

# NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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### PART Puc 201 GENERAL REQUIREMENTS

Puc 201.01 Applicability. This chapter shall apply to all matters that come before the commission.

Source. #2011, eff 5-4-82; ss by #2912, eff 11-26-84; ss by #4998, eff 11-26-90; ss by #6365, INTERIM, eff 11-18-96, EXPIRED: 3-18-97

New. #6559, eff 8-19-97, EXPIRED: 8-19-05

New. #8420, INTERIM, eff 8-23-05, EXPIRED: 2-19-06

New. #8657-A, eff 6-10-06

Puc 201.02 Place of Hearings.

(a) Except as provided in (b) below, the commission shall conduct all hearings at its offices in Concord.

(b) The commission shall conduct one or more public statement hearings within the meaning of Puc 102.17 in the service territory of an affected utility or municipal district if:

(1) Required by law to do so; or

(2) It would assist the commission to ascertain the views of the utility's customers by conducting such a hearing in a particular location other than Concord.

Source. #2011, eff 5-4-82; ss by #2912, eff 11-26-84; ss by #4998, eff 11-26-90; ss by #6365, INTERIM, eff 11-18-96, EXPIRED: 3-18-97

New. #8657-A, eff 6-10-06

Puc 201.03 Construction. The rules in this chapter, and any rules incorporated herein by reference, shall be construed to secure a just and timely determination of the issues.

Source. #2011, eff 5-4-82; ss by #2912, eff 11-26-84; ss by #4998, eff 11-26-90; ss by #6365, INTERIM, eff 11-18-96, EXPIRED: 3-18-97

New. #6559, eff 8-19-97, EXPIRED: 8-19-05

New. #8420, INTERIM, eff 8-23-05, EXPIRED: 2-19-06

New. #8657-A, eff 6-10-06

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 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;

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- (3) Documents submitted in connection with an adjudicative proceeding pursuant to Puc 203.08;
- (4) Documents subject to a protective order of the commission issued pursuant to Puc 203.08;
- (5) Documents granted confidential treatment pursuant to Puc 201.06 and Puc 201.07; or
- (6) Other documents entitled to confidential treatment pursuant to RSA 91-A 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:

**[REDACTED]**

(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

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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**.

Source. #2011, eff 5-4-82; ss by #2912, eff 11-26-84; ss by #4998, eff 11-26-90; ss by #6365, INTERIM, eff 11-18-96, EXPIRED: 3-18-97

New. #6559, eff 8-19-97, EXPIRED: 8-19-05

New. #8420, INTERIM, eff 8-23-05, EXPIRED: 2-19-06

New. #8657-A, eff 6-10-06; ss by #9897, INTERIM, eff 3-26-11, EXPIRES: 9-22-11

### Puc 201.05 Waiver of Rules.

(a) The commission shall waive the provisions of any of its rules, except where precluded by statute, upon request by an interested party if the commission finds that:

(1) The waiver serves the public interest; and

(2) The waiver will not disrupt the orderly and efficient resolution of matters before the commission.

(b) In determining the public interest, the commission shall waive a rule if:

(1) Compliance with the rule would be onerous or inapplicable given the circumstances of the affected person; or

(2) The purpose of the rule would be satisfied by an alternative method proposed.

(c) Any interested party seeking a waiver shall make a request in writing, except as provided in (d) below.

(d) The commission shall accept for consideration any waiver request made orally during a hearing or pre-hearing conference.

(e) A request for a waiver shall specify the basis for the waiver and proposed alternative, if any.

Source. #2011, eff 5-4-82; ss by #2912, eff 11-26-84; ss by #4998, eff 11-26-90; ss by #6365, INTERIM, eff 11-18-96, EXPIRED: 3-18-97

New. #6559, eff 8-19-97, EXPIRED: 8-19-05

New. #8420, INTERIM, eff 8-23-05, EXPIRED: 2-19-06

New. #8657-B, eff 6-10-06

### 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;

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- (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;

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(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.

Source. #9897, INTERIM, eff 3-26-11, EXPIRES: 9-22-11

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;

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- (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.

Source. #9897, INTERIM, eff 3-26-11, EXPIRES: 9-22-11

### PART Puc 202 OPERATIONS AND REQUIREMENTS

#### Puc 202.01 Requests for Commission Determinations.

- (a) Except as provided in (b) through (m) below, any person seeking the action of the Commission shall do so by submitting a petition pursuant to Puc 203.
- (b) A person seeking to implement or amend a tariff or special contract pursuant to RSA 378 shall make the appropriate filing required by Puc 1600.

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(f) If a witness' written testimony exceeds 20 pages, the testimony shall include a detailed table of contents.

Source. #2011, eff 5-4-82; ss by #2912, eff 11-26-84; ss by #4998, eff 11-26-90; ss by #6365, INTERIM, eff 11-18-96, EXPIRED: 3-18-97

New. #6559, eff 8-19-97, EXPIRED: 8-19-05

New. #8420, INTERIM, eff 8-23-05, EXPIRED: 2-19-06

New. #8657-A, eff 6-10-06

### Puc 203.07 Motions.

(a) A motion may be filed by any party or, in the case of a motion for rehearing, a person directly affected by a commission action pursuant to RSA 541:3.

(b) Except as provided in (c) below, any motion shall be filed in writing in the form of a pleading that contains the word "motion" in its title.

(c) The presiding officer shall permit an oral motion to be made on the record during a hearing or prehearing conference.

(d) A motion shall clearly and concisely state:

- (1) The facts and law which support the motion; and
- (2) The specific relief or ruling requested.

(e) Objections to a motion, except for motions for rehearing, shall be in writing and filed within 10 days of the date on which the motion is filed.

(f) Objections to a motion for rehearing pursuant to RSA 541:3 shall be filed within 5 days of the date on which the motion for rehearing is filed.

Source. #2011, eff 5-4-82; ss by #2912, eff 11-26-84; ss by #4998, eff 11-26-90; ss by #6365, INTERIM, eff 11-18-96, EXPIRED: 3-18-97

New. #6559, eff 8-19-97, EXPIRED: 8-19-05

New. #8420, INTERIM, eff 8-23-05, EXPIRED: 2-19-06

New. #8657-A, eff 6-10-06

### 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;



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- (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.

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(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.

Source. #2011, eff 5-4-82; ss by #2912, eff 11-26-84; ss by #4998, eff 11-26-90; ss by #6365, INTERIM, eff 11-18-96, EXPIRED: 3-18-97

New. #6559, eff 8-19-97, EXPIRED: 8-19-05

New. #8420, INTERIM, eff 8-23-05, EXPIRED: 2-19-06

New. #8657-A, eff 6-10-06; ss by #9897, INTERIM, eff 3-26-11, EXPIRES: 9-22-11

### Puc 203.09 Discovery.

(a) The petitioner, the staff of the commission, the office of consumer advocate and any person granted intervenor status shall have the right to conduct discovery in an adjudicative proceeding pursuant to this rule.

(b) Unless inconsistent with an applicable procedural order, any person covered by this rule shall have the right to serve upon any party, data requests, which may consist of a written interrogatory or request for production of documents.

(c) Data requests shall identify with specificity the information or materials sought.

(d) A copy of each data request, each objection to data requests and each response to data requests shall be served upon every person designated for discovery filings on the commission's official service list pursuant to Puc 203.11.

(e) Objections to data requests and responses to data requests shall not be filed or served pursuant to Puc 203.02.

(f) A response to a data request shall be made within 10 days of the date of receipt or in accordance with a procedural schedule established by the commission.

(g) Objections to data requests shall:

(1) Be served in writing on the propounder of the requests within 10 days following receipt of the request unless the commission specifies a different time period in a procedural schedule order; and

(2) Clearly state the grounds on which they are based.

(h) Failure to object to a data request or requests for documents within 10 days of its receipt without good cause shall be deemed a waiver of the right to object.

(i) Motions to compel responses to data requests shall:

(1) Be made pursuant to Puc 203.07;

(2) Be made within 15 business days of receiving the applicable response or objection, or the deadline for providing the response, whichever is sooner;

(3) Specify the basis of the motion; and

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- (2) Involves a hypothetical situation or otherwise seeks advice as to how the commission would decide a future case; or
- (3) Does not implicate the legal rights or responsibilities of the petitioner.
- (d) Except for a petition dismissed pursuant to subsection (c), the commission shall conduct an adjudicative proceeding on a petition for declaratory ruling in accordance with Puc 203.

Source. #8657-A, *eff* 6-10-06

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APPENDIX

Rule	Statute
Puc 201.01	RSA 365:8, XII
Puc 201.02-201.03	RSA 365:8, XII
Puc 201.04	RSA 365:8, XII; RSA 365:8, XIV
Puc 201.05	RSA 365:8, XII
Puc 201.06- 201.08	RSA 365:8, XII; RSA 365:8, XIV
Puc 202.01-202.07	RSA 365:8, XII
Puc 202.08	RSA 365:8, I ; RSA 641:1; RSA 641:2
Puc 202.09	RSA 363:12, VII; RSA 365:8, XII
Puc 202.11–202.18	RSA 365:8, I
Puc 203.01-203.06	RSA 365:8, XII
Puc 203.07	RSA 365:8, I and IV
Puc 203.08-203.10	RSA 365:8, I
Puc 203.11	RSA 365:8, I; RSA 541-A:31, III
Puc 203.12-203.13	RSA 365:8, I
Puc 203.14	RSA 365:8, I; RSA 541-A:31, V (b)-(d)
Puc 203.15	RSA 365:8, I
Puc 203.16	RSA 365:8, I; RSA 541-A:32
Puc 203.17- 203.18	RSA 365:8, I
Puc 203.19	RSA 365:8, I; RSA 541-A:38
Puc 203.20 – 203.21	RSA 365:8, I
Puc 203.22 – 203.24	RSA 365:8, I; RSA 541-A:33
Puc 203.25 – 203.29	RSA 365:8, I
Puc 203.30 - 203.33	RSA 365:8, I
Puc 204.01 - 204.06	RSA 365:1 – 5
Puc 205.01 – 205.03	RSA 541-A:16, I (c)
Puc 205.04	RSA 541-A:6, III
Puc 205.05	RSA 541-A:11; RSA 541-A:16, I (b) (3)
Puc 205.06	RSA 541-A:11, VII
Puc 206.01 - 206.09	RSA 365:8, III; RSA 265:8, XII
Puc 207.01	RSA 365: 8, I, XII; RSA 541-A:16, I (d)