

THE STATE OF NEW HAMPSHIRE



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

CHAIRMAN
Thomas B. Getz

COMMISSIONERS
Clifton C. Below
Amy L. Ignatius

EXECUTIVE DIRECTOR
AND SECRETARY
Debra A. Howland

September 24, 2010

Carol Holahan, Director
Office of Legislative Services
Room 114, State House
107 North Main Street
Concord, NH 03301-4951

Re: Filing of Adopted Rules
Puc 3000, Competitive Natural Gas Suppliers and Aggregators
Final Proposal No. 2010-62
Commission Docket No. DRM 10-015

Dear Ms. Holahan:

The Public Utilities Commission (Commission) pursuant to RSA 541-A:14, III and Chapter 3, section 2.21 of *the New Hampshire Drafting and Procedural Manual for Administrative Rules* (the *Manual*), hereby files with the Director of the Office of Legislative Services in care of the Division of Administrative Rules, the enclosed adopted rules, as referred to in the caption above. The Joint Legislative Committee on Administrative Rules (Committee) voted to approve these rules at its meeting on September 16, 2010. The Commission has made editorial changes recommended by Committee Staff on pages 1, 2, 4, 18 and 19.

The Commission hereby certifies that the material enclosed is a true copy of Puc 3000, Competitive Natural Gas Supplier and Aggregator Rules, which was adopted by vote of the Commission on September 24, 2010.

As required by Chapter 3, section 2.21 of the *Manual*, enclosed for filing are:

- 2 copies of the adopted rules in the format required by Chapter 4 of the *Manual*, including the appendix containing the cross reference table required by RSA 541-A:3-a,II; and

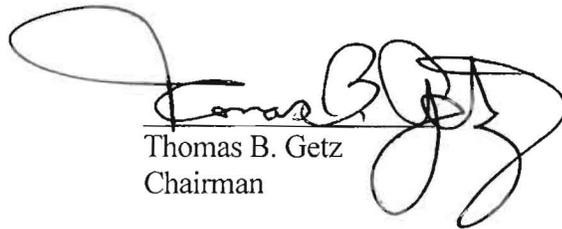
DRM 10-015
Puc 3000

- One copy of a cover letter (this letter) containing the name and address of the agency adopting the rules; identification of the rules by rule number; the date of the rules' adoption; the effective time and date, if other than 12:01 a.m. of the day after filing; identification of any editorial changes made in the adopted rules from the text of the final proposal after Committee review; and signature by a member of the group with rulemaking authority, certifying that the material enclosed is a true copy of the rules adopted by the agency on the date given.

It is the intention of the Commission that the enclosed rules shall become effective at 12:01 a.m. on the day after filing.

Please contact us if you have questions or concerns.

Yours Truly,



Thomas B. Getz
Chairman

Enclosures

Readopt with Amendment Puc 3001-3005, effective 12-28-02 (Document # 7811) cited and to read as follows:

CHAPTER Puc 3000 COMPETITIVE NATURAL GAS SUPPLIER AND AGGREGATOR RULES

PART Puc 3001 PURPOSE AND APPLICATION OF THE RULES

Puc 3001.01 Purpose.

The purpose of Puc 3000 is to establish requirements for the registration of competitive natural gas suppliers and aggregators, as defined below, with the commission. Puc 3000 also establishes consumer protection requirements and enforcement provisions and procedures.

Puc 3001.02 Application of Rules.

(a) These rules shall apply to competitive natural gas suppliers as defined in Puc 3002.06 and aggregators as defined in Puc 3002.02.

(b) These rules shall not apply to the sale of natural gas to residential or non-residential customers by a local distribution company as defined in Puc 3002.09.

PART Puc 3002 DEFINITIONS

Puc 3002.01 "Aggregate" means to combine the natural gas loads of 2 or more customers or a single customer with multiple meters or multiple locations.

Puc 3002.02 "Aggregator" means any person or entity that aggregates natural gas load but takes no ownership of the natural gas supplies needed to meet that aggregated load. The term includes, but is not limited to, any person or entity that facilitates or otherwise arranges for the purchase or sale of natural gas between customers and approved competitive natural gas suppliers. The term does not include any employee aggregating load on behalf of her or his employer.

Puc 3002.03 "Applicant" means any person or entity who has filed an application for registration or renewal as a CNGS or aggregator with the commission pursuant to Puc 3000.

Puc 3002.04 "City Gate" means the interconnection between a delivering pipeline and the distribution system of an LDC.

Puc 3002.05 "Commission" means the New Hampshire public utilities commission.

Puc 3002.06 "Competitive natural gas supplier (CNGS)" means any person or entity that sells or offers to sell natural gas to a customer of an LDC in this state. A CNGS takes ownership of the natural gas supply to the extent it is the entity responsible for delivering that supply to the city gates of an LDC in accordance with the LDC's balancing requirements. The term does not include any municipal or county corporation operating within its corporate limits, LDCs supplying natural gas in accordance with rates and/or practices approved by the commission, third party suppliers to entities with direct connections to non-utility owned intrastate or interstate natural gas pipelines, suppliers to electrical generation facilities with a capacity of 30 megawatts or more, or persons or entities to the extent that they supply natural gas at wholesale to an LDC.

Puc 3002.07 "Customer" means any person or entity in this state, including any governmental unit, that utilizes delivery service with an LDC and purchases natural gas at retail from a CNGS or whose load is aggregated by an aggregator, but does not include residential consumers.

Puc 3002.08 "Delivery service" means the distribution of natural gas by an LDC from a city gate to a meter at a customer's premises.

Puc 3002.09 "Local distribution company (LDC)" means a natural gas public utility regulated by the commission which operates a retail gas distribution system.

Puc 3002.10 "Natural gas supplier service" means the sale of natural gas to a customer by a CNGS, but does not include any sale by the LDC itself.

Puc 3002.11 "Natural gas supply offer" means a solicitation by a CNGS to sell natural gas or a solicitation by an aggregator to arrange for or facilitate the purchase of natural gas by a customer.

PART Puc 3003 REGISTRATION AND REPORTING REQUIREMENTS

Puc 3003.01 Initial Registration of Competitive Natural Gas Suppliers.

(a) Any CNGS seeking to sell natural gas 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 CNGS shall sell, or offer to sell via mass media marketing or otherwise, natural gas to any customer until it has completed all aspects of the registration process required by Puc 3003, and has had its registration approved in accordance with Puc 3003.01(e).

(c) The registration application required by (a) above shall be in the form specified in Puc 3006.01.

(d) Each applicant shall provide the following in or with its application:

(1) Evidence of financial security as defined in Puc 3003.03;

(2) Documentation sufficient to demonstrate that the CNGS is an approved shipper on the upstream pipelines and underground storage facilities on which the LDC will assign capacity, if any, to the CNGS; and

(3) A \$500.00 registration fee.

(e) 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.

(f) An approved CNGS registration shall be valid for 5 years.

(g) 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 CNGS in New Hampshire.

(h) Following registration, a CNGS shall continue to maintain compliance with the requirements of Puc 3000.

(i) A CNGS shall submit with its application proof that it has notified any LDC in whose service territory it intends to do business of the filing of its application for registration at the time it files such application with the commission.

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

(k) Failure by any CNGS 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 3005.

Puc 3003.02 Renewal Registration of Competitive Natural Gas Suppliers.

(a) Each registered CNGS 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 expiration of the currently effective registration. If a CNGS fails to meet its re-filing obligation, its registration shall expire by its terms.

(b) The CNGS shall include in each application for renewal all information required for an initial CNGS application under Puc 3003.01, Puc 3003.03 and 3006.01, and shall note any changes to the information contained in the previous application.

(c) A CNGS 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 CNGS 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 CNGS in New Hampshire.

(h) Following renewal, a CNGS shall continue to maintain compliance with the requirements of Puc 3000.

(i) Each CNGS 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 CNGS 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 3005.

Puc 3003.03 Reporting and Financial Requirements of Competitive Natural Gas Suppliers

(a) The security required by Puc 3003.01(d)(1) 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. The estimated highest month's aggregated gas usage of all customers served by the CNGS in New Hampshire multiplied by the same month's Tennessee Gas Pipeline Zone 6 monthly index, for a CNGS's first year of operation; or

c. The actual highest month's aggregated gas usage of all customers served by the CNGS in New Hampshire multiplied by the same month's Tennessee Gas Pipeline Zone 6 monthly index, for any year after the CNGS's 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; and

(6) Be adjusted annually, if based upon natural gas usage or estimated usage, under (2)b. or c. above. The CNGS shall report its monthly and annual usage for the prior year ending March 31, as used to determine the amount of the security, on or before May 31 of each year.

(b) Each CNGS shall file annually, by no later than March 1 of each year, a report of its sales in the prior calendar year.

(c) The report required by (b) above shall include:

(1) The name of and responsible reporting agent for the CNGS;

(2) The date of the report;

(3) The year covered in the report;

- (4) The number of New Hampshire customers, by rate class, by month, with annual totals; and
- (5) Sales volumes to New Hampshire customers, in dekatherm units, by rate class, by month, with annual totals.

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

Puc 3003.04 Initial Registration of Natural Gas Aggregators.

(a) No aggregator shall enroll customers, or arrange to sell to or contract with customers, or solicit specific customers for such purposes until such aggregator has completed all aspects of registration required by Puc 3003.

(b) An original and 2 copies of a registration application 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.

(c) The registration application required by (a) above shall be in the form specified in 3006.02

(d) An aggregator shall include with its registration application a registration fee of \$250.00.

(e) Unless the commission determines that an application for registration 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.

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

(g) 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 an aggregator in New Hampshire.

(h) Following registration, an aggregator shall continue to maintain compliance with the requirements of Puc 3000.

(i) 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.

Puc 3003.05 Renewal Registration of Natural Gas Aggregators.

(a) Each registered aggregator shall re-register with 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 under Puc 3003.04, and shall note any changes to the information contained in the previous application.

(c) 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-registration, an aggregator shall continue to maintain compliance with the requirements of Puc 3000.

(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.

PART Puc 3004 CONSUMER PROTECTION REQUIREMENTS

Puc 3004.01 Applicability.

(a) Except as specified herein, each CNGS who sells natural gas either directly or indirectly shall comply with the terms of service provisions that are described in the disclosure statement set forth in Puc 3004.02.

(b) Except as noted, all consumer protections in this chapter apply to all CNGS or aggregators operating in New Hampshire.

Puc 3004.02 Provision of Information to Customers by Competitive Natural Gas Suppliers.

(a) Each CNGS 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 natural gas.

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

(1) The name, business address, telephone number, toll free telephone number, if available, and e-mail address of the CNGS;

- (2) All fixed and variable prices of the service being offered to the customer, including an explanation of any variable price and the circumstances that would cause the price to vary;
- (3) The 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;
- (4) The duration of the CNGS's commitment for price, terms and conditions;
- (5) A statement that the CNGS's price does not include other costs, including but not limited to, the price of transmission and distribution;
- (6) The duration of the customer's commitment to purchase from the CNGS including a statement that the customer has a right to change CNGS subject to the terms of commitment;
- (7) Any fees payable to the CNGS for early termination of the natural gas supply agreement by the customer;
- (8) Any other fees, penalties, or charges for which the customer would be responsible;
- (9) An explanation of how the customer will be billed for natural gas supplier service and the name, address and telephone number of the CNGS's billing agent, if any;
- (10) A description of the CNGS's dispute resolution process available to the customer;
- (11) 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;
- (12) Deposit requirements and the rate of interest paid on deposits; and
- (13) A statement that the CNGS shall not release confidential customer information without written authorization from the customer along with a statement, not inconsistent with Puc 3004.08, of which customer information shall be considered confidential.

(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.

Puc 3004.03 Telephone Solicitation of Customers by or for Competitive Natural Gas Suppliers.

- (a) A CNGS 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;

(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 CNGS 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 CNGS.

(b) A CNGS which intends to telemarket, and which has not stated otherwise pursuant to Puc 3006.01(a)(17), shall implement procedures for telephone solicitation including:

(1) Providing the called party with the name of the CNGS on whose behalf the call is being made as well as a telephone number or address at which the CNGS 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 customers or potential customers requesting to not be called or to be placed on a do-not-call list are not called; and

e. 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 CNGS on whose behalf the solicitation is being made.

Puc 3004.04 Transfer of Service by Competitive Natural Gas Suppliers.

(a) A CNGS shall not submit a change on behalf of a customer in the customer's selection of a CNGS 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 CNGS 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 CNGS, or any marketing representative involved in such transaction;

(2) Has no financial incentive to confirm CNGS change orders for the CNGS or the CNGS'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 CNGS, or the CNGS's marketing representative.

(d) The CNGS shall disclose to the commission the name, 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 request the CNGS change;

(3) Confirmation that the customer wants to make the change in CNGS;

(4) The name of the customer's current CNGS;

(5) The name of the CNGS 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 CNGS.

(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) Contain the customer's billing name and address;

(4) Contain the account number(s) to be covered by the request for change in CNGS;

(5) Contain the service address and account number or meter number that is being changed to a new CNGS ;

(6) Contain a statement that the customer is changing from their current CNGS to the new CNGS in which each CNGS is identified by name;

(7) Be signed by the customer; and

(8) Be written in plain language, and be legibly typed or printed in a font size no smaller than 12 point.

(g) When a customer's request for a change in CNGS is received over the telephone, the CNGS 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 CNGS; and

(3) The disclosure statement required pursuant to Puc 3004.02.

(i) Upon receipt of valid authorization from the customer, the CNGS shall notify the applicable LDC electronically or by other means, as required by the LDC, of the customer's request to switch to a new CNGS.

(j) A CNGS shall provide the commission with proof of valid customer authorization whenever requested by the commission.

(k) A CNGS who fails to obtain customer authorization in accordance with this section and initiates a customer change in service with the LDC shall:

(1) Be liable for all charges billed to the customer by the LDC or any other party arising from the change in service;

(2) Be liable for all charges for supply it billed to the customer; and

(3) Be subject to the penalty and other enforcement provisions of Puc 3005.

(l) If a CNGS proposes to transfer or sell the right to serve any customer of the CNGS, or if the ultimate control of a CNGS is proposed to be transferred as a result of a change of ownership of a majority of the ownership interests in such CNGS or in any entity owning, either directly or indirectly, the ownership interests in the CNGS, then prior to such proposed transfer or sale the CNGS shall:

(1) Provide notice to each affected customer pursuant to (m) below, as follows:

a. With the customer's billing statement;

b. By the original CNGS, not the proposed transferee or purchaser; and

c. Separately from promotional materials relating to services proposed to be provided by the proposed transferee or purchaser;

- (2) Provide a copy of such notice to the commission and the LDC on whose system any such customers are served at the same time notice is sent to affected customers; and
- (3) Ensure that the entity to whom the customers will be transferred is registered as a CNGS pursuant to Puc 3003, if not already so registered;

(m) Not less than 30 days prior to the effective date of any transfer or sale described in (l) above, the CNGS proposing such transfer or sale shall provide clear and conspicuous written notice to each affected customer which includes:

- (1) A brief description of the nature of the proposed transaction and the effective date of the proposed transaction;
- (2) A statement that the customer may elect to terminate service from the CNGS and either enroll with a different CNGS or receive delivery service from the LDC if such election is made within the timeframe established by the LDC's tariff, but only if the customer's contract with the CNGS provides the customer with the right to elect an alternate supplier or to terminate the contract with the CNGS and purchase supply from an LDC, or if the customer does not have a contract with the CNGS that has a duration that extends beyond the date of the proposed transaction;
- (3) Notice of the latest date by which the customer, or a new CNGS supplying the customer, must notify the LDC of its election to receive delivery service from an LDC or be supplied by the new CNGS, unless such change is not permitted under the customer's contract with the existing CNGS;
- (4) Notice to any customer not previously subject to capacity assignment that, if the customer elects to take delivery service from an LDC, the customer will become subject to capacity assignment if the customer later elects to purchase gas from a CNGS;
- (5) Notice that if the customer is eligible to select an alternate CNGS or to purchase delivery service from an LDC but fails to do so in the time provided, the customer will either be assigned to the proposed transferee or purchaser or remain with the existing CNGS, depending on the nature of the proposed transaction;
- (6) The information required by Puc 3004.02(b) regarding the proposed transferee or purchaser unless the customer will be served pursuant to a contract whose duration extends beyond the effective date of the proposed transaction;
- (7) Notice of the amount of any charge that the customer will incur if it changes from its existing CNGS, whether to a new CNGS or to delivery service from an LDC in accordance with (2) above;
- (8) Notice that if consummation of the transaction described in (1) above results in a charge by an LDC for a change in the identity of the customer's CNGS, the customer will not be liable for such charge; and
- (9) A clear statement of the information in a. or b. below, if the customer does not have a contract with the CNGS with a duration that extends beyond the effective date of the proposed transaction:

a. Of any difference in the rates, terms or conditions of service provided to the customer by the CNGS and the rates, terms or conditions of service to be provided to the customer by the proposed transferee or purchaser; or

b. That the rates, terms and conditions of service of the CNGS and the proposed transferee or purchaser are the same;

(n) If a CNGS undergoes any transaction described in (l) above, then within 60 days of receipt of information from an LDC regarding the customer's gas usage, the CNGS shall bill the customer for any amounts due or refund any amounts owed to the customer;

(o) If the commission determines that a CNGS has not complied with the provisions for discontinuance of service or for a successor provider, then, in addition to any action that the commission is authorized to take pursuant to Puc 3005, the commission shall order notice to affected customers clarifying the customer's rights and obligations.

Puc 3004.05 Bill Disclosure Information.

(a) The CNGS 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 natural gas therm usage and all other applicable billing determinants;
- (4) The total number of therms used during the billing period;
- (5) For those CNGSs providing separate bills, a statement that the customer's meter readings are available on the LDC's bill
- (6) Any applicable penalty date, including but not limited to penalties for late payments, and the related penalty amount;
- (7) Any other factors necessary to compute the charges;
- (8) 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;
- (9) The telephone number, e-mail address, and toll free telephone number, if available, of the CNGS's customer service department or customer service contact person;
- (10) 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 CNGS; and
- (11) The toll free telephone number of the commission's consumer affairs division.

(b) Upon request of a customer, the CNGS 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 CNGS sold natural gas to the customer.

Puc 3004.06 Notice of Termination of Service.

(a) When a customer has failed to meet any of the terms of its agreement for service with its CNGS, the CNGS may terminate its agreement to provide natural gas supplier service to the customer pursuant to (b) below.

(b) The CNGS shall provide written notice of the termination to the customer no less than 30 business days prior to the termination stating the reason(s) for termination and the date upon which the termination will be effective.

(c) Any CNGS that ceases to sell natural gas to a class of customers within the state shall, prior to discontinuing such service:

(1) Provide at least 30 calendar days written notice to the commission, and to any affected LDC by electronic or such other means as may be required by the LDC; 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.

(d) Any CNGS that ceases to sell natural gas to a class of customers within the state shall refund to customers any outstanding deposits or prepayments within 30 days of final billing.

Puc 3004.07 Customer Protections Required of Aggregators.

(a) An aggregator shall, within 5 days of entering 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 CNGS or LDC;

(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 3004.08, 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 provisions of Puc 3004.03 as stated above.

Puc 3004.08 Release of Confidential Customer Information.

(a) No CNGS 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 and telephone number; and
- (2) Individual customer payment information.

(c) A CNGS 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).

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

Puc 3004.09 Other Consumer Protections.

(a) No CNGS or aggregator shall include provisions in its contracts that would waive the requirements of Puc 3004.

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

(c) The commission shall, within 10 business days of the receipt of a complaint that a CNGS or aggregator has engaged in slamming, investigate any such complaint.

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

PART Puc 3005 ENFORCEMENT PROVISIONS AND PROCEDURES

Puc 3005.01 Sanctions for Failure to Comply.

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

(b) The commission shall, pursuant to RSA 365:8-a, impose a penalty upon a CNGS or aggregator, 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 3003;
- (2) A violation of any of the provisions of Puc 3004 or any applicable state statute;
- (3) Acting in a manner contrary to or providing false information in the statements required by Puc 3003; or
- (4) A violation of any commission order enforcing RSA 365:8-a or Puc 3000.

(c) The commission shall suspend the registration of a CNGS or aggregator after notice and an opportunity to be heard for:

- (1) The second and third violations of any of the provisions of Puc 3004 or any applicable state statute; or
- (2) A second violation of any commission order enforcing RSA 365:8-a or Puc 3000.

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

- (1) Willful misrepresentation of any of the information required by Puc 3003 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 3004 or any applicable state statute; or
- (3) A third or subsequent violation of any commission order enforcing RSA 365:8-a or Puc 3000.

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

(f) Any CNGS or aggregator whose registration has been revoked shall be prohibited from doing business in the state as a CNGS 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;
- (2) Mitigating circumstances, if any; and
- (3) Other relevant information pertaining to the business practices of the CNGS or aggregator and its principals.

(h) A CNGS or aggregator 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 CNGS or aggregator 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 if a CNGS or \$250.00 if an aggregator.

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

- (1) The violation was immaterial, unintentional, or both;
- (2) The CNGS or aggregator acted in good faith to comply with all applicable statutory and regulatory requirements; or
- (3) Other mitigating circumstances exist.

Puc 3005.02 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 CNGS or aggregator alleging that the CNGS or aggregator is not in compliance with the provisions of Puc 3000, the commission's consumer affairs division shall be authorized to begin an investigation.
- (b) The CNGS 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 CNGS, 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.

Adopt Puc 3006 to read as follows:

PART Puc 3006 FORMS

Puc 3006.01 Form for Initial and Renewal Registration of Competitive Natural Gas Suppliers.

(a) The registration application required by Puc 3003.01(a) and Puc 3003.02(a) 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, and e-mail address;
- (3) The applicant's place of incorporation, if anything other than an individual;
- (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 or subsidiary of the applicant which 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 agreement(s) with any affiliated New Hampshire LDC(s);
- (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 list of LDCs in New Hampshire through which the applicant intends to provide service. To the extent an applicant does not intend to provide service in the entire franchise area of an LDC, 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;
- (12) A listing disclosing the number and type of customer complaints concerning the applicant or its principals, if any, filed with a state or federal 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 natural gas;

(13) 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;

(14) A statement as to whether the applicant or any of the applicant's principals:

- 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;

(15) If an affirmative answer is given to any item in (13) or (14) above, an explanation of the event;

(16) 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;

(17) For those applicants that intend not to telemarket, a statement to that effect;

(18) A sample of the bill form(s) the applicant intends to use or a statement that the applicant intends to use the LDC's billing service;

(19) A copy of any customer contracts or representative samples of contracts the applicant intends to use;

(20) A statement that the CNGS has verified the registration of any aggregator with which it has any agreements to provide service to New Hampshire customers, prior to entering into such agreements; and

(21) A statement certifying the applicant has the authority to file the application on behalf of the CNGS and that its contents are truthful, accurate and complete; and

(22) The signature of the applicant or its representative.

3006.02 Form for Initial and Renewal Registration of Aggregators.

(a) The registration application required by Puc 3003.04(a) and Puc 3003.05(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 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;

(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) A list of CNGSs in New Hampshire through which the applicant intends to provide service;

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

(8) Payment of the required filing fee; and

(9) The signature of the applicant or its representative.

Appendix

Provision of the Proposed Rule	Specific State Statute which the Rule is Intended to Implement
Puc 3000 (other specific statute provisions implemented by specific rules are listed below)	RSA 365:8-a
Puc 3005	RSA 365:8-a RSA 541-A:30,II

Readopt with Amendment Puc 3001-3005, effective 12-28-02 (Document # 7811) cited and to read as follows:

CHAPTER Puc 3000 COMPETITIVE NATURAL GAS SUPPLIER AND AGGREGATOR RULES

PART Puc 3001 PURPOSE AND APPLICATION OF THE RULES

Puc 3001.01 Purpose.

The purpose of Puc 3000 is to establish requirements for the registration of competitive natural gas suppliers and aggregators, as defined below, with the commission. Puc 3000 also establishes consumer protection requirements and enforcement provisions and procedures.

Puc 3001.02 Application of Rules.

(a) These rules shall apply to competitive natural gas suppliers as defined in Puc 3002.06 and aggregators as defined in Puc 3002.02.

(b) These rules shall not apply to the sale of natural gas to residential or non-residential customers by a local distribution company as defined in Puc 3002.09.

PART Puc 3002 DEFINITIONS

Puc 3002.01 "Aggregate" means to combine the natural gas loads of 2 or more customers or a single customer with multiple meters or multiple locations.

Puc 3002.02 "Aggregator" means any person or entity that aggregates natural gas load but takes no ownership of the natural gas supplies needed to meet that aggregated load. The term includes, but is not limited to, any person or entity that facilitates or otherwise arranges for the purchase or sale of natural gas between customers and approved competitive natural gas suppliers. The term does not include any employee aggregating load on behalf of her or his employer.

Puc 3002.03 "Applicant" means any person or entity who has filed an application for registration or renewal as a CNGS or aggregator with the commission pursuant to Puc 3000.

Puc 3002.04 "City Gate" means the interconnection between a delivering pipeline and the distribution system of an LDC.

Puc 3002.05 "Commission" means the New Hampshire public utilities commission.

Puc 3002.06 "Competitive natural gas supplier (CNGS)" means any person or entity that sells or offers to sell natural gas to a customer of an LDC in this state. A CNGS takes ownership of the natural gas supply to the extent it is the entity responsible for delivering that supply to the city gates of an LDC in accordance with the LDC's balancing requirements. The term does not include any municipal or county corporation operating within its corporate limits, LDCs supplying natural gas in accordance with rates and/or practices approved by the commission, third party suppliers to entities with direct connections to non-utility owned intrastate or interstate natural gas pipelines, suppliers to electrical generation facilities with a capacity of 30 megawatts or more, or persons or entities to the extent that they supply natural gas at wholesale to an LDC.

Puc 3002.07 "Customer" means any person or entity in this state, including any governmental unit, that utilizes delivery service with an LDC and purchases natural gas at retail from a CNGS or whose load is aggregated by an aggregator, but does not include residential consumers.

Puc 3002.08 "Delivery service" means the distribution of natural gas by an LDC from a city gate to a meter at a customer's premises.

Puc 3002.09 "Local distribution company (LDC)" means a natural gas public utility regulated by the commission which operates a retail gas distribution system.

Puc 3002.10 "Natural gas supplier service" means the sale of natural gas to a customer by a CNGS, but does not include any sale by the LDC itself.

Puc 3002.11 "Natural gas supply offer" means a solicitation by a CNGS to sell natural gas or a solicitation by an aggregator to arrange for or facilitate the purchase of natural gas by a customer.

PART Puc 3003 REGISTRATION AND REPORTING REQUIREMENTS

Puc 3003.01 Initial Registration of Competitive Natural Gas Suppliers.

(a) Any CNGS seeking to sell natural gas 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 CNGS shall sell, or offer to sell via mass media marketing or otherwise, natural gas to any customer until it has completed all aspects of the registration process required by Puc 3003, and has had its registration approved in accordance with Puc 3003.01(e).

(c) The registration application required by (a) above shall be in the form specified in Puc 3006.01.

(d) Each applicant shall provide the following in or with its application:

(1) Evidence of financial security as defined in Puc 3003.03;

(2) Documentation sufficient to demonstrate that the CNGS is an approved shipper on the upstream pipelines and underground storage facilities on which the LDC will assign capacity, if any, to the CNGS; and

(3) A \$500.00 registration fee.

(e) 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.

(f) An approved CNGS registration shall be valid for 5 years.

(g) 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 CNGS in New Hampshire.

(h) Following registration, a CNGS shall continue to maintain compliance with the requirements of Puc 3000.

(i) A CNGS shall submit with its application proof that it has notified any LDC in whose service territory it intends to do business of the filing of its application for registration at the time it files such application with the commission.

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

(k) Failure by any CNGS 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 3005.

Puc 3003.02 Renewal Registration of Competitive Natural Gas Suppliers.

(a) Each registered CNGS 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 expiration of the currently effective registration. If a CNGS fails to meet its re-filing obligation, its registration shall expire by its terms.

(b) The CNGS shall include in each application for renewal all information required for an initial CNGS application under Puc 3003.01, Puc 3003.03 and 3006.01, and shall note any changes to the information contained in the previous application.

(c) A CNGS 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 CNGS 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 CNGS in New Hampshire.

(h) Following renewal, a CNGS shall continue to maintain compliance with the requirements of Puc 3000.

(i) Each CNGS 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 CNGS 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 3005.

Puc 3003.03 Reporting and Financial Requirements of Competitive Natural Gas Suppliers

(a) The security required by Puc 3003.01(d)(1) 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. The estimated highest month's aggregated gas usage of all customers served by the CNGS in New Hampshire multiplied by the same month's Tennessee Gas Pipeline Zone 6 monthly index, for a CNGS's first year of operation; or

c. The actual highest month's aggregated gas usage of all customers served by the CNGS in New Hampshire multiplied by the same month's Tennessee Gas Pipeline Zone 6 monthly index, for any year after the CNGS's 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; and

(6) Be adjusted annually, if based upon natural gas usage or estimated usage, under (2)b. or c. above. The CNGS shall report its monthly and annual usage for the prior year ending March 31, as used to determine the amount of the security, on or before May 31 of each year.

(b) Each CNGS shall file annually, by no later than March 1 of each year, a report of its sales in the prior calendar year.

(c) The report required by (b) above shall include:

(1) The name of and responsible reporting agent for the CNGS;

(2) The date of the report;

(3) The year covered in the report;

- (4) The number of New Hampshire customers, by rate class, by month, with annual totals; and
- (5) Sales volumes to New Hampshire customers, in dekatherm units, by rate class, by month, with annual totals.

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

Puc 3003.04 Initial Registration of Natural Gas Aggregators.

(a) No aggregator shall enroll customers, or arrange to sell to or contract with customers, or solicit specific customers for such purposes until such aggregator has completed all aspects of registration required by Puc 3003.

(b) An original and 2 copies of a registration application 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.

(c) The registration application required by (a) above shall be in the form specified in 3006.02

(d) An aggregator shall include with its registration application a registration fee of \$250.00.

(e) Unless the commission determines that an application for registration 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.

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

(g) 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 an aggregator in New Hampshire.

(h) Following registration, an aggregator shall continue to maintain compliance with the requirements of Puc 3000.

(i) 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.

Puc 3003.05 Renewal Registration of Natural Gas Aggregators.

(a) Each registered aggregator shall re-register with 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 under Puc 3003.04, and shall note any changes to the information contained in the previous application.

(c) 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-registration, an aggregator shall continue to maintain compliance with the requirements of Puc 3000.

(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.

PART Puc 3004 CONSUMER PROTECTION REQUIREMENTS

Puc 3004.01 Applicability.

(a) Except as specified herein, each CNGS who sells natural gas either directly or indirectly shall comply with the terms of service provisions that are described in the disclosure statement set forth in Puc 3004.02.

(b) Except as noted, all consumer protections in this chapter apply to all CNGS or aggregators operating in New Hampshire.

Puc 3004.02 Provision of Information to Customers by Competitive Natural Gas Suppliers.

(a) Each CNGS 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 natural gas.

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

- (1) The name, business address, telephone number, toll free telephone number, if available, and e-mail address of the CNGS;

- (2) All fixed and variable prices of the service being offered to the customer, including an explanation of any variable price and the circumstances that would cause the price to vary;
- (3) The 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;
- (4) The duration of the CNGS's commitment for price, terms and conditions;
- (5) A statement that the CNGS's price does not include other costs, including but not limited to, the price of transmission and distribution;
- (6) The duration of the customer's commitment to purchase from the CNGS including a statement that the customer has a right to change CNGS subject to the terms of commitment;
- (7) Any fees payable to the CNGS for early termination of the natural gas supply agreement by the customer;
- (8) Any other fees, penalties, or charges for which the customer would be responsible;
- (9) An explanation of how the customer will be billed for natural gas supplier service and the name, address and telephone number of the CNGS's billing agent, if any;
- (10) A description of the CNGS's dispute resolution process available to the customer;
- (11) 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;
- (12) Deposit requirements and the rate of interest paid on deposits; and
- (13) A statement that the CNGS shall not release confidential customer information without written authorization from the customer along with a statement, not inconsistent with Puc 3004.08, of which customer information shall be considered confidential.

(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.

Puc 3004.03 Telephone Solicitation of Customers by or for Competitive Natural Gas Suppliers.

- (a) A CNGS 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;

(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 CNGS 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 CNGS.

(b) A CNGS which intends to telemarket, and which has not stated otherwise pursuant to Puc 3006.01(a)(17), shall implement procedures for telephone solicitation including:

(1) Providing the called party with the name of the CNGS on whose behalf the call is being made as well as a telephone number or address at which the CNGS 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 customers or potential customers requesting to not be called or to be placed on a do-not-call list are not called; and

e. 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 CNGS on whose behalf the solicitation is being made.

Puc 3004.04 Transfer of Service by Competitive Natural Gas Suppliers.

(a) A CNGS shall not submit a change on behalf of a customer in the customer's selection of a CNGS 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 CNGS 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 CNGS, or any marketing representative involved in such transaction;

(2) Has no financial incentive to confirm CNGS change orders for the CNGS or the CNGS'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 CNGS, or the CNGS's marketing representative.

(d) The CNGS shall disclose to the commission the name, 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 request the CNGS change;

(3) Confirmation that the customer wants to make the change in CNGS;

(4) The name of the customer's current CNGS;

(5) The name of the CNGS 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 CNGS.

(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) Contain the customer's billing name and address;

(4) Contain the account number(s) to be covered by the request for change in CNGS;

(5) Contain the service address and account number or meter number that is being changed to a new CNGS ;

(6) Contain a statement that the customer is changing from their current CNGS to the new CNGS in which each CNGS is identified by name;

(7) Be signed by the customer; and

(8) Be written in plain language, and be legibly typed or printed in a font size no smaller than 12 point.

(g) When a customer's request for a change in CNGS is received over the telephone, the CNGS 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 CNGS; and

(3) The disclosure statement required pursuant to Puc 3004.02.

(i) Upon receipt of valid authorization from the customer, the CNGS shall notify the applicable LDC electronically or by other means, as required by the LDC, of the customer's request to switch to a new CNGS.

(j) A CNGS shall provide the commission with proof of valid customer authorization whenever requested by the commission.

(k) A CNGS who fails to obtain customer authorization in accordance with this section and initiates a customer change in service with the LDC shall:

(1) Be liable for all charges billed to the customer by the LDC or any other party arising from the change in service;

(2) Be liable for all charges for supply it billed to the customer; and

(3) Be subject to the penalty and other enforcement provisions of Puc 3005.

(l) If a CNGS proposes to transfer or sell the right to serve any customer of the CNGS, or if the ultimate control of a CNGS is proposed to be transferred as a result of a change of ownership of a majority of the ownership interests in such CNGS or in any entity owning, either directly or indirectly, the ownership interests in the CNGS, then prior to such proposed transfer or sale the CNGS shall:

(1) Provide notice to each affected customer pursuant to (m) below, as follows:

a. With the customer's billing statement;

b. By the original CNGS, not the proposed transferee or purchaser; and

c. Separately from promotional materials relating to services proposed to be provided by the proposed transferee or purchaser;

(2) Provide a copy of such notice to the commission and the LDC on whose system any such customers are served at the same time notice is sent to affected customers; and

(3) Ensure that the entity to whom the customers will be transferred is registered as a CNGS pursuant to Puc 3003, if not already so registered;

(m) Not less than 30 days prior to the effective date of any transfer or sale described in (l) above, the CNGS proposing such transfer or sale shall provide clear and conspicuous written notice to each affected customer which includes:

(1) A brief description of the nature of the proposed transaction and the effective date of the proposed transaction;

(2) A statement that the customer may elect to terminate service from the CNGS and either enroll with a different CNGS or receive delivery service from the LDC if such election is made within the timeframe established by the LDC's tariff, but only if the customer's contract with the CNGS provides the customer with the right to elect an alternate supplier or to terminate the contract with the CNGS and purchase supply from an LDC, or if the customer does not have a contract with the CNGS that has a duration that extends beyond the date of the proposed transaction;

(3) Notice of the latest date by which the customer, or a new CNGS supplying the customer, must notify the LDC of its election to receive delivery service from an LDC or be supplied by the new CNGS, unless such change is not permitted under the customer's contract with the existing CNGS;

(4) Notice to any customer not previously subject to capacity assignment that, if the customer elects to take delivery service from an LDC, the customer will become subject to capacity assignment if the customer later elects to purchase gas from a CNGS;

(5) Notice that if the customer is eligible to select an alternate CNGS or to purchase delivery service from an LDC but fails to do so in the time provided, the customer will either be assigned to the proposed transferee or purchaser or remain with the existing CNGS, depending on the nature of the proposed transaction;

(6) The information required by Puc 3004.02(b) regarding the proposed transferee or purchaser unless the customer will be served pursuant to a contract whose duration extends beyond the effective date of the proposed transaction;

(7) Notice of the amount of any charge that the customer will incur if it changes from its existing CNGS, whether to a new CNGS or to delivery service from an LDC in accordance with (2) above;

(8) Notice that if consummation of the transaction described in (1) above results in a charge by an LDC for a change in the identity of the customer's CNGS, the customer will not be liable for such charge; and

(9) A clear statement of the information in a. or b. below, if the customer does not have a contract with the CNGS with a duration that extends beyond the effective date of the proposed transaction:

a. Of any difference in the rates, terms or conditions of service provided to the customer by the CNGS and the rates, terms or conditions of service to be provided to the customer by the proposed transferee or purchaser; or

b. That the rates, terms and conditions of service of the CNGS and the proposed transferee or purchaser are the same;

(n) If a CNGS undergoes any transaction described in (l) above, then within 60 days of receipt of information from an LDC regarding the customer's gas usage, the CNGS shall bill the customer for any amounts due or refund any amounts owed to the customer;

(o) If the commission determines that a CNGS has not complied with the provisions for discontinuance of service or for a successor provider, then, in addition to any action that the commission is authorized to take pursuant to Puc 3005, the commission shall order notice to affected customers clarifying the customer's rights and obligations.

Puc 3004.05 Bill Disclosure Information.

(a) The CNGS 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 natural gas therm usage and all other applicable billing determinants;
- (4) The total number of therms used during the billing period;
- (5) For those CNGSs providing separate bills, a statement that the customer's meter readings are available on the LDC's bill
- (6) Any applicable penalty date, including but not limited to penalties for late payments, and the related penalty amount;
- (7) Any other factors necessary to compute the charges;
- (8) 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;
- (9) The telephone number, e-mail address, and toll free telephone number, if available, of the CNGS's customer service department or customer service contact person;
- (10) 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 CNGS; and
- (11) The toll free telephone number of the commission's consumer affairs division.

(b) Upon request of a customer, the CNGS 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 CNGS sold natural gas to the customer.

Puc 3004.06 Notice of Termination of Service.

(a) When a customer has failed to meet any of the terms of its agreement for service with its CNGS, the CNGS may terminate its agreement to provide natural gas supplier service to the customer pursuant to (b) below.

(b) The CNGS shall provide written notice of the termination to the customer no less than 30 business days prior to the termination stating the reason(s) for termination and the date upon which the termination will be effective.

(c) Any CNGS that ceases to sell natural gas to a class of customers within the state shall, prior to discontinuing such service:

(1) Provide at least 30 calendar days written notice to the commission, and to any affected LDC by electronic or such other means as may be required by the LDC; 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.

(d) Any CNGS that ceases to sell natural gas to a class of customers within the state shall refund to customers any outstanding deposits or prepayments within 30 days of final billing.

Puc 3004.07 Customer Protections Required of Aggregators.

(a) An aggregator shall, within 5 days of entering 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 CNGS or LDC;

(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 3004.08, 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 provisions of Puc 3004.03 as stated above.

Puc 3004.08 Release of Confidential Customer Information.

(a) No CNGS 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 and telephone number; and
- (2) Individual customer payment information.

(c) A CNGS 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).

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

Puc 3004.09 Other Consumer Protections.

(a) No CNGS or aggregator shall include provisions in its contracts that would waive the requirements of Puc 3004.

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

(c) The commission shall, within 10 business days of the receipt of a complaint that a CNGS or aggregator has engaged in slamming, investigate any such complaint.

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

PART Puc 3005 ENFORCEMENT PROVISIONS AND PROCEDURES

Puc 3005.01 Sanctions for Failure to Comply.

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

(b) The commission shall, pursuant to RSA 365:8-a, impose a penalty upon a CNGS or aggregator, 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 3003;
- (2) A violation of any of the provisions of Puc 3004 or any applicable state statute;
- (3) Acting in a manner contrary to or providing false information in the statements required by Puc 3003; or
- (4) A violation of any commission order enforcing RSA 365:8-a or Puc 3000.

(c) The commission shall suspend the registration of a CNGS or aggregator after notice and an opportunity to be heard for:

- (1) The second and third violations of any of the provisions of Puc 3004 or any applicable state statute; or
- (2) A second violation of any commission order enforcing RSA 365:8-a or Puc 3000.

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

- (1) Willful misrepresentation of any of the information required by Puc 3003 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 3004 or any applicable state statute; or
- (3) A third or subsequent violation of any commission order enforcing RSA 365:8-a or Puc 3000.

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

(f) Any CNGS or aggregator whose registration has been revoked shall be prohibited from doing business in the state as a CNGS 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;
- (2) Mitigating circumstances, if any; and
- (3) Other relevant information pertaining to the business practices of the CNGS or aggregator and its principals.

(h) A CNGS or aggregator 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 CNGS or aggregator 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 if a CNGS or \$250.00 if an aggregator.

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

- (1) The violation was immaterial, unintentional, or both;
- (2) The CNGS or aggregator acted in good faith to comply with all applicable statutory and regulatory requirements; or
- (3) Other mitigating circumstances exist.

Puc 3005.02 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 CNGS or aggregator alleging that the CNGS or aggregator is not in compliance with the provisions of Puc 3000, the commission's consumer affairs division shall be authorized to begin an investigation.
- (b) The CNGS 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 CNGS, 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.

Adopt Puc 3006 to read as follows:

PART Puc 3006 FORMS

Puc 3006.01 Form for Initial and Renewal Registration of Competitive Natural Gas Suppliers.

(a) The registration application required by Puc 3003.01(a) and Puc 3003.02(a) 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, and e-mail address;
- (3) The applicant's place of incorporation, if anything other than an individual;
- (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 or subsidiary of the applicant which 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 agreement(s) with any affiliated New Hampshire LDC(s);
- (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 list of LDCs in New Hampshire through which the applicant intends to provide service. To the extent an applicant does not intend to provide service in the entire franchise area of an LDC, 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;
- (12) A listing disclosing the number and type of customer complaints concerning the applicant or its principals, if any, filed with a state or federal 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 natural gas;

(13) 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;

(14) A statement as to whether the applicant or any of the applicant's principals:

- 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;

(15) If an affirmative answer is given to any item in (13) or (14) above, an explanation of the event;

(16) 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;

(17) For those applicants that intend not to telemarket, a statement to that effect;

(18) A sample of the bill form(s) the applicant intends to use or a statement that the applicant intends to use the LDC's billing service;

(19) A copy of any customer contracts or representative samples of contracts the applicant intends to use;

(20) A statement that the CNGS has verified the registration of any aggregator with which it has any agreements to provide service to New Hampshire customers, prior to entering into such agreements; and

(21) A statement certifying the applicant has the authority to file the application on behalf of the CNGS and that its contents are truthful, accurate and complete; and

(22) The signature of the applicant or its representative.

3006.02 Form for Initial and Renewal Registration of Aggregators.

(a) The registration application required by Puc 3003.04(a) and Puc 3003.05(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 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;

(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) A list of CNGSs in New Hampshire through which the applicant intends to provide service;

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

(8) Payment of the required filing fee; and

(9) The signature of the applicant or its representative.

Appendix

Provision of the Proposed Rule	Specific State Statute which the Rule is Intended to Implement
Puc 3000 (other specific statute provisions implemented by specific rules are listed below)	RSA 365:8-a
Puc 3005	RSA 365:8-a RSA 541-A:30,II