

THE STATE OF NEW HAMPSHIRE



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CHAIRMAN
Thomas B. Getz

COMMISSIONERS
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Amy L. Ignatius

EXECUTIVE DIRECTOR
AND SECRETARY
Debra A. Howland

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

August 10, 2011

Scott F. Eaton, Director
Administrative Rules Division
Office of Legislative Services
State House Annex, Room 219
25 Capitol Street
Concord, New Hampshire 03301

Re: Puc 100 – Organizational Rules
Puc 200 - Rules of Practice and Procedure

Dear Mr. Eaton:

Enclosed please find documents to be filed with your office regarding the above-referenced docket:

- 1) Appendix II-C, Rulemaking Notice Form;
- 2) Fiscal Impact Statement – FIS 11:113 (2 copies);
- 3) Puc 100/200 - Initial Proposal – Annotated Text (Showing changes from current Rules) (2 copies); and
Puc 200 – Initial Proposal – Annotated Text (2 copies)
- 4) Cross Reference Table of Applicable Statutes (2 copies).

Please include the Rulemaking Notice Form in the next available Rulemaking Register.

Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Thomas B. Getz", written over a circular stamp or seal.

Thomas B. Getz
Chairman

Enclosures

APPENDIX II-C

RULEMAKING NOTICE FORM

Notice Number _____

Rule Number Puc 100 & Puc 200

1. Agency Name & Address:

**Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, New Hampshire 03301**

2. RSA Authority:

**RSA 365:8, I, VII, XIV
RSA 365:8, XII**

3. Federal Authority: _____

4. Type of Action:

Adoption _____

Amendment _____

Repeal _____

Readoption _____

Readoption w/amendment X

5. Short Title: **Puc 100 Organizational Rules**

Puc 200 Rules of Practice and Procedure

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

Puc 100/Puc 200 set forth certain standards of conduct and related procedures governing the definitions of proceedings and access to requests for public information and sets forth certain standards of conduct and related procedures governing filing of confidential and public information.

Puc 200 sets forth certain standards of conduct and related procedures governing the waiver of rules for filings.

6. (b) Brief description of the groups affected:

The rules affect regulated utilities and their affiliates operating in New Hampshire that make filings with the NH PUC.

APPENDIX II-C (Continued)

RULEMAKING NOTICE FORM - Page 2

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

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
Puc 203.02	RSA 365:8, XII	none applicable	none applicable
Puc 203.22	RSA 365:8, I RSA 541-A:33	none applicable	none applicable
Puc 207.01	RSA 365:8, I RSA 365:8, XII RSA 541-A:16, I(d)	none applicable	none applicable
Puc 201.05	RSA 365:8, XII	none applicable	none applicable

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Alexander Speidel**
Address: **New Hampshire Public Utilities
Commission
21 South Fruit Street Suite 10
Concord NH 033-1**

Title: **Staff Attorney**
Phone #: **603-271-2431**
Fax#: **603-271-3878**
E-mail: **alexander.speidel@puc.nh.gov**
TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **October 3, 2011**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for: September 20, 2011

Date and Time: September 20, 2011 at 10:00 a.m.

Place: 21 South Fruit Street, Suite 10, Hearing Room A, Concord, NH

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 11:113 , dated August 5, 2011

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution: **The proposed rules do not modify an existing program or responsibility, and do not assign any responsibility to any political subdivision and therefore is not proposed in violation of Part I, Article 28-a.**

LBAO
FIS 11:113
08/05/11

Fiscal Impact Statement for Public Utilities Commission rules governing Rules of Practice and Procedure. [Puc 201.05]

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in cost when comparing the proposed rules to the existing rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

LBAO
FIS 11:113
08/05/11

Fiscal Impact Statement for Public Utilities Commission rules governing Rules of Practice and Procedure. [Puc 201.05]

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in cost when comparing the proposed rules to the existing rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

CHAPTER Puc 100 ORGANIZATIONAL RULES

PART Puc 102 DEFINITIONS

Readopt Puc 102.19, INTERIM effective 3-26-11 (Document # 9897), 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.

Readopt Renumbering of Puc 102.19-.21, INTERIM effective 3-26-11 (Document # 9897), as Puc 102.20-.22.

PART Puc 104 REQUESTS FOR PUBLIC INFORMATION

Readopt Puc 104.01, INTERIM effective 3-26-11 (Document # 9897) 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, Puc 201.06, Puc 201.07, or Puc 203.08, 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.

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

(i) 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 Puc 201.04, INTERIM effective 3-26-11 (Document # 9897) 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 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 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:


(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*.

Redopt with Amendment Puc 201.06, INTERIM effective 3-26-11 (Document # 9897) 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, Statistics, Lines by Locality and CLEC Foreign Exchange (FX) Eligibility Sections 13 and 18;
- (16) NHPUC Form CTP-3, Statistics, Lines by Locality and CLEC Foreign Exchange (FX) Eligibility Sections 13 and 18;
- (17) NHPUC Form CLEC-4;
- (18) NHPUC Form CLEC-40, Report Statistics 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 any other party that may receive them; and
- (2) Maintained by the commission, and any parties receiving a copy of the documents, according to such conditions as the commission determines are necessary to preserve such confidentiality.

Readopt Puc 201.07, INTERIM effective 3-26-11 (Document # 9897) 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 203.02, effective 6-10-06 (Document # 8657-A) to read as follows:

Puc 203.02 Filing Requirements.

(a) Except as provided in (b) below, for a filing to be effective in an adjudicative proceeding, a party shall:

- (1) File ~~7~~one original and 6 paper copies of all documents with the commission;
- (2) File an electronic copy, as required by Puc 203.03, with the commission;
- (3) Serve pursuant to Puc 203.11 an electronic copy on each person identified on the commission's service list for that docket;
- (4) Serve an electronic copy with the office of the consumer advocate; and
- (5) Serve a written copy pursuant to Puc 203.11 on each person identified on the commission's service list as not able to receive electronic mail.

(b) Upon request of a person submitting a document and upon receipt of an extra copy of the document with the filing, the commission shall date stamp and return the copy as confirmation of the filing.

Readopt Puc 203.08, INTERIM effective 3-26-11 (Document # 9897) 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.

Readopt with Amendment Puc 203.22, effective 6-10-06 (Document # 8657-A) to read as follows:

Puc 203.22 Exhibits.

(a) A party presenting evidence at a hearing shall present such evidence in exhibit form if the evidence contains tabulations and figures so numerous as to make oral presentation difficult to follow.

(b) Exhibits may contain a summary in an accompanying text or caption section.

(c) Exhibits consisting of more than one page shall be paginated sequentially.

(d) Parties filing exhibits shall:

(1) Provide on the first page of each exhibit a space approximately 2-1/2 inches wide by 1-1/2 inches long in the upper right hand corner; and

(2) Provide that each subsequent page shall have no less than one inch margins on all sides.

(e) A party presenting an exhibit at hearing with any material that has not been previously submitted to the Commission shall provide a copy to the hearing clerk, each commissioner, the court reporter, if any, any witness or witnesses then testifying and each party present at the hearing. Parties may request that the Commission mark previously-submitted filings as an exhibit at hearing.

(f) Any party offering an exhibit other than a document or photograph shall:

(1) Produce the exhibit for evaluation during a hearing; and

(2) Submit a photographic representation of the exhibit for inclusion in the record.

PART Puc 207 DECLARATORY RULINGS

Readopt with Amendment Puc 207.01, effective 6-10-06 (Document # 8657-A) to read as follows:

Puc 207.01 Declaratory Rulings.

(a) A person seeking a declaratory ruling on any matter within the jurisdiction of the commission shall request such ruling by submitting a petition pursuant to Puc 203.

(b) Such a petition shall be verified under oath or affirmation by an authorized representative of the petitioner with knowledge of the relevant facts.

(c) The commission shall dismiss a petition for declaratory ruling that:

(1) Fails to set forth factual allegations that are definite and concrete;

(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; or

(4) Is not within the commission's jurisdiction.

(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.

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
Puc 203.02	RSA 365:8, XII	none applicable	none applicable
Puc 203.22	RSA 365:8, I RSA 541-A:33	none applicable	none applicable
Puc 207.01	RSA 365:8, I RSA 365:8, XII RSA 541-A:16, I(d)	none applicable	none applicable

CHAPTER Puc 100 ORGANIZATIONAL RULES

PART Puc 102 DEFINITIONS

Readopt Puc 102.19, INTERIM effective 3-26-11 (Document # 9897), 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.

Readopt Renumbering of Puc 102.19-.21, INTERIM effective 3-26-11 (Document # 9897), as Puc 102.20-.22.

PART Puc 104 REQUESTS FOR PUBLIC INFORMATION

Readopt Puc 104.01, INTERIM effective 3-26-11 (Document # 9897) 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, Puc 201.06, Puc 201.07, or Puc 203.08, 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.

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

(i) 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 Puc 201.04, INTERIM effective 3-26-11 (Document # 9897) 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 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 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:


(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*.

Redopt with Amendment Puc 201.06, INTERIM effective 3-26-11 (Document # 9897) 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, Statistics, Lines by Locality and CLEC Foreign Exchange (FX) Eligibility Sections 13 and 18;
- (16) NHPUC Form CTP-3, Statistics, Lines by Locality and CLEC Foreign Exchange (FX) Eligibility Sections 13 and 18;
- (17) NHPUC Form CLEC-4;
- (18) NHPUC Form CLEC-40, Report Statistics 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 any other party that may receive them; and
- (2) Maintained by the commission, and any parties receiving a copy of the documents, according to such conditions as the commission determines are necessary to preserve such confidentiality.

Readopt Puc 201.07, INTERIM effective 3-26-11 (Document # 9897) 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 203.02, effective 6-10-06 (Document # 8657-A) to read as follows:

Puc 203.02 Filing Requirements.

(a) Except as provided in (b) below, for a filing to be effective in an adjudicative proceeding, a party shall:

- (1) File ~~7~~one original and 6 paper copies of all documents with the commission;
- (2) File an electronic copy, as required by Puc 203.03, with the commission;
- (3) Serve pursuant to Puc 203.11 an electronic copy on each person identified on the commission's service list for that docket;
- (4) Serve an electronic copy with the office of the consumer advocate; and
- (5) Serve a written copy pursuant to Puc 203.11 on each person identified on the commission's service list as not able to receive electronic mail.

(b) Upon request of a person submitting a document and upon receipt of an extra copy of the document with the filing, the commission shall date stamp and return the copy as confirmation of the filing.

Readopt Puc 203.08, INTERIM effective 3-26-11 (Document # 9897) 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.

Readopt with Amendment Puc 203.22, effective 6-10-06 (Document # 8657-A) to read as follows:

Puc 203.22 Exhibits.

(a) A party presenting evidence at a hearing shall present such evidence in exhibit form if the evidence contains tabulations and figures so numerous as to make oral presentation difficult to follow.

(b) Exhibits may contain a summary in an accompanying text or caption section.

(c) Exhibits consisting of more than one page shall be paginated sequentially.

(d) Parties filing exhibits shall:

(1) Provide on the first page of each exhibit a space approximately 2-1/2 inches wide by 1-1/2 inches long in the upper right hand corner; and

(2) Provide that each subsequent page shall have no less than one inch margins on all sides.

(e) A party presenting an exhibit at hearing with any material that has not been previously submitted to the Commission shall provide a copy to the hearing clerk, each commissioner, the court reporter, if any, any witness or witnesses then testifying and each party present at the hearing. Parties may request that the Commission mark previously-submitted filings as an exhibit at hearing.

(f) Any party offering an exhibit other than a document or photograph shall:

(1) Produce the exhibit for evaluation during a hearing; and

(2) Submit a photographic representation of the exhibit for inclusion in the record.

PART Puc 207 DECLARATORY RULINGS

Readopt with Amendment Puc 207.01, effective 6-10-06 (Document # 8657-A) to read as follows:

Puc 207.01 Declaratory Rulings.

(a) A person seeking a declaratory ruling on any matter within the jurisdiction of the commission shall request such ruling by submitting a petition pursuant to Puc 203.

(b) Such a petition shall be verified under oath or affirmation by an authorized representative of the petitioner with knowledge of the relevant facts.

(c) The commission shall dismiss a petition for declaratory ruling that:

(1) Fails to set forth factual allegations that are definite and concrete;

(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; or

(4) Is not within the commission's jurisdiction.

(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.

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
Puc 203.02	RSA 365:8, XII	none applicable	none applicable
Puc 203.22	RSA 365:8, I RSA 541-A:33	none applicable	none applicable
Puc 207.01	RSA 365:8, I RSA 365:8, XII RSA 541-A:16, I(d)	none applicable	none applicable

CHAPTER Puc 200 RULES OF PRACTICE AND PROCEDURE

PART Puc 201 GENERAL REQUIREMENTS

Readopt with Amendment Puc 201.05, effective 6-10-06 (Document # 8657-B) to read as follows:

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, or on its own motion, 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.

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