



STATE OF NEW HAMPSHIRE  
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES  
ROOM 219  
25 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6312

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March 18, 2011

Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, NH 03301

Re: Conditional Approval of Proposed Interim Rule INT 2011-4

Dear Commissioners:

At its meeting on March 18, 2011, the Joint Legislative Committee on Administrative Rules (Committee) voted, pursuant to RSA 541-A:19, VIII(b), to conditionally approve Proposed Interim Rule INT 2011-4 of the Public Utilities Commission (Commission) containing various rules in Puc 100 and Puc 200 relative to the Commission's organization, practices and procedures. The Committee's approval was conditioned upon amending the rules as specified in the Commission's conditional approval request dated March 17, 2011. A copy of the Commission's request, as annotated by Committee staff, is enclosed for your information.

Pursuant to RSA 541-A:19, VIII(b), you are required to submit a written explanation detailing how the rules have been amended in accordance with the conditional approval within 14 days of the date on which it was made, which was March 18, 2011. In this instance the 14<sup>th</sup> day is April 1, 2011. The explanation shall include a letter and an annotated text of the entire proposed interim rule.

The explanation shall be reviewed by the Office of Legislative Services to determine whether the rules have been amended in accordance with the conditional approval and RSA 541-A:19, VIII(b). If it is determined that the rules have not been amended in accordance with the conditional approval and RSA 541-A:19, VIII(b), the conditional approval shall be deemed a Committee vote to make a preliminary objection as of the date of the conditional approval, and you must respond to the preliminary objection as specified in RSA 541-A:19, VIII(d).

Please be advised that you may not adopt the rule until the Office of Legislative Services sends written confirmation that your amendment is in accordance with the conditional approval and RSA 541-A:19, VIII(b).

Public Utilities Commission  
INT 2011-4  
March 18, 2011  
Page 2

If you have any questions concerning the provisions in RSA 541-A relative to objections, responses, or adoptions, please call Scott Eaton at 271-3680.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Scott F. Eaton", written over a horizontal line.

Scott. F. Eaton  
Administrative Rules Director

A handwritten signature in dark ink, appearing to read "Carol J. Holahan", written over a horizontal line.

Carol J. Holahan  
Director

SFE/CJH

enc.

cc: Alexander Speidel, Esq., Staff Attorney, PUC  
Richard W. Head, Esq., Assoc. A.G., DOJ

## THE STATE OF NEW HAMPSHIRE

CHAIRMAN  
Thomas B. Getz

COMMISSIONERS  
Clifton C. Below  
Amy L. Ignatius

EXECUTIVE DIRECTOR  
AND SECRETARY  
Debra A. Howland



## PUBLIC UTILITIES COMMISSION

21 S. Fruit Street, Suite 10  
Concord, N.H. 03301-2429

Tel. (603) 271-2431

FAX (603) 271-3878

TDD Access: Relay NH  
1-800-735-2964

Website:  
www.puc.nh.gov

MAR 17 2011

*The proposed amendments  
in this request eliminate all  
issues raised by JLCAR  
staff re the proposed interim  
rule.* March 17, 2011

Michael Morrell, Esq.  
Committee Attorney  
N.H. Office of Legislative Services  
Administrative Rules  
State House Annex, Room 219  
25 Capitol Street  
Concord, NH 03301

**CONDITIONAL APPROVAL  
REQUEST**

FP JNT 2011-4

Re: Conditional Approval Request: Puc 100/Puc 200 Revisions

Dear Attorney Morrell:

As per your recent instructions, please find attached (1) a clean copy and (2) a redlined copy of the Commission's interim rule proposal, incorporating your office's suggestions, for conditional approval. The Commissioners have given their assent to this conditional approval request, and will vote to adopt **the revisions** at a public meeting after Friday's JLCAR session.

Thank you very much for your office's continuing guidance during this process.

Sincerely,

Alexander Speidel  
Staff Attorney

Enclosures

MAR 17 2011

Conditional Approval  
**CONDITIONAL APPROVAL  
REQUEST**

CHAPTER Puc 100 ORGANIZATIONAL RULES

PART Puc 102 DEFINITIONS

FP INT 2011-4

**Adopt Puc 102.19, to read as follows:**

Puc 102.19 "Routine filings" means documents submitted, on a recurrent basis, by a utility to the commission outside of an adjudicative proceeding.

~~Puc 102.19 "Rulemaking" means the process for adopting rules as provided for in RSA 541-A:3 and other relevant provisions of RSA 541-A.~~

**Renumber Puc 102.19-.21, effective 3-18-97 (Document #6470), as Puc 102.20-.22.**

PART Puc 104 REQUESTS FOR PUBLIC INFORMATION

**Readopt with Amendment Puc 104.01, effective 3-18-97 (Document # 6470) to read as follows:**

Puc 104.01 Public Access to Information.

(a) To the extent required or permitted by RSA 91-A, the commission shall permit members of the public to examine and copy public records.

(b) Members of the public may make a request to examine records by contacting the executive director pursuant to Puc 103.01(m).

(c) The commission shall permit examination and copying of public records, as follows:

- (1) On the commission premises;
- (2) During commission business hours; and
- (3) Within the time-frames set forth in RSA 91-A.

(d) Any person who seeks to examine or copy public records shall describe the information requested sufficiently in detail to allow the commission to identify the records requested.

(e) This section shall not require the release by the commission of information determined, pursuant to RSA 91-A:5, ~~RSA 378:43~~ Puc 201.06, Puc 201.07, or Puc 203.087, to be:

- (1) Confidential; or
- (2) Not a matter of public record.

(f) Within the time period specified by RSA 91-A:4, the commission shall respond to such a request by:

- (1) Making the record available for inspection and copying;
- (2) Denying the request in writing and stating the reasons for denial; or
- (3) Furnishing written acknowledgement of the receipt of the request and a statement of the time reasonably necessary to determine whether the request shall be granted or denied.

(g) For all records submitted to the commission pursuant to Puc 201.06, the procedures established under Puc 201.07 shall govern the commission's response to requests for public release of such documents.



(gh) The commission shall charge for copies of public records at the actual cost of providing the copy, pursuant to RSA 91-A:4, IV.

(hi) A written denial issued under this rule shall be treated as the final determination of the commission for purposes of appeal to the superior court pursuant to RSA 91-A:7.

## CHAPTER Puc 200 RULES OF PRACTICE AND PROCEDURE

### PART Puc 201 GENERAL REQUIREMENTS

**Readopt with amendment Puc 201.04, effective 6-10-06 (Document # 8657-A) to read as follows:**

#### Puc 201.04 Public Records.

(a) All documents submitted to the commission or staff in an adjudicative or non-adjudicative proceeding shall become matters of public record, subject to RSA 91-A, as of the day and time of the submission ~~to the commission or staff~~ with the following exceptions:

- (1) Accident reports under RSA 374:40;
- (2) Information about individual residential customers, the disclosure of which would constitute an invasion of privacy within the meaning of RSA 91-A:5, IV;
- (3) Documents submitted ~~to the commission or staff~~ in connection with an adjudicative proceeding pursuant to Puc 203.087;
- (4) Documents subject to a protective order of the commission issued pursuant to Puc 203.087; or
- (5) Documents granted confidential treatment pursuant to Puc 201.06 and Puc 201.07; or
- (65) Other documents entitled to confidential treatment pursuant to RSA 91-A, RSA 378:43 or other applicable law.

(b) All information within documents submitted to the commission and asserted to be confidential, pursuant to RSA 91-A:5, IV, by the person making the submission shall be redacted in the following manner in the version for public release, and all redactions shall be made in a way that, within the redacted version of the document(s), preserves the line sequencing and pagination of the unredacted version of the document(s) to the greatest practicable extent:

(1) Bear the legend "REDACTED" at the upper-right-hand corner of every page; and

(2) Either:

a. Indicate all confidential segments with the legend "BEGIN CONFIDENTIAL," in all capital letters, at the beginning of the redacted segment, followed by a left bracket. Following the left bracket, the confidential segment shall be replaced by a blank space of approximately equal length to the material being redacted. The end of the redacted segment shall be indicated with a right bracket, followed by the legend "END CONFIDENTIAL," in all capital letters, as follows:

"BEGIN CONFIDENTIAL[blank space]END CONFIDENTIAL;" or

b. If space or format does not allow the redaction to be indicated in the manner set forth in paragraph a. above, such as for individual numbers in a table or column or very short segments of text, then the submitter may indicate redacted material by

blacking it out or highlighting it with a solid black line in the following manner:

(c) For each redacted document submitted, the person submitting the document shall also provide an unredacted version of the document(s) to the commission that:

(1) Bears the legend "CONFIDENTIAL" at the upper-right-hand corner of every page; and

(2) Either:

a. Indicates all redactions made pursuant to (b)(2)a. above with the legend "BEGIN CONFIDENTIAL," in all capital letters, at the beginning of the confidential segment, followed by a left bracket. The end of the confidential segment shall be indicated with a right bracket, followed by the legend "END CONFIDENTIAL," in all capital letters, as follows: "BEGIN CONFIDENTIAL[confidential segment]END CONFIDENTIAL;" or

b. Indicates all redactions made pursuant to (b)(2)b. above by highlighting the confidential segment in light gray in the following manner: *confidential segment*.

Adopt Puc 201.06 to read as follows:

Puc 201.06 Requests for Confidential Treatment of Documents Submitted by Utilities in Routine Filings.

(a) The following shall be the routine filings to which the procedure established by Puc 201.06 and Puc 201.07 applies:

(1) Telephone company cost of service studies;

(2) Telephone company retail special contract service agreements;

(3) Telephone company broadband deployment plans;

(4) Telephone company infrastructure deployment plans;

(5) Telephone customer proprietary network information;

(6) Incumbent Local Exchange Carrier (ILEC) capital expense reports;

(7) ILEC network improvement plans;

(8) ILEC overtime reports;

(9) ILEC commercial agreements;

(10) ILEC annual retail and wholesale provisioning reports by central office;

(11) ILEC annual special contract summaries;

(12) Preliminary and final Performance Assurance Plan Reports for telecommunications companies containing carrier-specific performance and bill credit calculations;

(13) NHPUC Form ILEC-22;

(14) NHPUC Form ILEC-23;

(15) NHPUC Form CLEC-3, Sections 13 and 18;

(16) NHPUC Form CTP-3, Sections 13 and 18;



- (17) NHPUC Form CLEC-4;
  - (18) NHPUC Form CLEC-40, Section 3;
  - (19) Neustar (North American Numbering Plan Administration-designated overseer) Months to Exhaust and Utilization Certification Work Sheets;
  - (20) Neustar Part 1A;
  - (21) Neustar Part 1B;
  - (22) New England Electric Pool "My Settled Certificates" Reports filed in conjunction with annual Renewable Portfolio Standards Reports;
  - (23) Listings of prices that utilities pay for fractional Renewable Energy Certificates purchased from utilities' customers or members;
  - (24) Bids for the purchase of RGGI allowances pursuant to RSA 125-O:22;
  - (25) Supplier commodity pricing, special terms of supply agreements, and other non-public financial information and statements submitted in connection with Cost of Gas proceedings, including responses to staff data requests;
  - (26) NHPUC Form E-1, Monthly Report on Voltage Complaints;
  - (27) NHPUC Form E-4, Monthly Report of Electric Meter Complaint Tests;
  - (28) NHPUC Form E-5, Accident Reports; and
  - (29) Default service solicitations; bidder information, bid evaluations, and purchase power supply agreement materials.
- (b) The commission shall make a determination regarding requests for confidential treatment of documents or portions of documents submitted pursuant to Puc 201.06 upon request for release of those documents to the public submitted pursuant to Puc 201.07.
- (c) Prior to commission determination regarding confidential treatment, documents submitted to the commission pursuant to Puc 201.06 shall be:
- (1) Treated as confidential by the commission; and
  - (2) Maintained by the commission according to such conditions as the commission determines are necessary to preserve such confidentiality.

**Adopt Puc 201.07 to read as follows:**

Puc 201.07 Requests for Release to the Public of Confidential Documents Submitted in Routine Filings.

- (a) Puc 201.07 shall apply to all routine filings subject to Puc 201.06. All references to written communications in this rule also refer to e-mail communications.
- (b) Puc 201.07 shall govern the commission's consideration of requests submitted pursuant to Puc 104.01 for public release of one or more documents for which confidential treatment has been requested pursuant to Puc 201.06.
- (c) The commission, within 5 business days of the receipt of a request made pursuant to Puc 201.07 by the executive director, shall send a written acknowledgment to the person requesting public release that includes:
  - (1) A statement that confidential treatment has been requested for the document(s);

(2) A statement of the time reasonably necessary to determine whether the request for release shall be granted or denied; and

(3) A statement that the request for release is subject to the provisions of Puc 201.07.

(d) The commission shall provide the person who submitted the document(s) with written notice of the request for release within 5 business days of the receipt of the request for release.

(e) This notice shall:

(1) Describe the request for release; and

(2) Afford the person who submitted the document(s) 10 calendar days from the date of the notice to submit to the executive director a written objection to release of the document(s) to the public, pursuant to (f) below.

(f) Objections to release shall comply with Puc 202.06(a)(1) and (2) and contain:

(1) A specific description of the document(s) or specific portions of documents for which confidentiality is sought;

(2) Specific facts showing how release of the requested document(s) would constitute an invasion of privacy under RSA 91-A:5, including a description of how the requested material includes confidential, commercial, or financial information, or other information subject to the exemptions of RSA 91-A:5;

(3) A specific description of the harm that would result from release; and

(4) A representation that the information contained in the document(s) or portions of documents for which confidentiality is sought is not already available to the public.

(g) The commission shall take one of the following actions pursuant to RSA 91-A:5 and other applicable law:

(1) Approve the public release of the requested documents in their entirety;

(2) Approve the partial release of the requested documents, **subject to** redactions approved by the commission; or

(3) Deny the request for release in its entirety.

(h) In making its determination pursuant to (g) above, the commission shall consider:

(1) The written request for release;

(2) The original request for confidential treatment pursuant to Puc 201.06;

(3) Written objections filed with the commission;

(4) Additional information that the commission requests; and

(5) Any applicable law.

(i) In determining the proper action under (g) above, the commission shall:

(1) Consider whether there is a privacy interest at stake that would be invaded by the disclosure of the requested documents;

(2) Consider whether the public has an interest in disclosure of the requested documents; and

(3) Decide whether any public interest in disclosure is outweighed by the state's interest in non-disclosure and any privacy interest in non-disclosure.



- (j) The commission shall provide written notice of its decision.

PART Puc 203 ADJUDICATIVE PROCEEDINGS

**Readopt with Amendment Puc 203.08, effective 6-10-06 (Document # 8657-A) to read as follows:**

Puc 203.08 Motions for Confidential Treatment.

(a) The commission shall upon motion issue a protective order providing for the confidential treatment of one or more documents upon a finding that the document or documents are entitled to such treatment pursuant to RSA 91-A:5, or other applicable law based upon the information submitted pursuant to (b) below.

(b) A motion for confidential treatment submitted pursuant to this rule shall contain:

- (1) The documents, specific portions of documents, or a detailed description of the types of information for which confidentiality is sought;
- (2) Specific reference to the statutory or common law support for confidentiality; and
- (3) A detailed statement of the harm that would result from disclosure and any other facts relevant to the request for confidential treatment.

(c) Documents submitted to the commission or staff accompanied by a motion for confidential treatment shall not be disclosed to the public until the commission rules on the motion.

(d) In lieu of immediately filing a motion for confidential treatment, a party providing a document to the commission staff in discovery that the party wishes to remain confidential shall accompany the submission with a written statement that:

- (1) The party submitting such documents has a good faith basis for seeking confidential treatment of the documents pursuant to this rule; and
- (2) Such party intends to submit a motion for confidential treatment regarding such documents at or before the commencement of the hearing in such proceedings.

(e) Documents submitted to the commission or staff accompanied by a written statement pursuant to (d) shall be treated as confidential, provided that the party submitting the documents thereafter files a motion for confidential treatment at or prior to the commencement of the hearing in the proceeding.

(f) When a party provides the commission or staff with a document accompanied by a motion for confidential treatment or a statement of intent to file such a motion, the party shall furnish 7 copies of the document.

(g) The commission shall mark each copy as confidential and maintain it within the commission offices in a secure location.

(h) If the commission grants a motion for confidential treatment, the confidential information shall not be subject to public disclosure and the document shall be treated according to such conditions as the commission determines are necessary to preserve such confidentiality.

(i) If the commission denies a motion for confidential treatment or modifies a previously issued protective order so that information previously held confidential is no longer entitled to such treatment, the information shall not be disclosed until all rights to request rehearing and to appeal have been exhausted or waived.

(j) When necessary to protect the confidentiality of material entitled to such treatment under this section, the commission shall include in its protective order a directive that all parties receiving the material shall also treat it as confidential.

(k) The granting of a motion for confidential treatment shall be subject to the ongoing authority of the commission, on its own motion, on motion of staff or on motion of any member of the public to reconsider the determination.

(l) If any information entitled to confidential treatment under this rule is thereafter released or made public by the party who sought its protection, any confidential treatment shall cease with respect to the released information but shall remain in full force and effect as to the information not so released or made public.

(m) The commission shall retain one copy of any documents entitled to confidential treatment under this rule and destroy all others within one year after all rights to appeal final orders of the commission have been exhausted.

~~\_\_\_\_\_ (n) This rule shall not apply to materials submitted to the commission pursuant to RSA 378:43, except that, when reasonably necessary to protect the confidentiality of such materials, the commission shall issue a protective order requiring other parties receiving the material to maintain its confidentiality.~~

## APPENDIX

A cross reference of the specific sections of the state statute and federal statute or regulation, as may be applicable, which the rule is intended to implement is set forth as follows:

Rule(s)	State Statute (RSA)	Federal Statute	Federal Regulation
Puc 102.19 Puc 102.20 Puc 102.21 Puc 102.22 Puc 104.01	RSA 365:8, XII RSA 365:8, XIV RSA 378:43 (repealed)	none applicable	none applicable
Puc 201.04 Puc 201.06 Puc 201.07 Puc 203.08	RSA 365:8, XII RSA 365:8, XIV RSA 378:43 (repealed)	none applicable	none applicable



MAR 17 2011

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**CONDITIONAL APPROVAL  
REQUEST**

CHAPTER Puc 100 ORGANIZATIONAL RULES

PART Puc 102 DEFINITIONS

SP INT 2011-4

**Adopt Puc 102.19, to read as follows:**

Puc 102.19 "Routine filings" means documents submitted, on a recurrent basis, by a utility to the commission outside of an adjudicative proceeding.

~~Puc 102.19 "Rulemaking" means the process for adopting rules as provided for in RSA 541-A:3 and other relevant provisions of RSA 541-A.~~

Renumber Puc 102.19-.21, effective 3-18-97 (Document #6470), as Puc 102.20-.22.

~~Readopt Puc 102.19, effective 3-18-97 (Document # 6470) and renumber as Puc 102.20 to read as follows:~~

~~— Puc [102.19] 102.20 "Rulemaking" means the process for adopting rules as provided for in RSA 541-A:3 and other relevant provisions of RSA 541-A.~~

~~Readopt Puc 102.20, effective 3-18-97 (Document # 6470) and renumber as Puc 102.21 to read as follows:~~

~~— Puc [102.20] 102.21 "Staff" means the employees of the commission other than the commissioners.~~

~~Readopt Puc 102.21, effective 3-18-97 (Document # 6470) and renumber as Puc 102.22 to read as follows:~~

~~— Puc [102.21] 102.22 "Technical session" means a meeting of the parties at which information is shared on an informal basis and at which neither the presiding officer nor any commissioners are present.~~

PART Puc 104 REQUESTS FOR PUBLIC INFORMATION

**Readopt with Amendment Puc 104.01, effective 3-18-97 (Document # 6470) to read as follows:**

Puc 104.01 Public Access to Information.

(a) To the extent required or permitted by RSA 91-A, the commission shall permit members of the public to examine and copy public records.

(b) Members of the public may make a request to examine records by contacting the executive director pursuant to Puc 103.01(m).

(c) The commission shall permit examination and copying of public records, as follows:

- (1) On the commission premises;
- (2) During commission business hours; and
- (3) Within the time-frames set forth in RSA 91-A.

(d) Any person who seeks to examine or copy public records shall describe the information requested sufficiently in detail to allow the commission to identify the records requested.

(e) This section shall not require the release by the commission of information determined, pursuant to RSA 91-A:5, RSA 378:43 Puc 201.06, Puc 201.07, or Puc 203.087, to be:

- (1) Confidential; or
- (2) Not a matter of public record.

(f) Within the time period specified by RSA 91-A:4, the commission shall respond to such a request by:

- (1) Making the record available for inspection and copying;
- (2) Denying the request in writing and stating the reasons for denial; or
- (3) Furnishing written acknowledgement of the receipt of the request and a statement of the time reasonably necessary to determine whether the request shall be granted or denied.

(g) For all records submitted to the commission pursuant to Puc 201.06, the procedures established under Puc 201.07 shall govern the commission's response to requests for public release of such documents.

(gh) The commission shall charge for copies of public records at the actual cost of providing the copy, pursuant to RSA 91-A:4, IV.

(hi) A written denial issued under this rule shall be treated as the final determination of the commission for purposes of appeal to the superior court pursuant to RSA 91-A:7.

## CHAPTER Puc 200 RULES OF PRACTICE AND PROCEDURE

### PART Puc 201 GENERAL REQUIREMENTS

**Readopt with amendment Puc 201.04, effective 6-10-06 (Document # 8657-A) to read as follows:**

#### Puc 201.04 Public Records.

(a) All documents submitted to the commission or staff in an adjudicative or non-adjudicative proceeding shall become matters of public record, subject to RSA 91-A, as of the day and time of the submission ~~to the commission or staff~~ with the following exceptions:

- (1) Accident reports under RSA 374:40;
- (2) Information about individual residential customers, the disclosure of which would constitute an invasion of privacy within the meaning of RSA 91-A:5, IV;
- (3) Documents submitted ~~to the commission or staff~~ in connection with an adjudicative proceeding pursuant to Puc 203.087;
- (4) Documents subject to a protective order of the commission issued pursuant to Puc 203.087; ~~or~~
- (5) Documents granted confidential treatment pursuant to Puc 201.06 and Puc 201.07; or
- (65) Other documents entitled to confidential treatment pursuant to RSA 91-A, RSA 378:43 or other applicable law.



(b) All information within documents submitted to the commission and asserted to be confidential, pursuant to RSA 91-A:5, IV, by the person making the submission shall be redacted in the following manner in the version for public release, and all redactions shall be made in a way that, within the redacted version of the document(s), preserves the line sequencing and pagination of the unredacted version of the document(s) to the greatest practicable extent:

(1) Bear the legend "REDACTED" at the upper-right-hand corner of every page; and

(2) eEither:

(2)a. Indicate all confidential segments with the legend "BEGIN CONFIDENTIAL," in all capital letters, at the beginning of the redacted segment, followed by a left bracket. Following the left bracket, the confidential segment shall be replaced by a blank space of approximately equal length to the material being redacted. The end of the redacted segment shall be indicated with a right bracket, followed by the legend "END CONFIDENTIAL," in all capital letters, as follows:

"BEGIN CONFIDENTIAL[blank space]END CONFIDENTIAL;" or

(3)b. If space or format does not allow the redaction to be indicated in the manner set forth in paragraph a. (2) above, such as for individual numbers in a table or column or very short segments of text, then the submitter may indicate redacted material by blacking it out or highlighting it with a solid black line in the following manner:

(c) For each redacted document submitted, the person submitting the document shall also provide an unredacted version of the document(s) to the commission that. ~~These unredacted documents submitted to the commission shall:~~

(1) Bears the legend "CONFIDENTIAL" at the upper-right-hand corner of every page; and

(2) Either:

a. Indicates all redactions made pursuant to (b)(2)a. above with the legend "BEGIN CONFIDENTIAL," in all capital letters, at the beginning of the confidential segment, followed by a left bracket. The end of the confidential segment shall be indicated with a right bracket, followed by the legend "END CONFIDENTIAL," in all capital letters, as follows: "BEGIN CONFIDENTIAL[unredacted-confidential segment]END CONFIDENTIAL;" or

(3)b. Indicates all redactions made pursuant to (b)(32)b. above by highlighting the confidential segment in light gray in the following manner: ~~#confidential segment redacted material.~~

Adopt Puc 201.06 to read as follows:

Puc 201.06 Requests for Confidential Treatment of Documents Submitted by Utilities in Routine Filings.

(a) ~~These are The~~ following shall be the routine filings to which the procedure established by Puc 201.06 and Puc 201.07 applies ~~will apply~~:

(1) Telephone company cost of service studies;

(2) Telephone company retail special contract service agreements;

(3) Telephone company broadband deployment plans;



- (4) Telephone company infrastructure deployment plans;
- (5) Telephone customer proprietary network information;
- (6) Incumbent Local Exchange Carrier (ILEC) capital expense reports;
- (7) ILEC network improvement plans;
- (8) ILEC overtime reports;
- (9) ILEC commercial agreements;
- (10) ILEC annual retail and wholesale provisioning reports by cCentral oOffice;
- (11) ILEC annual special contract summaries;
- (12) Preliminary and final Performance Assurance Plan Reports for telecommunications companies containing carrier-specific performance and bill credit calculations;
- (13) NHPUC Form ILEC-22;
- (14) NHPUC Form ILEC-23;
- (15) NHPUC Form CLEC-3, Sections 13 and 18;
- (16) NHPUC Form CTP-3, Sections 13 and 18;
- (17) NHPUC Form CLEC-4;
- (18) NHPUC Form CLEC-40, Section 3;
- (19) Neustar (North American Numbering Plan Administration-designated overseer) Months to Exhaust and Utilization Certification Work Sheets;
- (20) Neustar Part 1A;
- (21) Neustar Part 1B;
- (22) New England Electric Pool "My Settled Certificates" Reports filed in conjunction with annual Renewable Portfolio Standards Reports;
- (23) Listings of prices that utilities pay for fractional Renewable Energy Certificates purchased from utilities' customers or members;
- (24) Bids for the purchase of RGGI allowances pursuant to RSA 125-O:22;
- (25) Supplier commodity pricing, special terms of supply agreements, and other non-public financial information and statements submitted in connection with Cost of Gas proceedings, including responses to staff data requests;
- (26) NHPUC Form E-1, Monthly Report on Voltage Complaints;
- (27) NHPUC Form E-4, Monthly Report of Electric Meter Complaint Tests;
- (28) NHPUC Form E-5, Accident Reports; and
- (29) Default service solicitations; bidder information, bid evaluations, and purchase power supply agreement materials.

(b) The commission shall make a determination regarding requests for confidential treatment of documents or portions of documents submitted pursuant to Puc 201.06 upon request for release of those documents to the public submitted pursuant to Puc 201.07.

(c) Prior to commission determination regarding confidential treatment, documents submitted to the commission pursuant to Puc 201.06 shall be:

(1) Treated as confidential by the commission; and

(2) Maintained by the commission according to such conditions as the commission determines are necessary to preserve such confidentiality.

**Adopt Puc 201.07 to read as follows:**

Puc 201.07 Requests for Release to the Public of Confidential Documents Submitted in Routine Filings.

(a) Puc 201.07 shall apply to all routine filings subject to Puc 201.06--: Aall references to "written" communications in this rule also refer to e-mail communications.

(b) Puc 201.07 shall govern the commission's consideration of requests submitted pursuant to Puc 104.01 for public release of one or more documents for which confidential treatment has been requested pursuant to Puc 201.06.

(c) The commission, within 5 business days of the receipt of a request made pursuant to Puc 201.07 by the executive director, shall send a written acknowledgment to the person requesting public release that shall includes:

(1) A statement that confidential treatment has been requested for the document(s);

(2) A statement of the time reasonably necessary to determine whether the request for release shall be granted or denied; and

(3) A statement that the request for release is subject to the provisions of Puc 201.07.

(d) The commission shall provide the person who submitted the document(s) with written notice of the request for release within 5 business days of the receipt of the request for release.

(e) This notice shall:

(1) Describe the request for release; and

(2) Afford the person who submitted the document(s) 10 calendar days from the date of the notice to submit to the executive director a written objection to release of the document(s) to the public, pursuant to (fe) below.

(fe) Objections to release shall comply with Puc 202.06(a)(1) and (2) and contain:

(1) A specific description of the document(s) or specific portions of documents for which confidentiality is sought;

(2) Specific facts showing how release of the requested document(s) would constitute an invasion of privacy under RSA 91-A:5, including a description of how the requested material includes confidential, commercial, or financial information, or other information subject to the exemptions of RSA 91-A:5;

(3) A specific description of the harm that would result from release; and

(4) A representation that the information contained in the document(s) or portions of documents for which confidentiality is sought is not already available to the public.

(gf) The commission shall take one of the following actions pursuant to RSA 91-A:5 and other applicable law:

(1) Approve the public release of the requested documents in their entirety;



(2) Approve the partial release of the requested documents, subject to redactions approved by the commission; or

(3) Deny the request for release in its entirety.

(hg) In making its determination pursuant to (gf) above, the commission shall consider:

(1) The written request for release;

(2) The original request for confidential treatment pursuant to Puc 201.06;

(3) Written objections filed with the commission;

(4) Additional information that the commission requests; and

(5) Any applicable law.

(ih) In determining the proper action under (g) above, the commission shall:

(1) Consider whether there is a privacy interest at stake that would be invaded by the disclosure of the requested documents;

(2) Consider whether the public has an interest in disclosure of the requested documents; and

(3) Decide whether any public interest in disclosure is outweighed by the state's interest in non-disclosure and any privacy interest in non-disclosure.

making its determination pursuant to (f) above, the commission shall also consider:

(1) Whether there is a privacy interest at stake that would be invaded by the disclosure of the requested documents;

(2) Whether the public has an interest in disclosure of the requested documents; and

(3) The balance of any public interest in disclosure against the State's interest in non-disclosure and any privacy interest in non-disclosure.

(ji) The commission shall provide written notice of its decision.

#### **PART Puc 203 ADJUDICATIVE PROCEEDINGS**

**Readopt with Amendment Puc 203.08, effective 6-10-06 (Document # 8657-A) to read as follows:**

##### **Puc 203.08 Motions for Confidential Treatment.**

(a) The commission shall upon motion issue a protective order providing for the confidential treatment of one or more documents upon a finding that the document or documents are entitled to such treatment pursuant to RSA 91-A:5, or other applicable law based upon the information submitted pursuant to (b) below.

(b) A motion for confidential treatment submitted pursuant to this rule shall contain:

(1) The documents, specific portions of documents, or a detailed description of the types of information for which confidentiality is sought;

(2) Specific reference to the statutory or common law support for confidentiality; and

(3) A detailed statement of the harm that would result from disclosure and any other facts relevant to the request for confidential treatment.



(c) Documents submitted to the commission or staff accompanied by a motion for confidential treatment shall not be disclosed to the public until the commission rules on the motion.

(d) In lieu of immediately filing a motion for confidential treatment, a party providing a document to the commission staff in discovery that the party wishes to remain confidential shall accompany the submission with a written statement that:

(1) The party submitting such documents has a good faith basis for seeking confidential treatment of the documents pursuant to this rule; and

(2) Such party intends to submit a motion for confidential treatment regarding such documents at or before the commencement of the hearing in such proceedings.

(e) Documents submitted to the commission or staff accompanied by a written statement pursuant to (d) shall be treated as confidential, provided that the party submitting the documents thereafter files a motion for confidential treatment at or prior to the commencement of the hearing in the proceeding.

(f) When a party provides the commission or staff with a document accompanied by a motion for confidential treatment or a statement of intent to file such a motion, the party shall furnish 7 copies of the document.

(g) The commission shall mark each copy as confidential and maintain it within the commission offices in a secure location.

(h) If the commission grants a motion for confidential treatment, the confidential information shall not be subject to public disclosure and the document shall be treated according to such conditions as the commission determines are necessary to preserve such confidentiality.

(i) If the commission denies a motion for confidential treatment or modifies a previously issued protective order so that information previously held confidential is no longer entitled to such treatment, the information shall not be disclosed until all rights to request rehearing and to appeal have been exhausted or waived.

(j) When necessary to protect the confidentiality of material entitled to such treatment under this section, the commission shall include in its protective order a directive that all parties receiving the material shall also treat it as confidential.

(k) The granting of a motion for confidential treatment shall be subject to the ongoing authority of the commission, on its own motion, on motion of staff or on motion of any member of the public to reconsider the determination.

(l) If any information entitled to confidential treatment under this rule is thereafter released or made public by the party who sought its protection, any confidential treatment shall cease with respect to the released information but shall remain in full force and effect as to the information not so released or made public.

(m) The commission shall retain one copy of any documents entitled to confidential treatment under this rule and destroy all others within one year after all rights to appeal final orders of the commission have been exhausted.

~~—(n) This rule shall not apply to materials submitted to the commission pursuant to RSA 378:43, except that, when reasonably necessary to protect the confidentiality of such materials, the commission shall issue a protective order requiring other parties receiving the material to maintain its confidentiality.~~

## APPENDIX

A cross reference of the specific sections of the state statute and federal statute or regulation, as may be applicable, which the rule is intended to implement is set forth as follows:

Rule(s)	State Statute (RSA)	Federal Statute	Federal Regulation
Puc 102.19	RSA 365:8, XII	none applicable	none applicable
Puc 102.20			
Puc 102.21	RSA 365:8, XIV		
Puc 102.22			
Puc 104.01	RSA 378:43 (repealed)		
Puc 201.04	RSA 365:8, XII	none applicable	none applicable
Puc 201.06			
Puc 201.07	RSA 365:8, XIV		
Puc 203.08	RSA 378:43 (repealed)		