

106 FERC ¶ 61,113
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Parts 141, 260, 357 and 375

(Docket No. RM03-8-000)

Quarterly Financial Reporting and Revisions to the Annual Reports

(Issued February 11, 2004)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The Federal Energy Regulatory Commission (FERC or Commission) is amending its financial reporting regulations to establish new quarterly financial reporting for respondents that file FERC Annual Reports. The Commission is updating its financial annual reporting requirements to add new schedules on ancillary services, electric transmission peak loads, and is updating the statistical classifications reported on certain schedules. The Commission is also updating the corporate officer's certification for the FERC Annual Reports, modifying filing dates, allowing respondents to submit the CPA certification electronically, and eliminating the cash management notification requirement.

This Final Rule will improve the usefulness and transparency of financial information submitted to the Commission. The increased frequency of financial reporting will help the Commission identify and evaluate emerging trends, business conditions and financial issues affecting reporting entities. Additionally, the information contained in the quarterly financial reports will identify the economic effects of significant transactions and events, allow more timely evaluations of the adequacy of existing cost-based rates, and aid in the development of needed changes to existing regulatory initiatives. Finally, more frequent and transparent financial reporting resulting from this Final Rule will help the Commission achieve its goal of vigilant oversight over reporting entities.

EFFECTIVE DATE: The rule will become effective [insert date that is 30 days after publication in the **FEDERAL REGISTER**].

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106 FERC ¶ 61,113
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Quarterly Financial Reporting and
Revisions to the Annual Reports

Docket No. RM03-8-000

ORDER NO. 646

FINAL RULE

(Issued February 11, 2004)

I. INTRODUCTION

1. The Federal Energy Regulatory Commission is amending its financial reporting regulations. In a Notice of Proposed Rulemaking issued on June 26, 2003, the Commission proposed to amend its financial reporting regulations for public utilities and licensees,¹ natural gas companies,² and oil pipeline companies,³ by establishing new quarterly financial reporting for jurisdictional entities. Additionally, the Commission proposed changes to the FERC Annual Report Forms 1, 1-F, 2, 2-A, and 6 by adding new reporting requirements, updating the corporate officer's certification requirements and accelerating the filing dates for all filers of the FERC Annual Reports.⁴ The proposed changes to the FERC Annual Reports were made primarily to achieve symmetry in these areas with the requirements for the proposed quarterly financial reports.

¹ Part 141 Statements and Reports (Schedules). See 18 CFR Part 141.

² Part 260 Statements and Reports (Schedules). See 18 CFR Part 260.

³ Part 357 Annual Special or Periodic Reports: Carriers Subject to Part 1 of the Interstate Commerce Act. See 18 CFR Part 357.

⁴ The FERC Annual Reports bear the following OMB approval control numbers: Form 1 has OMB approval number 1902-0021; Form 1-F has OMB approval number 1092-0029; Form 2 has OMB approval number 1902-0028; Form 2-A has OMB approval number 1902-0030; and Form 6 has OMB approval number 1092-0022.

2. After carefully considering the comments received, the Commission has determined that a Final Rule revising its financial reporting regulations should be issued. The purpose of this Final Rule is to improve the usefulness and transparency of financial information provided to the Commission. The Final Rule contains significant modifications from the Notice of Proposed Rulemaking (NOPR) based upon comments received.⁵ These changes should greatly reduce the administrative burden cited by filers of the quarterly financial reports, and the FERC Annual Reports, while providing the Commission with greater transparency of financial information from these respondents. The increased frequency and transparency of financial reporting will help the Commission identify and evaluate emerging trends, business conditions and financial issues affecting regulated entities.

II. BACKGROUND

3. Financial accounting and reporting provides needed information concerning a company's past performance and its future prospects. Without reliable financial statements prepared in accordance with the Commission's Uniform Systems of Accounts and related regulations, the Commission would be unable to accurately determine the costs that relate to a particular time period, service, or line of business.⁶ Additionally, it would be difficult to determine whether a given entity has previously been given the opportunity to recover its costs through rates, or to compare how the financial performance and results of operations of one regulated entity relates to that of another.

4. The need for current and better disclosures in financial statements drives the increasing demand for timely, relevant and reliable financial information. In order to improve the timeliness and the transparency of the financial information for FERC jurisdictional entities, the Commission proposed the filing of quarterly financial reports by respondents that file FERC Annual Report Forms 1, 1-F, 2, 2-A, or 6. Additionally, to strengthen the reliability of the information, the Commission proposed to update its corporate officer certification contained in the financial reports.

5. The two new financial reports proposed in the NOPR were the FERC Form No. 3-Q, Quarterly Financial Report of Electric Companies, Licensees, and Natural Gas

⁵ 68 FR 40339 (July 7, 2003), IV FERC Stats. & Regs. ¶ 32,571 (June 26, 2003).

⁶ Part 101 Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act. See 18 CFR Part 101 (2003). Part 201 Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act. See 18 CFR Part 352 (2003). Part 352 Uniform System of Accounts Prescribed for Oil Pipeline Companies Subject to the Provisions of the Interstate Commerce Act. See 18 CFR Part 352 (2003).

Companies, and the FERC Form No. 6-Q, Quarterly Financial Report of Oil Pipeline Companies. These two new quarterly financial reports would act as a supplement to the existing FERC Annual Reports by collecting basic financial information and certain financial related information from jurisdictional entities.

6. Additionally, as part of the Commission effort to update its financial reporting regulations, the NOPR proposed changes to the FERC Annual Report Forms 1, 1-F, 2, 2-A, and 6. The proposed changes to the FERC Annual Reports included the reporting of selected fourth quarter financial data, adding a new management discussion and analysis (MD&A) schedule, adding new schedules to collect data on ancillary services and electric transmission peak load, updating the statistical classifications, allowing respondents to submit the annual CPA certification electronically, updating the corporate officer certification, and modifying the filing dates.

III. DISCUSSION

A. General

7. The Commission received 74 comments from users and jurisdictional entities that file FERC Annual Reports.⁷ Users of the FERC Annual Reports were generally supportive of the Commission's proposal to require more timely, relevant, reliable, and transparent financial reporting from jurisdictional entities while respondents raised major concerns about the additional administrative burden they would experience to gather, review, certify and submit the required information within the proposed time frames. After careful consideration of all the comments received, the Commission is adopting quarterly financial reporting and changes to the FERC Annual Reports as proposed in the NOPR, with certain modifications and clarifications as discussed below. The Commission is confident that the Final Rule strikes the appropriate balance between the administrative burden placed on respondents and the benefits achieved through more frequent, transparent, and reliable reporting of financial information.

B. Quarterly Financial Reports

8. Under the proposed rule, a jurisdictional entity filing a FERC Annual Report would be required to file a basic set of financial statements on a quarterly basis prepared in accordance with the Commission's Uniform Systems of Accounts and related regulations. Additionally, as part of collecting a basic set of financial statements on a quarterly basis, the Commission proposed to collect certain information on matters that respondents report on an annual basis.

⁷ See Appendix A for List of Commenters.

9. For the reasons discussed below, the Commission will require the submission of a basic set of financial statements and other selected data to be included in the quarterly financial reports. The Commission will also modify the proposed filing dates, the requirements for the notes to the financial statements, and the corporate officer certification statement.

10. The Commission will not include as part of the Final Rule the requirement that respondents include an MD&A schedule, or the requirement that respondents submit a copy of a CPA review letter if they had the FERC quarterly report reviewed by their external accountant. Finally, the Commission will not include the requirement that respondents report fourth quarter data separately from the annual data in the FERC Annual Reports.

1. Basic Set of Financial Statements

11. The basic financial statements proposed to be included in the quarterly financial reports were the Comparative Balance Sheet, the Statement of Income and Retained Earnings, the Statement of Cash Flows, and the Statement of Other Comprehensive Income and Hedging Activities.

Comments Received

12. State regulatory bodies and others that rely on the accounting information to develop and monitor the rates paid for services are generally supportive of the changes in reporting, and view the proposal as essential for the Commission to achieve its stated purpose of providing more vigilant oversight through more timely reporting of financial information. Additionally, these commenters state that while a number of state utility regulatory commissions have quarterly and even monthly financial reporting requirements, the Commission's proposal provides more consistent and standardized reporting, and provides the needed financial information from FERC-jurisdictional entities at a level of detail that is not obtainable from other sources.⁸ NARUC agrees with FERC that while some jurisdictional entities may file similar information with the U. S. Securities and Exchange Commission (SEC), the level of detail concerning assets, liabilities, stockholders equity along with the revenues, expenses, gains, and losses is different for FERC and SEC reporting. Finally, NARUC believes the FERC proposal improves the financial reporting by public utilities on a jurisdictional basis that is most useful to FERC and the different State commissions.

⁸ See APGA at 2 and 3; ISO/RTO Council at 2 and 3; Missouri PSC at 3 and NARUC at 2.

13. Comments filed by AOPL and INGAA concerning the administrative burden jurisdictional entities would incur if required to comply with certain aspects of the proposal included statistics that also support the view that financial information is not readily available from public sources such as the SEC. AOPL states that of the 194 oil pipeline companies with tariffs on file at the FERC, only three file reports under SEC rules. AOPL states that an equal number of pipelines are privately held and have no SEC reporting requirements. And the remainder fall somewhere in between, supporting one or more direct or indirect parents having SEC reporting requirements. INGAA states that only 20 percent of their members are SEC filers.

Commission Response

14. As the commenters correctly observe, the financial information required by the Commission may not be readily available from other public sources because many FERC jurisdictional entities do not file financial statements with the SEC. For example, a company may be exempt from SEC reporting if it has no registered securities on a national securities exchange, or if its total assets are less than \$10 million with a class of equity securities held by less than 500 persons. Additionally, a company may not file financial information with the SEC if it is privately held, or if it is a cooperative.

15. Additionally, those companies that do make public filings may consolidate their regulated and unregulated operations, or report the data in such a manner that is not consistent with the Commission's Uniform Systems of Accounts and related regulations. There may be differences in the manner in which certain transactions and events are displayed for stockholder reporting and to the Commission. These reporting differences may result from differences in reporting classifications prescribed by the Commission's Uniform Systems of Accounts, as well as the detailed schedules and related disclosure requirements contained in the FERC Annual Reports.⁹ These differences arise from the Commission's need to develop and monitor cost based rates, analyze costs of different services and classes of assets, and to compare costs across lines of business.

16. Based upon the comments received, it is abundantly clear that the financial information filed with this Commission represents, in most cases, the only source of financial data presented in a format and detail suitable for the Commission to exercise its duties and responsibilities under the Federal Power, Natural Gas, and Interstate Commerce Acts. Therefore, the Commission will require jurisdictional entities to supplement their FERC Annual Reports with the filing of quarterly financial reports as

⁹ See, e.g., AOPL's Appendix C; EEI at 8 and 9; NiSource at 19 and Shell Pipeline's Attachment A.

proposed in the NOPR. The basic financial statements to be included in the quarterly financial reports are the Comparative Balance Sheet, the Statement of Income and Retained Earnings, the Statement of Cash Flows, and the Statement of Other Comprehensive Income and Hedging Activities.

17. The information contained in the quarterly financial reports will identify the economic effects of significant transactions and events, allow staff to evaluate the adequacy of existing cost-based rates, and aid in the development of needed changes to existing regulatory initiatives. This information will strengthen the Commission's ongoing activities in identifying emerging trends, and in identifying the impacts that new accounting standards, or changes in existing accounting standards, have on respondents.

2. Other Selected Financial Information

18. In addition to requiring respondents to file a basic set of financial statements, the NOPR proposed that certain detailed information be filed with the Commission. The information sought in the supplementary schedules was not new information, rather it is the same information already submitted by respondents on an annual basis in the FERC Annual Reports. The supplementary information includes revenues and the related quantities of product sold or transported, the account balances for various operating and maintenance expenses, selected plant cost data, and information concerning the nature of regulatory assets and liabilities being created or amortized during the period.

Comments Received

19. While some commenters support the proposal, many do not believe this level of account detail is needed. They urge the Commission to remove the supporting financial and related information. Some commenters state that the information is difficult to collect within a quarterly deadline and not necessary to monitor trends within the industry on an interim basis.¹⁰ Some comment that, due to the filing dates, some of the amounts will need to be estimated because the actual data will not be available until after the filing deadline.¹¹ Chevron states that certain information of liquid volumes transported by type, the specifics of its state of origin and its destination would be difficult to compile on a quarterly basis because it does not currently maintain this information in a format that readily lends itself to quarterly reporting.

¹⁰ See, e.g., Arizona at 5; Detroit Ed at 4; EEI at 12; Entergy at 3 and MidAmerica at 2.

¹¹ See Arizona at 5 and EEI at 12.

20. Finally, some commenters suggest alternatives to the schedules proposed in the NOPR by requiring the reporting of key information that they believe materially affects equity, financing, business structure or the operations of the regulated entity. Examples of the information commenters recommend reporting include acquisitions, divestures and abandonments, new financing arrangements, hedges and derivatives, and pipeline shutdowns.¹²

Commission Response

21. Congress granted the Commission authority to prescribe periodic financial and non-financial reporting.¹³ All jurisdictional entities subject to the Commission's accounting and financial reporting regulations are required to keep their books and records in such a manner as to permit the preparation of financial and operating statements directly from such records at the end of each accounting period according to the prescribed accounts. Furthermore, the accounting period prescribed by the Uniform Systems of Accounts is a calendar month.¹⁴ Consequently, the Commission's existing regulations require jurisdictional entities to have accounting and financial reporting systems in place to readily prepare financial and operating statements summarized on a monthly basis. Therefore, it should not be unduly burdensome for these entities to prepare and report on account activity on a monthly, quarterly, or annual basis when required to do so by this Commission.

22. The supplemental schedules provide important details regarding the types and sources of revenues, the category and types of costs incurred, the assets and utility investments made by the respondent, significant new borrowings incurred during the period, as well as information about the establishment and disposition of regulatory assets and liabilities during the period. The reporting of this detailed information allows Commission staff to better understand emerging trends experienced by the respondents, and the economic impact that significant transactions, events, and regulatory initiatives have on regulated operations. Additionally, this level of detailed reporting helps ensure that emerging financial trends are not masked due to the consolidation of various account

¹² See, e.g., AOPL at 26.

¹³ Authority granted to the Commission pursuant to sections 4, 304 and 309 of the Federal Power Act, sections 10(a) and 16 of the Natural Gas Act, and section 20 of the Interstate Commerce Act. See 16 U.S.C. 797, 825c and 825h; 15 U.S.C. 717i(a) and 717o; and 49 App. U.S.C. 1-85 (1988).

¹⁴ See 18 C.F.R. Parts 101 and 201, General Instruction 3(c) and 4, for the accounting period and financial statement requirements of public utilities and licensees, and natural gas companies, and 18 C.F.R. Part 352, General Instruction 1-3, for the accounting period and financial statement requirements of oil pipeline companies.

balances. Finally, this level of detail along with the related notes contained in the reports will allow the Commission to better monitor the adequacy of cost based rates on a more timely basis, and to monitor the respondents' overall compliance with Commission regulations.

23. The collection of selected or fragmented data, as urged by some commenters, will not provide a complete financial picture of how certain events or transactions have impacted the financial condition or results of operations of the jurisdictional entity. Nor will reporting changes for only a selected or isolated set of transactions or events provide the Commission with the means to view the matter in a complete financial context. Selected reporting will not allow for the comparability of those economic effects among others within the same industry, or provide reasonable assurance that emerging trends affecting the respondents will be reported. Finally, under the alternative approach, it will be extremely difficult to create an exhaustive listing of transactions or events that should be reported, or what particular aspects of any particular transaction or event should be disclosed. Therefore, the Commission declines to adopt the commenter's alternative approach to the supplemental schedules.

3. Management Discussion and Analysis

24. The Commission proposed to include a new schedule to the quarterly and annual reports entitled Management's Discussion and Analysis of Financial Condition and Results of Operation (commonly referred to as the "MD&A"). This schedule would contain a forward looking discussion regarding the probable impact of current and future events on the respondent's operations. In order to add reporting structure to the free flowing written disclosure format used in the SEC reports, the proposal included a listing of 17 items common to FERC jurisdictional entities that should be addressed if that matter was significant to the company with the additional instruction for respondents to discuss any other significant events not listed that could potentially positively or negatively impact the company. Finally, as noted in the NOPR, the MD&A is a required disclosure for publicly traded companies pursuant to SEC regulations.

Comments Received

25. APGA supports the objectives and believes that the MD&A could achieve them. APGA views the MD&A schedule at a jurisdictional entity level as critically important, and also suggests that the Commission include a requirement that jurisdictional entities file a notification with the Commission when a material change has occurred.

26. However, the vast majority of the comments received on the form and content of the MD&A schedule urge the Commission to eliminate, or modify, the proposed requirement. Most commenters express concern for potential litigation that could arise with such forward looking statements along with the significant administrative burden companies might incur if they are required to complete the MD&A schedule as proposed in the NOPR.¹⁵

27. Many commenters argue that the SEC has substantial “safe harbor” rules that provide protection to companies from potential litigation risks associated with disclosing this type of information. These commenters urge the Commission adopt safe harbor rules similar to those of the SEC.¹⁶

28. Commenters that urge the Commission to adopt a safe harbor provision state that under the Private Securities Litigation Reform Act of 1995 (PSLRA), the SEC provides a safe harbor from liability for forward-looking information.¹⁷ They argue that absent statutory protection, SEC registrants making corporate disclosures might be subject to damage claims if, and when, their forward-looking statements failed to correspond to actual results, and that the types of information that would be elicited in the MD&A reporting requirement appear to be precisely the types of statements for which a safe harbor is needed. They state that Congress and the SEC recognize how future looking statements can be highly charged and subject to misinterpretation, and that Congress viewed it necessary to enact statutory protection for such disclosures. These commenters further argue that it is not clear whether any of the protections applicable to SEC registrants under the PSLRA would be enjoyed by FERC jurisdictional entities that are not SEC registrants. Finally, they argue that, before imposing the MD&A requirements, the Commission should be in a position to assure respondents that they have full safe harbor protection similar to that which applies to SEC registrants.

29. Some commenters that currently file SEC reports request that they be permitted to submit MD&A prepared under SEC guidance in their FERC annual and quarterly financial reports.¹⁸ Others also seek clarification on the definition of materiality and request that the Commission adopt the SEC definition of materiality. They state that a

¹⁵ See, e.g., INGAA at 2; AOPL at 20 and EEI at 5.

¹⁶ See, e.g., BP at 7; AOPL at 22; Kinder Morgan at 12; PSEG at 11; INGAA at 16 through 19 and Southern at 2.

¹⁷ See Private Securities Litigation Reform Act of 1995, Pub. L. No. 104-67, 109 Stat. 737 (1996).

¹⁸ See NU at 7; Old Dominion at 7; EEI at 11 and NRECA at 9.

difference in levels of materiality could lead to different MD&A prepared for the SEC and FERC. These material differences could lead to potential litigation.¹⁹ Some commenters also request that the MD&A content be modified to focus on historical events and be less speculative.²⁰

30. Other commenters urge that at the very least, the format of the MD&A in the proposal be modified. These commenters seek clarification on the specific 17 proposed items in the MD&A section. They question the value of the proposed information, while others request that the MD&A schedule be more free flowing.²¹ PSEG questions if the 17 items are intended as general guidance to preparing the MD&A, or if they are required by each filer. PSEG also requests that the quarterly MD&A be treated as an update to the annual MD&A and only require significant or material changes from the FERC Annual Report be reported, similar to the quarterly MD&A filed with the SEC. Other commenters express concern that the proposed MD&A, in the proposed format, goes beyond the SEC MD&A requirements. These commenters point out that the SEC requires only material changes to be reported quarterly in MD&A.²² AEP refers to the SEC method for reporting MD&A as familiar and with extensive guidelines. Entergy requests the Commission eliminate the “boiler plate” approach to MD&A.

31. Although commenters recognize the need for information at the jurisdictional level,²³ some privately-held companies express concern because they currently do not prepare an MD&A.²⁴ Oil industry commenters also express concern regarding the potential for revealing confidential shipper data in MD&A.²⁵ Commenters also indicate that the MD&A, as proposed by the Commission, may create unintended administrative burden in its present form.²⁶ Additionally, there are a few commenters that believe the MD&A, in the proposed format, overlaps with that of the SEC, and is unnecessary.²⁷

¹⁹ See, e.g., AEP at 2; KeySpan at 9; Gulf South at 8; Shell Gas at 7 and 8; NiSource at 16 and Shell Pipeline at 2.

²⁰ See Plains at 5; AEP at 2; Duke at 4; SCE at 7; INGAA at 10; Gulfterra at 6 and 7; EEI at 18 and Southern at 2.

²¹ See PSEG at 11; AEP at 2; National Grid at 6 and Entergy at 3.

²² See, e.g., PacifiCorp at 11-12; Duke at 5; SCE at 4; Shell Pipeline at 12; INGAA at 22 and EEI at 5.

²³ See APGA at 5 and NARUC at 2 and 3.

²⁴ See AOPL at 7; Williston Basin at 6 and KeySpan at 11.

²⁵ See AOPL at 21; Plains at 5; Kinder Morgan at 13; Williston Basin at 6; Gulfterra at 7 and BP at 7.

²⁶ See PSEG at 6; Colonial at 4 and Portland General at 2.

²⁷ See ConEd at 1; MidAmerican at 2; Arizona at 5; Pepco at 1 and Entergy at 1.

Commission Response

32. Based upon the comments received, the Commission will not include the MD&A schedule in the quarterly financial reports or in the FERC Annual Reports. Although the Commission recognizes the benefits of obtaining similar information at a jurisdictional entity level from all public and non-public jurisdictional entities that file financial information with the Commission, the potential litigation and confidentiality issues that may arise, in addition to the various administrative burden issues raised by the commenters of both privately held and publicly held companies, appear to outweigh the benefits derived from obtaining such information as proposed in the NOPR.

4. Notes to the Financial Statements

33. The NOPR proposed the inclusion of notes to the financial statements in accordance with current accounting principles. Additionally, the NOPR required respondents to provide information on certain subjects that are also reported in the FERC Annual Reports. These subjects included the reporting of pension plan details, restrictions on retained earnings, significant refunds, and other items that have been reported in the respondent's prior year FERC Annual Report.

Comments Received

34. Some commenters suggest that the Commission eliminate the requirement to provide notes to the financials, while others urge the Commission to require only a condensed or abbreviated set of quarterly financial notes that discuss material changes occurring since the prior FERC Annual Report filing.²⁸ Others urge the Commission to permit respondents to file notes to the financials statements which are consistent with those provided in their SEC Form 10-K.²⁹

Commission Response

35. The notes to the financial statements are an extension of the basic financial statements and are integrally related to them. The notes enable users of the data to understand the nature of the amounts presented in the financial statements and better interpret its meaning.

²⁸ See, e.g., AEP at 2; Cinergy at 4 and Entergy at 3.

²⁹ See, e.g., EEI at 4; FirstEnergy at 4 and Iroquois at 4.

36. Consequently, the Commission will require respondents include notes to the financial statements in their quarterly financial reports. However, the Commission will adopt the commenters' recommendation that respondents be permitted to file abbreviated notes to the financial statements in their quarterly financial reports.

37. The use of abbreviated notes will be equivalent to the requirements for interim reporting established by the SEC.³⁰ Under these requirements, filers of the FERC quarterly financial reports must include disclosures in the accompanying notes sufficient so as to make the interim information not misleading.

38. Quarterly financial reporting is a supplement to the FERC Annual Reports, and it presumes the users of the quarterly financial reports have read the audited financial statements from the preceding year, including the notes to the annual financial statements. Therefore, footnote disclosure which would substantially duplicate the disclosures contained in the most recent FERC Annual Report may be omitted. However, disclosure must be provided where events subsequent to the end of the most recent year have occurred which have a material effect on the respondent.

39. Equivalent to the SEC footnote disclosure requirements, the Commission will require respondents to include in their notes significant changes since the most recently completed year in such items as: accounting principles and practices; estimates inherent in the preparation of the financial statements; status of long-term contracts; capitalization including significant new borrowings or modifications of existing financing agreements; and changes resulting from business combinations or dispositions. And similar to the SEC requirements for interim reporting, where material contingencies exist, the disclosure of such matters must be provided even though a significant change since year end may not have occurred.

40. The use of abbreviated notes will minimize duplicate disclosures, reduce the administrative burden cited by some commenters, and ensure that the interim information presented in the financial statements is not misleading. Finally, to the extent that the notes to the financial statements relating to the respondents appearing in the annual report to stockholders are applicable and furnish the required data, such notes may be included in the quarterly financial reports.

³⁰ See SEC Regulation S-X, Rule 10-01(a)(5).

5. Filing Dates for the Quarterly Financial Reports

41. The Commission proposed that jurisdictional entities would submit the quarterly financial reports using a phase-in approach. The phase-in approach would start in 2004 with the reports filed 45 days after the end of the quarter, and accelerate the filing date to 35 days after the end of the quarter by September 2005. This phase-in approach, and related filing dates, would have been applicable to all respondents.

Comments Received

42. Most commenters urge the Commission to provide “breathing room” between the filing dates of the SEC quarterly reports and the filings dates of the FERC quarterly reports. Commenters recommend extensions ranging from 20 days to 60 days, or longer, after the applicable SEC quarterly filing dates. Commenters state that extending the deadline will reduce administrative burden, allow more productive use of staff, and result in better quality of reporting by allowing filers a reasonable period of time to gather the appropriate information and properly prepare the quarterly reports.³¹ Some commenters also urge the Commission to provide a temporary filing extension for the initial 2004 reporting year to give respondents extra time to establish procedures and work through learning curves.³² These commenters state that only SEC filers that meet certain criteria must file on an accelerated basis, and that the Commission’s proposal will result in smaller companies filing financial statements with the FERC before they are required to file with the SEC. Finally, Iroquois echoes in its comments the SEC’s view that while larger companies may have more complex operations, they also are more likely than smaller companies to have the infrastructure and resources to report on an accelerated basis.

Commission Response

43. Based upon the comments received, the Commission will modify the proposed filing dates so that respondents may properly prepare, review, and certify the quarterly financial reports filed with the Commission. The modifications made to the proposed filings dates will provide for greater precision in the data reported without imposing an undue burden on respondents.

³¹ See, e.g., AEP at 3; Arizona at 8; AOPL at 16; Cinergy at 5; EEI at 7 and INGAA at 24.

³² See, e.g., Arizona at 8 and EEI at 7.

44. It is important to balance the Commission's need for financial information with the ability of the respondent to prepare that information without undue burden. As noted by many commenters, the SEC has only accelerated the filing dates for large public companies that meet certain criteria while others may continue to file their reports using the existing filing dates.³³

45. Therefore, beginning in 2005 major public utilities and licensees, and major natural gas companies will be required to file their quarterly reports 60 days after the end of the quarter. Nonmajor public utilities and nonmajor natural gas companies, and all oil pipeline companies will be given additional time to file their quarterly financial reports. These respondents will file their quarterly financial reports within 70 days after the end of the quarter. These modifications to the filing dates proposed in the NOPR should relieve most of the administrative burden cited by jurisdictional entities caused by identical FERC and SEC filing dates for quarterly financial reporting.

46. Additionally, the Commission will provide additional relief during the initial year of reporting, as urged by some commenters. A temporary filing extension will be provided for the quarterly filings made in 2004 in order to provide respondents additional time to establish the necessary procedures to report financial information on a quarterly basis as show in the table below:

	Quarterly Period	Filing Dates for All Respondents as Proposed in the NOPR	Filing Dates For Major Electric and Natural Gas Respondents in Final Rule	Filing Dates For Nonmajor Electric, Nonmajor Natural Gas, and All Oil Pipeline Respondents in Final Rule
1	1/1/2004 - 3/31/2004	May 15, 2004	July 9, 2004	July 23, 2004
2	4/1/2004 - 6/30/2004	August 14, 2004	September 8, 2004	September 22, 2004
3	7/1/2004 - 9/30/2004	November 14, 2004	December 9, 2004	December 23, 2004
4	1/1/2005 - 3/31/2005	May 10, 2005	May 31, 2005	June 13, 2005
5	4/1/2005 - 6/30/2005	August 9, 2005	August 29, 2005	September 12, 2005
6	7/1/2005 - 9/30/2005	November 9, 2005	November 29, 2005	December 13, 2005
7	Subsequent Quarters	35 days after the end of the quarter	60 days after the end of the quarter	70 days after the end of the quarter

47. Finally, in order to reduce the administrative burden incurred by respondents during the initial reporting year, the Commission will only require that current year data be included in the quarterly financial reports filed during 2004. Respondents will not be required to report prior year's quarterly amounts in these filings.

³³ See, e.g., Portland General at 5; FirstEnergy at 6, MidAmerica at 2 and INGAA at 24.

6. Certified Public Accountant Review Letter

48. In the NOPR, the Commission explains that it is not requiring the quarterly financial report to be reviewed by the respondent's certified public accountant (CPA). However, the NOPR states that if a company has its quarterly financial report reviewed, it must provide a copy of the CPA review report to the Commission.

Comments Received

49. Some commenters agree with the proposal requiring the submission of a CPA review letter only when an external accountant reviews the Commission's quarterly financial report and provides the respondent with a report.³⁴ Others state that the Commission should use the SEC approach which requires a registrant to obtain an external review of interim financial information but does not require a letter evidencing such a review unless the company states in the filing that the financial information was reviewed by an independent CPA.³⁵

50. External accounting firms state that there is no provision under the American Institute of Certified Public Accountants (AICPA) Professional Standards that govern the roles and responsibilities of the independent accountant in reviewing a set of interim financial statements prepared under another comprehensive basis of accounting (OCBOA) for a SEC registrant, or non-SEC registrant, unless the non-SEC registrant is making a filing with a regulatory agency in preparation for a public offering or listing. They suggest that the Commission consider working with the Public Company Accounting Oversight Board in promulgating reporting standards for performing interim reviews on financial statements prepared on an OCBOA basis, and they are willing to assist Commission staff in this effort.³⁶

Commission Response

51. The Commission will not require respondents to have the quarterly financial report reviewed by a CPA, nor will it require respondents to submit a copy of the CPA review letter or report if one is issued by an external accountant. As previously stated in this Final Rule, quarterly financial reports are considered to be supplements to the respondent's FERC Annual Report. As such, the Chief Financial Officer will attest to the quarterly and annual financial reports. Additionally, the FERC Annual Reports, as a general matter, are audited by the respondents' external accountants, and respondents are

³⁴ See APGA at 6 and ITC at 2.

³⁵ See EEI at 20 and PSEG at 14.

³⁶ See D&T at 3 and PWC at 2 and 3.

required, under the Commission's existing regulations, to submit a copy of the auditor's report to the Commission. Therefore, the Commission finds that an appropriate balance is struck between the reliability of the data and the administrative costs respondents incur to provide the data to the Commission.

7. Exemption Requests

52. The Commission received numerous requests from respondents to be exempt from filing a quarterly financial report. Most respondents urge the Commission to waive the filing requirements due to the administrative burden caused by the content and accelerated filing dates proposed in the NOPR. As more fully discussed below, the Commission is of the view that blanket exemptions or waivers are not necessary due to the modifications and changes made to the proposal in the Final Rule. Therefore, as provided in the NOPR and contained in this Final Rule, respondents that file a FERC Annual Report No. 1, 1-F, 2, 2-A, or 6 are required to file quarterly financial reports. However, a jurisdictional entity with a waiver from filing a FERC Annual Report No. 1, 1-F, 2, 2-A, or 6 is exempt from filing quarterly financial reports.

Comments Received

53. Some public utilities and natural gas companies urge the Commission to grant exemptions from the quarterly financial reporting requirements due to the administrative burden, and recommend the Commission exempt respondents that file FERC Annual Report Nos. 1-F and 2-A from the quarterly reporting requirement.³⁷

54. Some commenters suggest an exemption for FERC respondents with revenues under various amounts, or an exemption for those that do not file financial statements with the SEC.³⁸ MPSC urges the Commission to waive the reporting requirements for those that do not have a significant energy presence or who are not involved in generation, power marketing, and trading. National Grid suggests that companies within an affiliated group of companies be exempt if they represent less than 10 percent of the affiliated group's consolidated operating revenues, gross plant assets, and number of utility customers, or considering using a threshold that exempts entities in the bottom 10 percent as measured by operating revenues, gross plant, or using other measures. Certain electric cooperatives urge the Commission to exempt electric distribution cooperatives from any final rule because they are not major participants in the capital markets and state this rule will be a hardship.³⁹

³⁷ See, e.g., AGA at 3 and INGAA at 25.

³⁸ See AEP at 3 and 4; EEI at 5 and Southern at 3.

³⁹ See, e.g., Connexus at 19 and Inland at 2.

55. The ISO/RTO Council focuses on the increased administrative burden that will be imposed if an MD&A, accelerated filing dates, and expanded corporate officer certification are required, and therefore urge the Commission to exempt them from quarterly financial reporting. It states that they have an almost de minimis value of physical assets and have no ownership interest in the utility infrastructures that are under operational control. Therefore, the significantly smaller capital requirements of an ISO or RTO will be provided by non-public sources such as administrative service charges to its market participants, bank financing lines or private-placement debt instruments.⁴⁰

56. The ISO/RTO Council argues that there is no public ownership and that its members are formed as not-for-profit corporations or otherwise operate on a revenue neutral basis under its respective state or provincial laws. It states that none of the Joint ISO/RTOs are authorized to, nor have, issued to the public any shares of ownership interest in their entities, and none are affiliated with any company that has done so.⁴¹ It also states that ISOs/RTOs are service organizations whose principle revenue streams typically come from cost-of-service based service charges from their market participants which are either specifically approved by this Commission or are derived from Commission authorized formula rates.⁴²

57. Finally, it states that the Commission's Uniform System of Accounts does not in most cases translate well for effectively reporting financial and transactional results of ISO and RTO operations. It urges the Commission to re-institute its previous effort to develop a uniform chart of accounts that will be more applicable to ISO/RTO operations and states that the jurisdictional members of the ISO/RTO Council are prepared to fully support such an effort and contribute whatever resources are required to complete such an effort.⁴³

Commission Response

58. Due to the modifications and changes made to the NOPR, the Commission has significantly reduced most of the administrative burden cited by the commenters as the primary justification for blanket exceptions from filing a quarterly financial report. For example, the Commission has eliminated the MD&A requirement from both the quarterly

⁴⁰ See ISO/RTO Council at 8.

⁴¹ Id. at 9.

⁴² Id. at 11.

⁴³ Id. at 8.

financial reports and the FERC Annual Reports, and will accept abbreviated notes to the quarterly financial reports. Additionally, the Final Rule provides additional relief for respondents by modifying the filing dates for the quarterly financial reports which will reduce the staffing resources needed to compile the data within the required timeframes. Therefore, the Commission will not provide blanket waivers or exemptions for respondents. Respondents must supplement their FERC Annual Reports with the quarterly financial reports as provided for in this Final Rule.

59. Finally, the Commission's staff has participated in informal meetings held to discuss potential accounting changes needed to the current regulatory accounting framework resulting from the formation of ISOs and RTOs. It continues to monitor the development of these entities in an effort to provide timely accounting guidance addressing their issues.⁴⁴ The Commission appreciates the ISO/RTO Council's offer to fully support an effort to update the Uniform System of Accounts to better accommodate their unique utility business model, and staff will continue to work with these entities and continue its efforts in this developing area.

C. Updates to the FERC Annual Reports

60. As part of updating the FERC Annual Reports, the Commission proposed to accelerate the filing dates. Additionally, the Commission proposed to add new schedules in the FERC Annual Report Nos. 1 and 1-F in order to collect information on the amount of ancillary services purchased and sold during the year, and to update the statistical classifications resulting from the use of the transmission system by and for others to reflect open access transmission established under Order No. 888.⁴⁵ The Commission also proposed to modify certain schedules that report revenues and expenses so that these schedules will report fourth quarter activity for certain account balances or utility functions. Based upon the comments received the Commission will modify certain aspects of the proposal as discussed below.

⁴⁴ For example, on October 1, 2001, the Chief Accountant issued Accounting Release No. 16, Operating and Administrating an Electric Power Exchange. This accounting release provided guidance to the electric industry on the proper accounting and reporting for revenues and expenses incurred to operate and administer a power exchange.

⁴⁵ See Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 FR 21540 (May 10, 1996), FERC Stats. & Regs., Regulations Preambles (Jan. 1991-June 1996), ¶ 31,036 (Apr. 24, 1996).

1. Filing Dates for the FERC Annual Reports

61. The Commission proposed to accelerate the filing dates for the FERC Annual Reports so that financial information will be obtained from all respondents on a more timely basis, and thereby increasing its transparency and usefulness. The Commission proposed that all respondents use the same accelerated filing dates adopted by the SEC.

Comments Received

62. APGA supports the proposal and suggests that due to advances in collecting and reporting an even shorter time frame may be appropriate. However, most commenters recommend that the existing filing dates remain, or even be extended, in order to give them additional time between the filing of the SEC 10-K reports and FERC Annual Reports.⁴⁶ These commenters cite significant administrative burden they will incur to prepare, review, and certify the FERC Annual Reports. Additionally D&T states that the acceleration of the FERC Annual Report deadline creates an additional burden for external accountants who must provide an auditor's opinion on the FERC Annual Report.

63. Oil pipeline companies assert that, under Section 20 of the Interstate Commerce Act, they have three months after the close of the reporting year to file their FERC Annual Reports with the Commission, and that many have found it difficult to meet the current filing date.⁴⁷ Kinder Morgan states that many pipelines routinely file for an extension of time to file because it has become difficult to meet the current March 31 deadline.

Commission Response

64. Based upon the comments received concerning the additional administrative burden that respondents will incur to implement the new corporate officer certification, and other reporting requirements contained in this Final Rule, the Commission will not require FERC Annual Reports to be filed on the same accelerated dates as proposed in the NOPR. The Commission will modify its existing filing dates for the FERC Annual Reports to provide for additional time to prepare and file the FERC Annual Reports.

65. In order to ease the administrative burden on respondents, the Commission will not include the proposed new schedules on ancillary services and other statistical classifications for the 2003 FERC Annual Reports that will be filed in 2004. Additionally, the Commission will modify the filing dates for the FERC Annual Reports

⁴⁶ See, e.g., AEP at 3; AGA at 5; Cinergy at 5; EEI at 7; PSEG at 10; and San Diego at 4.

⁴⁷ See Chevron at 3; Gulf South at 6; and Kinder Morgan at 15.

as proposed in the NOPR. Finally, the Commission will provide for a temporary filing extension for the 2004 FERC Annual Report to give respondents additional time to establish the necessary procedures to report the data required by this Final Rule. These new dates and other modifications to the NOPR will relieve most of the administrative burden cited by the respondents and their external accountants. The table below details the filing dates for the Annual Report Forms 1, 1-F, 2, 2-A, and 6.

	Calendar Year Ending	Proposed in NOPR	Final Rule
1	December 31, 2004	March 1, 2005	April 25, 2005
2	Each Year Thereafter	March 1	April 18

66. The modified filing dates for the FERC Annual Reports will reduce the administrative burden cited by respondents by eliminating simultaneous SEC 10-K and FERC Annual Report filings. Additionally, the new filing date will provide oil pipeline companies with additional time to file their FERC Annual Reports and thereby reduce the number of extension requests made by these respondents.

2. Ancillary Services

67. The Commission proposed to add a new schedule in the FERC Annual Report Nos. 1 and 1-F that details the amount of ancillary services purchased and sold during the year. The Commission explained in the NOPR that this schedule was needed because these services and related amounts have been reported in an inconsistent manner by most respondents. The proposed schedule would standardize the form and content of the data collected.

Comments Received

68. NARUC strongly supports the proposal to collect financial information on the amount of ancillary services purchased and sold during the year and argues that such information will help State commissions better monitor public utilities' compliance with open access transmission tariffs. Two commenters seek clarification concerning whether the data elements must be reported in dollars or megawatt hours.⁴⁸

Commission Response

69. The Commission clarifies that the units of the data elements on the ancillary service schedule are to be reported in both dollars and the billing determinants reflecting usage.

⁴⁸ See Arizona at 8 and EEI at 23.

70. For ratemaking and monitoring regulated transmission services, the Commission requires information from respondents on the dollar amounts for both expense and revenues associated with these services, as well as the usage-related billing determinants associated with these purchase and sales transactions. Therefore, the Commission will clarify the instructions and make the necessary modifications to the schedule for respondents to report both dollars and usage-related billing determinants associated with these services.

3. Electric Transmission Peak Loads

71. The Commission proposed a new schedule in the FERC Annual Report Nos. 1, 1-F, and in the quarterly financial reports that would collect information concerning the transmission system including the respondent's own use of its transmission system. This information will aid the Commission in evaluating the adequacy of existing traditional cost-based rates.

Comments Received

72. EEI indicates the electric transmission peak load schedule cannot be prepared within the timeframe that FERC is proposing, and the use of estimates will be required. Additionally, the breakdown of the system peak load into statistical classifications will tend to be subjective because there is no guidance on methodology which will result in inconsistent submissions by FERC respondents.

Commission Response

73. As previously mentioned, the Commission is modifying the filing dates for the FERC Annual Reports and the quarterly financial reports. The changes in the filings dates should provide respondents with sufficient time to collect and report the required information.

74. Also, the Commission notes that monthly transmission system peak loads are measurable, not subjective. As guidance on methodology, the Commission clarifies that each of these peak loads are the Monthly Transmission System Peak as defined in the pro-forma Open Access Transmission Tariff. The value in the statistical classifications listed below the monthly peak should reflect each classification's contribution to the firm Monthly Transmission System Peak. In this regard, the Commission clarifies that the line labeled "Non-Firm Service" will be deleted, because non-firm service does not contribute to firm peak load. The Commission also clarifies this schedule will be included in the quarterly financial reports and the FERC Annual Report Nos. 1 and 1-F. If a respondent finds the use of estimates is necessary to complete the schedule, the respondent must indicate this fact on the schedule and fully describe the estimation methodology in a footnote.

4. Statistical Classifications

75. As part of the revisions to the FERC Annual Report Nos. 1 and 1-F, the Commission proposed to update the statistical classifications for the Schedule of Transmission of Electricity for Others, and for the Schedule of Transmission by Others, to reflect open access transmission established by Order No. 888.⁴⁹

Comments Received

76. EEI states that the changes add new statistical classifications. EEI interprets the report to require a separate line for each customer, for each type of service taken, and for each transmission path used. EEI requests guidance for netting groups of customers, or for materiality thresholds, and contend that a literal interpretation of the proposal could result in thousands of lines of data.

Commission Response

77. The Commission notes that collection of the data fields on this page has been required in the FERC Annual Report No. 1 for years, and that the new, additional statistical classifications reflect service categories available under the pro-forma Open Access Transmission Tariff.

78. Clearly, the volume of data will vary by respondent. However, in cases of actual extreme volume, aggregation of data by logical criteria may be acceptable if the method of aggregation is clearly footnoted. In all cases, the respondent should keep a complete electronic copy of the disaggregated data.

5. Selected Fourth Quarter Data in FERC Annual Reports

79. The Commission proposed to break out certain fourth quarter account data for certain income statement accounts reported in the FERC Annual Reports. The Commission proposed that the revenue and expense account data be shown in two new columns, one column for the current quarter and a second column for the same quarter of the previous year.

⁴⁹ Under the Uniform System of Accounts prescribed for Public Utilities and Licensees, revenues from transmission of electricity of others over transmission facilities of the respondent are recorded in Account 456, Other electric revenues, and amounts payable to others for the transmission of the respondent's electricity over transmission facilities owned by others are recorded in Account 565, Transmission of electricity by others.

Comments Received

80. Some commenters urge the Commission to eliminate the requirement to separately display fourth quarter data in the FERC Annual Reports. They argue that the requirement is more onerous than the SEC's requirement since the SEC requires only three quarters and one annual report, and there is no SEC requirement to analyze the fourth quarter separately. They also state that the FERC Annual Report should coincide with SEC reporting requirements for selected quarterly financial data to be presented in the financial notes.⁵⁰

Commission Response

81. The Commission will not adopt the proposal requiring respondents to separately report certain fourth quarter income statement data in the FERC Annual Reports. Pursuant to this Final Rule, the Commission will require respondents to file three quarterly financial reports and a FERC Annual Report that reports on the account balances and activity for the entire year. The Commission's existing information technology has the ability to generate any needed internal special reports detailing selected fourth quarter activity for the purpose of review and evaluation. Therefore, the Commission finds that there is no need to burden respondents with separately displaying fourth quarter data in the FERC Annual Reports.

D. Corporate Officer Certification

82. Under the Commission's existing certification procedures, a company officer must sign a certification stating that he or she has examined the FERC Annual Report and to the best of his or her knowledge and belief, the statements contained in the FERC Annual Report are true. The Commission proposed to update the corporate officer certification language contained in the FERC Annual Report, and to include the updated language in the quarterly financial reports. The new corporate officer certification was proposed in response to recent changes in corporate governance practices. This update was proposed to improve the reliability of the financial information filed with the Commission.

⁵⁰ See, e.g., DE at 5; FPL at 6 and Gulfterra at 4.

83. A recent review of the FERC Annual Reports filed for the calendar year 2002 indicated inconsistencies in the level of management certifying the reports.⁵¹ The level of management that certify the FERC Annual Reports ranged from assistant controllers, controllers, chief financial officers, or individuals at a higher level within the organization. Therefore, in order to provide uniformity of accountability for jurisdictional entities, the Commission proposed that the principal executive officer of the jurisdictional entity and the principal financial officer of the jurisdictional entity, and or persons performing similar functions for the jurisdictional entity certify the annual and quarterly financial reports. The certification required these corporate officers to state they reviewed the report, were responsible for the content of the report, and were responsible for establishing, maintaining, and evaluating internal controls and procedures.

Comments Received

84. In general, none of the commenters object to the Commission continuing to require corporate officers to certify the FERC Annual Report or quarterly financial report. APGA specifically describes the corporate officer certification as a necessity, and specifically supports the content of the certification. However, many commenters express concern over various aspects of the proposed corporate officer's certification. These comments range from the administrative burden associated with the level of corporate officers who are required to certify the financial report, to the content of the corporate officer's certification statement. These commenters request the Commission continue to use the current certification or to make certain modifications to the NOPR to clarify the certification requirements.⁵²

85. Commenters urging the Commission to retain the current certification language argue that applying the Sarbanes-Oxley corporate officer certification standards to FERC Annual and quarterly financial reports would be a misapplication of the Sarbanes-Oxley standards because the Sarbanes-Oxley standards are intended to protect public investors.⁵³ Other commenters request that the Commission keep the current corporate officer certification because some of the language used in the proposed corporate officer certification statement does not apply to FERC respondents that are not publicly traded

⁵¹ See, e.g., AEP Generating Company, FERC Annual Report No. 1; Alliance Pipeline, L.P., FERC Annual Report No. 2; Belle Forche Pipeline Company, FERC Annual Report No. 6; Guardian Pipeline, LLC, FERC Annual Report No. 2; Kansas Gas and Electric Company, FERC Annual Report No. 1 and Seminole Creek, Ltd., FERC Annual Report No. 6.

⁵² See, e.g., BP at 9; Plains at 6 and 7; AOPL at 12; Kinder Morgan at 14; PacifiCorp at 9 and 10; INGAA at 26; EEI at 5.

⁵³ See EEI at 20.

entities. Specifically, these commenters argue that references in the proposed corporate officer certification to audit committees and subsidiaries are inappropriate for certain FERC respondents.⁵⁴ AOPL states that most wholly-owned subsidiaries or privately held companies do not have an Audit Committee or equivalent position. AOPL argues that in order to make such a certification, FERC respondents that are wholly-owned subsidiaries or privately held companies will need to establish a position equivalent to an Audit Committee and to educate members of such an Audit Committee about the Uniform System of Accounts and FERC reporting requirements.

86. Other commenters request the Commission to use “disclosure controls and procedures” instead of “internal controls.”⁵⁵ Hampshire is concerned because the NOPR uses the terms “internal controls” and “disclosure controls and procedures” interchangeably. PacifiCorp seeks clarification on the definition of internal controls that is used in the proposed corporate officer certification statement. PacifiCorp defines “disclosure controls and procedures” as controls and procedures designed to ensure that information required to be disclosed in reports under the Securities Exchange Act of 1934 (“Exchange Act”) is accumulated and communicated to the issuer’s management, as appropriate to allow timely decisions regarding disclosure. In addition, PacifiCorp refers to Section 404 of the Sarbanes-Oxley Act, annual reports for investors contain an internal control report describing the responsibility of management for establishing and maintaining an adequate internal control structure and procedures for financial reporting and an assessment of the effectiveness of the controls.

87. Additionally, Gulf South seeks clarification of the specific officers required to certify the FERC annual and quarterly financial reports. Gulf South states that the specific certification language is confusing and requests that the Commission clarify the language. Some commenters request a definition for a materiality standard for the corporate officer certification.⁵⁶ Still other commenters describe the corporate officer certification as duplicative of the SEC corporate officer certification, and some commenters request the Commission to use the current SEC corporate officer certification.⁵⁷

88. Additionally, some commenters express specific concern about the administrative burden associated with the corporate officer certification. Specifically, commenters argue that since the FERC annual and quarterly financial reports contain so much more

⁵⁴ See AOPL at 12 and Hampshire at 5.

⁵⁵ See PacifiCorp at 10 and Hampshire at 5.

⁵⁶ See Williams at 4 and NiSource at 17.

⁵⁷ See, e.g., INGAA at 26; Arizona at 7 and Kinder Morgan at 14.

detail than a GAAP or SEC financial report, the burden on the corporate officers to certify the FERC Annual and quarterly financial reports is clearly unreasonable.⁵⁸ Other commenters express concern about the costs associated with educating officers about the accounting rules under Uniform System of Accounts.⁵⁹

89. PacifiCorp requests the corporate officer certification statement be clarified to refer only to the respondent's overall financial condition and risk. PacifiCorp argues that it will be unduly burdensome for the Commission to require certification of individual account balances.

Commission Response

90. In order to strengthen the reliability of the financial data submitted to the Commission in the FERC Annual Reports and quarterly financial reports, the Chief Financial Officer or an individual performing that function will be required to certify these reports. The Commission views the officer certification requirement as an important part in the corporate governance process. Since the CFO is generally the corporate executive that directs all of the financial aspects of a company, the Commission views this level of management as the appropriate individual to attest to the financial information contained in the report. Senior level management involvement in the preparation and review of the quarterly financial reports and the FERC Annual Reports is essential to the process of respondents providing reliable financial information to the Commission.

91. As more fully discussed below, the Commission will use its existing corporate officer certification in the quarterly financial reports, and will use the more expansive corporate officer certification statement as proposed in the NOPR, with certain modifications, in the FERC Annual Reports.

1. Quarterly Financial Reports

92. As previously mentioned, the Commission proposed the same expansive corporate officer certification be used for both the quarterly financial report, and the FERC Annual Report. However, the Commission agrees with commenters that using the existing corporate officer certification statement for the quarterly financial report will alleviate the administrative burden cited by commenters while still maintaining a level of reliability

⁵⁸ See, e.g., INGAA at 26; Plains at 6; Kinder Morgan at 14 and Shell Pipeline at 13.

⁵⁹ See Plains at 6 and Shell Pipeline at 13.

appropriate for quarterly financial reports. The Commission will use the following corporate officer certification in the quarterly financial reports. The Chief Financial Office will sign the certification.

I have examined this report and to the best of my knowledge, information, and belief all statements of fact contained in this report are correct statements of the business affairs of the respondent and the financial statements, and other financial information contained in this report, conform in all material respects to the Uniform System of Accounts.

2. FERC Annual Reports

93. The Commission is modifying the corporate officer certification as proposed in the NOPR for the FERC Annual Report based upon the comments received. As discussed below, the Commission will define internal accounting control for purposes of its corporate officer certification, require only the chief financial officer to certify the report, make specific reference to the Commission's Uniform Systems of Accounts, and make other minor changes to the certification language.

94. In order to provide clarification, the Commission will replace the phrase "internal controls" with "internal accounting controls." The Commission's use of "internal accounting controls" in the corporate officer certification will refer to the accounting policies, procedures, and systems that are sufficient to provide reasonable assurance that the financial statement schedules contained in the quarterly and annual reports conform in all material aspects with the Commission's Uniform System of Accounts and related regulations.

95. The Commission is of the view that respondents should have sufficient accounting controls in place at a level acceptable in order to provide reasonable assurance that the financial information contained in the report conforms in all material respects with the Commission's Uniform Systems of Accounts and related regulations. While the Commission notes that this may add some additional burden for respondents, the Commission views the certification as a necessity in order to ensure the reliability of the information presented in the report.

96. The Commission agrees with commenters that it may be unduly burdensome to require multiple corporate officers to certify the FERC Annual Reports and quarterly financial reports. Therefore, the Commission will only require the CFO or a person

performing similar functions to certify the reports. The Commission notes that many CFOs already certify the FERC Annual Report and, therefore, requiring this level of management to certify the reports should not present an undue burden on respondents.⁶⁰

97. The Commission will not use identical SEC language for its corporate officer certification requirements. The SEC's corporate officer certification is based upon the Exchange Act and subsequent SEC regulations. As previously noted in this Final Rule, many FERC jurisdictional companies are not subject to SEC regulations. Additionally, the SEC corporate officer certification addresses financial statements prepared in accordance with generally accepted accounting principles (GAAP) while the FERC Annual Reports are based on the Commission's Uniform System of Accounts.

98. The Commission will clarify that it did not propose that respondents file a management internal control report in the NOPR, and it is not a requirement of this Final Rule. Apparently there was some confusion among commenters due to the language used in the NOPR issued by the Commission on June 26, 2003, and the SEC's Release on Management's Internal Control Report issued on June 5, 2003. This SEC Release required companies to file an internal control report containing a management opinion on their internal controls.

99. The Commission is also eliminating the requirement to have multiple officers certify the quarterly and annual reports. The Commission will only require the updated certification for the financial statements and notes to the financial statements. The Commission will keep the current certification language to address matters reported in the other schedules contained in the FERC Annual Reports.

100. The corporate officer certification contained in the FERC Annual Reports will read as follows:

The undersigned officer certifies that:
I have read this FERC Annual Financial Report:
Based on my knowledge this report does not contain any untrue statement of material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances such statements were made, not misleading with respect to the period covered by this report.

⁶⁰ See, e.g., Avista Corp., FERC Annual Report No. 1; MIGC, Inc. FERC Annual Report No. 2 and Rocky Mountain Pipeline System LLP, FERC Annual Report No. 6.

Based on my knowledge the financial statements, and other financial information (Comparative Balance Sheet, Statement of Income for the Year, Statement of Retained Earnings for the Year, Statement of Cash Flows, Statement of Accumulated Comprehensive Income and Hedging Activities, and Notes to the Financial Statements) included in this report conform in all material respects with the Commission's Uniform System of Accounts, as of, and for, the periods presented in this report.

I am responsible for establishing and maintaining internal accounting controls as defined by the Commission. I have designed such internal accounting controls to ensure that material information relating to the respondent and its subsidiaries, to the extent that the respondent has subsidiaries, is made known to me by others within those entities, particularly during the period in which this report is being prepared. I have evaluated the effectiveness of the internal accounting controls as of a date within 90 days prior to the period in this report (evaluation date). I have presented in this report my conclusions about the effectiveness of the internal accounting controls based on my evaluation as of the evaluation date.

I have disclosed, based on my most recent evaluation, to the respondent's auditors and the audit committee or persons performing similar functions, to the extent that the respondent has an audit committee or persons performing similar functions, that all significant deficiencies in the design or operation of internal accounting controls which could adversely affect the respondent's ability to record, process, summarize and report financial data and have identified for the respondent's auditors any material weaknesses in disclosure controls and procedures and any fraud, whether or not material, that involves management or other employees who have a significant role in the respondent's internal accounting controls.

I have indicated in this report whether or not there were significant changes in internal accounting controls and procedures or in other factors that could significantly affect internal accounting controls and procedures subsequent to the date of my most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

In addition, I have examined the remaining schedules contained in this report, to the best of my knowledge, information, and belief all

statements of fact contained in this report are correct statements of the business affairs of the respondent and the financial statements, and other financial information contained in this report, conform in all material respects to the Uniform System of Accounts.

E. Miscellaneous Matters

1. Fiscal Year Reporting

101. PacifiCorp urges the Commission to adopt the same fiscal annual and quarterly reporting requirements implemented by the SEC. PacifiCorp requests that the Commission clarify that it will recognize fiscal year reporting. It also requests the Commission allow such entities to file their FERC quarterly financial reports after the end of each fiscal quarter because it asserts that having parallel filing schemes and timelines with the SEC will ease administrative burden on utilities filing financial reports with both the Commission and the SEC. Finally, PacifiCorp is concerned that if the Commission does not allow fiscal year reporters to file on a fiscal year basis, they will violate SEC fair disclosure rules. They argue that under the NOPR's filing dates they will be filing fourth quarter earnings under the FERC requirements before they are required to do so under the SEC rules.

102. The Commission does not permit fiscal year respondents to file FERC Annual Reports on a fiscal year basis. The Commission requires these respondents to file on a calendar year in order to maintain a uniform basis of information collected from respondents filing the FERC Annual Report and quarterly financial reports for purposes of compiling data and making comparisons. Therefore, the financial information reported in the quarterly financial reports must be synchronized with the FERC Annual Reports which are presented on a calendar year to date basis. Finally, in light of the modifications to the quarterly and annual report filing dates in this Final Rule, the Commission finds that FERC respondents will not be reporting financial information ahead of the filings made with the SEC and therefore fiscal year FERC respondents will not violate the SEC's fair disclosure rules.

2. Expand Data Collection in FERC Annual Reports

103. The Commission also received requests from some commenters to expand the content of data and information collected in the FERC Annual Report Nos. 2 and 2A. These commenters urge the Commission to expand the financial information collected on such items as miscellaneous current and accrued liabilities, revenues from gathering, transmission and storage, miscellaneous general expenses, outside services employed, and to increase the record retention and availability of transactional activity. These

commenters also urge the Commission to change the FERC Annual Reports to include information on the respondent's rate base, costs, and revenues, and provide additional disclosures on capital structure.⁶¹ The Commission will not act on these recommendations in the Final Rule because these changes are outside the scope of the proposal.

3. Requests for a Technical Conference

104. Some commenters urge the Commission to schedule a technical conference to allow for further dialogue and industry participation before issuing a Final Rule.⁶² However, the comments submitted by FERC jurisdictional entities, industry associations, state regulatory bodies, and others were detailed and comprehensive. The Final Rule contains significant modifications from the NOPR based upon the comments received. Therefore, the Commission declines to hold a technical conference before issuing the Final Rule. If respondents have questions regarding reporting matters contained in this Final Rule, they should submit those questions to the Chief Accountant as provided for in the Commission's Uniform Systems of Accounts, and related regulations.

105. This Final Rule is the result of an exhaustive and collaborative process among all stakeholders. The Commission believes it is appropriate to assess the adequacy and costs of these new reporting requirements. To this end, the Commission directs staff to determine if any improvements should be made to the new quarterly and annual financial reporting requirements. This review will be undertaken after a full reporting cycle, and notice and comment, with a staff report to the Commission.

F. Elimination of the Cash Management Notification Reports

106. On October 23, 2003, the Commission in Order No. 634-A, issued a Final Rule on the regulation of cash management practices.⁶³ As part of Order No. 634-A the Commission requires respondents participating in cash management programs, and who

⁶¹ See Missouri PSC at 5 through 8 and IC's Attachment.

⁶² See, e.g., AOPL at 27 and 28; EEI at 6; FirstEnergy at 7 and ISO/RTO Council at 17.

⁶³ See Regulation of Cash Management Practices, RM02-14-000, NOPR issued on August 1, 2002, 67 FR 51150 (Aug. 7, 2002), IV FERC Stats. & Regs. ¶ 32,561 (Aug. 1, 2002), Interim Order No. 634 issued on July 8, 2003, 68 FR 40500 (July 8, 2003), III FERC Stats. & Regs. ¶ 31,145 (June 26, 2003) and Order No. 634-A issued on October 23, 2003, 68 FR 61993 (Oct. 31, 2003), III FERC Stats. & Regs. ¶ 31,152 (Oct. 23, 2003).

are not electric cooperatives, to determine on a quarterly basis the percentage of their capital structure that constitutes proprietary capital, and in the event the ratio is less than thirty percent the entity must notify the Commission within 45 days after the end of each calendar quarter.

107. Respondents are required to describe the significant events or transactions causing the entity's proprietary capital to drop below thirty percent, and the extent to which the entity has amounts loaned or money advanced to its parent, subsidiary, or affiliated companies through its cash management program(s) must be reported, along with plans, if any, to regain at least a thirty percent proprietary capital. Finally, the respondent must notify the Commission within 45 days after the end of the calendar quarter when the entity's proprietary capital subsequently returns to, or exceeds, thirty percent.

108. The Commission finds the quarterly financial reports in this Final Rule provide the Commission with the financial information necessary to determine the extent to which a FERC-jurisdictional entity's proprietary capital is less than thirty percent at the end of each quarter. Therefore, in order to minimize the reporting burden on FERC jurisdictional entities, the Commission will eliminate the separate filing requirement contained in §§ 141.500, 260.400, and 357.500 of the Commission's regulations. The Commission finds that the informational requirements concerning the significant events or transactions causing the proprietary capital ratio to drop below thirty percent, along with the respondent's plans, if any, to regain at least a thirty percent proprietary capital ratio, and the extent to which the entity has amounts loaned or advanced to its parent, subsidiary or affiliate through its cash management program(s) must be reported in the Important Changes During the Quarter, and Important Changes During the Year schedule contained in the respective quarterly financial reports, and FERC Annual Reports.

IV. REGULATORY FLEXIBILITY ACT CERTIFICATION

109. The Regulatory Flexibility Act of 1980 (RFA) requires agencies to prepare certain statements, descriptions, and analyses of proposed rules that will have a significant economic impact on a substantial number of small entities.⁶⁴ The Commission is not required to make such analyses if a rule would not have such an effect.

110. The Commission concludes that this Final Rule would not have such an impact on small entities. Most companies regulated by the Commission do not fall within the RFA's definition of a small entity, and the data required by this rule are already being captured by their accounting systems. However, if the recordkeeping requirements represent an undue burden on small businesses, the entity affected may seek a waiver from the Commission.

⁶⁴ See 5 U.S.C. 601-612 (2000).

V. ENVIRONMENTAL IMPACT STATEMENT

111. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.⁶⁵ The Commission excludes certain actions not having a significant effect on the human environment from the requirement to prepare an environmental impact statement.⁶⁶ No environmental consideration is raised by the promulgation of a rule that is procedural or does not substantially change the effect of legislation or regulations being amended.⁶⁷ This Final Rule updates parts 141, 260, 357 and 375 of the Commission's regulations and does not substantially change the effect of the underlying legislation or the regulations being revised or eliminated. Accordingly, no environmental consideration is necessary.

VI INFORMATION COLLECTION STATEMENT

112. The Office of Management and Budget's (OMB) regulations require approval of certain information collection requirements imposed by agency rules.⁶⁸ Upon approval of a collection of information, OMB will assign an OMB control number and expiration date. Respondents subject to the filing requirements of this Final Rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number. In accordance with Section 3560(d) of the Paperwork Reduction Act of 1995,⁶⁹ the information collection requirements in the rulemaking were submitted to OMB for review.

113. As the Commission states in the NOPR, the compliance burden of this Final Rule will be minimal for jurisdictional entities because it is standard accounting practice for companies to compile and summarize accounting transactions on a monthly basis under the Commission's existing accounting regulations. Additionally, it is standard accounting and reporting practice for publicly-held corporations to prepare financial

⁶⁵ See Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986-1990 ¶ 30,783 (1987).

⁶⁶ See 18 CFR 380.4 (2003).

⁶⁷ See 18 CFR 380.4(a)(2)(ii) (2003).

⁶⁸ See 5 U.S.C. 601-612 (2000).

⁶⁹ See 44 U.S.C. 3507(d) (2000).

statements on quarterly and annual basis for their stockholders and the SEC. Privately-held companies also prepare quarterly financial statements so that their financial condition and results of operations may be understood by selected creditors and their owners. The Commission projected that the total number of hours that each respondent would require to complete the quarterly reports is approximately 72 hours per year.

114. The Commission estimated in the NOPR that most of the administrative burden associated with the proposal would result from respondents completing the MD&A schedule, preparing notes to the quarterly financial statements, performing the necessary review procedures for the corporate officers certification, and filing the reports within the prescribed time frames. As more fully discussed below, the modifications made to the original proposal should result in a substantial decrease in the administrative burden placed on jurisdictional entities.

Comments Received

115. Many commenters disagree with the Commission's administrative burden estimate citing the time required to prepare an MD&A, as proposed in the NOPR, to prepare a complete set of notes to the financial statements, and to obtain multiple corporate officers' certifications, and the additional staffing needed to compile, prepare, and file the reports within the time frames specified.

116. INGAA states that the preparation of an MD&A and the notes to the financial statements, as proposed in the NOPR, would account for over 50 percent of the projected cost of compliance with rule. AOPL states that for privately held companies that do not currently prepare an MD&A schedule the quarterly burden would be 220 hours with an additional 80 hours added to the annual report.

117. Additionally, many commenters expressed concern about the proposed Corporate Officer Certification. EEI states that the internal officer certification would take an average of 13.3 hours for the quarterly reports and 13.6 hours for the FERC Annual Reports. However, SCE estimated that it would take their company 50 hours to complete the corporate officer's certification.

118. Finally, commenters express concern over the administrative burden resulting from accelerating the filing dates of the annual reports and the proposed filing dates for the quarterly reports. Most commenters state that it would take additional staffing to concurrently prepare quarterly and annual reports for the SEC and for the FERC. While not providing specific burden hours resulting from the proposed filing dates of the quarterly and annual reports, INGAA state that by changing the filing deadlines forty percent of their compliance costs would be reduced.

Commission Response

119. The modifications made in this Final Rule will significantly reduce or eliminate the administrative burden cited by commenters. The elimination of the requirement for respondents to prepare an MD&A schedule as proposed in the NOPR, and the use of abbreviated notes the financial statements that only discuss significant changes from the prior year's notes, will significantly reduce or eliminate the alleged administrative burden on respondents.

120. Additionally, in response to the administrative burden raised by respondents due to concurrent SEC and FERC filing dates, the Commission is extending the filing dates for FERC Annual Reports and quarterly financial reports as proposed in the NOPR. Finally, the Final Rule modifies the corporate officer certification statement, and only requires the Chief Financial Officer to certify the quarterly and annual reports.

121. As a result of these modifications, the Commission estimates that the reporting requirements for the quarterly financial report Nos. 3-Q and 6-Q, and increased reporting requirements for the FERC Annual Report Nos. 1, 1-F, 2, 2-A, and 6 contained in this Final Rule are as follows:

	Data Collection Form (a)	Number of Respondents (b)	Number of Hours (c)	Filing Periods (d)	Total Annual Hours (e)=(b)x(c)x(d)
1	FERC Form 3-Q	353	150	3	158,850
2	FERC Form 6-Q	159	150	3	71,550
3	FERC Form 1	216	75	1	16,200
4	FERC Form 1-F	27	75	1	2,025
5	FERC Form 2	57	75	1	4,275
6	FERC Form 2-A	53	75	1	3,975
7	FERC Form 6	159	75	1	11,925
8	Totals				268,800

Total Annual Hours for Collection:

(Est. Reporting + Recordkeeping, (if appropriate)) = 268,800

122. In conclusion, the Final Rule contains significant changes to the NOPR and thereby has significantly reduced the administrative burden cited by the commenters. However, respondents will incur some additional administrative burden in providing supplemental financial information to the Commission as a result of this Final Rule. As recent events regarding the impact of inappropriate accounting and financial reporting

and recent changes in corporate governance practices have clearly demonstrated, the additional administrative burden placed on respondents is far outweighed by the benefits the Commission will obtain from receiving financial information from respondents that that is transparent, timely, relevant, and reliable.

VII. DOCUMENT AVAILABILITY

123. In addition to publishing the full text of this document in the Federal Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's website (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, N.E., Room 2A, Washington D.C. 20426

124. From FERC's website on the Internet, this information is available in the eLibrary (formerly FERRIS). The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field and follow other directions on the search page.

125. User assistance is available for eLibrary and other aspects of the FERC's website during normal business hours. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659.

VIII. EFFECTIVE DATE AND CONGRESSIONAL NOTIFICIATION

126. This Final Rule will take effect [insert date that is 30 days after date of publication in the **FEDERAL REGISTER**]. The Commission has determined with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this rule is not a major rule within the meaning of Section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996.⁷⁰ The Commission will submit the Final Rule to both houses of Congress and the General Accounting Office.⁷¹

⁷⁰ See 5 U.S.C. 804(2) (2000).

⁷¹ See 5 U.S.C. 801(a)(1)(A) (2000).

Docket No. RM03-8-000

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List of Subjects

18 CFR Part 141

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 260

Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 357

Pipelines, Reporting and recordkeeping requirements.

18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

In consideration of the foregoing, the Commission amends parts 141, 260, 357, and 375, Chapter I, Title 18, Code of Federal Regulations, as follows.

PART 141-STATEMENTS AND REPORTS (SCHEDULES)

1. The authority citation for part 141 continues to read as follows:
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.

2. In § 141.1, paragraph (b) (2) is revised to read as follows:

§ 141.1 FERC Form No. 1, Annual report of Major electric utilities, licensees, and others.

* * * * *

(b) Filing requirements. * * *

(2) When to file and what to file.

(i) The annual report for the year ending December 31, 2004, must be filed on April 25, 2005.

(ii) The annual report for each year thereafter must be filed on April 18.

(iii) This report must be filed with the Federal Energy Regulatory Commission as prescribed in § 385.2011 of this chapter and as indicated in the General Instructions set out in this form, and must be properly completed and verified. Filing on electronic media pursuant to § 385.2011 of this chapter is required.

3. In § 141.2, paragraph (b) (2) is revised as follows:

§ 141.2 FERC Form No. 1-F, Annual report for Nonmajor public utilities and licensees.

* * * * *

(b) Filing requirements. * * *

(2) When to file.

(i) The annual report for the year ending December 31, 2004, must be filed on April 25, 2005.

(ii) The annual report for each year thereafter must be filed on April 18.

4. Section 141.400 is added to read as follows:

§ 141.400 FERC Form No. 3-Q, Quarterly financial report of electric utilities, licensees, and natural gas companies.

(a) Prescription. The quarterly report of electric utilities, licensees, and natural gas companies, designated as FERC Form No. 3-Q, is prescribed for the reporting quarter ending March 31, 2004, and each quarter thereafter.

(b) Filing requirements. (1) Who must file-(i) Generally. Each electric utility (as defined in part 101 of subchapter C of this chapter) and other entity, i.e. each corporation, person, or licensee as defined in Section 3 of the Federal Power Act (16 U.S.C. 792 et. seq.), including any agency or instrumentality engaged in generation, transmission, distribution, or sale of electric energy, however produced, throughout the United States and its possessions, having sales or transmission service, whether or not the jurisdiction of the Commission is otherwise involved, must prepare and file with the Commission FERC Form No. 3-Q pursuant to the General Instructions set out in that form.

(ii) Exceptions. This report form is not prescribed for any agency, authority or instrumentality of the United States, nor is it prescribed for municipalities as defined in section 3 of the Federal Power Act; (i.e. a city, county, irrigation district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power).

(2) Each major public utility and licensee must file the quarterly financial report form as follows:

(i) The quarterly financial report for the period January 1 through March 31, 2004, must be filed on or before July 9, 2004.

(ii) The quarterly financial report for the period April 1 through June 30, 2004, must be filed on or before September 8, 2004.

(iii) The quarterly financial report for the period July 1 through September 30, 2004, must be filed on or before December 9, 2004.

(iv) Subsequent quarterly financial reports must be filed within 60 days from the end of the reporting quarter.

(3) Nonmajor public utilities and licensees must file the quarterly financial report form as follows:

(i) The quarterly financial report for the period January 1 through March 31, 2004, must be filed on or before June 23, 2004.

(ii) The quarterly financial report for the period April 1 through June 30, 2004, must be filed on or before September 22, 2004.

(iii) The quarterly financial report for the period July 1 through September 30, 2004, must be filed on or before December 23, 2004.

(iv) Subsequent quarterly financial reports must be filed within 70 days from the end of the reporting quarter.

(4) This report must be filed as prescribed in § 385.2011 of this chapter and as indicated in the General Instructions set out in the quarterly financial report form, and must be properly completed and verified. Filing on electronic media pursuant to § 385.2011 of this chapter will be required commencing with the quarterly financial report ending March 31, 2004, due on or before July 9, 2004 for major public utilities and licensees, and due on or before July 23, 2004 for nonmajor public utilities and licensees.

5. In § 141.500, paragraphs (b), (c) and (d) are removed, the paragraph designation for paragraph (a) is removed, and the section heading is revised to read as set forth below:

§ 141.500 Cash management programs.

PART 260-STATEMENTS AND REPORTS (SCHEDULES)

6. The authority citation for part 260 continues to read as follows:
AUTHORITY: 15 U.S.C. 717-717w, 3301-3432; 42 U.S.C. 7101-7352.

7. In § 260.1, paragraph (b) is revised as follows:

§ 260.1 FERC Form No. 2, Annual report for Major natural gas companies.

* * * * *

(b) Filing requirements. Each natural gas company, as defined by the Natural Gas Act (15 U.S.C. 717, et. seq.) which is a major company (a natural gas company whose combined gas transported or stored for a fee exceed 50 million Dth in each of the three previous calendar years) must prepare and file with the Commission, as follows:

(1) The annual report for the year ending December 2004 must be filed on April 25, 2005.

(2) The annual report for each year thereafter must be filed on April 18 of the subsequent year.

(3) Newly established entities must use projected data to determine whether FERC Form No. 2 must be filed.

(4) The form must be filed in electronic format only, as indicated in the general instructions set out in that form. The format for the electronic filing can be obtained at the Federal Energy Regulatory Commission, Division of Information Services, Public Reference and Files Maintenance Branch, Washington, DC 20426. One copy of the report must be retained by the respondent in its files.

8. In § 260.2, paragraph (b) is revised to read as follows:

§ 260.2 FERC Form No. 2-A, Annual reports for Nonmajor natural gas companies.

* * * * *

(b) Filing requirements. Each natural gas company, as defined by the Natural Gas Act, not meeting the filing threshold for FERC Form No. 2, but having total gas sales or volume transactions exceeding 200,000 Dth in each of the three previous calendar years, must prepare and file with the Commission, as follows:

(1) The annual report for the year ending December 2004 must be filed on April 25, 2005.

(2) The annual report for each year thereafter must be filed on April 18 of the subsequent year.

(3) Newly established entities must use projected data to determine whether FERC Form No. 2-A must be filed.

(4) The form must be filed in electronic format only, as indicated in the General Instructions set out in that form. The format for the electronic filing can be obtained at the Federal Energy Regulatory Commission, Division of Information Services, Public Reference and Files Maintenance Branch, Washington, DC 20426. One copy of the report must be retained by the respondent in its files.

9. Section 260.300 is added to read as follows:

§ 260.300 FERC Form No. 3-Q, Quarterly financial report of electric utilities, licensees, and natural gas companies.

(a) Prescription. The quarterly report for electric utilities, licensees, and natural gas companies, designated herein as FERC Form No. 3-Q, is prescribed for the reporting quarter ending March 31, 2004, and each quarter thereafter.

(b) Filing requirements. (1) Who must file. Each natural gas company, (as defined in the Natural Gas Act (15 U.S.C. 717, et. seq.) must prepare and file with the Commission a FERC Form No. 3-Q pursuant to the General Instructions set out in that form.

(2) Each Major natural gas company must file this quarterly financial report form as follows:

(i) The quarterly financial report for the period January 1 through March 31, 2004, must be filed on or before July 9, 2004.

(ii) The quarterly financial report for the period April 1 through June 30, 2004, must be filed on or before September 8, 2004.

(iii) The quarterly financial report for the period July 1 through September 30, 2004, must be filed on or before December 9, 2004.

(iv) Subsequent quarterly financial reports must be filed within 60 days from the end of the reporting quarter.

(3) Each Nonmajor natural gas company must file a quarterly financial report as follows:

(i) The quarterly financial report for the period January 1 through March 31, 2004, must be filed on or before July 23, 2004.

(ii) The quarterly financial report for the period April 1 through June 30, 2004, must be filed on or before September 22, 2004.

(iii) The quarterly financial report for the period July 1 through September 30, 2004, must be filed on or before December 23, 2004.

(iv) Subsequent quarterly financial reports must be filed within 70 days from the end of the reporting quarter.

(4) This report must be filed as prescribed in § 385.2011 of this chapter as indicated in the General Instructions set out in the quarterly financial report form, and must be properly completed and verified. Filing on electronic media pursuant to § 385.2011 of this chapter will be required commencing with the quarterly financial report ending March 31, 2004, due on or before July 9, 2004 for major natural gas companies, and due on or before July 23, 2004 for nonmajor natural gas companies. One copy of the report must be retained by the respondent in its files.

10. In § 260.400, paragraphs (b), (c) and (d) are removed, the paragraph designation for paragraph (a) is removed, and the section heading is revised to read as set forth below:

§ 260.400 Cash management programs.

**PART 357—ANNUAL SPECIAL OR PERIODIC REPORTS: CARRIERS
SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT**

11. The authority citation for part 357 continues to read as follows:
AUTHORITY: 42 U.S.C. 7101-7352; 49 U.S.C. 60502; 49 App. U.S.C. 1-85 (1988).

12. In § 357.2, paragraph (b) is revised to read as follows:

§ 357.2 FERC Form No. 6, Annual report of oil pipeline companies.

* * * * *

(b) When to file.

(1) The annual report for the year ending December 31, 2004, must be filed on April 25, 2005.

(2) The annual report for each year thereafter must be filed on April 18 of the subsequent year.

* * * * *

13. Section 357.4 is added to read as follows:

§ 357.4 FERC Form No. 6-Q, Quarterly report of oil pipeline companies.

(a) Prescription. The quarterly financial report form of oil pipeline companies, designated as FERC Form No. 6-Q, is prescribed for the reporting quarter ending March 31, 2004, and each quarter thereafter.

(b) Filing requirements. (1) Who must file. Each oil pipeline company, subject to the provisions of section 20 of the Interstate Commerce Act, must prepare and file with the Commission FERC Form No. 6-Q.

(2) When to file and what to file. This quarterly financial report form must be filed as follows:

(i) The quarterly financial report for the period January 1 through March 31, 2004, must be filed on or before July 23, 2004.

(ii) The quarterly financial report for the period April 1 through June 30, 2004, must be filed on or before September 22, 2004.

(iii) The quarterly financial report for the period July 1 through September 30, 2004, must be filed on or before December 23, 2004.

(iv) Subsequent quarterly financial reports must be filed within 70 days from the end of the reporting quarter.

(v) This report must be filed as prescribed in § 385.2011 of this chapter and as indicated in the General Instructions set out in the quarterly report form, and must be properly completed and verified. Filing on electronic media pursuant to § 385.2011 of this chapter will be required commencing with the reporting quarter ending March 31, 2004, due on or before July 23, 2004.

14. In § 357.500, paragraphs (b), (c) and (d) are removed, the paragraph designation for paragraph (a) is removed, and the section heading is revised to read as set forth below:

§ 357.500 Cash management programs.

PART 375—THE COMMISSION

15. The authority citation for part 375 continues to read as follows:
AUTHORITY: 5 U.S.C. 551-557; 15 U.S.C. 717-717w, 3301-3432; 16 U.S.C. 791-825r, 2601-2645; 42 U.S.C. 7101-7352.

16. In § 375.303, paragraphs (d) and (e) are added to read as follows:

§ 375.303 Delegations to the Chief Accountant.

* * * * *

(d) Accept for filing Quarterly Financial Report Form Nos. 3-Q and 6-Q if such filings are in compliance with Commission orders or decisions, and when appropriate, notify the party of such acceptance. Issue and sign deficiency letters if the filing fails to comply with applicable statutory requirements, and with all applicable Commission rules, regulations, and orders for which a waiver has not been granted.

(e) Deny or grant, in whole or in part, requests for waiver of the reporting requirements for the forms under §§ 141.400, 260.300, and 357.400 of this chapter and the filing of these forms on electronic media under § 385.2011 of this chapter.

Note: The following appendices will not be published in the Code of Federal Regulations.

Appendix A: List of Commenters

	Company Name	Abbreviation
1	American Electric Power Company, Inc.	AEP
2	American Gas Association	AGA
3	American Public Gas Association	APGA
4	Arizona Public Service Company	Arizona
5	Association of Oil Pipe Lines	AOPL
6	BP Pipelines (North America), Inc.	BP
7	Chevron Texaco Pipelines	Chevron
8	Cinergy Companies	Cinergy
9	Colonial Pipeline Company	Colonial
10	ConocoPhillips Company	Conoco
11	Connexus Energy and Walton Electric Membership	Connexus
12	Consolidated Edison Inc.	ConEd
13	Consumers Energy Company	CE
14	Deloitte & Touche	D&T
15	Detroit Edison Company	Detroit Ed
16	Dominion Resources Inc.	Dominion
17	Duke Energy Corporation	Duke
18	Dynegy NGL Pipeline Company LLC	Dynegy
19	Edison Electric Institute	EEI
20	El Paso Corporation's Pipeline Group	El Paso
21	Empire District Electric Company	Empire
22	Entergy Corporation	Entergy
23	Enterprise Products Operating L.P.	EPO
24	ExxonMobil Pipeline Company	Exxon
25	FirstEnergy Corp.	FirstEnergy
26	Florida Power & Light	FP&L
27	Genesis Pipeline USA L.P.	Genesis
28	Graham County Electric Cooperative, Inc.	Graham
29	Gulfterra Energy Partners, L.P.	Gulfterra
30	Gulf South Pipeline Company LP	Gulf South
31	Hampshire Gas Company	Hampshire
32	Independent System Operator / Regional Transmission Organizational Council	ISO/RTO Council
33	Industry Coalition	IC
34	Inland Power & Light	Inland
35	International Transmission Company	ITC
36	Interstate Natural Gas Associations America	INGAA
37	Iroquois Gas Transmission System, L.P.	Iroquois

	Company Name	Abbreviation
38	Kelso Beaver Pipeline Company	Kelso
39	KeySpan Corporation	KeySpan
40	Kinder Morgan Liquids Pipeline	Kinder Morgan
41	Koch Pipeline Company, L.P.	Koch
42	Maine Public Service Company	MPSC
43	MidAmerican Energy Company	MidAmerica
44	Missouri Public Service Commission	Missouri PSC
45	National Association of Regulatory Utility Commissioners	NARUC
46	National Grid USA	National Grid
47	National Rural Electric Cooperative Association	NRECA
48	National Rural Utilities Cooperative Finance Corp	NRUCFC
49	NiSource Inc.	Nisource
50	Northeast Utilities	NU
51	Northern Natural Gas Company	Northern Natural
52	Old Dominion Electric Cooperative	Old Dominion
53	Otter Tail Power Company	Otter Tail
54	PacificCorp	PacificCorp
55	Pepco Holdings Inc	Pepco
56	Plains All American Pipeline LP	Plains
57	Portland General Electric Company	Portland General
58	PricewaterhouseCoopers LLP	PWC
59	PSEG Companies	PSEG
60	Rayburn County Electric Cooperative Inc.	Rayburn
61	San Diego Gas & Electric Company	San Diego
62	SCANA Corp	SCANA
63	Shell Gas Transmission LLC	Shell Gas
64	Shell Pipeline Company LP's	Shell Pipeline
65	Southern California Edison	SCE
66	Southern Company	Southern
67	Sunoco Pipeline L.P.	Sunoco
68	Texas Gas Transmission, LLC	Texas Gas
69	Tucson Electric Power Company	Tucson
70	Unocal Pipeline Company	Unocal
71	USG Pipeline Company	USG
72	Williams Pipe Line Company, LLC	Williams
73	Williston Basin Interstate Pipeline	Williston Basin
74	Wolverine Power Supply Corporative	Wolverine