certain video tiles in place by clicking on the pin in the position you wish to pin the video tile (i.e. click the video pin in the position you want the requested video tile, not the pin for the person’s video tile you want to pin). Please find [more information here](#). These are good skills to practice during the IT Day.
- k. Privileged Sessions: Privileged sessions may be held by placing those who have not signed a nondisclosure certificate outside of the hearing using the “lobby” feature of WebEx and locking the session to ensure that only those who have signed the appropriate nondisclosure certificate are present. Alternatively, the Presiding Judge may use a new WebEx session circulated to only those who have signed the

⁴ See Electronic Hearing Rules and Procedures § 8(b) (“Participants’ Obligations. All participants have a continuing obligation to review and monitor the contents of the Shared Folder and its subfolders for accuracy throughout the hearing and immediately alert the Presiding Judge of any issues with the accuracy of the record.”), available at https://www.ferc.gov/sites/default/files/2020-06/electronic-hearing-rules_060320.pdf.

appropriate nondisclosure certificate. To the extent possible, the number of privileged sessions should be minimized.

- l. Privileged Sessions and Live Litigation: At the beginning of the privileged session, please confirm on the record with the Presiding Judge that only those participants who have signed the appropriate nondisclosure certificate are accessing Live Litigation during the privileged session.
- m. Presentation of Demonstrative Exhibits: Participants will ensure that any demonstrative exhibits will be clearly visible through the shared screen function, or other acceptable method.

VII. Witness Communications

- a. To facilitate the virtual hearing participants should jointly agree on the following:
 - i. Whether to virtually sequester witnesses, and
 - ii. Whether to permit or prohibit synchronous or asynchronous communications between witnesses and participants and counsel through concealed channels of communications.

VIII. Stopping the Proceeding Due to Technical Issues:

- a. Technical Issue with Video Enabled: If you have any technical issues, particularly with sound or you notice the court reporter needs to speak with the Presiding Judge, please waive your hand in front of your video screen or ask to halt the proceeding (whether orally or by the WebEx group chat feature). The Presiding Judge will promptly stop the hearing once your concern is identified and take the matter off the record so that the technical issue can be rectified.
- b. Technical Issue and Loss of Video: If your technical issue is with WebEx video, so using your hand is of no use, send a message through the WebEx chat feature to tell everyone you are having technical issues. The Presiding Judge will promptly stop the hearing once your concern is identified and take the matter off the record so that the technical issue can be rectified.

- c. Loss of Connection: If you are having difficulty expressing your concern and believe you are encountering technical issues in WebEx, or if you have been disconnected from the hearing due to connection problems, communicate with someone on your team, or as a last resort email the law clerk, and have them request that the Presiding Judge promptly stop the hearing. The Presiding Judge will then stop the hearing and take the matter off the record so that the technical issue can be rectified.
- d. If all else fails: use any other method to identify the technical issue, after exhausting the options above.

IX. Conclusion

Please remember that hearings, whether in-person or remote, are never free from technological disruptions. If a disruption occurs during the remote hearing, the Presiding Judge will go off the record, and staff from our office and the Commission's IT division will work to resolve it. Patience with the technology, as well as with each other, will provide both a better hearing experience and a better record.

Thank you for your patience and participation in the remote hearing process.