

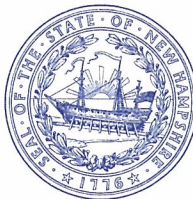
PRM 12-006

THE STATE OF NEW HAMPSHIRE

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November 25, 2013

Debra A. Howland  
Executive Director  
New Hampshire Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, NH 03301

**Re: DRM 12-036 Puc 400 Rulemaking  
Staff Report of Technical Session**

Dear Ms. Howland:

On November 18, 2013, Staff participated in a technical session with parties in this docket to review the written comments filed following the public hearing held on October 29, 2013. Staff and parties agreed to develop proposed changes to the text of the proposed rules to resolve certain issues raised in the written comments. Staff prepared and circulated a revised version of the draft final proposal intended to reflect the parties' agreement on these text changes, and parties were given an opportunity to respond to indicate their concurrence, objection, or lack of position with respect to these changes.

Enclosed with this report is a version of the proposed new Puc 400 rules, black-lined to show all changes from the draft final proposal sent to the parties on October 3, 2013. Where changes are shown in the attached revised document, all parties either approve of or do not object to the changes. In some cases, noted in marginal comments, the revision does not resolve all objections to the rule.

Where no change is shown to the text of a proposed rule, the parties maintain their positions as expressed in their written comments. Thus, the revisions effectively narrow the issues to be resolved by the Commission, but do not resolve all such issues.

Sincerely,

A handwritten signature in cursive script that reads "David Wiesner".

David K. Wiesner

**Readopt with amendments Puc 400, effective 5-10-05 (Document # 8348), so that Puc 400 reads as follows:**

## **CHAPTER Puc 400 RULES FOR TELECOMMUNICATIONS**

### **PART Puc 401 PURPOSE AND APPLICATION**

Puc 401.01 Purpose. The purpose of this chapter is to prescribe rules and to establish standard procedures, general business rules, and guidelines for telephone utilities in order to enable providers to comply with relevant statutes and commission orders.

Puc 401.02 Application. Parts 401 through 409 of this chapter shall apply to all telephone utilities except to the extent preempted by the Telecommunications Act of 1996. Part 410 of this chapter shall apply to all ILECs except to the extent preempted by the Telecommunications Act of 1996. Parts 411 through 412 of this chapter shall apply to all ILECs not operating as ELECs except to the extent preempted by the Telecommunications Act of 1996. These rules do not apply to VoIP and IP enabled services pursuant to RSA 362:7, II. In addition, the following commission rules shall apply to all telephone utilities except to the extent preempted by the Telecommunications Act of 1996:

Puc 102, relative to definition of terms

Puc 200, procedural rules;

Puc 800, underground utility damage protection program;

Puc 1300, utility pole attachments; and

Puc 1600, tariffs.

### **PART Puc 402 DEFINITIONS**

Puc 402.01 "Accident notification roster" means the ordered list of commission staff members to be contacted about reportable accidents which is available on the commission web site.

Puc 402.02 "Basic service" means:

(a) Safe and reliable single-party, single-line voice service;

(b) The ability to receive all non-collect calls, at telephone lines capable of receiving calls, without additional charge;

(c) The ability to complete calls to any other telephone line, which is capable of receiving calls, in the state;

(d) The opportunity to presubscribe to interLATA toll carriers;

- (e) The opportunity to presubscribe to intraLATA toll carriers;
- (f) Dialing parity;
- (g) Number portability;
- (h) Enhanced 911, pursuant to the requirements of the department of safety bureau of emergency communications or its successor agency;
- (i) Access to statewide directory assistance;
- (j) Telecommunications relay service (TRS);
- (k) A published directory listing, at the customer's election;
- (l) A caller identification blocking option, on a per-call basis;
- (m) A caller identification line blocking option that:
  - (1) Is available to all customers without a recurring charge;
  - (2) Is provided upon customer request without charge to customers who have elected non-published telephone numbers;
  - (3) Is available without a non-recurring charge to customers who certify that Caller ID threatens their health or safety; and
  - (4) Is available without a non-recurring charge when requested with installation of basic service;
- (n) A blocking option for pay-per-call calls, such as blocking all 900 or all 976 calls;
- (o) The ability to report service problems to the customer's basic service provider on a 24-hour basis, 7 days a week; and
- (p) Automatic Number Identification (ANI) to other carriers which accurately identifies the telephone number of the calling party.

Puc 402.03 "Commission" means the New Hampshire public utilities commission.

Puc 402.04 "Competitive Local Exchange Carrier (CLEC)" means a telecommunications carrier, and its successors and assigns, authorized by the commission after July 23, 1995 to provide telecommunications service for the public in a particular area within New Hampshire.

Puc 402.05 "Competitive Toll Provider (CTP)" means any carrier authorized to provide intraLATA toll service, except for an ILEC that provides toll service exclusively to its local service customers in New Hampshire.

Puc 402.06 "Contact information" means:

- (a) Name;
- (b) Title;
- (c) Complete postal mailing address;
- (d) Telephone number; and
- (e) Email address.

Puc 402.07 "Cyber attack" means a deliberate, unauthorized exploitation of computer systems, technology-dependent enterprises and networks.

Puc 402.08 "Dial tone" means an aural tone that indicates to the telephone end-user that the handset is able to place a call.

Puc 402.09 "Excepted Local Exchange Carrier (ELEC)" means:

- (a) An incumbent local exchange carrier providing telephone services to 25,000 or more lines; or
- (b) An incumbent local exchange carrier providing service to less than 25,000 lines that elects to be excepted, upon the filing with the commission of a written notice advising of said election; or
- (c) Any provider of telecommunications services that is not an incumbent local exchange carrier.

~~Puc 402.10 "Gross utility revenue" means revenue earned by the utility from New Hampshire customers for utility service. Gross utility revenue includes any payphone revenues.~~

Puc 402.12~~Puc 402.11~~ "Incumbent local exchange carrier (ILEC)" means a telecommunications carrier, and its successors and assigns, authorized under law or by the commission before July 23, 1995, to provide telephone exchange service.

Puc 402.13~~Puc 402.12~~ "Incumbent local exchange carrier operating as an excepted local exchange carrier (ILEC-ELEC)" means an ILEC which also meets the definition of an ELEC.

Puc 402.14~~Puc 402.13~~ "Incumbent local exchange carrier not operating as an excepted local exchange carrier (ILEC-NELEC)" means an ILEC which does not meet the definition of an ELEC.

Puc 402.15~~Puc 402.14~~ “Payphone” means any telephone made available to the public on a fee-per-call basis, independent of any other commercial transaction, for the purpose of making telephone calls, whether the telephone is activated by depositing coins, by calling collect, or by using a credit card.

Puc 402.16~~Puc 402.15~~ “Payphone Service Provider (PSP)” means a person or entity that offers telephone service on a fee per call basis with payment due at the time of the call, and that has been issued a certificate of registration by the commission to provide payphone service.

Puc 402.17~~Puc 402.16~~ “Reportable accident” means an accident occurring in New Hampshire in connection with the utility’s property or facilities in which:

(a) A fatality has occurred;

~~(b) Any person has received an injury which requires in-patient hospitalization, to the extent known by the utility.~~ A serious injury has occurred;

~~(c) Any person has received an injury which incapacitates that person from active work for a total of 6 days or more during the 10 days immediately following the accident, to the extent known by the utility;~~

(d) Property damage over \$25100,000 has occurred, to the extent known by the utility;

(e) An electrical contact has occurred;

(f) A ~~public road~~state highway has been closed; or

~~(g) Damage to the utility’s facilities interrupts service to all of the utility’s customers in an entire telephone exchange or municipality for a period of 15 minutes or longer; or~~

~~(h)(g)~~ Consequences of a magnitude or severity comparable to those described in (a) through ~~(g)~~ above are involved.

Puc 402.18~~Puc 402.17~~ “Rural Telephone Company (RTC)” means an ILEC meeting the definition of rural telephone company under 47 U.S.C. § 153(44).

Puc 402.19~~Puc 402.18~~ “Secretary of state certificate of authority” means the certificate of legal existence, certificate of authority, or other certification issued by the New Hampshire secretary of state which authorizes an entity to transact business in the state.

Puc 402.20~~Puc 402.19~~ “Significant facility disruption” means ~~the inability of an ILEC or ILEC’s facilities to reliably carry telephone messages in New Hampshire that affects an outage of facilities owned, operated, leased or otherwise utilized by a telephone utility that is at least 30 minutes in duration and that:~~

**Comment [kb1]:** NHTA renews its objection that this rule is overly burdensome, ambiguous in its standards and beyond the scope of the Commission’s jurisdiction regarding ELEC service to end users.

**Comment [kb2]:** NHTA renews its objection that this rule is unnecessary as it is redundant of the requirements in Part 4 of the FCC rules, and that the Commission has no authority to impose this on ELECs.

- ~~(a) all customers in a similar manner such as interconnection failures; or~~
- ~~(a) where dial tone is interrupted for potentially affects at least 900,000 user minutes.;~~
- (b) affects at least 1,350 DS3 minutes;
- (c) potentially affects any special offices and facilities listed in 47 C.F.R. § 4.5(b); or
- ~~(b)(d) potentially affects a 911 special facility as defined in 47 C.F.R. § 4.5(c).~~

Puc 402.21~~Puc 402.20~~ “Telecommunications relay service (TRS)” means a service that enables telephone communication between hearing people and people who are deaf, hard of hearing or speech impaired.

Puc 402.22~~Puc 402.21~~ “Telephone utility” means a corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court owning, operating or managing any plant or equipment or any part of the same for the conveyance of telephone messages for the public, including incumbent local exchange carriers, and excepted local exchange carriers.

Puc 402.23~~Puc 402.22~~ “Transfer of customer base” means the acquisition through a sale or transfer of all or a part of the customer base of another carrier.

Puc 402.24~~Puc 402.23~~ “Utility filing information” means:

- (a) The utility’s legal name;
- (b) The utility’s telephone utility identification number, if one has been provided by the commission;
- (c) Each trade name the utility uses with its customers;
- (d) The utility’s complete mailing address;
- (e) The utility’s telephone number;
- (f) The utility’s email address;
- (g) The utility’s web site address;
- (h) The utility’s federal employer identification number (FEIN);
- (i) The printed name and title of the authorized representative signing the form;
- (j) The current date; and

(k) Certification by signature that the information on the form is true and correct to the best of the authorized representative's knowledge and belief, subject to the penalty for making unsworn false statements under RSA 641:3.

Puc 402.25~~Puc 402.24~~ "Voice service" means the conveyance of telephone messages for the public excluding IP-enabled service and voice over internet protocol service as defined in RSA 362:7 and cellular mobile radio communications service.

**Comment [kb3]:** NECTA renews its objection to using this term instead of "telecommunications" and "telecommunications services" in the rules, but takes no position on Staff's edit.

#### PART Puc 403 TELEPHONE UTILITY REQUIREMENTS

Puc 403.01 Purpose. The purpose of this part is to establish requirements for all telephone utilities.

Puc 403.02 Application. ILECs and ELECs shall comply with Puc 403 through 409.



PART Puc 404 TELEPHONE UTILITY REGULATORY REQUIREMENTS

Puc 404.01 Registration of Telephone Utilities Previously Authorized as CLECs, CTPs, PSPs, or ILECs.

**Comment [kb4]:** NECTA renews its objection to language that would eliminate CLEC and CTP status, and that would require voice service (rather than telecommunications service) to be a prerequisite for ELEC registration.

(a) Each entity registered on the effective date of this rule as a CLEC whose registered services include voice service shall become registered as an ELEC authorized to provide voice service in the same area for which it was authorized by the CLEC registration. Each such CLEC ~~that has not previously been issued a telephone utility identification number shall be provided with one, a telephone utility identification number, at which time its ELEC authorization shall commence and its CLEC authorization shall expire.~~

(b) Each entity registered on the effective date of this rule as a CLEC whose registered services do not include voice service shall be notified that ELEC registration is not required for the provision of its services, ~~and its CLEC authorization shall expire.~~

(c) Each entity registered on the effective date of this rule as a CTP shall become registered as an ELEC authorized to provide voice service in the same area for which it was authorized by the CTP registration. Each such CTP ~~that has not previously been issued a telephone utility identification number shall be provided with one, a telephone utility identification number, at which time its ELEC authorization shall commence and its CTP authorization shall expire.~~

(d) Each entity operating on the effective date of this rule as an ILEC ~~that is also an ELEC shall become registered as an ELEC shall be~~ authorized to provide voice service in its ILEC franchise area and shall be provided with a telephone utility identification number.

(e) Each entity registered on the effective date of this rule as a PSP shall become registered as an ELEC authorized to provide pay telephone service in the same area for which it was authorized by the PSP registration. Each such PSP ~~that has not previously been issued a telephone utility identification number shall be provided with one, a telephone utility identification number, at which time its ELEC authorization shall commence and its PSP authorization shall expire.~~

(f) ~~Previous CLEC, CTP and PSP authorizations issued by the commission shall expire ninety days after the effective date of these rules. Each entity operating on the effective date of this rule as an ELEC that is not an ELEC shall be provided with a telephone utility identification number.~~

Puc 404.02 Authorization Required to Provide Voice Service.

(a) No person or entity shall provide voice services in any area of New Hampshire unless and until that person is registered as an ELEC authorized in that area.

**Comment [kb5]:** NHTA does not object to this rule, but maintains its position that language should be added to clarify that no approval will be granted until the RTC has had the opportunity to propose the ETC requirements and the Commission has made its decision.

**Comment [kb6]:** Based upon the holding in the *Bretton Woods* case, NECTA renews its objection to including an examination of ETC criteria in the context of the Commission's initial review of an application to provide service in the territory of a rural carrier. NECTA believes that if such a review occurs, it should be in a separate adjudicative proceeding subsequent to the initial approval.



(b) To apply for authorization to provide voice service a person or entity shall file a completed Form T-8 Application for Registration to Provide Voice Service.

(c) If the applicant seeks to provide service in the territory of an RTC, such RTC shall be provided an opportunity to propose to the commission that the ELEC be required by the commission to meet the requirements of 47 U.S.C. § 253(f) regarding eligible telecommunications carrier qualifications. The commission shall determine whether to impose such a requirement through an adjudicative proceeding.

~~(e)(d)~~ If an applicant seeking to provide service in the territory of an RTC indicates in its petition that it will meet the requirements of 47 U.S.C. § 253(f) regarding eligible telecommunications carrier qualifications, then subsection (c) above shall not apply.

~~(d)(c)~~ Unless the commission denies an application for ELEC registration pursuant to Puc 404.03, the commission shall ~~issue a telephone utility identification number authorizing the applicant to provide voice service in the specified territory and issue the applicant a telephone utility identification number if the applicant was not previously assigned one.~~ Such authorization may include any requirement imposed pursuant to (c) above.

Puc 404.03 Denial of Registration. When determining whether to grant or deny an application for registration pursuant to Puc 404.02, the following provisions shall apply:

(a) The commission shall deny an application for registration if, and only if, it determines that the applicant or its general partners, corporate officers, directors of the company, limited liability company managers or officers:

- (1) Have committed an act that would constitute good cause to find a violation under these rules;
- (2) Have, 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;
- (3) Knowingly made a material false statement of fact in the application; or
- (4) Demonstrated on its application such flagrant or repeated violations of the requirements to operate as a utility or a competitive carrier in other state(s) that the commission determines that it is not in the public good to allow registration; and

(b) In the event that the commission denies an application for registration, the applicant may, within 30 days, file a request for reconsideration.

Puc 404.04 Assessment.

~~(a) Telephone utilities shall be assessed pursuant to RSA 363-A:2 based on their gross utility revenues, and shall remit such assessment to the commission, pursuant to RSA 363-A:4.~~

~~(b) When a telephone utility offers a combination of voice services and non-utility services such as Internet or video for a single price, the gross utility revenue portion shall be calculated based on the prices at which the voice services are offered on a standalone basis.~~

~~(c) If the utility does not offer the voice services on a standalone basis, the calculation shall be based on the prices at which the largest HLC in the state offers such services.~~

**Puc 404.05 Tariff for Wholesale Services.**

~~(a) Telephone utilities that offer wholesale services to other carriers shall maintain a complete tariff of such services with the commission pursuant to Puc 1600 for:~~

~~(1) Services required by 47 U.S.C. § 251(c);~~

~~(2) Services referred to as tariffed in interconnection agreements filed pursuant to 47 U.S.C. § 252; and~~

~~(3) including but not limited to intrastate intrastate access service, to other telecommunications carriers shall maintain a complete tariff of such services with the commission, pursuant to Puc 1600.~~

~~(a)(b) When a telephone utility's intrastate access tariff is the same as its interstate access tariff the interstate tariff may be filed pursuant to Puc 1600 as the intrastate tariff.~~

**Puc 404.06 Web Site.**

~~(a) Each ELEC and ILEC shall post maintain a web site listing the rates, fares, charges, prices, terms, and conditions of all voice services offered to end users, and shall ensure that the web site is accessible to the public on its publicly available website.~~

~~(b) ILECs not operating as ELECs whose tariffs are published on the commission's website shall have met the requirement of (a) above.~~

**Puc 404.07 Accident Notifications.**

~~(a) HLECs and HLECs shall notify the commission of reportable accidents occurring within the state of New Hampshire in connection with its facilities or property.~~

~~(b) The HLEC or HLEC shall notify the commission by telephone as follows:~~

~~(1) During regular commission hours, the HLEC or HLEC shall contact the first representative listed for telephone accident notifications on the accident notification roster, at the commission telephone number provided, and, if that representative is~~

unavailable, the ELIC or HLC shall work sequentially through the accident notification roster until it speaks directly with one of the commission representatives listed therein:

(2) Outside of regular commission hours, the ELIC or HLC shall:

- a. Contact a commission representative listed on the accident notification roster at the after-hours telephone number provided, starting with the representative listed for telephone accident notifications, and working sequentially through the list until the ELIC or HLC speaks directly with one of the commission representatives listed therein; and
- b. If direct contact with a commission representative pursuant to a. above is not successful, the ELIC or HLC shall call the commission general telephone listing, provided in the accident notification roster, and leave a voice mail message:
  1. Identifying the ELIC or HLC and the name and return telephone number of the individual attempting to report; and
  2. Stating that an accident requiring notification has occurred and will be reported when the commission next opens;

(3) The ELIC or HLC shall provide the commission with the following information:

- a. The name of the ELIC or HLC;
- b. The name of the person making the report and the telephone number at which they can be reached;
- c. A brief description of the accident or event and location;
- d. The time at which:
  1. The accident or event occurred; and
  2. The ELIC or HLC was first notified of the accident or event;
- e. A description of any fatalities, personal injuries, and damages; and
- f. Any other information relevant to the cause of the accident and the extent of the damages; and

(4) Notification of a reportable accident shall not be deemed complete until an ELIC's or HLC's representative:

~~a. Speaks to a commission representative listed on the accident notification roster; and~~

~~b. Communicates to the commission representative the information required by (3) above;~~

~~(a) In addition to notifying the commission, an ELEC or ILEC shall file Form T-3 Utility Accident Report as described in Pub 409.03, for each reportable accident within 10 business days of the accident. Each ELEC and ILEC shall notify the commission immediately by telephone when it becomes aware that a reportable accident has occurred in connection with its facilities or property within the state of New Hampshire.~~

~~(b) The ELEC or ILEC shall contact the first representative listed for telephone accident notifications on the accident notification roster, at the telephone number provided, and, if that representative is unavailable, the ELEC or ILEC shall work sequentially through the accident notification roster until it speaks directly with one of the commission representatives listed therein.~~

~~(c) If direct contact with a commission representative is not successful, the ELEC or ILEC shall call the commission general telephone listing, provided in the accident notification roster, and leave a voice mail message:~~

~~(1) Identifying the ELEC or ILEC and the name and return telephone number of the individual attempting to report; and~~

~~(2) Stating that an accident requiring notification has occurred.~~

~~(d) The ELEC or ILEC shall provide the commission with the following information as soon as direct contact is made with a commission representative:~~

~~(1) The name of the ELEC or ILEC;~~

~~(2) The name of the person making the report and the telephone number at which such person can be reached;~~

~~(3) A brief description of the accident or event and location;~~

~~(4) The time at which:~~

~~a. The accident or event occurred; and~~

~~b. The ELEC or ILEC was first notified of the accident or event;~~

~~(5) A description of any fatalities, personal injuries, and damages; and~~

**Comment [kb7]:** NECTA does not object to these revisions but recommends electronic notification as proposed in 406 03 (a) rather than notice by telephone

**Comment [kb8]:** NHTA believes that this language is an improvement over that which was originally proposed, but maintains its objection that this rule is beyond the scope of the Commission's jurisdiction regarding ELEC service to end users.

(6) Any other information relevant to the cause of the accident and the extent of the damages.

(e) Direct contact required by (d) above is made when:

(1) a commission representative answers a telephone call from the ELEC or ILEC representative calling pursuant to (b) above; or

(2) a commission representative returns a call and speaks directly with the ELEC's or ILEC's representative in response to (c) above.

(f) Notification of a reportable accident shall be deemed complete once the information required in (d) above has been conveyed to a commission representative.

(g) In addition to notifying the commission, an ELEC or ILEC shall file Form F-3 Utility Accident Report as described in Puc 409.03, for each reportable accident within 10 business days of the accident.

**Puc 404.08 Payphone Service.**

**(a) Any payphone shall provide, without charge to the customer:**

**(1) A dial tone signal;**

**(2) 911 emergency access; and**

**(3) Access to TRS.**

**(b) An ELEC or ILEC that maintains payphones shall allow and assist the commission when it shall, from time to time, inspect the payphones it maintains and the manner in which each such ELEC or ILEC has conformed to statutes, rules, and orders applicable to payphones.**

Puc 404.09 TRS.

(a) ELECs and ILECs shall provide, directly or indirectly, telecommunications relay services pursuant to 47 C.F.R. § 64.603.

(b) ELECs providing local service and ILECs shall remit the required TRS charges per customer ordered by the commission, on or before the 20th day of each month, to the TRS trustee account designated by the commission.

(c) ELECs and ILECs shall provide the New Hampshire relay provider with all information necessary to ensure local calls placed through the TRS are not billed as toll calls and that toll calls placed through the TRS are not treated as local calls.

Puc 404.10 E911.

(a) ELECs and ILECs shall make available the universal emergency telephone number 911 pursuant to the requirements of the department of safety bureau of emergency communications or its successor agency.

(b) ELECs providing local service and ILECs shall collect the E911 surcharge required by RSA 106-H:9 in the amount ordered by the commission.

(c) ELECs and ILECs shall remit monthly the amount collected pursuant to (b) above to:

Department of Safety Bureau of Emergency Communications  
33 Hazen Drive  
Concord, New Hampshire, 03305.

Puc 404.11 General Preservation and Availability of Records.

(a) ELECs and ILECs shall preserve all records required by Puc 200, 400, and 1600 for a period of 2 years unless otherwise designated by the commission's rules governing the preservation of records.

(b) ELECs and ILECs shall make available the records required to be preserved pursuant to (a) above to the commission, or its designated representative, for examination during the telephone utility's normal business hours.

PART Puc 405 CONSUMER PROTECTION

Puc 405.01 Notices to Customers.

(a) Unless otherwise specified, any notice to customers required by these rules shall:

- (1) Include the company name and relevant contact telephone number;
- (2) Be provided:

- a. In a separate mailing;
- b. As a bill insert; or
- c. By clear and conspicuous notice printed on the customer's bill; and

(3) Be sent separately from communications that would otherwise include only promotional materials.

(b) Notices pursuant to this section may be delivered electronically to those customers who have elected to receive bills and notices electronically.

(c) Electronic delivery pursuant to (b) above shall not include posting a notice on a publicly available website without direct notification to the customer pursuant to this section.

Puc 405.02 Slamming Prohibited.

(a) ELECs and ILECs shall comply with RSA 374:28-a and FCC slamming regulations, 47 C.F.R. § 64.1100-1170 and 1190.

(b) If, after notice and opportunity for hearing, the commission finds that an ELEC or ILEC has switched a customer's selection of carrier without authorization, the ELEC or ILEC shall be subject to an administrative fine, not to exceed \$2,000 per customer line switched without authorization, pursuant to RSA 374:28-a, II.

(c) After notice and opportunity for hearing, the commission may withdraw any authorization granted to an ELEC or ILEC found to have engaged in flagrant and repeated slamming in violation of RSA 374:28-a.

Puc 405.03 Transfers of Customer Base.

(a) In connection with any transfer of customer base in which the acquiring carrier is a telephone utility, the acquiring carrier shall file with the commission the following documents:

- (1) A copy of the letter notification and any subsequent notices of changed information submitted to the FCC pursuant to 47 C.F.R. § 64.1120(e), to be filed at the same time of submission to the FCC; and
- (2) Form T-4 Transfer of Customer Base Report as described in Puc 409.04, to be filed 30 days prior to the occurrence of the transfer of customer base.

(b) In connection with any transfer of customer base in which the acquiring carrier is not a telephone utility, the selling or transferring carrier shall file with the commission the following documents:



- (1) A copy of the letter notification and any subsequent notices of changed information submitted by the acquiring carrier to the FCC pursuant to 47 C.F.R. § 64.1120(e), to be filed within 3 days of submission to the FCC; and
- (2) Form T-4 Transfer of Customer Base Report as described in Puc 409.04, to be filed 30 days prior to the occurrence of the transfer of customer base.

**Puc 405.04 Cramming Prohibited.**

**(a) For purposes of this section:**

**(1) "Cramming"** means a submission or inclusion of unauthorized, misleading, or deceptive charges for products or services on a customer's utility bill. Cramming does not include charges required or explicitly authorized by law.

**(2) "Billing aggregator"** means a person, other than a service provider, who forwards a charge for a product or service offered by a service provider to the utility company for billing to the customer. ~~Telephone utilities shall not engage in cramming.~~

**(3) "Service provider"** means a person that offers a product or service to a customer and directly or indirectly sends the billable charges or credits to the utility company for billing to the customer. ~~If, after notice and opportunity for hearing, the commission finds that a telephone utility has engaged in cramming, the telephone utility shall be subject to an administrative fine not to exceed \$1,000 per offense, pursuant to RSA 378:46.~~

**(a)(b) Telephone utilities shall not disconnect voice service based on a customer's failure to pay disputed charges from billing aggregators or service providers.**

**Puc 405.05 Number Portability Notice.** Before terminating any customer's telephone service for any reason other than customer request, ELECs and ILECs shall provide 10 days' notice to the customer. This notice shall include a description of the process by which the customer may transfer the telephone number to another provider.

**Puc 405.06 Complaints.** The commission shall accept and resolve complaints from telephone utility customers regarding alleged violations of the requirements of Puc 405.01 through 405.05.

**Puc 405.07 Public Interest Payphones**

**(a) For purposes of this section:**

**(1) "Location provider"** means the property owner on whose property a payphone is situated:

(2) "Public interest payphone (PIP)" means a payphone or payphone site which the commission has determined to be necessary in the interest of health, safety and welfare, where there would not otherwise be a payphone, in accordance with 47 U.S.C. §276(b)(2); and

(3) "Sent-paid" means paid by depositing coins in the payphone.

(b) A payphone shall be designated as a PIP when the commission finds that the payphone meets all of criteria listed in (c) below, unless the commission grants a waiver of any criterion pursuant to (e) below.

(c) The criteria for designating a payphone as a PIP are:

- (1) The proposed PIP fulfills a public welfare, health or safety, policy objective;
- (2) The proposed PIP would not otherwise remain or be placed at its location by the operation of the competitive marketplace;
- (3) The proposed PIP is a single, stand-alone payphone and not one of a bank of payphones;
- (4) The proposed PIP is not a coinless payphone;
- (5) The proposed PIP accepts incoming, sent-paid phone calls;
- (6) The proposed PIP is physically accessible to the general public 24 hours per day, unless extraordinary circumstances exist;
- (7) The proposed PIP is located no less than 750 feet away from any other payphone, as measured along the route of ordinary pedestrian travel; and
- (8) The proposed PIP provides zero compensation to the location provider or payphone lessee, whether such compensation is related to its placement or its revenues.

(d) For the purpose of (c)(7) above, any other payphone shall exclude a payphone located within a business establishment, unless that payphone is physically accessible to the public during the regular operating hours of that business establishment.

(e) Any person seeking waiver of any of the criteria listed in (c) above, shall file a petition with the commission demonstrating extraordinary circumstances, pursuant to Puc 201.05.

(f) The following entities, provided they do not currently have a signed contract with an ELEC for the provision of any payphone, may file a petition for PIP designation:

(1) A private individual;

(2) A private group; or

(3) A federal, state, or local government agency.

(g) A petition for PIP designation shall:

(1) Identify the exact location desired for the PIP, described by reference to existing landmarks in feet and inches;

(2) State that the petitioner has no contract with any ELEC for payphone service;

(3) State the public welfare, health or safety policy objective which the proposed PIP will fulfill;

(4) State the name and telephone number of the location provider where the proposed PIP is to be located;

(5) Indicate whether the location provider has consented to the placement of the PIP;

(6) State that the location provider has no contract with any ELEC providing phone service;

(7) Explain how the proposed PIP meets each of the criteria listed in (e) above; and

(8) State whether a waiver of any of the criteria is requested and provide support for any waiver so requested.

(h) Upon receipt of a petition for PIP designation, the commission shall commence an investigation to determine whether the proposed PIP meets the criteria listed in (e) above.

(i) Notwithstanding whether the location for the proposed PIP meets the requirements in (e) above, the commission shall not designate a payphone as a PIP if:

(1) The petitioner indicates, pursuant to (f)(5) above, that the location provider does not consent to the placement of the proposed PIP; or

(2) The location provider objects to the petition in writing prior to the designation of the PIP.

(j) The commission's staff shall submit a detailed report of its investigation and conclusions to:

(1) The commission;

(2) The petitioner;

(3) The office of the consumer advocate; and

(4) The location provider.

(k) After reviewing the commission staff's report, the commission shall either:

(1) Determine that the proposed site meets the criteria and issue an order designating the payphone as a PIP; or

(2) Determine that the proposed site does not meet the criteria and notify the petitioner and any parties of the reasons for the negative conclusion.

(l) The persons notified pursuant to (k) above shall have 30 days from the date of notification to:

(1) Rectify any deficiencies identified by the commission, or

(2) Request a public hearing on the issues.

(m) A request for public hearing, made pursuant to (l)(2) above, shall identify the issues, including but not limited to:

(1) Requests for waivers of any listed criteria, if any; and

(2) Objections to the commission staff's report, if any.

(n) The commission shall grant the request for public hearing and provide notice of same by publication of an order published in a newspaper of local circulation in the affected geographic area.

(o) If, based on the evidence presented at hearing, the commission determines that the proposed site meets the criteria or that a waiver of the criteria is warranted, it shall issue an order designating the payphone as a PIP.

(p) The commission shall compensate ELEC's for providing PIP's from the fund created by RSA 374:22-q, I.

(q) Upon receipt of a request from the location provider to remove a PIP, the commission shall remove the PIP designation immediately, where upon:

(1) The ELEC operator of the PIP to provide clear and conspicuous notice of the change in designation on the PIP itself; and

(2) Such notice shall include the toll-free number of the commission's Consumer Affairs Division and the commission's web site address.

(r) Subsequent to the designation of a PIP, any party may petition, or the commission may initiate a proceeding, for the removal of the PIP designation of any payphone, pursuant to the following process:

- (1) A petition for removal shall detail the reasons the PIP no longer meets the criteria listed in (b) above;
- (2) The petitioner for removal shall send a copy of the petition to the original petitioner for the PIP designation;
- (3) The commission shall serve the order of notice upon the petitioner and all parties to the original PIP designation case;
- (4) The petitioner for removal shall publish the order of notice pursuant to Puc 203.01, but shall publish the notice in the form of an advertisement rather than as a legal notice; and
- (5) Prior to the public hearing, the commission's staff shall conduct an investigation and submit a report pursuant to the process described in (h) above.

#### PART Puc 406 TELEPHONE UTILITY EQUIPMENT AND FACILITIES

##### Puc 406.01 Construction, Installation and Maintenance of Physical Plant.

(a) Telephone utilities shall construct, install and maintain ~~its~~ their plant, structures, equipment, and lines in accordance with the National Electrical Safety Code, 2012 edition.

(b) Telephone utilities shall construct, install and maintain ~~its-their~~ plant, structures, equipment, and lines to prevent interference with service furnished by other carriers and by other public service facilities, such as cable, fire alarm, electric, water, sewer, gas, or steam facilities.

Puc 406.02 Emergency Operations. ELEC's and ILEC's shall make reasonable provisions to meet emergencies resulting from any of the following:

- (a) Failures of commercial power service;
- (b) Sudden and prolonged increases in traffic;
- (c) Illness, strike, or labor unrest of employees;
- (d) Failure of a supplier to deliver materials or supplies;
- (e) Civil unrest;
- (f) Cyber attacks; or

(g) Any other significant disasters, including, but not limited to, fire, storms, floods, or other “acts of God” causing loss of communication to a large population or area of the state to the extent that the magnitude or duration is foreseeable.

**Puc 406.03 Significant Facility Disruption.**

~~(a) ELEC and ILEC shall report significant facility disruptions by calling the commission e-mail notification to [Outages@puc.nh.gov](mailto:Outages@puc.nh.gov) within the following time frames 60 minutes of occurrence:~~

~~(b) The e-mail notification sent pursuant to (a) above must accept reply messages from the commission.~~

~~(a)(c) In the event the ELEC or ILEC does not receive confirmation of receipt of the e-mail from the commission, it shall place a call to the Commission’s main number to report the significant facility disruption.~~

~~(b) For disruptions which occur during regular commission hours, within 60 minutes of occurrence; and~~

~~(c) Otherwise, by 9:00 a.m. on the business day following the outage; and~~

(d) ELECs and ILECs shall report significant facility disruptions in writing to the commission on Form T-5 Facility Disruption Report as described in Puc 409.05, which shall be filed within 10 days of the disruption.

**PART Puc 407 ELEC AND ILEC INTERCARRIER OBLIGATIONS**

Puc 407.01 Intercompany Cooperation. ELECs and ILECs shall cooperate with all carriers to ensure a ubiquitous telecommunications network in New Hampshire capable of completing all calls, over which customers perceive no transition from one carrier to the next.

Puc 407.02 Provision of Interconnection. ELECs and ILECs shall interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.

**Puc 407.03 Network Changes.**

~~(a) Network changes made by an ELEC or ILEC that affect direct interconnection shall be backward compatible for 3 years from the introduction of the change.~~

At least 6 months prior to network changes which might affect existing or pending interconnections, ELECs and ILECs shall make available necessary information relating to network design and technical standards, and information concerning changes to the network that affect interconnection.

**Comment [kb9]:** NHTA renews its objection to this rule. The Commission has no authority to apply this rule to ELECs as it is beyond the scope of the Commission’s jurisdiction regarding service to end users.

**Comment [kb10]:** NECTA does not object to these changes, but believes the notice should be required within 120 minutes of occurrence to be consistent with federal rules.

~~Puc 407.04~~Puc 407.03 Switching and Signaling Obligations.

(a) ELECs and ILECs shall provide answer and disconnect supervision in accordance with industry standards.

(b) ELECs and ILECs shall deliver to their customers all calls unless screened or blocked at the customer's request.

(c) ELECs and ILECs shall provide access to operator services pursuant to the Telecommunications Act of 1996.

(d) ELECs and ILECs shall provide reasonable access to all signaling information pursuant to industry protocols.

(e) ELECs and ILECs shall not interfere with the transmission of signaling information.

(f) ELECs and ILECs shall communicate, on a demand and preventative basis, information regarding maintenance necessary to ensure successful call completion.

~~Puc 407.05~~Puc 407.04 Carrier to Carrier Migrations.

(a) ELECs and ILECs shall accept and respond to requests for customer information, service and feature information, and migration and installation orders without regard to whether the service is being resold or migrated.

(b) When migrating end users, ELECs and ILECs shall work together in good faith with other carriers to minimize or avoid any problems, including, but not limited to, service interruptions and billing problems.

(c) When porting a customer's number to another carrier, ELECs and ILECs shall release the number without delay or consideration of any issue such as the customer's account balance.

~~(d) ELECs and ILECs that have implemented a long-term database number portability method pursuant to 47 C.F.R. § 52.23 shall port a customer's number to another carrier within one-business-day-of-the-request in accordance with 47 C.F.R. § 52.35.~~

~~(e) ELECs and ILECs shall not market to retain a customer as the result of receiving a request for a customer service record.~~

~~Puc 407.06~~Puc 407.05 Directories.

~~(a) ELEC's and ILEC's shall permit any If a carrier wishes to list that carrier's its customers' telephone numbers in the same ELEC or ILEC's published white and yellow pages telephone directory or directories in which an ELEC or ILEC causes its own customers' telephone numbers to be published, the ELEC or ILEC must permit such listing on a non-discriminatory basis.~~



(b) ELECs and ILECs shall provide publishers and any other person or business with reasonable, nondiscriminatory access to subscriber listing information for the purpose of publishing telephone directories or providing directory assistance, and all such information shall be provided at reasonable rates and subject to reasonable terms and conditions.

(c) ELECs and ILECs shall not publish or list numbers for which other ELECs or ILECs request non-directory listed or non-published status.

#### PART Puc 408 ELEC AND ILEC COMMON REPORTS AND FILINGS

##### Puc 408.01 Due Annually.

(a) Form T-1 Contact and Trade Name Information described in Puc 409.01 shall be due on or before March 31 of each year, and shall cover the most recent fiscal year.

(b) Form T-2 Assessment Report described in Puc 409.02 shall be due on or before March 31 of each year, and shall cover the most recent fiscal year.

(c) If the ELEC or ILEC operated any payphones during the previous year, it shall file Form T-6 Payphone Location Report described in Puc 409.06, on or before March 31 of each year, covering the most recent fiscal year.

Puc 408.02 Event-Driven. ELECs and ILECs shall file the following reports with the commission within 30 days of the event that necessitates the filing, unless otherwise specified:

(a) A Form T-1 Contact and Trade Name Information as described in Puc 409.01, on the occurrence of any change in the information on the ELEC's or ILEC's most recently filed T-1;

(b) A Form T-3 Utility Accident Report as described in Puc 409.03, on the occurrence of a reportable accident pursuant to Puc 404.07(c);

(c) A Form T-4 Transfer of Customer Base Report as described in Puc 409.04, 30 days prior to the occurrence of a transfer of customer base;

(d) A Form T-5 Facility Disruption Report as described in Puc 409.05, on the occurrence of a significant facility disruption, pursuant to Puc 406.03(c);

(e) A Form T-7 Exchange Eligibility Report as described in Puc 409.07, when becoming eligible to provide service in an exchange; and

(f) A Form T-8 Application for Registration to Provide Voice Service as described in Puc 409.08 prior to offering such service in an area in which the applicant is not yet authorized.

Puc 408.03 Submitting Reports and Forms. ELECs and ILECs shall submit all reports and forms to the commission by the following methods:

(a) Mail or other delivery to:

New Hampshire Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, NH 03301-2429; or

(b) Electronic report filing as the commission shall provide on the commission website pursuant to Puc 202.05(b).

(c) ELECs and ILECs making an electronic filing pursuant to (b) above must comply with Puc 202.08 regarding filing requirements.

Puc 408.04 Confidential Treatment. ELECs and ILECs which seek confidential treatment of any report or any portion of a report required by this section shall comply with the applicable provisions of Puc 201.04, Puc 201.06, Puc 201.07 and Puc 203.08.

#### PART Puc 409 ELEC AND ILEC COMMON FORMS

Puc 409.01 Form T-1 Contact and Trade Name Information. The "Contact and Trade Name Information" form required by Puc 408.01(a), Puc 408.02(a), Puc 409.04(e), and Puc 409.08(h), shall include:

- (a) Utility filing information;
- (b) The toll-free number and email address for customer service;
- (c) The toll-free number and email address for repair service;
- (d) The hours of operation for customer service and repair service;
- (e) An indication of whether the ELEC or ILEC wishes to receive reports and reminders via email;
- (f) The names and titles of the principal officers of the ELEC or ILEC;
- (g) Contact information for the person responsible for regulatory matters;
- (h) Contact information for the person that the commission's consumer affairs division shall call regarding consumer complaints from customers;
- (i) Contact information for the director of the customer service department;
- (j) Contact information for the officer responsible for customer service; and
- (k) Contact information for the person responsible for paying assessment bills.

Puc 409.02 Form T-2 Assessment Report. The “Assessment Report” required by Puc 408.01(b), shall include:

- (a) Utility filing information;
- (b) The gross utility revenue received during the period;
- (c) The number of New Hampshire telephone numbers in use by the ELEC’s or ILEC’s customers; and
- (d) A sworn and notarized attestation that states that the report is complete, true and accurate.

Puc 409.03 Form T-3 Utility Accident Report. The “Utility Accident Report” required by Puc 408.02(b), shall include:

- (a) Utility filing information;
- (b) Date of the report;
- (c) Information regarding each reportable accident for the period, to include:
  - (1) The date of the accident;
  - (2) The location of the accident;
  - (3) A description of the extent of any property damage;
  - (4) A description of the extent of any injuries;
  - (5) The name of any injured person;
  - (6) An indication of whether any injury was fatal;
  - (7) An indication of whether the accident involved electric contact; and
  - (8) Location information for any poles involved in the accident.

Puc 409.04 Form T-4 Transfer of Customer Base Report. The “Transfer of Customer Base Report” form required by Puc 405.03 shall include:

- (a) Utility filing information for the selling or transferring company;
- (b) Utility filing information for the acquiring company;
- (c) The number of New Hampshire customers affected;
- (d) The effective date of the transfer; and

(e) An attached Form T-1 Contact and Trade Name Information, for the acquiring company, if the acquiring company is a telephone utility, as specified in Puc 409.01.

Puc 409.05 Form T-5 Facility Disruption Report. The "Facility Disruption Report" required by Puc 406.03(c), shall include:

- (a) Utility filing information;
- (b) The date of the report;
- (c) The date and time of the outage;
- (d) The location of the outage;
- (e) Whether an entire exchange was affected, to the best knowledge of the ELEC or ILEC;
- (f) The number of affected access lines;
- (g) The cause of the outage;
- (h) The date and time service was restored;
- (i) The name of the person contacted at the commission; and
- (j) The date and time the commission was contacted.

Puc 409.06 Form T-6 Payphone Location Report. The "Payphone Location Report" required by Puc 408.01(c), shall include:

- (a) Utility filing information for the payphone owner;
- (b) For each payphone the ELEC or ILEC has in service:
  - (1) Telephone number;
  - (2) Name of location;
  - (3) Street address;
  - (4) City or town and zip code;
  - (5) An indication of whether the payphone is located within 750 feet of another payphone; and
  - (6) An indication of whether the phone accepts coins; and

(c) For each payphone the ELEC or ILEC has removed from service since filing the previous report:

- (1) Telephone number;
- (2) Name of location;
- (3) Street address;
- (4) City or town and zip code;
- (5) An indication of whether the payphone is located within 750 feet of another payphone; and
- (6) An indication of whether the phone accepts coins.

Puc 409.07 Form T-7 Exchange Eligibility Report. The "Exchange Eligibility Report" required by Puc 408.02(e), shall include:

(a) Utility filing information;

(b) A table listing each exchange for which the ELEC has become eligible to provide service in which the ILEC has which shall include:

- ~~(1) Ported telephone numbers assigned to its customers;~~
- ~~(2) Blocks of telephone numbers assigned to the ILEC; or~~
- ~~(3) Applied for blocks of telephone numbers; and~~

~~(c) For each such exchange, the table shall include:~~

- (1) The exchange name, as used by the ILEC serving that exchange;
- (2) The relevant NXX number;
- (3) The NXX thousand block number, if applicable;

~~(4)~~ (2) Whether the ELEC has a collocation arrangement with the ILEC serving that exchange; and

~~(5)~~ (3) If the answer to (4) is 'No':

- a. The number of ELEC customers in the exchange served by an ELEC-owned copper or coaxial loop;
- b. The number of ELEC customers in the exchange served by an ELEC-owned fiber loop;

- c. The number of ELEC customers in the exchange served by an enhanced extended loop (EEL); and
- d. Information including name, address, and telephone number for at least one customer.

Puc 409.08 Form T-8 Application for Registration to Provide Voice Service. The “Application for Registration to Provide Voice Service” required by Puc 408.02(f), shall include:

(a) Utility filing information;

(b) Responses to:

- (1) Whether the applicant, or any of the general partners, corporate officers, directors of the company, limited liability company managers or officers has ever been convicted of any felony that has not been annulled by a court;
- (2) Whether the applicant, or any of the general partners, corporate officers, directors of the company, limited liability company managers or officers have had any civil, criminal or regulatory sanctions or penalties imposed against them pursuant to any state or federal consumer protection law or regulation within the past 10 years;
- (3) Whether the applicant, or any of the general partners, corporate officers, directors of the company, limited liability company managers or officers have settled any civil, criminal or regulatory investigations or complaints within the past 10 years;
- (4) Whether the applicant, or any of the general partners, corporate officers, directors of the company, limited liability company managers or officers is currently the subject of any pending civil, criminal or regulatory investigation or complaint involving any state or federal consumer protection law or regulation; and
- (5) Whether the applicant, or any of the general partners, corporate officers, directors of the company, limited liability company managers or officers has been denied registration or authorization, or had registration or authorization revoked, in any other state or jurisdiction;

(c) If an affirmative answer is given to any item in (b) above, the applicant shall provide an explanation of the event and the relevant states or jurisdictions;

(d) The applicant shall list one to three telecommunications services the applicant will offer in New Hampshire, at least one of which shall be a voice service;

(e) The applicant shall identify its proposed service area;

(f) The applicant shall attest to the following statements:

- (1) The applicant agrees to comply with, and shall operate in accordance with, all provisions and requirements of all applicable statutes, rules and orders; and
- (2) The applicant has the necessary managerial qualifications, technical competence, and financial resources for which it is applying;
- (g) The applicant shall attach a copy of the company's secretary of state certificate of authority;
- (h) The applicant shall attach a completed Form T-1 Contact and Trade Name Information; and
- (i) The applicant shall include a sworn and notarized attestation that states that the application and its attachments are complete, true and accurate, and fairly represent the applicant and its qualifications.

PART Puc 410 INCUMBENT LOCAL EXCHANGE CARRIERS (ILECs)

Puc 410.01 Purpose. The purpose of this part is to establish additional requirements for all incumbent local exchange carriers.

Puc 410.02 Application. ILECs shall comply with Puc 410.

Puc 410.03 Basic Service.

- (a) An ILEC shall offer basic service throughout its service territory.
- (b) An ILEC shall not impose any additional contractual requirements as a condition for purchasing basic service.
- (c) An ILEC shall not impose exit fees on a customer who cancels basic service.
- (d) An ILEC-ELEC shall change its rates for basic service only through the following process:
  - (1) After August 10, 2020, the ILEC-ELEC may increase its rates to any level without commission review or approval;
  - (2) Without commission review or approval, the ILEC-ELEC shall limit increases to its rates for basic service subject to the following cap in each 12-month period beginning August 10, 2012 or the effective date of an existing alternative plan of regulation approved by the commission, pursuant to RSA 374:22-p, VIII (b):
    - a. For customers who are enrolled in the Lifeline Telephone Assistance program, the cap is 5%; and



b. For all other customers, the cap is 10%; and

(3) The ILEC–ELEC shall seek commission approval for additional rate increases in the event of changes in federal, state, or local government taxes, mandates, rules, regulation, or statutes.

(e) Any ILEC proposing to change its basic service coverage area shall comply with the following provisions:

(1) An ILEC which seeks to change geographic boundaries or other policies that would change the geographic area which can be reached using a local call, shall petition the commission for review and approval of the change;

(2) Such petition may include a proposed rate adjustment to reflect the change in coverage; and

(3) In deciding whether to approve the proposal, the commission shall consider whether the ILEC has demonstrated that the proposed change:

a. Results in service comparable to or superior to the basic service offered on August 10, 2012; and

b. Does not effectively increase the price of basic service by more than the rate cap pursuant to (d) above.

(f) An ILEC that is unable to provide basic service to a current or prospective customer upon application therefor shall comply with the following provisions:

(1) An ILEC shall keep a record as to each instance in which it is not able to supply basic service to prospective customers within 10 days following the customer's application for service;

(2) The record required by (f)(1) above shall be provided to the commission on request; and

(3) The record shall include:

a. The name, address, and telephone number of each applicant who was not provided service within 10 days;

b. The date of application for service;

c. The class of service applied for; and

d. The reason the ILEC was unable to provide service within 10 days of the customer's application.

Puc 410.04 ILEC Discontinuations of Basic Service.

(a) An ILEC shall not discontinue basic service to a customer without commission authorization unless:

- (1) The ILEC has notified the customer that basic service will be discontinued unless prompt payment is received;
- (2) Fourteen days have passed since the notice was given; and
- (3) The customer's balance includes at least 2 months of basic service charges.

(b) If an ILEC has received notification within the past 60 days from a licensed physician or mental health professional that a medical emergency exists at the location, or would result from the service discontinuation, the ILEC shall not discontinue service to the customer without commission authorization unless the customer has failed to enter into or comply with an arrangement for repayment of the outstanding balance.

(c) Nothing in (a) or (b) above shall prevent an ILEC from discontinuing basic service to a customer without commission authorization or notice to the customer when:

- (1) A customer or resident in the customer's household has undertaken an action or a situation has been created with respect to the customer's utility service which results in conditions dangerous to the health, safety, property or utility service of the customer or others and disconnection will lessen or eliminate the risk or danger;
- (2) The customer has clearly abandoned the premises;
- (3) The customer refuses to provide access to his premises for a necessary inspection of utility property; or
- (4) A customer or resident in the customer's household has participated in or created the following:
  - a. Fraudulent use or procurement of the utility service; or
  - b. Tampering with the connections or other equipment of the utility.

Puc 410.05 Complaints regarding basic service. The commission shall accept and resolve complaints from ILEC customers regarding basic service.

Puc 410.06 ~~Conditional Interconnection Requirements.~~ ILECs that are not exempt pursuant to 47 U.S.C. § 251(f) shall:

- (a) Maintain a tariff for the following:

- (1) interconnection services;
- (2) unbundled network elements;
- (3) collocation; and
- (4) resale;

(b) Identify services available for resale in such tariff; and

(c) Provide non-discriminatory interconnection at technically feasible points within the ILEC's network, including, at a minimum:

- (1) The line-side of a local switch;
- (2) The trunk-side of a local switch;
- (3) The trunk interconnection points for a tandem switch;
- (4) Central office cross-connect points;
- (5) Out-of-band-signaling transfer points necessary to exchange traffic at these points and access call-related databases; and
- (6) Points of access to unbundled network elements.

(d) Not require collocation to achieve interconnection;

(e) Provide interconnection that has a level of quality that is equal to that which the ILEC provides itself;

(f) Provide interconnection on terms and conditions that are nondiscriminatory and no less favorable than the terms and conditions the ILEC provides to itself;

(g) Provide citations to necessary technical references to carriers who interconnect or seek to interconnect;

(h) Not charge a carrier for the cost and timely correction of violation of the National Electrical Safety Code that are not the direct result of a carrier's request to access poles, ducts, conduits or rights of way; and

(i) When reaching an agreement for interconnection services, or network elements pursuant to the Telecommunications Act of 1996, file the agreement with the commission within 30 days of execution.

410.07 Denial of Interconnection Requests.

(a) A carrier may submit a request for interconnection at a technically feasible point not listed in Puc 410.06 (c).

(b) A carrier whose request for interconnection at a point not listed in Puc 410.06 (c) is denied by an ILEC shall be permitted to petition the commission for a hearing as to whether the denial should be reversed.

(c) The commission shall reverse an ILEC's denial of a carrier's request for interconnection at a point not listed in 410.06 (c) unless the ILEC proves that interconnection at that point is not technically feasible.

(d) Previous successful interconnection at the particular point using particular facilities, or at substantially similar points in networks employing substantially similar facilities, shall constitute substantial evidence of technical feasibility for interconnection at a particular point.

#### **PART Puc 411    ADDITIONAL REQUIREMENTS APPLICABLE TO ILECS NOT OPERATING AS ELECS**

**Puc 411.01 Purpose.** The purpose of the rules in this part is to establish additional requirements for ILEC-NELECs.

**Puc 411.02 Application.** ILEC-NELECs shall comply with Puc 411 through 412.

**Puc 411.03 Retail Tariff.** An ILEC-NELEC shall maintain a tariff covering all offered retail telecommunications services.

**Puc 411.04 Uniform System of Accounts.** Each ILEC-NELEC shall maintain and preserve its accounts and records in conformity with the "Uniform System of Accounts for Telecommunications Companies," pursuant to RSA 374:8.

**Puc 411.05 Short Term Debt.** No ILEC-NELEC shall issue or renew any notes, bonds or other evidence of indebtedness payable less than 12 months after the date thereof if said short term debt exceeds 10% of the net depreciated value of the utility's plant.

**Puc 411.06 Depreciation.**

**(a)** An ILEC-NELEC shall file Form ILEC-4 Report of Proposed Changes in Depreciation Rates as described in Puc 412.04, when proposing any changes in depreciation rates.

**(b)** An ILEC-NELEC shall not implement any change in depreciation rates until the proposed change has been approved by the commission.

**Puc 411.07 Rate Case.** In addition to the requirements contained in Puc 1600, an ILEC-NELEC filing a general increase in rates shall include in its filing, schedules for the two years

preceding such filing, in a format comparable to that filed in the most current annual report which included the information:

- (a) The following schedules of information:
  - (1) A list of officers;
  - (2) A list of directors;
  - (3) A list of shareholders and voting powers, including:
    - a. Number of shares; and
    - b. Voting powers;
  - (4) Payment to individuals; and
  - (5) Management fees and expenses; and
- (b) The following schedules supporting balance sheet information:
  - (1) An analysis of telecommunications plant accounts;
  - (2) An analysis of telecommunications plant-in service retired;
  - (3) An analysis of entries in property held for future telecommunications use;
  - (4) An analysis of capital leases;
  - (5) An analysis of telecommunications plant acquired;
  - (6) An analysis of telecommunications plant purchased from or sold to affiliates;
  - (7) An analysis of entries in accumulated depreciation by plant account;
  - (8) An analysis of entries in accumulated amortization, for accounts 3410, 3420, 3500, and 3600;
  - (9) A schedule of receivables and investments with affiliated and nonaffiliated companies;
  - (10) Other prepayment balances;
  - (11) Other current asset balances;
  - (12) A schedule of sinking funds;
  - (13) Non-current assets;

- (14) Deferred charges;
  - (15) Unamortized debt issuance expense;
  - (16) Long-term debt;
  - (17) Notes payable;
  - (18) Accounts payable;
  - (19) Other long term liabilities;
  - (20) Other deferred credits;
  - (21) Net deferred operating income taxes;
  - (22) Net deferred non-operating income taxes;
  - (23) Retained earnings;
  - (24) Dividends declared; and
  - (25) Capital stock - accounts 4510.1, 4510.2, 4520, 4530.1, 4530.2; and
- (c) The following schedules supporting income statement information:
- (1) Customer and corporate operations expenses – accounts 6610 and 6620 and Corporate Operations Expense – accounts 6710 and 6720;
  - (2) Other operating taxes - account 7240;
  - (3) Prepaid taxes and tax - accounts 1300, 4070, and 4080;
  - (4) Non-operating taxes;
  - (5) Extraordinary items - accounts 7610, 7620, 7630, and 7640;
  - (6) Non-operating income and expense – account 7300;
  - (7) Other operating income and expenses – account 7100;
  - (8) Advertising and external relations;
  - (9) Payments of \$10,000 or more for services received from affiliates;
  - (10) Membership fees and dues; and
  - (11) Donations or payments of \$5,000 or more to persons other than employees; and

(d) Attestations, by the company's president or chief officer and treasurer that the information contained in the schedules required in (b) and (c) above:

- (1) Has been prepared under my direction;
- (2) The information has been carefully examined and reviewed by me;
- (3) Is accurate to the best of my knowledge; and
- (4) Provides an accurate statement of the position of the company;
- (5) Signatures of each individual, referred to; and
- (6) Printed names and titles of the individuals.

Puc 411.08 Annual Report. An ILEC–NELEC shall file Form ILEC-1 Annual Report as described in Puc 412.01, on or before March 31 each year, covering the most recent fiscal year.

Puc 411.09 Other Reports. An ILEC–NELEC shall file the following reports with the commission within 30 days of the event that necessitates the filing:

(a) A Form ILEC-2 Petition for Authority to Issue Securities as described in Puc 412.02, with respect to seeking authority to issue securities;

(b) A Form ILEC-3 Report of Proposed Fixed Capital Expenditures as described in Puc 412.03, when:

- (1) The estimated cost of any addition, extensions, or capital improvement to its utility will exceed \$100,000;
- (2) The reportable amount, for purposes of (b)(1) above, shall be based on the gross fixed capital, as of December 31 of the calendar year immediately preceding; and
- (3) The reporting limit established in (b)(1) above shall apply to the total project cost, including contributions in aid of construction.

#### PART Puc 412 ILEC–NELEC FORMS

Puc 412.01 Form ILEC-1 Annual Report. The “Annual Report” required by Puc 411.08 shall include:

- (a) Utility filing information;
- (b) Contact information for the person responsible for the information on the form;
- (c) The calendar year that is the subject of the report;



(d) The following schedules of information:

(1) A complete history of the ILEC, on Schedule A-1, General Information;

(2) A description of service territory and exchanges on Schedule A-5, List of Exchanges Served Directly, including:

a. List of towns served; and

b. Number of customers;

(3) Important changes during the year on Schedule A-8, Important Changes During the Year, including:

a. Extensions of territory covered;

b. Purchase and sale of operating systems;

c. Details of sales, mergers and abandonments;

d. Estimated increase or decrease in annual revenues due to important rate changes;

e. Changes in articles of incorporation or amendments to charter; and

f. Reference to a previously filed map defining the territory, unless:

1. A map has not been previously filed;

2. There have been changes to the territory; or

3. The calendar year ends in "0" or "5"; and

(4) Financial disclosure on Schedule A-9, Financial Disclosure Reporting, that includes:

a. Data necessary to prevent the information from being misleading, such as:

1. Extraordinary or material, unusual, or infrequently occurring items;

2. Significant principles or practices from those used in the prior year; and

3. The acquisition or disposition of significant operation, assets, or liabilities;

b. Uncertainties that could affect the fairness of the information, including significant changes in the status of loss contingencies since the prior year; and

c. If revenues, costs, or expenses are accrued or deferred in a manner different from that of the prior year, the method used and the amount of such accruals or deferrals;

(e) The following financial schedules:

(1) The balance sheet at year end on Schedule F-10, Balance Sheet, showing assets, liabilities, and stockholders' equity; and

(2) An income statement on Schedule F-11, Income Statement, showing changes over the prior year;

(f) The following schedules supporting balance sheet information:

(1) Basis of charges for depreciation on Schedule B-14B, Basis of Charges for Depreciation, for all subclass accounts for which a depreciation rate is determined, including:

a. Whether the depreciation rate is based on whole life or remaining life;

b. Asset life in years;

c. Net salvage as a percentage of original cost;

d. Accumulated depreciation as a percentage of original cost;

e. Prescribed depreciation rate; and

f. Ratio of depreciation charges to average monthly book cost;

(2) A statement of cash flows on Schedule B-16, Statement of Cash Flows, showing:

a. Cash flows from operating activities;

b. Cash flows from financing activities;

c. Cash flows from investing activities;

d. Net increase or decrease in cash; and

e. Cash at beginning and end of calendar year;

(g) The following income schedules:

(1) Operating revenues on Schedule I-34, Operating Revenues, showing by account:

a. Local network revenues;

- b. Network access services revenues;
  - c. Long-distance network services revenues;
  - d. Miscellaneous revenues;
  - e. Uncollectible revenues; and
  - f. Difference in revenue in comparison to preceding year;
- (2) Explanations for changes in operating revenues, by account, on Schedule I-34A, Increase or Decrease in Operating Revenues, when:
- a. The account has a balance over \$10,000; and
  - b. The percentage change from the prior year is equal to or greater than 10%;
- (3) Operating expenses on Schedule I-35, Operating Expenses, showing current year balances and the change from the prior year, by account, for:
- a. Plant specific operations;
  - b. Plant nonspecific operations;
  - c. Customer operations; and
  - d. Corporate operations;
- (4) Explanations for changes in operating expense, by account, on Schedule I-35A, Increase or Decrease in Operating Expenses, when:
- a. The account has a balance over \$10,000; and
  - b. The percentage change from the prior year is equal to or greater than 10%;
- (5) Expenses attributable to formal regulatory cases before federal, state, and other regulatory commissions on Schedule I-39, Special Expenses Attributable to Formal Regulatory Cases, including:
- a. A complete description of the regulation, hearing or case;
  - b. Special assessments by regulatory commissions;
  - c. Fees, retainers, and other billed items; and
  - d. Incremental payroll costs and directly associated expenses, exclusive of c above;

(h) The following plant and equipment schedules:

(1) Statistics for the count of switches and number access lines on Schedule S 1, Switches and Access Lines in Service, providing data for the following:

a. Switches, showing:

1. The following switch classifications:

(i) Central office switch; and

(ii) Primary switch;

2. For each classification in 1 above, the number of switches at year end classified as:

(i) Electronic;

(ii) Digital; or

(iii) Main access lines, further broken down as:

i Analog; or

ii Digital; and

3. The exchange served by each central office switch; and

b. Access lines, showing:

1. The following customer type categories:

(i) Residential;

(ii) Business; and

(iii) Other;

2. For each customer type in 1. above, the number of lines at year end for the following line types:

(i) Analog; and

(ii) Digital;

(2) Statistics on outside plant related to distribution and feeder on Schedule S-2, Outside Plant Statistics – Distribution and Feeder, showing year end amounts for:

a. Miles of aerial wire;

b. Miles of cable, broken down by:

1. The following cable classifications:

- (i) Aerial;
- (ii) Underground;
- (iii) Buried;
- (iv) Submarine; and
- (v) Distribution or feeder;

2. For each classification in b.1.(i) through (iv) above, a further breakdown into the following cable types:

- (i) Copper; and
- (ii) Fiber; and

3. For distribution or feeder cable in b.1.(v) above, a further breakdown into the following cable types:

- (i) Copper;
- (ii) Fiber lit sheath; and
- (iii) Fiber deployed sheath;

c. Number of poles; and

d. Miles of underground conduit, showing:

- 1. Trench miles; and
- 2. Duct miles;

(3) Statistics for outside plant related to for interoffice on Schedule S-3, Outside Plant Statistics – Interoffice, showing year end amounts for:

a. Miles of aerial wire;

b. Miles of cable, broken down by

1. The following cable classifications:

- (i) Aerial;

- (ii) Underground;
  - (iii) Buried;
  - (iv) Submarine; and
  - (v) Distribution or feeder;
2. For each classification in b.1.(i) through (iv) above, a further breakdown into the following cable types:
- (i) Copper; and
  - (ii) Fiber; and
3. For distribution or feeder cable in b.1.(v) above, a further breakdown into the following cable types:
- (i) Copper;
  - (ii) Fiber lit sheath; and
  - (iii) Fiber deployed sheath;
- c. Number of poles; and
- d. Miles of underground conduit, showing:
- 1. Trench miles; and
  - 2. Duct miles; and
- (i) Certification of all of the information submitted on or with the report, containing:
- (1) A notary seal that has been made:
    - a. Under oath;
    - b. By the company's president or chief officer; and
    - c. By the company's treasurer or other officer in charge of accounts;
  - (2) Attestations, by each person, referred to in (1)b. and (1)c. above, that the information contained in the annual report:
    - a. Has been prepared under my direction;
    - b. The information has been carefully examined and reviewed by me;

- c. Is accurate to the best of my knowledge; and
- d. Provides an accurate statement of the position of the company;
- (3) Signatures of each individual, referred to in (1)b. and (1)c. above; and
- (4) Printed names and titles of the individuals in (3) above.

Puc 412.02 Form ILEC-2 Petition for Authority to Issue Securities. The “Petition for Authority to Issue Securities” required by Puc 411.09(a) shall include:

- (a) Utility filing information;
- (b) Contact information for the person responsible for the information on the form;
- (c) The following attachments:
  - (1) A petition for authority to issue securities including;
    - a. A description of authorized and outstanding long term debt and capital stock;
    - b. The amount of short term notes outstanding;
    - c. A description of new securities;
    - d. A description of what proceeds will be used for; and
    - e. The petitioner’s prayer asking for the relief requested;
  - (2) A statement in reasonable detail of any proposed additions, construction or working capital requirements together with any proposed construction budget;
  - (3) Testimony by a qualified person that:
    - a. Explains the purpose of the financing;
    - b. Shows the effect of the financing on the company’s financial rating(s);
    - c. Provides the proposed method of issuance and sale of the securities; and
    - d. Indicates how the financing will be consistent with the public good, pursuant to RSA 369:1;
- (d) The following exhibits:
  - (1) Exhibit 1, “Authorized and Outstanding Long-Term Debt,” detailing each of the company’s long-term debts in tabular format, with the following for each:
    - a. The type of debt;

- b. If applicable, the coupon rate;
  - c. Issue and maturity dates;
  - d. Amount outstanding; and
  - e. If applicable, call prices on the start date and end date of the issue period of the proposed financing;
- (2) Exhibit 2, "Authorized and Outstanding Capital Stock," providing a description of each type of outstanding stock;
- (3) Exhibit 3, "Capital Expenditures," listing for the entire company and for New Hampshire:
- a. A breakdown of capital expenditures made during the most recent calendar; and
  - b. An estimate of capital expenditures for the current calendar year;
- (4) Exhibit 4, "Estimated Cost of Financing," listing each cost associated with issuing the securities;
- (5) Exhibit 5, "Proforma Balance Sheet," providing a balance sheet for the most recent calendar year, adjusted for the effects of the proposed financing, with columns showing:
- a. Balance sheet amounts for the most recent year;
  - b. Proforma adjustments resulting from the proposed financing; and
  - c. Totals of the balance sheet amounts and the proforma adjustments in b. above;
- (6) Exhibit 6, "Proforma Income Statement," providing an income statement for the most recent calendar year, adjusted for the effects of the proposed financing, with columns showing:
- a. Income statement amounts for the most recent year;
  - b. Proforma adjustments resulting from the proposed financing; and
  - c. Totals of the income statement amounts and the proforma adjustments in a. and b. above;
- (7) Exhibit 7, "Proforma Adjustments to Balance Sheet and Income Statement," listing proforma adjustments to the balance sheets and income statements of each calendar year that the proposed securities could be issued:



(8) Exhibit 8, "Source and Application of Funds and Capitalization" showing for the most recent calendar year:

- a. Cash flows from operations, investing activities, and financing activities, adjusted for the effects of the proposed financing; and
- b. A schedule of the company's capital structure that includes the effects of the proposed financing;

(9) Exhibit 9, "Terms and Conditions of Proposed Securities," listing the terms and conditions of each proposed security;

(10) If applicable, Exhibit 10, "Purchase and Sale Agreement and Commitment Letter," containing copies of:

- a. Purchase and sale agreement(s) associated with the financing; and
- b. Letter(s) of commitment from lender(s) that the company is approved for the financing; and

(11) If applicable, Exhibit 11, "Proposed Promissory Note and/or Mortgage" providing a copy of any promissory note or mortgage agreement associated with the financing; and

(e) Signature of the authorized representative of the ILEC, with date, certifying that:

(1) The information on the form is true and correct to the best of the individual's knowledge and belief, subject to the penalty for making unsworn false statements under RSA 641:3; and

(2) The petitioner utility company believes and, therefore, alleges that the securities to be issued will be consistent with the public good and that it is entitled to issue said securities under RSA 369 for the purposes set forth in its petition.

Puc 412.03 Form ILEC-3 Report of Proposed Fixed Capital Expenditures. The "Report of Proposed Fixed Capital Expenditures" required by Puc 411.09(b) shall include:

- (a) Utility filing information;
- (b) Contact information for the person responsible for the information on the form;
- (c) The year that is the subject of the report;
- (d) The date of the report; and
- (e) For each proposed expenditure:

- (1) The item number;
- (2) The location of the proposed expenditure;
- (3) A description of the proposed addition, extension or capital improvement;
- (4) The estimated start and finish dates of construction; and
- (5) The estimated cost of each element of the proposed addition.

Puc 412.04 Form ILEC-4 Report of Proposed Changes in Depreciation Rates. The “Report of Proposed Changes in Depreciation Rates” required by Puc 411.06(a) shall include:

- (a) Utility filing information;
- (b) Contact information for the person responsible for the information on the form;
- (c) The year that is the subject of the report;
- (d) The date of the report;
- (e) For each item whose depreciation rate is proposed for revision:
  - (1) The account number and title;
  - (2) The estimated life, both present and proposed, in years;
  - (3) The net salvage, both present and proposed, in percentages;
  - (4) The depreciation rate, both present and proposed, by percentage; and
  - (5) The net annual change in dollars; and
- (f) Any supporting documentation justifying the change the ILEC submits.