

CHAPTER Puc 200 PROCEDURAL RULES

**Readopt with amendment Puc 201.01, effective 6-10-06 (Document #8657-A), cited and to read as follows:**

PART Puc 201 ~~GENERAL REQUIREMENTS~~ *SCOPE AND PURPOSE*

Puc 201.01 ~~Applicability~~. This chapter shall apply to all matters that come before the commission. ***Scope.** The rules in this chapter govern all communications with the commission and all matters before the commission.*

**Repeal Puc 201.02 and Puc 201.03, effective 6-10-06 (Document #8657-A), as follows:**

~~Puc 201.02 Place of Hearings.~~

~~(a) Except as provided in (b) below, the commission shall conduct all hearings at its offices in Concord.~~

~~(b) The commission shall conduct one or more public statement hearings within the meaning of Puc 102.17 in the service territory of an affected utility or municipal district if:~~

~~(1) Required by law to do so; or~~

~~(2) It would assist the commission to ascertain the views of the utility's customers by conducting such a hearing in a particular location other than Concord.~~

~~Puc 201.03 Construction. The rules in this chapter, and any rules incorporated herein by reference, shall be construed to secure a just and timely determination of the issues.~~

**Repeal Puc 201.04, effective 3-24-12 (Document #10101), as follows:**

~~Puc 201.04 Public Records.~~

~~(a) All documents submitted to the commission or staff in an adjudicative or non-adjudicative proceeding shall become matters of public record, subject to RSA 91-A, as of the day and time of the submission with the following exceptions:~~

~~(1) Accident reports under RSA 374:40;~~

~~(2) Information about individual residential customers, the disclosure of which would constitute an invasion of privacy within the meaning of RSA 91-A:5, IV;~~


~~(3) Documents submitted in connection with an adjudicative proceeding pursuant to Puc 203.08;~~

~~(4) Documents subject to a protective order of the commission issued pursuant to Puc 203.08;~~

~~(5) Documents granted confidential treatment pursuant to Puc 201.06 and Puc 201.07; or~~

~~(6) Other documents entitled to confidential treatment pursuant to RSA 91-A or other applicable law.~~

~~(b) All information within documents described in section (a), above, and submitted to the commission or staff and asserted to be confidential, pursuant to RSA 91-A:5, IV, by the person making the submission shall be redacted in the following manner in the version for public release, and all redactions shall be made in a way that, within the redacted version of the document(s), preserves the line sequencing and pagination of the unredacted version of the document(s) to the greatest practicable extent, and:~~

- ~~(1) Bears the legend “REDACTED” at the upper right hand corner of the first page, and every redacted page; and~~
- ~~(2) Indicates all confidential segments with either:~~
- ~~a. The legend “BEGIN CONFIDENTIAL,” in all capital letters, at the beginning of the redacted segment, followed by a left bracket. Following the left bracket, the confidential segment shall be replaced by a blank space of approximately equal length to the material being redacted. The end of the redacted segment shall be indicated with a right bracket, followed by the legend “END CONFIDENTIAL,” in all capital letters, as follows:~~
- ~~“BEGIN CONFIDENTIAL[*blank space*]END CONFIDENTIAL;” or~~
- ~~b. Indication of redacted material by blacking it out or highlighting it with a solid black line in the following manner: ; or~~
- ~~c. Any other method that clearly indicates the scope of the material redacted.~~
- ~~(e) For each redacted document submitted, the person submitting the document shall also provide an unredacted version of the document(s) to the commission that:~~
- ~~(1) Bears the legend “CONFIDENTIAL” at the upper right hand corner of the first page, and every page with confidential material; and~~
- ~~(2) Indicates all redactions with either:~~
- ~~a. The legend “BEGIN CONFIDENTIAL,” in all capital letters, at the beginning of the confidential segment, followed by a left bracket. The end of the confidential segment shall be indicated with a right bracket, followed by the legend “END CONFIDENTIAL,” in all capital letters, as follows:~~
- ~~“BEGIN CONFIDENTIAL[*confidential segment*]END CONFIDENTIAL;” or~~
- ~~b. Indication of all redactions made by highlighting the confidential segment in light gray in the following manner: *confidential segment*; or~~
- ~~c. Any other method that clearly indicates the material redacted in the redacted version.~~
- ~~(d) The public version(s) of any discovery related submissions made pursuant to Puc 201.06 shall be filed with the commission no later than 3 days after the submission of the confidential version(s) of such discovery related material.~~

**Repeal Puc 201.05, effective 3-20-12 (Document #10099), as follows:**

~~Puc 201.05 Waiver of Rules.~~

- ~~(a) The commission shall waive the provisions of any of its rules, except where precluded by statute, upon request by an interested party, or on its own motion, if the commission finds that:~~
- ~~(1) The waiver serves the public interest; and~~
- ~~(2) The waiver will not disrupt the orderly and efficient resolution of matters before the commission.~~
- ~~(b) In determining the public interest, the commission shall waive a rule if:~~
- ~~(1) Compliance with the rule would be onerous or inapplicable given the circumstances of the affected person; or~~

- ~~(2) The purpose of the rule would be satisfied by an alternative method proposed.~~
- ~~(c) Any interested party seeking a waiver shall make a request in writing, except as provided in (d) below.~~
- ~~(d) The commission shall accept for consideration any waiver request made orally during a hearing or pre-hearing conference.~~
- ~~(e) A request for a waiver shall specify the basis for the waiver and proposed alternative, if any.~~

**Repeal Puc 201.06, effective 3-18-15 (Document #10797-A), as follows:**

~~Puc 201.06 Requests for Confidential Treatment of Documents Submitted by Utilities in Routine Filings.~~

~~(a) The following shall be the routine filings to which the procedure established by Puc 201.06 and Puc 201.07 applies:~~

- ~~(1) Telephone customer proprietary network information;~~
- ~~(2) Incumbent Local Exchange Carrier (ILEC) capital expense reports;~~
- ~~(3) NHPUC Form T-2 Assessment Reports;~~
- ~~(4) Preliminary and final Wholesale Performance Plan Reports for telecommunications companies containing carrier specific performance and bill credit calculations;~~
- ~~(5) NHPUC Form T-8 Exchange Eligibility Report;~~
- ~~(6) North American Numbering Plan Administration designated overseer (Neustar) Months to Exhaust and Utilization Certification Work Sheets;~~
- ~~(7) Neustar Part 1A;~~
- ~~(8) Neustar Part 1B;~~
- ~~(9) New England Power Pool "My Settled Certificates" Reports filed in conjunction with annual Renewable Portfolio Standards Reports;~~
- ~~(10) Listings of prices paid, and bids received, for Renewable Energy Certificates, that identify specific suppliers or dates of purchase;~~
- ~~(11) In cost of gas proceedings:
  - ~~a. Supplier commodity pricing information related to the unit volumetric and demand cost;~~
  - ~~b. Pricing and delivery special terms of supply agreements;~~
  - ~~c. Pricing and special terms for storage lease agreements;~~
  - ~~d. Natural gas or propane costs and availability relating to hedging;~~
  - ~~e. Special terms for hedged natural gas or propane contracts;~~
  - ~~f. Supply commodity cost information specific to individual suppliers in supply and demand forecasts; and~~
  - ~~g. Responses to data requests related to a. through f. above;~~~~

- ~~(12) NHPUC Form E-1, Monthly Report on Voltage Complaints;~~
- ~~(13) NHPUC Form E-4, Monthly Report of Electric Meter Complaint Tests;~~
- ~~(14) NHPUC Form E-5, Accident Reports;~~
- ~~(15) In default service proceedings:
  - ~~a. Default service solicitations;~~
  - ~~b. Bidder information;~~
  - ~~c. Descriptions of the financial security offered by each bidder;~~
  - ~~d. Bid evaluations;~~
  - ~~e. Rankings of bidders' financial security;~~
  - ~~f. Descriptions of financial security required by bidders;~~
  - ~~g. Fuel supplier contracts;~~
  - ~~h. Commodity and fuel pricing;~~
  - ~~i. Planned generation plant maintenance schedules;~~
  - ~~j. Contact lists used during the requests for proposals process;~~
  - ~~k. Financial security, pricing and quantity terms of master power agreements and amendments;~~
  - ~~l. Renewable Energy Certificate purchase prices, quantities and seller identities under existing contracts;~~
  - ~~m. Transaction confirmations;~~
  - ~~n. Retail meter commodity cost calculations;~~
  - ~~o. Wholesale power purchase prices until made public by other governmental agencies; and~~
  - ~~p. Responses to data requests related to a. through o. above.~~~~
- ~~(16) Utilities' cybersecurity plans;~~
- ~~(17) Utilities' physical security plans;~~
- ~~(18) Competitive Electric Power Supplier (CEPS) sales reports filed pursuant to Puc 2003.03(b);~~
- ~~(19) CEPS aggregator listings filed pursuant to Puc 2003.03(e);~~
- ~~(20) Competitive Natural Gas Supplier (CNGS) sales reports filed pursuant to Puc 3003.03(b) and (e);~~
- ~~(21) CNGS aggregator listings filed pursuant to Puc 3003.03(d);~~
- ~~(22) NHPUC Form E-24, Reports of Gas Meter Complaint Tests, for residential customer reports only; and~~
- ~~(23) NHPUC Form E-37, Quarterly Reports of Equipment Theft, Sabotage and Breaches of Security.~~

~~(b) Those parties submitting documents pursuant to Puc 201.06 shall indicate that they are relying on Puc 201.06 and Puc 201.07 in their request for confidential treatment.~~

~~(c) For paper filings made pursuant to this rule outside of an adjudicative proceeding or special contract filing, parties shall file one public paper copy and one confidential paper copy. For electronic filings, both a public and confidential version shall be prepared and submitted. Filings made in an adjudicative proceeding shall comply with Puc 203.02.~~

~~(d) The commission shall make a determination regarding requests for confidential treatment of documents or portions of documents submitted pursuant to Puc 201.06 upon request for release of those documents to the public submitted pursuant to Puc 201.07.~~

~~(e) Prior to commission determination regarding confidential treatment, documents submitted to the commission pursuant to Puc 201.06 shall be:~~

- ~~(1) Treated as confidential by the commission and any other party that may receive them; and~~
- ~~(2) Maintained by the commission, and any parties receiving a copy of the documents, according to such conditions as the commission determines are necessary to preserve such confidentiality.~~

**Repeal Puc 201.07, effective 3-24-12 (Document #10101), as follows:**

~~Puc 201.07 Requests for Release to the Public of Confidential Documents Submitted in Routine Filings.~~

~~(a) Puc 201.07 shall apply to all routine filings subject to Puc 201.06. All references to written communications in this rule also refer to e-mail communications.~~

~~(b) Puc 201.07 shall govern the commission's consideration of requests submitted pursuant to Puc 104.01 for public release of one or more documents for which confidential treatment has been requested pursuant to Puc 201.06.~~

~~(c) The commission, within 5 business days of the receipt, by the executive director, of a request made pursuant to Puc 201.07, shall send a written acknowledgment to the person requesting public release that includes:~~

- ~~(1) A statement that confidential treatment has been requested for the document(s);~~
- ~~(2) A statement of the time reasonably necessary to determine whether the request for release shall be granted or denied; and~~
- ~~(3) A statement that the request for release is subject to the provisions of Puc 201.07.~~

~~(d) The commission shall provide the person who submitted the document(s) with written notice of the request for release within 5 business days of the receipt of the request for release.~~

~~(e) The notice in (d) above shall:~~

- ~~(1) Describe the request for release; and~~
- ~~(2) Afford the person who submitted the document(s) 10 calendar days from the date of the notice to submit to the executive director a written objection to release of the document(s) to the public, pursuant to (f) below.~~

~~(f) Objections to release shall comply with Puc 202.06(a)(1) and (2) and contain:~~

- ~~(1) A specific description of the document(s) or specific portions of documents for which confidentiality is sought;~~

- ~~(2) Specific facts showing how release of the requested document(s) would constitute an invasion of privacy under RSA 91-A:5, including a description of how the requested material includes confidential, commercial, or financial information, or other information subject to the exemptions of RSA 91-A:5;~~
- ~~(3) A specific description of the harm that would result from release; and~~
- ~~(4) A representation that the information contained in the document(s) or portions of documents for which confidentiality is sought is not already available to the public.~~
- ~~(g) The commission shall take one of the following actions pursuant to RSA 91-A:5 and other applicable law:~~
- ~~(1) Approve the public release of the requested documents in their entirety;~~
  - ~~(2) Approve the partial release of the requested documents, subject to redactions approved by the commission; or~~
  - ~~(3) Deny the request for release in its entirety.~~
- ~~(h) In making its determination pursuant to (g) above, the commission shall consider:~~
- ~~(1) The written request for release;~~
  - ~~(2) The original request for confidential treatment pursuant to Puc 201.06;~~
  - ~~(3) Written objections filed with the commission;~~
  - ~~(4) Additional information that the commission requests; and~~
  - ~~(5) Any applicable law.~~
- ~~(i) In determining the proper action under (g) above, the commission shall:~~
- ~~(1) Consider whether there is a privacy interest at stake that would be invaded by the disclosure of the requested documents;~~
  - ~~(2) Consider whether the public has an interest in disclosure of the requested documents; and~~
  - ~~(3) Decide whether any public interest in disclosure is outweighed by the state's interest in non-disclosure and any privacy interest in non-disclosure.~~
- ~~(j) The commission shall provide written notice of its decision.~~

**Adopt Puc 201.02 to read as follows:**

Puc 201.02 Purpose. The purpose of the rules in this chapter is to ensure the fair and efficient processing of all filings submitted to the commission and the just and timely disposition of all matters before the commission.

**Repeal Puc 202.01(e), effective 6-10-06 (Document #8657-A), Puc 202.01(f), effective 3-18-15 (Document #10797-A), and Puc 202.01(g)-(n), effective 3-18-15 (Document #10797-B), cited as follows:**

~~PART Puc 202 OPERATIONS AND REQUIREMENTS~~

~~Puc 202.01 Requests for Commission Determinations.~~

~~(e) A person seeking the adoption, amendment or repeal of a commission rule shall do so by complying with Puc 205.03.~~

~~(f) A person seeking to make a formal complaint against an entity over which the commission has jurisdiction shall do so by complying with Puc 204.~~

~~(g) A person seeking to register as a competitive electric power supplier or aggregator shall do so by complying with Puc 2003.~~

~~(h) A person seeking to register as a competitive natural gas supplier or aggregator shall do so by complying with Puc 3003.~~

~~(i) A person seeking to be authorized to provide voice service as an excepted local exchange carrier (ELEC) shall do so by complying with Puc 404.02.~~

~~(j) A person seeking to register as a telecommunications carrier shall do so by complying with Puc 413.~~

~~(k) A person seeking a certificate of compliance with the design requirements of the Code for Energy Conservation in New Building Construction shall do so by complying with Puc 1804.~~

~~(l) A person seeking a certification that a building as constructed complies with the Code for Energy Conservation in New Building Construction shall do so by complying with Puc 1805.01.~~

~~(m) A utility filing a compliance plan, amendment to a compliance plan or notification related to affiliates or affiliate transactions shall do so by complying with Puc 2100.~~

~~(n) A person seeking certification of a renewable energy source shall do so by complying with Puc 2500.~~

**Repeal Puc 202.02-Puc 202.05, effective 6-10-06 (Document #8657-A), as follows:**

~~Puc 202.02 Docket and Calendar of Hearings.~~

~~(a) The executive director shall:~~

~~(1) Maintain a docket of all adjudicative and rulemaking proceedings pending before the commission;~~

~~(2) Keep a complete record of all the proceedings of the commission, including all books, maps, documents, and papers filed with the commission, and orders issued by the commission;~~

~~(3) Maintain a record of all petitions, complaints, applications, and investigations before the commission;~~

~~(4) Maintain a calendar of all hearings scheduled before the commission; and~~

~~(5) Maintain a service list for each proceeding of parties to the proceeding.~~

~~Puc 202.03 Computation of Time.~~

~~(a) Computation of any period of time referred to in the commission rules shall begin with the first day following that on which the act which initiates such period of time occurs.~~

~~(b) The last day of the period so computed shall be included unless it is a day on which the office of the commission is closed, in which event the period shall run until the end of the next following business day.~~

~~(c) When the period of time prescribed or allowed is less than 6 days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation of time.~~

~~Puc 202.04 Extensions of Time.~~

~~(a) Except for postponements of hearings pursuant to Puc 203.13, a party requesting an extension of time shall make such request in writing to the executive director before the expiration of the period originally prescribed.~~

~~(b) A party requesting an extension shall make a good faith attempt to gain the consent of the other parties for the extension.~~

~~(c) The commission shall grant a request for extension of time if:~~

~~(1) The party making the request has demonstrated that circumstances would cause undue hardship or inconvenience unless the request were granted; and~~

~~(2) The extension would not unduly delay the proceeding or adversely affect the rights of any party.~~

~~(d) The executive director shall notify all parties of any extension of time granted.~~

~~Puc 202.05 Date of Filing.~~

~~(a) Any document submitted to the commission shall be deemed to have been filed on the date the commission receives a complete executed paper filing with the required number of copies, pursuant to Puc 203.02, except as provided in (b) below.~~

~~(b) Utilities shall be permitted to file electronically the reports identified for such filing on the commission's web page and such reports shall be deemed to be filed on the date the electronic filing is made.~~

**Repeal Puc 202.06 and Puc 202.07, effective 3-18-15 (Document #10797-A), as follows:**

~~Puc 202.06 Requirements for Written Communications. Any person submitting written communications to the commission shall:~~

~~(a) Comply with the following:~~

~~(1) Date the submission;~~

~~(2) Identify the name and address of the person submitting the document and the party or parties on whose behalf it is submitted, if any;~~

~~(3) Identify the appropriate docket number, order number or other pertinent subject matter identification; and~~

~~(4) Comply with Puc 203.02, 203.03, 203.04 and 203.05 if making the filing in an adjudicative proceeding; or~~

~~(b) For all other commission filings, including those required by statute, made in a non adjudicative proceeding, submit one original and 2 paper copies.~~

~~Puc 202.07 Signatures. Each filing submitted to the commission shall be signed by a person authorized to make such a filing. An electronic signature, or "/s/" mark, with the full name of the signing person provided with the electronic signature or "/s/" mark, shall be an acceptable means of signing the filing.~~

**Repeal Puc 202.08 and Puc 202.09, effective 6-10-06 (Document #8657-A), as follows:**

~~Puc 202.08 Obstructing Justice.~~

~~(a) The commission shall refer for prosecution, pursuant to RSA 641:1 and RSA 641:2, any person who:~~



- ~~(1) Testifies falsely to any material matter wherein he has given his oath or affirmation, believing the testimony to be untrue; or~~
- ~~(2) Willfully falsifies any account, book, record, financial statement or other information regarding any material matter, believing the content to be untrue, with the intent to mislead or deceive any commissioner, presiding officer or staff member.~~

~~Puc 202.09 Withdrawal of Presiding Officer or Commissioner.~~

~~(a) Upon his or her own initiative or upon the motion of any party, a presiding officer or commissioner shall, for good cause, withdraw from any adjudicative proceeding or other matter.~~

~~(b) Good cause shall exist if a presiding officer or commissioner:~~

- ~~(1) Has a direct interest in the outcome of a proceeding, including, but not limited to, a financial or family relationship, within the third degree of relationship, with any party;~~
- ~~(2) Has made statements or engaged in behavior which objectively demonstrates that he or she has prejudged the facts of a case;~~
- ~~(3) Personally believes that he or she cannot fairly judge the facts of a case;~~
- ~~(4) Is obligated to withdraw because his or her impartiality might reasonably be questioned; or~~
- ~~(5) Is otherwise required to withdraw pursuant to applicable law.~~

~~(c) Mere knowledge of the issues, the parties or any witness shall not constitute good cause for withdrawal, nor shall the fact that the presiding officer or commissioner is a customer of a utility that is a party to the proceeding.~~

**Adopt Puc 202 to read as follows:**

**PART Puc 202 DEFINITIONS.**

Puc 202.01 “Adjudicative proceeding” means a proceeding conducted pursuant to the procedure followed in contested cases, as set forth in RSA 541-A:31 through RSA 541-A:36 and the rules of the commission.

Puc 202.02 “Applicable law” means any duly promulgated federal, state, or local law, regulation, rule, ordinance, code, directive, decree, judgment, order, permit, or other duly authorized and valid action of any Governmental Authority, including any binding interpretation of any of the foregoing by any Governmental Authority, which is applicable to a Person, including, without limitation, its property, business, a transaction, or any other matter of any kind concerning or related to the Person.

Puc 202.03 “Business day” means any Monday through Friday, excluding state holidays.

Puc 202.04 “Data Request” means a discovery procedure in which the requesting party asks another person for specified information or requests the production of documents.

Puc 202.05 “File” as a verb means to deliver an electronic or paper copy of a document to the commission.

Puc 202.06 “File electronically” means to file a document, excluding reports and related documents filed using the online commission or Department portals, by:

- (a) Using the electronic filing system if available at <https://www.puc.nh.gov>; or
- (b) Sending an email with documents attached in a file format accepted by the commission in accordance with Puc 203.04.

Puc 202.07 “Governmental Authority” means any government or agency or other political subdivision thereof, including the United States of America, the State of New Hampshire, any other state, municipality, or any other governmental, quasi-governmental, judicial, executive, legislative, administrative, regulatory, public, or statutory instrumentality, authority, body, agency, commission, department, board, bureau, or entity exercising judicial, executive, legislative, administrative, or regulatory functions, any court or arbitrator with authority to bind a party at law or any self-regulated organization or other quasi- or non-governmental regulatory authority to the extent that its rules, regulations, or orders have the force or effect of law.

Puc 202.08 “Hearing” means a publicly noticed session held in a matter before the commission or its designee, which provides for an opportunity for any participant, party, or intervenor to present evidence, conduct cross-examination, or otherwise participate. “Hearing” also includes any prehearing conferences, or status conferences, conducted pursuant to Puc 204.05 and Puc 204.06.

Puc 202.09 “Motion” means a request for an order or ruling by the commission directing some act to be done in favor of the party making the motion, and shall include a statement of justification or reasons for the request.

Puc 202.10 “Non-adjudicative proceeding” means any proceeding that is not included under Puc 202.01 and is not governed by RSA 541:31 through RSA 541:36.

Puc 202.11 “Participant” means any person with standing and subsequently granted the right to participate by the commission in a non-adjudicative proceeding.

Puc 202.12 “Party” means “party” as defined by RSA 541-A:1, XII, namely, “each person or agency named or admitted as a party, or properly seeking and entitled as a right to be admitted as a party in an adjudicative proceeding.”

Puc 202.13 “Person” means any legal person, including, without limitation, any natural person, association, corporation, estate, Governmental Authority, joint stock company, joint venture, limited liability company, partnership, public utility, trust, unincorporated organization, or any other legal or commercial entity.

Puc 202.14 “Petition” means the initial pleading filed with the commission to commence a proceeding for the purpose of seeking commission action pursuant to Puc 203.08(a).

Puc 202.15 “Pleading” means a written request for commission action or a written response to a written request for commission action in the form of a petition, motion, objection, reply, etc. A pleading does not include communications in the form of correspondence, such as a letter or email.

Puc 202.16 “Presiding officer” means the chairman of the public utilities commission or an individual conducting a hearing pursuant to RSA 363:16.

Puc 202.17 “Proceeding” means a docket on the commission’s website.

Puc 202.18 “Public statement hearing” means a meeting of the commission convened in a proceeding for the sole purpose of receiving public comment that will not be entered into evidence but may be considered by the commission in its decision in the proceeding.

Puc 202.19 “Remote participation” means participating in an in-person hearing via electronic means that enable participants to communicate with each other contemporaneously from a location other than that at which the hearing is being conducted.

Puc 202.20 “Routine filings” means documents submitted, on a recurrent basis, by a utility to the commission, and as specified in Puc 203.12(a).

Puc 202.21 “Status conference” means a hearing required by the commission in order to inform the commission of the status and progress of issues presented in a proceeding.

Puc 202.22 “Standing” means a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged.

**Repeal Puc 203.01, effective 6-10-06 (Document #8657-A), cited as follows:**

~~Puc 203 ADJUDICATIVE PROCEEDINGS~~

~~Puc 203.01 Staff Participation. When participating in an adjudicative proceeding, commission staff shall be subject to the rules in this part in the same manner and to the same extent as a party.~~

**Repeal Puc 203.02, effective 3-24-12 (Document #10101), as follows:**

~~Puc 203.02 Filing Requirements. ———~~

- ~~(a) Except as provided in (b) below, for a filing to be effective in an adjudicative proceeding, a party shall:~~
- ~~(1) File one original and 6 paper copies of all documents with the commission, and, for material submitted with a motion under Puc 203.08, file one public copy and 7 confidential copies;~~
  - ~~(2) File an electronic copy, as required by Puc 203.03, with the commission;~~
  - ~~(3) Serve pursuant to Puc 203.11 an electronic copy on each person identified on the commission’s service list for that docket;~~
  - ~~(4) Serve an electronic copy with the office of the consumer advocate; and~~
  - ~~(5) Serve a written copy pursuant to Puc 203.11 on each person identified on the commission’s service list as not able to receive electronic mail.~~
  - ~~(6) In adjudicative proceedings to which the office of the consumer advocate (OCA) is a party, filing parties shall also provide confidential materials to the OCA.~~
- ~~(b) Upon request of a person submitting a document and upon receipt of an extra copy of the document with the filing, the commission shall date stamp and return the copy as confirmation of the filing.~~
- ~~(c) Documents filed pursuant to this rule shall be printed double-sided on both sides of the documents’ paper sheets.~~

**Repeal Puc 203.03, effective 6-10-06 (Document #8657-A), as follows:**

~~Puc 203.03 Electronic Copies.~~

~~(a) Each person filing a document shall, in addition to the paper filing required by Puc 203.02 or otherwise, electronically file each document, to the extent practicable, in an electronic file format compatible with the computer system of the commission.~~

~~(b) The commission shall maintain a list on its web site of the types of electronic file formats compatible with its computer system.~~

**Repeal Puc 203.04, effective 3-24-12 (Document #10101), as follows:**

~~Puc 203.04 Form.~~

~~(a) Petitions, pleadings, motions and briefs shall:~~

- ~~(1) Be typed or printed on paper 8 1/2 by 11 inches in size, double sided;~~
- ~~(2) Have no less than one inch margins on all sides;~~
- ~~(3) Be page numbered sequentially, including attachments;~~
- ~~(4) Be submitted in unbound form;~~
- ~~(5) Be double spaced;~~
- ~~(6) Contain on the initial sheet a heading across the top thereof reading "Before the New Hampshire Public Utilities Commission";~~
- ~~(7) Identify the name of the petitioner, applicant or other party who is the subject of such proceeding; and~~
- ~~(8) Identify the nature of the document.~~

~~(b) Each document shall bear the title of the proceeding and the docket number assigned the matter by the commission, to the extent known.~~

**Repeal Puc 203.05-Puc 203.07 effective 6-10-06 (Document #8657-A), as follows:**

~~Puc 203.05 Pleadings.~~

~~(a) All petitions and motions shall include the following:~~

- ~~(1) A cover page identifying the name of the utility and the subject matter of the motion or petition;~~
- ~~(2) A clear and concise statement of the authorization or other relief sought;~~
- ~~(3) The statutory provision or legal precedent under which the authority or other relief is sought;~~
- ~~(4) The legal name of each person seeking the authorization or relief and the address or principal place of business of such person;~~
- ~~(5) The electronic mail address of the person making the filing or a statement that the person making the filing is unable to receive electronic mail;~~
- ~~(6) A concise and explicit statement of the facts upon which the commission should rely in granting authorization or relief; and~~
- ~~(7) Such other data as the petitioner considers relevant to the request for authority or relief.~~

~~(b) The commission shall notify in writing a petitioner filing a petition when such petition is deficient in any respect and any such deficient petition shall not be deemed to have been filed until the deficiency is corrected.~~

~~Puc 203.06 Petitions.~~

~~(a) Except as noted in (c) below, a petitioner shall not be required to submit pre filed written testimony with a petition.~~

~~(b) If a petitioner wishes to submit testimony with a petition in the interest of expediting the proceedings, the commission shall accept such testimony.~~

~~(c) All petitions seeking a rate adjustment shall be filed in compliance with Puc 1600 if applicable and shall be accompanied by pre filed testimony and exhibits.~~

~~(d) When submitted, written testimony shall set forth:~~

- ~~(1) The facts relied upon;~~
- ~~(2) Other relevant facts; and~~
- ~~(3) Policy arguments in support of the result sought.~~

~~(e) If the scope of a proceeding is expanded or issues arise which were not reasonably anticipated by the petitioner, the commission shall allow the petitioner to file supplemental direct testimony or comments on the new or unanticipated issues.~~

~~(f) If a witness' written testimony exceeds 20 pages, the testimony shall include a detailed table of contents.~~

~~Puc 203.07 Motions.~~

~~(a) A motion may be filed by any party or, in the case of a motion for rehearing, a person directly affected by a commission action pursuant to RSA 541:3.~~

~~(b) Except as provided in (c) below, any motion shall be filed in writing in the form of a pleading that contains the word "motion" in its title.~~

~~(c) The presiding officer shall permit an oral motion to be made on the record during a hearing or prehearing conference.~~

~~(d) A motion shall clearly and concisely state:~~

- ~~(1) The facts and law which support the motion; and~~
- ~~(2) The specific relief or ruling requested.~~

~~(e) Objections to a motion, except for motions for rehearing, shall be in writing and filed within 10 days of the date on which the motion is filed.~~

~~(f) Objections to a motion for rehearing pursuant to RSA 541:3 shall be filed within 5 days of the date on which the motion for rehearing is filed.~~

**Repeal Puc 203.08, effective 3-24-12 (Document #10101), as follows:**

~~Puc 203.08 Motions for Confidential Treatment.~~

~~(a) The commission shall upon motion issue a protective order providing for the confidential treatment of one or more documents upon a finding that the document or documents are entitled to such treatment pursuant to RSA 91 A:5, or other applicable law based upon the information submitted pursuant to (b) below.~~

~~(b) A motion for confidential treatment submitted pursuant to this rule shall contain:~~

- ~~(1) The documents, specific portions of documents, or a detailed description of the types of information for which confidentiality is sought;~~
- ~~(2) Specific reference to the statutory or common law support for confidentiality; and~~
- ~~(3) A detailed statement of the harm that would result from disclosure and any other facts relevant to the request for confidential treatment.~~

~~(c) Documents submitted to the commission or staff accompanied by a motion for confidential~~

~~treatment shall not be disclosed to the public until the commission rules on the motion.~~

~~(d) In lieu of immediately filing a motion for confidential treatment, a party providing a document to the commission staff in discovery that the party wishes to remain confidential shall accompany the submission with a written statement that:~~

~~(1) The party submitting such documents has a good faith basis for seeking confidential treatment of the documents pursuant to this rule; and~~

~~(2) Such party intends to submit a motion for confidential treatment regarding such documents at or before the commencement of the hearing in such proceedings.~~

~~(e) Documents submitted to the commission or staff accompanied by a written statement pursuant to (d) shall be treated as confidential, provided that the party submitting the documents thereafter files a motion for confidential treatment at or prior to the commencement of the hearing in the proceeding.~~

~~(f) When a party provides the commission or staff with a document accompanied by a motion for confidential treatment or a statement of intent to file such a motion, the party shall furnish 7 copies of the document.~~

~~(g) The commission shall mark each copy as confidential and maintain it within the commission offices in a secure location.~~

~~(h) If the commission grants a motion for confidential treatment, the confidential information shall not be subject to public disclosure and the document shall be treated according to such conditions as the commission determines are necessary to preserve such confidentiality.~~

~~(i) If the commission denies a motion for confidential treatment or modifies a previously issued protective order so that information previously held confidential is no longer entitled to such treatment, the information shall not be disclosed until all rights to request rehearing and to appeal have been exhausted or waived.~~

~~(j) When necessary to protect the confidentiality of material entitled to such treatment under this section, the commission shall include in its protective order a directive that all parties receiving the material shall also treat it as confidential.~~

~~(k) The granting of a motion for confidential treatment shall be subject to the ongoing authority of the commission on its own motion, or on the motion of staff, any party, or member of the public to reconsider the determination.~~

~~(l) If any information entitled to confidential treatment under this rule is thereafter released or made public by the party who sought its protection, any confidential treatment shall cease with respect to the released information but shall remain in full force and effect as to the information not so released or made public.~~

~~(m) The commission shall retain one copy of any documents entitled to confidential treatment under this rule and destroy all others within one year after all rights to appeal final orders of the commission have been exhausted.~~

**Repeal Puc 203.09-Puc 203.21, effective 6-10-06 (Document #8657-A), as follows:**

~~Puc 203.09 Discovery:~~

~~(a) The petitioner, the staff of the commission, the office of consumer advocate and any person granted intervenor status shall have the right to conduct discovery in an adjudicative proceeding pursuant to this rule.~~

~~(b) Unless inconsistent with an applicable procedural order, any person covered by this rule shall have the right to serve upon any party, data requests, which may consist of a written interrogatory or request for production of documents.~~

~~(c) Data requests shall identify with specificity the information or materials sought.~~

~~(d) A copy of each data request, each objection to data requests and each response to data requests shall be served upon every person designated for discovery filings on the commission's official service list pursuant to Puc 203.11.~~

~~(e) Objections to data requests and responses to data requests shall not be filed or served pursuant to Puc 203.02.~~

~~(f) A response to a data request shall be made within 10 days of the date of receipt or in accordance with a procedural schedule established by the commission.~~

~~(g) Objections to data requests shall:~~

~~(1) Be served in writing on the propounder of the requests within 10 days following receipt of the request unless the commission specifies a different time period in a procedural schedule order; and~~

~~(2) Clearly state the grounds on which they are based.~~

~~(h) Failure to object to a data request or requests for documents within 10 days of its receipt without good cause shall be deemed a waiver of the right to object.~~

~~(i) Motions to compel responses to data requests shall:~~

~~(1) Be made pursuant to Puc 203.07;~~

~~(2) Be made within 15 business days of receiving the applicable response or objection, or the deadline for providing the response, whichever is sooner;~~

~~(3) Specify the basis of the motion; and~~

~~(4) Certify that the movant has made a good faith effort to resolve the dispute informally.~~

~~(j) The commission shall authorize other forms of discovery, including technical sessions, depositions and any other discovery method permissible in civil judicial proceedings before a state court when such discovery is necessary to enable the parties to acquire evidence admissible in a proceeding.~~

~~(k) When a party has provided a response to a data request, and prior to the issuance of a final order in the proceeding, the party shall have a duty to reasonably and promptly amend or supplement the response if the party obtains information which the party would have been required to provide in such response had the information been available to the party at the time the party served the response.~~

~~Puc 203.10 Amendments.~~

~~(a) The commission shall permit the amendment of any document filed with the commission provided:~~

~~(1) The party requesting the amendment shall give notice of the request to all persons on the service list for the proceeding; and~~

~~(2) The commission determines that the amendment shall encourage the just resolution of the proceeding and will not cause undue delay.~~

~~(b) The commission shall not allow any amendment that has the effect of broadening the scope of the proceeding unless it provides notice to those affected and an opportunity to comment prior to final commission action.~~

~~(c) The executive director shall allow the correction of typographical errors in any document filed with the commission at any time.~~

~~Puc 203.11 Service.~~

~~(a) Except for motions for rehearing filed pursuant to RSA 541:3, service of all documents relating to any proceeding shall be made:~~

~~(1) Electronically, to the email address specified on the commission's service list for the docket;  
or~~

~~(2) By personal delivery, first class mail or other expedited delivery service, to such persons identified on the commission's service list for the docket as unable to receive electronic mail.~~

~~(b) When a party submits a filing to the commission on the last day on which such filing may be made pursuant to a commission procedural schedule order or by law, the party shall also serve such filing on all parties to the proceeding electronically or by facsimile or, prior to the expiration of such deadline, shall notify all other parties that such filing is available at the commission.~~

~~(c) Motions for rehearing filed pursuant to RSA 541:3 shall be served by hand, by facsimile or other method such to ensure that they are received by the parties by 4:30 p.m. on the same day as they are filed with the commission.~~

~~(d) If a person becomes an intervenor after a docket has been opened, the commission shall furnish a copy of all documents previously filed in that docket, if so requested, at a charge, to the requesting party, pursuant to Puc 105.01.~~

~~Puc 203.12 Notice of Adjudicative Proceeding.~~

~~(a) The commission shall give notice of a pre hearing conference, or of a hearing in a case for which no pre hearing conference has been scheduled, which shall contain the information required by RSA 541-A:31, III, namely:~~

~~(1) A statement of the date, time, place and nature of the hearing;~~

~~(2) A statement of the legal authority under which the hearing is to be held;~~

~~(3) A reference to the particular statutes and rules involved, including this chapter;~~

~~(4) A short and plain statement of the issues presented; and~~

~~(5) A statement that each party has the right to have an attorney represent them at the party's own expense.~~

~~(b) The commission shall direct the petitioner or other party to the docket to disseminate a notice issued pursuant to this section to the general public by causing the notice to be published in a newspaper of general circulation serving the area affected by the petition or by such other method as the commission deems appropriate and advisable in order to ensure reasonable notification to interested parties.~~

~~(c) The cost of publication required by (b) above shall be borne by the petitioner, the party being investigated or, when consistent with the public interest, by the commission itself.~~

~~(d) A petitioner required by the commission to publish notice shall file an affidavit of compliance, with a copy of the notice as published appended thereto, by a date specified in the notice.~~

~~Puc 203.13 Postponement of Hearing.~~

~~(a) A party requesting postponement of a hearing shall file a request with the executive director, in writing, at least 7 days prior to the date of hearing.~~



~~(b) The party requesting postponement shall make a good faith attempt to seek the concurrence of the other parties to the request.~~

~~(c) The commission shall grant a request for postponement of a hearing if it finds that to do so would promote the orderly and efficient conduct of the proceeding.~~

~~Puc 203.14 Presiding Officer.~~

~~(a) Except as provided in (b) or (c) below, the chairman of the commission shall serve as presiding officer.~~

~~(b) When the chairman is absent but one or more commissioners are present at a hearing or prehearing conference, the most senior commissioner present shall designate the presiding officer.~~

~~(c) A hearings examiner of the commission shall serve as presiding officer when authorized pursuant to RSA 363:17.~~

~~(d) The duties of a presiding officer shall include, but are not limited to:~~

~~(1) Presiding over the prehearing conferences and hearings; and~~

~~(2) Ruling on discovery disputes, confidentiality requests, and procedural matters which may arise during the course of the proceeding.~~

~~Puc 203.15 Prehearing Conference.~~

~~(a) In order to facilitate proceedings and encourage informal disposition, the presiding officer shall, upon motion of any party, or upon the presiding officer's own motion, schedule one or more prehearing conferences.~~

~~(b) The commission shall provide notice to all parties prior to holding any prehearing conference.~~

~~(c) Prehearing conferences shall include consideration of any one or more of the following:~~

~~(1) Offers of settlement;~~

~~(2) Simplification of the issues;~~

~~(3) Stipulations or admissions as to issues of fact or proof, by consent of the parties;~~

~~(4) Limitations on the number of witnesses;~~

~~(5) Consolidation of examination of witnesses by the parties; and~~

~~(6) Any other matters which aid in the disposition of the proceeding.~~

~~(d) Initial prehearing conferences convened at the commencement of proceedings shall also include consideration of any one or more of the following:~~

~~(1) Statement of preliminary, non-binding positions and other issues of concern of the parties identified after initial review of the filing;~~

~~(2) Consideration of any petitions for intervention and any objection filed thereto;~~

~~(3) Changes to standard procedures desired for discovery or during the hearing, if requested by a party;~~

~~(4) Establishment of a procedural schedule to govern the remainder of the proceeding; and~~

- ~~(5) Motions for confidential treatment of matters raised in the proceeding and otherwise to facilitate discovery.~~
- ~~(e) The commission shall issue and serve upon all parties a prehearing order addressing the matters raised at any prehearing conference.~~

~~Puc 203.16 Appearance Before the Commission.~~

- ~~(a) Any person may appear before the commission:~~
- ~~(1) In one's own behalf;~~
  - ~~(2) By an attorney authorized to practice in any state or the District of Columbia and in good standing;~~
  - ~~(3) By an employee or authorized agent; or~~
  - ~~(4) By any person the commission authorizes, pursuant to RSA 365:10 a, to act as a representative of the person before the commission.~~
- ~~(b) Any person appearing before the commission shall adhere to:~~
- ~~(1) Puc 200; and~~
  - ~~(2) Any orders of the commission or agreements between the parties in the docket, including orders or agreements addressing confidentiality.~~
- ~~(c) The commission shall prohibit the appearance of any person described in (a) above if it finds that person to have demonstrated a disregard for commission practices and procedures or otherwise disrupted commission proceedings.~~

~~Puc 203.17 Intervention. The commission shall grant one or more petitions to intervene in accordance with the standards of RSA 541-A:32.~~

~~Puc 203.18 Public Comment. Persons who do not have intervenor status in a proceeding but having interest in the subject matter shall be provided with an opportunity at a hearing or prehearing conference to state their position.~~

~~Puc 203.19 Consolidation of Hearings.~~

- ~~(a) When more than one application or petition seeks the same or similar relief, the commission shall consolidate the cases to be heard on a common record if it determines that to do so will promote the orderly and efficient conduct of the proceeding.~~
- ~~(b) The executive director shall note any such consolidation in the docket record of each affected proceeding.~~
- ~~(c) The cost of consolidated hearings shall be borne equitably by the parties.~~
- ~~(d) In determining an equitable sharing of costs pursuant to (c) above, the commission shall consider:~~
- ~~(1) A utility's number of customers; and~~
  - ~~(2) A utility's in-state revenue.~~
- ~~(e) If a party objects to consolidation, such consolidation shall not occur until after the party has had an opportunity to be heard on the issue.~~

~~Puc 203.20 Settlement and Stipulation of Facts.~~

~~(a) All participants in settlement conferences shall treat discussions at settlement conferences as confidential and shall not disclose the contents of such discussions to third parties or seek to introduce them into evidence.~~

~~(b) The commission shall approve a disposition of any contested case by stipulation, settlement, consent order or default, if it determines that the result is just and reasonable and serves the public interest.~~

~~(c) The parties to any proceeding before the commission shall, by stipulation in writing filed with the commission or entered in the record at the hearing, agree upon the facts or any portion thereof involved in the hearing when such facts are not in dispute among the parties.~~

~~(d) If a stipulation is filed and is not contested by any party, the stipulation shall bind the commission as to the facts in question, and the commission shall consider the stipulation as evidence in the decision of the matter.~~

~~(e) Settlements and stipulations shall be filed no less than 5 days prior to the hearing, except as provided in (f).~~

~~(f) The commission shall accept late filed stipulations and settlements when such acceptance:~~

~~(1) Promotes the orderly and efficient conduct of the proceeding; and~~

~~(2) Will not impair the rights of any party to the proceeding~~

~~Puc 203.21 Limiting Number of Witnesses or Time. The commission shall limit the number of witnesses or the time for testimony or oral argument upon a particular issue, as needed, to avoid unnecessary or cumulative evidence.~~

**Repeal Puc 203.22, effective 3-24-12 (Document #10101), as follows:**

~~Puc 203.22 Exhibits.~~

~~(a) A party presenting evidence at a hearing shall present such evidence in exhibit form if the evidence contains tabulations and figures so numerous as to make oral presentation difficult to follow.~~

~~(b) Exhibits may contain a summary in an accompanying text or caption section.~~

~~(c) Exhibits consisting of more than one page shall be paginated sequentially.~~

~~(d) Parties filing exhibits shall:~~

~~(1) Provide on the first page of each exhibit a space approximately 2 1/2 inches wide by 1 1/2 inches long in the upper right hand corner; and~~

~~(2) Provide that each subsequent page shall have no less than one inch margins on all sides.~~

~~(e) A party presenting an exhibit at hearing with any material that has not been previously submitted to the commission shall provide a copy to the hearing clerk, each commissioner, the court reporter, if any, any witness or witnesses then testifying and each party present at the hearing. Parties may request that the commission mark previously submitted filings in the matter being heard as an exhibit at hearing, without having to submit an additional copy of such a document at hearing.~~

~~(f) Any party offering an exhibit other than a document or photograph shall:~~

~~(1) Produce the exhibit for evaluation during a hearing; and~~

~~(2) Submit a photographic representation of the exhibit for inclusion in the record.~~

**Repeal Puc 203.23-Puc 203.34, effective 6-10-06 (Document #8657-A), as follows:**

~~Puc 203.23 Evidence.~~

~~(a) The parties entitled to offer evidence at hearing in an adjudicative proceeding shall be the petitioner, the staff of the commission, the office of consumer advocate and any person granted intervenor status.~~

~~(b) All testimony of parties and witnesses, including any prefiled written testimony adopted by a witness at hearing, shall be made under oath or affirmation.~~

~~(c) Pursuant to RSA 365:9 and RSA 541-A:33, II, the rules of evidence shall not apply in proceedings before the commission.~~

~~(d) The commission shall exclude irrelevant, immaterial or unduly repetitious evidence.~~

~~(e) The commission shall give effect to the rules of privilege recognized by law.~~

~~(f) The commission shall entertain objections to evidence at hearing and note them in the record.~~

~~(g) A party shall submit documentary evidence in the form of copies or excerpts unless the commission finds that the authenticity of the submission is questioned or the copy is not legible.~~

~~(h) Excerpts of documents shall include the proper citation to the complete document.~~

~~(i) A response to a data request posed pursuant to Puc 203.09(a), when offered into evidence by a party other than the party that provided the response, shall be treated as an admission of the party that provided the data response.~~

~~Puc 203.24 Cross Examination.~~

~~(a) Consistent with any conditions imposed pursuant to RSA 541-A:32, III the petitioner, the staff of the commission, the office of consumer advocate and any persons granted intervenor status may conduct cross examination of a witness in order to develop a full and true disclosure of the facts.~~

~~(b) The commission shall limit the direct or cross examination of a witness if it determines that such limitation is necessary to avoid repetitive lines of inquiry.~~

~~Puc 203.25 Burden and Standard of Proof. Unless otherwise specified by law, the party seeking relief through a petition, application, motion or complaint shall bear the burden of proving the truth of any factual proposition by a preponderance of the evidence.~~

~~Puc 203.26 Order of Procedure. In hearings on petitions, the petitioner shall have the opportunity to open and close any part of the presentation.~~

~~Puc 203.27 Administrative Notice.~~

~~(a) The commission shall take administrative notice when a party presents one or more of the following:~~

~~(1) Any fact which could be judicially noticed in the courts of New Hampshire;~~

~~(2) The relevant portion of the record of other proceedings before the commission;~~

~~(3) Generally recognized technical or scientific facts within the commission's specialized knowledge; and~~

~~(4) Codes or standards that have been adopted by an agency of the United States, of New~~

~~Hampshire or of another state, or by a nationally recognized organization or association.~~

~~(b) The commission shall notify parties either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed.~~

~~(c) The commission shall afford parties an opportunity to contest the material so noticed.~~

~~Puc 203.28 Views and Inspections. The commission shall take a view or conduct an inspection of any property which is the subject of a hearing before the commission if requested by a party, or on its own motion, if the commission shall have determined that the view or inspection will assist the commission in reaching a determination in the hearing.~~

~~Puc 203.29 Recess and Adjournment. The commission shall recess, adjourn or continue any hearing if to do so will promote the orderly and efficient conduct of the proceeding.~~

~~Puc 203.30 Reopening the Record.~~

~~(a) The commission shall, on its own motion or at the request of a party, authorize filing of exhibits after the close of a hearing if the commission finds that late submission of additional evidence will enhance its ability to resolve the matter in dispute.~~

~~(b) Any party requesting authorization to file an exhibit after the close of a hearing shall make its request:~~

~~(1) Orally before the close of the hearing; or~~

~~(2) If the hearing has concluded, by motion, pursuant to Puc 203.06.~~

~~(c) In determining whether to admit the late filed exhibit into the record, the commission shall consider:~~

~~(1) The probative value of the exhibit; and~~

~~(2) Whether the opportunity to submit a document impeaching or rebutting the late filed exhibit without further hearing shall adequately protect the parties' right of cross-examination pursuant to RSA 541-A:33, IV.~~

~~Puc 203.31 Transcripts.~~

~~(a) When the commission desires a transcript of the evidence of any hearing, to assist in its deliberation thereon, it shall order a transcript pursuant to a contract between the commission and stenographic reporter.~~

~~(b) The reporter's charge for attendance and expenses shall be paid by the petitioning utility or as otherwise directed pursuant to RSA 365:37 and RSA 365:38.~~

~~(c) The commission shall provide one copy of the transcript at no charge to the office of consumer advocate.~~

~~Puc 203.32 Briefs.~~

~~(a) Upon the request of a party or on its own motion, the commission shall allow parties to submit briefs at any point in an adjudicative proceeding if the commission determines that such briefing would assist the commission in its determination of the issues presented.~~

~~(b) The commission shall set any briefing deadline or deadlines so as to permit the parties adequate time to draft their briefs and without causing undue delay in the conclusion of the proceeding.~~

~~(c) The commission shall establish a briefing schedule that allows one or more parties to submit briefs~~

~~in rebuttal or reply to the brief or briefs of one or more other parties when such a sequential schedule is necessary to assure due process, fairness or full discussion of the issues presented.~~

~~(d) The commission shall establish a page limit for briefs when it determines that such a limit would promote the efficient resolution of issues without adversely affecting the rights of any party.~~

~~(e) The commission shall encourage joint filing of briefs when there is more than one party advocating the same result and the same arguments and individual briefs would be duplicative.~~

~~Puc 203.33 Rehearing. Parties requesting rehearing shall do so according to the provisions of RSA 541.~~

~~Puc 203.34 Retention of Decisions. The commission shall keep a decision on file in its records for at least 5 years following the date of the final decision or the date of the decision on any appeal, unless the director of the division of records management and archives of the department of state sets a different retention period pursuant to rules adopted under RSA 5:40.~~

**Adopt Puc 203 to read as follows:**

**PART Puc 203 GENERAL REQUIREMENTS**

**Puc 203.01 Waiver of Rules.**

(a) The presiding officer may waive the provisions of any of the commission's administrative rules, except when precluded by statute, in response to a motion filed by an interested party, or on the presiding officer's own motion, if it is found that:

(1) The waiver serves the public interest; and

(2) The waiver will not disrupt the orderly and efficient resolution of matters before the commission.

(b) In determining the public interest, the presiding officer shall waive a rule if:

(1) Compliance with the rule would be onerous or inapplicable given the circumstances of the affected person; or

(2) The purpose of the rule would be satisfied by an alternative method proposed.

(c) Any interested party seeking a waiver shall file a written motion, except as provided in (d) below.

(d) The presiding officer may consider any waiver request made orally during a hearing or prehearing conference.

(e) A request for a waiver shall specify the basis for the waiver and proposed alternative, if any.

**Puc 203.02 Computation of Time.**

(a) Unless otherwise specified, all time periods referenced in this chapter shall be in calendar days.

(b) Computation of any period of time established in these rules shall begin with the first day after the action that triggers the time period and shall include the last day of the period so computed.

(1) For time periods not established in statute, if the last day of the period so computed does not fall on a business day, then the time period shall be extended to include the first business day following.

(2) When the period of time prescribed or allowed is less than 6 days, intermediate Saturdays, Sundays and New Hampshire state holidays shall be excluded in the computation of time.

(c) Time periods established in statute shall be determined as specified in the statute.

Puc 203.03 Enforcement. A filing will not be deemed filed unless it complies with the commission's administrative rules. Within 10 days of receipt, the commission or its designee shall provide written notification when a filing is non-compliant. Non-compliant documents will not be deemed filed until they are resubmitted and accepted.

Puc 203.04 Address and Filing Format.

(a) All correspondence intended for the commission shall be addressed to the commission chairman. All written communications should be sent to the commission's clerk's office at [ClerksOffice@puc.nh.gov](mailto:ClerksOffice@puc.nh.gov) or

NH Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, N.H. 03301-2429

(b) Electronic filings must be made in searchable portable document format (PDF) and Excel files and reflect the same text and pagination as any submitted hardcopies.

(c) Electronic submissions larger than 33 MB shall be submitted via the State of New Hampshire File Transfer protocol. Instructions for the New Hampshire File Transfer protocol shall be listed on the Commission's website. USB Flash drives and other electronic storage devices will be rejected pursuant to Puc 203.03.

(d) The Business hours of the Commission s Monday through Friday, except for State Holidays, from 8 am to 4:30pm.

Puc 203.05 Number of Copies. No paper filings are required if filed electronically. If the filing is not made electronically, then a single original paper filing shall be submitted pursuant to Puc 203.04 (a).

Puc 203.06 General Requirements for Written Communications.

(a) All written communications submitted to the commission shall:

- (1) Be dated;
- (2) Be signed. An electronic signature, or "/s/" mark, with the full name of the signing person provided with the electronic signature or "/s/" mark, shall be an acceptable means of signing the filing.
- (3) Identify the name and mailing address, email address and telephone number of the person submitting the document and the party or parties on whose behalf it is submitted, if any;
- (4) Identify the appropriate docket number, order number or other pertinent subject matter;
- (5) Be typed on 8-1/2 by 11 inches sized paper;
- (6) Have no less than one inch margins on all sides;
- (7) Contain sequentially numbered pages; and
- (8) Be double-spaced.

(9) Each type of document should be filed separately. For example, pleadings and testimony should not be filed as a combined document.

Puc 203.07 Pleading Requirements. All requests for commission action must be made in the form of a pleading that complies with the commission's administrative rules.

(a) All pleadings filed with the commission shall comply with the following requirements in addition to those contained in Puc 203.06:

- (1) They shall contain a certification that the filer has sent a copy of the filing to all participants and parties on the docket service list and the service list must be attached to the cover letter; and
- (2) Contain on the initial sheet a heading across the top thereof reading "Before the New Hampshire Public Utilities Commission";
- (3) Identify the legal name of each person seeking the authorization or relief and the address or principal place of business of such person; and
- (4) Identify the nature of the document, including the name of the utility and the subject matter of the pleading;
- (5) A clear and concise statement of the authorization or other relief sought;
- (6) The statutory provision or legal precedent under which the authority or other relief is sought;
- (7) The electronic mail address of the person making the filing or a statement that the person making the filing is unable to receive electronic mail;
- (8) A concise statement of the facts supporting the request for authorization or relief; and
- (9) Such other data as the filer considers relevant to the request for authority or relief.

(b) Service of all pleadings shall be made:

- (1) Electronically to the email addresses contained on the commission's service list for the docket; or
- (2) By first class mail or other expedited delivery service to such persons identified on the commission's service list for the docket as unable to receive electronic mail.

(c) All participants or parties in a commission docket are responsible for notifying the commission in a timely manner pursuant to Puc 203.06 of any changes to their contact information. Notice sent using the information contained in the commission's current service list shall be deemed sufficient.

Puc 203.08 Specific Pleadings

(a) Petitions.

- (1) The initial request for relief in a commission proceeding should be in the form of a petition, which may be accompanied by prefiled testimony.
  - (a) If a petitioner wishes to submit testimony with a petition in the interest of expediting the proceedings, the commission shall accept such testimony.



- (b) All petitions seeking a rate adjustment shall be filed in compliance with Chapter Puc 1600, if applicable, and shall be accompanied by prefiled testimony and supporting documents.
  - (c) If a witness's written testimony exceeds 20 pages, the testimony shall include a detailed table of contents.
  - (d) If the scope of a proceeding is expanded or issues arise which were not reasonably anticipated by the petitioner, the commission shall allow the petitioner to file supplemental direct testimony or comments on the new or unanticipated issues.
  - (e) All petitions shall include a statement of the financial impact the petition will have if granted.
- (2) Intervention. Requests to intervene shall be in the form of a petition, in which the petitioner states the reasons why intervention in a specific docket should be granted. The commission will rule on petitions to intervene in accordance with the standards of RSA 541-A:32. In exercising its discretion, the Commission shall consider whether the intervention will unduly delay or prejudice the adjudication of the petition.
- (b) Motions. All non-dispositive motions shall contain a certification that a good faith effort has been made to seek the concurrence of all other parties in the docket to the request. If the opposing party has not assented, a declaratory statement shall be included.
- (1) Oral motions. The presiding officer may permit an oral motion to be made on the record during a hearing, prehearing conference or status conference.
  - (2) Motions to continue. Motions to continue shall be filed at least 7 days prior to the date of the noticed hearing.
  - (3) Motions to extend deadline(s). Motions to extend deadline(s) shall be filed as soon as possible and, absent unforeseeable circumstances, at least 3 business days prior to the expiration of the deadline in question. The commission shall grant a request for extension of time if:
    - (a) The party making the request has demonstrated that circumstances would cause undue hardship or inconvenience unless the request were granted; and
    - (b) The extension would not unduly delay the proceeding or adversely affect the rights of any party.
    - (c) Motions to extend deadline(s) that are not filed at least 3 business days prior to the expiration of the deadline will be granted at the discretion of the Presiding Officer.
  - (4) Motions to amend. The Presiding Officer may grant a motion to amend that will promote the just resolution of the proceeding and will not cause undue delay.
  - (5) Motions for rehearing may be filed by any party or person directly affected by a commission action pursuant to RSA 541:3 and RSA 365:21.

(6) Motions for confidential treatment. See Puc 203.14.

(7) Motion for remote participation. A written motion for a particular individual to appear remotely, which explains why that individual is unable to participate in person, shall be filed with the commission's clerk's office no later than fifteen (15) days prior to the hearing date.

(8) Motion for decision by order nisi. Any party or participant may request a commission decision by order nisi and shall state specific reasons why a hearing is not required in the proceeding.

(c) Objections.

(1) Objections to a motion, except for motions for rehearing, shall be in writing and filed within 10 days of the date on which the motion is filed.

(2) Objections to a motion for rehearing pursuant to RSA 365:21 shall be filed within 10 days of the date on which the motion for rehearing is filed.

(d) Complaints. See Puc 204.27.

Puc 203.09 Department Position Statements. The Department shall file a statement of its position and an explanation of the basis of its position regarding the petition at least fourteen days prior to the scheduled hearing. If an audit has been performed by the Department a copy of the audit report shall be filed with the Department's position statement.

Puc 203.10 Date of Filing. A document in compliance with the commission's administrative rules shall be deemed filed on the date that the commission receives a compliant filing during its business hours as defined by Puc 203.04 (d).

Puc 203.11 Public Records.

(a) Subject to RSA 91-A, all documents submitted to the commission shall become matters of public record as of the day and time of the submission, with the following exceptions:

(1) Accident reports under RSA 374:40;

(2) Information about individual residential customers, the disclosure of which would constitute an invasion of privacy within the meaning of RSA 91-A:5, IV;

(3) Documents submitted in connection with any proceeding in which confidential treatment has been requested pursuant to Puc 203.12;

(4) Documents subject to a protective order of the commission issued pursuant to Puc 203.12;

(5) Documents granted confidential treatment pursuant to Puc 203.12 and Puc 203.13; or

(6) Other documents entitled to confidential treatment pursuant to RSA chapter 91-A or other applicable law.

(b) All information within documents described in section (a) above, and submitted to the commission and asserted to be confidential by the person making the submission, shall be redacted prior to submission. Redactions in the version for public release and all redactions shall be made in a way that, within the redacted version of the

document(s), preserves the line sequencing and pagination of the unredacted version of the document(s) to the greatest practicable extent, and:

- (1) Bears the legend “REDACTED” at the upper-right-hand corner of the first page, and every redacted page; and
- (2) Indicates all confidential segments with either:
  - a. The legend “BEGIN CONFIDENTIAL,” in all capital letters, at the beginning of the redacted segment, followed by a left bracket. Following the left bracket, the confidential segment shall be replaced by a blank space of approximately equal length to the material being redacted. The end of the redacted segment shall be indicated with a right bracket, followed by the legend “END CONFIDENTIAL,” in all capital letters, as follows:  
  
“BEGIN CONFIDENTIAL[blank space]END CONFIDENTIAL;” or
  - b. Indication of redacted material by blacking it out or highlighting it with a solid black line in the following manner: redacted material; or
  - c. Any other method that clearly indicates the scope of the material redacted.
- (c) For each redacted document submitted, the person submitting the document shall also provide an unredacted version of the confidential document(s) to the commission that:

- (1) Bears the legend “CONFIDENTIAL” at the upper-right-hand corner of the first page, and every page with confidential material; and
- (2) Indicates all redactions with either:-
  - a. The legend “BEGIN CONFIDENTIAL,” in all capital letters, at the beginning of the confidential segment, followed by a left bracket. The end of the confidential segment shall be indicated with a right bracket, followed by the legend “END CONFIDENTIAL,” in all capital letters, as follows:  
  
“BEGIN CONFIDENTIAL[confidential segment]END CONFIDENTIAL;” or
  - b. Indication of all redactions made by highlighting the confidential segment in light gray in the following manner: confidential segment; or
  - c. Any other method that clearly indicates the material redacted in the redacted version.

(d) The public version(s) of any discovery-related submissions made pursuant to Puc 203.12 shall be filed with the commission no later than 3 days after the submission of the confidential version(s) of such discovery-related material.

Puc 203.12 Requests for Confidential Treatment of Documents Submitted by Utilities in Routine Filings.

(a) The following shall be the routine filings to which the procedure established by Puc 203.12 and Puc 203.13 applies:

- (1) Preliminary and final Wholesale Performance Plan Reports for telecommunications companies containing carrier-specific performance and bill credit calculations;

- (2) NHPUC Form T-8 Exchange Eligibility Report;
- (3) In cost of gas proceedings:
  - a. Supplier commodity pricing information related to the unit volumetric and demand cost;
  - b. Pricing and delivery special terms of supply agreements;
  - c. Pricing and special terms for storage lease agreements;
  - d. Natural gas or propane costs and availability relating to hedging;
  - e. Special terms for hedged natural gas or propane contracts;
  - f. Supply commodity cost information specific to individual suppliers in supply and demand forecasts; and
  - g. Responses to data requests related to a. through f. above;
- (4) NHPUC Form E-5, Accident Reports;
- (5) If electric default service solicitations from 3rd parties are sought:
  - a. Default service solicitations;
  - b. Bidder information;
  - c. Descriptions of the financial security offered by each bidder;
  - d. Bid evaluations;
  - e. Rankings of bidders' financial security;
  - f. Descriptions of financial security required by bidders;
  - g. Fuel supplier contracts;
  - h. Commodity and fuel pricing;
  - i. Contact lists used during the requests for proposals process;
  - j. Financial security, pricing and quantity terms of master power agreements and amendments;
  - k. Transaction confirmations;
  - l. Retail meter commodity cost calculations;
  - m. Wholesale power purchase prices until made public by other governmental agencies; and
  - n. Responses to data requests related to a. through m. above.
- (6) Utilities' cybersecurity plans; RSA 91-A:5, XI
- (7) Utilities' physical security plans; RSA 91-A:5, VI

(b) Those parties submitting documents pursuant to Puc 203.12 shall indicate that they are relying on Puc 203.12 and Puc 203.13 in their request for confidential treatment.

(c) For electronic filings, both a public and confidential version shall be prepared and submitted. For paper filings made pursuant to this rule outside of an adjudicative proceeding, parties shall file one public copy and one confidential copy. Filings made in an adjudicative proceeding shall comply with Puc 204.

(d) The commission shall make a determination regarding requests for confidential treatment of documents or portions of documents submitted pursuant to Puc 203.12 upon request for release of those documents to the public submitted pursuant to Puc 203.13.

(e) Prior to commission determination regarding confidential treatment, documents submitted to the commission pursuant to Puc 203.12 shall be:

- (1) Treated as confidential by the commission and any other party that may receive them; and
- (2) Maintained by the commission, and any parties receiving a copy of the documents, according to such conditions as the commission determines are necessary to preserve such confidentiality.

Puc 203.13 Requests for Release to the Public of Confidential Documents Submitted in Routine Filings.

(a) Puc 203.13 shall apply to all routine filings subject to Puc 203.12. All references to written communications in this rule also refer to documents filed via electronic means.

(b) Puc 203.13 shall govern the commission's consideration of requests submitted pursuant to Puc 104.01 for public release of one or more documents for which confidential treatment has been requested pursuant to Puc 201.12.

(c) The commission, within 5 business days of the receipt of a request made pursuant to Puc 203.12, shall send a written acknowledgment to the person requesting public release that includes:

- (1) A statement that confidential treatment has been requested for the document(s);
- (2) A statement of the time reasonably necessary to determine whether the request for release shall be granted or denied; and
- (3) A statement that the request for release is subject to the provisions of Puc 203.13.

(d) The commission shall provide the person who submitted the document(s) with written notice of the request for release within 5 business days of the receipt of the request for release.

(e) The notice in (d) above shall:

- (1) Describe the request for release; and
- (2) Afford the person who submitted the document(s) 10 calendar days from the date of the notice to submit to the commission a written objection to release of the document(s) to the public, pursuant to (f) below.

(f) Objections to release shall comply with Puc 203.08 and contain:

- (1) A specific description of the document(s) or specific portions of documents for which confidentiality is sought;

- (2) Specific facts showing how release of the requested document(s) would constitute an invasion of privacy under RSA 91-A:5, including a description of how the requested material includes confidential, commercial, or financial information, or other information subject to the exemptions of RSA 91-A:5;
  - (3) A specific description of the harm that would result from release; and
  - (4) A representation that the information contained in the document(s) or portions of documents for which confidentiality is sought is not already available to the public.
- (g) The commission shall take one of the following actions pursuant to RSA 91-A:5 and other applicable law:
- (1) Approve the public release of the requested documents in their entirety;
  - (2) Approve the partial release of the requested documents, subject to redactions approved by the commission; or
  - (3) Deny the request for release in its entirety.
- (h) In making its determination pursuant to (g) above, the commission shall consider:
- (1) The written request for release;
  - (2) The original request for confidential treatment pursuant to Puc 203.12;
  - (3) Written objections filed with the commission;
  - (4) Additional information that the commission requests; and
  - (5) Any applicable law.
- (i) In determining the proper action under (g) above, the commission shall:
- (1) Consider whether there is a privacy interest at stake that would be invaded by the disclosure of the requested documents;
  - (2) Consider whether the public has an interest in disclosure of the requested documents; and
  - (3) Decide whether any public interest in disclosure is outweighed by the state's interest in non-disclosure and any privacy interest in non-disclosure.
- (j) The commission shall provide written notice of its decision.

Puc 203.14 Motions for Confidential Treatment.

(a) The commission shall grant a motion for confidential treatment and issue a protective order providing for the confidential treatment of one or more documents upon a finding that the document or documents are entitled to such treatment pursuant to RSA 91-A:5, or other applicable law, based upon the information submitted pursuant to (b) below.

(b) A motion for confidential treatment submitted pursuant to this rule shall contain:

- (1) The documents, specific portions of documents, or a detailed description of the types of information for which confidentiality is sought;
- (2) Specific reference to the statutory or common law support for confidentiality; and
- (3) A detailed statement of the harm that would result from disclosure and any other facts relevant to the request for confidential treatment.

(c) Documents submitted to the commission accompanied by a motion for confidential treatment shall not be disclosed to the public until the commission rules on the motion. However, in adjudicative proceedings the confidential documents shall be provided to all parties to the proceeding.

(d) In lieu of immediately filing a motion for confidential treatment, a party providing a document to the Department, the OCA or any other governmental entity in discovery that the party wishes to remain confidential shall accompany the submission with a written statement that:

- (1) The party submitting such documents has a good faith basis for seeking confidential treatment of the documents pursuant to this rule; and
- (2) Such party intends to submit a motion for confidential treatment regarding such documents at or before the commencement of the hearing in such proceedings.

(e) Documents submitted to the commission accompanied by a written statement pursuant to the Department, the OCA or any other governmental entity (d) shall be treated as confidential, provided that the party submitting the documents thereafter files a motion for confidential treatment at or prior to the commencement of the hearing in the proceeding.

(f) The commission shall maintain confidential copies in a secure location.

(g) If the commission grants a motion for confidential treatment, the confidential information shall not be subject to public disclosure, and the document shall be treated according to such conditions as the commission determines are necessary to preserve such confidentiality.

(h) If the commission denies a motion for confidential treatment or modifies a previously issued protective order so that information previously held confidential is no longer entitled to such treatment, the information shall not be disclosed until all rights to request rehearing and to appeal have been exhausted or waived.

(i) When necessary to protect the confidentiality of material entitled to such treatment under this section, the commission shall include in its protective order a directive that all parties receiving the material shall also treat it as confidential.

(j) The granting of a motion for confidential treatment shall be subject to the ongoing authority of the commission on its own motion, or on the motion of any party or member of the public to reconsider the determination.

(k) If any information entitled to confidential treatment under this rule is thereafter released or made public by the party who sought its protection, any confidential treatment shall cease with respect to the released information but shall remain in full force and effect as to the information not so released or made public.

#### Puc 203.15 Place of Hearings.

(a) Except as provided in (b) below, the commission shall conduct all hearings in person at its offices in Concord.

(b) The commission shall conduct one or more public statement hearings within the meaning of Puc 202.18 in the service territory of an affected utility or municipal district if:

- (1) Required by law to do so; or
- (2) It would assist the commission to ascertain the views of the utility's customers by conducting such a hearing in a particular location other than Concord.
- (3) The commission may require a view in any proceeding when it deems that a view would assist the commission in reaching a decision in a matter.

Puc 203.16 Docket and Calendar of Hearings.

(a) The commission shall:

- (1) Maintain a docket of all proceedings pending before the commission;
- (2) Keep a complete record of all the proceedings of the commission, including all books, maps, documents, and papers filed with the commission, and orders issued by the commission;
- (3) Maintain a record of all petitions, complaints, applications, rulemakings, investigations, and any other matters before the commission;
- (4) Maintain a calendar of all hearings scheduled before the commission; and
- (5) Maintain a service list for each proceeding of parties or participants to the proceeding.

Puc 203.17 Requirements to Appear Before the Commission.

(a) Any person may appear before the commission:

- (1) On one's own behalf;
- (2) By an attorney authorized to practice in any state or the District of Columbia and in good standing;
- (3) By an employee or authorized agent; or
- (4) By any person the commission authorizes, pursuant to RSA 365:10-a, to act as a representative of the person before the commission.

(b) Any person appearing before the commission shall file a "Notice of Appearance", form 200A (05/2024) and adhere to:

- (1) The commission's administrative rules; and
- (2) Any orders of the commission or agreements between the parties in the docket, including orders or agreements addressing confidentiality.

(4) The following information shall be contained in the "Notice of Appearance" form.

- a. Name and contact information for attorney representatives.



- b. Name and contact information for any person, other than the attorney representative, that the attorney representative is requesting to be added to the docket service list.
- c. Name and contact information for Pro Se individuals;
- d. A signed affidavit from Pro Se Individuals of their obligation to keep the Commission up to date with their contact information and adhere to all Commission procedural rules.

(c) The commission shall prohibit the appearance of any person described in (a) above if it finds that person to have demonstrated a disregard for commission practices and procedures or otherwise disrupted commission proceedings.

Puc 203.18 Public Comment. The commission may allow Persons who do not have intervenor status in a proceeding, but having interest in the subject matter, with an opportunity at a hearing to state their position.

Puc 203.19 Orders nisi. In a docketed matter, the commission may elect to issue a final order with a delayed effective date referred to as an order nisi, if permitted under New Hampshire law and the commission determines that the record is sufficient to support a commission decision without further process. Any order nisi shall include a notice and publication requirement to allow interested parties an opportunity to object or request a further hearing.

Puc 203.20 Commission record requests. At any time during a proceeding, the commission may ask questions of participants, parties, or regulated utilities, to be answered in writing or orally within a time period determined by the commission. Responses to commission record requests shall be part of the record and may be considered by the commission in its decision on the matter.

Puc 203.21 Status conference. At any time during a proceeding and, if needed, multiple times during a proceeding, the commission may require the parties or participants to attend a status conference which shall be conducted as a hearing during which the commission may request the participants or parties to provide information concerning the status of any issues presented in the docket. A status conference shall be scheduled, if requested by a party or participant, or on the commission's own motion, if the commission determines that a status conference will assist in the efficient resolution of issues in the docket.

Puc 203.22 Briefs.

(a) The commission may require or allow parties or participants to submit briefs at any point in a proceeding if the commission determines that such briefing would assist the commission in its determination of the issues presented.

- (b) The commission shall set any briefing deadline or deadlines so as to permit the parties adequate time to draft their briefs and without causing undue delay in the conclusion of the proceeding.
- (c) The commission shall establish a briefing schedule that allows one or more parties to submit briefs in rebuttal or reply to the brief or briefs of one or more other parties when such a sequential schedule is necessary to assure due process, fairness or full discussion of the issues presented.
- (d) The commission shall establish a page limit for briefs when it determines that such a limit would promote the efficient resolution of issues without adversely affecting the rights of any party.
- (e) The commission shall encourage joint filing of briefs when there is more than one party advocating the same result and the same arguments and individual briefs would be duplicative.
- (f) The commission may at its discretion schedule an oral argument to assist the commission in reviewing legal issues presented in the briefs. An oral argument which shall be conducted as a hearing at the date and time determined by the commission.

Puc 203.23 Testimony based on proprietary models. In any proceeding in which a party or participant presents testimony relying upon a proprietary model, the party or participant shall make the model available for use by the commission and other parties or participants and provide clear instructions as to the use of the model. To the extent parties or participants require confidential treatment of proprietary models they shall file a motion for confidential treatment pursuant to Puc 203.14.

Puc 203.24 Obstructing Justice. The commission shall refer for prosecution, pursuant to RSA 641:1 and RSA 641:2, any person who:

- (1) Testifies falsely to any material matter wherein he has given his oath or affirmation, believing the testimony to be untrue; or
- (2) Willfully falsifies any account, book, record, financial statement or other information regarding any material matter, believing the content to be untrue, with the intent to mislead or deceive any commissioner, or presiding officer or commission staff member.

Puc 203.25 Withdrawal of Presiding Officer or Commissioner.

- (a) Upon his or her own initiative or upon the motion of any party, a presiding officer or commissioner shall, for good cause, withdraw from any adjudicative proceeding or other matter.
- (b) Good cause shall exist if a presiding officer or commissioner:
  - (1) Has a direct interest in the outcome of a proceeding, including, but not limited to, a financial or family relationship, within the third degree of relationship, with any party;
  - (2) Has made statements or engaged in behavior which objectively demonstrates that he or she has prejudged the facts of a case;
  - (3) Personally believes that he or she cannot fairly judge the facts of a case;
  - (4) Is obligated to withdraw because his or her impartiality might reasonably be questioned; or
  - (5) Is otherwise required to withdraw pursuant to applicable law.
- (b) Mere knowledge of the issues, the parties or any witness shall not constitute good cause for withdrawal, nor shall the fact that the presiding officer or commissioner is a customer of a utility that is a party to the proceeding.

Puc 203.26 Control of Hearing.

(a) In cases of disorder or refusal to comply with the rules of the hearing, the presiding officer, may use reasonable means to control the hearing.

(b) During commission proceedings no person shall engage in bitter exchanges, vulgarities, or abuse or make offensive or insulting comments. When such an act is committed, the presiding officer, may admonish the offender reminding the offender that such behavior does not contribute to a fair hearing and impedes the orderly disposition of a case.

(c) If the offense is repeated and further admonition appears fruitless, the presiding officer, may exclude a disorderly person from the hearing.

**Repeal Puc 204, effective 3-18-15 (Document #10797-A), as follows:**

~~PART Puc 204 COMPLAINTS AGAINST PUBLIC UTILITIES~~

~~Puc 204.01 Submission of Formal Complaints.~~

~~(a) Any person wishing to make a formal complaint to the commission regarding an entity over which the commission has jurisdiction shall do so by filing the complaint in writing with the executive director pursuant to Puc 203.02.~~

~~(b) The provisions of Puc 203 shall not apply to complaints filed pursuant to this rule unless the commission institutes adjudicative proceedings pursuant to Puc 204.05.~~

~~Puc 204.02 Complaints Regarding Utilities.~~

~~(a) Upon receipt of a complaint pursuant to Puc 204.01, and over which the commission has jurisdiction, the commission shall cause a copy of the complaint to be forwarded to the utility named in the complaint.~~

~~(b) The utility shall provide a written response to the complaint by the date specified in the letter, or, when no date is specified in the letter, no later than 10 days from the date the complaint is received by the utility.~~

~~(c) The response required by (b) above shall include a description of all steps taken by the utility to resolve the complaint and shall be furnished to the complainant as well as the commission.~~

~~Puc 204.03 Review of Complaints by Utilities.~~

~~(a) A utility shall consider all complaints forwarded to it pursuant to Puc 204.02 and thereafter:~~

~~(1) Make any reparations, cease committing any violations, and take any other appropriate actions (as provided by RSA 365:3); or~~

~~(2) Advise the commission and the complainant that it disputes the complaint.~~

~~Puc 204.04 Investigation.~~

~~(a) When a utility has reviewed and responded to a complaint pursuant to Puc 204.02 and Puc 204.03, a complainant not satisfied with the utility's response shall so advise the commission.~~

~~(b) If it appears to the commission that there may be a basis for the complainant's dispute, the commission shall conduct an independent investigation pursuant to RSA 365:4.~~

~~Puc 204.05 Adjudicative Proceedings. The commission shall commence adjudicative proceedings to resolve a complaint against a utility when it determines after an investigation conducted pursuant to Puc 204.04:~~

~~(a) That a complaint might warrant further action against a utility; or~~

~~(b) A customer has exhausted all remedies available under Puc 1200 and requests a hearing.~~

~~Puc 204.06 Investigations Initiated by the Commission. Nothing in this part shall limit the commission's authority to investigate or make inquiry of a public utility pursuant to RSA 365:5.~~

~~Puc 204.07 Complaints Regarding Non Utilities. For all other complaints filed pursuant to Puc 204.01 over which the commission has jurisdiction, the provisions of Puc 204.02 through 204.06 shall apply to entities that are not public utilities to the same extent as if such entities were public utilities.~~

**Adopt Puc 204 to read as follows:**

PART Puc 204 ADJUDICATIVE PROCEEDINGS AND HEARINGS

Puc 204.01 Discovery.

(a) The petitioner, the staff of the Department, the OCA (if a party to the matter), and any person granted intervenor status shall have the right to conduct discovery in an adjudicative proceeding pursuant to this rule. Discovery requests and responses served on parties or participants in a commission proceeding must also be filed with the commission pursuant to Puc 203.04.

(b) Within 30 days of filing of a Petition, pursuant to Puc 203.08 (a), the petitioner shall complete and file with the Commission “Petitioner’s Automatic Disclosures”, form 200B (05/2024).

1. The “Petitioner’s Automatic Disclosures” shall include the following information:

- a. List all statutes and rules that govern the Petition;
- b. Any statutory deadlines are required to be met by the Commission;
- c. Whether the petition request approval of any new rate or tariff feature;
- d. The estimated rate impact of requested Commission action (including, if applicable:
  - i. Fixed or Volumetric dollar value of new/increased/decreased rates per kWh, therm, cubic ft. of water etc.
  - ii. Rate impacts on residential customers using average use (monthly and annually); and
  - iii. Rate impacts on each customer group in monthly and annual whole dollar figures.
- e. Whether the Petitioner has consulted with the Department and OCA regarding its proposals.

(c) Petitions to review Community Power Electric Aggregation Plans that are being submitted for review pursuant to RSA 53-E are exempt from the requirements of Puc 204.01(b).

(d) Unless inconsistent with an applicable procedural order, any person covered by this rule shall have the right to serve upon any party, data requests, which may consist of a written interrogatory or request for production of documents.

(e) Data requests shall identify with specificity the information or materials sought.

(f) A copy of each data request, each objection to data requests and each response to data requests shall be served upon every person designated for discovery filings on the commission’s official service list pursuant to Puc 203.16.

(g) Responses to data requests shall be made pursuant to the structuring statement established in Puc 204.05(c) and the discovery deadlines established in that order.

(h) Objections to data requests shall:

- (1) Be served in writing on the propounder of the requests within 10 days following receipt of the request unless the commission specifies a different time period in a procedural schedule order; and
  - (2) Clearly state the grounds on which they are based.
- (i) Failure to object to a data request or requests for documents within 10 days of its receipt without good cause shall be deemed a waiver of the right to object.
  - (j) Motions to compel responses to data requests shall:
    - (1) Be made pursuant to Puc 203.08(b);
    - (2) Be made within 10 days of receiving the applicable response or objection, or 10 days of the deadline for providing the response, whichever is sooner;
    - (3) Specify the basis of the motion; and
    - (4) Certify that the movant has made a good faith effort to resolve the dispute informally.
  - (j) The commission shall authorize other forms of discovery, including technical sessions, depositions and any other discovery method permissible in civil judicial proceedings before a state court when such discovery is necessary to enable the parties to acquire evidence admissible in a proceeding.
  - (k) When a party has provided a response to a data request, and prior to the issuance of a final order in the proceeding, the party shall have a duty to reasonably and promptly amend or supplement the response if the party obtains information which the party would have been required to provide in such response had the information been available to the party at the time the party served the response.

Puc 204.02 Notice of Proceeding

- (a) The commission shall give notice of a prehearing conference, status conference, or hearing, which shall contain the information required by RSA 541-A:31, III.
  - (1) Notice shall include a statement of the date, time, place and nature of the hearing;
  - (2) A statement of the legal authority under which the hearing is to be held;
  - (3) A reference to the particular statutes and rules involved, including this chapter;
  - (4) A short and plain statement of the issues presented; and
  - (5) A statement that each party has the right to have an attorney represent them at the party's own expense.
- (b) The commission shall direct the petitioner or other party to the docket to disseminate a notice issued pursuant to this section to the general public by causing the notice to be published in a newspaper of general circulation serving the area affected by the petition or by such other method as the commission deems appropriate and advisable in order to ensure reasonable notification to interested parties.
- (c) The cost of publication required by (b) above shall be borne by the petitioner, or the party being investigated.

(d) A petitioner required by the commission to publish notice shall file an affidavit of compliance, with a copy of the notice as published appended thereto, by a date specified in the notice.

Puc 204.03 Failure to Appear or Respond. If a party to a commission proceeding fails to appear at a hearing or respond when required to a commission order, the commission may review and decide the matter without the party's input.

Puc 204.04 Presiding Officer. Except as provided in (a) or (b) below, the chairman of the commission shall serve as presiding officer.

(a) When the chairman is absent but one or more commissioners are present at a hearing or prehearing conference, the most senior commissioner present shall designate the presiding officer.

(b) A qualified member of the commission staff shall serve as presiding officer when authorized pursuant to RSA 363:17.

(c) The duties of a presiding officer shall include, but are not limited to:

(1) Presiding over the prehearing conferences, status conferences, and hearings; and

(2) Ruling on discovery disputes, confidentiality requests, and procedural matters which may arise during the course of a hearing .

Puc 204.05 Prehearing Conference.

(a) In order to facilitate proceedings and encourage informal disposition, the presiding officer shall, upon motion of any party, or upon the presiding officer's own motion, schedule one or more prehearing conferences.

(b) The commission shall provide notice to all parties prior to holding any prehearing conference.

(c) 10 days prior to the prehearing conference, the parties shall file a "Structuring Statement", form 200C (05/2024).

(d) The "Structuring Statement" shall provide the following information:

(1) Name of case and docket number;

(2) List of the Parties to the hearing;

(3) Identification of any Petitions to Intervene;

(3) An estimation of the time needed to conduct the hearing;

(4) Proposed procedural schedule including proposed hearing dates, time needed for hearing and discovery deadlines;

(5) Confirmation of whether an audit has been performed or will be performed by the Department and timeline for filing the audit with the Commission;

(6) A preliminary listing of all witnesses to be called; and

(7) All procedural issues and motions.

(e) Prehearing conferences shall include consideration of any of the following:

- (1) Settlement track;
- (2) Simplification of the issues;
- (3) Stipulations or admissions as to issues of fact or proof, by consent of the parties;
- (4) Limitations on the number of witnesses;
- (5) Consolidation of examination of witnesses by the parties;
- (6) Consideration of any petitions for intervention and any objection filed thereto;
- (7) Establishment of a procedural schedule to govern the remainder of the proceeding;
- (8) Whether or not a full audit is necessary and who will provide the audit to the Commission;
- (8) Motions for confidential treatment of matters raised in the proceeding and otherwise to facilitate discovery; and
- (9) Any other matters which aid in the disposition of the proceeding.

Puc 204.06 Status Conference. At any time during a proceeding the presiding officer may schedule one or more status conferences to assess the progress of a matter or to resolve any interim procedural or substantive issues that the Commission finds will promote a more efficient conduct of the proceeding.

Puc 204.07 Consolidation of Hearings.

(a) When more than one application or petition seeks the same or similar relief, the commission shall consolidate the cases to be heard on a common record if it determines that to do so will promote the orderly and efficient conduct of the proceeding.

(b) The commission shall note any such consolidation in the docket record of each affected proceeding.

(c) The cost of consolidated hearings shall be borne equitably by the parties.

(d) In determining an equitable sharing of costs pursuant to (c) above, the commission shall consider:

- (1) A utility's number of customers; and
- (2) A utility's New Hampshire revenue.

(e) If a party objects to consolidation, such consolidation shall not occur until after the party has had an opportunity to be heard on the issue.

Puc 204.08 Settlement

(a) All participants in settlement discussions shall treat such discussions as confidential and shall not disclose the contents of such discussions to third parties.

(b) The commission shall approve a disposition of any contested case by settlement, if it determines that the result is consistent with applicable law, is just and reasonable, and serves the public interest.

(c) If a settlement is filed and is not contested by any party, the commission may consider the settlement as evidence in the proceeding.

(d) Settlements shall be filed no less than 15 business days prior to the hearing unless otherwise ordered, except as provided in (e). If the settlement is filed late, the Commission may reschedule the hearing.

(e) The commission may accept late-filed settlements when such acceptance:

(1) Promotes the orderly and efficient conduct of the proceeding; and

(2) Will not impair the rights of any party to the proceeding

(f) When the Department is a party to the proceeding, settlements must contain a certification from the department that pursuant to RSA 12-P: 2, III the settlement is just and reasonable and serves the public interest.

Puc 204.09 Limiting Number of Witnesses or Time. The commission may limit the number of witnesses or the time for testimony or oral argument upon a particular issue, as needed, to avoid unnecessary or cumulative evidence.

Puc 204.10 Exhibits.

(a) Shall be filed 5 business days prior to hearing;

(b) A party presenting evidence at a hearing shall present such evidence in exhibit form.

(c) Exhibits shall:

(1) Be sequentially numbered by page throughout the multiple parts of an exhibit, if applicable, and lines shall be sequentially numbered on each page.

(2) Be Bates stamped in the lower right hand corner with Arabic numerals.

(3) Be pre-marked in the upper right hand corner of each page with the docket number and the exhibit number, and named with the docket number without the prefix, date of hearing, exhibit number. Example: Docket No.\_Hearing\_Date\_exh. #.

(4) Confidential exhibits shall be so marked.

(d) Exhibits may contain a summary in an accompanying text or caption section.

(e) Parties filing exhibits shall:

(1) Provide on the first page of each exhibit a space approximately 2-1/2 inches wide by 1-1/2 inches long in the upper right hand corner; and

(2) Provide that each subsequent page shall have no less than one inch margins on all sides.

(f) A party presenting an exhibit at hearing with any material that has not been previously submitted to the commission shall provide a copy to the hearing clerk, each commissioner, the court reporter, any witness or witnesses then testifying and each party present at the hearing. Late submitted evidence may result in a cancelled or rescheduled.

(g) Any party offering an exhibit other than a document or photograph shall:



- (1) Produce the exhibit for evaluation during a hearing; and
  - (2) Submit a photographic representation of the exhibit for inclusion in the record.
- (h) Upon receipt of exhibits that do not comply with Puc 204.10 (a)- (g), the Commission may reschedule the hearing so that the parties and the Commission have an opportunity to review all exhibits prior to hearing.

Puc 204.11 Pre-marked Exhibits and Witness Lists

(a) The parties shall confer for the purposes of identifying and numbering exhibits and nominating one party to submit a complete list of exhibits with the proposed numbering and document title.

(b) 15 business days before a hearing the parties shall file with the commission pre-marked hearing exhibits and proposed lists of witnesses to appear at hearing.

(c) Parties shall present new exhibits at hearing based on a showing that the material is new or was otherwise unavailable by the applicable deadline, and after considering the probative value of the exhibit and whether the opportunity to submit a document impeaching or rebutting the late filed exhibit without further hearing shall adequately protect the parties' right of cross examination, the commission may admit such additional exhibits.

(d) Evidence in the form of any spreadsheets or documents originating as spreadsheets shall be submitted in live format with formulae and links intact.

Puc 204.12 Evidence.

(a) The parties entitled to offer evidence at hearing in an adjudicative proceeding shall be the petitioner, the Department and any intervenor.

(b) All testimony of parties and witnesses, including any pre-filed written testimony adopted by a witness at hearing, shall be made under oath or affirmation.

(c) Pursuant to RSA 365:9 and RSA 541-A:33, II, the rules of evidence shall not apply in proceedings before the commission.

(d) The commission shall exclude irrelevant, immaterial or unduly repetitious evidence, by their own determination or by objection made a party.

(e) The commission shall give effect to the rules of privilege recognized by law.

(f) The commission shall entertain objections to evidence at hearing and note them in the record.

(g) A party shall submit documentary evidence in the form of copies or excerpts unless the commission finds that the authenticity of the submission is questioned or the copy is not legible.

(h) Excerpts of documents shall include the proper citation to the complete document.

(i) A response to a data request posed pursuant to Puc 204.01, when offered into evidence by a party other than the party that provided the response, shall be treated as an admission of the party that provided the data response.

Puc 204.13 Cross-Examination.

(a) Consistent with any conditions imposed pursuant to RSA 541-A:32, III the petitioner, the Department and any persons granted intervenor status may conduct cross-examination of a witness in order to develop a full and true disclosure of the facts.

Puc 204.14 Burden and Standard of Proof. Unless otherwise specified by law, the party seeking relief through a petition, application, motion or complaint shall bear the burden of proving the truth of any factual proposition by a preponderance of the evidence.

Puc 204.15 Order of Proceeding. In hearings on petitions, the petitioner shall have the opportunity to open and close any part of the proceeding

Puc 204.16 Official Notice. The commission, if requested by a party, or on its own initiative, shall take official notice of one or more of the following:

- (a) Any fact which could be judicially noticed in the courts of New Hampshire;
- (b) The relevant portion of the record of other proceedings before the commission;
- (c) Generally recognized technical or scientific facts within the commission's specialized knowledge; and
- (d) Codes or standards that have been adopted by an agency of the United States, of New Hampshire or of another state, or by a nationally recognized organization or association.
- (e) Prior Commission orders or motions relevant to the adjudicatory matter.
- (f) The commission shall notify parties either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed.
- (g) The commission shall afford parties an opportunity to contest the material so noticed.

Puc 204.17 Views and Inspections. The commission shall take a view or conduct an inspection of any property which is the subject of a hearing before the commission if requested by a party, or on its own motion, if the commission shall have determined that the view or inspection will assist the commission in reaching a determination in the hearing or assessing a matter under investigation.

Puc 204.18 Recess and Adjournment. The commission shall recess, adjourn or continue any hearing if to do so will promote the orderly and efficient conduct of the proceeding.

Puc 204.19 Record for Decision. The Commission shall decide the matter before it based upon the whole administrative record.

Puc 204.20 Reopening the Record.

(a) The commission shall, on its own motion or at the request of a party, authorize filing of exhibits after the close of a hearing, and before a decision is made, if the commission finds that late submission of additional evidence will enhance its ability to resolve the matter in dispute.

(b) Any party requesting authorization to file an exhibit after the close of the record shall make its request:

- (1) Orally before the close of the hearing; or
- (2) If the hearing has concluded, by motion, pursuant to Puc 203.08 (b).

(c) In determining whether to admit the late filed exhibit into the record, the commission shall consider:

- (1) There are reasonable grounds for failure to submit such exhibit previously;
- (1) The probative value of the exhibit; and
- (2) Whether the opportunity to submit a document impeaching or rebutting the late filed exhibit without further hearing shall adequately protect the parties' right of cross examination pursuant to RSA 541-A:33, IV.

Puc 204.21 Recording. A sound recording of the hearing shall be made and the recording shall be maintained for a period of 60 days following the order or ruling by commission on the issues presented. Copies of recordings may be requested in writing to the commission. A reasonable fee to cover the cost of the recording and processing fee, shall be included with the request. Any party may have a stenographer present at a hearing provided that that party bears the cost of the stenographer and provides a copy of the transcript to the commission.

Puc 204.22 Transcripts.

(a) When the commission desires a transcript of the evidence of any hearing, to assist in its deliberation thereon, it shall order a transcript.

(b) The charge for production of the transcription shall be paid by the petitioning utility or as otherwise directed pursuant to RSA 365:37 and RSA 365:38.

(c) Hearing transcripts shall be posted to the commission website.

Puc 204.23 Rehearing. Parties requesting rehearing shall do so according to the provisions of RSA Chapter 541 and Chapter 365. Any party filing a motion for rehearing may request oral argument. The commission may grant oral argument in its discretion. If the commission provides for oral argument, it shall set a schedule, order of presentation and overall time allotted to the parties.

Puc 204.24 Final Decisions. If no rehearing has been requested, a decision by the commission shall become final 30 days after issuance. If a decision has been made on a request for rehearing the decision shall be final 30 days after issuance unless a timely appeal of the decision has been filed with a court having appellate jurisdiction over commission decisions.

Puc 204.25 Retention of Decisions. The commission shall keep a decision on file in its records for at least 5 years following the date of the final decision or the date of the decision on any appeal, unless the director of the division of records management and archives of the department of state sets a different retention period pursuant to rules adopted under RSA 5:40.

Puc 204.26 Certifying a Question of Law.

(a) The Commission may, on its own motion or at the request of a party reserve, certify and transfer to the New Hampshire Supreme Court any question of law arising during a Commission proceeding, pursuant to RSA 365:20, if it determines that:

(1) The decision involves a controlling question of law about which there is substantial ground for difference of opinion; and

(2) An immediate review will materially advance the completion of the adjudication or subsequent review by the Commission will provide an inadequate remedy.

(b) The Commission may summarily dismiss any request by a party to certify a question of law if it determines that review is not appropriate.

(c) The Commission may, on its own motion, certify a question of law for judicial review under this rule in its own discretion.

(d) Certifying a question of law does not stay the proceeding before the Commission unless the Commission so orders.

Puc 204.27 Submission of Formal Complaints.

(a) Any person wishing to make a formal complaint to the commission regarding an entity over which the commission has jurisdiction shall do so by first exhausting all remedies pursuant to RSA 365:4 and En 1200 rules concerning the complaint process at the Department .

(b) Following completion by Department of its review of the complaint and announcement of its decision on the complaint, if the person complaining is not satisfied with the Department's resolution of the complaint, that person may file a petition with the commission requesting further consideration of the complaint.

(c) Upon receipt of a petition pursuant to Puc 204.27(b), and over which the commission has jurisdiction, the commission shall commence an adjudicative proceeding and shall cause a copy of the complaint to be forwarded to the utility named in the complaint.

Puc 204.28 Investigations. If it appears to the commission that any public utility or other matter within its jurisdiction requires investigation, the commission shall conduct an independent investigation pursuant to RSA 365:5.

Puc 204.29 Declaratory Rulings.

(a) A person seeking a declaratory ruling on any matter within the jurisdiction of the commission shall request such ruling by submitting a petition pursuant to Puc 203.

(b) Such a petition shall be verified under oath or affirmation by an authorized representative of the petitioner with knowledge of the relevant facts.

(c) The commission shall dismiss a petition for declaratory ruling that:

- (1) Fails to set forth factual allegations that are definite and concrete;
- (2) Involves a hypothetical situation or otherwise seeks advice as to how the commission would decide a future case; or
- (3) Does not implicate the legal rights or responsibilities of the petitioner; or
- (4) Is not within the commission's jurisdiction.

(d) Except for a petition dismissed pursuant to subsection (c), the commission shall conduct an adjudicative proceeding on a petition for declaratory ruling in accordance with Puc 204.

**Readopt with amendment Puc 205.01-Puc 205.03, effective 06-10-06 (Document #8657-A), cited and to read as follows:**

PART Puc 205 RULEMAKING

Puc 205.01 How Adopted.

(a) A rule of the commission or any amendment or repeal thereof shall be adopted by the ~~commission~~ **chairman** after notice and opportunity for hearing in accordance with this part.

(b) Rules may be proposed by any person or by the agency.

Puc 205.02 Manner for Adoption.

(a) The commission shall commence a rulemaking proceeding by drafting a proposed rule or by accepting as a proposed rule the draft of a rule proposed by any person.

(b) With respect to any proposed rule, the *chairman* ~~commission~~ shall conduct rulemaking and adoption proceedings pursuant to RSA 541-A.

Puc 205.03 Requests to Commission for Rulemaking. Requests from interested persons requesting adoption, amendment or repeal of a rule shall be received and disposed of in the following manner:

(a) Requests shall be submitted to the commission by letter addressed to the ~~executive director~~ *chairman*.

(b) Requests shall contain the following:

(1) The date of the request;

(2) The name, address and telephone number of the person making the request; and

(3) Name and address of any other person or organization represented by the person making the request.

(c) The person making the request shall sign the request.

(d) The request shall be typed or printed in a legible fashion.

(e) ~~If possible,~~ *The* person making the request shall cite the rule and its provisions and specify any changes desired if repeal or amendment is sought, and shall provide the text or approximate text of the proposed rule if promulgation is sought.

(f) The person making the request shall include a detailed and complete statement of the reasons offered by such person in support of the requested action.

(g) If the commission determines that any rulemaking request is deficient in any respect, the commission shall, within 10 working days of receipt of said request, notify the person making the request, in writing, of the specific deficiencies and allow such person to amend the petition.

(h) Within 30 days of receipt of a request or amended request for rulemaking, the commission shall take one of the following actions:

(1) Initiate the requested rulemaking procedures, in accordance with this part; or

(2) Deny the request, in writing, stating the reasons for denial.

**Readopt Puc 205.04 and Puc 205.05, effective 6-10-06 (Document #8657-A), to read as follows:**

Puc 205.04 Request for Notice of Intended Rulemaking Action. Pursuant to the provisions of RSA 541-A, the commission shall maintain a current listing of all persons having made a request for advance notice of the rulemaking proceedings.

Puc 205.05 Public Hearing.

(a) If the commission initiates rulemaking proceedings under RSA 541-A, or if rulemaking is initiated pursuant to a request for rulemaking, the commission shall hold at least one public hearing pursuant to RSA 541-A:11.

(b) Notice shall be given at least 20 days prior to the public hearing pursuant to RSA 541-A:6, I.

(c) The commission shall limit the time allowed at hearing for each person's comments when necessary to allow all persons with comments to make them.

(d) The commission shall require persons desiring to make comments to so indicate by signing a roster made available for this purpose prior to the commencement of the public comment hearing.

**Readopt with amendment Puc 205.06, effective 3-18-15 (Document #10797-A), to read as follows:**

Puc 205.06 Explanation of Proposed Rule.

(a) If requested by an interested person at any time before 30 days after final adoption of a rule, the commission shall issue a written explanation of the rule pursuant to RSA 541-A:11, VII.

(b) An explanation issued pursuant to this section shall include:

(1) A concise statement of the principal reasons for and against the adoption of the rule in its final form; and

(2) An explanation of why the commission overruled the arguments and considerations against the rule.

**Readopt Puc 206, effective 10-18-23 (Document #13780), to read as follows:**

PART Puc 206 ALTERNATIVE REGULATION

Puc 206.01 Definitions.

(a) "Alternative form of regulation" means a method of utility rate regulation pursuant to RSA 374:3-a other than methods which are based upon cost of service, rate base and rate of return.

(b) "Utility" means "public utility" as defined in RSA 362:2.

Puc 206.02 Utility May Petition. A utility may file with the commission a petition for an alternative form of regulation.

Puc 206.03 Commission Shall Initiate.

(a) The commission shall initiate a proceeding to establish an alternative form of regulation if it finds that alternative regulation is likely to promote or enhance one or more of the following:

(1) Competition;

(2) Advancements in development of infrastructure;

(3) Investment in new technology, plant and equipment;

(4) Reduction in prices; or

(5) Efficiency in services.

(b) When the commission initiates a proceeding to establish an alternative form of regulation, it shall issue an order directing the affected utility to submit detailed information consistent with the requirements of Puc 206.05 and any additional information required by Puc 206.06.

Puc 206.04 Adjudicatory Proceedings.

(a) Proceedings initiated pursuant to Puc 206.02 or Puc 206.03 shall be considered adjudicatory.

(b) Puc 200 Procedural Rules shall apply to proceedings for approval, implementation or withdrawal of approval of an alternative form of regulation.

Puc 206.05 Description of Alternative Form of Regulation. When a utility petitions for an alternative form of regulation, it shall describe in detail in its petition or, as to materials requested pursuant to Puc 206.05 (f), it shall provide the following:

- (a) The form of alternative regulation it seeks;
- (b) The extent to which that form of alternative regulation shall apply to its entire operations or to particular portions of its services or operations;
- (c) The term over which the alternative form of regulation shall apply;
- (d) The form of regulation which shall apply after the term of the approved form of alternative regulation expires;
- (e) How the rates charged under the alternative form of regulation would compare to rates that would be charged under methods which are based upon cost of service, rate base and rate of return, if the utility were to file a rate case concurrently; and
- (f) Any additional information, including but not limited to, rates, pricing, earnings, customer protections, service offerings, expansion of technology, accounting or investments which the commission shall request if the form of alternative regulation and/or the petition raise issues on which the commission needs further information in order to complete the record.

Puc 206.06 Filing Requirements.

(a) When a utility seeks an alternative form of regulation, it shall file a petition with the commission which shall contain identifying information including the name of the utility, address of the utility and contact person.

(b) In its petition filed pursuant to Puc 206.02 or in response to a commission-initiated proceeding pursuant to Puc 206.03, the utility shall describe in detail the effects, if any, that the alternative form of regulation will have on the following:

- (1) Competition;
  - (2) The safety, adequacy and reliability of public utility service;
  - (3) The traditional regulatory balance which does not unfairly benefit or disadvantage utility consumers, utility investors and other stakeholders;
  - (4) Administrative efficiency in the regulatory process for the utility and the commission;
  - (5) Economic development within New Hampshire;
  - (6) Access to basic utility service to residents throughout the state, also known as universal service;
  - (7) Innovation of services;
  - (8) Infrastructure improvements; and
  - (9) Environmental and conservation safeguards and incentives.
- (c) Where the utility concludes that the alternative form of regulation will have no effect on any factor listed in Puc 206.06 (b), the utility shall describe in detail in its petition the basis for its conclusion that there is no effect.

Puc 206.07 Standards for Approval.

(a) After notice and hearing, and after considering the materials submitted by the utility, other interested parties and commission staff, and the factors required by Puc 206.06, the commission shall approve an alternative form of regulation if it determines that such alternative:

- (1) Results in rates that are not unduly discriminatory and are at a level that allows those to whom a service is being marketed to obtain such service;
- (2) Provides the utility the opportunity to realize a return on its investment which falls within a range that is neither confiscatory nor unduly profitable and that reflects the utility's investment risk; and
- (3) Serves the public interest in light of the considerations described in Puc 206.06(b)(1) through (9).

Puc 206.08 Reporting Requirements.

(a) Any utility regulated under an alternative form of regulation which maintains its books on a calendar year basis shall report to the commission no later than March 31 of each year the following information:

- (1) Changes in prices of services under an alternative form of regulation during the calendar year just concluded;
- (2) New services introduced under an alternative form of regulation during the calendar year just concluded;
- (3) The rate of return realized on services under an alternative form of regulation during the calendar year just concluded;
- (4) New construction or improvement to infrastructure introduced under an alternative form of regulation during the calendar year just concluded; and
- (5) Any further information which the commission determines is necessary to confirm that the original bases for approval under Puc 206.07 have still been met.

(b) Any utility regulated under an alternative form of regulation that maintains its books on a fiscal year that does not coincide with a calendar year shall report to the commission no later than 90 days following the close of each fiscal year the information listed in Puc 206.08(a)(1) through (5).

(c) Reporting requirements under this section shall be in addition to and shall not supersede or negate the necessity to comply with any other applicable reporting requirements established under rulemaking authority of the commission.

(d) For any utility in which some services are subject to rate of return regulation and some services are subject to an alternative form of regulation, the utility shall maintain accounting records which demonstrate that the costs and revenues of rate of return regulated services are not commingled with the costs and revenues of services under an alternative form of regulation.

Puc 206.09 Withdrawal of Approval.

(a) When the commission determines, after notice and an opportunity for hearing pursuant to Puc 200, that a utility's performance under an alternative form of regulation no longer complies with the standards for approval established by Puc 206.07, and therefore no longer serves the public interest, the commission shall issue an order:

- (1) Withdrawing approval of the alternative form of regulation and:



- a. Initiating a proceeding to establish another alternative form of regulation, in accordance with Puc 206.06 and Puc 206.07; or
- b. Reinstating regulation based upon cost of service, rate base and rate of return.

(b) During the pendency of a proceeding to consider withdrawal of approval of an alternative form of regulation or a proceeding to consider another alternative form of regulation, the commission shall either:

- (1) Maintain the form of regulation last approved for the affected utility; or
- (2) Reconstitute regulation based upon cost of service, rate base and rate of return.

(c) In determining the method of regulation to apply during the pendency of a proceeding pursuant to Puc 206.09(a), the commission shall order the form of regulation that best assures:

- (1) Safe, adequate and reliable utility operation;
- (2) Financial stability of the utility; and
- (3) Limited financial impact, if any, on ratepayers.

**Repeal Puc 207, effective 3-24-12 (Document #10101), as follows:**

~~PART Puc 207 DECLARATORY RULINGS~~

~~Puc 207.01 Declaratory Rulings.~~

~~(a) A person seeking a declaratory ruling on any matter within the jurisdiction of the commission shall request such ruling by submitting a petition pursuant to Puc 203.~~

~~(b) Such a petition shall be verified under oath or affirmation by an authorized representative of the petitioner with knowledge of the relevant facts.~~

~~(c) The commission shall dismiss a petition for declaratory ruling that:~~

- ~~(1) Fails to set forth factual allegations that are definite and concrete;~~
- ~~(2) Involves a hypothetical situation or otherwise seeks advice as to how the commission would decide a future case; or~~
- ~~(3) Does not implicate the legal rights or responsibilities of the petitioner; or~~
- ~~(4) Is not within the commission's jurisdiction.~~

~~(d) Except for a petition dismissed pursuant to subsection (c), the commission shall conduct an adjudicative proceeding on a petition for declaratory ruling in accordance with Puc 203.~~

**APPENDIX**

Rule	Statute
Puc 201.01- Puc 201.02	RSA 365:8
Puc 202.01	RSA 365:8, I; RSA 363:17-a
Puc 202.02- Puc 202.04	RSA 365:8, I; RSA 363:17-a
Puc 202.05	RSA 365:8, I; RSA 363:17-a; RSA 365:5
Puc 202.06- Puc 202.07	RSA 365:8, I; RSA 363:17-a
Puc 202.08- Puc 202.20	RSA 365:8, I

Puc 203.01	RSA 365:8, I
Puc 203.02	RSA 365:8, I
Puc 203.03- Puc 203.07	RSA 365:8; RSA 541-A:29-35; 541-A:30-a, III (a)
Puc 203.08	RSA 365:8; RSA 541-A:29-35; 541-A:30-a, III (a)
Puc 203.09	RSA 365:5; RSA 365:8; RSA 12-P:2, III
Puc 203.10	RSA 365:8; RSA 541-A:29-35; 541-A:30-a, III (a)
Puc 203.11	RSA 365:8
Puc 203.12- Puc 203.14	RSA 365:8
Puc 203.15- Puc 203.16	RSA 365:8
Puc 203.17	RSA 365:8; RSA 541-A:32
Puc 203.18	RSA 365:8, I and IV; RSA 365:8, I
Puc 203.19	RSA 365:8
Puc 203.20	RSA 365:8; RSA 365:8, I
Puc 203.21- Puc 203.22	RSA 365:8, I; RSA 541-A:31, III; RSA 365:5; RSA 541-A:38
Puc 203.24	RSA 365:8, I; RSA 365:8, RSA 541-A:31, V; 541-A:38; RSA 641:2
Puc 203.25	RSA 365:8; RSA 541-A:31, V (b)-(d)
Puc 203.26	RSA 365:8, I; RSA 641:1;
Puc 204.01	RSA 365:8
Puc 204.02	RSA 365:8; RSA 541-A:29-35
Puc 204.03	RSA 365:8; RSA 541-A:29-35
Puc 204.04	RSA 365:8; RSA 541-A:31, V (b)-(d)
Puc 204.05	RSA 365:8
Puc 204.06	RSA 365:8
Puc 204.07	SA 365:8; RSA 541-A:38
Puc 204.08	RSA 365:8, RSA 541-A:31, V; 541-A:38;
Puc 204.09- Puc 204.10	RSA 365:8
Puc 204.11	RSA 365:8; RSA 541-A:33
Puc 204.12	RSA 365:8, I
Puc 204.13- Puc 204.19	RSA 365:8, I; RSA 541-A:33
Puc 204.20	RSA 365:8, I; RSA 541-A:33
Puc 204.21	RSA 365:8, I
Puc 204.22	RSA 365:8, I; RSA 541-A:31
Puc 204.23	RSA 365:8, I
Puc 204.24	RSA 365:8, I
Puc 204.25- Puc 204.26	RSA 365:8, I
Puc 204.27	RSA 365:20
Puc 204.28	RSA 365:4; RSA 365:8
Puc 204.29	RSA 365:5
Puc 205.01- Puc 205.03	RSA 541-A:16, I (c)
Puc 205.04	RSA 541-A:6, III
Puc 205.05	RSA 541-A:11; RSA 541-A:16, I (b) (3)
Puc 205.06	RSA 541-A:11, VII
Puc 206.01- Puc 206.09	RSA 365:8, III; RSA 365:8, I