

a foreign futures or foreign options customer. Notwithstanding the termination of the agreement referred to in paragraph (a) of this section, service or delivery of any communication issued by or on behalf of the Commission, U.S. Department of Justice, any self-regulatory organization, or any foreign futures or foreign options customer pursuant to the agreement shall nonetheless constitute valid and effective service or delivery upon such person with respect to any transaction entered into on or before the date of the termination of the agreement.

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Issued in Washington, DC, on July 1, 2003, by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Parts 101, 141, 201, 260, 352, and 357

[Docket No. RM02-14-000; Order No. 634]

#### Documentation Requirements for Cash Management Programs Issued June 26, 2003

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Interim rule.

**SUMMARY:** In order to protect the customers of jurisdictional companies, the Federal Energy Regulatory Commission is amending its regulations to implement documentation requirements for cash management programs. The Commission is also seeking comments on new reporting requirements that require FERC-regulated entities to file their cash management agreements with the Commission, and to notify the Commission when their proprietary capital ratios fall below 30 percent, and when their proprietary capital ratios subsequently return to or exceed 30 percent.

This initiative responds to recent investigations by FERC and others that revealed large amounts of funds in cash management programs (at least \$16 billion) that, in many instances, were not formalized in writing. The interim rule is intended to protect the ratepaying customers of FERC-regulated entities by providing greater transparency concerning cash

management programs. Additionally, it will ensure that the investing community has more and better information to evaluate the condition of these FERC-regulated entities and their financial exposure.

**DATES:** *Effective Date:* This rule is effective August 7, 2003.

*Compliance Date:* The Commission will not implement the reporting requirements in §§ 141.500, 260.400, and 357.5 until it has considered the comments filed on these requirements.

*Comment Date:* Comments on the new reporting requirements in §§ 141.500, 260.400, and 357.5 are due August 7, 2003.

**ADDRESSES:** Comments may be filed electronically via the eFiling link on the Commission's Web site at <http://www.ferc.gov>. Commenters unable to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE., Washington, DC 20426. Refer to the Comment Procedures section of the preamble for additional information on how to file comments.

#### FOR FURTHER INFORMATION CONTACT:

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#### I. Introduction

1. The Federal Energy Regulatory Commission (Commission or FERC) is amending its regulations by implementing documentation requirements for FERC-regulated entities that participate in cash management programs. The documentation requirements are reflected in changes to 18 CFR parts 101, 201, and 352 of the Commission's Uniform Systems of Accounts for public utilities and licensees, natural gas and oil pipeline companies. The Commission, however, is not adopting the two financial prerequisites as proposed in the NOPR that would have limited participation in a cash management program when either of the two prerequisites was not met.

2. Additionally, the Commission is seeking comments on new reporting requirements that require FERC-regulated entities to file the agreements related to their cash management programs with the Commission, and require FERC-regulated entities to notify the Commission when their proprietary capital ratios drop below 30 percent, and when their proprietary capital ratios subsequently return to or exceed 30 percent. By making this information available to the public, the investing community will have needed and better information on which to evaluate the financial conditions of FERC-regulated entities. These reporting requirements are reflected in changes to 18 CFR §§ 141.500, 260.400, and 357.5 of the Commission's regulations. The Commission will not implement the reporting requirements in these Sections until it has considered the comments filed on these requirements.

3. Cash management programs are of several different types. Some concentrate and transfer funds from multiple accounts into a single bank account in the parent company's name. Another type is known as "cash pooling" or "money pooling." This system uses a single summary account with interest earned or charged on the net cash balance position. There is no movement of funds between accounts of the entities participating in the pool. All accounts must be in the same bank, but not at the same branch. A third type, known as a "zero balance account," empties or fills the balances in an affiliated company's account at a bank into or out of a parent's account each day. This list is not exhaustive and merely describes generic features of cash management programs.