

## Energy regulators step up to address recent cold weather events

February 18, 2021

On February 16, 2021, in response to the extreme cold weather events resulting in significant power outages affecting millions of electricity customers throughout the Midwest and South Central states, particularly in systems operated by the Electric Reliability Council of Texas (ERCOT), Southwest Power Pool (SPP), and Midcontinent Independent System Operator (MISO), the Federal Energy Regulatory Commission (FERC) and the North American Electric Reliability Corporation (NERC) announced that they have initiated an inquiry into how the bulk power system operated during these events.

FERC and NERC initiated similar inquiries following extreme cold weather events in Texas and New Mexico in February 2011. Those 2011 events resulted in electric outages affecting over 4 million electricity customers in ERCOT, New Mexico, and the non-ERCOT regions of Texas and significant curtailments of natural gas service in the region. It is likely that the inquiry announced this week will follow the procedures followed in the 2011 inquiries and will focus on the extent to which the recommendations contained in the August 2011 joint report of the FERC and NERC staffs were followed by market participants and local regulators, and, if not, whether they could have prevented or limited the effects of the 2021 events.

In the 2011 inquiry, the staffs of FERC and NERC issued 122 data requests to affected generator operators, transmission operators, balancing authorities, and reliability coordinators, and reviewed historical data regarding prior cold weather events. The staffs also conducted numerous meetings with entities from the natural gas industry, including interstate and intrastate pipelines, local distribution companies, and participants in the processing and production sectors. Following this data collection process and coordination with state regulatory authorities, the FERC and NERC staffs issued a 357 page report (found [here](#)) summarizing their inquiry and key findings and making a series of recommendations intended to significantly contribute to preventing a recurrence of the rolling blackouts and natural gas curtailments experienced in the February 2011 cold weather events.

Among the recommendations, the report concluded that:

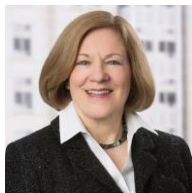
- Market participants, regional entities, and regulators in the affected regions should treat winter season planning and preparation as just as critical as preparations for summer peak conditions.
- ERCOT should revise its electric power reserve and outage planning requirements to ensure adequate supply availability during potential critical winter weather events.
- Generation owners, state regulators, and ERCOT should work to improve the cold weather capabilities of generation equipment, including consideration of adoption of winterization requirements and additional maintenance and inspection procedures.
- State lawmakers in Texas and New Mexico should determine whether minimum, uniform standards for the winterization of natural gas production and processing facilities could have mitigated natural gas shortages.
- State regulators should work with market participants to determine whether residential gas customers should receive priority over electric generation during a gas supply emergency.

FERC's authority to mandate implementation of recommendations is limited with respect to ERCOT because the electric generation and transmission industries located within ERCOT are not subject to FERC's jurisdiction under Sections 205 and 206 of the Federal Power Act. As such, FERC cannot review or require changes to any market tariffs or operating rules for the ERCOT electric markets. FERC does have jurisdiction over electric reliability in ERCOT, and the mandatory enforcement of NERC reliability standards, and at the February 18, 2021 FERC open meeting, FERC Chairman Glick stated that he was prepared to consider the adoption of additional reliability standards to mandate changes if necessary to prevent future electric reliability events such as occurred during the current cold weather events. It is likely that, if the inquiry finds that a failure to follow key recommendations from the 2011 report contributed to the 2021 outages, FERC and NERC will consider making those recommendations mandatory (for electric market participants).

In addition, on February 17, 2021, Texas Governor Greg Abbott ordered, via letter to the Railroad Commission of Texas (RRC), that "all sourced natural gas be made available for sale to local power generation opportunities before leaving the state of Texas, effective through February 21, 2021." Governor Abbott stated that he was acting pursuant to a February 12, 2021 declaration of emergency, and ordered the RRC to "take all reasonable and necessary steps to ensure that this mandate is carried out." On February 18, 2021, the RRC issued a notice to oil and gas operators in Texas to implement this directive.

Governor Abbott's order, and the RRC's notice, pose significant questions to the natural gas industry, including questions of state authority to prevent the sale and movement of natural gas in interstate commerce, particularly with respect to transportation of natural gas out of Texas by natural gas pipelines subject to FERC jurisdiction and regulation.

## Contacts



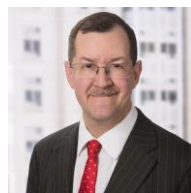
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