

171 FERC ¶ 61,006
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick, Bernard L. McNamee,
and James P. Danly.

Delegated Authority

Docket No. AD20-13-000

ORDER TEMPORARILY DELEGATING FURTHER AUTHORITY

(Issued April 2, 2020)

1. The Commission, by this order, temporarily delegates further authority to the Director, Office of Energy Market Regulation, or the Director's designee, to take action on uncontested requests for waiver of certain regulatory obligations to address needs resulting from steps entities have taken to meet the emergency conditions caused by the Novel Coronavirus Disease (COVID-19), as described below, effective as of the date of this order. The authority delegated herein is effective until June 1, 2020.

I. Background

2. On March 13, 2020, the President issued a proclamation declaring a National Emergency concerning COVID-19. Entities regulated by the Commission have had to take unprecedented actions in response to the emergency conditions, including directing staff to work remotely for an extended period, which may disrupt, complicate, or otherwise change their normal course of business operations. The March 19, 2019 Notice Granting Extension of Time recognized that entities may seek waiver of the Commission's orders, regulations, tariffs and rate schedules, as appropriate, to address needs resulting from steps they have taken in response to COVID-19.¹ Regulated entities and the public have since filed waiver requests.² This has prompted the Commission to

¹ Notice Granting Extension of Time, Docket No. AD20-11-000, at 2 (Mar. 19, 2020).

² See, e.g., PJM Interconnection, L.L.C., Request for Waiver of Tariff Provisions, Docket No. ER20-1392-000 (filed Mar. 25, 2020); New York Independent System Operator, Inc., Request for Tariff Waiver, Docket No. ER20-1419-000 (filed Mar. 27, 2020).

review its procedural regulations to ensure that the Commission's work is performed in an efficient manner.

II. Delegation of Agency Authority

A. Notice

3. Given the immediate need to efficiently process and act on waiver requests made in response to the emergency conditions created by COVID-19, public notice of this action, otherwise required by 5 U.S.C. 553(b) (2018), is impracticable. The Commission's requirement to protect the public interest creates an immediate need for this action.

B. Uncontested Waiver Requests

4. The Commission in this order temporarily delegates authority to the Director of the Office of Energy Market Regulation, or the Director's designee, to take appropriate action on uncontested requests or petitions filed pursuant to section 4 of the NGA, 15 U.S.C. 717c (2018), section 205 of the FPA, 16 U.S.C. 824d (2018), and section 6(3) of the ICA, 49 App. U.S.C. 6(3) (1988), requesting prospective waivers of requirements set forth in Commission orders, regulations, tariffs, rate schedules, and service agreements to address needs due to steps movants take in response to COVID-19.³ This authority will remain in place until June 1, 2020. This delegation of authority will allow for more efficient processing of and action on these uncontested waiver requests. The need for efficient processing and action is particularly important given the emergency conditions related to COVID-19, as entities may need to seek waiver of various requirements with which they are unable to comply due to the extraordinary circumstances.⁴

³ This delegation does not permit violations of the filed rate doctrine and the rule against retroactive ratemaking, even in uncontested cases. If such questions arise, they will be considered by the Commission.

⁴ See also Supplemental Notice Granting Extensions of Time for Non-Statutory Deadlines, Waiving Regulations, and Shortening Answer Period, Docket No. AD20-11-000 (Apr. 2, 2020).

The Commission orders:

(A) The Commission hereby delegates to the Director of the Office of Energy Market Regulation, or the Director's designee, further authority to act, effective as of the date of this order, until June 1, 2020, as discussed in the body of this order.

(B) The Secretary is hereby directed to promptly publish this order in the Federal Register.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.