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MAY 13 2013

APPENDIX II-C
RULEMAKING NOTICE FORM

Notice Number 2013-65 Rule Number Puc 1900

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| <p>1. Agency Name & Address:</p> <p>Public Utilities Commission 21 S. Fruit Street, Suite 10 Concord, New Hampshire 03301</p> | <p>2. RSA Authority: <u>RSA 365:8, X</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption <u>X</u></p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment _____</p> |
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5. Short Title: **Puc 1900 Rate Case Expenses**

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

The proposed Puc 1900 rules define rate case expenses, identify a procedure for filing such expenses, and identify a procedure for Commission review and approval of such expenses. The rules also identify methods for recovering rate case expenses.

6. (b) Brief description of the groups affected:

The rules affect regulated utilities operating in New Hampshire.

LBAO
 FIS 13:050
 04/19/13

Fiscal Impact Statement for New Hampshire Public Utilities Commission rules governing Rate Case Expenses. [Puc 1900]

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

Not applicable, these are new rules.

2. Cite the Federal mandate. Identify the Impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

To the extent the rules require some expenses to be subject to competitive bidding, the proposed rules may translate into customers paying lower rate case expense surcharges. There will be no impact on political subdivisions.

C. To independently owned businesses:

None.

Adopt Puc. 1900 to read as follows:

CHAPTER Puc 1900 RATE CASE EXPENSES

PART Puc 1901 PURPOSE

Puc 1901.01 Purpose.

(a) The purpose of this chapter is, pursuant to RSA 365:8, X, and consistent with the intent of RSA 363:17-a, to ensure equitable reimbursement of rate case expenses, to establish requirements for utilities to properly document and control rate case expenses, and to limit the impact of rate case expenses on ratepayers.

(b) This chapter establishes criteria for determining whether the rate case expenses that have been incurred by a utility are just and reasonable and are in the public interest.

PART Puc 1902 APPLICATION OF RULES

Puc 1902.01 Application of Rules

Edt. no cap (Comment applies here and below.)

Chapter Puc 1900 shall apply to any "Utility" as defined in Puc 1903.07.

PART Puc 1903 DEFINITIONS

Puc 1903.01 "Commission" means the New Hampshire public utilities commission.

Puc 1903.02 "Final Order" means an order of the commission, issued pursuant to RSA 541-A:35, rendering its final determination on permanent rates.

Puc 1903.03 "Full Rate Case" means a proceeding in which a revenue requirement is established for a utility and rates are set to meet that revenue requirement pursuant to PART Puc 1604.

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Puc 1903.04 "Non-recurring expenses" means those expenses not regularly recurring as part of a utility's operating costs.

Puc 1903.05 "Rate Case Expenses" means those non-recurring expenses incurred by a utility in the preparation or presentation of a full rate case proceeding before the Commission, necessary for the conduct of the rate case.

Puc 1903.06 "Service Provider" means any natural person or legal entity authorized to do business in New Hampshire who provides expert, consulting, administrative, or legal services to a utility and whose services are not already included in the utility's revenue requirement.

Puc 1903.07 "Utility" means any public utility as defined in RSA 362:2 and RSA 362:4.

PART Puc 1904 APPROVAL BY COMMISSION

Puc 1904.01 Approval Required Prior to Recovery. No utility shall recover from its ratepayers any rate case expense unless such expense has first been found by the commission to be just and reasonable and in the public interest and otherwise conforms to the requirements of Chapter Puc 1900.

Puc 1904.02 Criteria for Determining Allowed Rate Case Expenses.

(a) In ruling upon rate case expenses the commission shall determine whether:

(1) An expense is properly recoverable as an allowed rate case expense pursuant to PART Puc 1906;

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(2) ~~The expense is an~~ actual, known, and measurable expense associated with a full rate case proceeding as defined in Puc 1903.03; and

(3) Recovery of the expense is just, reasonable and in the public interest.

(b) In making the above determinations, the commission shall consider:

In considering the items in (b), it is unclear what general criterion must be met in determining that (a)(3) has been met.

(1) Whether the issues presented are novel or complex;

(2) The cost of the service provided to prepare and present the rate case;

(3) Where appropriate, any information concerning the customary fee for similar services, including the fees rendered in the relevant market to companies of similar size in matters of similar importance to the client;

(4) Whether the work was relevant and reasonably necessary to the rate case proceeding and the extent to which the services contributed to the efficient resolution of matters presented;

(5) Whether the utility used a competitive bidding process, when required, pursuant to Puc 1905.03 and Puc 1905.04, and in selecting a winning bidder considered information concerning the availability, experience, quality and cost of services provided;

(6) The experience and ability of the service provider;

Unclear how this is determined. Also, when combined with (a)(3) above, the result is that reasonableness will be used to determine reasonableness.

(7) Whether the request for a rate change was reasonable; and

(8) Other factors as may be considered relevant to a particular rate case proceeding.

PART Puc 1905 PROCEDURES FOR FILING FOR RECOVERY OF EXPENSES

Puc 1905.01 Estimated Rate Case Expenses.

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(a) Consistent with the utility's duty to keep the Commission informed pursuant to RSA 374:4, at the time a utility files the materials required for a full rate case pursuant to PART Puc 1604, and every sixty (60) days thereafter during the pendency of the rate case, the utility shall also file with the Commission items (1) through (3) below.

Edit. colon

Edit. "60"

(1) A detailed description of rate case expenses actually incurred as of the date of the filing and projected total rate case expenses that include:

- a. The name of the service provider;
- b. The procurement process;
- c. The amount of the expense; and
- d. A description of the charge or service rendered.

Edit. semi-colon

(2) A list of all services to be rendered on behalf of the utility in the full rate case by any vendor; and

(3) The total estimated costs of each service.

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(b) The filing of the information listed in (a) above shall not constitute or imply Commission approval of the expenses.

Puc 1905.02 Deadline for Filing Recovery Request. A utility seeking recovery of rate case expenses shall file its request for recovery along with all supporting documentation, with the commission no later than thirty (30) days after the commission's final order pursuant to Puc 1903.02.

Edit. "30"

Puc 1905.03 Documentation of Expenses Required. For each expense filed with the commission for recovery as a rate case expense, the utility shall provide detailed evidence of all rate case expenses and any related allocations including:

- (a) All invoices paid or to be paid;
- (b) Name of each vendor;
- (c) The amount of the expense to be included as part of rate case expenses;
- (d) A description and date of the charge or service rendered;
- (e) A statement that the expense is consistent with the utility's written procurement policy;

- (f) The utility's procurement policy in place at the time the expenses were incurred;
- (g) The contract entered into that generated the expense; and
- (h) A statement of whether the contract was obtained after negotiations or competitive bid.

Puc 1905.04 Additional Requirements for Service Providers.

(a) All utilities serving 600 customers or more and hiring service providers for use in a full rate case shall acquire such services through a competitive bidding process if the expense for such service is estimated to be or is \$10,000 or greater.

(b) Except if not necessary under (a), for each service provider used, the utility shall also include a certification that:

(1) The utility used a competitive bidding process, and in selecting the winning bidder, considered information concerning the availability, experience, customary fees for similar services, quality, and cost of the service provider; ← Edit. "and"

(2) The time spent on the rate case by the service provider was undertaken in an efficient and cost effective manner.

(c) If a utility is required to use a competitive bidding process pursuant to Puc 1905.04(a) and engages a service provider who is not the lowest bidder in a competitive bidding process, the utility shall provide clear and convincing justification of its decision to do so.

PART Puc 1906 EXPENSES RECOVERABLE AS RATE CASE EXPENSES

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Puc 1906.01 Allowed Expenses. The commission shall determine pursuant to PART Puc 1904 the recovery of actual, known, and measurable rate case expenses from a full rate case, as defined in Puc 1903.03, provided the expenses are just and reasonable and in the public interest. Such rate case expenses may include: ← Edit. "as follows." Edit. comma

(a) Costs related to the preparation of items required as part of a full rate case, pursuant to PART Puc 1604;

(b) Expert consultant fees;

(c) Legal and accounting fees;

(d) Expenses associated with changing billing systems to reflect temporary and permanent rate changes;

(e) Travel expenses;

(f) Administrative costs such as postage costs, publication costs, photocopying expenses, and transcription costs; and

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(g) Such other similar expenses that are related to the preparation or presentation of a full rate case, as defined by Puc 1903.03, as determined by the commission after its review.

PART Puc 1907 EXPENSES NOT RECOVERABLE AS RATE CASE EXPENSES

Puc 1907.01 Expenses Not Allowed. Expenses not recoverable as rate case expenses shall include:

(a) Expenses for matters handled by service providers that could have been performed by utility management and staff of the utility, based on their experience and expertise;

(b) Expenses typically included in a utility's test-year revenue requirement or any expense for which recovery is prohibited by other Commission rule.

Edit.

(c) Expenses related to responding to commission audit inquiries;

(d) Expenses for first class airfare, gifts, or alcohol;

(e) Lobbying expenses;

(f) Interest charges on rate case expenses; and

(g) Such other similar expenses that are not related or material to the preparation or presentation of a full rate case, as determined by the commission after its review.

PART Puc 1908 SURCHARGES FOR THE RECOVERY OF RATE CASE EXPENSES

Puc 1908.01 Recovery through Rate Surcharge. Approved rate case expenses shall be included in rates through the imposition of a surcharge to rates.

APPENDIX

| Rule | Specific State Statute the Rule Implements |
|-------------|---|
| Puc 1900 | RSA 365:8, X |

TITLE XXXIV

PUBLIC UTILITIES

CHAPTER 365

COMPLAINTS TO, AND PROCEEDINGS BEFORE, THE COMMISSION

Proceedings Before the Commission

Section 365:8

365:8 Rulemaking Authority. – The commission shall adopt rules, pursuant to RSA 541-A, relative to:

- I. The conduct of its hearings, including alternative processes in hearings and other forms of alternative dispute resolution.
- II. Standards and procedures for streamlined review or other alternative processes to enhance the efficiency of the commission and respond to the needs of the utility's ratepayers and shareholders.
- III. Standards and procedures for the creation, monitoring and evaluation of alternative forms of regulation.
- IV. Standards and procedures for the handling of confidential information, in accordance with RSA 91-A.
- V. Standards and procedures for filing requirements for tariffs, engineering, accounting, and other commission matters.
- VI. Standards and procedures for franchise terms and conditions, including extended area telephone service.
- VII. Standards and procedures for safe and reliable utility service and termination of service subject to RSA 363-B.
- VIII. Standards and procedures for matters related to the proper administration of RSA 366 relative to utility relations with affiliates.
- IX. Standards and procedures relative to a reasonable amount of the short-term notes, bonds or other evidences of indebtedness based upon the amount of the utility's respective plant investment which each utility shall not exceed without first obtaining the approval of the commission pursuant to RSA 369:7.
- X. Standards and procedures for determination and recovery of rate case expenses.
- XI. Standards and procedures for the conduct of investigations authorized under this title.
- XII. Procedures necessary to provide for the proper administration of and to further the purposes of this title.
- XIII. [Repealed.]
- XIV. Standards and procedures for public utilities to request protection of routine filings that contain confidential commercial or financial information.

Source. 1911, 164:2. PL 238:9. RL 287:9. 1951, 203:11 par. 8. RSA 365:8. 1981, 220:4. 1994, 193:1. 2005, 102:1, eff. June 15, 2005. 2010, 206:2, eff. June 22, 2010; 336:3, eff. Oct. 18, 2010.