

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER Puc 2000 COMPETITIVE ELECTRIC POWER SUPPLIER RULES

PART Puc 2001 PURPOSE AND APPLICATION OF THE RULE

Puc 2001.01 Purpose.

(a) The purpose of Puc 2000 is to establish requirements for the registration of competitive electric power suppliers and notification procedures for aggregators, as defined below, with the commission. Puc 2000 also establishes enforcement provision processes and consumer protection standards.

Source. #7758, eff 9-4-02

Puc 2001.02 Application of Rules.

(a) This chapter shall apply to competitive electric power suppliers and aggregators.

(b) These rules shall not apply to municipalities operating municipal electric utilities under RSA 38 and providing electricity or aggregating within the boundaries of the municipality, to rural electric cooperatives who are selling electricity to or aggregating for association members, or to distribution/transmission companies providing default or transition service.

Source. #7758, eff 9-4-02

PART Puc 2002 DEFINITIONS

Puc 2002.01 "Aggregate" means to combine the electricity loads of multiple customers.

Source. #7758, eff 9-4-02

Puc 2002.02 "Aggregator" means any person or entity that aggregates but takes no ownership of the electricity needed to meet that aggregated load. The term includes, but is not limited to, entities that act as an agent of a buyer or seller who buys or sells the commodity on a commission basis.

Source. #7758, eff 9-4-02

Puc 2002.03 "Commission" means the New Hampshire public utilities commission.

Source. #7758, eff 9-4-02

Puc 2002.04 "Competitive electric power supplier (CEPS)" means any person or entity that sells or offers to sell electricity to retail customers by using the transmission and/or distribution facilities of any public utility in this state. CEPS includes but is not limited to owners of electric generating facilities, marketers of electricity, and municipalities selling or offering to sell electricity. A CEPS sells to the public and does not include an entity that sells only to its affiliate.

Source. #7758, eff 9-4-02

Puc 2002.05 "Customer" means any person or entity in this state, including any governmental unit, which purchases electricity at retail.

Source. #7758, eff 9-4-02

Puc 2002.06 "Electricity supply offer" means a solicitation by a CEPS to sell electricity or a solicitation by an aggregator to arrange for the purchase of electricity by a customer.

Source. #7758, eff 9-4-02

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Puc 2002.07 "Small commercial electric customer" means any non-residential customer, as defined under the terms and conditions of the consumer's transmission and distribution utility tariff, that meets the availability criteria to take service under a utility tariff having a normal maximum demand threshold of less than 100 kilowatts.

Source. #7758, eff 9-4-02

PART Puc 2003 REGISTRATION AND NOTICE OF INTENT REQUIREMENTS

Puc 2003.01 Registration of Competitive Electric Power Suppliers.

(a) Any CEPS seeking to sell electricity to retail customers in the state of New Hampshire shall file with the commission a registration application together with an electronic copy on diskette, pursuant to Puc 202.

(b) No CEPS shall enroll any customers, make a legally binding offer to any non-residential customers or market to residential customers in writing, in person or by telecommunications until it has completed all aspects of the registration process required by Puc 2003.

(c) The registration application required by (a) above shall include the following:

- (1) The legal name of the applicant as well as any trade name(s) under which it intends to operate;
- (2) The applicant's business address, principal place of business, telephone number, facsimile number and email address;
- (3) The applicant's place of incorporation;
- (4) The names, titles, business addresses, telephone numbers and facsimile numbers of the applicant's principal officers;
- (5) A copy of the applicant's most recent audited financial statement;
- (6) The following regarding any affiliate and/or subsidiary of the applicant:
  - a. The name and business address of the entity;
  - b. A description of the business purpose of the entity; and
  - c. Regarding any agreements with any affiliated New Hampshire jurisdictional electric distribution company, a description of the nature of the agreement;
- (7) The toll free telephone number of the customer service department or the name, title and toll free telephone number of the customer service contact person;
- (8) Name, title, business address, telephone number, facsimile number and email address of the individual responsible for responding to commission inquiries;
- (9) Name, title, business address and telephone number of the applicant's registered agent in New Hampshire for service of process;
- (10) A copy of the applicant's authorization to do business in New Hampshire from the New Hampshire secretary of state;

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(11) Description of geographic areas of New Hampshire in which the applicant intends to provide service, described by:

- a. A distribution company's existing franchise area;
- b. Existing town boundaries; or
- c. A map with the boundary limits delineated;

(12) A description of the types of customers the applicant intends to serve, and the customer classes as identified in the applicable utility's tariff within which those customers are served;

(13) A listing disclosing the number and type of customer complaints concerning the applicant or its principals, if any, filed with a state licensing/registration agency, attorney general's office or other governmental consumer protection agency for the most recent calendar year in every state in which the applicant has conducted business relating to the sale of electricity;

(14) A statement as to whether any of the applicant's principals, as listed in a. through c. below, have ever been convicted of any felony that has not been annulled by a court:

- a. For partnerships, any of the general partners;
- b. For corporations, any of the officers or directors; or
- c. For limited liability companies, any of the managers or members;

(15) A statement as to whether the applicant or any of the persons listed in (14) above has, within the 10 years immediately prior to registration:

- a. Had any civil, criminal or regulatory sanctions or penalties imposed against them pursuant to any state or federal consumer protection law or regulation;
- b. Settled any civil, criminal or regulatory investigation or complaint involving any state or federal consumer protection law or regulation; or
- c. Is currently the subject of any pending civil, criminal or regulatory investigation or complaint involving any state or federal consumer protection law or regulation;

(16) If an affirmative answer is given to any item in (14) or (15) above, an explanation of the event;

(17) For those applicants intending to telemarket, a statement that the applicant shall:

- a. Maintain a list of consumers who request being placed on a do-not-call list for the purposes of telemarketing;
- b. Obtain, no less than semi-annually, access to updated telephone preference services lists maintained by the Direct Marketing Association; and
- c. Not initiate calls to New Hampshire customers who have either requested being placed on do-not-call lists or customers who are listed on the Direct Marketing Association's telephone preference lists;

(18) For those applicants that intend not to telemarket, a statement to that effect shall be provided;

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- (19) A sample of the bill form(s) that the applicant intends to use or a statement that the applicant intends to use the transmission/distribution company's billing service;
  - (20) A copy of each contract to be used for residential and small commercial customers; and
  - (21) A statement certifying that the applicant has the authority to file the applications on behalf of the CEPS and that its contents are truthful, accurate and complete.
- (d) Each CEPS applicant shall provide the following in or with its application:
- (1) Demonstration of technical ability to provide for the efficient and reliable transfer of data and electronic information between regulated distribution companies and CEPS in the form of:
    - a. A statement from each electric distribution company with which the CEPS intends to do business indicating that the applicant has complied with the training and testing requirements for electronic data interchange;
    - b. A statement from each electric distribution company with which the CEPS intends to do business indicating that the applicant has successfully demonstrated electronic transaction capability;
    - c. Evidence, including but not limited to proof of membership in the New England Power Pool (NEPOOL) or any successor organization or documentation of a contractual sponsorship relationship with a NEPOOL member, that the CEPS is able to obtain supply in the New England energy market; and
    - d. A \$500.00 registration fee.
  - (4) Evidence of financial security, as follows:
    - a. The security shall be in the form of a surety bond or other financial instrument showing evidence of liquid funds, such as a certificate of deposit, an irrevocable letter of credit, a line of credit, a loan or a guarantee;
    - b. The security amount shall:
      - 1. Be the greater of:
        - (i) \$100,000.00; or
        - (ii) 20% of the CEPS's estimated gross receipts for its first full year of operation, not including revenue from the provision of transition or default service; and
      - 2. Not exceed \$350,000.00; and
    - c. The security shall name the commission as obligee.
  - (e) When the security amount required for CEPS's by (d)(3)b.1.(ii) above is based on gross receipts, the CEPS shall annually adjust the amount of the security based on its gross receipts, not including revenues from the provision of transition and default service.
  - (f) Each CEPS shall notify the commission of any changes to the information required in this section within 30 days following the effective date of the change.
  - (g) The CEPS registration shall period runs for 2 years.

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(h) Each CEPS shall re-register with the commission every 2 years on or before its original registration anniversary date by filing with the commission an application for renewal. If a CEPS fails to meet its re-filing obligation, the original registration shall expire.

(i) The CEPS shall include on each renewal application an update noting any changes to all information contained in the previous application.

(j) The CEPS shall include with its renewal application a re-registration fee of \$250.00.

(k) Unless additional time is required to review the application and the commission extends the review period, a registration application shall be deemed to have been approved 60 days after receipt by the commission of the completed application.

(l) The CEPS shall notify any transmission and distribution utility doing business in an area where the CEPS intends to compete of its registration application at the time it files such application with the commission and confirm with the transmission and distribution utility that it has successfully completed its registration.

Source. #7758, eff 9-4-02

Puc 2003.02 Procedure for Filing Notice of Intent by Aggregators.

(a) Any entity seeking to provide aggregation to retail electric customers shall provide written notice to the commission prior to providing such service.

(b) No aggregator or broker shall enroll any customers, make a legally binding offer to any non-residential customers or market to residential customers in writing, in person or by telecommunications until it has completed all aspects of the registration process required by Puc 2003.

(c) The notification required by (a) above shall be filed together with an electronic copy on diskette, pursuant to Puc 202.08, and include, at a minimum, the following:

(1) The legal name of the aggregator as well as any trade name(s) under which it intends to operate in this state;

(2) The aggregator's business address and principal place of business, telephone number, facsimile number, and email address;

(3) The names, titles, business addresses, telephone numbers and facsimile numbers of the aggregator's principal officers;

(4) The toll free telephone number of the customer service contact person;

(5) A copy of the aggregator's authorization to do business in New Hampshire from the secretary of state;

(6) Description of the geographic areas of New Hampshire in which the applicant intends to provide service, consistent with Puc 2003.01 (c) (11) above;

(7) A statement that the aggregator is not representing any supplier interest or a listing of any supplier interest the aggregator intends to represent; and

(8) Except as provided in (d) below, payment of a filing fee of \$250.00.

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(d) Any municipal entity that acts as an aggregator for its citizens shall file the notice required by this section but shall not be required to pay a registration fee.

(e) Unless additional time is required to review the notice and the commission extends the review period, an aggregator may begin operating within the state 45 days after filing a completed notice of intent with the commission.

(f) Each aggregator shall re-file with the commission an up-to-date written notice of intent to provide service as an aggregator every 2 years on or before its original notice anniversary date.

Source. #7758, eff 9-4-02

PART Puc 2004 CONSUMER PROTECTION REQUIREMENTS

Puc 2004.01 Applicability.

(a) The rules set forth in Puc 2004.02 shall apply to those CEPS selling electricity to residential or small commercial electric customers, whether directly or through an arrangement with an aggregator.

(b) The terms of service requirements of this part shall not apply to the provision of transition or default service.

Source. #7758, eff 9-4-02

Puc 2004.02 Provision of Information to Customers.

(a) Each CEPS shall provide each of its customers with a written statement regarding terms of service within 5 business days of entering into an agreement to sell electricity.

(b) Except as provided for in Puc 2004.01(b), each CEPS shall include in the written statement disclosing the terms of service required by (a) above, the following:

- (1) The name, business address and telephone number of the CEPS;
- (2) All fixed and variable prices of the service being offered to the customer, including an explanation of any variable price and the circumstances that would cause the price to vary;
- (3) The average price per kilowatt hour for the service, starting at a usage of 250 kwh per month and increasing in 250 kwh increments to 1000 kwh and in 500 kwh increments thereafter;
- (4) A statement that the CEPS's price does not include other costs, including but not limited to, the price of transmission and distribution, the system benefits charge, restructuring charges and taxes;
- (5) A list of social service agencies and programs available to low income customers;
- (6) The due date of bill payments and the consequences of late payments, including the amount of any late payment fee or the interest or finance charge assessed for late payments;
- (7) The duration of the CEPS's commitment for price, terms and conditions;
- (8) The duration of the customer's commitment to purchase from the CEPS, including a statement that the customer has a right to change CEPS subject to the terms of commitment;
- (9) Any fees to the CEPS for early termination by the customer;

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- (10) Any other fees, penalties, or charges to the CEPS for which a customer would be responsible;
- (11) An explanation of how the customer will be billed for electricity sales and the name and address of the CEPS's billing agent, if any;
- (12) A description of the CEPS's dispute resolution process available;
- (13) The toll free telephone number of the commission's consumer affairs division and a statement that customers may contact the commission if they have any questions about their rights and responsibilities;
- (14) Deposit requirements and the rate of interest paid on deposits;
- (15) A statement that the CEPS shall not release confidential customer information without written authorization from the customer;
- (16) Information about the Direct Marketing Association's Telephone Preference list and how a customer may be added to the list; and
- (17) An advisory that:
  - a. Residential customers and those small commercial customers whose load is not combined with that of other locations of the same business name shall have 3 business days from the date of personal or electronic delivery of the written terms of service statement required by (a) above to rescind authorization; and
  - b. Residential customers and those small commercial customers whose load is not combined with that of other locations of the same business name receiving the terms of service statement via the United States postal service shall have 5 business days from the postmarked date to rescind authorization.
- (c) The disclosure statement required by this section shall be written in plain language, legible type and a font size no smaller than 12 point.
- (d) As part of any written or verbal solicitation to provide electricity, a CEPS shall advise potential residential and small commercial customers of their right to rescind authorization to the supplier, described in (b)(17) above.
- (e) A CEPS shall not submit a customer enrollment request to an electric distribution company for a customer until any applicable customer right of rescission has lapsed.

Source. #7758, eff 9-4-02

Puc 2004.03 Telephone Solicitation of Customers for Electric Suppliers.

- (a) A CEPS shall not while telemarketing:
  - (1) Initiate any telephone call to any of the following:
    - a. An emergency telephone line, including any 911 line or any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency;

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- b. The telephone line of any guest room or patient room of a hospital, health care facility, home for the elderly, or similar type establishment; or
  - c. A telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call;
- (2) Use any device to send an unsolicited advertisement to a telephone facsimile machine;
  - (3) Initiate any telephone solicitation to a customer or potential customer before 8:00 a.m. or after 9:00 p.m. eastern time;
  - (4) Initiate any telephone solicitation to a customer or potential customer on a weekend or any state or federal holiday; or
  - (5) Initiate any telephone solicitation to a customer or potential customer unless the CEPS has instituted procedures, as provided below, for maintaining a list of persons who do not wish to receive telephone solicitations made by or on behalf of that CEPS.
- (b) A CEPS shall implement procedures for telephone solicitation including:
- (1) Providing the called party with the name of the CEPS on whose behalf the call is being made as well as a telephone number or address at which the CEPS can be reached; and
  - (2) Establishing a written policy for maintaining a do-not-call list, including:
    - a. Contacting the Direct Marketing Association's Telephone Preference Service and obtaining an up-to-date listing of New Hampshire customers and potential customers who have registered with that service prior to conducting any telephone solicitations;
    - b. Providing notification to customers and potential customers that such a list is maintained and information about how to be placed on that list;
    - c. Instituting training for personnel engaged in any aspect of telephone solicitation in the existence and use of the supplier specific do-not-call list and the do-not-call list obtained from the Direct Marketing Association;
    - d. Not making telephone solicitations to any customer or potential customer who has registered with the Direct Marketing Association's do-not-call service or requested do-not-call treatment;
    - e. Providing daily updates to the do-not-call list so that residential customers or potential customers requesting to not be called or to be placed on a do-not-call list are not called; and
    - f. Creating a mechanism for obtaining prior express consent from the customers or potential customers before a request to be placed on a do-not-call list can be shared with or forwarded to a party other than the CEPS on whose behalf the solicitation is being made.

Source. #7758, eff 9-4-02

Puc 2004.04 Transfer of Service.

- (a) The CEPS shall not submit a change on behalf of a customer in the customer's selection of a CEPS without obtaining authorization from the customer.

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(b) The authorization in (a) above shall be verified in accordance with (e) through (g) below.

(c) The CEPS shall maintain records of verification of customer authorization for a minimum period of 2 years after obtaining the verification.

(d) No CEPS shall submit on behalf of a customer a request for change in the customer's selection of a CEPS unless the CEPS has obtained:

- (1) The customer's written authorization in a form that meets the requirements of (g) below; or
- (2) Verbal authorization from the customer as described in (e) and (f) below;

(e) Verbal authorization shall be confirmed by a third party that:

- (1) Is not owned, managed, controlled or directed by the CEPS or the CEPS's marketing agent;
- (2) Has no financial incentive to confirm CEPS change orders for the CEPS or the CEPS marketing agent;
- (3) Obtains the customer's consent, as required by RSA 570-A, to the tape recording of the customer's authorization for a change in service; and
- (4) Operates in a location physically separate from the CEPS marketing agent.

(f) Verbal authorization shall consist of the following:

- (1) A statement, made by the customer, providing the customer's name;
- (2) Confirmation that the caller is the customer authorized to make the CEPS change;
- (3) Confirmation that the customer wants to make the change in CEPS;
- (4) The name of the customer's current CEPS;
- (5) The name of the CEPS the customer wishes to select;
- (6) The service address and account number or meter number that the customer wishes to switch to the new CEPS; and
- (7) Be made in the same language as the underlying solicitation made to the customer.

(g) The written authorization form referenced in (d)(1) above shall:

- (1) Not be combined with other materials sent to the customer, including but not limited to checks and other inducements to change service;
- (2) Be a separate plainly identifiable document;
- (3) Be written in plain language, legible type and a font size no smaller than 12 point;
- (4) Contain the customer's name and address;
- (5) Contain the service address and account number or meter number that is being changed to a new CEPS;
- (6) Contain a statement that the customer is changing from their current CEPS to the new CEPS, in which each CEPS is identified by name; and

(7) Contain the customer's signature.

(h) When a customer's request for a change in CEPS is received over the telephone, the CEPS shall mail an information package to the customer within 5 business days of the customer's request.

(i) The information package, described in (h) above, shall include:

- (1) A statement that the information is being sent to confirm the telemarketing order or verbal request;
- (2) The name, address and telephone number of the newly-requested CEPS;
- (3) The disclosure statement required pursuant to Puc 2004.02; and
- (4) Notice of the applicable rescission period required by Puc 2004.02(b)(17).

(j) Upon receipt of authorization from the customer, after the applicable rescission period defined in 2004.02(b)(17) has run, the CEPS shall notify the relevant distribution company electronically of the customer's request to switch suppliers pursuant to the electronic data interchange requirements set forth in Puc 2500.

(k) A CEPS who fails to obtain customer authorization in accordance with this section and initiates a customer change in service with the electric distribution utility shall:

- (1) Be liable for all charges billed to the customer as a result of the change in service;
- (2) Be liable for all charges for electricity it billed to the customer; and
- (3) Be subject to the enforcement provisions of Puc 2005.

(l) The following shall apply when a CEPS proposes to transfer or sell the right to serve any customer of the CEPS, prior to the proposed transfer or sale:

- (1) Except as provided in (p) below, the CEPS shall provide notice to each affected customer pursuant to (m) below; and
- (2) The proposed transferee or buyer shall register as a CEPS, pursuant to Puc 2003 if not already so registered.

(m) Not less than 14 days prior to the effective date of such change, the CEPS shall provide clear and conspicuous written notice to each affected customer which includes:

- (1) Notice that the CEPS shall discontinue providing services to the customer;
- (2) Notice that unless the customer selects an alternate CEPS provider or returns to transition or default service, the customer will be assigned to the proposed transferee or purchaser;
- (3) Notice of the date that the CEPS will discontinue providing services to the customer;
- (4) Notice that the change of CEPS shall be without charge to the customer;
- (5) A clear statement:
  - a. Of any difference in the rates and/or terms and conditions of service of the CEPS and the rates and/or terms and conditions of service of the proposed transferee or buyer; or

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b. That the rates and terms and conditions of service of the CEPS and the proposed transferee or buyer are the same;

(6) The name, address and telephone number of the proposed transferee or buyer if the customer does not select an alternate CEPS within the prescribed time period; and

(7) Notice of the time period within which the customer shall make a selection of any alternate CEPS or be assigned to the default or successor CEPS, if different than the date the CEPS will cease to provide service to the affected customer.

(n) The CEPS shall provide a copy of the notice described in (m) above to the commission at the same time notice is sent to affected customers.

(o) Within 30 days of the effective date of the change, the CEPS shall refund to its customers any applicable amounts owed.

(p) A transfer or sale of a CEPS to another person or entity, as described in (m) above, shall require the notice set forth in (q) below rather than the notice set forth in (m) above, when the following conditions exist:

(1) The existing CEPS, serving the customer(s) in question, will continue to exist, serving its customers under the same name;

(2) The transfer or sale will result in no change in the existing CEPS customers' rates, terms, or conditions of service;

(3) The CEPS notifies its affected customers in writing of the transfer or sale, pursuant to (q) below, and of the opportunity for the customer to change carriers at no extra charge;

(4) There will be no interruption in or diminution in the quality of service; and

(5) The CEPS does not charge any customer who selects another CEPS for service in connection with the transfer or sale.

(q) When a transfer or lease of a utility franchise or portion thereof meets the requirements of (p) above, the utility shall notify each affected customer of the opportunity, prior to the next meter reading date, to choose, without additional charge, another CEPS or return to transition or default service.

(r) As to the notices required to be sent to the customer describing a proposed change in CEPS as described in (m) and (q) above, the following shall apply:

(1) The notice may be sent with the customer's billing statement;

(2) The notice shall be sent by the original CEPS, not the proposed transferee or purchaser; and

(3) The notice shall be sent separately from promotional materials relating to services proposed to be provided by the proposed transferee or purchaser.

(s) If the commission determines that a CEPS has not complied with the provisions for discontinuance of service or for a successor provider, the commission shall order notice to affected customers clarifying the customers' rights and obligations.

Source. #7758, eff 9-4-02

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Puc 2004.05 Bill Disclosure Information.

(a) The CEPS shall include on any bills which it issues or which are issued on its behalf, the following information:

- (1) The starting and ending date of the billing period;
- (2) Any fixed monthly charges;
- (3) The price structure for electric power kilowatt hour usage and all other applicable billing determinants;
- (4) For those CEPS providing separate bills, a statement that the customer's meter readings are available on the distribution company bill;
- (5) An indication as to whether the bill is based on actual or estimated usage;
- (6) The total kilowatt hours and all other applicable billing determinants used during the billing period, which shall include for customers on a time-of-use or similar pricing schedule the total kilowatt hours and all other applicable billing determinants used broken down by time of use;
- (7) The customer's average total price expressed per kilowatt hour used during that billing period;
- (8) Any applicable penalty date, including but not limited to penalties for late payments, and the related penalty;
- (9) Any other factors necessary to compute the charges;
- (10) An itemized breakdown of the charges, including any late fee, penalty or aggregation fee, if applicable, and the name of the company/entity assessing the charge;
- (11) A statement at least twice per year that the customer has the right to request and receive actual consumption information for each billing period during the prior year or the months therein during which the CEPS sold electricity to the customer;
- (12) The toll free telephone number of the CEPS's customer service department or customer service contact person;
- (13) A statement that the customer has the right to file a complaint with the commission after the customer has attempted to resolve the dispute with the supplier; and
- (14) The toll free telephone number of the commission's consumer affairs division.

(b) Upon request of a customer, the CEPS shall provide the customer with a clear and concise statement of the customer's actual consumption for each billing period during the prior year or the months therein which the CEPS sold electricity to the customer.

Source. #7758, eff 9-4-02

Puc 2004.06 Notice of Termination of Service.

(a) When a residential or small commercial electric customer purchasing electricity has failed to meet any of the terms of its agreement for service with its CEPS, the CEPS may terminate its agreement to sell electricity to the customer as follows:

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(1) The CEPS shall provide written notice of the termination to the customer no less than 10 business days prior to the termination; and

(2) The actual date of termination of the agreement to sell electricity by that CEPS shall be upon the customer's next meter read date that falls not less than 10 business days after issuing notice to the customer, provided that notice to the distribution utility provided for in (c) below is also met.

(b) Nothing shall prevent a CEPS from requesting an off-cycle meter reading.

(c) A CEPS shall provide 5 business days written notice to customers whose maximum demand exceeds 100 kilowatts prior to terminating electric service when the customer has failed to meet any of the terms of the agreement for service.

(d) A CEPS shall provide not less than 2 business days electronic notice to the distribution company prior to terminating electric service to any customer who has failed to meet the terms of its agreement for service with the CEPS, unless the 2 day notice is waived by the distribution company.

(e) When a CEPS terminates service to a customer, it shall provide written notice to the customer that shall include a statement that termination of service will not result in disconnection from the electricity grid, and that the customer may obtain service from another CEPS or go to default service, subject to the provisions of the default service provider.

(f) Any CEPS that ceases to sell electricity within the state shall, prior to discontinuing such service:

(1) Provide at least 30 days written notice to any affected electric distribution utility and to the commission;

(2) Provide each customer written notice of its intent to cease operations at least 30 days prior to the start date of the customer's next billing cycle; and

(3) Promptly refund to customers any outstanding deposits or prepayments.

Source. #7758, eff 9-4-02

Puc 2004.07 Customer Protections Provided by Aggregators.

(a) An aggregator shall provide each customer with a written statement disclosing the following information:

(1) The name, business address and telephone number of the aggregator;

(2) The nature of any business relationships or business affiliations with a CEPS;

(3) Any business relationships or business affiliations with a transmission/distribution utility; and

(4) The toll free telephone number of the commission's consumer affairs division and a statement that customers may contact the commission if they have any questions about their rights and responsibilities.

(b) The disclosure statement required by this section shall be written in plain language, legible type and a font size no smaller than 12 point.

(c) An aggregator shall comply with the provisions of PUC 2004.03 as stated above.

Source. #7758, eff 9-4-02

Puc 2004.08 Release of Confidential Customer Information.

(a) No CEPS, aggregator or electric distribution company shall release confidential customer information without written authorization from the customer, unless otherwise required by law.

(b) Confidential customer information shall include but not be limited to:

- (1) Customer name, address and telephone number;
- (2) Customer usage data; and
- (3) Customer payment information.

Source. #7758, eff 9-4-02

Puc 2004.09 Other Consumer Protections.

(a) The CEPS shall not include provisions in residential contracts that would waive the requirements of Puc 2004.

(b) Any person may file a complaint with the commission that a CEPS or aggregator has engaged in slamming. For purposes of this paragraph, slamming means initiating the transfer of a customer to a new CEPS without the customer's authorization.

(c) If after an investigation the commission determines that the new CEPS does not possess evidence of a customer's affirmative choice as required by Puc 2004.04, the commission shall require the new CEPS to refund the customer any charges already paid to the new provider and any expense incurred in switching, as provided in Puc 2004.04(k).

(d) Each CEPS that enrolls a customer shall sell electricity to that customer for a period that lasts at least through one billing cycle of the electric distribution company serving that customer.

(e) No CEPS shall install pre-payment meters or any device at the customer's location that causes electricity to be automatically disconnected for failure to pay in advance.

(f) A CEPS or aggregator shall not discriminate in the application process, in the provisions of credit or service, or in the termination of a contract on the basis of any of the following:

- (1) Income;
- (2) Home ownership;
- (3) Geographic area;
- (4) Race;
- (5) Color;
- (6) Creed;
- (7) Gender;
- (8) Marital status;
- (9) Age;

- (10) National origin; or
- (11) Disability.

Source. #7758, eff 9-4-02

PART Puc 2005 ENFORCEMENT PROVISIONS AND PROCEDURES

Puc 2005.01 Sanctions for Failure to Comply.

(a) For the purposes of this section, "Amitigating circumstances" means facts, actions or conditions which excuse or justify a particular course of action.

(b) The commission shall, pursuant to RSA 374-F:7, III, fine a CEPS, \$1000.00 per day for each violation, after an opportunity to be heard, for any of the following:

- (1) Failure to register with the commission as required in Puc 2003.01;
  - (2) A violation of any one of the provisions of Puc 2004;
  - (3) Acting in a manner contrary to or providing false information in the statements provided in 2003.01; or
  - (4) A violation of any commission order enforcing RSA 374-F:7 or Puc 2000;
- (c) The commission shall suspend the registration of a CEPS, after an opportunity to be heard for:
- (1) The second and third violations of any one of the provisions of Puc 2004 or any applicable state statute;
  - (2) A violation of any commission order enforcing RSA 374-F:7 or Puc 2000; and
  - (3) Market abuses that violate any of the provisions of Puc 2004.
- (d) The commission shall revoke, the registration of a CEPS, after an opportunity to be heard, for:
- (1) Willful misrepresentation of any of the information required by 2003.01 which would have resulted in the denial of registration;
  - (2) The fourth or subsequent violations of any one of the provisions of Puc 2004 or any applicable state statute; or
  - (3) Widespread systematic market abuses that violate any of the provisions of Puc 2004.

(e) Any CEPS whose registration is revoked shall be prohibited from doing business in the state as a CEPS for a period of no less than 6 months nor more than 2 years from the date of revocation.

(f) Any CEPS whose registration has been suspended shall be prohibited from doing business in the state as a CEPS for a period of no less than 30 days nor more than 6 months from the date of suspension.

(g) The commission shall determine the period of revocation or suspension as described in (c)-(f) above, or the amount of the fine, as described in (b) above, as applicable, based on:

- (1) The severity of the infraction;
- (2) Mitigating circumstances, if any; and

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(3) Other relevant information pertaining to the business practices of the CEPS and its principals.

(h) A CEPS which is prohibited from doing business in the state may, at the end of the period of prohibition, petition the commission for reinstatement.

(i) In addition to such other information as is required for initial registration of applications, the reinstatement petitioner shall provide the following:

(1) Evidence that any deficiencies and/or problems regarding the original revocation have been remedied; and

(2) A registration fee of \$500.00.

(j) The commission shall waive or lessen the imposition of any sanctions or imposition of a fine, if it determines that:

(1) The violation was immaterial, unintentional, or both;

(2) The CEPS acted in good faith to comply with all applicable statutory and regulatory requirements; or

(3) Other mitigating circumstances exist.

Source. #7758, eff 9-4-02

Puc 2005.02 Investigation by the Commission By Reason of Consumer Complaint.

(a) Upon the filing of a complaint with the commission's consumer affairs division, either verbally or in writing, against a CEPS or aggregator alleging that the CEPS or aggregator is not in compliance with the provisions of Puc 2000, the commission's consumer affairs division shall begin an investigation.

(b) The CEPS or aggregator shall provide any relevant information to the consumer affairs division which would assist the consumer affairs division in its efforts to investigate and resolve the dispute.

(c) The CEPS or aggregator or the customer may request a hearing before the commission if dissatisfied with the consumer affairs division's disposition of the complaint.

(d) The consumer affairs division shall request a hearing before the commission when it determines that issues remain which require resolution by the commission.

(e) CEPS's, but not municipalities, shall agree to submit to mediation at the commission for disputes arising between the customer and the supplier for a period of 2 years from May 1, 2001, unless otherwise extended by the legislature.

Source. #7758, eff 9-4-02

Puc 2005.03 Confidentiality. A CEPS may request, in accordance with Puc 204.06, confidential treatment of documents or information it is required to provide to the commission and its staff.

Source. #7758, eff 9-4-02

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**APPENDIX**

<b>Rule(s)</b>	<b>State Statute (RSA)</b>
Puc 2000 (other specific statute provisions implemented by specific rules are listed below)	RSA 374-F:7
Puc 2003, 2004	RSA 374-F:7,I
Puc 2005	RSA 374-F:7,III & IV, and RSA 541-A:30,II