

Texas Storm Impact on the Energy Sector ? A Checklist for Policyholders

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PRACTICES Insurance Recovery, Litigation, Energy, Power and Natural Resources, Crisis Management, Energy Litigation

As winter storms continue to grip Texas, the energy sector has been hit hard. Some companies have been left without power and water for days on end. Others—like power generators—have suffered from frozen equipment that has left them unable to provide much-needed services. Freezing conditions have caused extensive property damage (e.g., water damage due to ruptured pipes, collapsed equipment and roofing due to ice and snow), and many roads remain impassable.

In addition to the extraordinary property loss and business interruption, many in the energy sector are also concerned about potential lawsuits and investigations. In response to the ERCOT-managed power grid's inability to meet Texas' enormous demand, both state and federal regulators recently announced plans to investigate the cause of the ongoing Texas energy crisis. On Tuesday, Texas Governor Greg Abbot issued an executive order "to review the preparations and decisions by ERCOT so we can determine what caused this problem and find long-term solutions."¹ The same day, the Federal Energy Regulatory Commission and the North American Electric Reliability Corporation likewise announced a "joint inquiry into the operations of the bulk-power system during the extreme winter weather conditions currently being experienced by the Midwest and South central states."² The scope of these investigations is likely to expand with the effects of the energy shortage—such as recent reports of declining water pressure and water treatment throughout the state.³

While it remains unclear whether government investigations will result in findings of civil or criminal liability, past instances of mass outages indicate a high likelihood of civil litigation—including class actions—for energy price spikes, personal energy, property damage, and other losses caused by the lapse in energy generation. Indeed, Plaintiffs' lawyers are publicly soliciting clients and alleging that some companies took undue advantage of the scarcity in production by charging exorbitant prices for energy. While the viability of those suits remains unclear, companies must be prepared to face them.

Given the extreme magnitude of this weather event, Texas may be dealing with the aftermath for months, and insurance—both for an insured's own losses (first-party) and for damages claimed by others (third-party)—will play an integral part of those recovery efforts. Given the flood of claims we are sure to see, businesses need to fully understand and take advantage of the breadth of their coverage now rather than risk being last in line.

[Read the full alert here.](#)

Haynes Boone has created a task force to address all manner of issues arising from the recent storms and outages. For more information, please contact any of the attorneys listed below.