



HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA

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No. HPERC/2020

Dated the 4th June, 2020

PRACTICE DIRECTIONS STIPULATING THE PROTOCOL FOR REMOTE ACCESS HEARING THROUGH VIDEO CONFERENCE DURING PANDEMIC COVID-19 /LOCKDOWN

The State Electricity Regulatory Commission is the State Regulator for electricity under section 82 of the Electricity Act, 2003. Regulator is to perform multifarious functions, as envisaged under section 86, and is to discharge regulatory and adjudicatory responsibilities relating to electricity.

The pandemic has adversely impacted the conduct of proceedings before the Commission. It is necessary to provide an access to all the Stakeholders, to the Commission, by filing petitions/ applications electronically, conducting proceedings remotely, for the use of audio and video enabled hearings. The present scenario necessitates that no filing of application or proceedings, which require people to attend, are to take place in view of the strict requirement of social distancing. Video Conferencing is an efficient tool with a potential to facilitate and speed up proceedings. Various Courts and Tribunals, including the Hon'ble Supreme Court of India, are using this technology. This Commission has, therefore, also decided to conduct proceedings in urgent matters/cases by remote access through Video Conferencing.

Accordingly, this Commission in exercise of powers under Section 92 (1) of the Electricity Act, 2003, read with the Regulations 9, 12, 18, 67 and 68 of the HPERC (Conduct of Business) Regulations, 2005, hereby issues these **Practice Directions** to reduce the need for the physical presence of all the Stakeholders within the premises of the Commission. These Practice Directions set out operational protocol governing remote access proceedings. The procedure and protocol appended to these Practice Directions is required to be followed by all applicants seeking urgent hearing by remote access through Video Conferencing.

1. GENERAL DIRECTIONS:-

- (a) The Commission shall accept the petitions/replies/written submissions/rejoinder/any other documents through email in pdf format.
- (b) The Commission shall conduct its hearing through Video Conference. The e-Hearing proceedings will be conducted initially through the use of “*Microsoft Teams app*” as the primary Video Conferencing platform. Necessary details will be available on the website of the Commission. The same will be shared with concerned parties through email also.
- (c) Initially, the Commission shall conduct e-Hearing proceedings by remote access through Video Conferencing in matters/cases involving extreme urgency. The matters in which all the concerned parties shall request/agree for urgent hearing through e-Hearing and the petitioner has justified urgency to the satisfaction of the Commission, may be scheduled by the Commission on a working day.
- (d) All communications, including notifications, circulars, dates scheduled for hearing, addendum, corrigendum, etc., vis-à-vis e-Hearing proceedings will be uploaded on the official website of the Commission i.e. “www.hperc.org”.
- (e) The Commission will notify the Cause List and the session time for urgent matters/cases on its website.

2. PROTOCOL FOR E-FILING PETITIONS /COUNTERS /REJOINDERS /ANY OTHER ASSOCIATED DOCUMENTS AND E-HEARING OF URGENT MATTERS:-

D) FOR FRESH FILING:

The Advocate / Party-in-person / Authorized Representative shall file the mentioning-application through e-mail efilinghperc@gmail.com (in pdf format). The mentioning application must inter alia clearly contain the case details and contact details of the Advocate / Party-in-person / Authorized Representative like e-mail ID, Mobile Number with alternate number(s), office address stating Pin Code. The following documents shall be attached with the application:-

- a) Scanned copy of power of attorney (Vakalatnama).

- b) Petition fee to be electronically deposited and its receipt / UTR should be shared. Bank details of the Commission are as follows:

The Secretary, Himachal Pradesh Electricity Regulatory Commission
State Bank of India, Shimla East,
HP Secretariat Branch, Chotta Shimla, Shimla-171002
Account No.: 65114328973
RTGS/NEFT IFS Code: SBIN0050204
MICR Code: 171002022

- c) The scanned/soft copies of the Petition / Affidavits / Annexures / Court rulings/ Judgments etc.
- d) Scanned/ Soft copy of the proof of service on the other party (ies).
- e) An undertaking shall be given by the Counsel of the parties that the petitions/Affidavits/Annexures etc. after proper attestation/notarization/ verification and duly signed by the petitioner/respondents and Advocates etc. in original will also be filed within 3 working days after lockdown is lifted.
- f) Subsequent to the filing, the Commission will examine the documents with respect to the provisions contained under the HPERC (Conduct of Business) Regulations, 2005 and other related Regulations of this Commission and will notify date and time of hearing.
- g) Time for Video Conferencing will be allocated in multiples of 5-minute blocks depending upon the nature of application / petition. Minimum time and maximum time allotted for any case will be 5 minutes and 1 hour, respectively.

II) FOR PENDING MATTERS:

The Advocate / Party-in-person / Authorized Representative shall file the mentioning-application /reply/rejoinder or any other written submission through e-mail : efilinghperc@gmail.com in pdf format. The mentioning application must inter alia clearly contain the case details and contact details of the Advocate / Party-in-person / Authorized Representative like e-mail ID, mobile number with alternate number(s), office address stating the Pin Code. The following documents shall be attached with the application:-

- a) The scanned/ soft copies of the complete Petition along with M.A. / Affidavit(s) /Annexures /Reply/ Rejoinder/ Written Submissions etc. (in pdf format)
- b) An undertaking shall be given by the Counsel of the parties that the petitions / Annexures etc after proper attestation /notarization/verification and duly signed by the petitioner /respondents and Advocates etc in original will also be filed within 3 working days after lockdown is lifted.
- c) Subsequent to the filing, the Commission will examine the documents with respect to the provisions contained under the HPERC (Conduct of Business) Regulations, 2005 and the other related Regulations of this Commission and will notify date and time of hearing.
- d) Time for Video Conferencing will be allocated in multiples of 5-minute blocks depending upon the nature of application / petition. Minimum time and maximum time allotted for any case will be 5 minutes and 1 hour, respectively.

III e-HEARING ON URGENT MATTERS

The Advocate/Party-in-person Authorized Representative will send their mentioning application / request letter stating the reasons for urgency necessitating the scheduling of the e-Hearing in the urgent matters at the email efilinghperc@gmail.com in pdf format. Subsequent to the submission, the Commission will examine the request letter with respect to the provisions contained under the HPERC(Conduct of Business) Regulations, 2005 and the other related Regulations of this Commission and will notify date and time of hearing

The Adjournments shall not be permitted in respect of matters/cases listed for hearing through Video Conferencing. Any request for adjournment, if necessary, shall be intimated 2 days in advance through e-mail.

The link of the Video Conferencing schedule for their respective hearing will be sent on those e-mails by the HPERC.

3. GUIDELINES FOR E-HEARING PROCEEDINGS THROUGH VIDEO CONFERENCING:

- a) Only those Advocates/parties whose matters are listed on a particular day will be given presenter status and corresponding rights on the e-Hearing platform and such Advocates/parties will be assigned rights to provide Audio-Visual inputs. Provided that a maximum of 3 persons of concerned parties, including their Advocates, will be allowed to participate in the e-Hearing. The General Guidelines for e-Hearing Participants are mentioned in **Annexure-E**.
- b) The Advocates/Parties are requested to scrupulously comply with the date and time slots prescribed, subject to directions of the Commission in the event that sufficient time is not available for an Advocate/ Parties to conclude arguments, additional time may be allocated or the matter may be adjourned. The IT Administrator will ensure that only such Advocate/Party who is arguing a particular matter at a prescribed time will be audible and visible. Any complaint with regard to the quality or audibility of feed shall be communicated by the concerned parties to the HPERC IT Teams during the proceedings through the “Chat” option available in “Microsoft Teams app”. HPERC IT Team can also be contacted through voice call, SMS, Whatsapp for the same (Contact details are mentioned in **Annexure-A**)
- c) The Advocates/Parties have to keep their respective devices/microphones on mute at all-times and un-mute themselves only when their respective turn to present their case or to interject arises. The Advocates/parties shall avoid interjections altogether and only do so when absolutely essential with the permission of the Commission. The e-Hearing protocol (before and during hearing) shall be as per **Annexure-B**.
- d) When questions/issues are being raised by the Commission, the Counsel /Advocate/Parties concerned shall remain in patience and respond only after the Commission completes its questions/issues. It is advisable that the Counsel /Advocate concerned waits for a few seconds after the Commission has completed stating the question before proceeding to respond.
- e) Participating Advocates/Parties will be required to participate in the test video-call by the IT Team of the Commission, 25 minutes before the

commencement of proceedings, in order to ensure stability and clarity of the connection.

- f) The Advocates/Parties shall provide the relevant email IDs and other relevant details of the presenting Advocates/parties well in advance on official email of the Commission efilinghperc@gmail.com
- g) Recording of the e-Hearing, whether in part or full, is strictly prohibited. No e-Hearing proceedings, or part thereof, shall be disseminated or otherwise presented by the Counsel, Advocates, parties, general public, journalists, etc., for publication or reproduction to the media or any other person. Any infraction of this proscription will be dealt with strictly and in accordance with law.
- h) The overall control and administrative privileges over the e-Hearing Video Conferencing platform, subject to the instructions of the Commission, will be exercised by the Secretary/IT team/ designated officers of the Commission.
- i) The Standard Operating Procedure for using Microsoft Teams app for Video Conferencing (e-Hearing) is given in **Annexure-C**.
- j) A test-run (Trial of e-Hearing) will be held a day or two days before the e-Hearing (by the officers of the Commission) to familiarize the Advocates /parties representing the petitioners, respondents and the Interveners (if any) about the features and the use of the e-Hearing software platform. The details of the Test-run (Trial of e-Hearing) are given in **Annexure-D**.
- k) The Advocates / parties shall submit relevant documents in pdf format with indexing, continuous pagination, book marking in advance on the issues that are required to be brought to the notice of the Commission during the e-Hearing proceedings and the same shall be done prior to the date of hearing. The documents shall be sent on e-mail efilinghperc@gmail.com The documents not adhering to above may not be considered by the Commission.

4. CONCLUDING OF HEARINGS:

- a) It shall be mandatory that in “Chat” window, the parties shall have to give their written declaration that **“the proceedings have been conducted /completed (as the case may be) satisfactorily.”**
- b) On the completion of pleadings and arguments, the contesting parties (Petitioner or Respondent or Intervener) shall file their written arguments within two weeks time (not exceeding 30 pages (in pdf format) to the email efilinghperc@gmail.com. The final written submissions must comprehensively deal with the gist of the case / reply; issues involved; submissions; analysis of relevant documents and inferences; legal propositions; relevant provisions of law; and, case law. Whilst exhaustive repetition of the contents of documents should be avoided, short and relevant excerpts of the documents with appropriate cross-referencing will be preferred. Final versions of the list of dates, relevant documents, provisions of law, etc., may be included in an appendix to the final written submissions.

5. CERTIFIED COPIES OF e-HEARING SHALL NOT BE AVAILABLE TO THE PUBLIC:

- a. The audio/ video/ recording of e-Hearing shall not be made available to the Advocates/ parties in person or public.
- b. However, the certified copy of the relevant documents filed in the e-Hearing will be made available to the parties to the petition (Applicant/ Respondents and Advocates) subject to payment of fee as prescribed under the (Conduct of Business) Regulations, 2005 after resumption of normal working of the Commission and filing of the original copies/ documents by the parties .

6. JUDICIAL PROCEEDINGS AND PENAL PROVISIONS SHALL BE ATTRACTED TO e-HEARING:

All the e-Hearing before the Commission shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Panel Code 1860 (45 of 1860) and the Commission shall be deemed to be a Civil Court for the

purpose of Sections 345 and 346 of the Code of Criminal Procedure 1973 (2 of 1974) and as per the provisions of the HPERC (Conduct of Business) Regulations, 2005.

THE PROVISIONS OF THE INFORMATION TECHNOLOGY ACT, 2000 SHALL BE APPLICABLE TO THE e-HEARING CONDUCTED BEFORE THE COMMISSION.

It is provided that any offense committed by any person during the e-Hearing or subsequently, which has been published by the Commission vide instant Practice Directions or any act of any person which is contrary to the applicable Laws in India, it shall be punishable as per the provisions of the IT Act, 2000 and relevant and applicable Laws in India and Rules framed there under from time to time by the Central and State Government.

It is further provided that if any person breaches the provisions of Section 43 and Chapter XI of the IT Act, 2000, then he/she shall be liable to pay damages or penalty as per the provisions of the IT Act, 2000.

This Practice Direction shall remain in vogue till such time **the Commission decides to operate its Office** on Governments Order imposing restrictions on account of COVID-19 is in force or the date as may be notified by the Commission from time to time.

---Sd--
(Bhanu Pratap Singh)
Member

---Sd--
(S.K.B.S. Negi)
Chairman

Shimla

Dated: 04 .06.2020

By Order of the Commission

--Sd--
Secretary

**THE TABLES DEPICTING
THE PROTOCOLS TO BE
MAINTAINED ARE
ANNEXED AS
ANNEXURES “A”, “B”,
“C”, “D” AND “E”.**

ANNEXURE-A

PROTOCOL FOR TIMELINES			
Sr No	Description	Timelines	Remarks
1	Mentioning application / Request letter for e-Hearing along with documentation to be sent to Secretary (efilinghperc@gmail.com)	Minimum three working days preceding the date requested for e-Hearing or as may be directed by the Commission	<ul style="list-style-type: none"> • Relevant names, addresses, email IDs and contact numbers • All relevant documents /submissions mentioning in the para 2 .
2	Scheduling of case(s) and uploading the same on HPERC website	As per the discretion of the Commission	
3	HPERC IT Team to provide meeting details over email to parties	One or two days preceding the date fixed for e-Hearing	<p>HPERC Contact details: Shri Shashi Bhushan Sharma Mobile No. –94186-86002 E-mail efilinghperc@gmail.com</p>

ANNEXURE-B

E-HEARING PROTOCOL (BEFORE HEARING)					
Sr. No.	Timing	Description	Audio	Video	Remarks
1	30 minutes prior to e-Hearing	HPERC IT team Joins	On	On	Check for connections
		Nodal officer Joins	On	On	
		Legal Team Joins	On	On	
2	25 minutes prior to e-Hearing	HPERC IT team	On	On	Check for connections
		Nodal officer Legal Team	Off	Off	
		HPERC Executive Director, Joint Directors Joins	On	On	
		All Advocates joins	On	On	
3	10 minutes prior to e-Hearing	HPERC IT team	On	On	Check for connections
		Nodal officer Legal Team	Off	Off	
		HPERC Executive Director, Joint Directors Joins	Off	Off	
		All Advocates joins	Off	Off	
		Hon ^{ble} Chairperson/ Members and Secretary join	On	On	

On E-Hearing Protocol (DURING HEARING)			
Sr. No.	Description	Audio	Video
1	Chairperson	On	On
2	Members	On	On
3	Secretary	On/Off	On/Off
4	Nodal Officer	Off	Off
5	Legal & IT team	Off	Off
6	Party-in-person / Advocate of Petitioner / Respondent (whoever is the Presenter)	On	On
7	Other Advocates / Representatives	Off	Off

ANNEXURE-C

THE STANDARD OPERATING PROCEDURE FOR USING MICROSOFT TEAMS FOR VIDEO CONFERENCING HEARING (E-HEARING):

The Commission (HPERC) has decided to use “Microsoft Teams app” software for hearing of urgent matters through Video Conferencing. This manual has been compiled to assist participants in e-Hearing using Microsoft Teams.

INITIAL STEPS:-

The success of an e-Hearing through Video Conferencing using Microsoft Teams app depends on the available facilities with the parties, as well as their willingness to adapt. Following steps may be followed for using Microsoft Team app for e-Hearing:-

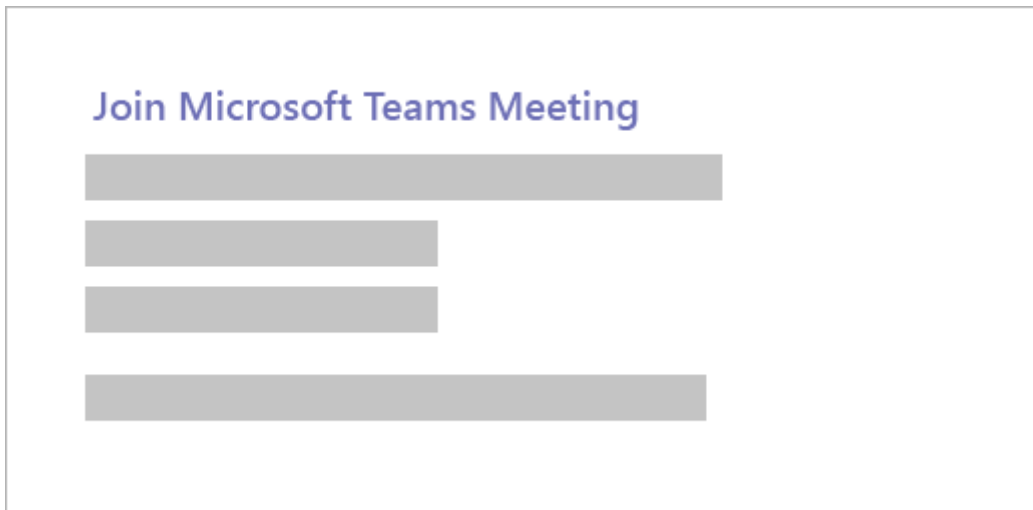
1. HPERC will send an invitation link for participation in e-Hearing through Microsoft Teams.
2. The procedure to join a Meeting/Hearing over Microsoft Teams is given hereinafter.
3. A test-run (Trial) Teams meeting will be held a day or two days before the e-Hearing/proceedings so that the parties might familiarize themselves with the Microsoft Teams software. The details of the Test-run (Trial) are given in **Annexure-D**.

INSTRUCTIONS FOR JOINING e-HEARING:

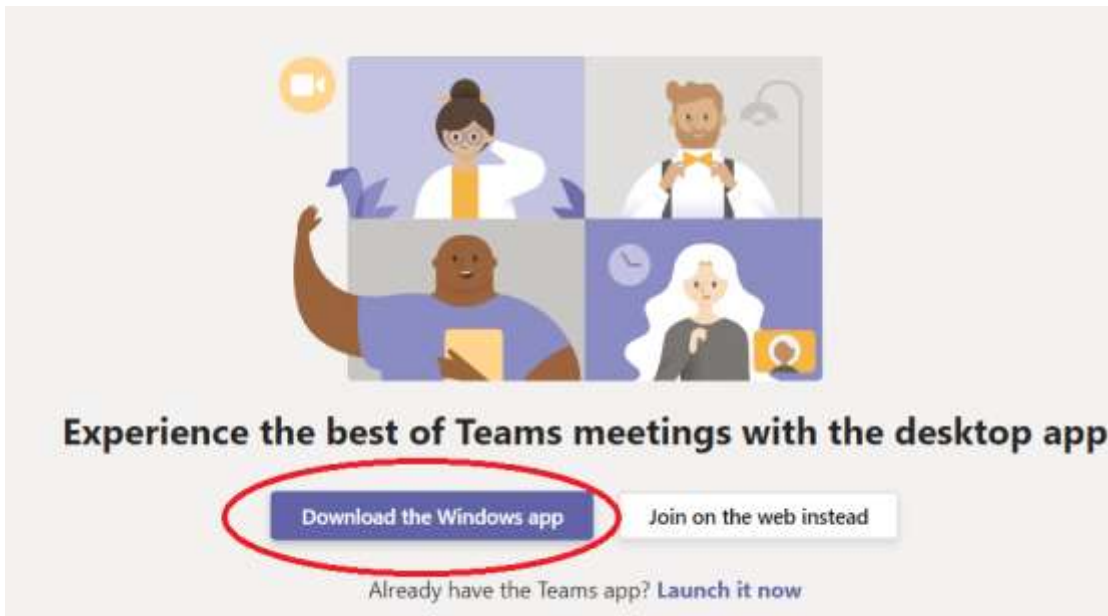
1. PARTIES may kindly note that the matters shall be heard by the Commission through web based Video-Conferencing system on the Microsoft Teams app.
2. It may be further noted that smooth functioning of the e-Hearing is squarely depend upon and subject to the connectivity [signal-strength/bandwidth] available at the end of the remote user(s), and hence it is expected that any party joining through e-Hearing shall ensure robust connectivity and bandwidth are available at their end,

in this regard, parties may use broadband connection of minimum 2 mbps / dedicated 4G data connection.

3. PARTIES may also ensure that no other device or application is connected to or using the bandwidth when the e-Hearing by Video-Conferencing is progressing on Microsoft Teams app on their computer/ laptop (preferable).
4. For ease-of-use, parties may kindly inform themselves of the following Standard Operating Procedure (SoP) in respect of e-Hearing of the cases through Video-Conferencing mode:
 - (a) To join video conferencing on Microsoft Teams app, parties are required to click on the “Join Microsoft Teams Meeting” link received on email on their laptop or desktop.



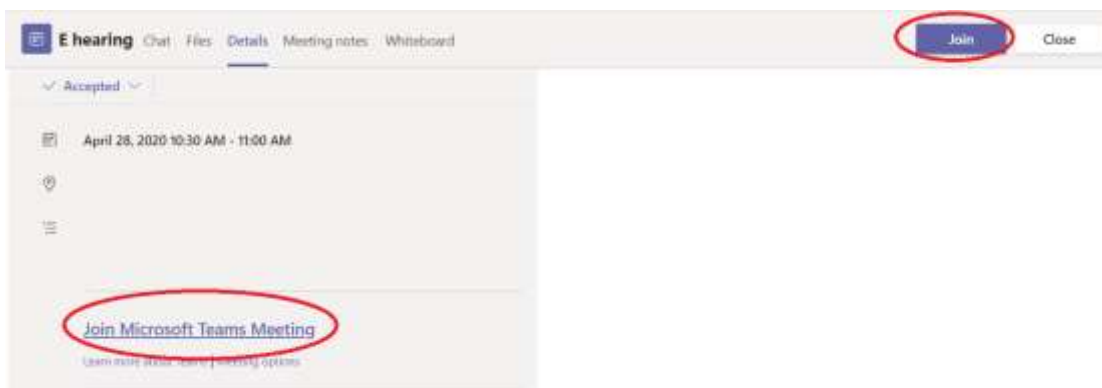
Select Join Microsoft Teams Meeting in your meeting invite to be taken to a page where you can choose to either “Download the Windows app” or “Join on the web instead”. You are hereby requested to click on the “Download the Windows app” button. If you already have the Teams app, the meeting will open in Teams app.



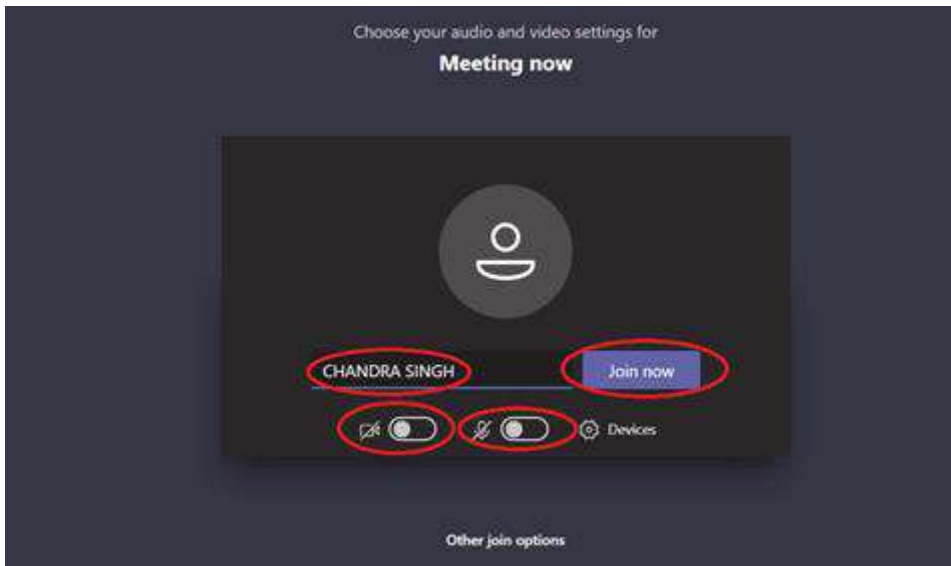
b. Upon clicking the “Download the Windows app” button, “Microsoft Teams app” will be downloaded.

c. After downloading open teams app and Login with the credentials (username & password) provided by HPERC IT team.

d. On the left Menu Panel click on Calendar icon, in the calendar, scheduled event/eHearing will appear. Click the same and below screen will appear. Join the meeting by clicking on “Join” button or “Join Microsoft Teams Meeting” as shown in below pic.



e. After clicking on Join button display window as depicted in pic below shall open, prompting the party to enter the display name before clicking “Join” button; the party is required to write his/her name (First Name and Surname) in the space given eg. “CHANDRA SINGH”, and also make sure that Camera and MIC are off, thereafter the party is required to click on the “Join now” button;



- f. After having clicked on the “Join now” button, as in above step, the party would join in e-Hearing.
- g. Upon being joined to the e-Hearing, arguing Counsel/parties shall wait for the instructions from the Commission on being asked, he will introduce himself and thereafter, party may make submissions and on completion of the submissions, shall at once “mute” the MIC of the respective device, if the Commission requires the party to make further submission(s), the party may then “un mute” the MIC of the device and again, on completion of the submission, put the MIC on “mute” mode;
- h. It is important for parties to remember to keep their MIC on “mute” at all times, except when the Commission requires them to make submission(s); thus, when one party is making submissions, it is imperative that all other participants shall keep their respective MIC mute failing which the possibility of MIC catching audio feed from the speakers and creating “{echo/noise-disturbance” would become very high and may disturb the e-Hearing;
- i. It may be noted that simultaneous submissions by more than one party at any given time should be avoided and each party shall wait patiently for their turn or the permission from Commission. Once permitted by the Commission, the party shall first “un mute” the MIC and thereafter make submissions, preceding clause (h) above.
- j. During e-Hearing, the parties may kindly keep in mind that they are participating in COURT PROCEEDINGS, and hence it is expected that they would not resort to any

indecorous conduct or dress or comment; further, parties are required to ensure that the e-Hearing proceedings neither be recorded /stored nor be broadcasted, in any manner whatsoever, as recording /copying/storing and/or broadcasting, by any means, of the hearings and proceedings before the Commission are expressly prohibited;

- a. Parties are required to stay online till Commission concludes the hearing of their matter. In case a connectivity link goes down at remote end, then the remote user can rejoin the e-Hearing through the invitation link received over email or he can contact HPERC IT team through other modes including voice call, SMS, Whatsapp, email etc. for the same. The HPERC IT team will immediately inform the same to the Commission by mentioning the same in Chat box.
- b. If connectivity link goes down at Server level due to unforeseen and unavoidable technological issues, then the Commission will adjourn the hearing and same will be intimated to parties immediately via email. After resolving the issue by the IT team, the Commission will reschedule the hearing as per the convenient date and time of the Commission and the parties will be intimated accordingly through email.
- k. The Commission officials may call any party for the Test run a day or two days before the e-Hearing and require to test the device or its connectivity, and every such party is required to cooperate with such staff/official and abide by the instructions given, so that the hearing by videoconference may be smoothly conducted;
- l. The presenter can show the document on the screen for explaining in detail. The said showcasing can be from the indexed/pagination documents submitted to the Commission in advance which have been bookmarked for easy search.

TEST-RUN FOR PARTIES

In order to dispel any anxiety surrounding electronic hearings a test-run would be conducted by the HPERC IT team. The Participating Advocates/parties can request the HPERC IT team for multiple test runs and may provide the necessary email addresses (additional) to the HPERC so that the invitation link can be shared.

The typical things that will be covered are:

- clarity of the video feed and audio quality on their end and at the end of the HPERC;
- Confirming that the users have a base level of familiarity with the software, and how the screens will change based on who is speaking;
- Showing participants the “Chat” and “Screen Sharing” functionality used for sharing /submission of file, (subject to the necessity and if permitted by the Commission)

GENERAL GUIDELINES FOR E-HEARING PARTICIPANTS

1. As full features of Teams app are presently not available with iOS devices, participants are advised to use Desktop/ Laptop for smooth functioning of e-Hearing.
2. Attendees, joining through browser, are advised to use the latest versions of the browsers like Google Chrome, Firefox etc.
3. Participants shall use Earphone / Microphone devices. Hands free mode is not recommended.
4. Do not move or hold the Microphone.
5. It is important for parties to remember to keep their MIC on “mute” at all times, except when the Commission requires them to make submission(s).
6. Avoid keeping paper/articles on the Microphone.
7. Focus the Camera on the speaker while speaking.
8. Test the presentation well before Video Conferencing starts.
9. Avoid bringing food and Beverage in camera view.
10. During hearing through Video Conferencing, the parties may kindly keep in mind that they are participating in proceedings, and hence it is expected that they would not resort to any indecorous conduct or dress or comment. Further, parties are required to ensure that the proceedings by Video Conference are neither recorded/stored nor broadcast, in any manner whatsoever, as recording/ copying/storing and/or broadcasting, by any means, of the hearings and proceedings before the Commission is expressly prohibited;
11. Parties are required to stay online till the Commission concludes the hearing of their matter, thereafter the parties may disconnect from Video-Conference;
12. Upon uploading of the Schedule of Hearing cases, the Registry of the Commission may call any party and require to test the device or its connectivity, and every such

party is required to cooperate with such staff/official and abide by the instructions given, so that the hearing by videoconference may be smoothly conducted;

13. After uploading of Schedule of Hearing cases, a Whatsapp group may be created by the Commission before the hearing of the matters where the participants may raise any query related to video conferencing. That apart, the parties may contact E-Hearing Helpline Telephone Numbers (IT team numbers).
