

THE STATE OF NEW HAMPSHIRE

CHAIRMAN
Thomas B. Getz

COMMISSIONERS
Clifton C. Below
Amy L. Ignatius

EXECUTIVE DIRECTOR
AND SECRETARY
Debra A. Howland



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

Tel. (603) 271-2431

FAX (603) 271-3878

TDD Access: Relay NH
1-800-735-2964

Website:
www.puc.nh.gov

September 20, 2010

Office of Legislative Services
Administrative Rules
25 Capitol St.
State House Annex, Room 219
Concord, N.H. 03301-6312

Reference Doc. # 9774-A and 9774-B

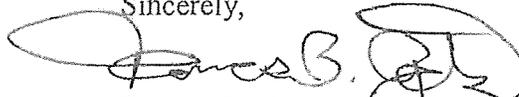
Rule Number Puc 2001-2005 and Puc 2006.01 -.02

Dear Director:

Pursuant to RSA 541-A:15, I-a, I hereby certify that the enclosed rules are the same in substance as the rules originally filed with the Office of Legislative Services, Administrative Rules.

I further certify that the enclosed rules, as edited for format by the Office of Legislative Services, Administrative Rules, is the official version of these rules which this agency is required to publish in an 8 1/2 x 11 inch loose-leaf format as part of the New Hampshire Code of Administrative Rules, under Chapter 5 of the *New Hampshire Drafting and Procedure Manual for Administrative Rules* and RSA 541-A:15, 1.

Sincerely,


Thomas B. Getz
Chairman

STATE OF NEW HAMPSHIRE

CAROL J. HOLAHAN
DIRECTOR



OFFICE OF LEGISLATIVE SERVICES

STATE HOUSE
107 NORTH MAIN STREET, ROOM 109
CONCORD, NEW HAMPSHIRE 03301-4951

9774-A (8-year Rules)
DOC. NO. 9774-B (Non-expiring Rules)
CHAPTER/PART Puc 2001-2005
Puc 2006.01 + 2006.02

9/16/10

Enclosed is the final copy of rules in camera-ready form which your agency may now proceed to publish in an 8 1/2" x 11" loose-leaf format, as described in Chapter 5 of the NH Drafting and Procedure Manual for Administrative Rules (Manual). Under RSA 541-A:15, I and Part 1 of Chapter 5 of the Manual, you are required to publish your rules in this format.

Also enclosed is a certification letter discussed in Section 2.5 of Chapter 5 of the Manual.

Please have the individual, or a member of the group of individuals, with rulemaking authority sign the enclosed letter, retyped on your letterhead, certifying that the substance of the rules has not been affected by the editing process. Pursuant to RSA 541-A:15, I-a, your agency must certify within 120 days of receiving the first edited text for proofreading. The first edited text was sent to you on 8/31/10.

This certification letter will be kept in our files to explain the difference between the version originally filed and the camera-ready version, which will replace the as-filed version as the official version of the rule. Please send one copy of the rule with the certification letter to the Office of Legislative Services, Administrative Rules, 25 Capitol Street, Room 219, State House Annex, which will place the rule on the Administrative Rules website.

Also included as the first page of these rules is a standard request form which will simplify the supplementation process, as described in Section 2.6 of Chapter 5 of the Manual. When you publish your rules, you are required to print this form as the initial page.

Thank you.

Sincerely yours,

Carol J. Holahan, Director
Office of Legislative Services

Enc.

TDD Access: Relay NH 1-800-735-2964
DIRECTOR (603) 271-3432
LEGAL STAFF (603) 271-3435

FAX: (603) 271-6607

RESEARCH (603) 271-3326
ADMINISTRATIVE RULES (603) 271-3680

NOTE: PLEASE RETYPE THIS ON YOUR LETTERHEAD

Office of Legislative Services
Administrative Rules
25 Capitol Street
State House Annex, Room 219
Concord, N.H. 03301-6312

Reference Doc. # _____

Rule Number _____

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Sincerely,

STANDARD PUBLIC REQUEST FORM FOR REPLACEMENT PAGES

Chapter/Part _____

These rules are published in loose-leaf form in order that they may be amended as frequently as necessary. If you wish to receive updated supplement pages, you must fill out this form and return it as indicated below. In this way you will automatically be added to the agency's list of permanent subscribers for this set of rules. The agency may charge the actual cost of providing the copy pursuant to RSA 541-A:11, VI and RSA 91-A:4, IV and may require payment before the copy is sent.

If you wish to receive updated pages in electronic format as a substitute for the loose-leaf, hard copy format, please check off the appropriate space below and complete. Please note that not all rules may be available in the electronic format requested.

Name _____ Phone #: _____

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Relay NH 1-800-735-2964

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or dial 711 (in N. H.)

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER Puc 2000 COMPETITIVE ELECTRIC POWER SUPPLIER AND AGGREGATOR RULES

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- Section Puc 2001.02 Application of rules

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PART Puc 2005 ENFORCEMENT PROVISIONS AND PROCEDURES

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NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER Puc 2000 COMPETITIVE ELECTRIC POWER SUPPLIER AND AGGREGATOR RULES

PART Puc 2001 PURPOSE AND APPLICATION OF THE RULES

Puc 2001.01 Purpose.

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 consumer protection requirements and enforcement provisions and procedures.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10

Puc 2001.02 Application of Rules.

(a) These rules shall apply to competitive electric power suppliers as defined in Puc 2002.05 and aggregators as defined in Puc 2002.02.

(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 or to utilities as defined in Puc 2002.09.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10

PART Puc 2002 DEFINITIONS

Puc 2002.01 "Aggregate" means to combine the electricity loads of 2 or more customers or a single customer with multiple meters or multiple locations.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10

Puc 2002.02 "Aggregator" means any person or entity, other than a utility, that aggregates electric load on behalf of a competitive electric power supplier, an individual, or a group of customers. An aggregator does not take ownership of the electricity. The term does not include any employee aggregating load on behalf of her or his employer.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10

Puc 2002.03 "Applicant" means any person or entity who has filed an application for registration or renewal as a CEPS or notification as an aggregator with the commission pursuant to Puc 2000.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10

Puc 2002.04 "Commission" means the New Hampshire public utilities commission.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10 (from Puc 2002.03)

Puc 2002.05 "Competitive electric power supplier (CEPS)" means any person or entity, that sells or offers to sell electricity to retail customers in this state. The term does not include any utility or any municipal or county corporation operating within its corporate limits or submetering at campgrounds as described in RSA 362:3-a.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10 (from Puc 2002.04)

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Puc 2002.06 "Customer" means any person or entity in this state, including any governmental unit, which purchases electricity at retail.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10 (from Puc 2002.05)

Puc 2002.07 "Electricity supply offer" means a solicitation by a CEPS to sell electricity or a solicitation by an aggregator to arrange for or facilitate the purchase of electricity by a customer.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10 (from Puc 2002.06)

Puc 2002.08 "Small commercial electric customer" means any non-residential customer, as defined under the terms and conditions of the consumer's 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. The term does not include any customer eligible to take service under a utility's small customer tariff for an individually metered account, but whose aggregated accounts in New Hampshire exceed the combined demand threshold of 100 kilowatts.

Source. #9774-A, eff 8-26-10 (from Puc 2002.07)

Puc 2002.09 "Utility" means any electric generation, transmission and/or distribution company meeting the definition of a public utility under RSA 362:2 and RSA 362:4-a, and includes rural electric cooperatives.

Source. #9774-A, eff 8-26-10

PART Puc 2003 REGISTRATION AND NOTICE OF INTENT REQUIREMENTS

Puc 2003.01 Initial Registration of Competitive Electric Power Suppliers.

(a) Any CEPS seeking to sell electricity to customers in the state of New Hampshire shall file with the commission an original and 2 copies of a registration application together with an electronic copy in a file format compatible with the computer system of the commission, pursuant to Puc 203.03.

(b) No CEPS shall sell, or offer to sell via mass media marketing or otherwise, electricity to any customer until it has completed all aspects of the registration process required by Puc 2003, and has had its registration approved in accordance with Puc 2003.01(f).

(c) The registration application required by (a) above shall be in the form specified in Puc 2006.01

(d) Each 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 utilities and the CEPS in the form of:

a. A statement from each utility with which the CEPS intends to do business indicating that the applicant has complied with the training and testing requirements for electronic data interchange.

1. To the extent a CEPS uses outside vendors or contractors for electronic data interchange services, the statement required by a. above shall:

(i) Verify that any vendor or contractor to be used by the CEPS has complied with the training and testing requirements for electronic data interchange; and

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- (ii) Be updated to verify that a new vendor or contractor has complied with the training and testing requirements for electronic data interchange if the CEPS changes to a new vendor or contractor; and
- c. A statement from each utility with which the CEPS does or intends to do business indicating that the applicant has successfully demonstrated electronic transaction capability;
 - (2) Evidence that the CEPS is able to obtain supply in the New England energy market. Such evidence may include, but is not limited to, proof of membership in the New England Power Pool (NEPOOL) or any successor organization, or documentation of a contractual relationship with a NEPOOL member;
 - (3) A \$500.00 registration fee; and
 - (4) Evidence of financial security, as defined in Puc 2003.03.
- (e) 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.
- (f) Unless the commission determines that an application for registration is incomplete or does not comply with the requirements of this section, the application shall either be approved in writing by the commission within 60 days of its submission, or it shall be deemed to have been approved 60 days after receipt.
- (g) An approved CEPS registration shall be valid for 5 years.
- (h) If the commission has requested information or clarification to complete an application for registration, and such information or clarification is not provided within 60 days of the request, the commission shall suspend the application. If, after 120 days of the date of the request, the applicant has not provided the requested information or clarification, the commission shall reject the application. If an application is rejected, the application fee shall be forfeited and the applicant shall be required to submit a new application and fee prior to acting as a CEPS in New Hampshire.
- (i) Following registration, a CEPS shall continue to maintain compliance with the requirements of Puc 2000.
- (j) Failure by any CEPS to comply with the requirements or obligations of this section may result in an assessment against the financial security filed with the commission, following the process in Puc 2005.
- (k) A CEPS shall, within 30 days of receiving notice of successful completion of its registration, notify each utility in whose franchise area it intends to operate, in writing, that it has successfully completed its registration. A copy of such notification shall also be provided to the commission.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10

Puc 2003.02 Renewal Registration of Competitive Electric Power Suppliers.

- (a) Each registered CEPS shall re-register with the commission every 5 years by filing with the commission an application for renewal. Each application for renewal shall be filed no less than 60 days prior to the termination of the currently effective registration. If a CEPS fails to meet its re-filing obligation, its registration shall expire by its terms.
- (b) The CEPS shall include in each application for renewal all information required for an initial CEPS application under Puc 2003.01, Puc 2003.03 and Puc 2006.01, and shall note any changes to the information contained in the previous application.

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(c) A CEPS shall include with its application for renewal a renewal fee of \$250.00.

(d) Unless the commission determines that an application for renewal is incomplete or does not comply with the requirements of this section, the application shall either be approved in writing by the commission within 60 days of its submission, or it shall be deemed to have been approved 60 days after receipt.

(e) An approved CEPS renewal shall be valid for 5 years.

(f) If the commission has requested information or clarification to complete an application for renewal, and such information or clarification is not provided within 60 days of the request, the commission shall suspend the application. If, after 120 days of the date of the request, the applicant has not provided the requested information or clarification, the commission shall reject the application. If an application is rejected, the application fee shall be forfeited and the applicant shall be required to submit a new application and fee prior to acting as a CEPS in New Hampshire.

(h) Following renewal, a CEPS shall continue to maintain compliance with the requirements of Puc 2000.

(i) 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.

(j) Failure by any CEPS to comply with the requirements or obligations of this section may result in an assessment against the financial security filed with the commission, following the process outlined in Puc 2005.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10

Puc 2003.03 Reporting and Financial Requirements of Competitive Electric Power Suppliers.

(a) The security required by Puc 2003.01(d)(4) shall:

- (1) 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;
- (2) Be the greater of:
 - a. \$100,000.00;
 - b. 20% of the CEPS's estimated gross receipts for its first full year of operation, not including revenue from the provision of default service, for a CEPS's first year of operation; or
 - c. 20% of the CEPS's actual gross receipts for the preceding year of operation, not including revenue from the provision of default service, for any year after the first year of operation;
- (3) Not exceed \$350,000.00;
- (4) Name the commission as obligee;
- (5) Have an expiration date not less than:
 - a. 5 years and 150 days after the date the applicant's application is filed, for an initial application; or
 - b. 5 years and 90 days after the date the applicant's application is filed, for an application for renewal;

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(6) Be adjusted annually, if based upon actual or estimated gross receipts, under (2)b. or c. above; and

(7) Not include revenue from the provision of default service if the security is based upon gross receipts under (2)b. or c. above.

(b) Each CEPS shall file, by January 31, April 30, July 31 and October 31 of each year, a confidential report of the sales activity which occurred during the quarterly period just ended. Such report shall include, but not be limited to, sales of electricity made to customers in each utility's franchise area segregated by residential, small commercial, large commercial and industrial, and street lighting classes, the total kilowatt hours (kWh) sold, the number of customers in each class to which sales were made, and the total number of customers purchasing electricity. Such report shall also be made available on a confidential basis to the Office of Consumer Advocate.

(c) With each application for renewal, each CEPS shall file, on a confidential basis, a report listing any aggregators currently using the CEPS to provide service to New Hampshire customers, and the number of customers served by each listed aggregator.

Source. #9774-A, eff 8-26-10

Puc 2003.04 Procedure for Initial Filing of Notice by Aggregators.

(a) Any entity seeking to provide aggregation services to customers shall provide written notice to the commission prior to providing such service in the form specified in Puc 2006.02.

(b) No applicant 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 notification process required by Puc 2003.

(c) An original and 2 copies of the notification required by (a) above shall be filed together with an electronic copy in a file format compatible with the computer system of the commission, pursuant to Puc 203.03.

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

(e) 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.

(f) Unless the commission determines that an application for notification is incomplete or does not comply with the requirements of this chapter, the application shall either be approved in writing by the commission within 60 days of its submission, or it shall be deemed to have been approved 60 days after receipt.

(g) An approved initial aggregator application shall be valid for 2 years.

(h) If the commission has requested information or clarification to complete the application for notification, and such information or clarification is not provided within 60 days of the request, the commission shall suspend the application. If, after 120 days of the date of the request, the applicant has not provided the requested information or clarification, the commission shall reject the application. If an application is rejected, the application fee shall be forfeited and the applicant shall be required to submit a new application and fee prior to acting as an aggregator in New Hampshire.

(i) Following registration, an aggregator shall continue to maintain compliance with the requirements of Puc 2000.

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(j) Each aggregator shall notify the commission of any changes to the information required in this section within 30 days following the effective date of the change.

Source. #9774-A, eff 8-26-10 (from Puc 2003.02)

Puc 2003.05 Renewal of Notice by Aggregators.

(a) Each approved aggregator shall re-notify the commission after the initial 2 year period, or after the 5 year renewal period as applicable, by filing with the commission an application for renewal at least 60 days prior to the expiration of the currently effective registration. If an aggregator fails to meet its re-filing obligation, the original registration shall expire by its terms.

(b) The aggregator shall include in each application for renewal all information required for an initial aggregator application in the form specified in Puc 2006.02, and shall note any changes to the information contained in the previous application.

(c) Except as provided in Puc 2003.04(e), an aggregator shall include with its application for renewal a renewal fee of \$125.00.

(d) Unless the commission determines that an application for renewal is incomplete or does not comply with the requirements of this chapter, the application shall either be approved in writing by the commission within 60 days of its submission, or it shall be deemed to have been approved 60 days after receipt.

(e) An approved aggregator renewal shall be valid for 5 years.

(f) If the commission has requested information or clarification to complete an application for renewal, and such information or clarification is not provided within 60 days of the request, the commission shall suspend the application. If, after 120 days of the date of the request, the applicant has not provided the requested information or clarification, the commission shall reject the application. If an application is rejected, the application fee shall be forfeited and the applicant shall be required to submit a new application and fee prior to acting as an aggregator in New Hampshire.

(g) Following re-notification, an aggregator shall continue to maintain compliance with the requirements of Puc 2000.

(h) Each aggregator shall notify the commission of any changes to the information required in this section within 30 days following the effective date of the change.

Source. #9774-A, eff 8-26-10

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) Except as noted, all other consumer protections in this chapter apply to all CEPS or aggregators operating in New Hampshire.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10

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Puc 2004.02 Provision of Information to Customers by Competitive Electric Power Suppliers.

(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) Each CEPS shall include in the written statement disclosing the terms of service required by (a) above, the following:

- (1) The name, business address, telephone number and e-mail address of the CEPS;
- (2) All fixed and variable prices of the service being offered to the customer, including an explanation of any variable prices and the circumstances that would cause the price to vary;
- (3) The average price per kWh 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, if the energy charge under the terms of service is based on fixed rates per kWh;
- (4) If the energy charge for the proposed service is based on determinants other than a fixed rate per kWh, such as time-of-use or real time rates, all applicable billing determinants, broken down by time-of-use, and a historic average price per kWh for a typical load profile, described by at least hour of day and day of week, starting at a usage of 250 kWh per month and increasing in 250 kWh increments to 1000 kWh and in 500 kWh increments thereafter. This breakdown shall cover an identified 12 month period ending within one year and one month of the date of the statement;
- (5) The average price per kW of demand or other billing determinants for demand charges if other than a fixed rate per kW, if the terms of service include a demand charge;
- (6) 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, stranded cost recovery charge, and taxes;
- (7) A list of social service agencies and programs available to low income customers for bill payment assistance;
- (8) 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;
- (9) The duration of the CEPS's commitment for price, terms and conditions;
- (10) 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;
- (11) Any fees payable to the CEPS for early termination by the customer;
- (12) Any other fees, penalties, or charges payable to the CEPS for which the customer would be responsible;
- (13) An explanation of how the customer will be billed for electricity sales and the name, address and telephone number of the CEPS's billing agent, if any;
- (14) A description of the CEPS's dispute resolution process available to the customer;
- (15) The toll free telephone number of the commission's consumer affairs division and a statement that customers may contact the commission if they have questions about their rights and responsibilities;

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- (16) Deposit requirements and the rate of interest paid on deposits;
- (17) A statement that the CEPS shall not release confidential customer information without written authorization from the customer along with a statement, not inconsistent with Puc 2004.09, of which customer information shall be considered confidential;
- (18) Information about the National Do Not Call Registry and how a customer may be added to the list; and
- (19) An advisory that:
 - a. Residential customers and small commercial customers 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 small commercial customers receiving the terms of service statement required by (a) above 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, and be legibly typed or printed in 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)(19) above.
- (e) A CEPS shall not submit a customer enrollment request to a utility for a customer until any applicable customer right of rescission has lapsed.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10

Puc 2004.03 Telephone Solicitation of Customers by or for Competitive Electric Power Suppliers.

- (a) A CEPS or its representative 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;
 - 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;

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(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 in (b) 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 which intends to telemarket to residential and small commercial electric customers, and has not stated otherwise pursuant to Puc 2006.01(a)(18), 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. Maintaining an up-to-date listing of New Hampshire customers and potential customers who have registered with the National Do Not Call Registry 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 or a supplier-specific list;

c. Instituting training for personnel engaged in any aspect of telephone solicitation in the existence and use of the National Do Not Call Registry and any supplier specific do-not-call list;

d. Not making telephone solicitations to any customer or potential customer who has registered with the National Do Not Call Registry 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; ss by #9774-A, eff 8-26-10

Puc 2004.04 In-person Solicitation of Customers by or for Competitive Electric Power Suppliers.

(a) A CEPS or its representative who contacts customers in person at a location other than the CEPS's place of business for the purpose of selling any product or service offered by the CEPS shall, as soon as possible and prior to describing any products or services offered for sale:

(1) Produce identification, to be visible at all times thereafter, which prominently displays in reasonable size type the full name of the CEPS and representative as well as the CEPS's telephone number for inquiries, verification and complaints. Upon request such identification shall be left with the potential customer.

(2) Identify the CEPS and the relationship of the representative with the CEPS. The CEPS or its representative shall also state that if the potential customer purchases electricity from the CEPS, the customer's utility will continue to deliver their energy and will respond to any outages or emergencies. This requirement may be fulfilled by an oral statement to the potential customer, or by written materials left with the potential customer.

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(3) The CEPS or its representative shall leave the premises of a potential customer when requested to do so by the potential customer or the owner or occupant of the premises; and

(4) Where it is apparent that the potential customer's English language skills are insufficient to allow the potential customer to understand and respond to the information conveyed, or where the potential customer or another third party informs the CEPS or its representative of this circumstance, the CEPS or its representative shall either find a replacement who is fluent in the potential customer's language to continue the marketing activity, or shall terminate the in-person contact with the potential customer. The use of translation services shall be permitted.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10

Puc 2004.05 Transfer of Service by Competitive Electric Power Suppliers.

(a) A CEPS shall not submit a change on behalf of a customer in the customer's selection of a CEPS without first obtaining authorization from the customer, consisting of:

- (1) The customer's written authorization in a form that meets the requirements of (f) below; or
- (2) Verbal authorization from the customer as described in (c), (d) and (e) below and which is made in the same language as the underlying solicitation made to the customer.

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

(c) Verbal authorization for the transfer of service shall be confirmed by a third party that:

- (1) Is not owned, affiliated, managed, controlled, or directed by the CEPS, or any marketing representative involved in such transaction;
- (2) Has no financial incentive to confirm CEPS change orders for the CEPS or the CEPS's marketing representative;
- (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 or the CEPS's marketing representative.

(d) The CEPS shall disclose to the commission the name, address, telephone number, and e-mail address of the person or entity acting as a third party verifier for purposes of (c) above.

(e) 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; and
- (6) The service address and account number or meter number that the customer wishes to switch to the new CEPS.

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(f) The written authorization form referenced in (a)(1) above shall:

- (1) Not be combined with other materials sent to the customer, including but not limited to, checks or other inducements to change service;
- (2) Be a separate plainly identifiable document;
- (3) Be written in plain language, and be legibly typed or printed in a font size no smaller than 12 point;
- (4) Contain the customer's billing 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) Be signed by the customer.

(g) 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.

(h) The information package described in (g) 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)(19).

(i) Upon receipt of authorization from the customer, after the applicable rescission period defined in 2004.02(b)(19) has expired, the CEPS shall notify the relevant utility electronically of the customer's request to switch suppliers pursuant to the electronic data interchange requirements set forth in Puc 2003.01(d). A CEPS shall provide the commission with proof of valid customer authorization whenever requested by the commission.

(j) A CEPS who fails to obtain customer authorization in accordance with this section and initiates a customer change in service with the 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 penalty and other enforcement provisions of Puc 2005.

(k) 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 (o) below, the CEPS shall provide notice to each affected customer pursuant to (l) below; and
- (2) The proposed transferee or buyer shall register as a CEPS pursuant to Puc 2003, if not already so registered.

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(l) 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 or returns to 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, terms or conditions of service of the CEPS and the rates, terms or conditions of service of the proposed transferee or buyer; or
 - b. That the rates, terms and conditions of service of the CEPS and the proposed transferee or buyer are the same;
- (6) The name, address, telephone number and e-mail address 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 returned to default service, if different than the date the CEPS will cease to provide service to the affected customer.

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

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

(o) A transfer, lease or sale of a CEPS to another person or entity, as described in (l) above, shall require the notice set forth in (p) below rather than the notice set forth in (l) 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 (p) below, and of the opportunity for the customer to change suppliers 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.

(p) When a transfer, lease or sale of a utility franchise or portion thereof meets the requirements of (o) 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 default service.

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(q) As to the notices required to be sent to the customer describing a proposed change in CEPS as described in (l) and (p) 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.

(r) If the commission determines that a CEPS has not complied with the provisions for discontinuance of service or for a successor provider, then, in addition to any action the commission may take pursuant to Puc 2005, the commission shall order notice to affected customers clarifying the customers' rights and obligations.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10 (from Puc 2004.04)

Puc 2004.06 Bill Disclosure Information.

(a) The CEPS shall include on any bills 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 kWh 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 utility's bill;
- (5) An indication as to whether the bill is based on actual or estimated usage;
- (6) The total kWh and all other applicable billing determinants, such as demand charges, used during the billing period, which shall include for customers on a time of use or similar pricing schedule the total kWh and all other applicable billing determinants used broken down by time of use;
- (7) The customer's average total price expressed per kWh used during that billing period;
- (8) Any applicable penalty date, including but not limited to penalties for late payments, and the amount of 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 telephone number, e-mail address, and toll free telephone number, if available, of the CEPS customer service department or customer service contact person;

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(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 CEPS; 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 in which the CEPS sold electricity to the customer.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10 (from Puc 2004.05)

Puc 2004.07 Notice of Termination of Service.

(a) When a residential or small commercial electric customer 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:

(1) The CEPS shall provide written notice of the termination, stating the reason(s) for 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 utility provided for in (d) below is also met.

(b) Nothing shall prevent a CEPS from requesting an off-cycle meter reading, except that:

(1) In requesting an off-cycle meter reading, a CEPS:

a. Shall give at least 5 business days' written notice to the utility; and

b. May be subject to a reasonable charge from the utility for such reading not to exceed the charge for performing an off-cycle meter reading for the utility's customer as defined in the utility's tariff;

(2) The utility may deny any request for an off-cycle meter reading if proper notice as described in (1)a. above is not provided; and

(3) To the extent a utility can not accommodate a request for an off-cycle meter reading within 5 business days, the utility and CEPS shall negotiate a reasonable extension of time for the completion of the off-cycle meter reading request.

(c) A CEPS shall provide not less than 5 business days' written notice to customers, other than residential or small commercial electric customers, 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 utility 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 utility.

(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 return to default service, subject to the provisions of the default service provider.

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(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 utility and to the commission; and

(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;

(g) Any CEPS that ceases to sell electricity to a class of customers within the state shall refund to customers any outstanding deposits or prepayments within 30 days of final billing.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10 (from Puc 2004.06)

Puc 2004.08 Customer Protections Required of Aggregators.

(a) An aggregator shall, within 5 days of entering into an agreement with a customer, provide each customer with a written statement disclosing the following information:

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

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

(3) 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; and

(4) A statement, not inconsistent with Puc 2004.09, of the customer information that will be accorded confidential treatment.

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

(c) An aggregator shall comply with the telemarketing and solicitation provisions of Puc 2004.03 and 2004.04 as stated above.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10 (from Puc 2004.07)

Puc 2004.09 Release of Confidential Customer Information.

(a) No CEPS or aggregator 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, e-mail address and telephone number; and

(2) Individual customer payment information.

(c) A CEPS or aggregator shall be deemed authorized to obtain customer usage information when it has secured from the customer, in writing, the customer's name, account number(s), and the unique utility assigned authorization number(s).

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(d) In the event of a dispute about the release of confidential information, including whether the information is or should be confidential, a CEPS, aggregator or customer may file a complaint with the commission for resolution.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10 (from Puc 2004.08)

Puc 2004.10 Other Consumer Protections.

(a) No CEPS or aggregator shall 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 or aggregator without the customer's authorization.

(c) Upon the filing a complaint pursuant to (b) above:

(1) The commission shall, within 10 business days of the receipt of a complaint that a CEPS or aggregator has engaged in slamming, investigate the complaint; and

(2) If, after an investigation, the commission determines that a CEPS or aggregator does not possess evidence of a customer's affirmative choice or authorization, the commission shall require the unauthorized CEPS or aggregator to refund any charges already paid and any expense incurred in switching.

(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 utility 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, the provision of service, or 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) Religion or creed;
- (7) Gender;
- (8) Marital status;
- (9) Age;
- (10) National origin;
- (11) Disability; or

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(12) Sexual orientation.

(g) Except as to income, a CEPS or aggregator shall not discriminate in the provision of credit on the basis of any of the characteristics in (f) above.

Source. #9774-A, eff 8-26-10 (from Puc 2004.09)

PART Puc 2005 ENFORCEMENT PROVISIONS AND PROCEDURES

Puc 2005.01 Sanctions for Failure to Comply.

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

(b) The commission shall, pursuant to RSA 374-F:7, III, impose a penalty upon a CEPS, up to \$1,000.00 per day for each violation, after notice and an opportunity to be heard, for any of the following:

- (1) Failure to register with the commission as required in Puc 2003;
- (2) A violation of any of the provisions of Puc 2004 or any applicable state statute;
- (3) Acting in a manner contrary to or providing false information in the statements required by Puc 2003; 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 notice and an opportunity to be heard for:

- (1) The second and third violations of any of the provisions of Puc 2004 or any applicable state statute; or
- (2) A second violation of any commission order enforcing RSA 374-F:7 or Puc 2000.

(d) The commission shall revoke the registration of a CEPS, after notice and an opportunity to be heard, for:

- (1) Willful misrepresentation of any of the information required by 2003 which, if accurately reported, would have resulted in the denial of the application;
- (2) The fourth or subsequent violations of any of the provisions of Puc 2004 or any applicable state statute; or
- (3) A third or subsequent violation of any commission order enforcing RSA 374-F:7 or Puc 2000.

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

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

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

- (1) The severity of the infraction;

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(2) Mitigating circumstances, if any; and

(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 suspension or revocation, petition the commission for reinstatement by submitting a new application.

(i) In addition to all other information as is required for an initial application, the CEPS seeking reinstatement shall also provide the following:

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

(2) A registration fee of \$500.00.

(j) The commission shall waive or lessen the imposition of any sanction, 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; ss by #9774-A, eff 8-26-10

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 be authorized to 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, 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.

Source. #7758, eff 9-4-02; ss by #9774-A, eff 8-26-10

PART Puc 2006 FORMS

Puc 2006.01 Form for Initial and Renewal Registration of Competitive Electric Power Suppliers.

(a) The registration application required by Puc 2003.01(a) and Puc 2003.02(b) shall include the following:

(1) The legal name of the applicant as well as any trade name(s) under which it intends to operate in this state, and, if available, its website address;

(2) The applicant's business address, telephone number, e-mail address, and website address, as applicable;

(3) The applicant's place of incorporation, if anything other than an individual;

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- (4) The name(s), title(s), business address(es), telephone number(s), and e-mail address(es) of the applicant if an individual, or of the applicant's principal(s) if the applicant is anything other than an individual;
- (5) The following regarding any affiliate and/or subsidiary of the applicant that is conducting business in New Hampshire:
 - a. The name, business address and telephone number of the entity;
 - b. A description of the business purpose of the entity; and
 - c. A description of any agreements with any affiliated New Hampshire utility;
- (6) The telephone number of the applicant's customer service department or the name, title, telephone number and e-mail address of the customer service contact person of the applicant, including toll free telephone numbers if available;
- (7) The name, title, business address, telephone number, and e-mail address of the individual responsible for responding to commission inquiries;
- (8) The name, title, business address, telephone number and e-mail address of the individual who is the applicant's registered agent in New Hampshire for service of process;
- (9) A copy of the applicant's authorization to do business in New Hampshire from the New Hampshire secretary of state, if anything other than an individual;
- (10) A listing of the utility franchise areas in which the applicant intends to operate. To the extent an applicant does not intend to provide service in the entire franchise area of a utility, this list shall delineate the cities and towns where the applicant intends to provide service;
- (11) 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;
- (12) A listing of the states where the applicant currently conducts business relating to the sale of electricity;
- (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 the applicant or 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, directors or controlling stockholders; or
 - c. For limited liability companies, any of the managers or members;
- (15) A statement as to whether the applicant or any of the applicant's principals:

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- a. Has, within the 10 years immediately prior to registration, had any civil, criminal or regulatory sanctions or penalties imposed against them pursuant to any state or federal consumer protection law or regulation;
 - b. Has, within the 10 years immediately prior to registration, 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 the applicant's do-not-call list for the purposes of telemarketing;
 - b. Obtain monthly updated do-not-call lists from the National Do Not Call Registry; and
 - c. Not initiate calls to New Hampshire customers who have either requested being placed on the applicant's do-not-call list(s) or customers who are listed on the National Do Not Call Registry;
- (18) For those applicants that intend not to telemarket, a statement to that effect;
- (19) A sample of the bill form(s) the applicant intends to use or a statement that the applicant intends to use the utility's billing service;
- (20) A copy of each contract to be used for residential and small commercial customers;
- (21) A statement certifying that the applicant has the authority to file the application on behalf of the CEPS and that its contents are truthful, accurate and complete; and
- (22) The signature of the applicant or its representative.

Source. #9774-B, eff 8-26-10

Puc 2006.02 Form for Initial and Renewal Registration of Aggregators.

- (a) The registration application required by Puc 2003.04(a) and Puc 2003.05(b) shall include the following:
- (1) The legal name of the applicant as well as any trade name(s) under which it intends to operate in this state;
 - (2) The applicant's business address, telephone number, e-mail address and website address, as applicable;
 - (3) The name(s), title(s), business address(es), telephone number(s), and e-mail address(es) of the applicant if an individual or of the applicant's principal(s), if the applicant is anything other than an individual;
 - (4) The telephone number of the customer service department or the name, title, telephone number and e-mail address of the customer service contact person of the applicant, including toll free telephone numbers if available

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- (5) A copy of the applicant's authorization to do business in New Hampshire from the secretary of state, if anything other than an individual;
- (6) Description of the geographic areas of New Hampshire in which the applicant intends to provide service, consistent with Puc 2006.01(a)(10) above;
- (7) A statement that the applicant is not representing any supplier interest or a listing of any supplier interest the applicant intends to represent; and
- (8) Except as provided in 2003.04(e), payment of the required filing fee; and
- (9) The signature of the applicant or its representative.

Source. #9774-B, eff 8-26-10

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APPENDIX

Rule(s)	State Statue (RSA)
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