

**ENERGY AND ENVIRONMENT CABINET  
OFFICE OF ADMINISTRATIVE HEARINGS**

**NOTICE OF PROCEDURES IN RESPONSE TO COVID-19 EMERGENCY**

On March 6, 2020, Governor Beshear issued Executive Order 2020-215 declaring a State of Emergency in response to the novel coronavirus (the “virus”). To protect the health and safety of Energy and Environment Cabinet (“Cabinet”) employees, including Office of Administrative Hearings (“OAH”) staff, and those members of the public appearing before the agency, OAH implements the filing and hearing procedures set forth, below. These procedures are effective March 19, 2020 through April 17, 2020, or until such time that state restrictions regarding the virus are lifted.

1. **Filings:** To decrease risks posed by handling paper documents and because of reduced staff, all parties are encouraged to file pleadings, if possible, electronically with OAH using OAH’s dedicated email address for filings at: [EECOAHFILINGS@KY.GOV](mailto:EECOAHFILINGS@KY.GOV) . For large electronic filings, please send separate emails with separate attachments. Each party will receive an automatic electronic confirmation of the email filing. OAH regulations also provide for filing by facsimile at (502) 564-4973. Upon receipt, OAH staff will process the filing as soon as is practicable and provide the filing party with an electronic file-stamped copy of the pleading at the email address provided to OAH by the party. If the filing is an initiating document (e.g. a petition or complaint) a summons will also be issued separately and all documents will be served by OAH by U.S. Mail pursuant to controlling regulations. In addition to initiating documents with summons, only final hearing officer reports and recommended orders and secretary orders will be served by OAH by U.S. Mail pursuant to controlling regulations. All other orders, including status orders, will be served electronically by OAH. For those parties for whom OAH does not have email addresses, all pleadings will be served by OAH by U.S. Mail pursuant to controlling regulations.

2. **Waiver of Regulation Requiring Filing of Original Documents:** OAH hereby waives the regulatory requirement to file original documents when filings are emailed and filed electronically with OAH. Office staff will send a response to each pleading received by electronic email as noted in No. 1, above. If parties wish to send an original the same will be accepted although not required.

3. **Conferences:** In order to reduce person-to-person contact and minimize transmission risk, OAH will cease all in-person appearances. OAH will conduct all status conferences, final prehearing conferences, and any and all other proceedings telephonically. All Hearing Officers will note in their future scheduling orders that conferences will be telephonic at least until April 17, 2020, or until such time that state restrictions regarding the virus are lifted. **Members of the public who appear at OAH’s offices shall be directed to call in for their scheduled proceeding**

**instead.** No visitors, including parties to matters pending before OAH, will be permitted entry into OAH's offices.

**4. Formal Hearings:** Unless there is an emergency situation or a threat to the health and safety of individuals or other persons, or to the environment (temporary relief, abate and alleviate, etc.), all formal hearings scheduled between March 19, 2020 and April 17, 2020, or until all state restrictions regarding the virus are lifted, will be rescheduled. If a party believes the hearing involves an emergency situation or a threat to the health and safety of individuals or other persons, or to the environment, and cannot be rescheduled, then that matter should be discussed with the Hearing Officer and counsel, and if necessary, the Executive Director.

**5. Petitions for Temporary Relief/Emergency Petitions:** Petitions for Temporary Relief and Emergency Petitions will be immediately scheduled for an initial telephonic conference with the parties in accordance with regulations. An OAH staff person will contact the parties by telephone and/or email to set up the initial conference. The Hearing Officer will work with the parties to determine if there is a time limit, whether it is waived, and establish a possible hearing date. The Hearing Officer will work with the parties regarding conducting a possible video or telephonic hearing. Once a hearing date is determined, OAH will issue a summons and hearing documents to be served by U.S. Mail.

**6. Mediations:** For mediations scheduled between March 19, 2020 and April 17, 2020, or until all state restrictions regarding the virus are lifted, the parties and the Mediator will confer to determine if it is feasible to conduct the mediation telephonically. If it is not feasible to do so, the Mediator will reschedule the mediation upon consultation between the parties and the Mediator. The Mediator will send rescheduling orders as are appropriate, or protocols for the conduct of telephonic mediation conferences.

**7. Penalty Assessment Conferences ("PAC") Proceedings:** In accordance with current procedures, all PAC proceedings will be held telephonically. In accordance with No. 1, above, PAC orders will be served by electronic email, unless OAH has no email address for a party. In that event, the PAC order will be served by U.S. Mail.

**8. Open Records Requests:** Open records requests should be addressed to Ms. Lisa Booth at [LisaM.Booth@ky.gov](mailto:LisaM.Booth@ky.gov). Responses to the same will be made pursuant to the Kentucky Open Records Act.

**9. OAH Webpage:** Information pertaining to cases pending before OAH, including PAC proceedings and daily dockets, may be accessed by viewing OAH's webpage found at:

<https://eec.ky.gov/About/Administrative-Hearings/Pages/default.aspx>. Please click on the link Case/PAC Search/Electronic Filing to obtain the links to the daily docket, case dockets, and email filing for pleadings.

10. **OAH Staffing and Contact Information:** To satisfy social distancing requirements, OAH intends, at this time and subject to further directives of the Governor and the Secretary of the Cabinet, to have a reduced, rotating staff to carry out essential functions of the office. As a result, please use the following email address and telephone numbers to contact staff or ask questions:

Email Inquiries: [EECOAHFILINGS@KY.GOV](mailto:EECOAHFILINGS@KY.GOV)

Telephone Inquiries: (502) 564-7312

Facsimile: (502) 564-4973

If staff is not available to immediately answer your telephone inquiry, please leave a contact number and your telephone call will be returned as soon as practicable.

11. **Hearing Officer Conference Lines:** Conference line numbers for all Hearing Officers and for PAC conferences are attached to this Notice. These numbers are included in all orders issued by assigned Hearing Officers. **Please note that at this time we have been advised that conference lines are at overcapacity due to increased global use and conference calls are not connecting.** We have been advised by our carrier that this issue is being addressed. Your Hearing Officer will be reaching out to parties for which OAH has email addresses to advise as to OAH's plan to address this situation. If you have a conference scheduled prior to April 17, 2020, or until such time that state restrictions regarding the virus are lifted, please check your email for notifications from OAH or your Hearing Officer as to alternative means to connect to the conference.

So ORDERED this 19<sup>th</sup> day of March, 2020



Lesly Davis, Executive Director

Attachment (1)

# CONFERENCE CALL INFORMATION DIALOGUE

Call in # is 1-866-830-9434

1. At the agreed upon meeting date and time, the Moderator/Leader and Participants dial in.
2. All participants including the Moderator/Leader enter the Access Code followed by the # sign.
3. The Moderator/Leader is then prompted to press \* (star) to identify themselves.
4. Only the Moderator/Leader enters the Leader PIN followed by the # (pound) sign.

**Hearing Officers:**

**Access Number:**

Lesly A. R. Davis

349 5786#

Virginia Baker Gorley

986 6848#

Stuart Cobb

657 1487#

Kevin Welch

931 2209#

PAC Number-Diana Lowe

981 2454#