

management programs. The Commission is also modifying certain aspects of the documentation requirements that became effective August 7, 2003.

**EFFECTIVE DATE:** This rule is effective December 1, 2003.

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**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

I. Introduction
II. Background
III. Discussion
A. Statutory Basis for the Rule
B. Applicability of the Rule to Registered Holding Companies
C. Applicability of the Rule to Utilities Regulated by State PUCs
D. Submission of Cash Management Agreements
E. Notification Requirements
F. Public Disclosure of Information
G. Clarification of Documentation Requirements
IV. Regulatory Flexibility Act Statement
V. Environmental Analysis
VI. Information Collection Statement
VII. Document Availability
VIII. Effective Date and Congressional Notification
Regulatory Text
Appendix—List of Commenters on the Interim Rule

**I. Introduction**

1. On June 26, 2003, the Federal Energy Regulatory Commission (Commission or FERC) issued an Interim Rule, which amended its regulations under 18 CFR parts 101, 201, and 352 of the Commission's Uniform Systems of Accounts by implementing documentation requirements for FERC-regulated entities that participate in cash management programs. Cash management or "money pool" programs typically concentrate affiliates' cash assets in joint accounts for the purpose of providing financial flexibility and lowering the cost of borrowing.

2. The regulations require that FERC-regulated entities subject to these rules place their cash management agreements in writing, specify the duties and responsibilities of cash management program participants and administrators, specify the methods for

calculating interest and for allocating interest income and expenses, and specify any restrictions on deposits or borrowings by participants.

3. In the Interim Rule, the Commission also sought comments on new reporting requirements that would require FERC-regulated entities to file their cash management agreements with the Commission and 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. The reporting requirements were reflected in changes to 18 CFR parts 141, 260, and 357 of the Commission's regulations for public utilities and licensees, natural gas companies, and oil pipeline companies.

4. This Final Rule amends the Commission's regulations under 18 CFR parts 141, 260, and 357 of the Uniform System of Accounts for public utilities and licensees, natural gas companies, and oil pipeline companies by implementing the reporting requirements proposed in the Interim Rule, with some modifications. The modifications require FERC-regulated entities to compute their proprietary capital ratios quarterly (as compared to a proposed monthly computation) and to notify the Commission within 45 days after the end of each calendar quarter if their proprietary capital ratios drop below or subsequently exceed 30 percent (as compared to a proposed 15 day period for computation and 5 day notification deadline).

5. The Final Rule also modifies certain aspects of the documentation requirements that were implemented in the Interim Rule and became effective August 7, 2003. Specifically, the Commission is revising parts 101 and 201, Account 146 C, and part 352, Account 13(c), to require that FERC-regulated entities maintain documentation related only to the administrator and the FERC-regulated entity (rather than documentation related to all cash management participants). Account 146 B(1), (2) and (4) and Account 13(b)(1), (2) and (4) are also revised to require that FERC-regulated entities document the interest rates on deposits or borrowings in the cash management agreements, but not on the daily records for each deposit, withdrawal or borrowing. Additionally, the regulations are revised to require records showing the monthly balances of cash management programs, rather than daily balances.

6. The documentation and reporting requirements the Commission is adopting in this Final Rule directly address the deficiencies in cash

management programs found by the Chief Accountant in audits conducted in 2002. At that time, FERC-regulated entities had \$16 billion in cash management accounts. More recently, analysis indicates that FERC-regulated entities have \$25.2 billion in cash management accounts. The documentation and reporting requirements the Commission is adopting are needed to ensure that rates paid by the customers of FERC-regulated entities are just and reasonable. The additional financial transparency required by these rules will also aid the Commission in meeting its oversight and market monitoring obligations and will benefit the investing public.

7. In sum, the Final Rule applies to all FERC-regulated entities that have not been granted waivers of the Commission's accounting regulations and the FERC Annual Report Forms 1, 1-F, 2, 2-A or 6 filing requirements.<sup>1</sup> Due to the nature of electric cooperatives, the Commission is exempting them from the requirement 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.<sup>2</sup> Electric cooperatives must comply with the Final Rule except for the notification requirements stated above.

**II. Background**

8. An investigation by the Chief Accountant in March 2002 revealed that FERC-regulated entities had approximately \$16 billion of assets in cash management accounts. The preliminary results of the investigation also revealed severe recordkeeping deficiencies:

- Cash management agreements generally were not formalized in writing.
- The terms of the programs and the interest associated with loans were not documented in writing.
- It was unclear whether interest had been paid to subsidiary companies by the parent companies.

9. The Commission issued a Notice of Proposed Rulemaking (NOPR) on August 1, 2002, 67 FR 51150 (Aug. 7, 2002), IV FERC Stats. & Regs. ¶ 32,561 (August 1, 2002), to amend its Uniform Systems of Accounts for public utilities

<sup>1</sup> Reporting requirements for the Annual Report Forms can be found at Section 141.1 for Form 1, Section 141.2 for Form 1-F, Section 260.1 for Form 2, Section 260.2 for Form 2-A and Section 357.2 for Form 6.

<sup>2</sup> Electric cooperatives that have paid off their debt to the Rural Utilities Services are subject to the Commission's regulations.