

Updates

April 08, 2020

FERC Takes Further Actions in Response to COVID-19

The Federal Energy Regulatory Commission (the commission) took numerous actions on April 2, 2020, to ease regulatory burdens across the electricity, natural gas, and oil pipeline industries in response to the COVID-19 pandemic.

Policy Statement on Business Continuity of Energy Infrastructure: The commission issued a policy statement that provides regulatory guidance on certain energy infrastructure, market, reliability, and security matters. Specifically, the commission committed to take the following actions necessary to maintain the business continuity of energy infrastructure of regulated entities:

1. Review and act on requests for relief expeditiously, including requests for cost recovery necessary to ensure business continuity.
2. Give priority filings made for the purposes of ensuring business continuity.
3. Support the continued cooperation of the energy industry, customers, and federal, state, and local government partners.

Order Temporarily Delegating Further Authority: The commission issued an order temporarily delegating further authority to the director of the Office of Energy Market Regulation, until June 1, 2020, to take action on uncontested requests or petitions filed pursuant to the following:

- Section 4 of the Natural Gas Act
- Section 205 of the Federal Power Act
- Section 6(3) of the Interstate Commerce Act

Notice Granting Extensions of Time: On March 19, 2020, the commission issued a [notice granting extensions of time](#) to May 1, 2020, for entities seeking waiver of certain regulatory obligations, as appropriate, to address needs resulting from steps the entities have taken to meet the emergency conditions caused by COVID-19. On April 2, 2020, the commission issued a supplemental notice that did the following:

1. Clarified that the extension granted in the notice of March 2, 2020, also extended to answers to complaints and orders to show cause, and initial and reply briefs in paper hearings.
2. Extended deadlines until May 1, 2020, for interventions, protests, or comments to a complaint and briefs on and opposing exceptions to an initial decision.
3. Reduced the answer period for motions requesting an extension of time due to the from five days to three days.
4. Stated that the commission would consider requests to shorten the comment period to five days (from 21 days) for motions seeking waiver of requirements in commission orders, regulations, tariffs, rate schedules, and service agreements.

Order Delegating Authority: The commission issued an order delegating authority to the director of the Office of Energy Policy and Innovation to take appropriate action on uncontested motions for extension of time to file, or requests or petitions for waiver of the requirements of, FERC Form No. 552 (Annual Report of Natural Gas Transactions) and FERC 730 (Report of Transmission Investment Activity).

Order Extending Time for RTOs/ISOs to Post Certain Reports: The commission issued an order extending the time period to October 20, 2020, for regional transmission organizations and independent system operators to post Uplift Reports and Operator Initiated Commitment Reports. These reports otherwise would have been

required to be posted between April 2020 and September 2020.

Order Granting Blanket Waiver of In-Person Meeting and Notarization Requirements: The commission issued an order providing a blanket waiver of requirements to hold meetings in-person or to obtain notarized documents as may be required by Open Access Transmission Tariffs, other tariffs, rate schedules, service agreements, or contracts subject to the commission's jurisdiction under the Federal Power Act, the Natural Gas Act, or the Interstate Commerce Act. The waiver only applies to the requirement that a meeting be held in person; such meetings must still be held but conducted by other means such as telephonically. The blanket waiver is effective from April 2 through September 1, 2020.

Steps to Assist Regulated Entities in Managing Compliance: Also on April 2, 2020, Chairman Neil Chatterjee issued a news release announcing various steps the commission has taken to help with managing potential enforcement and compliance-related burdens, such as the following:

- Enforcement staff will be in communication with the subjects of continuing non-public investigations and audits, and entities with continuing compliance obligations associated with completed enforcement cases. Staff will work with each entity to provide flexibility with discovery-related or other deadlines through July 31, 2020.
- Enforcement staff will not begin any new audits until July 31, 2020.
- Enforcement staff will only contact entities regarding surveillance inquiries that involve market behavior that could result in significant risk of harm to the market and thus require immediate attention. Inquiries not requiring immediate attention will be postponed to a later date.
- The commission has issued an extension to June 1, 2020, for Form Nos. 552, 60, and 61, as well as Electric Quarterly Reports. FERC will continue to expeditiously process individual waiver or extension requests.
- Entities may delay for 60 days the submission of self-reports that involve inadvertent errors producing no significant harm to the markets, ratepayers, or other market participants.

According to Chairman Chatterjee, the commission will exercise appropriate prosecutorial discretion in addressing events that arise during the COVID-19 pandemic. In addition, enforcement staff will take the pandemic into account when evaluating compliance programs, auditing operations that take place during the pandemic, and in assessing the timeliness of self-reports.

The news release also announced the creation of a Standards of Conduct Task Force and a No-Action Letter Task Force to assist regulated entities:

- The Standards of Conduct Task Force has been directed to process pandemic-related Standards of Conduct requests expeditiously. Entities seeking a Standards of Conduct waiver should file a waiver request using the commission's normal filing procedures and then email a copy to SOC-TaskForce@FERC.gov to ensure expeditious processing.
- The No-Action Letter Task Force is available to provide informal staff guidance regarding No-Action Letter requests and has been directed to process COVID-19 pandemic-related No-Action Letter requests expeditiously. An entity interested in filing a No-Action Letter request should contact the No-Action Letter Task Force at NAL-TaskForce@FERC.gov.

In addition, the FERC.gov coronavirus, standards of conduct, and no-action letter webpages have been updated with staff contact information and enhanced procedures to facilitate prompt resolution of these matters.

Authors

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