**Section 340.40 Minimum Requirements for Short-Term Loans from Utilities to Affiliates**

a) A utility may borrow from outside the money pool agreement in order to make loans to an affiliate that is a public utility under applicable State law. A utility may not borrow from outside the money pool agreement in order to make loans to non-utility affiliates, except for loans to service companies and subsidiaries of the utility.

b) An affiliate shall be eligible for borrowing from the utility if the affiliate meets one of the following seven requirements:

1) The affiliate maintains the following commercial paper ratings from at least two of the following three major credit rating agencies and a higher, equivalent, or no credit rating from the third credit rating agency: A-1 or above from Standard & Poor's or its successor; P-1 or above from Moody's Investors Service or its successor; and F-1 or above from Fitch Ratings or its successor;

2) The aggregate amount of outstanding short-term indebtedness of the affiliate, including amounts to be borrowed from the utility, excluding amounts drawn on the committed credit facility, does not exceed the unused balance of funds available to the affiliate under high-grade committed credit facilities at any time plus the amount of funds the affiliate invests in the short-term securities described in Section 340.50(a)(1) and (2);

3) The affiliate is a high-grade credit issuer;

4) The aggregate amount of funds the affiliate borrows is guaranteed by an affiliate of the utility that meets the requirements set forth in subsection (b)(1);

5) The aggregate amount of funds the affiliate borrows is guaranteed by an affiliate with a high-grade committed credit facility that meets the requirements set forth in subsection (b)(2);

6) The affiliate is a utility; or

7) The affiliate provides the utility cash management services through a Commission-approved agreement and the utility does not issue bonds, notes or other forms of indebtedness to persons or entities that are not affiliates of the utility; and

A) The utility is a small utility; or

B) The utility demonstrates that any benefits from relying on an affiliate to provide all the utility’s capital exceed the risks associated with a decrease in the utility’s financial independence provided that the affiliate is a medium-grade credit issuer.

c) The affiliate receiving the loan shall repay the principal amount of the loan, together with all accrued interest, on demand of the utility.

d) The utility may lend funds to an affiliate only if the utility cannot earn a higher rate of return on investments of similar risk in the open market, or the utility will earn no less than the rate the utility would have earned on investments in existing short-term investment accounts maintained by the utility during the period in question.

e) Interest. Each affiliate receiving a loan shall accrue interest monthly on the unpaid principal amount of the loan from the date of such loan until the principal amount shall be paid in full.

f) Event of default. If an affiliate shall generally not pay its debts as the debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors, or any proceeding shall be instituted by or against an affiliate seeking to adjudicate it as bankrupt or insolvent, then the unpaid principal amount of any loans to such affiliate and all accrued interest shall become immediately due and payable to the utility.

g) A utility shall neither lend additional funds nor extend the term of existing loans to any affiliate that no longer meets any of the eligibility criteria of subsection (b). An affiliate that exceeds its borrowing limit shall have 90 days to repay sufficient principal and accrued interest to bring that affiliate back into compliance with subsection (b) or, alternatively, to repay all outstanding loans from the utility and accrued interest.

h) When petitioning for approval of an affiliate to borrow from the utility under one of the eligibility requirements of subsection (b), a utility shall provide the following as part of its petition:

1) A utility seeking to meet the eligibility requirements of subsection (b)(1) shall provide reports from the two or, if available, three credit rating agencies presenting the commercial paper ratings for all affiliates that will borrow from the utility;

2) A utility seeking to meet the eligibility requirements of subsection (b)(2) shall provide:

A) Documentation from the financial institutions evidencing the line of credit available to the affiliate and the unused balance of funds available to each affiliate that will borrow from the utility; and

B) The credit ratings from the two or, if available, three credit rating agencies for all of the financial institutions that are extending credit lines to the affiliates;

3) A utility seeking to meet the eligibility requirements of subsection (b)(3) shall provide reports from the two or, if available, three credit rating agencies presenting the credit ratings for all affiliates that will borrow from the utility;

4) A utility seeking to meet the eligibility requirements of subsection (b)(4) shall provide:

A) A copy of the guarantee; and

B) Reports from the two or, if available, three credit rating agencies presenting commercial paper ratings for the affiliate of the utility that will guarantee repayment of funds borrowed from the utility;

5) A utility seeking to meet the eligibility requirements of subsection (b)(5) shall provide:

A) A copy of the guarantee;

B) Documentation from the financial institutions evidencing the line of credit available to the affiliate and the unused balance of funds available to the affiliate that will guarantee repayment of funds borrowed from the utility; and

C) The credit ratings from the two or, if available, three credit rating agencies for all of the financial institutions that are extending credit lines to the affiliate;

6) A utility seeking to meet the eligibility requirements of subsection (b)(6) shall provide certification from the chief accounting officer of the affiliate utility that the affiliate is authorized to operate as a utility;

7) A utility seeking to meet the eligibility requirements of subsection (b)(7) shall provide:

A) The docket number of the Commission proceeding in which the cash management agreement was approved;

B) A copy of the agreement; and

C) Either:

i) Certification from the chief accounting officer of the utility that the utility is a small utility, including the total capitalization of the utility as reported in the last annual report filed with the Chief Clerk of the Commission; or

ii) Reports from the two or, if available, three credit rating agencies presenting the credit ratings for all affiliates that will borrow from the utility.

The information required by this subsection (h) does not bind the Commission to a decision based solely on the data provided pursuant to this subsection.