

CHAPTER Puc 200 PROCEDURAL RULES

PART Puc 201 PURPOSE AND SCOPE

Puc 201.01 Purpose. The purpose of the rules in this chapter is to ensure the lawful and efficient processing of all filings submitted to the commission and the just and timely disposition of all matters before the commission.

Puc 201.02 Scope. The rules in this chapter shall govern all communications with the commission and all matters before the commission.

PART Puc 202 DEFINITIONS.

Puc 202.01 “Adjudicative proceeding” means a proceeding that is conducted pursuant to the procedure followed in contested cases set forth in RSA 541-A:31 through RSA 541-A:36 and the Puc 200 rules of the commission.

Puc 202.02 “Business day” means any Monday through Friday, excluding state holidays.

Puc 202.03 “Commission information request” means questions from the commission to a party or multiple parties for specific information or documents as described in Puc 203.18.

Puc 202.04 “Commission technical session” means a meeting of the parties at which information is shared on an informal basis and, with notice, the presiding officer, commissioners, or commission staff are present pursuant to RSA 541-A:31,V(b).

Puc 202.05 “Data request” means a discovery procedure in which the requesting party asks another party for specified information or requests the production of documents.

Puc 202.06 “Declaratory ruling” means a commission ruling as to the applicability of any statutory provision or of any rule or order of the commission.

Puc 202.07 “File”, as a verb, means to send an electronic or deliver a paper copy of a document to the commission.

Puc 202.08 “File electronically” means to file a document, using the online commission portals, by:

(a) Using the electronic filing system, if available, at <https://www.puc.nh.gov>; or

(b) Sending an email to the commissions clerk’s office at ClerksOffice@puc.nh.gov with documents attached in a file format accepted by the commission in accordance with Puc 203.03.

Puc 202.09 “Hearing” means a publicly noticed session held in a matter before the commission or its designee, which provides an opportunity for any participant, party, or intervenor to present evidence, conduct cross-examination, or otherwise participate.

Puc 202.10 “Motion” means a request for an order or ruling by the commission directing some act to be done in favor of the party making the motion, and shall include a statement of justification or reasons for the request.

Puc 202.11 “Non-adjudicative proceeding” means any proceeding that is not included under Puc 202.01 and is not governed by RSA 541:31 through RSA 541:36.

Puc 202.12 “Participant” means any person that chooses to engage in a non-adjudicative proceeding.

Puc 202.13 “Party” means “party” as defined by RSA 541-A:1, XII, namely, “each person or agency named or admitted as a party, or properly seeking and entitled as a right to be admitted as a party” in an adjudicative proceeding.

Puc 202.14 “Person” means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character which appears before the commission for any purpose.

Puc 202.15 “Petition” means the initial pleading filed with the commission pursuant to Puc 203.07(a) to commence a proceeding for the purpose of seeking commission action.

Puc 202.16 “Pleading” means a written request for commission action or a written response to a written request for commission action in the form of, including but not limited to, a petition, motion, objection, or reply. The term “pleading” does not include communications in the form of correspondence, such as a letter or email.

Puc 202.17 “Position statement” means a written response to a pleading outlining the responder’s factual and legal arguments or viewpoints regarding “the same”.

Puc 202.18 “Prefiled testimony” means a written document in question-and-answer form, offered by a person who intends to make themselves available to adopt the written answers at hearing, under oath.

Puc 202.19 “Prehearing conference” means a convening by the presiding officer pursuant to RSA 541-A:31, V. The term includes a status conference or a commission technical session.

Puc 202.20 “Presiding officer” means the chairman of the public utilities commission, or the person designated to act on the chairman’s behalf at a hearing pursuant to Puc 204.06, or an individual conducting a hearing pursuant to RSA 363:16.

Puc 202.21 “Proceeding” means an adjudicatory or non-adjudicatory matter within the purview of the statutory authority of the commission assigned a docket number.

Puc 202.22 “Pro se” means an individual who is representing oneself in a proceeding.

Puc 202.23 “Remote participation” means participating in an in-person hearing via electronic means that enable participants to communicate with each other contemporaneously from a location other than that at which the hearing is being conducted.

Puc 202.24 “Routine filings” means documents submitted, on a recurrent basis, by a utility to the commission, and as specified in Puc 203.10(a).

Puc 202.25 “Technical session” means a meeting of the parties at which information is shared on an informal basis and at which neither the presiding officer, commissioners, or any commission staff are present.

Puc 202.26 “Technical statement” means a substantive statement providing a party’s position or conclusion on a particular matter and the underlying analysis that led the party to the position(s) or conclusion(s), provided in the form of a report or statement and distinct from the analysis provided by counsel in a legal memo.

PART Puc 203 GENERAL REQUIREMENTS FOR ALL PROCEEDINGS

Puc 203.01 Waiver of Rules.

(a) The commission or the presiding officer shall waive the provisions of any of the commission's administrative rules, except when precluded by statute, in response to a motion filed by an interested party, or on the commission or presiding officer's own motion, if it is found 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 or the presiding officer shall find a request to be in the public interest 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 person affected by a rule and seeking a waiver shall file a written motion, except as provided in (d) below.

(d) The commission or the presiding officer shall consider any waiver request made orally during a hearing or prehearing conference.

(e) A request for a waiver shall specify the basis for the waiver, how the waiver might affect other parties or participants, and a proposed alternative, if any.

Puc 203.02 Computation of Time.

(a) Unless otherwise specified, all time periods referenced in this chapter shall be in calendar days.

(b) Computation of any period of time established in these rules shall begin with the first day after the action that triggers the time period and shall include the last day of the period so computed, and:

- (1) For time periods not established in statute, if the last day of the period so computed does not fall on a business day, then the time period shall be extended to include the first business day following; and
- (2) When the period of time prescribed or allowed is less than 6 days, intermediate Saturdays, Sundays, and New Hampshire state holidays shall be excluded in the computation of time.

(c) Time periods established in statute shall be determined as specified in the statute.

Puc 203.03 Address and Filing Format.

(a) All correspondence intended for the commission shall be addressed to the commission chairman. All written communications shall be sent to the commission's clerk's office at ClerksOffice@puc.nh.gov or

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

(b) Electronic filings shall be made in searchable portable document format (PDF) and searchable excel files and reflect the same text and pagination as any submitted hardcopies.

(c) Electronic submissions larger than 33 MB shall be submitted via the state of New Hampshire file transfer protocol. Instructions for the New Hampshire file transfer protocol (FTP) shall be listed on the commission's website. USB flash drives and other electronic storage devices shall be rejected.

(d) If unable to utilize the New Hampshire FTP, electronic submissions larger than 33 MB may be broken into multiple emails and sent to the commission's clerk's office at ClerksOffice@puc.nh.gov. The subject line of the emails must include sequential numbering and clearly articulate the number of parts that constitute a complete filing.

(e) The business hours of the commission are Monday through Friday, except for state Holidays, from 8 am to 4:30 pm.

Puc 203.04 Number of Copies. No paper filings shall be required if filed electronically. If the filing is not made electronically, then a single original paper filing shall be submitted pursuant to Puc 203.03(a).

Puc 203.05 General Requirements for Written Communications. All written communications submitted to the commission shall:

- (a) Be dated;
- (b) Be signed. An electronic signature or "/s/" mark, with the full name of the signing person provided with the electronic signature or "/s/" mark, shall be an acceptable means of signing the filing;
- (c) Identify the name and mailing address, email address, and telephone number of the person submitting the document and the party or parties on whose behalf it is submitted, if any;
- (d) Identify the appropriate docket number, order number, or other pertinent subject matter;
- (e) Be typed on 8-1/2 by 11 inches sized paper;
- (f) Have no less than one-inch margins on all sides;
- (g) Contain sequentially numbered pages;
- (h) If a pleading or testimony, be double-spaced;
- (i) If a pleading, be filed as a separate document from any supporting materials, such as testimony and supporting attachments;
- (j) If materials supporting a pleading, be organized with a single series of numerical page designations, for example Bates numbering; and
- (k) If supporting a pleading that is over 20 pages, include a table of contents.

Puc 203.06 Pleading Requirements.

(a) All requests for commission action shall be made in the form of a pleading that complies with the commission's administrative rules.

(b) All pleadings filed with the commission shall comply with the following requirements in addition to those contained in Puc 203.05:

- (1) Include a cover letter that has the docket service list attached;
- (2) Contain a certification that the filer has sent a copy of the filing to all participants and parties on the docket service list;
- (3) The heading on the first page of each pleading shall state "Before the New Hampshire Public Utilities Commission";
- (4) Identify the legal name of each person seeking the authorization or relief and the address or principal place of business of such person;
- (5) Identify the nature of the document, including the name of the utility and the subject matter of the pleading;
- (6) Contain a clear and concise statement of the authorization or other relief that is sought;
- (7) Identify the statutory provision or legal precedent under which the relief is sought;
- (8) Identify 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;
- (8) Contain a concise statement of the facts supporting the request for authorization or relief; and
- (9) Contain such other data as the filer considers relevant to the request for relief.

(c) Service of all pleadings shall be made:

- (1) Electronically to the email addresses contained on the commission's service list for the docket; or
- (2) By 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.

(d) All participants or parties in a commission docket shall be responsible for notifying the commission in a timely manner, per the process in Puc 203.05, of any changes to their contact information. Notice sent using the information contained in the commission's current service list shall be deemed sufficient.

Puc 203.07 Specific Pleadings

(a) The procedure for filing petitions shall be as follows:

- (1) All requests for relief shall be in the form of a petition, which may be accompanied by prefiled testimony;

- (2) Contain a certification that the filer has sent a copy of the filing to the department, and office of the consumer advocate (OCA) at the time of filing with the commission;
- (3) All petitions seeking a rate adjustment shall be filed in compliance with Chapter Puc 1600, if applicable, and shall be accompanied by prefiled testimony and supporting documents;
- (4) If a witness's written testimony exceeds 20 pages, excluding attachments, the testimony shall include a detailed table of contents;
- (5) If the scope of a proceeding is expanded, the commission shall issue a supplemental order of notice that allows the parties and any potential intervenor's time to file supplemental testimony, petitions to intervene, or comments on the new or unanticipated issues;
- (6) All petitions filed by public utilities shall include a statement of the estimated financial impact, in dollars, that the petition would have if granted;
- (7) Within 30 days of filing of a petition for an increase in rates pursuant to RSA 378, the petitioner shall complete and submit to the commission "Automatic Disclosures," Form 200B (12/2024); and
- (8) The "Automatic Disclosures" shall include the following information:
 - a. Docket number, docket name, and docket description;
 - b. All statutes and rules that govern the petition and a brief analysis as to why they apply;
 - c. Any statutory deadlines that are required to be met by the commission;
 - d. Whether the petition requests approval of any new rate or tariff feature, and if so list them;
 - e. The estimated rate impact of requested commission action, including, if applicable:
 1. Fixed or volumetric dollar value of new, increased, or decreased rates per kWh, therm, or cubic ft. of water; and
 2. Rate impacts on each customer group in monthly and annual whole dollar figures; and
 - f. Whether the petitioner has consulted with the department and OCA regarding its proposals.

- (b) The procedure for making and processing motions shall be as follows:
- (1) All motions shall contain a statement as to whether or not the parties to the docket assent to the motion;
 - (2) The presiding officer shall permit an oral motion to be made on the record during a hearing, or prehearing conference;
 - (3) Motions to continue shall be filed at least 7 days prior to the date of the noticed hearing;
 - (4) Motions to extend deadline(s) shall be filed as soon as possible and, absent unforeseeable circumstances, at least 3 business days prior to the expiration of the deadline in question. The commission shall grant a motion to extend deadline if a. and b. are established:
 - a. The party making the request has demonstrated that circumstances would cause undue hardship or inconvenience unless the request was granted; and
 - b. The extension would not unduly delay the proceeding or adversely affect the rights of any party;
 - (5) In addition to the requirements outlined in (4) a. and (4) b., an explanation of unforeseeable circumstances shall be included in motions to extend deadline(s) that are not filed at least 3 business days prior to the expiration of the deadline for the commission's consideration;
 - (6) The presiding officer shall grant a motion to amend if it will promote the just resolution of the proceeding and will not cause undue delay;
 - (7) Motions for rehearing may be filed by any party or person directly affected by a commission action pursuant to RSA 541:3 and RSA 365:21;
 - (8) Motions for confidential treatment shall comply with Puc 203.12;
 - (9) A motion for remote participation shall be filed as a written motion that names and provides contact information, including email addresses, for each individual requesting to appear remotely, which explains why appearance in person would be impractical or unreasonable under the circumstance and shall be filed with the commission's clerk's office no later than fifteen days prior to the hearing date; and
 - (10) Any party or participant may make a motion for decision by order *nisi*. The request that the commission decide by order *nisi* shall state specific reasons why a hearing is not necessary in the proceeding.
- (c) Objections to motions, including motions for rehearing filed under RSA 541 and RSA 365:21, shall be in writing and filed within 10 days of the date on which the motion is filed.
- (d) Complaints shall comply with Puc 204.27.


Puc 203.08 Date of Filing. Filings shall be deemed filed on the date that the commission receives them, if submitted during the commission's business hours listed in Puc 203.03. A filing submitted after hours shall be deemed to have been filed on the next business day.

Puc 203.09 Public Records.

(a) Subject to RSA 91-A, all documents submitted to the commission shall become matters of public record as of the day and time of the submission, with the following exceptions:

- (1) Accident reports under RSA 374:40;
- (2) Information about individual residential customers, the disclosure of which would constitute an invasion of privacy within the meaning of RSA 91-A:5, IV;
- (3) Documents submitted in connection with any proceeding in which confidential treatment has been requested pursuant to Puc 203.12;
- (4) Documents subject to a protective order of the commission issued pursuant to Puc 203.12;
- (5) Documents granted confidential treatment pursuant to Puc 203.10 and Puc 203.11; or
- (6) Other documents entitled to confidential treatment pursuant to RSA 91-A or other applicable law.

(b) All information within documents described in section (a) above and submitted to the commission and asserted to be confidential by the person making the submission, shall be redacted in the version for public release prior to submission. All redactions shall be made in a way that, within the redacted version of the document(s), preserves the line sequencing and pagination of the unredacted version of the document(s) to the greatest practicable extent, including any blank pages, and:

- (1) Bears the legend “REDACTED” at the upper-right-hand corner of the first page, and every redacted page; and
- (2) Indicates all confidential segments with either:
 - a. The legend “BEGIN CONFIDENTIAL,” in all capital letters, at the beginning of the redacted segment, followed by a left bracket. Following the left bracket, the confidential segment shall be replaced by a blank space of approximately equal length to the material being redacted. The end of the redacted segment shall be indicated with a right bracket, followed by the legend “END CONFIDENTIAL,” in all capital letters, as follows:
“BEGIN CONFIDENTIAL[blank space]END CONFIDENTIAL”;
 - b. Indication of redacted material by blacking it out or highlighting it with a solid black line in the following manner: ; or
 - c. Any other method that clearly indicates the scope of the material redacted.

(c) For each redacted document submitted, the person submitting the document shall also provide an unredacted version of the confidential document(s) to the commission that:

- (1) Bears the legend “CONFIDENTIAL” at the upper-right-hand corner of the first page, and every page with confidential material; and
- (2) Indicates all redactions with either:-

a. The legend “BEGIN CONFIDENTIAL,” in all capital letters, at the beginning of the confidential segment, followed by a left bracket. The end of the confidential segment shall be indicated with a right bracket, followed by the legend “END CONFIDENTIAL,” in all capital letters, as follows:

“BEGIN CONFIDENTIAL[confidential segment]END CONFIDENTIAL”;

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

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

(d) The public version(s) of any discovery-related submissions made pursuant to Puc 203.10 shall be filed with the commission no later than 3 days after the submission of the confidential version(s) of such discovery-related material.

Puc 203.10 Requests for Confidential Treatment of Documents Submitted by Utilities in Routine Filings.

(a) The following shall be the routine filings to which the procedure established by Puc 203.10 and Puc 203.11 applies:

- (1) Preliminary and final “Wholesale Performance Plan Reports” for telecommunications companies containing carrier-specific performance and bill credit calculations;
- (2) Department of Energy form “T-7 Exchange Eligibility Report”;
- (3) In cost of gas proceedings:
 - a. Supplier commodity pricing information related to the unit volumetric and demand cost;
 - b. Pricing and delivery special terms of supply agreements;
 - c. Pricing and special terms for storage lease agreements;
 - d. Natural gas or propane costs and availability relating to hedging;
 - e. Special terms for hedged natural gas or propane contracts;
 - f. Supply commodity cost information specific to individual suppliers in supply and demand forecasts; and
 - g. Responses to data requests related to a. through f. above;
- (4) Department of Energy form E-5, “Accident Reports”;
- (5) If electric default service solicitations from third parties are sought:
 - a. Default service solicitations;
 - b. Bidder information;

- c. Descriptions of the financial security offered by each bidder;
 - d. Bid evaluations;
 - e. Rankings of bidders' financial security;
 - f. Descriptions of financial security required by bidders;
 - g. Fuel supplier contracts;
 - h. Commodity and fuel pricing;
 - i. Contact lists used during the requests for proposals process;
 - j. Financial security, pricing, and quantity terms of master power agreements and amendments;
 - k. Transaction confirmations;
 - l. Retail meter commodity cost calculations;
 - m. Wholesale power purchase prices until made public by other governmental agencies; and
 - n. Responses to data requests related to a. through m. above;
- (6) Utilities' cybersecurity plans, pursuant to RSA 91-A:5, XI; and
- (7) Utilities' physical security plans, pursuant to RSA 91-A:5, VI.

(b) Those parties submitting documents pursuant to Puc 203.10 shall indicate that they are relying on Puc 203.10 and Puc 203.11 in their request for confidential treatment.

(c) For electronic filings, both a public and confidential version shall be prepared and submitted. For paper filings made pursuant to this rule outside of an adjudicative proceeding, parties shall file one public copy and one confidential copy. Filings made in an adjudicative proceeding shall comply with Puc 204.

(d) The commission shall make a determination regarding requests for confidential treatment of documents or portions of documents submitted pursuant to Puc 203.10 upon request for release of those documents to the public submitted pursuant to Puc 203.11.

(e) Prior to commission determination regarding confidential treatment, documents submitted to the commission pursuant to Puc 203.10 shall be:

- (1) Treated as confidential by the commission and any other party that might receive them; and
- (2) Maintained by the commission, and any parties receiving a copy of the documents, according to such conditions as the commission determines are necessary to preserve such confidentiality.

Puc 203.11 Requests for Release to the Public of Confidential Documents Submitted in Routine Filings.

(a) Puc 203.11 shall apply to all routine filings subject to Puc 203.10. All references to written communications in this rule also refer to documents filed via electronic means.

(b) Puc 203.11 shall govern the commission's consideration of requests submitted pursuant to Puc 103.01 for public release of one or more documents for which confidential treatment has been requested pursuant to Puc 203.10.

(c) The commission, within 5 business days of the receipt of a request made pursuant to Puc 203.11, shall send a written acknowledgment to the person requesting public release that includes:

- (1) A statement that confidential treatment has been requested for the document(s);
- (2) A statement of the time reasonably necessary to determine whether the request for release shall be granted or denied; and
- (3) A statement that the request for release is subject to the provisions of Puc 203.11.

(d) The commission shall provide the person who submitted the document(s) with written notice of the request for release within 5 business days of the receipt of the request for release.

(e) The notice in (d) above shall:

- (1) Describe the request for release; and
- (2) Afford the person who submitted the document(s) 10 calendar days from the date of the notice to submit to the commission a written objection to release of the document(s) to the public, pursuant to (f) below.

(f) Objections to release shall comply with Puc 203.07 and contain:

- (1) A specific description of the document(s) or specific portions of documents for which confidentiality is sought;
- (2) Specific facts showing how release of the requested document(s) would constitute an invasion of privacy under RSA 91-A:5, including a description of how the requested material includes confidential, commercial, or financial information, or other information subject to the exemptions of RSA 91-A:5;
- (3) A specific description of the harm that would result from release; and
- (4) A representation that the information contained in the document(s) or portions of document(s) for which confidentiality is sought is not already available to the public.

(g) The commission shall take one of the following actions pursuant to RSA 91-A:5 and other applicable law:

- (1) Approve the public release of the requested documents in their entirety;
- (2) Approve the partial release of the requested documents, subject to redactions approved by the commission; or
- (3) Deny the request for release in its entirety.

(h) In making its determination pursuant to (g) above, the commission shall consider:

- (1) The written request for release;

- (2) The original request for confidential treatment pursuant to Puc 203.10;
 - (3) Written objections filed with the commission;
 - (4) Additional information that the commission requests; and
 - (5) Any applicable law.
- (i) In determining the proper action under (g) above, the commission shall:
- (1) Consider whether there is a privacy interest at stake that would be invaded by the disclosure of the requested documents;
 - (2) Consider whether the public has an interest in disclosure of the requested documents; and
 - (3) Decide whether any public interest in disclosure is outweighed by the state's interest in non-disclosure and any privacy interest in non-disclosure.
- (j) The commission shall provide written notice of its decision to the requesting party.

Puc 203.12 Motions for Confidential Treatment.

(a) The commission shall grant a motion for confidential treatment and 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 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 department, the OCA, or any other governmental entity 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 pursuant to Puc 203.07(b).

(e) Documents submitted to the commission, the department, the OCA, or any other governmental entity accompanied by a written statement pursuant to (d) above shall be treated as confidential, provided that the party submitting the documents thereafter files a motion for confidential treatment pursuant to Puc 203.07(b).

(f) The commission shall maintain confidential copies in a secure location.

(g) 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.

(h) 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.

(i) 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.

(j) The granting of a motion for confidential treatment shall be subject to the ongoing authority of the commission on its own motion, or on the motion of any party or member of the public to reconsider the determination.

(k) If any information entitled to confidential treatment under these rules 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.

Puc 203.13 Location of Proceeding.

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

(b) The commission shall conduct one or more hearings 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.

(c) The commission shall require a view in any proceeding when it deems that a view would assist the commission in reaching a decision in a matter.

Puc 203.14 Docket and Calendar of Hearings. The commission shall:

(a) Maintain a docket of all proceedings pending before the commission;

(b) 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;

(c) Maintain a record of all petitions, complaints, applications, rulemakings, investigations, and any other matters before the commission;

- (d) Maintain a calendar of all hearings scheduled before the commission; and
- (e) Maintain a service list for each proceeding of parties or participants to the proceeding.

Puc 203.15 Requirements for Appearing Before the Commission.

- (a) Any person may appear before the commission:
 - (1) On one's own behalf;
 - (2) By an attorney authorized to practice in any state or the District of Columbia and whose license is in good standing;
 - (3) By an employee and 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 file a "Notice of Appearance", Form 200A (12/2024) and adhere to:
 - (1) The commission's administrative rules; and
 - (2) Any orders of the commission in the docket.
- (c) The following information shall be contained in the "Notice of Appearance" form;
 - (1) Docket number, docket name, and docket description;
 - (2) Name and contact information, and bar number for attorney representatives;
 - (3) Name and contact information for any person, other than the attorney representative, that the attorney representative is requesting to be added to the docket service list;
 - (4) Name and contact information for pro se individuals; and
 - (5) A signed acknowledgement of the pro se litigant's obligation to keep the commission up to date with their contact information.
- (d) 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.

Puc 203.16 Public Comment. The commission shall provide persons who are not a party or a participant in a proceeding, but having interest in the subject matter, with an opportunity to state their position.

Puc 203.17 Orders Nisi.

- (a) In a docketed matter, the commission shall elect to issue a final order with a delayed effective date referred to as an order *nisi*.
- (b) If permitted under New Hampshire law.

(c) The commission determines that the record is sufficient to support a commission decision without further process.

(d) Any order *nisi* shall include a notice and publication requirement to allow interested parties an opportunity to object or request a further hearing.

(e) An interested party that fails to timely intervene or participate in a proceeding shall demonstrate good cause for late-intervention, as provided by RSA 541-A:32, II.

Puc 203.18 Commission Information Requests.

(a) At any time during a proceeding, the commission may ask participants or parties questions which are relevant to the noticed issues in the proceeding, to be answered in writing or orally within a time period determined by the commission.

(b) Responses to commission information requests shall contain the name of the person who completed the information request, their position with the responding party and contain an oath or affirmation as to the accuracy of the information.

(c) The author of the response shall be available at hearing to answer questions from the commission and be subject to direct and cross-examination.

(d) If a commission information request is asked at the final hearing, the commission shall provide an opportunity for the parties to review the information submitted and file a rebuttal, if necessary.

Puc 203.19 Recording. Consistent with RSA 541-A:31,VII, the entirety of all oral proceedings shall be recorded verbatim by the commission, and the recording shall be maintained for at least 30 days from the date of the final decision by the commission or an appeal, if applicable. Copies of recordings may be requested in writing to the commission.

Puc 203.20 Transcripts.

(a) When the commission or any party desires a transcript of any proceeding, the commission shall order a transcript.

(b) The charge for production of the transcription shall be paid by the utilities participating in the proceeding, or as otherwise directed, pursuant to RSA 365:37 and RSA 365:38.

(c) Hearing transcripts shall be posted to the commission website.

(d) The official transcript of the proceedings shall be the transcript obtained by the commission pursuant to Puc 203.20(a).

Puc 203.21 Obstructing Justice. The commission shall refer for prosecution, pursuant to RSA 641:1 and RSA 641:2, any person who:

(a) Testifies falsely to any material matter wherein the person has given their oath or affirmation, and has good reason to believe the testimony to be untrue; or

(b) 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 commission staff member.

Puc 203.22 Withdrawal of Presiding Officer or Commissioner.

(a) Upon their own initiative or upon the motion of any party, or participant, a presiding officer or commissioner shall, for good cause, withdraw from any 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 or participant;
- (2) Has made statements or engaged in behavior which objectively demonstrates that they have prejudged the facts of a proceeding;
- (3) Personally believes that they cannot fairly judge the facts of a proceeding;
- (4) Is obligated to withdraw because their impartiality might reasonably be questioned; or
- (5) Is otherwise required to withdraw pursuant to applicable law.

(c) Mere knowledge of the issues, the parties, the participants, 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.

Puc 203.23 Control of Hearing.

(a) In cases of disorder or refusal to comply with the rules of the hearing, the presiding officer may use reasonable means to control the hearing.

(b) During commission proceedings, no person shall engage in bitter exchanges, vulgarities, or abuse or make offensive or insulting comments. When such an act is committed, the presiding officer may admonish the offender, reminding the offender that such behavior does not contribute to a fair hearing and impedes the orderly disposition of a proceeding.

(c) If any person demonstrates that they are incapable of complying with this rule, the presiding officer may exclude a disorderly person from the hearing.

PART Puc 204 ADJUDICATIVE PROCEEDINGS AND HEARINGS

Puc 204.01 Applicability. Part 204 applies to:

- (a) Proceedings conducted pursuant to RSA 365 other than rulemakings;
- (b) Proceedings conducted pursuant to RSA 369;
- (c) Proceedings to acquire property or rights pursuant to RSA 371;
- (d) Proceedings conducted pursuant to RSA 374:3-a, RSA 374:7, RSA 374:22 -:36, RSA 374:34-a; RSA 374:7, RSA 374:37-40, RSA 374:41-47, and RSA 374:47-a.
- (e) Proceedings related to the implementation or enforcement of RSA 374-F, and RSA 374-G;
- (f) Rate proceedings conducted pursuant to RSA 378 when the commission exercises its rights to suspend a proposed rate schedule pursuant to RSA 378:6;

(g) Commission reviews of integrated distribution plans pursuant to RSA 378:40;

(h) Any other proceeding in which a person is entitled to notice and hearing;

(i) Any other docket when the commission determines it would be just and reasonable and in the public interest to conduct the case as an adjudicative proceeding per RSA 541-A;

(j) Proceedings conducted pursuant to RSA 362-A;

(k) Proceedings conducted pursuant to RSA 362-I:2;

(l) Proceedings upon the commission's own motion pursuant to RSA 366:7; and

(m) Proceedings initiated by the department related to affiliate contracts pursuant to RSA 366:9.

Puc 204.02 Parties to Adjudicatory Proceedings: The parties to a proceeding conducted pursuant to Part Puc 204 shall consist of:

(a) The petitioners;

(b) The department;

(c) The OCA, upon notifying the commission in writing of its intention to participate as a party; and

(d) Any other entity granted intervenor status pursuant to RSA 541-A:32 and Puc 204.08.

Puc 204.03 Discovery.

(a) Parties to proceedings conducted pursuant to Puc 204 shall have the right to conduct discovery.

(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 written interrogatories or requests 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 203.14.

(e) Responses to data requests shall be made pursuant to the parties agreed upon procedural schedule approved by commission order or within 10 business days if no other timeframe is specified by a procedural order.

(f) 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.

(g) Failure to object to a data request or requests for documents within 10 days of its receipt shall be deemed a waiver of the right to object.

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

- (1) Be made pursuant to Puc 203.07(b);
- (2) Be made within 10 days of receiving the applicable response or objection, or 10 days of 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.

(i) 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.

(j) 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.

Puc 204.04 Notice of Proceeding

(a) The commission shall give notice of a prehearing conference or hearing, which shall contain the information required by RSA 541-A:31, III and the following:

- (a) A statement of the date, time, place, and nature of the hearing or prehearing conference;
- (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 on the petitioner's website 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, or the party being investigated.

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

Puc 204.05 Failure to Appear or Respond. If a party to a commission proceeding fails to appear at a hearing or respond when required to a commission order, the commission shall conduct the scheduled hearing or decide the contested issue without that party's input.

Puc 204.06 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 qualified member of the commission staff 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 might arise during the course of a hearing.

Puc 204.07 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) At least ten days prior to the initial prehearing conference, the petitioner shall circulate a "Structuring Statement," Form 200C (12/2024) to the parties. The "Structuring Statement" shall be filed with the commission at least 3 business days prior to the prehearing conference.
- (d) The "Structuring Statement" shall provide the following information:
 - (1) Name of case, docket number, and docket description;
 - (2) List of the parties and hearing counsel to the hearing;
 - (3) Identification of any petitions to intervene;
 - (4) Confirmation of whether an audit has been performed and, if available, whether or not the audit will be submitted into evidence with the commission;
 - (5) A preliminary listing of all witnesses to be called; and
 - (6) All known procedural issues and motions.
- (e) The "Structuring Statement" shall include the name and signature of the filers.
- (f) Prehearing conferences shall include consideration of any of the following:
 - (1) Offers of settlement pursuant to RSA 541-A:31;
 - (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;
- (6) Consideration of any petitions for intervention and any objection filed thereto;
- (7) Establishment of a procedural schedule to govern the remainder of the proceeding;
- (8) Whether a full audit is necessary, and who will provide the audit to the commission;
- (9) Motions for confidential treatment of matters raised in the proceeding and otherwise to facilitate discovery; and
- (10) Any other matters which aid in the disposition of the proceeding.

(g) Within 5 business days after the initial prehearing conference the petitioner shall file a proposed procedural schedule, with concurrence indicated, including hearing dates, time needed for hearing and discovery deadlines.

Puc 204.08 Intervention. The intervention process shall be as follows:

- (a) Requests to intervene shall be in the form of a petition, in which the petitioner states the reasons why intervention in a specific docket should be granted;
- (b) The commission shall rule on petitions to intervene in accordance with the standards of RSA 541-A:32; and
- (c) In exercising its discretion under RSA 541-A:32, II, the commission shall consider whether the intervention will impair the orderly and prompt conduct of the proceedings.

Puc 204.09 Consolidation of Hearings.

- (a) When more than one petition seeks the same or similar relief, the commission shall consolidate the proceedings to be heard on a common record if it determines that doing so will promote the orderly and efficient conduct of the proceeding.
- (b) The commission shall note any such consolidation in the docket of each affected proceeding.
- (c) The cost of consolidated hearings shall be borne equitably by the public utilities as defined by Puc 204.09(d).
- (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 New Hampshire 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.

Puc 204.10 Settlement.

- (a) Parties to the docket that participate in settlement discussions shall treat such discussions as confidential and shall not disclose the contents of such discussions.

(b) The commission shall approve a disposition of any contested case by settlement agreement, if it determines the settlement agreement is consistent with applicable law, is just and reasonable, and serves the public interest.

(c) A proposed settlement agreement shall be filed no less than 15 business days prior to the hearing unless otherwise ordered, except as provided in (d). If a settlement agreement is filed late, the commission shall determine whether to reschedule the hearing based on the determination in (d).

(d) The commission shall accept a late-filed settlement agreement 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.

(f) In addition to, or in lieu of, filing a proposed settlement agreement, parties may file proposed findings of facts and conclusions of law for the commission's consideration.

Puc 204.11 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 presentation.

Puc 204.12 Exhibits.

(a) Exhibits shall be filed 10 business days prior to hearing.

(b) Exhibits shall:

- (1) Be sequentially numbered by page throughout the multiple parts of an exhibit, if applicable, and lines shall be sequentially numbered on each page;
- (2) Be Bates stamped in the lower right-hand corner with Arabic numerals;
- (3) Be pre-marked in the upper right-hand corner of each page with the docket number and the exhibit number, and named with the docket number, date of hearing, exhibit number, as follows "Docket No._Hearing_Date_exh. #"; and
- (4) If confidential, include identification that it is confidential and be marked accordingly.

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

(d) Parties filing exhibits shall ensure each page has no less than one-inch margins on all sides.

(e) A party presenting an exhibit at hearing with any material that has not been previously submitted to the commission shall provide a copy to commission staff, each commissioner, the court reporter, any witness or witnesses then testifying, and each party present at the hearing.

(f) When determining whether to admit a late-filed hearing exhibit or an exhibit not filed pursuant to Puc 204.12(a) into evidence, the commission shall consider:

- (1) Whether there are reasonable grounds for failure to submit the exhibit pursuant to Puc 204.12(a);

- (2) The probative value of the exhibit;
 - (3) The prejudicial effect the late filed exhibit would have on the other parties; and
 - (4) Whether the new evidence requires the hearing to be cancelled or rescheduled.
- (g) 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.

(h) Upon receipt of exhibits that do not comply with Puc 204.12(a)-(g), the commission shall review the noncompliant filing to determine if additional time is needed for the commission to review all exhibits prior to hearing.

Puc 204.13 Pre-Marked Exhibits and Witness Lists.

(a) The parties shall confer for the purposes of identifying and numbering exhibits and the petitioner shall submit a complete list of exhibits with the proposed numbering and document title.

(b) At least 10 business days before a hearing, the parties shall file with the commission pre-marked hearing exhibits and proposed lists of witnesses to appear at hearing.

(c) Parties shall present new exhibits at hearing based on a showing that the material is new or was otherwise unavailable by the applicable deadline, and after considering the probative value of the exhibit and 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, the commission shall admit such additional exhibits.

(d) New exhibits presented at hearing during cross-examination, for the purpose of impeachment, shall not be subject to the timeframe outlined in Puc 204.13(b).

(e) A PDF version of Puc 204.13(f) shall be included, if feasible, in the pre-marked exhibits.

(f) Exhibits in the form of any spreadsheets shall be submitted in live format with formulae and links intact as confidential pursuant to Puc 203.12 and shall maintain the same Bates number as the PDF version that was pre-marked pursuant to Puc 204.13(e)

Puc 204.14 Evidence.

(a) The parties entitled to offer evidence at hearing in an adjudicative proceeding shall be the petitioner, the department, the OCA when it has entered an appearance, and intervenor subject to any limitations imposed by RSA 531-A:32, III.

(b) All testimony, including any pre-filed 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, by their own determination or by objection made by a party.

(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 questionable 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 204.03, 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.

Puc 204.15 Cross-Examination. Consistent with any conditions imposed pursuant to RSA 541-A:32, III, the petitioner, the department, the OCA, and any party granted intervenor status may conduct cross-examination of a witness. The party's scope of cross-examination shall be limited to topics relevant to issues within the noticed scope of the proceeding.

Puc 204.16 Burden and Standard of Proof. Unless otherwise specified by law, the party seeking relief through a petition shall bear the burden of proving the truth of any factual proposition by a preponderance of the evidence.

Puc 204.17 Order of Proceeding. In hearings on petitions, or motions, the party that has the burden of proof pursuant to Puc 204.16 shall have the opportunity to present first and last in any hearing in the proceeding.

Puc 204.18 Official Notice.

(a) The commission, if requested by a party, or on its own initiative, shall take official notice of 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;
- (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; and
- (5) Prior commission orders.

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

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

Puc 204.19 Briefs.

(a) The commission shall require parties to submit briefs at any point in a proceeding if the commission determines that such briefing would assist the commission in its determination of the legal 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 legal 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 legal positions and individual briefs would be duplicative.

(f) If the commission believes that an oral argument is necessary to assist the commission in its determination of the issues presented in the brief, the commission shall schedule an oral argument hearing.

Puc 204.20 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.

Puc 204.21 Record for Decision. The commission shall decide the matter before it based upon the whole administrative record as defined in RSA 541-A:31, VI.

Puc 204.22 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 the record, and before a decision is made, if the commission finds that late submission of additional evidence will enhance its ability to resolve the matter in dispute.

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

(1) Orally before the close of the hearing; or

(2) If the hearing has concluded, by motion, pursuant to Puc 203.08(b).

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

(1) Whether there are reasonable grounds for failure to submit such exhibit previously;

(2) The probative value of the exhibit; and

(3) Whether a parties' right of cross-examination pursuant to RSA 541-A:33, IV is adequately protected if not provided the opportunity to submit a document impeaching or rebutting the late filed exhibit.

Puc 204.23 Rehearing.

(a) Any person eligible to request rehearing shall do so according to the provisions of RSA 541 and RSA 365. Any party filing a motion for rehearing may request oral argument;

(b) The commission shall grant the request for oral argument if the commission finds that oral argument would assist the commission in its determination of the legal issues presented in the rehearing request; and

(c) If the commission provides for oral argument, it shall set a schedule, order of presentation, and overall time allotted to the parties.

Puc 204.24 Final Decisions. If no rehearing has been requested, a decision by the commission shall become final 31 days after issuance. If a decision has been made on a request for rehearing, the decision shall be final 31 days after issuance unless a timely appeal of the decision has been filed with a court having appellate jurisdiction over commission decisions.

Puc 204.25 Retention of Decisions. The commission shall keep a permanent electronic record of its decisions on file in its records 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.

Puc 204.26 Certifying a Question of Law. Commission questions of law to the supreme court shall be transferred pursuant to RSA 365:20.

Puc 204.27 Submission of Formal Complaints.

(a) Any person wishing to file a petition with the commission concerning a complaint against a public utility shall do so by first exhausting all remedies pursuant to RSA 365:1-4 concerning the complaint process at the department.

(b) If following completion by the department of its review of the complaint and announcement of its decision on the complaint, the person complaining is not satisfied with the department's resolution of the complaint, that person may file a petition with the commission requesting further consideration of the complaint.

(c) Upon receipt of a petition pursuant to Puc 204.27(b), and over which the commission has jurisdiction, the commission shall commence an adjudicative proceeding and shall cause a copy of the complaint to be forwarded to the utility named in the complaint.

Puc 204.28 Investigations. If it appears to the commission that any public utility or other matter within its jurisdiction requires investigation, the commission shall conduct an independent investigation pursuant to RSA 365:5.

Puc 204.29 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;
- (3) Does not implicate the legal rights or responsibilities of the petitioner; or
- (4) Is not within the commission's jurisdiction.

(d) Except for a petition dismissed pursuant to subsection (c), the commission shall conduct an adjudicative proceeding on a petition for declaratory ruling in accordance with Puc 204.

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 chairman after notice and opportunity for hearing in accordance with this part.
- (b) Rules may be proposed by any person, governmental agency, or by the commission.

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 or governmental agency.
- (b) With respect to any proposed rule, the commission shall conduct rulemaking adoption proceedings which the chairman will oversee and preside over pursuant to RSA 541-A.

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

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

Puc 205.04 Request for Notice of Intended Rulemaking Action. Pursuant to the provisions of RSA 541-A:6, III, the commission shall maintain a current listing of all persons having made a request for advance notice of the rulemaking proceedings.

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.

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.

PART Puc 206 ALTERNATIVE REGULATION

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.

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

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.

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.

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;
- (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 or the petition raise issues on which the commission needs further information in order to complete the record.

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.

Puc 206.07 Standards for Approval. 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:

(a) 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;

(b) 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

(c) Serves the public interest in light of the considerations described in Puc 206.06(b)(1) through (9).

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.

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 withdrawing approval of the alternative form of regulation and:

- (1) Initiating a proceeding to establish another alternative form of regulation, in accordance with Puc 206.06 and Puc 206.07; or
- (2) 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.

APPENDIX

Rule	Statute
Puc 201.01- 201.02	RSA 365:8
Puc 202.01- 202.02	RSA 365:8, I ; RSA 363:17-a
Puc 202.03- 202.05	RSA 365:8, I ; RSA 363:17-a; RSA 541-A:33; RSA 365:5
Puc 202.06	RSA 365:8, I; RSA 541-A:1
Puc 202.07	RSA 365:8, I ; RSA 363:17-a
Puc 202.08- 202.16	RSA 365:8, I
Puc 202.17- 202.18	RSA 365:8, I, RSA 541-A: 31, RSA 541-A:33
Puc 202.19	RSA 365:8, I, RSA 541-A:31
Puc 202.20- 202.26	RSA 365:8, I, RSA 541-A:31
Puc 203.01	RSA 365:8, I
Puc 203.02	RSA 365:8, I
Puc 203.03- Puc 203.08	RSA 365:8; RSA 541-A:29; 541- A: 29-a; 541- A:30-a, III (a), RSA 541: 30-35
Puc 203.09	RSA 365:8,

Puc 203.10-203.12	RSA 365:8,
Puc 203.13-203.14	RSA 365:8,
Puc 203.15	RSA 365:8, ; RSA 541-A:29; RSA 541-A:31, RSA 541-A:32
Puc 203.16	RSA 365:8, I and IV;
Puc 203.17	RSA 365:8; RSA 541-A:33; RSA 541-A:35
Puc 203.18	RSA 365:8; RSA 541-A:31; RSA 541-A:33; RSA 365:5; RSA 374:4
Puc 203.19 – 203.20	RSA 365:8, I; RSA 541-A:31
Puc 203.21	RSA 365:8, I; RSA 365:8, RSA 541-A:31, V; 541-A:38; RSA 641:2
Puc 203.22	RSA 365:8; RSA 541-A:31, V (b)-(d)
Puc 203.23	RSA 365:8, I; RSA 641:1;
Puc 204.01	RSA 365:8
Puc 204.02	RSA 365:8; RSA 363:28; RSA 12:P
Puc 204.03	RSA 365:8, RSA 541-A:31
Puc 204.04	RSA 365:8; RSA 541-A:29 RSA 541-A:31
Puc 204.05	RSA 365:8; RSA 541-A:33
Puc 204.06	RSA 365:8; RSA 541-A:31, V (b)-(d)
Puc 204.07	RSA 365:8; RSA 541-A:31
Puc 204.08	RSA 365:8; RSA 541-A:32
Puc 204.09	SA 365:8; RSA 541-A:38
Puc 204.09	RSA 365:8, RSA 541-A:31, V; 541-A:38;
Puc 204.10- 204.13	RSA 365:8, RSA 541-A:33
Puc 204.14- 204.19	RSA 365:8, I; RSA 541-A:33
Puc 204.20	RSA 365:8, I; RSA 541-A:33
Puc 204.21	RSA 365:8, I; RSA 541-A:31
Puc 204.22	RSA 365:8, I; RSA 541-A:31; RSA 541-A:33
Puc 204.23	RSA 365:8, I; RSA 541:1-5; RSA 365:21
Puc 204.24	RSA 365:8, I; RSA 541-A:35; RSA 541:3
Puc 204.25	RSA 365:8, I
Puc 204.26	RSA 365:20
Puc 204.27	RSA 365:1-4; RSA 365:8
Puc 204.28	RSA 365:4-5, RSA 365:8
Puc 204.29	RSA 365:8; RSA 541-A:1
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, I