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Coronavirus Disrupts Major Energy Sales Channel

After the recent and rapid increase of COVID-19 cases, several governors have declared a state of emergency and issued executive orders restricting the operation of businesses to promote social distancing to curb further spread of the virus. Many state agencies, including public utility commissions, have followed suit, issuing additional orders and directives that restrict the operations of public utilities and competitive energy suppliers.

For example, many state public utility commissions have issued orders prohibiting competitive energy suppliers from in-person solicitations, including but not limited to door-to-door, across all customer classes. As the Public Utilities Commission of Ohio stated,

“Marketing practices involving in-person contact like door-to-door and in-store marketing by [Competitive Retail Electric Service] and [Competitive Retail Natural Gas Service] suppliers present unnecessary risks of spreading COVID-19 to all individuals, particularly with respect to at-risk populations in Ohio. These practices are therefore in conflict with the Governor’s Executive Order, the March 12, 2020 Order of the Director of the Ohio Department of Health, and the policy of this state.”

As of the date of this communication, restrictions on in-person solicitation are in place in Ohio, Pennsylvania, New Jersey, and Illinois. While not directly prohibiting in-person solicitations, the Michigan and Massachusetts commissions have encouraged competitive energy suppliers to voluntarily suspend these activities. These restrictions will be in place for the duration of the emergency unless otherwise ordered by the various state commissions.

During the pendency of any declaration of an emergency, competitive energy suppliers and businesses should also be mindful of any applicable “Price Gouging” statutes, which prohibit price increases beyond a threshold level. These restrictions may differ by state and industry sector.

*To provide guidance and support to clients as this global public-health crisis unfolds, Frost Brown Todd has created a **Coronavirus Response Team**. Our attorneys are on hand to answer your questions and provide guidance on how to proactively prepare for and manage any coronavirus-related threats to your business operations and workforce.*

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