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IX. Effective Date and Congressional Notification

81. These regulations are effective August 7, 2003. The Commission, however, will not implement the new reporting requirements until it has had an opportunity to consider the comments filed on these requirements. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this interim rule is not a "major rule" as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.³⁶ The Commission will submit the interim rule to both houses of Congress and the General Accounting Office.³⁷

List of Subjects

18 CFR Part 101

Electric power, Electric utilities, Reporting and recordkeeping requirements, Uniform System of Accounts.

18 CFR Part 141

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 201

Natural gas, Reporting and recordkeeping requirements, Uniform System of Accounts.

18 CFR Part 260

Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 352

Pipelines, Reporting and recordkeeping requirements, Uniform System of Accounts.

18 CFR Part 357

Pipelines, Reporting and recordkeeping requirements.

By the Commission.

Magalie R. Salas,
Secretary.

■ In consideration of the foregoing, the Commission is amending parts 101, 141, 201, 260, 352, and 357 in Title 18 of the Code of Federal Regulations, as follows:

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT

■ 1. The authority citation for part 101 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352, 7651–7651o.

■ 2. In part 101, Balance Sheet Accounts, the existing paragraph in account 146 is designated as paragraph A, and paragraphs B and C are added to read as follows:

Balance Sheet Accounts

* * * * *

146 *Accounts receivable from associated companies.*

A. * * *

B. A public utility or licensee participating in a cash management program must maintain supporting documentation for all deposits into, borrowings from, interest income from, and interest expense to such program. Cash management programs include all agreements in which funds in excess of the daily needs of the public utility or licensee along with the excess funds of the public utility's or licensee's parent, affiliated and subsidiary companies are concentrated, consolidated, or otherwise made available for use by other entities within the corporate group. The written documentation must include the following information:

(1) For each deposit with and each withdrawal from the cash management program: the date of the deposit or withdrawal, the amount of the deposit or withdrawal, the maturity date, if any, of the deposit, and the interest earning rate on the deposit;

(2) For each borrowing from a cash management program: the date of the borrowing, the amount of the borrowing, the maturity date, if any, of the borrowing, and the interest rate on the borrowing;

(3) The security, if any, provided by the cash management program for repayment of deposits into the cash management program and the security required, if any, by the cash management program in support of borrowings from the program; and

(4) The daily balance of the cash management program.

C. The public utility or licensee must maintain current and up-to-date copies of the documents authorizing the establishment of the cash management program including the following:

(1) The duties and responsibilities of the administrator and the other

participants in the cash management program;

(2) The restrictions on deposits or borrowings by participants in the cash management program;

(3) The method used to determine the interest earning rates and interest borrowing rates for deposits into and borrowings from the program; and

(4) The method used to allocate interest income and expenses among participants in the program.

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PART 141—STATEMENTS AND REPORTS (SCHEDULES)

■ 3. The authority citation for part 141 continues to read:

Authority: 15 U.S.C. 79, 16 U.S.C. 791a–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 4. Section 141.500 is added to read as follows:

§ 141.500 Cash management programs and financial condition reports.

(a) Public utilities and licensees subject to the provisions of the Commission's Uniform System of Accounts Prescribed in part 101 of this title that participate in cash management programs must file these agreements with the Commission. The documentation establishing the cash management program and entry into the program must be filed within 10 days of entry into the program. Subsequent changes to the cash management agreement must be filed with the Commission within 10 days of the change.

(b) Public utilities and licensees must determine, on a monthly basis within 15 days after the end of each month, the percentage of their capital structure that constitutes proprietary capital. The proprietary capital ratio must be computed using a formula in which the total of the balances in the Proprietary Capital Accounts; Account 201, Common stock issued, through Account 219, Accumulated other comprehensive income, in part 101 of this title is the numerator and the total proprietary capital plus the total of the Long-Term Debt Accounts; Account 221, Bonds, through Account 226, Unamortized discount on long-term debt—Debit, in part 101 of this title, is the denominator.

(c) In the event that the proprietary capital ratio is less than 30 percent, the public utility or licensee must notify the Commission within 5 days of the determination of that fact and must describe the significant event(s) or transaction(s) causing its proprietary capital ratio to be less than 30 percent including the extent to which the public

³⁶ 5 U.S.C. 804(2) (2002).

³⁷ 5 U.S.C. 801(a)(1)(A) (2002).