

Supporting Statement
FERC-604, Cash Management Agreements

In 2003, the Commission issued a final rule, requiring FERC-regulated entities to file their cash management agreements with the Commission. This reporting requirement was first approved under OMB Control Number 1902-0098 (FERC-555, Records Retention Requirements) because of a related record retention requirement. In subsequent FERC-555 extension requests, FERC did not include the cash management agreement reporting requirements with the current FERC-555 requirements, even though FERC continues to collect the information.

In this clearance package, the Commission requests OMB approval of the FERC-604 information collection requirements. This is an existing collection without an OMB control number.

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.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

FERC issued rules regarding cash management programs in 2003 in order to protect customers of jurisdictional companies. The underlying premise of reporting cash management agreements to the Commission is that additional transparency of cash management activities between FERC-regulated entities and their affiliates allows the Commission and other users of financial information to be aware of the agreements and review through audit the operations of the money pool. FERC achieves this transparency by requiring FERC-regulated entities to file their cash management documents with the Commission, which consequently makes them available to the public. In addition, the requirement that any subsequent changes to an existing agreement be filed within 10 days of the date of the change is to provide users of financial information with knowledge of changes to the agreements.

The provisions in the Federal Power Act (FPA), Natural Gas Act (NGA), and Interstate Commerce Act (ICA) that authorize the Commission to require reports and documentation to administer these statutes provide ample authority for this information collection.¹

Specifically, NGA Section 8 provides that “[e]very natural-gas company shall make, keep, and preserve for such periods, such accounts, records of cost-accounting procedures, correspondence, memoranda, papers, books, and other records as the Commission may by rules and regulations prescribe as necessary or appropriate for purposes of the administration of this

¹ See 15 U.S.C. 717g (2000); 15 U.S.C. 717i (2000); 16 U.S.C. 825 (2000); 16 U.S.C. 825c (2000); 49 App. U.S.C. 20(1) (1988); 49 App. U.S.C. 20(5) (1988).

Act . . . ,”² and NGA Section 10 provides that, “[e]very natural-gas company shall file with the Commission such annual and other periodic or special reports as the Commission may by rules and regulations or order prescribe as necessary or appropriate to assist the Commission in the proper administration of this act.”³ FPA Section 301 provides that, “[e]very licensee and public utility shall make, keep and preserve for such periods, such accounts, records of cost-accounting procedures, correspondence, memoranda, papers, books, and other records as the Commission may by rules and regulations prescribe as necessary or appropriate for purposes of the administration of this Act . . . ,”⁴ and FPA Section 304 provides that “[e]very licensee and every public utility shall file with the Commission such annual and other periodic or special reports as the Commission may by rules and regulations or order prescribe as necessary or appropriate to assist the Commission in the proper administration of this Act.”⁵ Section 20(1) of the ICA provides that, “[t]he Commission is authorized to require annual, periodical, or special reports from [oil pipeline] carriers . . . and full, true, and correct answers to all questions upon which the Commission may deem information to be necessary . . . ,”⁶ and Section 20(5) of the ICA authorizes the Commission “in its discretion, [to] prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers and their lessors, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys”⁷

In sum, the Commission is entrusted with the responsibility to ensure that rates are just and reasonable and that FERC-regulated entities provide the services to which they have committed.⁸ The transparency-enhancing reporting requirements imposed by the Commission for cash management programs will help ensure that both goals are achieved.

The Commission implemented these requirements in 18 CFR Parts 141.500, 260.400, and 357.5.

2. HOW, BY WHOM, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED AND THE CONSEQUENCES OF NOT COLLECTING THE INFORMATION

The Commission requires regulated entities to submit their cash management agreements to the Commission. The Commission requires this cash management information in order to ensure that rates are just and reasonable and that FERC-regulated entities provide the services to which they have committed.

2 15 U.S.C. 717g (2000).

3 15 U.S.C. 717i (2000).

4 16 U.S.C. 825 (2000).

5 16 U.S.C. 825c (2000).

6 49 App. U.S.C. 20(1) (1988).

7 49 App.U.S.C. 20(5) (1988).

8 See FPA Sections 205 and 206, NGA Sections 4 and 5, and ICA Title 49 App. Sections 1(5) and 15(1).

If FERC did not collect the information the Commission, users of financial information, and the public would not be able to monitor the cash management agreements.

3. DESCRIBE ANY CONSIDERATION OF THE USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE THE BURDEN AND TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN

The Commission allows for respondents to file the cash management agreements electronically. Based on the Commission's eLibrary, the Commission estimates that all respondents are utilizing eFiling to submit their agreements.

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S) DESCRIBED IN INSTRUCTION NO. 2

The Commission initiated cash management program documentation and filing rules because the information was not available from other sources. The Securities Exchange Commission sometimes requires holding companies (a small subset of the respondent universe) to file cash management agreements. The Commission does not believe that any potential duplication is overly burdensome or unjustified.

In response to questions regarding duplication of effort, the Commission stated in Order 634-A that it needs this information to carrying out its statutory obligations to customers. The burden imposed on regulated entities by the Order 634-A is extremely low while the benefits to the Commission and the public of documenting over \$25 billion worth of regulated assets is high. The Commission said it would be remiss in its obligation to ensure just and reasonable rates if it were to ignore the effects on its jurisdictional entities of having these large sums in cash management programs.

5. METHODS USED TO MINIMIZE THE BURDEN IN COLLECTION OF INFORMATION INVOLVING SMALL ENTITIES

The Commission estimates that this collection requires only 1.5 hours of burden per year per respondent. In fact, if a company does not participate in a cash management agreement or makes no changes to its existing agreement, there is no burden. While the Commission does regulate small entities, it does not consider the minimal burden harmful to small entities.

6. CONSEQUENCE TO FEDERAL PROGRAM IF COLLECTION WERE CONDUCTED LESS FREQUENTLY

The Commission requires entities to file cash management agreements when such agreements are entered into or when there are changes to the agreements. If the Commission delayed the filings neither Commission nor would interested parties have access to current information regarding cash management agreements.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

There is one special circumstance pertaining to 5 CFR 1320.5(d). Specifically, if there are multiple changes to a cash management agreement in a short period of time a respondent may have to file with the Commission more often than quarterly.

8. DESCRIBE EFFORTS TO CONSULT OUTSIDE THE AGENCY: SUMMARIZE PUBLIC COMMENTS AND THE AGENCY'S RESPONSE

The Commission published in the Federal Register a 60-day notice⁹ and a 30-day notice¹⁰ to the public regarding the FERC-604 information collection on 5/20/2013 and 9/23/2013 respectively. Within the public notices, the Commission noted that it would be requesting a three-year extension of the public reporting burden with no change to the existing requirements concerning the collection of data. The Commission received no comments.

9. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

There are no payments or gifts to respondents as part of this collection.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The Commission considers the information collected to be non-confidential in nature and, therefore, it is made available to the public. The Commission has determined that release of the information is "necessary to carry out its jurisdictional responsibilities."¹¹ The information provides the Commission with relevant and accurate information on which to make decisions.

Allowing only the Commission and not the public to review the cash management agreements would not meet the goal of providing greater transparency for the protection of rate-paying customers. This transparency, in turn, will lessen the chance of an acute financial reversal that would harm utility rate paying customers and energy markets. Respondents that believe the information they submit should be withheld from public view on account of unique

9 78 FR 29359

10 78 FR 58296

11 See 18 C.F.R. § 388.112(c)(2003)

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circumstances may still request confidential treatment pursuant to § 388.112 of our regulations, stating the rationale for their requests. However, in general, unsubstantiated assertions that future harm will occur if information contained in cash management agreements is released are insufficient for a specific company to acquire confidential status.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE

There are no questions of a sensitive nature that are considered private as part of this collection.

12. ESTIMATED BURDEN OF COLLECTION OF INFORMATION

The Commission estimates the total Public Reporting Burden for this information collection as:

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Respondent Type	Number of Respondents Annually (A)	Number of Responses Per Respondent (B)	Total Number of Responses (A)x(B)=(C)	Average Burden Hours per Response (D)	Estimated Total Annual Burden (C)x(D)
Public utilities and licensees, natural gas companies, and oil pipeline companies	25 ¹²	1	25	1.5	37.5

The Commission considers the burden to submit new or revised cash management agreements to the Commission to be minimal. 1.5 hours per response is the same figure we used when this requirement was adopted and we do not see a need to change it here.

The total estimated annual cost burden to respondents is **\$3,330** [37.5 hours * \$70 per hour¹³ = \$2,625]

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no capital or start-up costs associated with this collection. All of the costs are associated with the burden hours and accounted for in Question #12.

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

¹² This figure is based on the number of filings received by the Commission for cash management agreements over the last several years.

¹³ This is a loaded cost (wages plus benefits) for a full-time employee.

	Number of Employees (FTE)	Estimated Annual Federal Cost
Analysis and Processing of filings ¹⁴	.3	\$43,745
PRA ¹⁵ Administrative Cost ¹⁶		\$2,250
FERC Total		\$45,995

The Commission bases its estimate of the “Analysis and Processing of filings” cost to the Federal Government on salaries and benefits for professional and clerical support. This estimated cost represents staff analysis, decision-making, and review of any actual filings submitted in response to the information collection.

15. REASONS FOR CHANGES IN BURDEN INCLUDING THE NEED FOR ANY INCREASE

In this package, the Commission uses the same burden hours per response as it used previously. When the Commission implemented the reporting requirement, it estimated that over 600 regulated companies would submit their cash management agreements. Because the requirements are that only new or changed agreements have to be submitted, there are fewer filings per year.

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There are no tabulating, statistical or tabulating analysis or publication plans for the collection of information. The Commission uses the data for regulatory purposes only.

17. DISPLAY OF EXPIRATION DATE

The data requirements for FERC-604 are based on regulations and not filed on formatted/printed forms. Thus, the subject data requirements do not have an appropriate format to display an OMB expiration date.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

The Commission does not use the data collected for this reporting requirement for statistical purposes. Therefore, the Commission does not use as stated in item (i) of the certification to OMB "effective and efficient statistical survey methodology." The information collected is case-specific to each information collection.

¹⁴ Based upon 2013 FTE average salary plus benefits (\$145,818).

¹⁵ Paperwork Reduction Act of 1995 (PRA).

¹⁶ Based on Commission staff time/effort for PRA compliance and for the cost to publish items in the Federal Register.

