

MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

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PRACTICE DIRECTIONS STIPULATING THE PROTOCOL FOR HYBRID (Combination of IN-PERSON AND REMOTE ACCESS) HEARING

1. Considering COVID-19 pandemic, the Commission had issued Practice Directions on 11 May 2020 for conducting e-Hearing for urgent matters. Subsequently, vide Practice Directions on 13 July 2020 the Commission has extended facility of E-Hearing to all cases to be heard. During this period, the Commission has successfully conducted E-Hearings in more than 200 cases. Parties have been able to participate in these hearing and argue their matters effectively. Further to enable general public to access such proceedings, all E-Hearings were streamed live for public at large through the link provided on MERC website.
2. Considering successful adoption of digital technology in proceedings before the Commission without insistence on physical presence in court room, some of the parties have requested to continue such E-Hearings in future also on permanent basis.
3. Although the restrictions are gradually being lifted by the Government and physical activities are being gradually allowed, in the opinion of the Commission, successful utilization of digital technology established during COVID-19 pandemic needs to be adopted appropriately in daily routine. The use of Digital platform is resulting in saving of time, money, travel and ensuring compliance of the norms to deal with the Covid-19 Pandemic. Therefore, through this practice direction, the Commission apart from continuing the Remote Access (E-Hearing) as the default option, is enabling the HYBRID (combination of In Person (Physical) and Remote Access (Digital) Hearing for all the activities of the Commission including hearing of the cases for future period also.
4. Thus, following options for the proceeding to be conducted before it is enabled:
 - a. All hearing in cases filed before the Commission will be streamed live through link to be provided on MERC website. This will enable any interested person to access hearing without physical presence in MERC Court Room.
 - b. Remote Access (E-Hearing) will continue as a default option; however, any party can opt for In Person (physical hearing). This party can remain present in Court Room of the

Commission and argue its case. Link will be provided to the other party(ies) if applicable to the case opting for Remote Access (E-Hearing). Office of the Commission will ensure arrangement for smooth conduct of such Hybrid (in-person and remote access) hearing.

- c. The Chairperson / Member(s) of the Commission will operate through this hybrid option to ensure that at least one member of the commission will be available for physical hearing while the other members may join virtually to complete the needed quorum.
5. Accordingly, in exercise of power under Section 92 (1) of the Electricity Act, 2003, read with the Regulations 19, 36, 65, 91, 92, 93 and 94 of the MERC (Conduct of Business) Regulations, 2004, the Commission hereby issues these 'Practice Directions' for enabling option of Hybrid Hearing (combination of In Person Physical Hearing and Remote access E-Hearing before the Commission.
6. Procedure to be adopted while exercising option of **E-Hybrid Hearing** by any party is appended with this Practice Direction.
7. This practice direction shall be effective for all the hearings to be scheduled from 1 March 2021 onwards.

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I. M. Bohari)
Member

APPENDIX

PROCEDURE FOR HYBRID HEARING

A. General Conditions:

1. As restrictions imposed during pandemic have been removed gradually, the parties shall file petition/ application/documents /Replies etc. in the office of the Commission in 1+1 copies. In addition, all the documents shall also be filed through e-mail on “ehearing@merc.gov.in” (soft copy in Word and PDF) along with the scanned copy of the acknowledgment of filing the hard copy. Only thereafter the matters will be listed for Hearing.
2. The “Schedule of E-hearing Cases” shall be published on the Commission’s website. Specific date & time-slots will be indicated for each matter in the “Schedule of E-hearing Cases”.
3. Any party willing to opt for physical Hearing shall request for the same in writing well in advance but not later than 7 working days before the Scheduled date of E-Hearing and shall attend the Hearing in Court Room of MERC or at any other venue mentioned in the notice for hearing.
4. Party not opting for physical hearing shall be considered as opted for default option of E-Hearing.
5. Advocates/parties opting for default option of E-Hearing shall ensure the followings:
 - a. Use only one digital gadget/equipment and avoid use of multiple gadgets/equipments during the hearing.
 - b. Be seated in appropriately ambient surroundings ensuring that there is no background noise or disturbance (like ringing of mobile phones, background chatter etc.).

- c. Preferably use headsets/ earphone.
 - d. It will be the responsibility of the advocates/parties to ensure that discipline is maintained at their respective ends, and no inconvenience or disturbance is caused during the proceedings.
 - e. Any complaint with regards to the quality or audibility of feed shall be communicated by the concerned parties to the MERC IT Team during the proceeding through the “**Chat**” option available in ‘**Microsoft Teams app**’. MERC IT team can also be contacted through voice call, SMS, WhatsApp for the same (Contact details are mentioned in Annexure-A).
 - f. For smooth and seamless experience of e-Hearing, the advocates/party-in-person are requested to familiarize themselves with the video conferencing platform ‘**Microsoft Teams app**’ as also the practice guidelines set out here and that may be issued from time to time.
 - g. 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**.
6. The e-Hearing will be conducted using “**Microsoft Teams app**” as the videoconferencing platform.
 7. Office of the Commission will arrange for webcasting of hearings before the Commission through weblink provided on MERC website.

B. E-Hearing Setup:

1. Only those advocates/parties who have opted for default option of E-Hearing on a particular day will be given presenter status and corresponding rights on the e-Hearing platform – such advocates/parties will be assigned rights to provide audio- visual inputs. Provided that a maximum of 3 persons of concerned parties including Advocates will be allowed to participate in the e- Hearing.
2. 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.
3. 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 say or to interject

arises. Advocates/parties shall avoid interjections altogether and only do so when absolutely essential with the permission of the Commission.

4. When questions/issues are being raised by the Commission, the counsel/Advocate/parties concerned shall remain patient 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.
5. Participating Advocates/parties who have opted for E-Hearing will be required to participate in the test video-call by IT Team of the Commission, 15 minutes before the commencement of proceedings, in order to ensure stability and clarity of the connection.
6. Advocates/parties shall provide the relevant email IDs and other relevant details of the presenting Advocates/parties well in advance through email on official email of Secretary (ehearing@merc.gov.in) of the Commission.
7. 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, litigants, general public, journalists, etc., for publication or reproduction to the media or any other person. Any infraction of this prescription will be dealt with strictly and in accordance with law.
8. 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 official of the Commission.
9. The Standard Operating Procedure for using Microsoft Teams App for Video Conferencing (e-Hearing) in **Annexure-C**.

C. Conduct of Business:

1. In case no party opts for physical hearing, the E-Hearings will be conducted as a Default option.
2. In case the Party/Parties opt for physical hearing, the same will be conducted in Hybrid mode in court room of MERC and/or remote location as may be decided and at the discretion of the Commission.
3. The Party/Parties opting for physical hearing shall be present in Court room of MERC or any other location specified in notice for the hearing. The Party/Parties not opting for physical Hearing can participate through link provided by Office of the Commission.

4. Adherence to Time Limits: Advocates/ parties are requested to adhere to the time slot/time limits prescribed by the Commission.
5. The Petitioner / Respondent / parties shall submit relevant documents in doc and 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 and the same shall be done prior to the date of hearing. The documents shall be sent on email address (ehearing@merc.gov.in). The documents not adhering to above may not be considered by the Commission.
6. For parties participating through the E-hearing, it shall be mandatory that in ‘Chat window’, the parties have to give their written declaration that **‘the proceedings have been conducted /completed (as the case may be) satisfactorily.’**
7. Certified Copies of e-Proceedings shall not be available to the public:
 - a. The audio/ video/ recording of e-Hearings 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/ Applicant/ Advocates/ public subject to due charges after the resumption of normal working of the Commission and filing of the original copies/ documents by the parties .

D. Judicial proceedings and penal provisions shall be attracted to e-Hearings:

1. The e-hearings conducted by the Commission through video conferencing are within the ambit of the provisions of the EA, 2003 and as per the provisions of the MERC (Conduct of Business) Regulations, 2004 and the same are the judicial proceedings before the Commission. The provisions of the said Regulations shall be attracted herein during the e-hearing proceedings.
2. The following provisions of the MERC (Conduct of Business) Regulations, 2004 shall also be applicable during the e-hearing proceedings:

Regulation 42- In accordance with section 193 of the Indian Penal Code, 1860, whosoever intentionally gives false evidence in any of the proceedings of the Commission or fabricates false evidence for the purpose of being used in any of the proceedings shall be punishable with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

Regulations - 88. (a) In accordance with Section 228 of the Indian Penal Code, 1860, who ever intentionally offers any insult or causes any interruption in any of the proceedings of

the Commission, shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to Rs.1,000/-, or with both.

(b) In accordance with Section 345 of the Code of Criminal Procedure, 1973, where anyone intentionally offers insult or causes any interruption in the presence of the Commission, the Commission may cause the offender to be detained in custody and may, at any time before the raising of the bench on the same day take cognizance of the offence and after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, sentence the offender to a fine not exceeding Rs.200/- and in default of payment of fine, simple imprisonment for a term which may extend to one month unless such fine is sooner paid.

89. If the Commission, in any case as referred to it, considers that a person accused of any of the offences referred to these Regulations, should be imprisoned on account of default of payment of fine, it may forward the case to a Magistrate having jurisdiction to try the same and may require security to be given for the appearance of such person before such Magistrate or if sufficient security is not given, shall send such person in custody to such Magistrate.

- 3.** The Provisions of the Information Technology Act, 2000 shall be applicable to the Hybrid hearings/e- hearings conducted before the Commission.

It is provided that any offence committed by any person during the e-hearing or subsequently, which has been prohibited by the Commission vide instant Practice Directions or any act of the any person which is contrary to the applicable Laws in India, it shall 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 shall be liable to pay damages or penalty as per the provisions of the IT Act, 2000.

The tables depicting the PROTOCOLS to be maintained are annexed as Annexures ‘A’, ‘B’, ‘C’, ‘D’ and ‘E’

Annexure-A

PROTOCOL FOR TIMELINES			
		Timelines	Details
1	Scheduling of case(s) for E-Hearing and publishing the same on MERC website.	As per the discretion of the Commission	
2	Request letter for opting option of physical Hearing to be sent to Secretary (ehearing@merc.gov.in)	Minimum seven working days before scheduled date for Hearing	<ul style="list-style-type: none"> Relevant names, addresses, email IDs and contact numbers.
3	MERC IT Team to provide meeting details over email to parties.	One or two days preceding the date fixed for e-Hearing	MERC Contact details: Shri. Asim Shaikh Mobile No: 91-9730982940 Email ID: asim.shaikh@merc.gov.in Shri. Sandeep Naware Mobile No: 91-9619831591 Email ID: sandeep.naware@merc.gov.in

Annexure-B

E-HEARING PROTOCOL (BEFORE HEARING)					
S. No.			Audio	Video	
1	30 minutes prior to e-Hearing	MERC IT team Joins	On	On	Check for the connections
		Nodal officer Joins	On	On	
		Legal Team Joins	On	On	
2	15minutes prior to e-hearing	MERC IT team	On	On	Check for the connections
		Nodal officer	Off	Off	
		Legal Team	Off	Off	
		MERC Executive Director, Directors Joins	On	On	
		All Advocates joins	On	On	
3	5 minutes prior to meeting	MERC IT team	On	On	Check for the connections
		Nodal officer	Off	Off	
		MERC Executive Director, Directors and Legal team	Off	Off	
		All Advocates	Off	Off	
		Hon ^{ble} Chairperson/ Members and Secretary join	On	On	

E-Hearing Protocol (DURING HEARING)			
S. No.		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 (MERC) has decided to use “Microsoft Teams app” software (herein after Teams) for hearing party/ parties opting for default E-Hearing through Video Conferencing. This manual has been compiled to assist participants in e-Hearings 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 Teams app for e-Hearing:

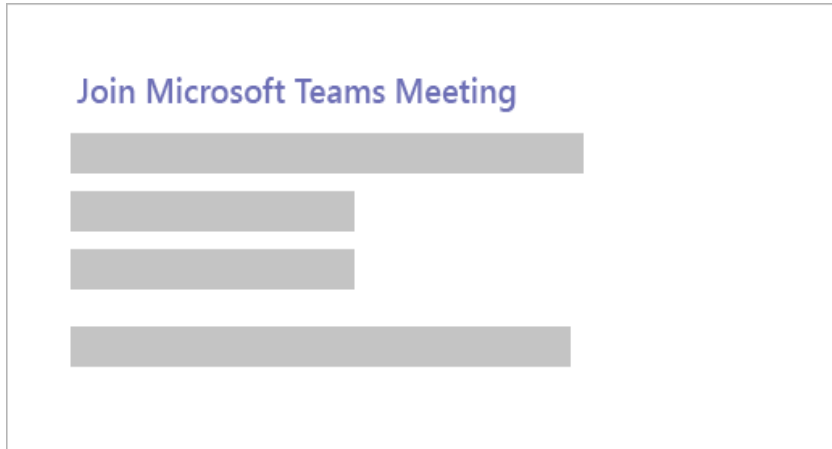
1. MERC will send an invitation link for participation in e-Hearing through Microsoft Teams.
2. The procedure to join a Meeting/Hearing over Microsoft Teams is given below.
3. A test-run (Trial) Teams meeting will be held a day or two days before the e-hearing so that the parties might familiarize themselves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

INSTRUCTIONS FOR JOINING e-Hearing

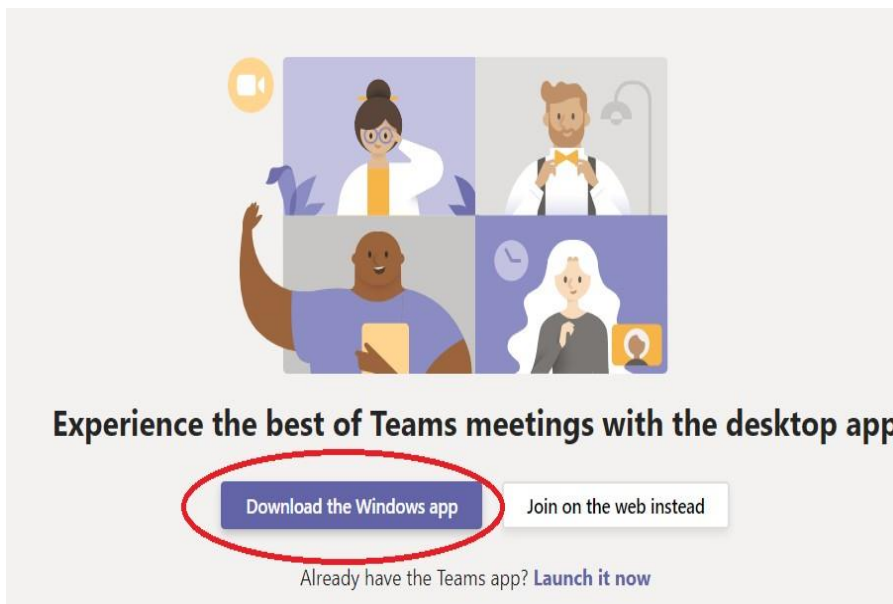
1. PARTIES may kindly note that the matters shall be heard by the Commission through web-based video-conferencing system on the Microsoft Teams app.
2. It may be further noted that smooth functioning of the e-Hearing is squarely depend upon and subject to the connectivity [signal-strength/bandwidth]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

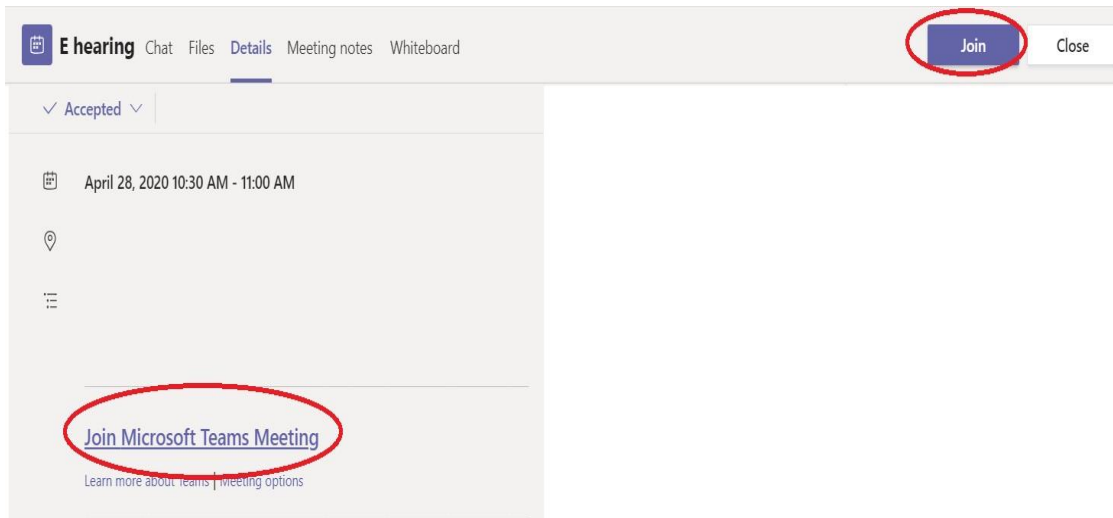


Select **Join Microsoft Teams Meeting** in your meeting invite to be taken to a page where you can choose to either 'Download the Windows App' or 'Join on the web instead'. You are hereby requested to click on the '**Download the Windows App**' button. If you already have the Teams app, the meeting will 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 MERC IT team.
- d. On the left Menu Panel click on Calendar icon, In the calendar, scheduled event/e-Hearing 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;

Choose your audio and video settings for

Meeting now



Other join options

- 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 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 ‘unmute’ 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 muted 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- 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 ‘unmute’ the MIC and thereafter make submissions, as per 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 MERC IT team through other modes including voice call, SMS, WhatsApp, email etc. for the same. The MERC 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 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. MERC officials may call any party for the Test run prior to the date of the actual 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.

Live streaming of e-Hearing:

1. Live streaming will be done by publishing a link over MERC website (www.merc.gov.in). People can join session of Live Streaming as anonymous users without downloading rights to witness the proceedings of e hearing. They can raise their queries / questions via 'Q & A' Tab available to them. The queries raised vis 'Q&A' tab will be answered online.

Provided that the queries raised in 'Q&A' tab shall be pertaining to the particular Case and with respect to the intervening in the matter with proper application. It shall not be binding to answer every or irrelevant queries / questions raised through 'Q & A' section.

2. In Live streaming, there are 3 roles that are required -
 1. Producer (who will host and control the live streaming event- IT Admin)
 2. Presenter (who will make submission - Advocate / Party)
 3. Moderator (Legal Team)

Producer: IT admin / Producer will host the Live Streaming event and will add the participants (as per request received over email) to the event. Producer can control the display screen for live event. Producer can show the screen of Presenter (making any submission / presentation) or can show the active user (speaker) on the screen.

Presenter: After the permission of the Commission, Advocate / Party can produce documents / show the presentation through screen sharing. Advocate / Party can submit the documents in „Chat“ tab.

Moderator: MERC Legal officer will act as a ‘Moderator’ in the live event. The Moderator will announce over ‘Q & A’ Tab that if anyone wants to speak/ submit something, then first he (anonymous user) has to provide the contact details (Name, Email ID, Phone Number) in ‘Q & A’ Tab. The Moderator will go through all the queries / questions received through ‘Q & A’ section and can publish the relevant queries which then can be seen by everyone in the e-Hearing (excluding people joining from link – anonymous users).

Annexure –D

Test-run for Parties

In order to dispel any anxiety surrounding electronic hearings a test-run would be conducted by MERC IT team. The Participating Advocates/parties can request the MERC IT team for multiple test runs and may provide the necessary email addresses (additional) to MERC 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 the MERC' s end;
- 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;)

Annexure -E

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 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. The Commission at its sole discretion and depending on the petition being heard through video conferencing, may live stream the event. In case the Commission decides to live stream the event, a link will be provided on the website of the Commission.
11. 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;
12. Parties are required to stay online till the Commission concludes the hearing of their matter, thereafter the parties may disconnect from video-conference;
13. Upon publication 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;

14. After publication 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)