

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

TABLE OF CONTENTS

CHAPTER Puc 1300 – UTILITY POLE ATTACHMENTS

PART Puc 1301 PURPOSE AND APPLICABILITY

Section Puc 1301.01 Purpose

Section Puc 1301.02 Applicability

PART Puc 1302 DEFINITIONS

Section Puc 1302.01 Commission

Section Puc 1302.02 FCC

Section Puc 1302.03 Pole

PART Puc 1303 ACCESS TO POLES

Section Puc 1303.01 Access Standard

Section Puc 1303.02 Owner Obligation to Negotiate

Section Puc 1303.03 Requestor Obligation to Negotiate

Section Puc 1303.04 Voluntary Agreements

PART Puc 1304 DISPUTE RESOLUTION

Section Puc 1304.01 Lack of Agreement

Section Puc 1304.02 Dispute Following Agreement or Order

Section Puc 1304.03 Procedure

Section Puc 1304.04 FCC Standard Applicable

Section Puc 1304.05 Remedies

PART Puc 1305 CERTIFICATION TO FCC

Section Puc 1305.01 Certification

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER Puc 1300 UTILITY POLE ATTACHMENTS

Statutory Authority: RSA 374:34-a

PART Puc 1301 PURPOSE AND APPLICABILITY

Puc 1301.01 Purpose. The purpose of Puc 1300, pursuant to the mandate of RSA 374:34-a, is to provide for the resolution of disputes involving the rates, charges, terms and conditions for pole attachments.

Source. #9073, INTERIM, eff 1-17-08, EXPIRES: 1-17-10

Puc 1301.02 Applicability. Puc 1300 shall apply to

(a) Public utilities within the meaning of RSA 362, including rural electric cooperatives for which a certificate of deregulation is on file pursuant to RSA 301:57, that own, in whole or in part, any pole used for wire communications or electric distribution.

(b) Other persons with facilities attached to such poles, or seeking to attach facilities to such poles.

Source. #9073, INTERIM, eff 1-17-08, EXPIRES: 1-17-10

PART Puc 1302 DEFINITIONS

Puc 1302.01 "Commission" means the New Hampshire public utilities commission.

Source. #9073, INTERIM, eff 1-17-08, EXPIRES: 1-17-10

Puc 1302.02 "FCC" means the federal communications commission.

Source. #9073, INTERIM, eff 1-17-08, EXPIRES: 1-17-10

Puc 1302.03 "Pole" means "pole" as defined in RSA 374:34-a, namely "any pole, duct, conduit or right-of-way that is used for wire communications or electricity distribution and is owned in whole or in part by a public utility, including a rural electric cooperative for which a certificate of deregulation is on file with the commission pursuant to RSA 301:57."

Source. #9073, INTERIM, eff 1-17-08, EXPIRES: 1-17-10

PART Puc 1303 ACCESS TO POLES

Puc 1303.01 Access Standard. The owner or owners of a pole shall provide access to such pole on terms that are just, reasonable and nondiscriminatory. Notwithstanding this obligation, the owner or owners of a pole may deny a request for attachment to such pole when there is insufficient capacity on the pole or for reasons of safety, reliability and generally applicable engineering purposes.

Source. #9073, INTERIM, eff 1-17-08, EXPIRES: 1-17-10

Puc 1303.02 Owner Obligation to Negotiate. The owner or owners of a pole shall, upon the request of a person seeking a pole attachment, negotiate in good faith with respect to the terms and conditions for such attachment.

Source. #9073, INTERIM, eff 1-17-08, EXPIRES: 1-17-10

Puc 1303.03 Requestor Obligation to Negotiate. A person seeking a pole attachment shall contact the owner or owners of the pole and make a reasonable effort to negotiate an agreement for such attachment.

Source. #9073, INTERIM, eff 1-17-08, EXPIRES: 1-17-10

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Puc 1303.04 Voluntary Agreements. Any pole attachment agreement entered into voluntarily under this part shall be presumed to be just, reasonable and nondiscriminatory. The commission shall not alter the terms of any such agreement.

Source. #9073, INTERIM, eff 1-17-08, EXPIRES: 1-17-10

PART Puc 1304 DISPUTE RESOLUTION

Puc 1304.01 Lack of Agreement. A person unable to reach agreement with the owner or owners of a pole or poles subject to this chapter may petition the commission pursuant to Part Puc 203 for an order establishing the rates, charges, terms and conditions for the pole attachment or attachments. Such a petition shall include the information required for complaints to the FCC made pursuant to the terms of 47 CFR § 1.1404(d) through (m) in effect on July 16, 2007.

Source. #9073, INTERIM, eff 1-17-08, EXPIRES: 1-17-10

Puc 1304.02 Dispute Following Agreement or Order. A party to a voluntary pole attachment agreement entered into pursuant to this chapter, or a party subject to an order of the commission establishing rates, charges, terms or conditions for pole attachments, may petition the commission pursuant to Puc 203 for resolution of a dispute arising under such agreement or order.

Source. #9073, INTERIM, eff 1-17-08, EXPIRES: 1-17-10

Puc 1304.03 Procedure. Upon receipt of a petition pursuant to this Part, the commission shall conduct adjudicative proceedings pursuant to Puc 203 for the purpose of considering and ruling on the petition. The commission shall issue its order resolving the complaint within 180 days of the receipt of a complete petition under this Part.

Source. #9073, INTERIM, eff 1-17-08, EXPIRES: 1-17-10

Puc 1304.04 FCC Standard Applicable. In determining just and reasonable rates under this Chapter, the commission shall apply the standards and formulae adopted by the FCC in 47 CFR § 1.1409(c) through (f) in effect on July 16, 2007.

Source. #9073, INTERIM, eff 1-17-08, EXPIRES: 1-17-10

Puc 1304.05 Remedies. When the commission determines just and reasonable rates under this Part that differ from the rates paid by the petitioner, the commission shall order a payment or refund, as appropriate. Such refund or payment shall be the difference between the amount actually paid and the amount that would have been paid under the rates established by the commission, plus interest, as of the date of the petition.

Source. #9073, INTERIM, eff 1-17-08, EXPIRES: 1-17-10

PART Puc 1305 CERTIFICATION TO FCC

Puc 1305.01 Certification. Within 10 days of the effective date of these rules, the commission shall certify to the FCC that the commission regulates the rates, terms and conditions for pole attachments in a manner sufficient to supersede FCC jurisdiction pursuant to 47 U.S.C. § 224 in effect on July 17, 2007 or any successor federal statute.

Source. #9073, INTERIM, eff 1-17-08, EXPIRES: 1-17-10

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

APPENDIX

Rule	Statute
Puc 1300	RSA 374:34-a