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APPENDIX II-G

Final Proposal No. 2011-35

Date Filed 8-15-11

COVER SHEET FOR FINAL PROPOSAL

Notice Number **2011-35** Rule Number **Puc 900**

1. Agency Name & Address:

NH Public Utilities Commission
21 S. Fruit St Suite 10
Concord NH 03301-2429

Substantive comments on FIS, p. 1, 2, 4–8, 20, + 26 and Incorp. by Ref. Statements (attached after rules).

2. RSA Authority: **RSA 362-A:9, V & RSA 365:8, XII**

3. Federal Authority:

4. Type of Action:

- ☐ Adoption
- ☐ Amendment
- ☐ Repeal
- ☐ Readoption
- ☒ Readoption w/amendment

5. Short Title: **Puc 900 – Net Metering for Customer-Owned Renewable Energy Generation Resources of 1000 Kilowatts or Less**

6. Contact person for copies and questions:

Name:	**Suzanne Amidon, Esq.**	Title:	**Staff Attorney**
Address:	**NH Public Utilities Commission** **21 South Fruit Street, Suite 10** **Concord NH 03301-2429**	Phone #:	**603-271-2431**

7. Yes ☐ No ☒ Agency requests Committee legal counsel review and delayed Committee review pursuant to RSA 541-A:12, I-a

8. The rulemaking notice appeared in the Rulemaking Register on March 18, 2011

SEE THE INSTRUCTIONS--PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET AND 2 COPIES OF THE FOLLOWING:
(and numbered correspondingly)

9. The "Final Proposal-Fixed Text," including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

10. The full text of the RSA passage granting rulemaking authority.

11. Yes ☒ N/A ☐ Incorporation by Reference Statement(s) because this rule incorporates a document by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.

12. Yes ☒ N/A ☐ The "Final Proposal-Annotated Text," indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(e).

13. Yes ☐ N/A ☒ The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

LBAO
FIS 11:031
03/07/11

Fiscal Impact Statement for Public Utilities Commission rules governing Net Metering For Customer-Owned Renewable Energy Generation Resources of 1000 Kilowatt Or Less. [Puc 900]

1. **Comparison of the costs of the proposed rule(s) to the existing rule(s):**
   There is no difference in cost when comparing the proposed rules to the existing rules.

2. **Cite the Federal mandate. Identify the impact on state funds:**
   No federal mandate, no impact on state funds.

3. **Cost and benefits of the proposed rule(s):**
   There are no additional costs or benefits attributable to the proposed rules.

   A. **To State general or State special funds:**
      None.

   B. **To State citizens and political subdivisions:**
      None.

   C. **To independently owned businesses:**
      None.

See comments to
Puc 903.02(b) p. 4
Puc 903.02(f) p. 5
Puc 905.06(d)
(deleted rule) p. 20

Readopt with amendment Puc 900, effective 7-18-09 (Document #9515) to read as follows:

CHAPTER Puc 900 NET METERING FOR CUSTOMER-OWNED RENEWABLE ENERGY GENERATION RESOURCES OF 1,000 KILOWATTS OR LESS

PART Puc 901 PURPOSE

Puc 901.01 Purpose. The purpose of Puc 900, pursuant to the mandate of RSA 362-A:9, is to establish reasonable interconnection requirements for safety, reliability and power quality for net energy metering as the public interest requires, and consistent with the legislative declaration of purpose set forth in RSA 362-A:1, in which the legislature found:

(a) It to be in the public interest to provide for small scale and diversified sources of supplemental electrical power to lessen the state's dependence upon other sources which may, from time to time, be uncertain;

(b) It to be in the public interest to encourage and support diversified electrical production that uses indigenous and renewable fuels and has beneficial impacts on the environment and public health; and

(c) That net energy metering for eligible customer-generators may be one way to provide a reasonable opportunity for small customers to choose interconnected self generation, encourage private investment in renewable energy resources, stimulate in-state commercialization of innovative and beneficial new technology, enhance the future diversification of the state's energy resource mix, and reduce interconnection and administrative costs.

Puc 901.02 Applicability

(a) Puc 904 through 908 shall be applicable only to small net-metering customers.

(b) Interconnection for large net-metering customers shall be governed by each utility's interconnection practices as set forth in the utility's tariff filed with the commission. .

(c) With the exception of Puc 903.02(n) and Puc 905.07, and unless otherwise noted, Puc 900 shall be applicable to rural electric cooperatives for which a certificate of deregulation is on file with the commission.

The Final Proposal includes changes to address HB 381 (2011, 168, effective 7-1-11). See the insertion of definitions Puc 902.01, 902.02, 902.07, and 902.09, and Puc 903.02(b). The Rulemaking Notice published on 3-18-11 referred to 2010 amendments, and the hearing was on 4-19-11. Unless the changes in the FP were due to public testimony, the JLCAR may have questions whether a new rulemaking should have commenced so as to satisfy RSA 541-A:11, I.

PART Puc 902 DEFINITIONS

Puc 902.01 "Combined heat and power system" means a "combined heat and power system" as defined in RSA 321-A:1-a, II-d, namely "a new system installed after July 1, 2011, that produces heat and electricity from one fuel input using an eligible fuel, without restriction to generating technology, has an electric generating capacity rating of at least one kilowatt and not more than 30 kilowatts and a fuel system efficiency of not less than 80 percent in the production of heat and electricity, or has an electric generating capacity greater than 30 kilowatts and not more than one megawatt and a fuel system efficiency of not less than 65 percent in the production of heat and electricity. Fuel system efficiency shall be measured as usable thermal and electrical output in BTUs divided by fuel input in BTUs."

Puc 902.02 "Customer-generator" means "eligible customer-generator" as defined in RSA 362-A:1-a, II-b, namely "an electric utility customer who owns or operates an electrical generating facility either powered by renewable energy or which employs a heat led combined heat and power system, with a total

peak generating capacity of not more than 100 kilowatts, or that first began operation after July 1, 2010 and has a total peak generating capacity of 100 kilowatts or more up to one megawatt, that is located behind a retail meter on the customer's premises, is interconnected and operates in parallel with the electric grid, and is used in the first instance to offset the customer's own electricity requirements".

Puc 902.03 "Default service" shall include energy supply services provided by a distribution utility which includes a rural electric cooperative for which a certificate of deregulation is on file with the commission.

Puc 902.04 "Distribution utility" means the company that owns and/or operates the distribution facilities delivering electricity to the customer-generator's premises.

Puc 902.05 "Electric utility customer" as used in the definition of "customer-generator" means any retail ratepayer of a distribution utility.

Puc 902.06 "Electricity suppliers" means "electricity suppliers" as defined in RSA 374-F:2, II, namely "suppliers of electricity generation services and includes actual electricity generators and brokers, aggregators, and pools that arrange for the supply of electricity generation to meet retail customer demand, which may be municipal or county entities."

See comment on p. 1.

Puc 902.07 "Eligible fuel" means "eligible fuel" as defined in RSA 362-A:1-a, II-c, namely, "natural gas, propane, wood pellets, hydrogen, or heating oil when combusted with a burner, including air emission standards for the device using the approved fuel."

Puc 902.08 "Generation capacity" means, for inverter based units, the kilowatt rating of the inverter, and for other interconnections, the kilowatt rating of the generation unit.

Puc 902.09 "Heat led" means "heat led" as defined in RSA 362-A:1-a, II-d, namely, "that the combined heat and power system is operated in a manner to satisfy the heat usage needs of the customer-generator."

Puc 902.10 "Islanding" means a condition in which a portion of the utility system that contains both load and dispersed generation is isolated from the remainder of the utility system.

Puc 902.11 "Large customer-generator" means a customer-generator defined under Puc 902.01 that first began operation after July 1, 2010 and has a total peak generating capacity greater than 100 kilowatts (kW) up to one megawatt (MW).

Puc 902.12 "Net energy metering" means "net energy metering" as defined in RSA 362-A:1, III-a, namely, "measuring the difference between the electricity supplied over the electric distribution system and the electricity generated by an eligible customer-generator which is fed back into the electric distribution system over a billing period."

Puc 902.13 "Renewable energy" means electricity produced by renewable resources including geothermal, tidal or wave, wind, solar, landfill gas, hydro, biomass, bio-oil, bio-synthetic gas and biodiesel resources.

Puc 902.14 "Small net-metering customer" or "small customer-generator" means a customer-generator as defined by Puc 902.01 with a total peak generating capacity of not more than 100 kW.

Puc 902.15 "Witness test" means the process used by the electric utility following the interconnection of a customer-generator's generation facility to determine whether the interconnection affects the safety, reliability or power quality of the distribution system.

PART Puc 903 CONDITIONS TO INTERCONNECTION

Puc 903.01 General Rules, Rights and Obligations.

(a) Any distribution utility and any electricity supplier operating within the state of New Hampshire shall, upon request, provide net energy metering to customer-generators pursuant to Puc 900 and RSA 362-A:9.

(b) A distribution utility shall comply with Puc 900 in a non-discriminatory manner and shall not unreasonably withhold its permission to interconnect a customer-generator's generating facility.

(c) Any electricity supplier operating within New Hampshire that is not the default service provider shall offer net metering pursuant to Puc 900 but may provide for rates and terms as provided in RSA 362-A:9, II and Puc 903.02(e).

(d) Any customer-generator who engages in net energy metering in New Hampshire shall comply with Puc 900.

(e) A customer-generator shall comply with:

(1) Applicable commission-approved rules, tariffs and terms and conditions of the distribution utility not in conflict with Puc 900;

(2) Any local, state or federal law, statute or regulation which applies to the design, siting, construction, installation, operation, or any other aspect of the customer-generator's generating and interconnection facility; and

(3) Interconnection requirements of the distribution utility as set forth in each utility's tariff on file with the commission.

(f) Interconnection with the distribution utility under Puc 900 shall not authorize a customer-generator to utilize the distribution utility's electric distribution system for the transmission or distribution of electric power.

(g) The distribution utility shall have the right to review the design of a customer-generator's generating and interconnection facility and to inspect such facility prior to the commencement of operation.

(h) The distribution utility may require a customer-generator to make modifications to its facility as necessary to comply with the requirements of Puc 900.

(i) The distribution utility's review and authorization for operation shall not be construed as confirming or endorsing the customer-generator's design or as warranting the generating or interconnection facility's safety, durability or reliability.

(j) The distribution utility shall not, by reason of such review or lack of review, be responsible for the strength, adequacy, or capacity of such facility's equipment.

(k) A customer-generator's generating and interconnection facilities shall be reasonably accessible to the distribution utility's personnel as necessary for the distribution utility to perform its duties and exercise its rights under its tariffs and terms and conditions filed with and approved by the commission, and Puc 900.

(l) Any information pertaining to a generating or interconnection facility provided to a distribution utility by a customer-generator shall be treated by the distribution utility in a confidential manner.

(m) A customer-generator shall operate and maintain its generating and interconnection facility in a manner that is as safe, dependable and efficient as practicable.

(n) Customer-generators shall be responsible for all costs associated with the interconnection to the distribution system, as provided under RSA 362-A:9, XIII

Unclear. Not written as a rule. Also, including specific MW amounts applicable to an individual utility seems to make the highlighted language not a "rule" as defined in RSA 541-A:1, XV.

Puc 903.02 Statutory and Other Requirements.

(a) Electric distribution utilities shall make net energy metering available to customer-generators, pursuant to RSA 362-A:9 and Puc 900.

(b) Eligibility for net energy metering shall be available on a first-come, first-served basis within each distribution utility service area under the jurisdiction of the commission until such time as the total rated generating capacity owned and operated by customer-generators totals a number equal to 50 MW multiplied by the utility's percentage share of the total 2010 coincident peak energy demand for New Hampshire which is as follows: Granite State Electric Company, 4.12 MW; New Hampshire Electric Cooperative, Inc., 3.16 MW; Public Service Company of New Hampshire, 36.55 MW; and Unitil Energy Systems, Inc., 6.17 MW. No more than 2 MW of such total rated generating capacity shall be from combined heat and power systems.

(c) Metering shall be done in accordance with normal metering practices as follows:

See comment on p. 1. This last sentence in Puc 903.02(b) seems due to HB 381, (2011, 168:3). Also, this may effect the original FIS since the sentence was not in the Initial Proposal. If it does affect the FIS, then an amended FIS should have been obtained as required by RSA 541-A:5, VI.

(1) Except as provided for in subparagraphs (c) (3) and (4) below, small customer-generators shall have a single net meter that internally measures the inflow and outflow of electricity such that the net electricity usage or production can be periodically read.. Small customer-generators shall not be required to pay for the installation of this meter;

(2) Large customer-generators shall have a bi-directional metering system that records the total amount of electricity that the customer takes from the distribution utility and the total outflow of electricity to the distribution grid. Such meter shall record measurements instantaneously or over intervals of an hour or less. Large customer-generators shall pay for the installation of the bi-directional metering system;

(3) A distribution utility may install an additional meter or meters to monitor the flow of electricity in each direction for a small customer-generator, provided that it is not at the expense of the small customer-generator unless the additional metering is requested by the small customer-generator;

(4) If the output of the customer-generator's facility will be measured for the purposes of recording renewable energy output under RSA 362-F, a second meter measuring the flow of electricity from the facility may be installed at the customer-generator's expense; and

(5) If an additional meter or meters are installed, as described in subparagraphs (c) (3) or (4) above, the net energy metering calculation shall yield the same result as when a single meter is used, pursuant to RSA 362-A:9.

(d) A customer-generator shall be billed for electricity under the same rate schedule that such customer-generator would be billed if it had no generation.

(e) Competitive electricity suppliers registered under RSA 374-F:7 may voluntarily determine the terms, conditions, and prices under which they will agree to provide generation supply to and purchase net generation output from customer-generators.

(f) Prior to the effective date of these rules, where the electricity generated by the customer-generator exceeds the electricity supplied by the electric grid, the customer-generator shall be credited over subsequent billing periods for the excess kilowatt hours (kWh) generated. Puc 903.02 (g) through (p) shall apply to customer-generators for surplus electricity fed into the distribution system that accumulates after the effective date of these rules.

Unclear. As worded, the language "prior to the effective date of these rules…the customer-generator shall be credited" seems to set a retroactive requirement regarding credits for customer-generators, which may violate Pt. 1, Article 23 of the NH Constitution. Also, Puc 903.02(f) is a new paragraph in the Final Proposal. If this affects the original FIS, then an amended FIS should have been obtained as required by RSA 541-A:5, VI.

(g) Pursuant to RSA 362-A:9, the following shall apply to net energy measurement for small customer-generators billed on a rate schedule that is not time based:

(1) The net energy produced or consumed on a monthly basis shall be measured in accordance with normal metering practices;

(2) Charges that are not based on kWh, including the customer charge and demand based charges, shall be billed in accordance with the applicable rate schedule;

(3) Where the electricity supplied to the customer-generator over the electric distribution system exceeds the electricity supplied to the distribution system by the customer-generator during the billing period, the customer-generator shall be billed based on the net energy supplied in accordance with the applicable rate schedule, net of any credits pursuant to Puc 903.02(g)(5) a. below; and

(4) Where the customer-generator's net energy usage is negative in that more electricity is fed into the distribution system than is consumed by the customer;

Edit. Use colon, not semi-colon.

a. the surplus electricity fed into the distribution system will be calculated by subtracting the kWh supplied over the electric distribution system from the kWh fed back into the distribution period for the billing period; and

Edit. Say "shall be calculated." Begin clause with "The."

b. The distribution utility shall use zero kWh when calculating all charges that are based on kWh usage; and

Unclear if "shall use zero kWh" means there shall therefore be no charges.

(5) Where the electricity generated by the customer-generator exceeds the electricity supplied by the electric grid in any billing period, the customer-generator shall be:

a. Credited over subsequent billing periods for the surplus electricity fed into the distribution system and all associated kWh-based charges; or

b. If the surplus electricity production exceeds 600 kWh, the customer-generator may elect, on an annual basis, to receive a payment from the distribution utility equal in amount to the economic value of accumulated surplus as calculated in (j) below.

(h) Pursuant to RSA 362-A:9, the following shall apply to net energy measurements for large customer-generators:

(1) The net energy produced or consumed on a monthly basis shall be measured in accordance with normal metering practices;

(2) All charges that are not based on kWh, including the customer charge and demand-based charges, will be billed in accordance with the applicable rate schedule;

(3) Where the electricity supplied to the customer-generator over the electric distribution system exceeds the electricity supplied to the distribution system by the customer-generator during the billing period, the customer-generator shall be billed all applicable charges on all kilowatt hours supplied to the customer over the electric distribution system less a credit on default service charges equal to the metered energy fed into the electric distribution system over a billing period;

(4) Where the customer-generator's net energy usage is negative in that more electricity is fed into the distribution system than is delivered from the distribution system;

a. The surplus electricity fed into the distribution system shall be calculated by subtracting the kWh supplied over the electric distribution system from the kWh fed back into the distribution period for the billing period; and

b. The distribution utility shall use zero kWh when calculating all default service charges. The customer-generator shall be billed all other applicable charges on all kWh supplied to the customer over the electric distribution system; and

(5) Where the electricity supplied to the distribution system by the customer-generator exceeds the electricity supplied to the customer-generator in any billing period, the customer-generator shall be:

a. Credited for surplus electricity fed into the distribution system over subsequent billing periods for default service charges only; or

b. For default service customers, the customer-generator may elect on an annual basis to receive a payment from the distribution utility equal in amount to the economic value of the billing-cycle surplus as calculated in (-j) below.

(i) Following the May billing cycle on an annual basis, each distribution utility shall provide notice to small customer-generators taking default service that have accumulated a surplus in excess of 600 kWh and all large customer-generators taking default service that experience at least one billing cycle with surplus kWh with written notice that provides:

Unclear. The introductory sentence seems to indicate that small customer-generators get "notice", and large customer-generators get "written notice" that provides (1) thru (3). **Edit.** Break (i) into 2 paragraphs, with a new (h) introducing the subparagraphs on what each notice or both notices shall provide.

(1) The number of accumulated kWh;

(2) A statement that the customer-generator will continue to accumulate any net surplus unless it elects one of the following two options:

a. Receive a bill credit equal to the economic value of the applicable surplus; or

b. Elect payment by check of the economic value of the surplus; and

(3) The rate, expressed in dollars or cents per kWh that such surplus will be valued at.

Edit. Say "shall be calculated by the utility", or re-word sentence to active voice ("the utility shall calculate...").

(j) Unless an electric distribution utility elects otherwise as provided in paragraph (k) below, and except as may be provided otherwise pursuant to paragraph (p) below, the economic value of surplus generation will be calculated by using the utility's avoided costs for energy and capacity as determined annually by the commission consistent with the requirements of the Public Utilities Regulatory Policy Act of 1978 (PURPA) and as set forth below:

Edit. Insert USC citation for clarity.

(1) On or before April 15 of each year, the commission shall publish on its website the avoided costs of energy and capacity for the previous year ending March 31, expressed in dollars or cents per kWh, to be used to calculate the economic value of surplus net metered generation for the previous year which may be paid or credited starting in the May billing cycle, along with supporting calculations and an explanation of assumptions and data sources;

Unclear. In (j)(1) thru (5) there seem to be two entities which shall "calculate", and two different calculations specified. The introduction in (j) and (j)(1) indicate that the distribution utility shall calculate an "economic value" of the surplus by using the PUC's determination of that utility's avoided costs. But then (j)(2)-(5) appear to be the methodology (that is, the rule) which the PUC shall use to calculate the avoided costs for each utility case-by-case. Re-writing (j) into (j) and a new (h) may clarify matters.
NOTE TO JLCAR: (j)(1)-(5) use many undefined utility terms, but it is allowed by RSA 541-A:7 if they are understood by the regulated community.

(2) The avoided costs calculation shall be based on the average short-term avoided energy and capacity costs for the New Hampshire load zone in the wholesale electricity market administered by ISO New England, Inc., consisting of the hourly real time locational marginal price (LMP) of electricity plus generation related capacity and ancillary service charges, all adjusted for the average line loss in New Hampshire between the wholesale metering point and the retail metering point;

(3) For all types of net metered systems other than solar photovoltaic (PV) systems the avoided energy and capacity costs shall be calculated by using a simple average of hourly cost data from ISO New England, Inc. for the 12 months ending the immediately preceding March 31, assuming that generation is, on average, equally distributed over all hours of the year;

(4) For net metered PV systems the average hourly avoided energy and capacity costs shall be calculated by weighting the actual avoided costs for each hour of the 12 months ending the immediately preceding March 31 by the hourly generation output profile for PV systems in New Hampshire determined as follows:

a. If verifiable hourly generation output data is available and on file at the commission by April 5 for the applicable year from at least 25 kW of PV system capacity operating within New Hampshire, then the output profile for PV systems shall be the hourly average of all such data; or

b. If such data is not available the hourly generation output profile shall be the modeled hourly PV performance data output produced by the U.S. Department of Energy, National Renewable Energy Laboratory, PVWatts software, version 1, (available at http://www.nrel.gov/rredc/pvwatts/site_specific.html) with the default settings for Concord, New Hampshire;

(5) On its own motion or in response to a third party request to correct an error, the commission shall revise its calculation of avoided cost and any amounts paid or credited at the originally published price shall be subject to reconciliation by the revised calculation.

(k) Annually, by written notice to the commission on or before May 1 of each year, each electric distribution utility may elect, by filing notice with the commission, to purchase or value surplus generation for the following year at a rate that is equal to the generation supply component of the applicable default service rate, instead of the avoided cost rate determined by the commission pursuant to paragraph (j) above , provided that payment is issued to customer-generators at least as often as whenever the value of such credit, in excess of amounts owned by the customer-generator, is greater than $50.

Unclear. The Incorporation by Reference Statement for this Version 1 software has an additional URL to get NH performance data, but that is not mentioned above. Also, the Statement refers to "accessed on 8/11/11", implying undated Internet content, but "Version 1" implies a date-specific software, regardless of the access date. Only rulemaking initiated on or after 9/11/11 (See 2011, 252:7) may incorporate undated Internet content, but it still must be printed off.

(l) Upon exit from the net energy metering system, there shall be no payment or credit to a customer-generator for any remaining excess generation.

(m) The commission shall waive any provision of Puc 900 or RSA 362-A after notice and an opportunity for a hearing, if it determines that waiver of the applicable statute or rule section is a net energy metering arrangement that is part of a utility strategy to minimize distribution costs, pursuant to RSA 362-A:9.

(n) The commission shall consider any request for a waiver, whether filed pursuant to (l) above or otherwise, pursuant to Puc 201.05, titled waiver of rules.

(o) A distribution utility may perform an annual calculation to determine the net effect of net metering on its default service and distribution revenues and expenses in the prior calendar year. Pursuant to Puc Part 203, the commission shall determine by order, after notice and hearing, the utility-specific method of performing the calculation and applying the results, as well as a reconciliation mechanism to collect or credit any such net effects with appropriate carrying charges and credits applied.

Edit. Delete "Part."

(p) Pursuant to Puc Part 203, the commission may by order, after notice and hearing, establish on a utility-specific or generic basis a methodology by which customer-generators may be provided service under time-based net energy metering tariffs in accordance with RSA 362-A:9, VIII.

(q) Renewable energy certificates associated with the customer-generator's facility shall remain the property of the customer-generator until such certificates are sold or transferred.

Incorrect use of "may." See §§3.2 & 3.8 of Ch. 4 of *Manual*. Under what circumstances shall the PUC establish this methodology? Compare with "shall determine" in (o) above.

PART Puc 904 INTERCONNECTION APPLICATION PROCESS

Puc 904.01 Pre-application Review.

(a) Before purchasing or installing net energy metering equipment, a customer-generator may request that the customer-generator's distribution utility informally review the proposed project and provide information on:

(1) Whether the customer-generator's distribution utility is under the cap established by RSA 362-A:9,I;

(2) Whether the customer-generator's generation facility and electric grid interface unit, in the opinion of the distribution utility, is likely to comply with the requirements of Puc 900; and

(3) Whether the customer-generator is in an area or service location which is likely to require any upgrade or study.

(b) At the pre-application stage the distribution utility shall provide the customer-generator its best evaluation, given the information it has available, but shall not be required to conduct a study or elaborate review of the project.

Puc 904.02 Interconnection Application.

(a) To initiate the process to engage in net energy metering, a customer-generator shall file with its distribution utility and, if applicable, its electricity supplier, an interconnection application form.

(b) When filing an application with the distribution utility, to obtain evidence of the filing and the date of filing, the applicant shall:

(1) File the application by certified mail;

(2) Obtain a dated acknowledgment of receipt from the distribution utility; or

(3) Obtain written or electronic verification of receipt from the distribution utility by other means consistent with (1) and (2) above.

(c) The interconnection application form shall include the following:

(1) Applicant information which shall include:

a. The customer-generator's name;

b. The customer-generator's full mailing address;

c. The facility location, if different from above;

d. The customer-generator's daytime and evening telephone numbers;

e. The information provided in a., b., and d. above for an alternative contact person when the customer-generator is unavailable;

f. The name of the local distribution utility and the customer-generator's account number; and

g. If different than the distribution utility, the name of the customer-generator's electricity supplier and the customer-generator's account number;

(2) Generating facility information, including:

a. The generator type, whether solar, wind, hydro or other renewable source as listed in RSA 362-F:4, I, (a) through (f);

b. The generator manufacturer, model name and number;

c. The number of phases of the unit, whether single or 3-phase;

d. The power rating of the generation output of the system in kilowatts;

e. If applicable, the inverter manufacturer, model name and number;

f. Whether a battery backup will be used or not; and

g. Whether an exterior manual disconnect switch for utility use shall be installed, if the generation output of the unit is less than or equal to 10 kilowatts in size; and

(3) Installation information and certification, which shall include:

a. Whether the generator shall be owner installed;

b. The installation date;

c. The anticipated interconnection date;

d. The name, complete address, telephone number and license number of the installing electrician, if applicable;

e. The name and company affiliation of the vendor selling the generator to the customer-generator;

f. The signature, with the date of signature, of the vendor, certifying that the system hardware is in compliance with Puc 900;

g. Certification, if applicable, that the system has been installed in compliance with the local municipal building and electrical codes in the form of:

1. A signed and dated certificate by the applicable local code official; or

2. A copy of a signed and dated final inspection certificate from the municipality; and

h. A signed and dated certification by the customer-generator that:

1. The customer-generator has installed and shall operate the generation system in compliance with applicable electrical standards;

2. The initial start-up test required by Puc 905.04 has been successfully completed; and

3. To the best of the customer-generator's knowledge, all of the information contained in the interconnection notice is true and correct; and

i. Responses to the questions posed in Puc 904.01.

(d) A customer-generator may submit an interconnection application to its distribution utility when the customer-generator's facility has not been fully installed and tested, but shall:

(1) Provide in writing in connection with the interconnection application, a description of any manner in which the facility is not fully connected, tested or is not yet otherwise in compliance;

(2) Fulfill any unmet requirements prior to interconnecting; and

(3) Upon completion of unmet interconnection requirements, provide the distribution utility with any necessary updated written certifications required by this part.

(e) The distribution utility shall not interconnect the facility until all requirements pursuant to (d) above are met.

(f) Upon request, the distribution utility shall provide the customer-generator written confirmation that the interconnection application has been received and the date of receipt as follows:

(1) When the application is filed in person, immediately; or

(2) When the application is filed by mail or other means, within 10 business days of receipt, with written acknowledgement that states that:

a. The application is complete; or

b. That the application is incomplete and what information is necessary to complete the requirements.

(g) When the distribution utility provides a receipt for an application it may clarify that the receipt acknowledges the date and fact of a filing, but not the approval of the filing.

Puc 904.03 Mutual Indemnity Provision.

(a) Unless both parties to the agreement have agreed, pursuant to (g) below, to not enter into or maintain the mutual indemnity agreement, prior to interconnection, the customer-generator, his or her distribution utility, and, if applicable, the customer-generator's electricity supplier shall:

(1) Execute the mutual indemnity agreement described in (b) below; and

(2) Maintain the terms of the agreement while the net energy metered unit is interconnected.

(b) With regard to the mutual indemnity agreement, each party to the agreement shall provide as follows:

(1) Each party shall hold harmless, and indemnify the other party and its directors, officers, agents and employees against any and all loss, liability, damage, or expense, including any direct, indirect or consequential loss, liability, damage, or expense, but not including attorneys' fees unless awarded by a court of competent jurisdiction, for injury or death to persons, including employees of either party, and damage to property, including property of either party, arising out of or in connection with intentional, willful, wanton, reckless or negligent conduct regarding:

a. The engineering, design, construction, maintenance, repair, operation, supervision, inspection, testing, protection or ownership of the party's facilities; or

b. The making of replacements, additions, or improvements to, or reconstruction of, the party's facilities;

(2) Neither party shall be indemnified by the agreement for any loss, liability, damage, or expense resulting from its sole negligence or willful misconduct; and

(3) Notwithstanding the indemnity provisions contained in the agreement, except for a party's willful misconduct or sole negligence, each party shall be responsible for damage to its own facilities resulting from electrical disturbances or faults.

(c) The mutual indemnity agreement shall become effective as between the respective parties executing and exchanging the document, upon interconnection of the customer-generator to the electric grid

and mutual execution and exchange of the document by the distribution utility, the customer-generator and, if applicable, the electricity supplier.

(d) The distribution utility shall also execute the mutual indemnity agreement described in this section.

(e) The customer-generator, distribution utility, and, if applicable, the electricity supplier, shall each execute duplicate originals of the mutual indemnity agreement set forth in (b) above and each party to the agreement shall retain one executed original of the agreement.

(f) If an electricity supplier sells electric power to the customer-generator, it may require that the customer-generator enter into a mutual indemnity agreement with it, as described in this section.

(g) Notwithstanding (c) through (f) above, the customer-generator and the distribution utility with whom he or she interconnects and/or the electricity supplier of the customer-generator, separately or together, may at any time, by mutual agreement, elect not to enter into or to void the indemnity agreement set forth in (b) above.

(h) The provisions of the indemnity agreement described in this section shall not be construed to relieve any insurer of its obligations to pay any insurance claims in accordance with the provisions of any valid insurance policy.

Puc 904.04 Application Completeness Review.

(a) The interconnection process shall be deemed as beginning when the customer-generator submits a complete application pursuant to this part.

(b) The distribution utility shall evaluate the application for completeness and notify the customer-generator in writing within 10 business days of the application's receipt whether the application is or is not complete and, if the application is not complete, inform the customer-generator in writing what information is missing.

(c) The distribution utility shall verify that the customer-generator's facility equipment passes the requirements of Puc 905.

(d) If the distribution utility approves the application, the distribution utility shall sign the application and return the approved application to the customer-generator.

(e) If the distribution utility determines that interconnection of the customer generation facility would jeopardize the safety, reliability or power quality of the local distribution system, the distribution utility shall require the customer-generator to pay for necessary modifications to the distribution system before the application is approved.

(f) In the event that the distribution utility requires the customer-generator to pay for system modifications pursuant to (e) above, the distribution utility shall provide the customer-generator a description of work and an estimate of the cost for approval.

(g) If the customer-generator agrees to pay for the system modifications, the customer-generator shall sign the description of the work and submit a signed copy and the payment of the estimated costs to the distribution utility.

(h) Upon receipt of the customer-generator's approval and payment, the distribution utility shall perform the system modifications.

(i) Upon completion of the system modifications, the distribution utility shall sign the application approval and provide a copy of the signed approval to the customer-generator.

Puc 904.05 Installation and Interconnection of Facility.

(a) Upon receipt of an application signed by the distribution utility, the customer-generator may install the generating facility.

(b) Following installation of the facility, the customer-generator shall arrange for inspection of the completed installation by the local building inspector or, if one is not available, a New Hampshire licensed electrician.

(c) The person who inspects the installation pursuant to (b) above shall sign a certificate of completion.

(d) If the facility was installed by an electrical contractor, the customer-generator shall also have the contractor complete a certificate of completion.

(e) When the customer-generator has the signatures pursuant to (c) and (d) above, the customer-generator shall provide the distribution utility with a copy of the certificates of completion.

(f) Following receipt of the certificate(s) of completion, the distribution utility may inspect the customer-generator's facility for compliance with standards by arranging for a witness test.

(g) Until a witness test has been performed, the customer-generator shall have no right to operate in parallel unless a witness test has been previously waived by the distribution utility on the application form.

(h) If the distribution utility elects to conduct a witness test, the distribution utility will attempt to conduct it within 10 business days of the receipt of the certificate of completion.

(i) All projects larger than 10 kW shall be subject to a witness test unless the distribution utility has waived the witness test on the application form.

(j) If the witness test shows that the facility is appropriately installed and functioning without jeopardizing the safety, reliability or power quality of the distribution system, the distribution utility shall notify the customer-generator in writing that the interconnection is authorized.

(k) If the witness test results indicate that the facility installation jeopardizes the safety, reliability or power quality of the distribution system, the distribution utility shall disconnect the facility provided that the distribution utility inform the customer-generator in writing what actions are required to mitigate the safety, reliability or power quality issues along approval of the facility interconnection.

(l) If the customer-generator does not substantially complete construction within 12 months after receiving application approval from the distribution utility, the distribution utility shall require the customer-generator to reapply for interconnection.

(m) As to a generating facility up to 25 kW that does not interface with the electric grid by means of an inverter, the distribution utility shall have a period of 75 days from the initial filing of the interconnection application to:

(1) Assess the proposed system and the customer-generator's site characteristics;

(2) Communicate with the customer-generator regarding adequate protective interface devices; and

(3) Allow the applicant to interconnect or provide the customer-generator specific written reasons for objecting to interconnection.

(n) If the customer-generator and the distribution utility agree that the application reasonably requires more time before the distribution utility responds as provided in (m) above, as applicable, they may agree to extend the deadline for response.

(o) Except as provided in (n) above, if the distribution utility is not able to respond to the applicant within the 10 day review period for inverter based systems or 75 day review period for non-inverter based systems and the customer-generator does not agree to an extension of the response time, the distribution utility shall:

(1) Notify the commission and the customer-generator in writing no later than the expiration of the relevant period;

(2) Petition the commission for an extension of a specified length; and

(3) Cite the specific reasons why the deadline was not met and the basis for the length of the requested extension.

(p) The commission shall grant an extension for review of the application for the shortest time reasonable, if any, if it determines that it is necessary to provide the distribution utility additional time to assess the effect of the proposal on safety, reliability or power quality of the electric distribution system in light of:

(1) The complexity of the characteristics of the site;

(2) The complexity of the proposed generation and interconnection facilities; or

(3) Delay occasioned by:

a. Failure of the customer-generator to timely provide the distribution utility information necessary to assess the potential impact of the system on safety, reliability or power quality of the electric grid;

b. Untimely response by the customer-generator to the distribution utility in response to a distribution utility request for information; or

c. Circumstances beyond the control of the distribution utility that prevent the utility from responding within the time limits established by this section.

(q) The distribution utility shall notify the customer-generator as soon as reasonably possible of any required information not included in the customer-generator's interconnection application filing, but not later than 30 days following filing of an application that the customer-generator indicates is complete.

(r) If the distribution utility has not met the applicable deadline for responding to a completed application pursuant to (m) above and has not petitioned for an extension pursuant to (o) and (p) above, the customer-generator may:

(1) Contact the distribution utility and commission and request resolution; or

(2) File a complaint with the commission.

(s) Prior to operation, during normal business hours, the customer-generator shall:

(1) Provide the distribution utility the opportunity to inspect the unit; and

(2) Upon request, demonstrate to the distribution utility the operation of the unit.

(t) The distribution utility shall interconnect with any customer-generator which:

(1) Receives electric service from the distribution utility;

(2) Has completed the application process required by this section; and

(3) Has installed a net energy metering system that complies with the interconnection and technical specification requirements of Puc 900.

(u) Facilities that meet the interconnection requirements of Puc 900 shall not be required by the distribution utility to meet additional requirements, perform or pay for additional tests, or pay additional interconnection-related charges, unless as otherwise provided.

(v) Nothing in (u) above shall prohibit a party from petitioning the commission, pursuant to Puc 201.05, as to any net energy metered facility, to require additional interconnection requirements, performance of or payment for additional tests, or payment of additional interconnection-related charges.

(w) A net metered customer-generator, a distribution company or an electricity supplier may install additional controls or meters or conduct additional tests, beyond those required by Puc 900, but if entry to the customer-generator's premises is necessary, shall first obtain consent to access the premises pursuant to Puc 908.03.

(x) The expenses associated with the additional tests, meters, and/or equipment described in (l) above shall be borne by the party desiring the additional tests, meters and/or equipment.

(y) For facilities larger than 25 kW, the distribution utility shall require a site specific interconnection review that may require additional protective equipment and may exceed the 75 day time frame by up to an additional 60 days.

Puc 904.06 Upgrades or Changes in the Net Metering System.

(a) The customer-generator shall provide the distribution utility with a written update of any of the information required to be provided on the interconnection application as any changes occur.

(b) The customer-generator shall re-certify to their distribution utility the applicable certifications required by Puc 904.05(c) and (d), when any of the following occurs:

(1) The generation capacity is increased or its source is changed;

(2) Any key component of the system, such as the inverter, is replaced or upgraded; or

(3) The relays for a non-inverter system, are replaced, rewired or upgraded.

Puc 904.07 Insurance. The customer-generator shall not be required by the distribution utility or electricity supplier to purchase or maintain property insurance or comprehensive personal liability insurance to protect against potential liability resulting from the installation, operation or ownership of the generation and interconnection facility.

PART Puc 905 TECHNICAL REQUIREMENTS FOR INTERCONNECTION FOR FACILITIES

Puc 905.01 Requirements for Disconnect Switches.

(a) No facility which connects to the electric grid by means of a single-phase or 3-phase inverter that complies with Puc 906.01 shall be required to install and maintain a manual disconnect switch for utility use, unless:

(1) The customer-generator's revenue meter is not routinely accessible to the utility;

(2) The facility uses multiple inverters connected in series; or

(3) The utility connection is through a transformer rated meter.

(b) For purposes of this section, a "transformer rated meter" means a meter panel or switchboard employing the use of potential and current transformers.

(c) If the distribution utility finds it necessary for scheduled maintenance of which the customer-generator has received reasonable notice or in an emergency situation, to disconnect from the electric grid a customer-generator who does not maintain a manual disconnect switch for utility use, the utility may do so by:

(1) Pulling the customer-generator's meter;

(2) Disconnecting the customer-generator's service at the site transformer; or

(3) Executing any other reasonable method of disconnection.

(d) If the customer-generator has been notified of a scheduled maintenance or other event requiring disrupting generation or service, as an alternative to having his or her service disconnected, and upon agreement of the distribution utility, the customer-generator or their representative may be present at the scheduled time of disruption of service and demonstrate to the utility representative that generation has been isolated from the utility grid and remains isolated for the duration of the required period.

(e) If the customer-generator schedules a meeting with the distribution utility for disconnection of the system, as described in (c) above, and the customer-generator does not meet at the scheduled time, the distribution utility may disconnect the service as provided in (b) above.

(f) If the customer-generator does not install a manual disconnect device accessible to the utility, the customer-generator:

(1) Shall assume all risks and consequences associated with the loss of power to the customer-generator's premises during any period when the distribution utility is required to disconnect the customer-generator's electric service; and

(2) Acknowledges that the service disconnection shall interrupt all electric service to the customer-generator site.

(g) Any customer-generator may agree to install a manual disconnect device accessible to the distribution utility.

(h) If the customer-generator elects not to install a disconnect switch for use by the distribution utility, the customer-generator shall install a warning label, to be provided by their distribution utility, on or near their service meter location.

Puc 905.02 Disconnect Switch.

(a) For purposes of this section, a "gang-operated" switch means a switch in which the separate switches for each phase are operated as a group from a single control.

(b) A facility that elects to install a manual disconnect switch for utility use shall meet the following requirements:

(1) The disconnect switch shall be an external, manual, visible, gang-operated, load break disconnecting switch;

(2) The customer-generator shall purchase, install, own, and maintain the disconnect switch;

(3) The disconnect switch shall be located between the power producing equipment and its interconnection point with the distribution utility system;

(4) The disconnect switch shall meet applicable standards established by Underwriters Laboratories, American National Standards Institute, the National Electrical Code and Institute of Electrical and Electronic Engineers;

(5) The disconnect switch shall be clearly marked, "Generator Disconnect Switch", with permanent letters 3/8 inch or larger;

(6) The disconnect switch shall be located at a location on the property of the customer-generator mutually agreeable to the customer-generator and the distribution utility;

(7) The disconnect switch shall be readily accessible for operation and locking by distribution utility personnel; and

(8) The disconnect switch must be lockable in the open position with a standard padlock with a 3/8 inch shank.

Puc 905.03 Configuration of the Transformer Serving the Customer-Generator's Generation Site.

(a) The existing site transformer serving the customer-generator load may be used if its use will not significantly degrade the power quality or voltage regulation on the secondary distribution system and if such usage will not create problems for distribution utility system relaying.

(b) For single phase distributed generators connected to 4-wire multi-grounded neutral systems, the high side of the step-up transformer shall be connected phase to neutral.

(c) A phase to phase high side connection shall be allowed if it does not degrade power quality or voltage regulation on the distribution system.

(d) For single phase distributed generators connected to 3-wire or 4-wire impedance grounded systems, the step-up transformer high-side winding shall be connected phase to phase.

(e) For 3-phase distributed generators connected to 4-wire multi-grounded distribution systems, the step-up transformer may be an existing grounded-wye to grounded-wye transformer. "Wye" as used in this paragraph, means the configuration in which one end of each transformer winding is connected to a common point and the other to its appropriate line terminal, resembling the letter "Y".

(f) In cases as described in the paragraph above, the generator shall be impedance grounded as necessary to achieve effective grounding but limit the desensitization of the distribution utility system ground fault relaying.

(g) The generation system site shall be impedance grounded, as described in (f) above, if necessary, in a manner adequate to assure that the unit does not:

(1) Significantly degrade the power quality or voltage regulation on the distribution system;

(2) Create significant safety problems; or

(3) Create problems for distribution utility system relaying.

(h) To guard against over voltages on the unfaulted phases of a 3-phase utility primary, if the transformer serving the customer-generator site is ungrounded, over voltage protection shall be used to:

(1) Detect a situation where the utility has tripped due to a phase to ground fault, and the connected ungrounded generator might not yet have tripped; and

(2) Trip the generator at high speed.

(i) The cost of any improvements necessary to the site transformer serving the net metered facility shall be borne according to the distribution utility's approved tariff on file with the commission.

Puc 905.04 Initial Testing.

(a) After installation of the generation facility and before final approval and interconnection to the electric grid, the customer-generator shall, in addition to the certifications required in connection with the

interconnection application, conduct a load-break test on the generator, as described in (b) below, to confirm that the anti-islanding controls are functioning.

(b) When conducting a load-break test, the customer-generator shall demonstrate that after the main disconnect switch or circuit breaker of the residence or building is opened, the generation unit shuts down within 2 seconds.

(c) If the generation unit fails to shut down within 2 seconds after conducting the test as provided in (b) above, the customer-generator shall inform its distribution utility.

(d) The customer-generator shall provide an initial test on a non-inverter interfaced system, by demonstrating that:

(1) The relays function as designed;

(2) The relays have been calibrated to settings as provided by the distribution utility pursuant to Puc 907.01(f);

(3) All key components of the system function as designed; and

(4) The anti-islanding function of the unit works properly.

(e) The testing of the relays of a non-inverter interfaced system shall be conducted by an individual that:

(1) Utilizes test equipment:

a. Necessary to adequately test the key components of the system;

b. That is calibrated within tolerances sufficient to assure accurate testing; and

c. That is calibrated with a frequency consistent with industry standards;

(2) Has received the education and training necessary to conduct the sophisticated testing of relays and other components of a non-inverter based generator; and

(3) Maintains any professional accreditation or certification necessary for the testing of this nature.

(f) The individual conducting the testing of a non-inverter based system required by this section shall, upon request, provide the distribution utility information on his or her background and credentials, and equipment, maintenance and calibration of the equipment sufficient to allow the utility to assess the individual's competence to undertake the required testing.

(g) Upon request, the customer-generator shall allow the distribution utility to have a representative present for the initial or periodic testing required by this part.

Puc 905.05 Periodic Testing.

(a) As to a generator facility which interfaces with the electric grid by an inverter, the customer-generator shall, if requested to do so by its distribution utility, conduct a load-break test, as described in Puc 905.04(b), once per year after installation.

(b) As to a generator that interfaces with the electric grid by a non-inverter, the customer-generator shall:

(1) Conduct a load-break test, as described in Puc 905.04, once per year after installation; and

(2) Verify the proper calibration and protective function of the components and systems of the generation unit, which shall include the testing prescribed by the unit manufacturer:

a. Once every 4 years or according to the schedule recommended by the manufacturer, whichever is more frequent, for facilities rated greater than 25 kW; or

b. Once every 4 years for facilities rated 25 kW or less.

(c) The testing of the calibration and protective function of the components and systems of a non-inverter interfaced system shall be conducted by an entity qualified as provided in Puc 905.04(e) and (f).

(d) The customer-generator shall:

(1) Create a written record of the dates and procedures for tests conducted pursuant to this section; and

(2) Maintain the written record of verification testing for inspection by the distribution utility for a period of 4 years from the date of the respective test.

Puc 905.06 Studies and Analysis.

(a) A distribution utility may conduct detailed load flow, voltage regulation, or short circuit coordination studies of the primary feeder if it determines that the addition of a net metered generation unit will push the aggregate capacity of distributed generation on the feeder to the threshold level, described in (b) and (c) below.

(b) The distribution utility may deem the threshold of concern for aggregate distributed generation as reached if:

(1) The lower of 7.5% of the peak feeder demand as measured at the substation or 20% of the peak feeder demand downstream of the point of interconnection is reached;

(2) More than one net metered unit is proposed to be installed on the same secondary shared by many customers; or

(3) Any other reasonable means, consistent with (1) or (2) above, of determining that a study is necessary.

(c) The distribution utility shall deem the threshold of concern for aggregate distributed generation as reached if it determines that the addition of the proposed generation unit poses a reasonable threat to the continued safety, reliability or power quality to any significant portion of the electric grid.

Puc 905.06(d) has been deleted from the IP. It had said, "The distribution utility shall absorb the cost within its rate base for any studies or analyses which it deems necessary to evaluate a proposed net energy metered system and/or the electric grid relative to such a system." **If** the deletion means that the cost need not be absorbed, this may affect the original FIS and therefore an amended FIS should have been obtained.

Puc 905.07 Payment for Upgrades or Improvements to the Electric Grid.

If an upgrade or an improvement to the electric grid up to the customer-generator's meter is necessary for the distribution utility to interconnect to the customer-generator's net energy metered system, the expense shall be borne according to the utility's approved tariff on file with the commission.

PART Puc 906 COMPLIANCE PATH FOR INVERTER UNITS

Unclear. The title of this document and the 2003 date are not consistent with the filed Incorporation by Reference Statement. The Statement indicates the last modification was in 2008, not 2003. Also, the document contains 3 sections published in 2005, 2008, and 2007.

Puc 906.01 Inverter Requirements.

(a) A net energy metered project which connects to the electric grid by means of a single-phase or 3-phase inverter shall be deemed to be compliant with the technical specifications for the generation unit itself, as established by Puc 900, if the unit complies with the minimum requirements set forth in the following national standards:

(1) The "IEEE Recommended Practice for Utility Interconnections ANSI/IEEE STD 1547" issued by the Institute of Electrical and Electronic Engineers, Inc., New York, NY, July, 2003; and

(2) The "UL 1741, Standard for Inverters, Converters, Controllers with Interconnection System Equipment for Use with Distributed Generation Resources", issued by Underwriters Laboratories, Inc., of 333 Pfingsten Road, Northbrook, Illinois 60062, May, 2007.

(b) A net metered system shall be installed in accordance with the National Electrical Code, 2008, issued by the National Fire Protection Association, Quincy, Massachusetts;

PART Puc 907 COMPLIANCE PATH FOR GENERATION UNITS NOT USING AN INVERTER

Puc 907.01 Interconnection Requirements.

(a) Except as provided in (b) below, any net energy metered generation system which interfaces with the electric grid by means other than an inverter shall:

(1) Meet the following safety and service quality requirements:

Unclear. The 2007 date is not consistent with the filed Incorporation by Reference Statement, which says "January 28, 2011." Also, see §3.12 of Ch. 4 of the *Manual*. Because this is a UL standard, a Statement is not needed if the PUC is requiring only that the unit be UL-approved in general, instead of compliance with certain requirements in order to get UL approval. If in doubt, the Statement should be filed.

a. The system shall not compromise the safety of the distribution utility personnel, the customer-generator or other customers on the electric grid;

An Incorporation by Reference Statement will have to be filed for this document pursuant to RSA 541-A:12, III & IV. Also, for purposes of the State Building Code under RSA 155-A:10, V, the 2008 document has been modified by the State Building Code Review Board in Bcr 307.01, so "2008" may be unclear.

b. The system shall have:

1. Adequate non-islanding protection;

2. Utility-grade protective devices to separate the facility from the electric distribution system, including:

(i) Time over-frequency protection;

(ii) Time under-frequency protection;

(iii) Time over-voltage protection; and

(iv) Time under-voltage protection;

3. Protection devices at the primary voltage level for ground fault and ground current contribution;

4. Adequate short circuit interrupting devices; and

5. Reliable power sources for shunt-tripped short circuit interrupting "devices;"

c. The generation facility shall not reduce the quality of service on the electric distribution system, including voltage fluctuations, excessive voltage and current harmonic content; and

d. Facilities greater than 35 kW shall certify that they are in compliance with IEEE Standard 1547 for harmonics;

(2) Interface with the electric distribution system according to the following requirements:

a. The system shall synchronize with the primary voltage level on the distribution grid;

b. The transformer winding connection to be used at the primary voltage interconnecting point shall be adequate to coordinate with the distribution grid;

c. The generation facility shall synchronize with the electric grid; and

d. The generation facility shall correct the power factor, if necessary;

(3) Not impair the quality of service standards maintained by the electric distribution system;

(4) Provide other protections and devices necessary, consistent with the requirements of this section, to assure safety, quality of service, reliability and power quality of the electric distribution system; and

(5) As to relays, use utility grade relays.

(b) A non-inverter based system shall be installed in accordance with the National Electrical Code, 2008, issued by the National Fire Protection Association, Quincy, Massachusetts.

(c) When seeking to interconnect with the distribution utility, the applicant shall provide the distribution utility the following:

(1) The interconnection application form required by Puc 904.02;

(2) Alternating current (AC) and direct current (DC) elementary and schematic diagrams describing the planned protection package; and

(3) A one-line diagram of the net energy metering system showing how the system protection shall be wired.

(d) The customer-generator shall provide for testing of the relays of the net energy metering system once the settings have been applied to confirm that they perform the intended function.

(e) As to the testing of relays described in (d) above:

(1) The testing shall be conducted by a individual qualified for testing as described in Puc 905.04(e) and (f); and

(2) The customer-generator shall provide the distribution utility the opportunity to:

a. Be present at and observe the testing; or

b. Conduct the testing of the relays by a qualified utility representative.

(f) If the customer-generator and the electric distribution utility cannot agree to the interconnection requirements, they shall file with the commission for review and determination.

(g) In determining interconnection requirements for a non-inverter system, the commission shall consider safety, reliability and power quality in the context of the legislative intent of RSA 362-A:9.

PART Puc 908 PROCEDURAL REQUIREMENTS FOR INTERCONNECTED UNITS

Puc 908.01 Emergencies, Maintenance.

(a) The customer-generator shall, during the period it operates as a customer-generator, provide the distribution utility a current telephone number(s).

(b) The distribution utility shall make arrangements for routine utility repairs or inspections that might involve the net energy metered system during normal business hours.

(c) The customer-generator shall not supply power to the electric distribution grid during any outages of the distribution system that serves the customer-generator.

(d) The customer-generator's generating facility may be operated during outages referred to in (b) above only with an open tie to the distribution utility.

(e) The customer-generator's generating facility shall not:

(1) Create an islanding situation on the grid; or

(2) Energize a de-energized utility circuit for any reason.

Puc 908.02 Procedures for Disconnection.

(a) When an emergency condition, described in (b) below, exists and when it is necessary under the circumstances to do so, the distribution utility may disconnect the customer-generator's net energy metered system and electric service.

(b) An emergency condition shall have occurred when the interconnection represents a condition which:

(1) Is likely to result in imminent significant disruption of service to the distribution utility's customers;

(2) Is imminently likely to endanger life or property;

(3) Constitutes emergency or pre-emergency conditions on the utility system;

(4) Constitutes a hazardous condition; or

(5) Reveals that a protective device tampering has occurred on the customer-generator's generation facility.

(c) The distribution utility may open the disconnect switch or disconnect the customer-generator's service, as applicable, after notice to the customer-generator has been delivered and a reasonable time to correct the condition, consistent with the conditions, has elapsed, if:

(1) The customer-generator has failed to make available records of required verification tests and, in the case of a non-inverter interfaced system, maintenance of its protective devices;

(2) The customer-generator's generation facility:

a. Impedes the normal use of distribution utility equipment or equipment belonging to other distribution utility customers in a negative manner; or

b. Impedes the normal quality of service of adjoining customers in a negative manner; or

(3) Has been modified so that it is not in compliance with Puc 900.

(d) When the customer-generator has corrected the problem and restored the system to compliance with Puc 900 and notifies the distribution utility of such compliance, the utility shall:

(1) Within 2 business days:

a. Provide written verification to the customer-generator of their compliance; or

b. Provide written notice to the customer-generator of the specifics of their continued non-compliance; and

(2) When the system is in compliance, reconnect or allow re-connection as soon as possible under the circumstances.

(e) The customer-generator may reconnect to the electric grid in coordination with the distribution utility, upon receipt of verification as provided in (d) above if the customer-generator, upon distribution utility request or otherwise, disconnected itself from the grid.

(f) If the distribution utility disconnects the customer-generator's net metering system for one of the emergency conditions referred to in (a) above, it shall notify the customer-generator of the disconnection:

(1) Within 24 hours of the disconnection; or

(2) As soon as possible in circumstances where a widespread emergency or other significant extenuating circumstances preclude utility personnel contacting the customer-generator within the 24 hour period.

(g) If the emergency referred to in (a) above was not caused by the net metered system, then the distribution utility shall reconnect the system upon cessation of the emergency.

(h) Notwithstanding any special notification and re-connection requirements for customer-generators established by Puc 908, the distribution utility shall not be required to provide for special notification or re-connection for a customer-generator that differs from its usual and regular policies and protocol in a disconnection situation, if:

(1) The disconnection is not for reasons associated with the net metered system; and

(2) The distribution utility does not open the customer-generator's disconnect switch or pull the customer-generator's meter.

(i) If the emergency referred to in (a) above was caused by the net metered system, then the distribution utility shall communicate the nature of the problem to the customer-generator within 5 days, and attempt to resolve the issue with the customer-generator.

(j) Within 30 days of the disconnection referred to in (h) above, the distribution utility shall file a disconnection petition with the commission if the distribution utility and the customer-generator have not reached a mutually agreed-upon resolution.

(k) Non-emergency disconnections of the net metered system by a distribution utility shall follow the same process as emergency disconnections of such systems, except that the utility shall:

(1) Give the customer-generator no less than 5 working days' prior notice of the disconnection; and

(2) Communicate in the notice to the customer-generator the reasons for the disconnection.

(l) If the net metered system is not the reason for the disconnection, the distribution utility shall reconnect the system as soon as the activity, such as line maintenance, necessitating the disconnection, ceases.

(m) When a utility disconnects the metering system of a customer-generator, the customer-generator may file a complaint with the commission at any time after disconnection.

(n) If a disconnection complaint is filed with the commission, it shall hold a hearing on the matter within 30 days and rule on whether the net metering system has violated a condition necessary for it to operate.

(o) In any hearing as referred to in (m) above, the disconnecting utility shall carry the burden of proof.

(p) A customer-generator shall not re-close a disconnect device which has been opened and tagged by its distribution utility or attempt to re-install a pulled meter without the prior permission of the distribution utility, or in the event of a dispute, the commission.

(q) A customer-generator shall be allowed to disconnect the net energy metered generation from the distribution utility without prior notice in order to self-generate but shall notify the distribution utility as soon as practical following disconnection.

Puc 908.03 Distribution Utility Access to Net Metered System.

(a) The distribution utility may inspect the net energy metered system at its own expense at a time mutually agreeable to the customer-generator upon reasonable notice to the customer-generator.

(b) Except in emergency circumstances, the distribution utility shall provide not less than 5 business days notice to the customer-generator to enter the customer-generator's property to inspect the net metered system, install additional controls or meters or conduct additional tests.

(c) A customer-generator shall not withhold allowing access to the distribution utility to inspect the net metered system, install additional controls or meters or conduct additional tests.

Puc 908.04 Complaints and Investigations.

(a) The procedures set forth in Puc 200 shall be applicable to filing and resolution of any complaint and investigation arising out of Puc 900.

(b) Any party may file with the commission a complaint or request for resolution of a dispute relating to Puc 900.

Puc 908.05 Notifying Public of Net Energy Metering.

(a) When a customer initiates an inquiry and requests information on net energy metering, the distribution utility shall provide a copy of Puc 900 to the customer and the name and telephone number of a contact person(s) at the utility and a description of net energy metering.

(b) The distribution utility shall provide to each customer in a billing insert or a billing message in the customer bill stating a brief description of the availability of net energy metering of one paragraph or more in length.

(c) The distribution utility shall provide the information described in (b) above at annual intervals.

Puc 908.06 Violations of Authorization to Interconnect.

(a) After notice and an opportunity for a hearing, the commission shall revoke, suspend, or condition the authorization for a customer-generator to interconnect a net energy metered system, or take such other action consistent with the above that it deems provident if it finds good cause.

(b) Good cause, as referred to in (a) above shall exist if the commission finds one or more of the following:

(1) The customer-generator was granted authority to operate based on false or misleading information supplied by the applicant which:

a. Is material; and

b. The applicant knew or should have known was false or misleading;

(2) The system was not installed or is not being operated substantially in accordance with the National Electrical Code or applicable interconnection requirements;

(3) The customer-generator has failed to comply with the conditions of approval to operate or representations made in their filing for approval to operate; or

(4) Other conditions, consistent with (1) through (3) above, exist which the commission finds, necessitates revocation, suspension or placing conditions on the authorization to interconnect.

(c) In determining the consequences of its finding in (a) above, the commission shall consider the following:

(1) The severity of the consequences resulting from the violation such that the more severe the infraction, the more severe the consequence;

(2) Mitigating circumstances, such as how quickly the customer-generator took action to rectify the situation, how much control the customer-generator had over the situation, and other circumstance which would tend to lessen fault; and

(3) Prior violations of Puc 900.

Puc 908.07 Utilities shall Report Number and Size of Net Energy Metered Units.

(a) Each distribution utility shall:

(1) Track the number and size of net energy metered systems on their lines;

(2) Report to the commission annually by April 1 of each year for the prior year, the following as regards net energy metered units:

a. The number of units operating;

b. The generation output rating of the units in kilowatts; and

c. The total capacity of units' generation output operating on the utility's distribution system relative to the limits identified in Puc 903.02(b) of annual peak energy demand limitation mandated by RSA 362-A:9,I; and

(3) Notify the commission within 10 business days when the distribution utility has reached the limits identified in Puc 903.02(b) of its annual peak energy demand limit mandated by RSA 362-A:9,I.

Puc 908.08 Existing Systems Grandfathered.

(a) Net energy metering systems that have been interconnected with the distribution utility with the knowledge of the distribution utility as of the initial effective date of Puc 900 shall:

(1) Be deemed to be registered; and

(2) Not be required, due to the adoption of Puc 900, to:

a. Re-apply for interconnection pursuant to Puc 904; or

b. Upgrade to meet the applicable requirements for interconnection of Puc 905, the requirements for inverter units of Puc 906, or the requirements for non-inverters of Puc 907.

(b) The grandfathered systems referred to in (a) above shall comply with the procedural requirements for interconnected units contained in Puc 908.

(c) A customer-generator may repair his or her net energy metered system that is grandfathered under (a) above, such as by repairing relays in a non-inverter system, but if a customer-generator changes the inverter or adds to the generation output or otherwise upgrades or alters the system as provided in Puc 904.05, the customer-generator shall update the qualifications of the system as provided in Puc 904.05.

(d) The distribution utility or electricity supplier may request and the customer-generator shall provide, as to any system grandfathered under this section, the information required in connection with the interconnection application form set forth in Puc 904.02, and the customer-generator shall, without request, update such information as it may change.

(e) A generation system that has been interconnected with its distribution utility prior to the initial adoption of Puc 900 without the knowledge of the distribution utility shall not be grandfathered for purposes of this section.

Puc 908.09 Relationship to Other Commission Rules.

(a) Unless otherwise specified, Puc 900 shall not supersede any other rule of the commission but, supplement such rules.

Puc 908.10 Transferability.

(a) An customer-generator's certificate to operate a net metered system shall transfer to the new owner when the property with the net metered system is sold or otherwise conveyed, if the new owner provides the distribution utility in writing:

(1) Any changed information provided in connection with the interconnection application described in Puc 904.02; and

(2) An agreement to operate and maintain the net metering system according to Puc 900, RSA 362-A and other applicable requirements.

(b) The distribution utility shall not deny a new owner acquiring a currently duly registered net energy metering facility, which otherwise complies with the requirements of Puc 900, the right to register, as long as the new owner complies with (a) above.

(c) The new customer-generator owner, as described in (a) and (b) above, shall notify the distribution utility of the transfer and of the applicable information required by the interconnection application in Puc 904.02.

(d) Transfers of a net metered facility as described in the section shall not be construed as exiting from the system and Puc 903.02(l)) shall not apply to any such transfer.

(e) If any change or upgrade in a system would otherwise require new approval pursuant to Puc 904.05, mere ownership transfer shall not relieve the customer-generator from the requirement.

APPENDIX

Rule(s)	State Statue (RSA)	Federal Statute	Federal Regulation
Puc 900 (other specific statute provisions implemented by specific rules are listed below)	RSA 362-A: 9,X		
Puc 901	RSA 362-A:1		
Puc 902.01	RSA 362-A:1-a		
Puc 902.05	RSA 374-F:2, II		
Puc 902.09	RSA 362-A:1-a, III-a		
Puc 903	RSA 362-A:9		
Puc 903.01(c)	RSA 362-A:9, III		
Puc 903.01(n)	RSA 362-A:9, XIII		
Puc 903.02(e)	RSA 374-F:7		
Puc 904.01 (a)(1)	RSA 362-A:9,I		
Puc 904.02	RSA 362-F:4, I (a) through (f), RSA 541-A:16,I(b)		
Puc 908.03	RSA 365:8,I		
Puc 908.05	RSA 541-A:30,II		
Puc 908.06	RSA 374:15		
Puc 908.07	RSA 362-A:9, I		

MAR 10 2011

APPENDIX II-C

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RULEMAKING NOTICE FORM

Notice Number 2011-35 Rule Number **Puc 900**

1. Agency Name & Address: **Public Utilities Commission** **21 South Fruit Street** **Suite 10** **Concord, NH 03301**	2. RSA Authority: **RSA 362-A:9 X & RSA 365:8, XII** 3. Federal Authority: _____ 4. Type of Action: Adoption _____ Amendment _____ Repeal _____ Readoption _____ Readoption w/amendment **X**

5. Short Title: **Puc 900 – Net Metering for Customer-Owned Renewable Energy Generation Resources of 1000 Kilowatts or Less**

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

Specifically, the proposed rule sets forth definitions of terms, general rules, rights and obligations, statutory and other requirements, requirements relating to the interconnection application process, technical requirements for interconnection, description of separate compliance paths for units using inverters or meters to interface with the electrical grid and procedural requirements for all interconnected units.

Net energy metering is a way to provide a reasonable opportunity for small customers to choose interconnected self generation, to encourage private investment in renewable energy resources, to stimulate in-state commercialization of innovative and beneficial new technology, to enhance the future diversification of the state's energy resource mix, and reduce interconnection and administrative costs.

The amendments to Puc 900 implement the 2010 amendment to RSA 362-A which increased the size of eligible facilities up to 1000kW. The 2010 amendment also provided alternative payment options for customers and provided alternative for customers where production from a customer facility exceeded the power consumed by the customer.

6. (b) Brief description of the groups affected: **Any person or entity which seeks to interconnect to the electric grid with a renewable energy generation resource of 1000 kilowatts or less in capacity. Additionally affected are electric utilities which distribute electric power within the State of New Hampshire and electric suppliers within the state as defined in the rule.**

RULEMAKING NOTICE FORM - Page 2

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule(s)	State Statue (RSA)
Puc 900 (other specific statute provisions implemented by specific rules are listed below)	RSA 362-A: 9,X
Puc 901	RSA 362-A:1
Puc 902.01	RSA 362-A:1-a
Puc 902.05	RSA 374-F:2, II
Puc 902.09	RSA 362-A:1-a, III-a
Puc 903	RSA 362-A:9
Puc 903.01(c)	RSA 362-A:9, III
Puc 903.01(n)	RSA 362-A:9, XIII
Puc 903.02(e)	RSA 374-F:7
Puc 904.01 (a)(1)	RSA 362-A:9,I
Puc 904.02	RSA 362-F:4, I (a) through (f), RSA 541-A:16,I(b)
Puc 908.03	RSA 365:8,I
Puc 908.05	RSA 541-A:30,II
Puc 908.06	RSA 374:15
Puc 908.07	RSA 362-A:9, I

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Suzanne Amidon**
Address: **21 South Fruit Street**
Suite 10
Concord, NH 03301

Title: **Staff Attorney**
Phone #: **603-271-6616**
Fax#: **603-271-3878**
E-mail: **suzanne.amidon@puc.nh.gov**
TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **April 29, 2011**

☒Fax ☒E-mail ☐Other format (specify):

9. Public hearing scheduled for: **April 19, 2011**

Date and Time: **2:00 p.m.**
Public Utilities Commission
Place: **21 South Fruit Street, Suite 10**
Concord, NH 03301

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # **11:031** dated **03/07/11**

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution: **The proposed rules do not modify an existing program or responsibility, and do not apply to any political subdivision and therefore do not violate Part I, Article 28-a.**

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APPENDIX II-H

INCORPORATION BY REFERENCE STATEMENT

**PLEASE LIST THE FOLLOWING:

1. Name of Agency. **New Hampshire Public Utilities Commission**

2. Person who has reviewed the material to be incorporated into the agency's rules:

Name:	**Kate Epsen**	Title:	**Utility Analyst, Sustainable Energy Division, NH PUC**
Address:	**21 South Fruit Street, Suite 10 Concord, NH 03301**	Phone #:	**603-271-6018**

Incorrect. See p. 7 of FP.

3. Specific rule number where the material is incorporated: (4) **Puc 903.02(j)(3)b.**

**PLEASE ATTACH THE FOLLOWING, numbered to correspond to the number on this sheet (a separate sheet is not required for every item):

4. The complete title of the material which is to be incorporated including the date on which the material became effective (or a document identification number) and the title of the entity that created or promulgated the material.

5. How the agency modified the text of the material incorporated, clearly identifying where amendments have been made to the text.

6. How the material incorporated can be obtained by the public (include cost and the address of the out-of-state agency which published the material).

7. Why the agency did not choose to reproduce the incorporated material in full in its rules. The discussion shall include more than the obvious reason that it is less expensive to incorporate by reference.

**PLEASE SIGN THE FOLLOWING:

I, the adopting authority,* certify that the text of the material which the agency is incorporating by reference in these rules has been reviewed by this agency. To the best of my knowledge and belief, this agency has complied with the requirements of RSA 541-A:12, IV and Section 3.12 of Chapter 4 of the Drafting and Procedure Manual for Administrative Rules. I further certify that the agency has the capability and the intent to enforce the material incorporated into the rules, as identified above.

Date: **August 15, 2011**

Signature: Thomas B Getz

Name: **Thomas B. Getz**

Title: **Chairman**

*("Adopting authority" is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.)

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APPENDIX II-H - INCORPORATION BY REFERENCE STATEMENT
2nd ADDENDUM

PUC 900, Net Metering for Customer-Owned Renewable Energy Generation Resources of 100 Kilowatts or Less
NOTICE NO. 2011-35

Puc 903.02(j)(4)b.

4) PVWATTS: Hourly PV Performance Data,
Concord, New Hampshire, 43.20° N, 71.50° W, 105 m
Array Type: Fixed Tilt, Array Tilt: 43.2°, Array Azimuth: 180.0°
AC Rating: 4.0kW, DC to AC Derate Factor: 0.770, AC Rating 3.1kW.
This document is created by PVWatts modeling software, version 1, accessed on 8/11/11, which is provided by the U.S. Department of Energy, National Renewable Energy Laboratory, Renewable Resource Data Center. Information about it is available at:
http://www.nrel.gov/rredc/pvwatts/site_specific.html.

5) There is no modification or amendment of the text of the document in the proposed rule. It is a software modeled output data set to be used by the PUC to aid in the calculation of an avoided cost rate in the event actual NH data is not available pursuant to proposed Puc 903.02(j)(3)a.

See comments to Puc 903.02(j)(4)b. on p. 7.

6) The PVWATTS: Hourly PV Performance Data for Concord, NH is available to the public, without cost, by going on the internet to http://rredc.nrel.gov/solar/calculators/PVWATTS/version1, clicking on New Hampshire (either on the map or in the list of states), clicking on Concord, clicking on "Calculate" (without changing any default settings), and then clicking on "Output Hourly Performance Data." Before doing the last step one can also click on "Saving Text from a Browser" to learn how to copy and save the output.

Mailing Address:	National Renewable Energy Laboratory 1617 Cole Blvd. Golden, CO 80401-3305
Main Contact and Phone Number:	Sean Ong, Energy Analyst (303) 384-7451

This data, if used, will also be posted on the PUC website pursuant to proposed Puc 903.02(j)(1). In any case, a paper or electronic copy may be obtained by contacting the NHPUC.

7) The Commission chose not to reproduce the incorporated material because it is primarily a contingent input for internal use by the PUC to perform certain calculations. It also consists of some 8760 lines of data for each hour of a year which would take some 173 pages to print.

APPENDIX II-H

INCORPORATION BY REFERENCE STATEMENT

**PLEASE LIST THE FOLLOWING:

1. Name of Agency. **New Hampshire Public Utilities Commission**

2. Person who has reviewed the material to be incorporated into the agency's rules:

Name:	**Randy Knepper**	Title:	**Director of Safety NH PUC**
Address:	**21 South Fruit Street, Suite 10 Concord, NH 03301**	Phone #:	**603-271-2431**

3. Specific rule number where the material is incorporated: **Puc 906.01(a)(1)**

**PLEASE ATTACH THE FOLLOWING, numbered to correspond to the number on this sheet (a separate sheet is not required for every item):

4. The complete title of the material which is to be incorporated including the date on which the material became effective (or a document identification number) and the title of the entity that created or promulgated the material.

5. How the agency modified the text of the material incorporated, clearly identifying where amendments have been made to the text.

6. How the material incorporated can be obtained by the public (include cost and the address of the out-of-state agency which published the material).

7. Why the agency did not choose to reproduce the incorporated material in full in its rules. The discussion shall include more than the obvious reason that it is less expensive to incorporate by reference.

**PLEASE SIGN THE FOLLOWING:

I, the adopting authority,* certify that the text of the material which the agency is incorporating by reference in these rules has been reviewed by this agency. To the best of my knowledge and belief, this agency has complied with the requirements of RSA 541-A:12, IV and Section 3.12 of Chapter 4 of the Drafting and Procedure Manual for Administrative Rules. I further certify that the agency has the capability and the intent to enforce the material incorporated into the rules, as identified above.

Date: **August 15, 2011**

Signature: Thomas B. Getz

Name: **Thomas B. Getz**

Title: **Chairman**

*("Adopting authority" is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.)

APPENDIX II-H - INCORPORATION BY REFERENCE STATEMENT ADDENDUM

PUC 900, Net Metering for Customer-Owned Renewable Energy Generation Resources of 100 Kilowatts or Less
NOTICE NO. 2011-35

Puc 906.01(a)(1)

See comment to Puc 906.01(a)(2) on p. 26.

4) The "IEEE Standard for Interconnecting Distributed Resources with Electric Power Systems" was issued by the Institute of Electrical and Electronic Engineers, Inc., New York, NY. Standards are modified from time to time, most recently in 2008. Standards include: 1547.1 "Standard for Conformance Test Procedures for Equipment Interconnection Distributed Resources with Electrical Power Systems" (2005); 1547.2 "Application Guide for IEEE 1547" (2008); and 1547.3 "Guide for Monitoring Information Exchange and Control of Distributed Resources with Electric Power Systems" (2007).

Is this the date for the document as a whole?

5) The PUC modified the text from the previous version of Puc 900 in order to update the name change. The text reads:

(a) A net energy metered project which connects to the electric grid by means of a single-phase or 3-phase inverter shall be deemed to be compliant with the technical specifications for the generation unit itself, as established by Puc 900, if the unit complies with the minimum requirements set forth in the following national standards:

(1) The "IEEE Standard for Interconnecting Distributed Resources with Electric Power Systems" as amended from time to time and issued by the Institute of Electrical and Electronic Engineers, Inc., New York, NY.

Incorrect. Item #5 means modifications from the document now being incorporated (i.e. 2008 version) not the former Puc rule.

6) The "IEEE Standard for Interconnecting Distributed Resources with Electric Power Systems" issued by the Institute of Electrical and Electronic Engineers, Inc., New York, NY, may be obtained from the Institute of Electrical and Electronic Engineers, Inc. (IEEE), 3 Park Avenue, New York, NY 10016, whose telephone number is 212-419-7900 and internet address is www.ieee.org. The cost of downloading this material as of this date for a non-member of IEEE is $89.00.

7) The Commission chose not to reproduce the incorporated materials because the document is voluminous and is protected by copyright.

APPENDIX II-H

INCORPORATION BY REFERENCE STATEMENT

**PLEASE LIST THE FOLLOWING:

1. Name of Agency. **New Hampshire Public Utilities Commission**

2. Person who has reviewed the material to be incorporated into the agency's rules:

Name:	**Randy Knepper**	Title:	**Directory of Safety NH PUC**
Address:	**21 South Fruit Street, Suite 10 Concord, NH 03301**	Phone #:	**603-271-2431**

3. Specific rule number where the material is incorporated: **Puc 906.01(a)(2)**

**PLEASE ATTACH THE FOLLOWING, numbered to correspond to the number on this sheet (a separate sheet is not required for every item):

4. The complete title of the material which is to be incorporated including the date on which the material became effective (or a document identification number) and the title of the entity that created or promulgated the material.

5. How the agency modified the text of the material incorporated, clearly identifying where amendments have been made to the text.

6. How the material incorporated can be obtained by the public (include cost and the address of the out-of-state agency which published the material).

7. Why the agency did not choose to reproduce the incorporated material in full in its rules. The discussion shall include more than the obvious reason that it is less expensive to incorporate by reference.

**PLEASE SIGN THE FOLLOWING:

I, the adopting authority,* certify that the text of the material which the agency is incorporating by reference in these rules has been reviewed by this agency. To the best of my knowledge and belief, this agency has complied with the requirements of RSA 541-A:12, IV and Section 3.12 of Chapter 4 of the Drafting and Procedure Manual for Administrative Rules. I further certify that the agency has the capability and the intent to enforce the material incorporated into the rules, as identified above.

Date: **2011**

Signature: _____

Name: **Thomas B. Getz**

Title: **Chairman**

*("Adopting authority" is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.)

*("Adopting authority" is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.)

APPENDIX II-H - INCORPORATION BY REFERENCE STATEMENT
ADDENDUM

PUC 900, Net Metering for Customer-Owned Renewable Energy Generation Resources of 100 Kilowatts or Less
NOTICE NO. 2011-35

Puc 906.01(a)(2)

4) The "UL 1741, Standard for Inverters, Converters, Controllers with Interconnection System Equipment for Use with Distributed Generation Resources", issued by Underwriters Laboratories, Inc., of 333 Pfingsten Road, Northbrook, Illinois 60062, January 28, 2011. ← Inconsistent with Puc 906.01(a)(2) on p. 21 of the AP.

5) The PUC modified the text from the previous version of Puc 900 in order to update the effective date of the text from 2007 to 2011. The text reads:

(a) A net energy metered project which connects to the electric grid by means of a single-phase or 3-phase inverter shall be deemed to be compliant with the technical specifications for the generation unit itself, as established by Puc 900, if the unit complies with the minimum requirements set forth in the following national standards:

(b) The "UL 1741, Standard for Inverters, Converters, Controllers with Interconnection System Equipment for Use with Distributed Generation Resources", issued by Underwriters Laboratories, Inc., of 333 Pfingsten Road, Northbrook, Illinois 60062, January, 2011 as modified from time to time.

Incorrect. Item #5 means modifications from the document now being incorporated, not the former Puc rule.

6) The "UL 1741, Standard for Inverters, Converters, Controllers with Interconnection System Equipment for Use with Distributed Generation Resources ", may be obtained by Underwriters Laboratories, Inc., of 333 Pfingsten Road, Northbrook, Illinois 60062, May, 2011, whose telephone number is 877.664.3035 and whose internet address is www.ul.com. The cost for downloading a PDF version of UL 1741 is $716.00 as of this date.

7) The Commission chose not to reproduce the incorporated materials because the document is voluminous and is protected by copyright©.

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CHAPTER 168

HB 381 – FINAL VERSION

15Mar2011... 0740h

05/04/11 1660s

1June2011... 2120EBA

2011 SESSION

11-0454

09/03

HOUSE BILL *381*

AN ACT authorizing net metering for micro-combined heat and power systems.

SPONSORS: Rep. Introne, Rock 3; Rep. Kaen, Straf 7; Rep. Cataldo, Straf 3

COMMITTEE: Science, Technology and Energy

AMENDED ANALYSIS

This bill redefines "eligible customer-generator" in order to authorize net metering for micro-combined heat and power systems.

This bill limits the total rated generated capacity from combined heat and power systems for purposes of net energy metering.

- -

Explanation: Matter added to current law appears in ***bold italics.***

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

15Mar2011... 0740h

05/04/11 1660s

1June2011... 2120EBA

11-0454

09/03

//

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT authorizing net metering for micro-combined heat and power systems.

Be it Enacted by the Senate and House of Representatives in General Court convened:

168:1 New Paragraph; Definitions. Amend RSA 362-A:1-a by inserting after paragraph I-c the following new paragraph:

I-d. "Combined heat and power system" means a new system installed after July 1, 2011, that produces heat and electricity from one fuel input using an eligible fuel, without restriction to generating technology, has an electric generating capacity rating of at least one kilowatt and not more than 30 kilowatts and a fuel system efficiency of not less than 80 percent in the production of heat and electricity, or has an electric generating capacity greater than 30 kilowatts and not more than one megawatt and a fuel system efficiency of not less than 65 percent in the production of heat and electricity. Fuel system efficiency shall be measured as usable thermal and electrical output in BTUs divided by fuel input in BTUs.

168:2 Definitions. Amend RSA 362-A:1-a, II-b to read as follows:

II-b. "Eligible customer-generator" or "customer-generator" means an electric utility customer who owns or operates ***an*** electrical generating [~~facilities~~] ***facility either*** powered by renewable energy ***or which employs a heat led combined heat and power system,*** with a total peak generating capacity of not more than 100 kilowatts, or that first begins operation after July 1, 2010 and has a total peak generating capacity of 100 kilowatts or more up to one megawatt, that is located behind a retail meter on the customer's premises, is interconnected and operates in parallel with the electric grid, and is used in the first instance to offset the customer's own electricity requirements.

II-c. "Eligible fuel" means natural gas, propane, wood pellets, hydrogen, or heating oil when combusted with a burner, including air emission standards for the device using the approved fuel.

II-d. "Heat led" means that the combined heat and power system is operated in a manner to satisfy the heat usage needs of the customer-generator.

168:3 Net Energy Metering. Amend RSA 362-A:9, I to read as follows:

I. Standard tariffs providing for net energy metering shall be made available to eligible customer-generators by each electric distribution utility in conformance with net metering rules adopted and orders issued by the commission. Each net energy metering tariff shall be identical, with respect to rates, rate structure, and charges, to the tariff under which a

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customer-generator would otherwise take default generation supply service from the distribution utility. Such tariffs shall be available on a first-come, first-served basis within each electric utility service area under the jurisdiction of the commission until such time as the total rated generating capacity owned or operated by eligible customer-generators totals a number equal to 50 megawatts multiplied by each such utility's percentage share of the total 2010 annual coincident peak energy demand distributed by all such utilities as determined by the commission. ***No more than 2 megawatts of such total rated generating capacity shall be from a combined heat and power system as defined in RSA 362-A:1-a, I-d.***

168:4 Effective Date. This act shall take effect on July 1, 2011.

Approved: June 14, 2011

Effective Date: July 1, 2011

PART Bcr 307 CHANGES OR UPDATES TO THE *NATIONAL ELECTRICAL CODE* 2008

Bcr 307.1 National Electrical Code 2008

(a) Pursuant to RSA 155-A:10, V, the board hereby adopts the following changes and updates to the applicable provisions of the *National Electrical Code* 2008.

(1) Effective July 1, 2008, the *National Electrical Code* 2005 is replaced with the National Electrical Code 2008.

(2) Effective July 1, 2008, amend section 210.5(C) of the National Electrical Code 2008 by replacing said section with the following:

Ungrounded Conductors. Where the premises wiring system has branch circuits supplied from more than one nominal voltage system, each ungrounded conductor of a branch circuit shall be identified by system at all terminations, connection, and splice points. The means of identification shall be permitted to be by separate color coding, marking tape, tagging, or other approved means. The method utilized for conductors originating within each branch-circuit panelboard or similar branch-circuit distribution equipment shall be documented in a manner that is readily available or shall be permanently posted at each branch-circuit panelboard or similar branch-circuit distribution equipment.

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TITLE XII
PUBLIC SAFETY AND WELFARE

CHAPTER 155-A
NEW HAMPSHIRE BUILDING CODE

Section 155-A:1

155-A:1 Definitions. – In this chapter:

I. "Building" means building as defined and interpreted by the International Code Council's International Building Code 2006.

II. "County" means the local legislative body of a county in which there are unincorporated towns or unorganized places.

III. "Local enforcement agency" means for a municipality that has adopted enforcement provisions or additional regulations under RSA 674:51, the building inspector or other local government official with authority to make inspections and to enforce the laws, ordinances and rules enacted by the state and by local government that establish standards and requirements applicable to the construction, alteration, or repair of buildings.

IV. "New Hampshire building code" or "state building code" means the adoption by reference of the International Building Code 2006, the International Plumbing Code 2006, the International Mechanical Code 2006, the International Energy Conservation Code 2006, and the International Residential Code 2006, as published by the International Code Council, and the National Electric Code 2008. The provisions of any other national code or model code referred to within a code listed in this definition shall not be included in the state building code unless specifically included in the codes listed in this definition. *

V. "Person" means any individual or organized group of any kind, including partnerships, corporations, limited liability partnerships, limited liability companies, and other forms of association, as well as federal, state or local instrumentalities, political subdivisions, or officers.

VI. "Structure" means structure as defined and interpreted by the International Code Council's International Building Code 2006.

Source. 2002, 8:3, eff. Sept. 14, 2002. 2003, 245:1, eff. July 14, 2003. 2006, 112:1, eff. July 8, 2006. 2007, 187:1-3, eff. Aug. 17, 2007. 2009, 41:2, eff. July 14, 2009.

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TITLE XII
PUBLIC SAFETY AND WELFARE

CHAPTER 155-A
NEW HAMPSHIRE BUILDING CODE

Section 155-A:10

155-A:10 State Building Code Review Board. –

I. There is established a state building code review board consisting of the commissioner of safety or the commissioner's designee, and additional members appointed by the commissioner of safety as follows:

(a) One architect licensed in this state for a minimum of 5 years, nominated by the board of architects established in RSA 310-A:29.

(b) One structural engineer licensed in this state for a minimum of 5 years, nominated by the board of engineers established in RSA 310-A:3.

(c) One mechanical engineer licensed in this state for a minimum of 5 years, nominated by the board of engineers established in RSA 310-A:3.

(d) One electrical engineer licensed in this state for a minimum of 5 years, nominated by the board of engineers established in RSA 310-A:3.

(e) One representative of the state's municipalities, nominated by the New Hampshire Municipal Association.

(f) One municipal building official, nominated by the New Hampshire Building Officials Association.

(g) One municipal fire chief, nominated by the New Hampshire Association of Fire Chiefs.

(h) One active fire prevention officer, nominated by the New Hampshire Association of Fire Chiefs.

(i) One building contractor, primarily engaged in the business of constructing non-residential buildings, nominated by the Associated General Contractors of New Hampshire.

(j) One building contractor primarily engaged in the business of constructing residential buildings, nominated by the New Hampshire Home Builders Association.

(k) One representative from the state energy conservation code office under RSA 155-D, nominated by the New Hampshire public utilities commission.

(l) One master plumber licensed in this state for a minimum of 5 years, nominated by the state board for the licensing and regulation of plumbers established in RSA 329-A.

(m) One mechanical contractor with a minimum of 5 years experience, primarily engaged in the business of mechanical construction, nominated by the New Hampshire Plumbing and Mechanical Contractors Association.

(n) One master electrician licensed in this state for a minimum of 5 years, nominated by the electricians' board established in RSA 319-C.

(o) One representative of the Committee on Architectural Barrier - Free Design nominated by the governor's commission on disability.

(p) One master electrician licensed in this state for a minimum of 5 years, nominated by Electrical Contractors Business Association.

II. The term of each member shall be 3 years. The chair shall be appointed by the commissioner of safety. Board members shall be appointed for no more than 2 consecutive 3-year terms.

III. The board shall be administratively attached to the department of safety under RSA 21-G:10.

IV. The board shall meet to review and assess the application of the state building code and shall

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recommend legislation, as the board deems necessary, to modify the requirements of the state building code and the state fire code in order to provide consistency with the application of other laws, rules, or regulations, and to promote public safety and best practices.

V. The board may adopt rules to update or change the state building code for the codes described in RSA 155-A:1, IV, to the extent the board deems that such updates or changes are necessary, provided that any such updates or changes are ratified by the adoption of appropriate legislation within 2 years of their adoption. If such updates or changes are not ratified, then the rules shall expire, notwithstanding RSA 541-A:17, I, at the end of the 2-year period. With the approval of the commissioner of safety, the board shall be authorized, pursuant to RSA 541-A, to adopt rules relative to procedures of its operation and appeals to the board.

VI. The board shall review the National Fire Protection Association Building Code and its companion manuals when published, and shall review any other building codes when published, in order to evaluate whether the state should continue with the International Building Codes and its manuals, switch to other codes or adopt a combination of codes.

VII. The state building code review board shall not adopt or enforce any rule requiring the installation of fire sprinkler systems in any new or existing detached one- or 2-family dwelling unit in a structure used only for residential purposes. This paragraph shall not prohibit a duly adopted requirement mandating that fire sprinkler systems be offered to the owners of dwellings for a reasonable fee.

Source. 2002, 8:3, eff. April 17, 2002; 270:4, eff. April 17, 2002 at 12:01 a.m. 2003, 245:3, 4, 6, eff. July 14, 2003. 2007, 11:1, 2, eff. July 1, 2007. 2010, 282:3, eff. July 8, 2010.

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TITLE XXXIV
PUBLIC UTILITIES

CHAPTER 362-A
LIMITED ELECTRICAL ENERGY PRODUCERS ACT

Amended by HB 381 (148:3 of the Laws of 2011) eff. 7/1/11.

Section 362-A:9

362-A:9 Net Energy Metering. –

I. Standard tariffs providing for net energy metering shall be made available to eligible customer-generators by each electric distribution utility in conformance with net metering rules adopted and orders issued by the commission. Each net energy metering tariff shall be identical, with respect to rates, rate structure, and charges, to the tariff under which a customer-generator would otherwise take default generation supply service from the distribution utility. Such tariffs shall be available on a first-come, first-served basis within each electric utility service area under the jurisdiction of the commission until such time as the total rated generating capacity owned or operated by eligible customer-generators totals a number equal to 50 megawatts multiplied by each such utility's percentage share of the total 2010 annual coincident peak energy demand distributed by all such utilities as determined by the commission.

II. Competitive electricity suppliers registered under RSA 374-F:7 may determine the terms, conditions, and prices under which they agree to provide generation supply to and purchase net generation output from eligible customer-generators.

III. Metering shall be done in accordance with normal metering practices. A single net meter that shows the customer's net energy usage by measuring both the inflow and outflow of electricity internally shall be the extent of metering that is required at facilities with a total peak generating capacity of not more than 100 kilowatts. A bi-directional metering system that records the total amount of electricity that flows in each direction from the customer premises, either instantaneously or over intervals of an hour or less, shall be required at facilities with a total peak generating capacity of more than 100 kilowatts. Customer-generators shall not be required to pay for the installation of net meters, but shall pay for the installation of all bi-directional metering systems as outlined in utility interconnection tariffs or rules.

IV. (a) For facilities with a total peak generating capacity of not more than 100 kilowatts, when billing a customer-generator under a net energy metering tariff that is not time-based, the utility shall apply the customer's net energy usage when calculating all charges that are based on kilowatt hour usage. Customer net energy usage shall equal the kilowatt hours supplied to the customer over the electric distribution system minus the kilowatt hours generated by the customer-generator and fed into the electric distribution system over a billing period.

(b) For facilities with a total peak generating capacity of more than 100 kilowatts, the customer-generator shall pay all applicable charges on all kilowatt hours supplied to the customer over the electric distribution system, less a credit on default service charges equal to the metered energy generated by the customer-generator and fed into the electric distribution system over a billing period.

V. When a customer-generator's net energy usage is negative (more electricity is fed into the distribution system than is received) over a billing period, such surplus shall either:

(a) Be credited to the customer-generator's account on an equivalent basis for use in subsequent billing cycles as a credit against the customer's net energy usage or bill in a manner consistent with either subparagraph IV(a) or IV(b), as applicable; or

(b) Except as provided in paragraph VI, the customer-generator may elect to be paid or credited by the electric distribution utility for its excess generation at rates that are equal to the utility's avoided costs

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for energy and capacity to provide default service as determined by the commission consistent with the requirements of the Public Utilities Regulatory Policy Act of 1978 (PURPA). The commission shall determine reasonable conditions for such an election, including the frequency of payment and how often a customer-generator may choose this option versus the option in subparagraph (a).

VI. Instead of the option in subparagraph V(b), an electric distribution utility providing default service to customer-generators may voluntarily elect, annually, on a generic basis, by notification to the commission, to purchase or credit such excess generation from customer-generators at a rate that is equal to the generation supply component of the applicable default service rate, provided that payment is issued at least as often as whenever the value of such credit, in excess of amounts owed by the customer-generator, is greater than $50.

VII. A distribution utility may perform an annual calculation to determine the net effect this section had on its default service and distribution revenues and expenses in the prior calendar year. The method of performing the calculation and applying the results, as well as a reconciliation mechanism to collect or credit any such net effects with appropriate carrying charges and credits applied, shall be determined by the commission.

VIII. Notwithstanding other provisions of this section, the commission may establish, on a utility-specific or generic basis, a methodology by which customer-generators may be provided service under time-based, net energy metering tariffs. The methodology shall specify how a customer's energy usage and generation shall be metered, how net energy usage shall be calculated and any applicable charges applied, and how excess generation shall be credited, consistent with size limits and the terms and conditions and intent of this section and other requirements of state and federal law.

IX. Renewable energy credits shall remain the property of the customer-generator until such credits are sold or transferred. If an electric distribution utility acquires renewable energy credits from a customer-generator in conjunction with purchasing excess generation, it may apply such generation and credits to its renewable energy source default service option under RSA 374-F:3, V(f).

X. The commission shall adopt rules, pursuant to RSA 541-A, to:

(a) Establish reasonable interconnection requirements for safety, reliability, and power quality as it determines the public interest requires. Such rules shall not exceed applicable test standards of the American National Standards Institute (ANSI) or Underwriters Laboratory (UL); and

(b) Implement the provisions of this section.

XI. The commission may by order, after notice and hearing:

(a) Waive any of the limitations set forth in this chapter for targeted net energy metering arrangements that are part of a utility strategy to minimize distribution or other costs; and

(b) Implement any utility-specific provisions authorized under this section.

XII. Once the commission has established standards for equipment used by eligible customer-generators, electric distribution utilities shall not require any additional standards or testing for transmission equipment as a condition of net energy metering.

XIII. Customer-generators shall be responsible for all costs associated with interconnection with the distribution system.

Source. 1998, 261:10. 2000, 148:1, 2. 2007, 174:2-4, eff. Aug. 17, 2007. 2010, 143:3, eff. Aug. 13, 2010.

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TITLE XXXIV
PUBLIC UTILITIES

CHAPTER 365
COMPLAINTS TO, AND PROCEEDINGS BEFORE, THE COMMISSION

Proceedings Before the Commission

Section 365:8

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

I. The conduct of its hearings, including alternative processes in hearings and other forms of alternative dispute resolution.

II. Standards and procedures for streamlined review or other alternative processes to enhance the efficiency of the commission and respond to the needs of the utility's ratepayers and shareholders.

III. Standards and procedures for the creation, monitoring and evaluation of alternative forms of regulation.

IV. Standards and procedures for the handling of confidential information, in accordance with RSA 91-A.

V. Standards and procedures for filing requirements for tariffs, engineering, accounting, and other commission matters.

VI. Standards and procedures for franchise terms and conditions, including extended area telephone service.

VII. Standards and procedures for safe and reliable utility service and termination of service subject to RSA 363-B.

VIII. Standards and procedures for matters related to the proper administration of RSA 366 relative to utility relations with affiliates.

IX. Standards and procedures relative to a reasonable amount of the short-term notes, bonds or other evidences of indebtedness based upon the amount of the utility's respective plant investment which each utility shall not exceed without first obtaining the approval of the commission pursuant to RSA 369:7.

X. Standards and procedures for determination and recovery of rate case expenses.

XI. Standards and procedures for the conduct of investigations authorized under this title.

XII. Procedures necessary to provide for the proper administration of and to further the purposes of this title.

XIII. [Repealed.]

XIV. Standards and procedures for public utilities to request protection of routine filings that contain confidential commercial or financial information.

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

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TITLE LV
PROCEEDINGS IN SPECIAL CASES

CHAPTER 541-A
ADMINISTRATIVE PROCEDURE ACT

Section 541-A:5

541-A:5 Fiscal Impact Statements. –

I. The agency shall provide the legislative budget assistant with adequate details of the intended action and supporting data to enable the legislative budget assistant to prepare a fiscal impact statement.

II. The legislative budget assistant shall develop a form which shall specify the details and supporting data necessary to assess the fiscal impact of the proposed rule.

III. The legislative budget assistant shall establish a schedule of deadlines for submission of the fiscal impact form, and the agency shall file the completed form with the legislative budget assistant in accordance with such deadlines.

IV. The fiscal impact statement issued by the legislative budget assistant shall not be limited to dollar amounts, but shall include a discussion of the methodology used to reach any stated amounts. In addition, the fiscal impact statement shall consist of:

(a) A narrative stating the costs and benefits to the citizens of the state and to the political subdivisions of the intended action.

(b) A conclusion as to the cost or benefit to the state general fund or any state special fund of taking the intended action.

(c) An explanation of, and citation to, the federal mandate for the proposed rule, if there is such a mandate, and how that mandate affects state funds.

(d) A comparison of the cost of the proposed rule with the cost of the existing rule, if there is an existing rule.

(e) An analysis of the general impact of the proposed rule upon any independently owned businesses, including a description of the specific reporting and recordkeeping requirements upon small businesses which employ fewer than 10 employees.

V. All agencies are directed to cooperate with the legislative budget assistant in the preparation of fiscal impact statements.

VI. Agencies shall also obtain an amended fiscal impact statement from the legislative budget assistant only if as a result of notice and hearing a change has been made which affects the original fiscal impact statement. Agencies shall file the amended fiscal impact statement as part of the final proposal pursuant to RSA 541-A:12, II.

Source. 1994, 412:1. 2000, 288:5, 6. 2001, 110:1, eff. Aug. 25, 2001.

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TITLE LV
PROCEEDINGS IN SPECIAL CASES

CHAPTER 541-A
ADMINISTRATIVE PROCEDURE ACT

Section 541-A:7

541-A:7 Style of Rules. – Rules shall be written in a clear and coherent manner using words with common and everyday meanings for those persons who engage in the activities that are regulated by the rules, which may include technical language as necessary.

Source. 1994, 412:1. 2006, 145:5, eff. July 21, 2006.

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TITLE LV
PROCEEDINGS IN SPECIAL CASES

CHAPTER 541-A
ADMINISTRATIVE PROCEDURE ACT

Section 541-A:12

541-A:12 Filing Final Proposal. –

I. After fully considering public comment and any committee comments or comments by the office of the legislative services received pursuant to RSA 541-A:11, and any other relevant information, a quorum of the members of the agency or the agency official having rulemaking authority shall establish the text of the final proposed rule. After the text of the final proposed rule has been established, the agency shall file the final proposal no earlier than 21 days and no later than 150 days after the date of publication of the notice in the rulemaking register. If an agency is required to rewrite a rule in accordance with RSA 541-A:8, the agency shall have up to 180 days after the date of publication of the notice in the rulemaking register to file the final proposal. The agency shall file the final proposal with the director of legislative services. Final proposals filed no later than 14 days before a regularly scheduled committee meeting shall be placed on the agenda for that meeting. Final proposals filed fewer than 14 days before a regularly scheduled committee meeting shall be placed on the agenda of the following regularly scheduled committee meeting.

I-a. If an agency chooses to receive and respond to comments before the committee meeting as specified in RSA 541-A:13, II(a) and (b), the agency shall file the final proposal with a request that the final proposal be reviewed by the office of legislative services and placed on the agenda for the next regularly scheduled committee meeting or special meeting that is at least 28 days but no more than 60 days after the date that the final proposal is filed. The final proposal and request shall be filed at least 14 days prior to the first regularly scheduled committee meeting at which the request may be considered. The committee shall notify the agency in writing of its approval or denial of the request.

II. The final proposal shall include:

(a) A cover sheet listing:

(1) The number of the notice and the date the notice appeared in the rulemaking register;

(2) The name and address of the agency;

(3) The title and number of the rule; and

(4) A citation to the statutory authority for the rule.

(b) Two copies of the established text of the final proposed rule.

(c) A copy of the full text of the statutory authority for the rule.

(d) If required pursuant to RSA 541-A:5, VI, an amended fiscal impact statement from the legislative budget assistant stating that as a result of notice and hearing the rule did change and explaining how this change affects the original fiscal impact statement.

(e) A copy of the fixed text of the final proposed rule annotated clearly to show how the final proposed rule differs from the rule as initially proposed, if the text has changed.

III. With the final proposal, the agency shall also file the incorporation by reference statement described by paragraph IV of this section, if the agency incorporates into its rules any document prepared by any entity outside the agency. However, the agency shall not incorporate by reference any document prepared by or on behalf of the agency.

IV. Any required incorporation by reference statement shall include a separately signed statement by the adopting authority:

(a) Certifying that the text of the matter incorporated has been reviewed by the agency, with the

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name of the reviewing official;

(b) Explaining how the text of the matter incorporated can be obtained by the public, and at what cost;

(c) Explaining any modifications to the matter incorporated;

(d) Discussing the comparative desirability of reproducing the incorporated matter in full in the text of the rule; and

(e) Certifying that the agency has the capability and the intent to enforce the rule.

Source. 1994, 412:1. 2000, 288:12. 2001, 110:2. 2003, 319:162, eff. July 1, 2003.

PART 1, ARTICLE 23 OF THE N. H. CONSTITUTION

[Art.] 23. [Retrospective Laws Prohibited.] Retrospective laws are highly injurious, oppressive, and unjust. No such laws, therefore, should be made, either for the decision of civil causes, or the punishment of offenses.

June 2, 1784