

Supporting Statement for
FERC-604, Cash Management Agreements

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and approve FERC-604 (Cash Management Agreements; OMB Control No. 1902-0267), for a three-year period. FERC-604 is an existing data collection with reporting requirement in 18 Code of Federal Regulations (CFR) Sections 141.500, 260.400, and 357.5¹. (The reporting requirements are not changing.)

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.²

¹ 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 had inadvertently not included the cash management agreement reporting requirements with the FERC-555 requirements. In 2013, FERC submitted the requirements for OMB review and approval under a new collection number, FERC-604.

² 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)

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 Act . . . ,”³ 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.”⁴

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 . . . ,”⁵ 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.”⁶

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 . . . ,”⁷ 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”⁸

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.⁹

The transparency-enhancing reporting requirements imposed by the Commission for cash

³ 15 U.S.C. 717g (2000).

⁴ 15 U.S.C. 717i (2000).

⁵ 16 U.S.C. 825 (2000).

⁶ 16 U.S.C. 825c (2000).

⁷ 49 App. U.S.C. 20(1) (1988).

⁸ 49 App. U.S.C. 20(5) (1988).

⁹See FPA Sections 205 and 206, NGA Sections 4 and 5, and ICA Title 49 App. Sections 1(5) and 15(1).

management programs will help ensure that both goals are achieved.

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

1. HOW, BY WHOM AND FOR WHAT PURPOSE IS THE INFORMATION 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.

Cash management agreements typically contain terms of repayment into a consolidated corporate-wide “money pool” from which money was drawn by an operating company. Terms will include timing of repayment, maximum/minimum draws, interest rates, and potentially covenants/conditions that the drawing company must maintain. There are various aspects of these terms that affect whether an operating company (i.e., utility) is charging just and reasonable rates. For example, the interest rate on these draws are typically considered short-term interest rates, which are factored into calculating a utility’s cost of financing construction projects (i.e., increases revenue requirements).

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.

2. DESCRIBE ANY CONSIDERATION OF THE USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN AND THE 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.

3. 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.

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

The Commission estimates that this collection requires 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.

5. 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 interested parties would have access to current information regarding cash management agreements.

6. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION

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.

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

In accordance with OMB requirements, the Commission published a 60-day notice¹⁰ and 30-day notice¹¹ to the public regarding this information collection on 9/6/2019 and 12/17/2019 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

¹⁰ 84 FR 46949

¹¹ 84 FR 68442

existing requirements concerning the collection of data. The Commission received no comments on the 60-day notice.

FERC did not otherwise consult with members of the public concerning this information collection pursuant to 5 CFR 1320.8(d)(1).

8. EXPLAIN ANY PAYMENT OR GIFTS TO RESPONDENTS

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

9. 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.”¹² 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 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.

10. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE

There are no questions of a sensitive nature associated with the reporting requirements.

11. ESTIMATED BURDEN COLLECTION OF INFORMATION

FERC-604, Cash Management Agreements

¹² See 18 C.F.R. § 388.112(c)(2003).

Number of Respondents (1)	Annual Number of Responses per Respondent (2)	Total Number of Responses (1)*(2)=(3)	Average Burden & Cost (\$ Per Responses) e¹³ (4)	Total Annual Burden Hours & Total Annual Cost (\$) (3)*(4)=(5)	Cost per Respondent (\$) (5)÷(1)
35	1	35	1.5 hrs.; \$120	52.5 hrs.; \$4,200	\$120

12. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no non-labor start-up costs. All costs are related to burden hours and are addressed in Questions #12 and #15.

13. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimate of the cost for analysis and processing of filings is based 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.

The Commission does incur the costs associated with obtaining OMB clearance for FERC-604 collection under the Paperwork Reduction Act (PRA). The PRA Administrative Cost is a Federal Cost associated with preparing, issuing, and submitting materials necessary to comply with the PRA for rulemakings, orders, or any other vehicle used to create, modify, extend, or discontinue an information collection. This average annual cost includes requests for extensions, all associated rulemakings and orders, other changes to the collection, and associated publications in the Federal Register. FERC estimates the annual cost for this effort to be \$4,832.00.

	Number of Employees (FTE)	Estimated Annual Federal Cost
Analysis and Processing of	0.3	\$50,127.30

¹³ The Commission staff estimates that industry is similarly situated in terms of hourly cost (for wages plus benefits). Based on the Commission’s FY (Fiscal Year) 2019 average cost \$167,091 (for wages plus benefits), \$80.00/hour is used.

Filings ¹⁴		
PRA Administrative Cost		\$4,832
FERC Total		\$54,959.30

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

The Commission is making no changes to reporting requirements. The number of respondents increased because of influx in industry.

The following table shows the annual total burden of the collection of information. The format, labels, and definitions of the table follow the ROCIS submission system’s “Information Collection Request Summary of Burden” for the metadata.

FERC-604	Total Request	Previously Approved	Change due to Adjustment in Estimate	Change Due to Agency Discretion
Annual Number of Responses	35	25	10	0
Annual Time Burden (Hours)	53	38	15	0
Annual Cost Burden (\$)	\$0	\$0	\$0	\$0

15. TIME SCHEDULE FOR PUBLICATION OF DATA

There are no publications for the collection of information.

16. DISPLAY OF EXPIRATION DATE

The expiration date is displayed in a table posted on ferc.gov at <http://www.ferc.gov/docs-filing/info-collections.asp>.

17. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.

¹⁴ Based upon 2019 FTE average annual salary plus benefits (\$167,091).