

JAN 12 2012

APPENDIX II-G

DRM 11-023

Final Proposal No. 2011-113

Date Filed 1-12-12

COVER SHEET FOR FINAL PROPOSAL

Notice Number	2011-113	Rule Number	Puc 100, various & Puc 200, various
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1. Agency Name & Address: NH Public Utilities Commission 21 S. Fruit Street, Suite 10 Concord, NH 03301-2429	2. RSA Authority: RSA 365:8, I, VII, XIV RSA 365:8, XII 3. Federal Authority: 4. Type of Action: <input type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal <input type="checkbox"/> Readoption <input checked="" type="checkbox"/> Readoption w/amendment
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Substantive comments p. 1+2.

5. Short Title: **ORGANIZATIONAL RULES AND RULES OF PRACTICE AND PROCEDURE**

6. Contact person for copies and questions:

Name:	Alexander Speidel, Esq.	Title:	Staff Attorney
Address:	NH Public Utilities Commission 21 South Fruit Street, Suite 10 Concord NH 03301-2429	Phone #:	603-271-2431

7. Yes No Agency requests Committee legal counsel review and delayed Committee review pursuant to RSA 541-A:12, I-a

8. The rulemaking notice appeared in the Rulemaking Register on August 19, 2011

SEE THE INSTRUCTIONS--PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET AND 2 COPIES OF THE FOLLOWING: (and numbered correspondingly)

9. The "Final Proposal-Fixed Text," including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

10. The full text of the RSA passage granting rulemaking authority.

11. Yes N/A Incorporation by Reference Statement(s) because this rule incorporates a document by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.

12. Yes N/A The "Final Proposal-Annotated Text," indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(e).

13. Yes N/A The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

LBAO
FIS 11:112
08/05/11

Fiscal Impact Statement for Public Utilities Commission rules governing Organizational Rules and Rules of Practice and Procedure. [Puc 100 and Puc 200]

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.

Edit. Replace with "Adopt".

Edit. Replace with "previously".

Edit. Delete this AARL. Renumbering does not have to be "readopted". Expiration of the interim rule Puc 102.19 did not bring back the former numbering it had changed.

CHAPTER Puc 100 ORGANIZATIONAL RULES
PART Puc 102 DEFINITIONS

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

Puc 102.19 "Routine filings" means documents submitted, on a recurrent basis, by a utility to the commission, and as specified in Chapter Puc 200.

Edit. Delete "Chapter".

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

PART Puc 103 DESCRIPTION AND CONTACT INFORMATION FOR THE COMMISSION

Redopt with Amendment Puc 103.01, effective 6-10-06 (Document # 8656) to read as follows:

Puc 103.01 Commission Functions.

Edit. Insert "and expired 9-22-11," before "as".

- (a) The commission is established to carry out the requirements of RSA Title XXXIV relative to public utilities and their customers and the requirements of RSA 38 relative to public utilities and municipalities.
- (b) Pursuant to RSA 363:17-a, the commission serves as the arbiter between the interests of the customer and the interests of regulated utilities.
- (c) Pursuant to RSA 374:3, the commission has the general supervision of all public utilities and their facilities so far as is necessary to carry out the requirements of RSA Title XXXIV.
- (d) Pursuant to RSA 378, the commission has the responsibility to assure that rates charged by public utilities are just, reasonable and lawful.
- (e) Pursuant to RSA 363:27, II, the commission shall organize its staff as it determines best achieves the commission's statutory responsibilities.
- (f) Pursuant to RSA 363:27, III, the commission shall appoint an executive director and a general counsel.
- (g) The staff of the commission is structured around industry-specific divisions and includes divisions with expertise in electric, gas, telecommunications, water and all other types of utilities as set forth in RSA 362:2.
- (h) In addition to the industry-specific divisions noted in (g), the commission includes an administration division, a legal division, a safety division, an audit division and a consumer affairs division.
- (i) The commission is located at 21 South Fruit Street, Suite 10, Concord, New Hampshire.
- (j) The commission has regular hours from 8:00 a.m. to 4:30 p.m. and is closed on Saturdays, Sundays and state holidays.
- (k) The consumer affairs division may be contacted directly by telephone at 1-800-852-3793, TDD Access-Relay NH: 1-800-735-2964, by facsimile at 603-271-3878, or by written communication addressed to the attention of:

The Consumer Affairs Division
NH Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, N.H. 03301-2429

Unclear. This readoption with amendment was not included in the Initial Proposal, and its inclusion now may amount to depriving the public of reasonable opportunity to testify and submit comments pursuant to RSA 541-A:11, I. Also, the only change from the existing rule seems to be the change to the PUC phone number in Puc 103.01(k). But such a change would be an editorial change, and not require rulemaking.

(l) The safety division may be contacted directly by telephone at 888-397-5444 or 603-271-6022, by facsimile at 603-271-6048, or by written communication addressed to the attention of:

The Safety Division
NH Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, N.H. 03301-2429

(m) General inquiries and requests for public information pursuant to Puc 104 may be directed by telephone at 603-271-2431, by facsimile at 603-271-3878, by e-mail to puc@puc.nh.gov, or by written communication addressed to the attention of:

NH Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, N.H. 03301-242

Edit.
"Adopt."

Edit. Replace
"INTERIM" w/
"previously".

(n) The web site of the commission is www.puc.nh.gov.

PART Puc 104 REQUESTS FOR PUBLIC INFORMATION

Readopt With Amendment Puc 104.01, INTERIM effective 3-26-11 (Document # 9897) to read as follows:

Edit. Insert "; and expired 9-22-11" before "to".

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 to be exempt from disclosure pursuant to RSA 91-A:4 and RSA 91-A:5, RSA 363:17-c, or Puc 201.06, Puc 201.07, or Puc 203.08.

(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.

Unclear. Exemptions from disclosure are actually addressed in RSA 91-A:5 and RSA 363:17-c, not RSA 91-A:4. Also, Puc 201.06, 201.07, and 203.08 seem to be the PUC procedures which implement RSA 91-A: 5. To say information is determined to be exempt pursuant to the RSAs or the rules is not technically correct.

(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

Replace "INTERIM" with "previously".

PART Puc 201 GENERAL REQUIREMENTS

Readopt With Amendment Puc 201.04, INTERIM effective 3-26-11 (Document # 9897) to read as follows:

Insert "and expired 9-22-11, before "to"

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 exemptions:

Edit. Replace with "Adopt".

- (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 described in section (a), above, and submitted to the commission or staff 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, and:

- (1) Bears the legend "REDACTED" at the upper-right-hand corner of the first page, and every redacted page; and
- (2) Indicates all confidential segments with either:
 - a. 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. Indication of redacted material by blacking it out or highlighting it with a solid black line in the following manner: [REDACTED]; or
 - c. Any other method that clearly indicates the scope of the material 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 the first page, and every page with confidential material; and

(2) Indicates all redactions with either:

a. 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. Indication of all redactions made by highlighting the confidential segment in light gray in the following manner: *confidential segment*; or

c. Any other method that clearly indicates the material redacted in the redacted version.

(d) The public version(s) of any discovery-related submissions made pursuant to Puc 201.06 **must** be filed with the commission no later than **three** days after the submission of the confidential version(s) of such discovery-related material.

Edit. “shall”

Edit. “3”

Redopt with Amendment Puc 201.06, INTERIM effective 3-26-11 (Document # 9897) to read as 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:

Edit. Replace with “Adopt”.

Edit. Insert “, and expired 9-22-11” before “to”.

Edit. Replace “INTERIM” with “previously”.

- (1) Telephone company cost of service studies;
- (2) Telephone company retail special contract service agreements;
- (3) Telephone company retail special contract customer identities;
- (4) Telephone company broadband deployment plans;
- (5) Telephone company infrastructure deployment plans;
- (6) Telephone customer proprietary network information;
- (7) Incumbent Local Exchange Carrier (ILEC) capital expense reports;
- (8) ILEC network improvement plans;
- (9) ILEC overtime reports;
- (10) ILEC commercial agreements;
- (11) ILEC annual retail and wholesale provisioning reports by central office;
- (12) ILEC annual special contract summaries;
- (13) Preliminary and final Performance Assurance Plan Reports for telecommunications companies containing carrier-specific performance and bill credit calculations;
- (14) NHPUC Form ILEC-22;
- (15) NHPUC Form ILEC-23;
- (16) NHPUC Form CLEC-3, Statistics, Lines by Locality and CLEC Foreign Exchange (FX) Eligibility;
- (17) NHPUC Form CTP-3, Statistics, Lines by Locality and CLEC Foreign Exchange (FX) Eligibility;

- (18) NHPUC Form CLEC-4;
- (19) NHPUC Form CLEC-40, Report Statistics;
- (20) Neustar (North American Numbering Plan Administration-designated overseer) Months to Exhaust and Utilization Certification Work Sheets;
- (21) Neustar Part 1A;
- (22) Neustar Part 1B;
- (23) New England Power Pool “My Settled Certificates” Reports filed in conjunction with annual Renewable Portfolio Standards Reports;
- (24) Listings of prices paid, and bids received, for Renewable Energy Certificates, that identify specific suppliers or dates of purchase;
- (25) Bids for the purchase of RGGI allowances pursuant to RSA 125-O:22;

Edit. Do not use parenthetical expressions as in (a)(26) & (30). See section 3.4 of Ch. 4 of the Manual. Also, the colons indicate that these lists are actually a series of clauses and should be numbered as such.

(26) In cost of gas proceedings, supplier commodity (pipeline natural gas, liquid natural gas or propane) pricing information related to the unit volumetric and demand cost, pricing and delivery special terms of supply agreements, pricing and special terms for storage lease agreements, natural gas or propane costs and availability relating to hedging, special terms for hedged natural gas or propane contracts, supply commodity cost information specific to individual suppliers in supply and demand forecasts, and related data requests;

(27) NHPUC Form E-1, Monthly Report on Voltage Complaints;

(28) NHPUC Form E-4, Monthly Report of Electric Meter Complaint Tests;

(29) NHPUC Form E-5, Accident Reports; and

(30) In default service proceedings, default service solicitations, bidder information (including descriptions of the financial security offered by each bidder), bid evaluations (including rankings of bidders financial security), descriptions of financial security required by bidders, fuel supplier contracts, commodity and fuel pricing (including that offered by bidders), planned generation plant maintenance schedules, contact lists used during the Requests for Proposals process, financial security, pricing and quantity terms of master power agreements and amendments, Renewable Energy Certificate purchase prices, quantities and seller identities under existing contracts, transaction confirmations, retail meter commodity cost calculations, wholesale power purchase prices (until made public by other governmental agencies), and responses to related data requests.

Edit. Use lower case letters,

(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. Those parties submitting documents pursuant to Puc 201.06 shall indicate that they are relying on Puc 201.06 and Puc 201.07 in their request for confidential treatment. For paper filings made pursuant to this rule outside of an adjudicative proceeding or special contract filing, parties shall file one public paper copy and one confidential paper copy; for electronic filings, both a public and confidential version shall be prepared and submitted.

(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

Edit. Replace semicolon with a period.

Edit. Insert “, and expired 9-22-11,” before “to”.

Edit.
“Adopt”.

(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.

Edit. Replace “INTERIM” with “previously”.

(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, by the executive director, of a request made pursuant to Puc 201.07, 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) The notice in (d) above 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.

Edit. Do not use a semicolon within a sentence unless a new clause is created. Insert “,and,” or create a new subparagraph (a)(2) here, and renumber the subsequent subparagraphs.

(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 one original and 6 paper copies of all documents with the commission¹ for material submitted with a motion under Puc 203.08, file one public copy and 7 confidential copies;
- (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.

Edit. Use lower case letters.

(6) In adjudicative proceedings to which the Office of the Consumer Advocate (OCA) is a party, filing parties must also provide confidential materials to the OCA.

(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.

(c) Documents filed pursuant to this rule shall be printed double-sided (on both sides of the documents’ paper sheets).

Readopt with Amendment Puc 203.04, effective 6-10-06 (Document # 8657-A) to read as follows:

Puc 203.04 Form.

(a) Petitions, pleadings, motions and briefs shall:

- (1) Be typed or printed on paper 8-1/2 by 11 inches in size, double-sided;

Edit. Replace with “shall”.

Edit. Do not use parentheses or parenthetical expressions in rules. See Edit comments also re parentheses on p. 5.

- (2) Have no less than one inch margins on all sides;
- (3) Be page numbered sequentially, including attachments;
- (4) Be submitted in unbound form;
- (5) Be double-spaced;
- (6) Contain on the initial sheet a heading across the top thereof reading “Before the New Hampshire Public Utilities Commission”;
- (7) Identify the name of the petitioner, applicant or other party who is the subject of such proceeding; and
- (8) Identify the nature of the document.

(b) Each document shall bear the title of the proceeding and the docket number assigned the matter by the commission, to the extent known.

Readopt With Amendment 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 any party or 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 in the matter being heard as an exhibit at hearing, without having to submit an additional copy of such a document 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.

Edit. Suggested change to Puc 203.08 (k) above due to missing conjunctions and commas, to read: "The granting of a motion for confidential treatment shall be subject to the ongoing authority of the commission on its own motion, or on the motion of staff, any party, or member of the public to reconsider the determination."

(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 103.01 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 Puc 203.04	RSA 365:8, XII	none applicable	none applicable
Puc 203.22	RSA 365:8, I	none applicable	none applicable

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

TITLE VI

PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 91-A

ACCESS TO GOVERNMENTAL RECORDS AND MEETINGS

Section 91-A:4

91-A:4 Minutes and Records Available for Public Inspection. –

I. Every citizen during the regular or business hours of all public bodies or agencies, and on the regular business premises of such public bodies or agencies, has the right to inspect all governmental records in the possession, custody, or control of such public bodies or agencies, including minutes of meetings of the public bodies, and to copy and make memoranda or abstracts of the records or minutes so inspected, except as otherwise prohibited by statute or RSA 91-A:5. In this section, "to copy" means the reproduction of original records by whatever method, including but not limited to photography, photostatic copy, printing, or electronic or tape recording.

I-a. Records of any payment made to an employee of any public body or agency listed in RSA 91-A:1-a, VI(a)-(d), or to the employee's agent or designee, upon the resignation, discharge, or retirement of the employee, paid in addition to regular salary and accrued vacation, sick, or other leave, shall immediately be made available without alteration for public inspection. All records of payments shall be available for public inspection notwithstanding that the matter may have been considered or acted upon in nonpublic session pursuant to RSA 91-A:3.

II. After the completion of a meeting of a public body, every citizen, during the regular or business hours of such public body, and on the regular business premises of such public body, has the right to inspect all notes, materials, tapes, or other sources used for compiling the minutes of such meetings, and to make memoranda or abstracts or to copy such notes, materials, tapes, or sources inspected, except as otherwise prohibited by statute or RSA 91-A:5.

III. Each public body or agency shall keep and maintain all governmental records in its custody at its regular office or place of business in an accessible place and, if there is no such office or place of business, the governmental records pertaining to such public body or agency shall be kept in an office of the political subdivision in which such public body or agency is located or, in the case of a state agency, in an office designated by the secretary of state.

III-a. Governmental records created or maintained in electronic form shall be kept and maintained for the same retention or archival periods as their paper counterparts. Governmental records in electronic form kept and maintained beyond the applicable retention or archival period shall remain accessible and available in accordance with RSA 91-A:4, III. Methods that may be used to keep and maintain governmental records in electronic form may include, but are not limited to, copying to microfilm or paper or to durable electronic media using standard or common file formats.

III-b. A governmental record in electronic form shall no longer be subject to disclosure pursuant to this section after it has been initially and legally deleted. For purposes of this paragraph, a record in electronic form shall be considered to have been deleted only if it is no longer readily accessible to the public body or agency itself. The mere transfer of an electronic record to a readily accessible "deleted items" folder or similar location on a computer shall not constitute deletion of the record.

IV. Each public body or agency shall, upon request for any governmental record reasonably described, make available for inspection and copying any such governmental record within its files when such records are immediately available for such release. If a public body or agency is unable to make a governmental record available for immediate inspection and copying, it shall, within 5 business days of request, make such record available, deny the request in writing with reasons, or furnish written

acknowledgment of the receipt of the request and a statement of the time reasonably necessary to determine whether the request shall be granted or denied. If a computer, photocopying machine, or other device maintained for use by a public body or agency is used by the public body or agency to copy the governmental record requested, the person requesting the copy may be charged the actual cost of providing the copy, which cost may be collected by the public body or agency. Nothing in this section shall exempt any person from paying fees otherwise established by law for obtaining copies of governmental records or documents, but if such fee is established for the copy, no additional costs or fees shall be charged.

V. In the same manner as set forth in RSA 91-A:4, IV, any public body or agency which maintains governmental records in electronic format may, in lieu of providing original records, copy governmental records requested to electronic media using standard or common file formats in a manner that does not reveal information which is confidential under this chapter or any other law. If copying to electronic media is not reasonably practicable, or if the person or entity requesting access requests a different method, the public body or agency may provide a printout of governmental records requested, or may use any other means reasonably calculated to comply with the request in light of the purpose of this chapter as expressed in RSA 91-A:1. Access to work papers, personnel data, and other confidential information under RSA 91-A:5, IV shall not be provided.

VI. Every agreement to settle a lawsuit against a governmental unit, threatened lawsuit, or other claim, entered into by any political subdivision or its insurer, shall be kept on file at the municipal clerk's office and made available for public inspection for a period of no less than 10 years from the date of settlement.

VII. Nothing in this chapter shall be construed to require a public body or agency to compile, cross-reference, or assemble information into a form in which it is not already kept or reported by that body or agency.

Source. 1967, 251:1. 1983, 279:2. 1986, 83:5. 1997, 90:2, eff. Aug. 2, 1997. 2001, 223:2, eff. Jan. 1, 2002. 2004, 246:2, eff. Aug. 14, 2004. 2008, 303:4, eff. July 1, 2008. 2009, 299:1, eff. Sept. 29, 2009.

TITLE VI

PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 91-A

ACCESS TO GOVERNMENTAL RECORDS AND MEETINGS

Section 91-A:5

91-A:5 Exemptions. – The following governmental records are exempted from the provisions of this chapter:

- I. Records of grand and petit juries.
- II. Records of parole and pardon boards.
- III. Personal school records of pupils.
- IV. Records pertaining to internal personnel practices; confidential, commercial, or financial information; test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examinations; and personnel, medical, welfare, library user, videotape sale or rental, and other files whose disclosure would constitute invasion of privacy. Without otherwise compromising the confidentiality of the files, nothing in this paragraph shall prohibit a public body or agency from releasing information relative to health or safety from investigative files on a limited basis to persons whose health or safety may be affected.
- V. Teacher certification records in the department of education, provided that the department shall make available teacher certification status information.
- VI. Records pertaining to matters relating to the preparation for and the carrying out of all emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.
- VII. Unique pupil identification information collected in accordance with RSA 193-E:5.
- VIII. Any notes or other materials made for personal use that do not have an official purpose, including but not limited to, notes and materials made prior to, during, or after a governmental proceeding.
- IX. Preliminary drafts, notes, and memoranda and other documents not in their final form and not disclosed, circulated, or available to a quorum or a majority of the members of a public body.

Source. 1967, 251:1. 1986, 83:6. 1989, 184:2. 1990, 134:1. 1993, 79:1, eff. June 22, 1993. 2002, 222:4, eff. Jan. 1, 2003. 2004, 147:5, eff. Aug. 1, 2004; 246:3, 4, eff. Aug. 14, 2004. 2008, 303:4, eff. July 1, 2008.

TITLE XXXIV PUBLIC UTILITIES

CHAPTER 363 THE PUBLIC UTILITIES COMMISSION

Appointment, Qualification, Etc.

Section 363:17-c

363:17-c Meetings of the Commission. – The commission's deliberative processes in adjudicatory proceedings held pursuant to RSA 541-A and investigations held pursuant to its authority under Title 33 shall be privileged and exempt from the public meeting, notice, and disclosure provisions of RSA 91-A. Decisions and orders in adjudicatory proceedings and investigations shall be publicly available but only after they have been announced at a public meeting or hearing of the commission or reduced to writing, signed by a majority of the commission and served upon the parties. Discussions and actions by the commission concerning procedural, administrative, legal, and internal matters shall be exempt from the meeting and notice provisions of RSA 91-A:2.

Source. 2007, 154:1, eff. June 18, 2007.

TITLE XXXIV PUBLIC UTILITIES

CHAPTER 365 COMPLAINTS TO, AND PROCEEDINGS BEFORE, THE COMMISSION

Proceedings Before the Commission

Section 365:8

365:8 Rulemaking Authority. – The commission shall adopt rules, pursuant to RSA 541-A, relative to:

I. The conduct of its hearings, including alternative processes in hearings and other forms of alternative dispute resolution.

II. Standards and procedures for streamlined review or other alternative processes to enhance the efficiency of the commission and respond to the needs of the utility's ratepayers and shareholders.

III. Standards and procedures for the creation, monitoring and evaluation of alternative forms of regulation.

IV. Standards and procedures for the handling of confidential information, in accordance with RSA 91-A.

V. Standards and procedures for filing requirements for tariffs, engineering, accounting, and other commission matters.

VI. Standards and procedures for franchise terms and conditions, including extended area telephone service.

VII. Standards and procedures for safe and reliable utility service and termination of service subject to RSA 363-B.

VIII. Standards and procedures for matters related to the proper administration of RSA 366 relative to utility relations with affiliates.

IX. Standards and procedures relative to a reasonable amount of the short-term notes, bonds or other evidences of indebtedness based upon the amount of the utility's respective plant investment which each utility shall not exceed without first obtaining the approval of the commission pursuant to RSA 369:7.

X. Standards and procedures for determination and recovery of rate case expenses.

XI. Standards and procedures for the conduct of investigations authorized under this title.

XII. Procedures necessary to provide for the proper administration of and to further the purposes of this title.

XIII. [Repealed.]

XIV. Standards and procedures for public utilities to request protection of routine filings that contain confidential commercial or financial information.

Source. 1911, 164:2. PL 238:9. RL 287:9. 1951, 203:11 par. 8. RSA 365:8. 1981, 220:4. 1994, 193:1. 2005, 102:1, eff. June 15, 2005. 2010, 206:2, eff. June 22, 2010; 336:3, eff. Oct. 18, 2010.

**TITLE XXXIV
PUBLIC UTILITIES**

**CHAPTER 378
RATES AND CHARGES**

Information Not Subject to Right-to-Know Law

Section 378:43

378:43 Information Not Subject to Right-to-Know Law. – [Repealed 2010, 206:3, eff. Dec. 19, 2010.]

TITLE LV

PROCEEDINGS IN SPECIAL CASES

CHAPTER 541-A

ADMINISTRATIVE PROCEDURE ACT

Section 541-A:16

541-A:16 Rules; Filing Required. –

I. In addition to other rulemaking requirements imposed by law, each agency shall:

(a) Adopt as a rule a description of its organization, stating the general course and method of its operations and the methods by which the public may obtain information or make submissions or requests.

(b) Adopt rules of practice setting forth the nature and requirement of all formal and informal procedures available, including:

(1) [Repealed.]

(2) Rules governing adjudicative proceedings pursuant to RSA 541-A:30-a; and

(3) Rules governing public comment hearings for rulemaking.

(c) Adopt rules setting the format and procedures for submitting, considering, and disposing of rulemaking petitions under RSA 541-A:4.

(d) Adopt rules relating to filing petitions for declaratory rulings and their prompt disposition.

II. Each agency shall also:

(a) Make available to the public all written statements of policy or interpretations, other than rules, formulated or used by the agency in the discharge of its functions.

(b) File with the director of legislative services all declaratory rulings issued.

III. A rule shall become effective as of 12:01 a.m. on the day after the filing of the adopted rule or as of 12:01 a.m. on the date specified by the agency pursuant to RSA 541-A:14, IV, RSA 541-A:14-a, III, or RSA 541-A:19, X, or such other date and time as specified, provided that filing occurs before such effective date and time. Except as provided in RSA 541-A:14-a, a rule adopted under RSA 541-A:14, IV shall expire after the last day of the tenth year following its becoming effective, unless sooner amended, readopted, or repealed.

IV. If any deadline for action by an agency, the public, or the committee imposed by this chapter falls on a Saturday, Sunday, or state legal holiday, the deadline for such action shall be extended to the next day that is not a Saturday, Sunday, or state legal holiday.

Source. 1994, 412:1. 1998, 298:1. 2006, 145:11, eff. July 21, 2006. 2011, 252:9, eff. Sept. 11, 2011.

TITLE LV

PROCEEDINGS IN SPECIAL CASES

CHAPTER 541-A

ADMINISTRATIVE PROCEDURE ACT

Section 541-A:33

541-A:33 Evidence; Official Notice in Contested Cases. –

I. All testimony of parties and witnesses shall be made under oath or affirmation administered by the presiding officer.

II. The rules of evidence shall not apply in adjudicative proceedings. Any oral or documentary evidence may be received; but the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidence offered may be made and shall be noted in the record. Subject to the foregoing requirements, any part of the evidence may be received in written form if the interests of the parties will not thereby be prejudiced substantially.

III. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.

IV. A party may conduct cross-examinations required for a full and true disclosure of the facts.

V. Official notice may be taken of any one or more of the following:

(a) Any fact which could be judicially noticed in the courts of this state.

(b) The record of other proceedings before the agency.

(c) Generally recognized technical or scientific facts within the agency's specialized knowledge.

(d) Codes or standards that have been adopted by an agency of the United States, of this state or of another state, or by a nationally recognized organization or association.

VI. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

Source. 1994, 412:1, eff. Aug. 9, 1994.