

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 REVOKING REMOTE HEARINGS NOTICE AND GUIDANCE

(Issued March 25, 2022)

1. Effective June 1, 2022 (Effective Date), the Office of Administrative Law Judges (OALJ) will resume conducting evidentiary hearings in-person at FERC Headquarters at 888 First Street NE, Washington, DC 20426. This action is taken pursuant to sections 554, 556, and 557 of the Administrative Procedure Act¹ and authority duly delegated by the Chairman of the Commission.² Because of this action, the April 2020 Notice of Remote Hearings (Remote Hearings Notice) is hereby RESCINDED, as of the Effective Date, along with its subsequent updates and accompanying Remote Hearing Guidance for Participants.³

¹ Administrative Procedure Act, 5 U.S.C. §§ 554, 556, and 557.

² 18 C.F.R. § 375.304(b)(1)(v) (2021). This Order also serves as notice of the place of hearings, which will now be convened in-person at FERC Headquarters. 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 . . .”).

³ Notice to the Public: Notice of Remote Hearings, Docket No. AD20-12-000 (Apr. 23, 2020) (Remote Hearings Notice); Remote Hearing Guidance for Participants, Docket No. AD20-12-000 (June 4, 2020) (updating Notice of Remote Hearings to include participant guidance). Subsequent updates to these documents occurred on July 13, 2020, September 23, 2020, and May 18, 2021. Notwithstanding the rescission, participants

2. This change in venue is necessary to continue to efficiently and effectively fulfill OALJ's mission, given the present status of the public health emergency. When adopted, the Remote Hearings Notice recognized that the traditional, in-person means by which OALJ fulfilled its mission were incompatible with the then-existing public health safety measures.⁴ Because of this, OALJ leveraged preexisting Commission technology, invested in new technology, and devoted other public resources and labor to continue with its mission in a virtual venue.⁵

3. Now, circumstances have changed. The CDC recently advised that “the risk of medically significant disease, hospitalization, and death from COVID-19 is greatly reduced for most people” and that “focusing on reducing medically significant illness and minimizing strain on the healthcare system reflects our current understanding of SARS-CoV-2 infection, immunity from vaccination and infection, and the tools we have available.”⁶ It has also updated community safety protocols.⁷

4. Accordingly, in light of these changed circumstances, OALJ will best fulfill its mission by conducting evidentiary hearings in-person.⁸

would be expected to abide by the latest updates of these documents if any portion of a hearing must be conducted remotely (e.g., an in-person hearing where a witness or attorney appears remotely). Additionally, the OALJ Electronic Hearing Rules remain in effect, as these rules are applicable to both in-person and virtual environments. *See* Electronic Hearing Rules and Procedures, Docket No. AD20-12-000 (Mar. 24, 2022).

⁴ Remote Hearings Notice at PP 2-4.

⁵ Remote Hearings Notice at P 4.

⁶ *COVID-19 Community Levels*, CDC (Mar. 4, 2022), <https://www.cdc.gov/coronavirus/2019-ncov/science/community-levels.html>.

⁷ *See, e.g., What Prevention Steps Should You Take Based on Your COVID-19 Community Level?*, CDC (Mar. 4, 2022), <https://www.cdc.gov/coronavirus/2019-ncov/your-health/covid-by-county.html>.

⁸ *See About FERC: Guiding Principles*, FERC (Mar. 8, 2022), <https://www.ferc.gov/what-ferc> (endeavoring for the Commission to: use “resources efficiently and effectively”; provide “consistent approaches and actions”; and reach “an appropriate resolution of each proceeding in an expeditious manner,” among other principles).

5. Lastly, the Chief Administrative Law Judge reserves the right to rescind this Notice, modify it, or direct that any matter or matters be conducted remotely, with or without rescinding this Notice.⁹ This Notice applies only for the evidentiary portion of matters set for hearing under Subpart E of the Commission's Rules of Practice and Procedure,¹⁰ not auxiliary hearing-related matters such as prehearing conferences and oral arguments, and not matters set for settlement judge procedures under Subpart F.¹¹ All participants and public visitors for OALJ hearings are expected to follow the applicable health, safety, and building access protocols that the Commission may now or hereafter issue or advise to be followed.

Carmen A. Cintron
Chief Administrative Law Judge

⁹ *See supra* note 3.

¹⁰ 18 C.F.R. § 385 Subpart E—Hearings.

¹¹ *Id.* § 385 Subpart F—Conferences, Settlements, and Stipulations.