

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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PART Puc 201 GENERAL REQUIREMENTS

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

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

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

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

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

Puc 201.02 Place of Hearings.

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

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

(1) Required by law to do so; or

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

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

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

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

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

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

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

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

Puc 201.04 Public Records. All documents submitted to the commission or staff in an adjudicative or non-adjudicative proceeding shall become matters of public record, subject to RSA 91-A, as of the day and time of the submission to the commission or staff with the following exceptions:

(1) Accident reports under RSA 374:40;

(2) Information about individual residential customers, the disclosure of which would constitute an invasion of privacy within the meaning of RSA 91-A:5, IV;

(3) Documents submitted to the commission or staff in connection with an adjudicative proceeding pursuant to Puc 203.07;

(4) Documents subject to a protective order of the commission issued pursuant to Puc 203.07; or

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(5) Other documents entitled to confidential treatment pursuant to RSA 91-A, RSA 378:43 or other applicable law.

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

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

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

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

Puc 201.05 Waiver of Rules.

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

(1) The waiver serves the public interest; and

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

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

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

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

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

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

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

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

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

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

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

PART Puc 202 OPERATIONS AND REQUIREMENTS

Puc 202.01 Requests for Commission Determinations.

(a) Except as provided in (b) through (m) below, any person seeking the action of the Commission shall do so by submitting a petition pursuant to Puc 203.

(b) A person seeking to implement or amend a tariff or special contract pursuant to RSA 378 shall make the appropriate filing required by Puc 1600.

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(c) A person seeking authorization of a corporate transaction pursuant to RSA 369:8, II shall file an application that includes a copy of the document memorializing the transaction and the detailed representation concerning the effects of the transaction as set forth in the statute.

(d) Except in connection with an adjudicative proceeding, a person seeking waiver of a commission rule pursuant to Puc 201.05 shall do so by filing a letter with the executive director requesting the waiver.

(e) A person seeking the adoption, amendment or repeal of a commission rule shall do so by complying with Puc 205.03.

(f) A person seeking to make a complaint against a utility shall do so by complying with Puc 204 or Puc 1200.

(g) A person seeking to register as a competitive electric power supplier or aggregator shall do so by complying with Puc 2003.

(h) A person seeking to register as a competitive natural gas supplier or aggregator shall do so by complying with Puc 3003.

(i) A person seeking to register as a competitive local exchange carrier (CLEC) shall do so by complying with Puc 431.

(j) A person seeking to register as a competitive intraLATA toll provider (CTP) shall do so by complying with Puc 451.

(k) A person seeking a certificate of compliance with the design requirements of the Code for Energy Conservation in New Building Construction shall do so by complying with Puc 1804.

(l) A person seeking a certification that a building as constructed complies with the Code for Energy Conservation in New Building Construction shall do so by complying with Puc 1805.01.

(m) A utility filing a compliance plan, amendment to a compliance plan or notification related to affiliates or affiliate transactions shall do so by complying with Puc 2100.

(n) All filings made pursuant to (a), (b) or (c) above shall comply with the provisions of Puc 203.02, Puc 203.03, Puc 203.04 and Puc 203.05.

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

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

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

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

Puc 202.02 Docket and Calendar of Hearings.

(a) The executive director shall:

(1) Maintain a docket of all adjudicative and rulemaking proceedings pending before the commission;

(2) Keep a complete record of all the proceedings of the commission, including all books, maps, documents, and papers filed with the commission, and orders issued by the commission;

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- (3) Maintain a record of all petitions, complaints, applications, and investigations before the commission;
- (4) Maintain a calendar of all hearings scheduled before the commission; and
- (5) Maintain a service list for each proceeding of parties to the proceeding.

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

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

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

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

Puc 202.03 Computation of Time.

- (a) Computation of any period of time referred to in the commission rules shall begin with the first day following that on which the act which initiates such period of time occurs.
- (b) The last day of the period so computed shall be included unless it is a day on which the office of the commission is closed, in which event the period shall run until the end of the next following business day.
- (c) When the period of time prescribed or allowed is less than 6 days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation of time.

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

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

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

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

Puc 202.04 Extensions of Time.

- (a) Except for postponements of hearings pursuant to Puc 203.13, a party requesting an extension of time shall make such request in writing to the executive director before the expiration of the period originally prescribed.
- (b) A party requesting an extension shall make a good faith attempt to gain the consent of the other parties for the extension.
- (c) The commission shall grant a request for extension of time if:
 - (1) The party making the request has demonstrated that circumstances would cause undue hardship or inconvenience unless the request were granted; and
 - (2) The extension would not unduly delay the proceeding or adversely affect the rights of any party.
- (d) The executive director shall notify all parties of any extension of time granted.

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

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

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

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

Puc 202.05 Date of Filing.

(a) Any document submitted to the commission shall be deemed to have been filed on the date the commission receives a complete executed paper filing with the required number of copies, pursuant to Puc 203.02, except as provided in (b) below.

(b) Utilities shall be permitted to file electronically the reports identified for such filing on the commission's web page and such reports shall be deemed to be filed on the date the electronic filing is made.

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

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

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

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

Puc 202.06 Requirements for Written Communications.

(a) Any person submitting written communications to the commission shall:

(1) Date the submission;

(2) Identify the name and address of the person submitting the document and the party or parties on whose behalf it is submitted, if any;

(3) Identify the appropriate docket number, order number or other pertinent subject matter identification, and

(4) Comply with Puc 203.02, 203.03, 203.04 and 203.05 if making the filing in an adjudicative proceeding.

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

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

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

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

Puc 202.07 Signatures. Each filing submitted to the commission shall be signed by a person authorized to make such a filing.

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

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

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

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

Puc 202.08 Obstructing Justice.

(a) The commission shall refer for prosecution, pursuant to RSA 641:1 and RSA 641:2, any person who:

(1) Testifies falsely to any material matter wherein he has given his oath or affirmation, believing the testimony to be untrue; or

(2) Willfully falsifies any account, book, record, financial statement or other information regarding any material matter, believing the content to be untrue, with the intent to mislead or deceive any commissioner, presiding officer or staff member.

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

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

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

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

Puc 202.09 Withdrawal of Presiding Officer or Commissioner.

(a) Upon his or her own initiative or upon the motion of any party, a presiding officer or commissioner shall, for good cause, withdraw from any adjudicative proceeding or other matter.

(b) Good cause shall exist if a presiding officer or commissioner:

(1) Has a direct interest in the outcome of a proceeding, including, but not limited to, a financial or family relationship, within the third degree of relationship, with any party;

(2) Has made statements or engaged in behavior which objectively demonstrates that he or she has prejudged the facts of a case;

(3) Personally believes that he or she cannot fairly judge the facts of a case;

(4) Is obligated to withdraw because his or her impartiality might reasonably be questioned; or

(5) Is otherwise required to withdraw pursuant to applicable law.

(c) Mere knowledge of the issues, the parties or any witness shall not constitute good cause for withdrawal, nor shall the fact that the presiding officer or commissioner is a customer of a utility that is a party to the proceeding.

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

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

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

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

Puc 202.10 - EXPIRED

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

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

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

Puc 202.11 - EXPIRED

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

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

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

Puc 202.12 - EXPIRED

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

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

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

Puc 202.13 – EXPIRED

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

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

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

Puc 202.14 - EXPIRED

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

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

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

Puc 202.15 - EXPIRED

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

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

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

Puc 202.16 - EXPIRED

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

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

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

Puc 202.17 - EXPIRED

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

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

Puc 202.18 - EXPIRED

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

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

PART Puc 203 ADJUDICATIVE PROCEEDINGS

Puc 203.01 Staff Participation. When participating in an adjudicative proceeding, commission staff shall be subject to the rules in this part in the same manner and to the same extent as a party.

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

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

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

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

Puc 203.02 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 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

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(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.

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

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

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

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

Puc 203.03 Electronic Copies.

(a) Each person filing a document shall, in addition to the paper filing required by Puc 203.02 or otherwise, electronically file each document, to the extent practicable, in an electronic file format compatible with the computer system of the commission.

(b) The commission shall maintain a list on its web site of the types of electronic file formats compatible with its computer system.

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

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

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

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

Puc 203.04 Form.

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

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

(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, which shall read "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.

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

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

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

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

Puc 203.05 Pleadings.

(a) All petitions and motions shall include the following:

- (1) A cover page identifying the name of the utility and the subject matter of the motion or petition;
- (2) A clear and concise statement of the authorization or other relief sought;
- (3) The statutory provision or legal precedent under which the authority or other relief is sought;
- (4) The legal name of each person seeking the authorization or relief and the address or principal place of business of such person;
- (5) The electronic mail address of the person making the filing or a statement that the person making the filing is unable to receive electronic mail;
- (6) A concise and explicit statement of the facts upon which the commission should rely in granting authorization or relief; and
- (7) Such other data as the petitioner considers relevant to the request for authority or relief.

(b) The commission shall notify in writing a petitioner filing a petition when such petition is deficient in any respect and any such deficient petition shall not be deemed to have been filed until the deficiency is corrected.

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

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

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

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

Puc 203.06 Petitions.

(a) Except as noted in (c) below, a petitioner shall not be required to submit pre-filed written testimony with a petition.

(b) If a petitioner wishes to submit testimony with a petition in the interest of expediting the proceedings, the commission shall accept such testimony.

(c) All petitions seeking a rate adjustment shall be filed in compliance with Puc 1600 if applicable and shall be accompanied by pre-filed testimony and exhibits.

(d) When submitted, written testimony shall set forth:

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- (1) The facts relied upon;
- (2) Other relevant facts; and
- (3) Policy arguments in support of the result sought.

(e) If the scope of a proceeding is expanded or issues arise which were not reasonably anticipated by the petitioner, the commission shall allow the petitioner to file supplemental direct testimony or comments on the new or unanticipated issues.

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

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

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

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

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

Puc 203.07 Motions.

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

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

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

(d) A motion shall clearly and concisely state:

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

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

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

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

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

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

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

Puc 203.08 Motions for Confidential Treatment.

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(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.

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

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

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

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

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

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

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

Puc 203.09 Discovery.

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

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

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

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

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

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

(g) Objections to data requests shall:

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

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

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

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

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- (1) Be made pursuant to Puc 203.07;
- (2) Be made within 15 business days of receiving the applicable response or objection, or the deadline for providing the response, whichever is sooner;
- (3) Specify the basis of the motion; and
- (4) Certify that the movant has made a good-faith effort to resolve the dispute informally.

(j) The commission shall authorize other forms of discovery, including technical sessions, depositions and any other discovery method permissible in civil judicial proceedings before a state court when such discovery is necessary to enable the parties to acquire evidence admissible in a proceeding.

(k) When a party has provided a response to a data request, and prior to the issuance of a final order in the proceeding, the party shall have a duty to reasonably and promptly amend or supplement the response if the party obtains information which the party would have been required to provide in such response had the information been available to the party at the time the party served the response.

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

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

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

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

Puc 203.10 Amendments.

- (a) The commission shall permit the amendment of any document filed with the commission provided:
- (1) The party requesting the amendment shall give notice of the request to all persons on the service list for the proceeding; and
 - (2) The commission determines that the amendment shall encourage the just resolution of the proceeding and will not cause undue delay.

(b) The commission shall not allow any amendment that has the effect of broadening the scope of the proceeding unless it provides notice to those affected and an opportunity to comment prior to final commission action.

(c) The executive director shall allow the correction of typographical errors in any document filed with the commission at any time.

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

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

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

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

Puc 203.11 Service.

(a) Except for motions for rehearing filed pursuant to RSA 541:3, service of all documents relating to any proceeding shall be made:

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(1) Electronically, to the email address specified on the commission's service list for the docket;
or

(2) By personal delivery, first class mail or other expedited delivery service, to such persons identified on the commission's service list for the docket as unable to receive electronic mail.

(b) When a party submits a filing to the commission on the last day on which such filing may be made pursuant to a commission procedural schedule order or by law, the party shall also serve such filing on all parties to the proceeding electronically or by facsimile or, prior to the expiration of such deadline, shall notify all other parties that such filing is available at the commission.

(c) Motions for rehearing filed pursuant to RSA 541:3 shall be served by hand, by facsimile or other method such to ensure that they are received by the parties by 4:30 p.m. on the same day as they are filed with the commission.

(d) If a person becomes an intervenor after a docket has been opened, the commission shall furnish a copy of all documents previously filed in that docket, if so requested, at a charge, to the requesting party, pursuant to Puc 105.01.

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

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

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

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

Puc 203.12 Notice of Adjudicative Proceeding.

(a) The commission shall give notice of a pre-hearing conference, or of a hearing in a case for which no pre-hearing conference has been scheduled, which shall contain the information required by RSA 541-A:31, III, namely:

(1) A statement of the date, time, place and nature of the hearing;

(2) A statement of the legal authority under which the hearing is to be held;

(3) A reference to the particular statutes and rules involved, including this chapter;

(4) A short and plain statement of the issues presented; and

(5) A statement that each party has the right to have an attorney represent them at the party's own expense.

(b) The commission shall direct the petitioner or other party to the docket to disseminate a notice issued pursuant to this section to the general public by causing the notice to be published in a newspaper of general circulation serving the area affected by the petition or by such other method as the commission deems appropriate and advisable in order to ensure reasonable notification to interested parties.

(c) The cost of publication required by (b) above shall be borne by the petitioner, the party being investigated or, when consistent with the public interest, by the commission itself.

(d) A petitioner required by the commission to publish notice shall file an affidavit of compliance, with a copy of the notice as published appended thereto, by a date specified in the notice.

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

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

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

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

Puc 203.13 Postponement of Hearing.

(a) A party requesting postponement of a hearing shall file a request with the executive director, in writing, at least 7 days prior to the date of hearing.

(b) The party requesting postponement shall make a good faith attempt to seek the concurrence of the other parties to the request.

(c) The commission shall grant a request for postponement of a hearing if it finds that to do so would promote the orderly and efficient conduct of the proceeding.

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

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

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

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

Puc 203.14 Presiding Officer.

(a) Except as provided in (b) or (c) below, the chairman of the commission shall serve as presiding officer.

(b) When the chairman is absent but one or more commissioners are present at a hearing or prehearing conference, the most senior commissioner present shall designate the presiding officer.

(c) A hearings examiner of the commission shall serve as presiding officer when authorized pursuant to RSA 363:17.

(d) The duties of a presiding officer shall include, but are not limited to:

(1) Presiding over the prehearing conferences and hearings; and

(2) Ruling on discovery disputes, confidentiality requests, and procedural matters which may arise during the course of the proceeding.

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

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

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

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

Puc 203.15 Prehearing Conference.

(a) In order to facilitate proceedings and encourage informal disposition, the presiding officer shall, upon motion of any party, or upon the presiding officer's own motion, schedule one or more prehearing conferences.

(b) The commission shall provide notice to all parties prior to holding any prehearing conference.

(c) Prehearing conferences shall include consideration of any one or more of the following:

- (1) Offers of settlement;
- (2) Simplification of the issues;
- (3) Stipulations or admissions as to issues of fact or proof, by consent of the parties;
- (4) Limitations on the number of witnesses;
- (5) Consolidation of examination of witnesses by the parties; and
- (6) Any other matters which aid in the disposition of the proceeding.

(d) Initial prehearing conferences convened at the commencement of proceedings shall also include consideration of any one or more of the following:

- (1) Statement of preliminary, non-binding positions and other issues of concern of the parties identified after initial review of the filing;
- (2) Consideration of any petitions for intervention and any objection filed thereto;
- (3) Changes to standard procedures desired for discovery or during the hearing, if requested by a party;
- (4) Establishment of a procedural schedule to govern the remainder of the proceeding; and
- (5) Motions for confidential treatment of matters raised in the proceeding and otherwise to facilitate discovery.

(e) The commission shall issue and serve upon all parties a prehearing order addressing the matters raised at any prehearing conference.

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

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

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

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

Puc 203.16 Appearance Before the Commission.

(a) Any person may appear before the commission:

- (1) In one's own behalf;

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- (2) By an attorney authorized to practice in any state or the District of Columbia and in good standing;
- (3) By an employee or authorized agent; or
- (4) By any person the commission authorizes, pursuant to RSA 365:10-a, to act as a representative of the person before the commission.

(b) Any person appearing before the commission shall adhere to:

- (1) Puc 200; and
- (2) Any orders of the commission or agreements between the parties in the docket, including orders or agreements addressing confidentiality.

(c) The commission shall prohibit the appearance of any person described in (a) above if it finds that person to have demonstrated a disregard for commission practices and procedures or otherwise disrupted commission proceedings.

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

New. #6559, eff 8-19-97, EXPIRES: 8-19-06

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

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

Puc 203.17 Intervention. The commission shall grant one or more petitions to intervene in accordance with the standards of RSA 541-A:32.

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

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

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

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

Puc 203.18 Public Comment. Persons who do not have intervenor status in a proceeding but having interest in the subject matter shall be provided with an opportunity at a hearing or prehearing conference to state their position.

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

Puc 203.19 Consolidation of Hearings.

(a) When more than one application or petition seeks the same or similar relief, the commission shall consolidate the cases to be heard on a common record if it determines that to do so will promote the orderly and efficient conduct of the proceeding.

(b) The executive director shall note any such consolidation in the docket record of each affected proceeding.

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(c) The cost of consolidated hearings shall be borne equitably by the parties.

(d) In determining an equitable sharing of costs pursuant to (c) above, the commission shall consider:

- (1) A utility's number of customers; and
- (2) A utility's in-state revenue.

(e) If a party objects to consolidation, such consolidation shall not occur until after the party has had an opportunity to be heard on the issue.

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

Puc 203.20 Settlement and Stipulation of Facts.

(a) All participants in settlement conferences shall treat discussions at settlement conferences as confidential and shall not disclose the contents of such discussions to third parties or seek to introduce them into evidence.

(b) The commission shall approve a disposition of any contested case by stipulation, settlement, consent order or default, if it determines that the result is just and reasonable and serves the public interest.

(c) The parties to any proceeding before the commission shall, by stipulation in writing filed with the commission or entered in the record at the hearing, agree upon the facts or any portion thereof involved in the hearing when such facts are not in dispute among the parties.

(d) If a stipulation is filed and is not contested by any party, the stipulation shall bind the commission as to the facts in question, and the commission shall consider the stipulation as evidence in the decision of the matter.

(e) Settlements and stipulations shall be filed no less than 5 days prior to the hearing, except as provided in (f).

(f) The commission shall accept late-filed stipulations and settlements when such acceptance:

- (1) Promotes the orderly and efficient conduct of the proceeding; and
- (2) Will not impair the rights of any party to the proceeding

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

Puc 203.21 Limiting Number of Witnesses or Time. The commission shall limit the number of witnesses or the time for testimony or oral argument upon a particular issue, as needed, to avoid unnecessary or cumulative evidence.

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

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:

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(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 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.

(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.

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

Puc 203.23 Evidence.

(a) The parties entitled to offer evidence at hearing in an adjudicative proceeding shall be the petitioner, the staff of the commission, the office of consumer advocate and any person granted intervenor status.

(b) All testimony of parties and witnesses, including any prefiled written testimony adopted by a witness at hearing, shall be made under oath or affirmation.

(c) Pursuant to RSA 365:9 and RSA 541-A:33, II, the rules of evidence shall not apply in proceedings before the commission.

(d) The commission shall exclude irrelevant, immaterial or unduly repetitious evidence.

(e) The commission shall give effect to the rules of privilege recognized by law.

(f) The commission shall entertain objections to evidence at hearing and note them in the record.

(g) A party shall submit documentary evidence in the form of copies or excerpts unless the commission finds that the authenticity of the submission is questioned or the copy is not legible.

(h) Excerpts of documents shall include the proper citation to the complete document.

(i) A response to a data request posed pursuant to Puc 203.09(a), when offered into evidence by a party other than the party that provided the response, shall be treated as an admission of the party that provided the data response.

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

Puc 203.24 Cross Examination.

(a) Consistent with any conditions imposed pursuant to RSA 541-A:32, III the petitioner, the staff of the commission, the office of consumer advocate and any persons granted intervenor status may conduct cross-examination of a witness in order to develop a full and true disclosure of the facts.

(b) The commission shall limit the direct or cross-examination of a witness if it determines that such limitation is necessary to avoid repetitive lines of inquiry.

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

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Puc 203.25 Burden and Standard of Proof. Unless otherwise specified by law, the party seeking relief through a petition, application, motion or complaint shall bear the burden of proving the truth of any factual proposition by a preponderance of the evidence.

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

Puc 203.26 Order of Procedure. In hearings on petitions, the petitioner shall have the opportunity to open and close any part of the presentation.

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

Puc 203.27 Administrative Notice.

(a) The commission shall take administrative notice when a party presents one or more of the following:

- (1) Any fact which could be judicially noticed in the courts of New Hampshire;
- (2) The relevant portion of the record of other proceedings before the commission;
- (3) Generally recognized technical or scientific facts within the commission's specialized knowledge; and
- (4) Codes or standards that have been adopted by an agency of the United States, of New Hampshire or of another state, or by a nationally recognized organization or association.

(b) The commission shall notify parties either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed.

(c) The commission shall afford parties an opportunity to contest the material so noticed.

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

Puc 203.28 Views and Inspections. The commission shall take a view or conduct an inspection of any property which is the subject of a hearing before the commission if requested by a party, or on its own motion, if the commission shall have determined that the view or inspection will assist the commission in reaching a determination in the hearing.

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

Puc 203.29 Recess and Adjournment. The commission shall recess, adjourn or continue any hearing if to do so will promote the orderly and efficient conduct of the proceeding.

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

Puc 203.30 Reopening the Record.

(a) The commission shall, on its own motion or at the request of a party, authorize filing of exhibits after the close of a hearing if the commission finds that late submission of additional evidence will enhance its ability to resolve the matter in dispute.

(b) Any party requesting authorization to file an exhibit after the close of a hearing shall make its request:

- (1) Orally before the close of the hearing; or
- (2) If the hearing has concluded, by motion, pursuant to Puc 203.06.

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(c) In determining whether to admit the late filed exhibit into the record, the commission shall consider:

- (1) The probative value of the exhibit; and
- (2) Whether the opportunity to submit a document impeaching or rebutting the late filed exhibit without further hearing shall adequately protect the parties' right of cross examination pursuant to RSA 541-A:33, IV.

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

Puc 203.31 Transcripts.

(a) When the commission desires a transcript of the evidence of any hearing, to assist in its deliberation thereon, it shall order a transcript pursuant to a contract between the commission and stenographic reporter.

(b) The reporter's charge for attendance and expenses shall be paid by the petitioning utility or as otherwise directed pursuant to RSA 365:37 and RSA 365:38.

(c) The commission shall provide one copy of the transcript at no charge to the office of consumer advocate.

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

Puc 203.32 Briefs.

(a) Upon the request of a party or on its own motion, the commission shall allow parties to submit briefs at any point in an adjudicative proceeding if the commission determines that such briefing would assist the commission in its determination of the issues presented.

(b) The commission shall set any briefing deadline or deadlines so as to permit the parties adequate time to draft their briefs and without causing undue delay in the conclusion of the proceeding.

(c) The commission shall establish a briefing schedule that allows one or more parties to submit briefs in rebuttal or reply to the brief or briefs of one or more other parties when such a sequential schedule is necessary to assure due process, fairness or full discussion of the issues presented.

(d) The commission shall establish a page limit for briefs when it determines that such a limit would promote the efficient resolution of issues without adversely affecting the rights of any party.

(e) The commission shall encourage joint filing of briefs when there is more than one party advocating the same result and the same arguments and individual briefs would be duplicative.

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

Puc 203.33 Rehearing. Parties requesting rehearing shall do so according to the provisions of RSA 541.

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

Puc 203.34 Retention of Decisions. The commission shall keep a decision on file in its records for at least 5 years following the date of the final decision or the date of the decision on any appeal, unless the director of the division of records management and archives of the department of state sets a different retention period pursuant to rules adopted under RSA 5:40.

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

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PART Puc 204 COMPLAINTS AGAINST PUBLIC UTILITIES

Puc 204.01 Submission of Complaints.

(a) Except as provided in (b) below, any person wishing to make a complaint to the commission about a public utility shall do so by filing such complaint in writing with the executive director.

(b) A retail customer with a complaint against a public utility that concerns the customer's service or payment for such service shall submit the complaint to the commission pursuant to Puc 1200.

(c) The provisions of Puc 203 shall not apply to complaints filed pursuant to this rule unless the commission institutes adjudicative proceedings pursuant to Puc 204.05.

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

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

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

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

Puc 204.02 Forwarding Complaints to Utilities.

(a) Upon receipt of a complaint pursuant to Puc 204.01, the executive director shall cause a copy of the complaint to be forwarded to the utility named in the complaint.

(b) The utility shall provide a written response to the complaint no later than 10 days from the date the complaint is received by the utility.

(c) The response required by (b) above shall include a description of all steps taken by the utility to resolve the complaint and shall be furnished to the complainant as well as the commission.

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

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

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

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

Puc 204.03 Review of Complaints by Utilities.

(a) A utility shall consider all complaints forwarded to it pursuant to Puc 204.02 and thereafter shall:

(1) Make any reparations and cease committing any violations as required by RSA 365:3; or

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(2) Advise the commission and the complainant that it disputes the complaint.

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

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

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

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

Puc 204.04 Investigation.

(a) When a utility has reviewed and responded to a complaint pursuant to Puc 204.02 and Puc 204.03, a complainant not satisfied with the utility's response shall so advise the commission.

(b) If it appears to the commission that there may be a basis for the complainant's dispute, the commission shall conduct an independent investigation pursuant to RSA 365:4.

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

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

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

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

Puc 204.05 Adjudicative Proceedings. The commission shall commence adjudicative proceedings to resolve a complaint against a utility when it determines after an investigation conducted pursuant to Puc 204.04:

(a) That a complaint may warrant further action against a utility; or

(b) A customer has exhausted all remedies available under Puc 1200 and requests a hearing.

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

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

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

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

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Puc 204.06. Investigations Initiated by the Commission. Nothing in this part shall limit the commission's authority to investigate or make inquiry of a public utility pursuant to RSA 365:5.

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

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

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

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

PART Puc 205 RULEMAKING

Puc 205.01 How Adopted.

(a) A rule of the commission or any amendment or repeal thereof shall be adopted by the commission after notice and opportunity for hearing in accordance with this part.

(b) Rules may be proposed by any person or by the agency.

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

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

Puc 205.02 Manner for Adoption.

(a) The commission shall commence a rulemaking proceeding by drafting a proposed rule or by accepting as a proposed rule the draft of a rule proposed by any person.

(b) With respect to any proposed rule, the commission shall conduct rulemaking and adoption proceedings pursuant to RSA 541-A.

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

Puc 205.03 Requests to Commission for Rulemaking. Requests from interested persons requesting adoption, amendment or repeal of a rule shall be received and disposed of in the following manner:

(a) Requests shall be submitted to the commission by letter addressed to the executive director.

(b) Requests shall contain the following:

(1) The date of the request;

(2) The name, address and telephone number of the person making the request; and

(3) Name and address of any other person or organization represented by the person making the request.

(c) The person making the request shall sign the request.

(d) The request shall be typed or printed in a legible fashion.

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(e) If possible, the person making the request shall cite the rule and its provisions and specify any changes desired if repeal or amendment is sought, and shall provide the text or approximate text of the proposed rule if promulgation is sought.

(f) The person making the request shall include a detailed and complete statement of the reasons offered by such person in support of the requested action.

(g) If the commission determines that any rulemaking request is deficient in any respect, the commission shall, within 10 working days of receipt of said request, notify the person making the request, in writing, of the specific deficiencies and allow such person to amend the petition.

(h) Within 30 days of receipt of a request or amended request for rulemaking, the commission shall take one of the following actions:

- (1) Initiate the requested rulemaking procedures, in accordance with this part; or
- (2) Deny the request, in writing, stating the reasons for denial.

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

Puc 205.04 Request for Notice of Intended Rulemaking Action. Pursuant to the provisions of RSA 541-A, the commission shall maintain a current listing of all persons having made a request for advance notice of the rulemaking proceedings.

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

Puc 205.05 Public Hearing.

(a) If the commission initiates rulemaking proceedings under RSA 541-A, or if rulemaking is initiated pursuant to a request for rulemaking, the commission shall hold at least one public hearing pursuant to RSA 541-A:11.

(b) Notice shall be given at least 20 days prior to the public hearing pursuant to RSA 541-A:6, I.

(c) The commission shall limit the time allowed at hearing for each person's comments when necessary to allow all persons with comments to make them.

(d) The commission shall require persons desiring to make comments to so indicate by signing a roster made available for this purpose prior to the commencement of the public comment hearing.

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

Puc 205.06 Explanation of Proposed Rule.

(a) If requested by an interested person at any time before 30 days after final adoption of a rule, the commission shall issue a written explanation of the rule pursuant to RSA 541-A:11, VII.

(b) An explanation issued pursuant to this section shall include:

- (1) A concise statement of the principal reasons for and against the adoption of the rule in its final form; and
- (2) An explanation of why the commission overruled the arguments and considerations against the rule.

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

PART Puc 206 ALTERNATIVE REGULATION

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Puc 206.01 Definitions.

(a) "Alternative form of regulation" means a method of utility rate regulation pursuant to RSA 374:3-a other than methods which are based upon cost of service, rate base and rate of return.

(b) "Utility" means "public utility" as defined in RSA 362:2.

Source. #6444, eff 1-28-97; ss by #8276, eff 1-27-05

Puc 206.02 Utility May Petition. A utility may file with the commission a petition for an alternative form of regulation.

Source. #6444, eff 1-28-97; ss by #8276, eff 1-27-05

Puc 206.03 Commission Shall Initiate.

(a) The commission shall initiate a proceeding to establish an alternative form of regulation if it finds that alternative regulation is likely to promote or enhance one or more of the following:

- (1) Competition;
- (2) Advancements in development of infrastructure;
- (3) Investment in new technology, plant and equipment;
- (4) Reduction in prices; or
- (5) Efficiency in services.

(b) When the commission initiates a proceeding to establish an alternative form of regulation, it shall issue an order directing the affected utility to submit detailed information consistent with the requirements of Puc 206.05 and any additional information required by Puc 206.06.

Source. #6444, eff 1-28-97; ss by #8276, eff 1-27-05

Puc 206.04 Adjudicatory Proceedings.

(a) Proceedings initiated pursuant to Puc 206.02 or Puc 206.03 shall be considered adjudicatory.

(b) Puc 200 Procedural Rules shall apply to proceedings for approval, implementation or withdrawal of approval of an alternative form of regulation.

Source. #6444, eff 1-28-97; ss by #8276, eff 1-27-05

Puc 206.05 Description of Alternative Form of Regulation. When a utility petitions for an alternative form of regulation, it shall describe in detail in its petition or, as to materials requested pursuant to Puc 206.05 (f), it shall provide the following:

- (a) The form of alternative regulation it seeks;
- (b) The extent to which that form of alternative regulation shall apply to its entire operations or to particular portions of its services or operations;
- (c) The term over which the alternative form of regulation shall apply;
- (d) The form of regulation which shall apply after the term of the approved form of alternative regulation expires;

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(e) How the rates charged under the alternative form of regulation would compare to rates that would be charged under methods which are based upon cost of service, rate base and rate of return, if the utility were to file a rate case concurrently; and

(f) Any additional information, including but not limited to, rates, pricing, earnings, customer protections, service offerings, expansion of technology, accounting or investments which the commission shall request if the form of alternative regulation and/or the petition raise issues on which the commission needs further information in order to complete the record.

Source. #6444, eff 1-28-97; ss by #8276, eff 1-27-05

Puc 206.06 Filing Requirements.

(a) When a utility seeks an alternative form of regulation, it shall file a petition with the commission which shall contain identifying information including the name of the utility, address of the utility and contact person.

(b) In its petition filed pursuant to Puc 206.02 or in response to a commission-initiated proceeding pursuant to Puc 206.03, the utility shall describe in detail the effects, if any, that the alternative form of regulation will have on the following:

- (1) Competition;
- (2) The safety, adequacy and reliability of public utility service;
- (3) The traditional regulatory balance which does not unfairly benefit or disadvantage utility consumers, utility investors and other stakeholders;
- (4) Administrative efficiency in the regulatory process for the utility and the commission;
- (5) Economic development within New Hampshire;
- (6) Access to basic utility service to residents throughout the state, also known as universal service;
- (7) Innovation of services;
- (8) Infrastructure improvements; and
- (9) Environmental and conservation safeguards and incentives.

(c) Where the utility concludes that the alternative form of regulation will have no effect on any factor listed in Puc 206.06 (b), the utility shall describe in detail in its petition the basis for its conclusion that there is no effect.

Source. #6444, eff 1-28-97; ss by #8276, eff 1-27-05

Puc 206.07 Standards for Approval.

(a) After notice and hearing, and after considering the materials submitted by the utility, other interested parties and commission staff, and the factors required by Puc 206.06, the commission shall approve an alternative form of regulation if it determines that such alternative:

- (1) Results in rates that are not unduly discriminatory and are at a level that allows those to whom a service is being marketed to obtain such service;

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- (2) Provides the utility the opportunity to realize a return on its investment which falls within a range that is neither confiscatory nor unduly profitable and that reflects the utility's investment risk; and
- (3) Serves the public interest in light of the considerations described in Puc 206.06(b)(1) through (9).

Source. #6444, eff 1-28-97; ss by #8276, eff 1-27-05

Puc 206.08 Reporting Requirements.

(a) Any utility regulated under an alternative form of regulation which maintains its books on a calendar year basis shall report to the commission no later than March 31 of each year the following information:

- (1) Changes in prices of services under an alternative form of regulation during the calendar year just concluded;
- (2) New services introduced under an alternative form of regulation during the calendar year just concluded;
- (3) The rate of return realized on services under an alternative form of regulation during the calendar year just concluded;
- (4) New construction or improvement to infrastructure introduced under an alternative form of regulation during the calendar year just concluded; and
- (5) Any further information which the commission determines is necessary to confirm that the original bases for approval under Puc 206.07 have still been met.

(b) Any utility regulated under an alternative form of regulation that maintains its books on a fiscal year that does not coincide with a calendar year shall report to the commission no later than 90 days following the close of each fiscal year the information listed in Puc 206.08(a)(1) through (5).

(c) Reporting requirements under this section shall be in addition to and shall not supersede or negate the necessity to comply with any other applicable reporting requirements established under rulemaking authority of the commission.

(d) For any utility in which some services are subject to rate of return regulation and some services are subject to an alternative form of regulation, the utility shall maintain accounting records which demonstrate that the costs and revenues of rate of return regulated services are not commingled with the costs and revenues of services under an alternative form of regulation.

Source. #6444, eff 1-28-97; ss by #8276, eff 1-27-05

Puc 206.09 Withdrawal of Approval.

(a) When the commission determines, after notice and an opportunity for hearing pursuant to Puc 200, that a utility's performance under an alternative form of regulation no longer complies with the standards for approval established by Puc 206.07, and therefore no longer serves the public interest, the commission shall issue an order:

- (1) Withdrawing approval of the alternative form of regulation and:
 - a. Initiating a proceeding to establish another alternative form of regulation, in accordance with Puc 206.06 and 206.07; or

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b. Reinstating regulation based upon cost of service, rate base and rate of return.

(b) During the pendency of a proceeding to consider withdrawal of approval of an alternative form of regulation or a proceeding to consider another alternative form of regulation, the commission shall either:

- (1) Maintain the form of regulation last approved for the affected utility; or
- (2) Reconstitute regulation based upon cost of service, rate base and rate of return.

(c) In determining the method of regulation to apply during the pendency of a proceeding pursuant to Puc 206.09(a), the commission shall order the form of regulation that best assures:

- (1) Safe, adequate and reliable utility operation;
- (2) Financial stability of the utility; and
- (3) Limited financial impact, if any, on ratepayers.

Source. #6444, eff 1-28-97; ss by #8276, eff 1-27-05

PART Puc 207 DECLARATORY RULINGS

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.

(d) Except for a petition dismissed pursuant to subsection (c), the commission shall conduct an adjudicative proceeding on a petition for declaratory ruling in accordance with Puc 203.

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

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APPENDIX

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