

STATE OF NEW HAMPSHIRE

**DIRECTOR**  
CAROL J. HOLAHAN



**DEPUTY DIRECTOR**  
JILL K. SIEVEKING

**OFFICE OF LEGISLATIVE SERVICES**

STATE HOUSE  
107 NORTH MAIN STREET, ROOM 109  
CONCORD, NEW HAMPSHIRE 03301-4951

April 22, 2009

Public Utilities Commission  
21 South Fruit Street  
Suite 10  
Concord, NH 03301

Re: Conditional Approval of Final Proposal 2008-219

Dear Commission Members:

At its meeting on April 17, 2009, the Joint Legislative Committee on Administrative Rules (Committee) voted, pursuant to RSA 541-A:13, V(a), to conditionally approve Final Proposal 2008-219 of the Public Utilities Commission (Commission) containing Puc 402.49 and Puc 431.01 relative to telecommunication. The Committee's approval was conditioned on amending the rules as specified in the Commission's conditional approval request of April 15, 2009, with the exception of the amendment to Puc 402.49, which was already made in the Final Proposal. A copy of the request is enclosed for your information.

Pursuant to RSA 541-A:13, V(a), you are required to submit a written explanation detailing how the rules have been amended in accordance with the conditional approval within 7 days following the Commission's next regularly scheduled meeting. It is our understanding that the Commission's next meeting is scheduled for May 1, 2009. In that case, you would have to respond by May 8, 2009. The explanation shall include a letter and a text of all the final proposed rules in Final Proposal 2008-219, annotated to show the changes made in the response.

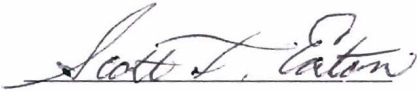
The explanation shall be reviewed by the Office of Legislative Services to determine whether the rules have been amended in accordance with the conditional approval and RSA 541-A:13, V(a). If it is determined that the rules have not been amended in accordance with the conditional approval and RSA 541-A:13, V(a), the conditional approval shall be deemed a Committee vote to make a preliminary objection as of the date of the conditional approval, and you must respond to the preliminary objection as specified in RSA 541-A:13, V(c).

Please be advised that you may not adopt the rule until the Office of Legislative Services sends written confirmation that your amendment is in accordance with the conditional approval and RSA 541-A:13, V(a).


Public Utilities Commission  
FP 2008-219  
April 22, 2009  
Page 2

If you have any questions concerning the provisions in RSA 541-A relative to conditional approvals, objections, responses, or adoptions, please call Scott Eaton at 271-3680.

Very truly yours,



Scott. F. Eaton  
Administrative Rules Director



Carol J. Holahan  
Director

SFE/CJH

Enc.

cc: F. Anne Ross, Esq., General Counsel, PUC  
Richard W. Head, Esq., Senior Asst. A.G., DoJ

6

CHAIRMAN  
Thomas B. Getz

COMMISSIONERS  
Graham J. Morrison  
Clifton C. Below

EXECUTIVE DIRECTOR  
AND SECRETARY  
Debra A. Howland

THE STATE OF NEW HAMPSHIRE



PUBLIC UTILITIES COMMISSION

21 S. Fruit Street, Suite 10  
Concord, N.H. 03301-2429

Tel. (603) 271-2431

FAX (603) 271-3878

TDD Access: Relay NH  
1-800-735-2964

Website:  
[www.puc.nh.gov](http://www.puc.nh.gov)

APR 15 2009

4/15

S

*No staff comment.  
note that annotated changes to Puc 402.49  
are already in the final proposal.  
April 15, 2009*

Scott F. Eaton, Director  
Administrative Rules Division  
Office of Legislative Services  
State House Annex, Room 219  
25 Capitol Street  
Concord, New Hampshire 03301

CONDITIONAL APPROVAL  
REQUEST

FP 2008-219

Re: Notice No. 2008-219  
Puc 402.49 and 431.01, Rules for Telecommunications  
Commission Docket No. 08-126  
Final Proposal Conditional Approval Request

Dear Mr. Eaton:

This letter is to advise you that the Commission intends to ask JLCAR for a conditional approval of this final proposal with the condition that Puc 431.01 not be readopted with amendment as originally requested in the final proposal, but rather remain as it is now. The Commission is withdrawing this proposed readoption with amendment due to questions arising concerning whether the proposed form of Puc 431.01 is consistent with RSA 374:22-g.

Please advise JLCAR that the Commission will make this request at the next scheduled JLCAR hearing on the final proposal on April 17, 2009. We request that the final proposal concerning Puc 402.49 be approved and that no action be taken on Puc 431.01 at this time due to the withdrawal of the amendment.

Please let me know if you have any questions.

Sincerely,

Thomas B. Getz  
Chairman

Enclosures

CHAPTER Puc 400 RULES FOR TELECOMMUNICATIONS

PART Puc 402 DEFINITIONS

**Readopt with Amendment Puc 402.49, effective 5-10-05 (Document # 8348) to read as follows:**

Puc 402.49 "Significant service outage" means outages in New Hampshire that affect:

- (a) An entire exchange;
- (b) All customers in a similar manner, such as interconnection failures;
- (c) 250 or more access lines and last more than 30 minutes;
- (d) 5000 or more access lines; or
- (e) Signaling system or tandem failures having a statewide impact; or
- (f) In the case of a CLEC, the majority of customers in a particular area.

PART Puc 431 CLEC REGULATORY REQUIREMENTS

**Readopt with Amendment Puc 431.01, effective 5-10-05 (Document # 8348) to read as follows:**

Puc 431.01 Registration:

- ~~— (a) No person or entity shall install or offer local exchange service in New Hampshire unless and until that person or entity is registered as a CLEC.~~
- ~~— (b) Before commencing operations as a CLEC in New Hampshire the entity proposing to provide CLEC service shall register with the commission and receive its CLEC Authorization Number.~~
- ~~— (c) To register with the commission a CLEC shall file:~~
  - ~~— (1) A completed Form CLEC-10 Application for Registration, described in Puc 449.07, which including the following attachments:~~
    - ~~— a. A completed Form CLEC-1 Contact Information;~~
    - ~~— b. Evidence of a surety bond pursuant to Puc 431.04 if applicable;~~
    - ~~— c. A completed Form CLEC-11 Intent to Use Uniform Tariff, if the CLEC wishes to use the uniform tariff pursuant to Puc 431.05; and~~
    - ~~— d. A rate schedule pursuant to Puc 431.06.~~
- ~~— (d) Unless the commission denies an application for CLEC registration pursuant to Puc 431.02, it shall issue a CLEC authorization number which authorizes the applicant to provide competitive local exchange service in the territory of non-exempt ILECs.~~
- ~~— (e) A CLEC authorized prior to the effective date of these rules shall use the commission's order number granting it authority to operate as a CLEC as its authorization number.~~
- ~~— (f) Any authorization number obtained by a CLEC under this part shall be non-transferable.~~

## APPENDIX

Puc 402.49	RSA 365:8, VII & XII; RSA 374:3
------------	---------------------------------