

# KIRKLAND & ELLIS

Blog Post

## COVID-19: Latest Updates on Energy Regulatory Agencies and Electric Grid Operators

20 March 2020

*Update: We are actively monitoring the responses of state energy regulatory commissions to COVID-19 and encourage you to reach out to us with any questions regarding COVID-19's impact on state energy regulatory commissions or otherwise as they apply to energy regulatory matters. Due to the rapidly evolving nature of this unprecedented health crisis, however, we do not intend to continuously update the information on this blog post. For up-to-date information on state energy regulatory commission activity, we suggest that you visit the National Association of Regulatory Utility Commissioners' ("NARUC") website at <https://www.naruc.org/compilation-of-covid-19-news-resources>. NARUC and the National Regulatory Research Institute launched this resource site to track state energy regulatory commissions' responses to COVID-19.*

We are in unprecedented times. In the U.S., President Trump declared a national emergency concerning the coronavirus ("COVID-19"), and states have exercised their authority to address this crisis. This has led to many federal and state energy agencies and electric grid operators restricting access, altering procedures, and canceling or deferring certain proceedings or actions. In addition, many, if not all, such entities are either encouraging or requiring all non-essential employees to work remotely.

Although no federal or state energy agency or electric grid operator reviewed below has stated that this will cause delays in decisions or action on specific matters, we expect that – because many employees will have children at home due to school closures or other distractions related to this crisis – the pace of decisions and responses likely will be slower than normal.

We have compiled below a list of actions taken by a selected group of federal and state energy agencies and grid operators, and will provide updates to this blog post as conditions warrant.

## Federal Agencies

### Federal Energy Regulatory Commission (“FERC”)

On March 18, 2020, [FERC and the North American Electric Reliability Corporation](#) (“NERC”) advised operators of the bulk electric system that they will consider the impacts of the COVID-19 outbreak as an acceptable basis for non-compliance with obtaining and maintaining personnel certification, in addition to various periodic actions that would have been taken from the period of March 1, 2020, through December 31, 2020. They have also instructed Regional Entities to postpone on-site audits, certifications and other on-site activities until at least July 31, 2020.

In a separate announcement, FERC: canceled its March 19, 2020, meeting; encouraged its staff to telework beginning March 16, 2020, until further notice; and closed the FERC headquarters to all outside visitors, unless cleared for entry by the Office of Executive Director. In addition, all technical conferences through May 2020 will be conducted via teleconference or webex, or postponed until further notice.

On March 19, 2020, FERC issued a [Notice Granting Extension of Time](#) in Docket No. AD20-11-000. In its Notice, FERC stated that good cause exists to extend deadlines for filings required by FERC that occur on or before May 1, 2020, until May 1, 2020, for those entities that are unable to meet deadlines due to steps they have taken to meet the emergency conditions imposed by the threat of COVID-19.

The impacted filings are as follows: (1) the deadline for filing forms required by the FERC, with the exception of the FERC Form No. 6, Annual Report of Oil Pipeline Companies, which remains April 18, 2020 (however, because April 18 is a Saturday, the Form 6 must be filed no later than Monday, April 20); (2) the deadline for entities to make other non-statutory filings that are required by FERC, such as compliance filings, responses to deficiency letters and rulemaking comments; and (3) the deadline for entities to make filings required by their tariffs or rate schedules (FERC acknowledged that there are several pending uncontested motions in various dockets seeking an extension of time to submit these required filings, and this Notice Granting Extension of Time applies to those as well).

In addition, FERC Chairman Chatterjee issued a [statement](#) regarding agency operations naming Caroline Wozniak as FERC's point of contact on COVID-19, stating that it will exercise its enforcement discretion to take extenuating circumstances into account, and directing staff, including the Office of Enforcement, to work with companies to provide informal guidance and advice that reasonably balances what is happening on the ground with applicable compliance requirements.

#### Nuclear Regulatory Commission ("NRC")

The [NRC announced](#) that: it has encouraged its employees to telework until further notice; all resident inspectors at nuclear power plants and Category 1 fuel fabrication facilities will remain on the job, taking precautions as necessary, including social distancing; it will postpone public meetings or reschedule them using teleconference, videoconference, webinars or other means; and it will ensure that mission-critical inspections for materials licenses and research and test reactors continue to be performed as conditions warrant to ensure the safety of both NRC and licensee staff.

#### Department of Energy ("DOE")

The DOE has encouraged its employees to telework until further notice, and has ramped up activity in its labs to coordinate and expand access for COVID-19 research, including screening drugs for effectiveness against the virus, modeling epidemics for how and where the virus is spreading, and understanding the precise construct of the virus. DOE states it is operating as normal, albeit with its staff teleworking. There is no guidance regarding a reduction in DOE capabilities for processing existing LNG applications.

## Selected State Public Utility/Service Commissions

#### New York

The New York Public Service Commission ("NYPSC") has encouraged its employees to work remotely, but will continue to hold its regularly scheduled NYPSC meetings; however, the public will only be allowed to observe the meetings via webcast. Various other public meetings are being canceled or postponed until further notice, although public participation is still encouraged through the electronic filing of comments in pending dockets.

## California

The California Public Utility Commission (“CPUC”) has suspended service and mailing requirements and the hard copy filing of confidential motions until April 7, 2020. In addition, the CPUC has suspended all requirements for delivery or service personally or by mail until April 7, 2020. Practitioners must still serve electronically the public versions of the documents. The CPUC has canceled or postponed all public meetings through April 22, 2020, with the exception of its regularly scheduled voting meetings, which will be available to the public via webcast.

## Texas

The Public Utilities Commission of Texas (“PUCT”) has announced it is operating in an online-only capacity. All service of pleadings in all PUCT dockets will be by electronic delivery only. The PUCT has provided flexible and telework policies for its employees for the “foreseeable future.” It will continue to hold its regularly scheduled PUCT meetings, which can be viewed by the public via webcast.

The Railroad Commission of Texas (“TRRC”) has provided flexible and telework policies for its employees through March 31, 2020. It will maintain a “skeleton crew” at its headquarters and the various district and regional offices, with other employees telecommuting. The TRRC is not accepting in-person filings at this time. All filings must be submitted via U.S. Postal Service, UPS or FedEx. In addition, the TRRC has canceled its next open meeting scheduled for March 31, 2020.

## Illinois

The Illinois Commerce Commission (“ICC”) announced on March 16, 2020, that it has suspended walk-in access to the ICC. All applications, with original signatures, should be mailed and filings will be accepted based on the postmark date. The ICC will continue to hold its regularly scheduled ICC meetings, with public access available via webcast only.

## Ohio

The Ohio Public Utilities Commission (“OPUC”) is operating at minimal staffing levels as of March 13, 2020, until further notice, resulting in potential delayed responses. The OPUC has suspended in-person filings and has encouraged the public to utilize electronic filing methods. In addition, the OPUC has tolled time periods described by order, statute or rule for the OPUC to act upon a pending application or other filing during the state of emergency, including but not limited to, the automatic approval

processes for various applications and certifications. The OPUC has also banned door-to-door energy sales through the conclusion of the COVID-19 emergency declared by Governor Mike DeWine on March 9. The OPUC will continue to hold its regularly scheduled meetings, with public access available via webcast only.

## Pennsylvania

The Pennsylvania Public Utility Commission (“PPUC”) has closed all of its offices until further notice, with its personnel working remotely to continue to perform critical functions. All documents that can be e-filed must be e-filed, with the exception of those documents that contain confidential, proprietary or confidential security information, which can be mailed. The use of e-filing and e-services are encouraged as much as possible. Effective March 16, all door-to-door, in-person and public event sales activities by agents of competitive electric and gas suppliers are suspended until further notice. The PPUC will continue to hold its regularly scheduled meetings, with public access available via webcast only.

## New Jersey

On March 19, 2020, the New Jersey Board of Public Utilities (“NJBPU”) held an emergency meeting to suspend home or business visits by all public utilities and regulated entities, door-to-door sales activities by third party suppliers or other sales persons selling energy or energy related products, and has waived its paper filing requirements. The NJBPU will instead accept e-filing of all documents. In addition, the NJBPU has canceled or postponed all public meetings, with the exception of its regularly scheduled meetings, which will be accessible to the public via webcast only.

## Massachusetts

The Massachusetts Department of Public Utilities (“MDPU”) is closed to all in-person services effective March 18, 2020, until further notice. All non-emergency employees will work remotely unless they perform core functions that require them to report to their regular work locations. On March 12, 2020, the Governor announced an emergency order suspending the requirement for public access to the physical location where a public meeting is taking place. The MDPU will continue to hold its regularly scheduled meetings, with public access available via webcast only.

## Arizona

The Arizona Corporation Commission (“ACC”) will continue to hold its regularly scheduled meetings, with public access available via webcast only. The ACC is

discouraging in-person meetings where possible and asking that individuals use teleconferencing or videoconferencing when possible. All offices remain open to the public at this time, however, employees are encouraged to telework where appropriate.

## Nevada

Effective March 15, 2020, the Nevada Public Utilities Commission (“NPUC”) has closed all of its offices until further notice. Online and over-the-phone services remain available to the public. In addition, all public meetings have been canceled, postponed or rescheduled with videoconference or teleconference where possible, including the NPUC’s regularly scheduled meetings, which will be available to the public via webcast only.

# Regional Transmission Operators/Independent System Operators

## California Independent System Operator (“CAISO”)

CAISO has taken the following steps to protect power system operations: (1) extended its ban on in-person meetings through May 1, 2020, or until further notice; (2) plans to host meetings via teleconference and webinars where possible; and (3) suspended all non-essential business travel for its employees. Critical staff essential to CAISO’s core services, such as grid operators, continue to work in the control centers.

## New York Independent System Operator (“NYISO”)

NYISO has taken the following steps to protect power system operations: (1) implemented a rotational work-from-home schedule; (2) determined that all stakeholder meetings and internal meetings will be conducted via teleconference, and in-person meetings will be reduced to essential personnel only; (3) suspended all non-essential business travel for its employees; and (4) restricted outside visitors to those persons critical to ensuring business continuity.

## ISO New England (“ISO-NE”)

ISO-NE has taken the following steps to protect power system operations: (1) limiting control room access to control room staff only; (2) splitting system operations between the main control center and the back-up control center; (3) having all employees work

from home where possible until further notice; and (4) moving all public meetings to teleconference or webinars.

#### PJM Interconnection (“PJM”)

PJM has taken the following steps to protect power system operations: (1) conducting all stakeholder meetings via video or teleconferencing through March 27, 2020, with re-evaluations occurring weekly; (2) implementing a work-from-home policy through March 27, 2020, with the exception of system operators and shift personnel; and (3) suspending all business travel until further notice.

#### Southwest Power Pool (“SPP”)

SPP has taken the following steps to protect power system operations: (1) converted all stakeholder meetings through April 30, 2020, to virtual meetings; (2) prohibited access to SPP facilities by all non-essential visitors; and (3) suspended all business travel through May 1, 2020.

#### Midcontinent Independent System Operator (“MISO”)

MISO has taken the following steps to protect power system operations: (1) converted all stakeholder meetings through March 20, 2020, to conference call or webex only; (2) suspended all non-essential business travel; (3) restricted access to its control rooms; and (4) allowed employees to work from home where possible. MISO will continue to monitor the situation to reduce avoidable risk to its operations.

#### Electric Reliability Council of Texas (“ERCOT”)

ERCOT extended its ban on in-person meetings and non-essential business travel to May 3, 2020. It had previously set the procedures through March 15, and then quickly extended that to March 31. The ERCOT board of directors will conduct its April 14 meeting via webinar to consider any matters that cannot be deferred to its next regularly scheduled meeting in June.

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