

Statement of Chairman Neil Chatterjee

March 19, 2020

On March 13, 2020, the Commission voted to cancel the March open meeting scheduled for today as one of a number of steps FERC is taking to protect the health and safety of our employees and the public, and to help mitigate or slow the transmission of the coronavirus within our communities. We are committed to doing our part to flatten the curve.

Last week, the President declared a National Emergency concerning the Novel Coronavirus Disease. During this challenging time, the health and safety of the American people and the continued reliability of the nation's energy sector are of crucial importance. The energy industry has taken steps to protect the health and safety of its employees and the public, and I applaud those critical efforts happening on the ground. I also have directed that the Commission take steps to protect its staff and the public while ensuring continuity of operations.

Regarding agency operations:

- We issued a press release this morning detailing how the Commission is responding to the current situation. Most Commission employees are on telework status, until further notice, and our headquarters will continue to be closed to all outside visitors, unless they are cleared for entry by the Office of the Executive Director.
- All technical conferences scheduled through May 2020 will be conducted via conference call or WebEx, or postponed. Schedules will be posted to the FERC.gov calendar.
- Chief Administrative Law Judge Carmen Cintron has postponed one hearing scheduled to start on April 7, 2020 and will make case-specific calls on other hearings as their start dates approach. ALJ settlement conferences will continue via teleconference.
- The Commission will continue to post regular updates on the FERC.gov website to provide timely and accurate information.
- I'm in close and regular contact with my fellow Commissioners and senior agency leaders, and we along with the Commission's workforce, are committed to continuing to carry out our important work and fulfilling our statutory obligations as seamlessly as possible during this time.

FERC is taking concrete actions to proactively address the impacts of the pandemic for the regulated community and other stakeholders. Today, I named Caroline Wozniak as the Commission's point of contact for all industry inquiries related to impacts of COVID-19 on their FERC-jurisdictional activities. Caroline currently serves as the Senior Policy Advisor in FERC's Office of Energy Market Regulation and plays a leadership role in matters involving energy markets, tariffs and rates relating to electric, natural gas, and oil pipeline facilities and services. Prior to assuming that role, Ms. Wozniak served as an advisor to former Chairman Norman C. Bay from 2015 to 2016. She joined FERC in 2008 as an analyst in the Office of Energy Policy and Innovation.

I took this step because it's important for the regulated community to be able to get their questions answered in a timely and organized manner. I thank Caroline for serving in this critical role.

Also, today, we issued a notice extending, until May 1, 2020, deadlines for certain required filings that are due between now and that date.

Consistent with our goal of being flexible and responsive in these extraordinary times, I want to make clear that the Commission will be receptive to requests for other deadline extensions and requests for other forms relief, as we all continue to work through this crisis. For example, one regulated entity filed a request to waive a tariff requirement for face-to-face meetings. Today we granted that request, and similar requests will get the Commission's full attention.

In addition, I want to be clear that we plan to exercise our enforcement discretion to take these extenuating circumstances into account as we evaluate compliance and enforcement matters.

For example, our Office of Enforcement is postponing audit visits and investigative testimony and will adjust other deadlines as appropriate. Enforcement also will be flexible and will act expeditiously in granting extensions and waivers of compliance filings, forms and EQRs, as appropriate.

The Commission is actively exploring other ways we can lift burdens on the regulated community. I'm heartened that the companies we regulate are putting the health and safety of their workers and employees first, and that often means that companies are having to do a great deal of their work remotely. What was routine just a week ago is now anything but routine. While we expect regulated entities to continue to comply with our requirements, I want to emphasize that we also have open lines of communication. I've directed our staff, including the Office of Enforcement, to work with companies in these trying times to provide informal guidance and advice that reasonably balances what is happening on the ground with applicable compliance requirements. This Commission will not be in the business of second guessing the good faith actions that companies take to keep the lights on. I'm committed to ensuring that industry can focus on continuity, safety and stability—not regulatory or enforcement matters that are not mission-critical during this crisis.

In this vein, FERC and NERC have agreed to work together to use our regulatory discretion as appropriate while ensuring the reliability of the grid. These steps include temporary relief from certain compliance requirements and the postponement of on-site audits, certifications, and other on-site activities through July. We will continue to work with NERC to review our posture and consider additional actions as circumstances evolve.

In addition to these actions, the Commission is working closely with federal partners such as DOE, DHS, CDC and others to proactively identify and address issues affecting energy infrastructure from this emergency. We continue to assist with NERC's Electricity Information Sharing and Analysis Center, to provide recommendations to industry to help with business continuity planning. We are also principal participants in DOE's Electric Sector Coordinating Council, which serves as the primary liaison between the federal government and the electric power industry.

We are also in communication with the states and stand ready to assist in whatever way we can to help protect the energy infrastructure under our shared jurisdiction. These interactions are important to help anticipate and quickly address issues before they become problems.

Regarding items the Commission acted on today, I would like to highlight what was poised to be Item E-1 at our open meeting – a Notice of Proposed Rulemaking (NOPR), that proposes to update the Commission’s transmission incentives policy.

The NOPR proposes to depart from the Commission’s existing risks and challenges approach, and instead grant incentives to transmission projects based upon benefits to consumers: ensuring reliability and reducing the cost of delivered power by reducing transmission congestion.

This new approach more closely aligns our transmission incentives policy with the statutory language, and objectives, of FPA section 219, and would provide the Commission with a clear framework to grant incentives for the most beneficial transmission projects.

There are five important aspects in today’s proposal.

First, the NOPR proposes to provide incentives of up to 100 basis points to transmission projects that can demonstrate economic benefits based on benefit-to-cost ratios. The proposal awards 50 basis points to transmission projects that demonstrate substantial economic benefits prior to construction, with the potential for an additional 50 basis points awarded to transmission projects using actual costs after construction is complete.

Second, the NOPR also proposes to provide incentives of up to 50 basis points to transmission projects that demonstrate significant and demonstrable reliability benefits beyond those required by NERC. Although the NOPR does not propose incentives specifically for cybersecurity, it notes that the Commission will address incentives for this important aspect of reliability in a future proceeding.

Third, the NOPR proposes to increase the RTO/ISO Participation Adder from 50 to 100 basis points, and to make this incentive available regardless of whether such participation is voluntary. The record demonstrates that RTO/ISOs provide billions of dollars in annual benefits to consumers, and those annual benefits continue to grow as the RTO/ISOs evolve. Increasing this incentive recognizes the increased benefits to consumers, as well as the increased duties and responsibilities associated with RTO/ISO membership.

Fourth, the NOPR proposes to largely retain the non-RTO incentives. The NOPR explains that these incentives, available to all transmission projects that demonstrate that they ensure reliability or reduce the cost of delivered power, facilitate the development of beneficial transmission and are therefore consistent with the proposed benefits-based approach. The NOPR also modifies the existing Abandoned Plant Incentive to enable utilities to recover 100 percent of prudently incurred costs for transmission projects that are cancelled or abandoned to factors beyond their control.

Fifth, the NOPR proposes to replace the current policy of limiting incentives to the base ROE zone of reasonableness with a 250-basis-point cap on total ROE incentives. This change recognizes that base ROE and transmission ROE incentives serve different functions.

I’m extremely pleased with this NOPR and I’m grateful to staff for their tireless work.

I'm also pleased that we voted to approve the Jordan Cove Energy Project today. This is the 12th LNG export project the Commission has approved since I became Chairman. This project, planned to be located in Coos Bay, Oregon, is also the first export terminal the Commission has certificated on the west coast in the lower 48. This facility will be capable of liquefying up to 1.04 bcf of natural gas per day for export to global markets. As you know, this order was originally scheduled for last month's meeting – I'm glad that the extra deliberation time the Commission took brought us to this result.

Regarding what would have been Item E-14, the Commission denies rehearing of the Commission's February 2018 order accepting MISO's resource adequacy construct as just and reasonable. This order maintains our longstanding policy that a one-size-fits-all approach does not work for the RTOs and ISOs. Accordingly, the draft order rejects a wide range of arguments on rehearing that MISO's resource adequacy construct should look more like the centralized capacity constructs in the Eastern RTO/ISOs. The Commission notes that, unlike the capacity constructs in Eastern RTO/ISOs, MISO's resource adequacy construct is – and always has been – designed to complement state mechanisms. The order explains that every state in MISO, including the states that have retail choice suppliers, plays an active role in resource adequacy. I'd like to thank staff for all their hard work on this order.

In what would have been Items E-3 through E-11, we find that nine more transmission providers – including ISO-New England – comply with Order No. 845, and we direct each of them to submit a further compliance filing within 120 days. With today's orders, we've processed all of the Order No. 845 compliance filings. We still have a lot of work to do, as I'm sure staff is already working hard on the second round of compliance filings. I'd like to thank staff one last time for their tireless work on this multi-year effort.

Further, I also want to highlight that the 2019 State of the Market report will be posted on the FERC website this afternoon. I'm grateful for the Commission staff's hard work on this and am encouraged by the information presented in it.

Finally, I want to recognize and acknowledge the Commission employees and energy sector employees across the country who are continuing to carry out their work amidst these uncertain times. I recognize that this pandemic will touch many of us personally in ways we could not have fathomed. We do not know what the weeks and months ahead will look like, but I am confident that together we will get through this crisis. Our energy workforce is keeping the lights on during this national emergency, and I want to acknowledge their tireless work and dedication to our critical mission.