

THE STATE OF NEW HAMPSHIRE

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Amy L. Ignatius

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Michael D. Harrington
Robert R. Scott

EXECUTIVE DIRECTOR
Debra A. Howland



PUBLIC UTILITIES COMMISSION

21 S. Fruit Street, Suite 10
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NHPUC 14NOV13pw4:14

November 14, 2013

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

RE: DRM 12-039 Proposed Puc 1900 Rate Case Expenses
Filing of Adopted Rule

Dear Ms. Howland:

Attached please find the Filing of the Adopted Rules for the Proposed Puc 1900 Rate Case Expenses.

Sincerely,

Marcia A. Brown
Staff Attorney

cc: Docket Related Service List (via electronic mail)

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November 14, 2013

Jill K. Sieveking, Director
Office of Legislative Services
State House
107 North Main Street, Room 109
Concord, NH 03301-4951

RE: Filing of Adopted Rule
Puc 1900 – Rate Case Expenses
Final Proposal 2013-65
Commission Docket No. DRM 12-039

Dear Director Sieveking:

The Public Utilities Commission (Commission), pursuant to RSA 541-A:14, III and Chapter 3, section 2.21 of *the New Hampshire Drafting and Procedural Manual for Administrative Rules* (the *Manual*), hereby files with the Director of the Office of Legislative Services (OLS) in care of the Division of Administrative Rules, the enclosed adopted rule, as referred to in the caption above. The Joint Legislative Committee on Administrative Rules (Committee) voted to approve this rule at its October 17, 2013 meeting. On November 14, 2013, the Commission held a public hearing, pursuant to RSA 91-A:2, III, and voted to adopt Final Proposal 2013-65 as approved by the Committee. This version of the Final Proposal also incorporated the October 7, 2013 edits suggested by OLS to the Commission regarding Puc 1906.01 and identifying paragraphs (a) and (b) and renumbering the remaining paragraphs as (1) through (7).

I hereby certify that the material enclosed is a true copy of Puc 1900, Rate Case Expenses, which was adopted by vote of the Commission on November 14, 2013.

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

- 2 copies of the adopted rule in the format required by Chapter 4 of the *Manual*, including the appendix containing the cross reference table required by RSA 541-A:3-a,II; and
- One copy of a cover letter (this letter) containing the name and address of the agency adopting the rule; identification of the rule by rule number; the date of the rule's adoption; identification of any editorial changes made in the adopted rule from the text of

the final proposal after Committee review; and signature by a member of the group with rulemaking authority, certifying that the material enclosed is a true copy of the rule adopted by the agency on the date given.

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

Please contact us if you have questions or concerns.

Sincerely,

A handwritten signature in blue ink that reads "Amy Ignatius". The signature is fluid and cursive, with a long horizontal stroke at the end.

Amy L. Ignatius
Chairman

cc: Scott F. Eaton, Administrative Rules Director

CHAPTER Puc 1900 RATE CASE EXPENSES

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Section Puc 1901.01 Purpose

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Section Puc 1902.01

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PART Puc 1906 EXPENSES RECOVERABLE AS RATE CASE EXPENSES

Section Puc 1906.01 Allowed Expenses

**PART Puc 1907 EXPENSES NOT RECOVERABLE AS RATE CASE
EXPENSES**

Section Puc 1907.01 Expenses Not Allowed

**PART Puc 1908 SURCHARGE FOR THE RECOVERY OF RATE CASE
EXPENSES**

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, pursuant to RSA 365:8, X, and consistent with the intent of RSA 363:17-a, is 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

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 Puc 1604.

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 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 Puc 1906;
 - (2) The expense is an actual, known, and measurable expense associated with a full rate case proceeding, 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:
- (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;
 - (7) Whether the request for a rate change was just and 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.

(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 Puc 1604, and every 90 days thereafter during the pendency of the rate case, the utility shall also file with the commission items (1) through (3) below:

(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;

(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.

(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 pursuant to Parts Puc 202 and 203 along with all supporting documentation, with the commission no later than 30 days after the commission's final order pursuant to Puc 1903.02.

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; 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

Puc 1906.01 Allowed Expenses.

(a) The commission shall determine pursuant to Puc 1904 the recovery of actual, known, and measurable rate case expenses from a full rate case, defined in Puc 1903.03, provided the expenses are related to the rate case, just and reasonable and in the public interest.

(b) Such rate case expenses may include as follows:

- (1) Costs related to the preparation of items required as part of a full rate case, pursuant to PART Puc 1604;
- (2) Expert consultant fees;
- (3) Legal and accounting fees;
- (4) Expenses associated with changing billing systems to reflect temporary and permanent rate changes;

(5) Travel expenses;

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

(7) Such other similar expenses that are related to the preparation or presentation of a full rate case, 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 are typically performed by utility management and staff of the utility, based on their experience, expertise, and availability;

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

(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