

APPENDIX II-B

OFFICE OF LEGISLATIVE BUDGET ASSISTANT
REQUEST FOR FISCAL IMPACT STATEMENT (FIS)

FIS Number _____ Rule Number Puc 100 and 200

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| <p>1. Agency Name & Address:</p> <p>Public Utilities Commission 21 S. Fruit Street, Suite 10 Concord, New Hampshire 03301</p> | <p>2. RSA Authority: <u>RSA 365:8, XIV</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption <u>X</u></p> <p>Amendment <u>X</u></p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment _____</p> |
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5. Short Title: **Puc 100 Organizational Rules**

Puc 200 Rules of Practice and Procedure

6. Contact Person:

| | |
|--|---|
| Name: Alexander Speidel | Title: Staff Attorney |
| Address: 21 South Fruit Street Suite 10 Concord, NH 03301 | Phone #: 603-271-6016 |
| | Fax #: 603-271-4033 |
| | Alexander.Speidel@puc.nh.gov |
| | TYTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH) |

Remember:

- (a) A copy of the proposed rule or an annotated copy of the amended rule must accompany this form. The annotated copy shall use [brackets] to indicate deleted material, and underlining for added material, or any other annotation style allowed in Section 5.4 in Chapter 4 of the Drafting and Procedure Manual for Administrative Rules.
- (b) If calculations are required in the preparation of this request, attach a worksheet showing the methodology.
- (c) This form may be replicated to expedite preparation.
- (d) A transmittal memo shall accompany a request for a fiscal impact statement, noting the number of requests being sent and short titles.
- (e) Please allow 10 working days from day of receipt for the Office of Legislative Budget Assistant to complete the fiscal impact statement. Additional information about this form is in Section 2.3 in Chapter 3 of the Drafting and Procedure Manual for Administrative Rules.

APPENDIX II-B (Continued)

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(f) Please provide the following information and attach additional sheets if necessary:

(1) Summarize the rule.

Puc 100 sets forth certain standards of conduct and related procedures governing the definitions of proceedings and requests for public information.

Puc 200 sets forth certain standards of conduct and related procedures governing filing of confidential information, and requests for such information.

(2) Is the cost associated with this rule mandated by the rule or by state statute? If the cost is mandated by statute, then the rule itself may not have a cost or benefit associated with it. Please state either the statute or chapter law that is instigating this rule.

Any costs associated with these rules are the direct result of RSA 366. There are no costs mandated solely by the rule.

(3) Compare the cost of the proposed rule with the cost of the existing rule, if there is an existing rule.

There are no costs to the state as a result of the proposed rules or existing rules.

(4) Describe the costs and benefits to the state general fund which would result from this rule.

There is no cost to the state special fund.

Any civil penalties incurred as a result of violations to the program are applied to the State's general fund.

(5) Explain and cite the federal mandate for the proposed rule, if there is such a mandate. How would the mandate affect state funds?

N/A

(6) Describe the cost and benefits to any state special fund which would result.

N/A

(7) Describe the costs and benefits to the political subdivisions of the state.

This rule is neutral as applied to political subdivisions of this state.

(8) Describe the costs and benefits to the citizens of the state.

There are no specific costs to citizens. Citizens benefit from the regulatory monitoring of transactions between public utility distribution companies and their affiliates.

- (9) Describe the costs and benefits to any independently owned business, including a description of the specific reporting and recordkeeping requirements upon those employing fewer than 10 employees.

The changes to the rules will not change the level of reporting or other recordkeeping requirements already performed by independently owned businesses employing fewer than 10 employees.

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CHAPTER Puc 100 ORGANIZATIONAL RULES

Part Puc 102 DEFINITIONS

Readopt with Amendment Puc 102.19, effective 3-18-97 (Document # 6740) to read as follows:

Puc 102.19 “Routine filings” means documents submitted, on a recurrent basis, by a utility to the commission outside of an adjudicative proceeding.

~~Puc 102.19 “Rulemaking” means the process for adopting rules as provided for in RSA 541-A:3 and other relevant provisions of RSA 541-A.~~

Readopt with Amendment Puc 102.20, effective 3-18-97 (Document # 6740) to read as follows:

Puc 102.20 “Rulemaking” means the process for adopting rules as provided for in RSA 541-A:3 and other relevant provisions of RSA 541-A.

~~Puc 102.20 “Staff” means the employees of the commission other than the commissioners.~~

Readopt with Amendment Puc 102.21, effective 3-18-97 (Document # 6740) to read as follows:

Puc 102.21 “Staff” means the employees of the commission other than the commissioners.

~~Puc 102.21 “Technical session” means a meeting of the parties at which information is shared on an informal basis and at which neither the presiding officer nor any commissioners are present.~~

Adopt Puc 102.22 to read as follows:

Puc 102.22 “Technical session” means a meeting of the parties at which information is shared on an informal basis and at which neither the presiding officer nor any commissioners are present.

Part Puc 104 REQUESTS FOR PUBLIC INFORMATION

Readopt with Amendment Puc 104.01, effective 3-18-97 (Document # 6740) to read as follows:

Puc 104.01 Public Access to Information.

(a) To the extent required or permitted by RSA 91-A, the commission shall permit members of the public to examine and copy public records.

(b) Members of the public may make a request to examine records by contacting the executive director pursuant to Puc 103.01(m).

(c) The commission shall permit examination and copying of public records, as follows:

- (1) On the commission premises;
- (2) During commission business hours; and
- (3) Within the time-frames set forth in RSA 91-A.

(d) Any person who seeks to examine or copy public records shall describe the information requested sufficiently in detail to allow the commission to identify the records requested.

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(e) This section shall not require the release by the commission of information determined, pursuant to RSA 91-A:5, ~~RSA 378:43~~ Puc 201.06, Puc 201.07, or Puc 203.087, to be:

- (1) Confidential; or
- (2) Not a matter of public record.

(f) Within the time period specified by RSA 91-A:4, the commission shall respond to such a request by:

- (1) Making the record available for inspection and copying;
- (2) Denying the request in writing and stating the reasons for denial; or
- (3) Furnishing written acknowledgement of the receipt of the request and a statement of the time reasonably necessary to determine whether the request shall be granted or denied.

(g) For all records submitted to the commission pursuant to Puc 201.06, the procedures established under Puc 201.07 shall govern the commission's response to requests for public release of such documents.

(gh) The commission shall charge for copies of public records at the actual cost of providing the copy, pursuant to RSA 91-A:4, IV.

(hi) A written denial issued under this rule shall be treated as the final determination of the commission for purposes of appeal to the superior court pursuant to RSA 91-A:7.

CHAPTER Puc 200 RULES OF PRACTICE AND PROCEDURE

PART Puc 201 GENERAL REQUIREMENTS

Readopt with amendment Puc 201.04, effective 6-10-06 (Document # 8657-A) to read as follows:

Puc 201.04 Public Records.

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

- (1) Accident reports under RSA 374:40;
- (2) Information about individual residential customers; the disclosure of which would constitute an invasion of privacy within the meaning of RSA 91-A:5, IV;
- (3) Documents submitted ~~to the commission or staff~~ in connection with an adjudicative proceeding pursuant to Puc 203.087;
- (4) Documents subject to a protective order of the commission issued pursuant to Puc 203.087; or
- (5) Documents granted confidential treatment pursuant to Puc 201.06 and Puc 201.07; or
- ~~(6)~~ Other documents entitled to confidential treatment pursuant to RSA 91-A, ~~RSA 378:43~~ or other applicable law.

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

(1) Bear the legend “REDACTED” at the upper-right-hand corner of every page; and either

(2) Indicate all confidential segments with the legend “BEGIN CONFIDENTIAL,” in all capital letters, at the beginning of the redacted segment, followed by a left bracket. Following the left bracket, the confidential segment shall be replaced by a blank space of approximately equal length to the material being redacted. The end of the redacted segment shall be indicated with a right bracket, followed by the legend “END CONFIDENTIAL,” in all capital letters, as follows:

“BEGIN CONFIDENTIAL[blank space]END CONFIDENTIAL;” or

(3) If space or format does not allow the redaction to be indicated in the manner set forth in paragraph (2) above, such as for individual numbers in a table or column or very short segments of text, then the submitter may indicate redacted material by blacking it out or highlighting it with a solid black line in the following manner: 

(c) For each redacted document submitted, the person submitting the document shall also provide an unredacted version of the document(s) to the commission. These unredacted documents submitted to the commission shall:

(1) Bear the legend “CONFIDENTIAL” at the upper-right-hand corner of every page; and

(2) Indicate all redactions made pursuant to (b)(2) above with the legend “BEGIN CONFIDENTIAL,” in all capital letters, at the beginning of the confidential segment, followed by a left bracket. The end of the confidential segment shall be indicated with a right bracket, followed by the legend “END CONFIDENTIAL,” in all capital letters, as follows: “BEGIN CONFIDENTIAL[unredacted confidential segment]END CONFIDENTIAL;” or

(3) Indicate all redactions made pursuant to (b)(3) above by highlighting the confidential segment in light gray in the following manner: *redacted material*.

Adopt Puc 201.06 to read as follows:

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

(a) These are the routine filings to which the procedure established by Puc 201.06 and Puc 201.07 will apply:

- (1) Telephone company cost of service studies;
- (2) Telephone company retail special contract service agreements;
- (3) Telephone company broadband deployment plans;
- (4) Telephone company infrastructure deployment plans;

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- (5) Telephone customer proprietary network information;
- (6) Incumbent Local Exchange Carrier (ILEC) capital expense reports;
- (7) ILEC network improvement plans;
- (8) ILEC overtime reports;
- (9) ILEC commercial agreements;
- (10) ILEC annual retail and wholesale provisioning reports by Central Office;
- (11) ILEC annual special contract summaries;
- (12) Preliminary and final Performance Assurance Plan Reports for telecommunications companies containing carrier-specific performance and bill credit calculations;
- (13) NHPUC Form ILEC-22;
- (14) NHPUC Form ILEC-23;
- (15) NHPUC Form CLEC-3, Sections 13 and 18;
- (16) NHPUC Form CTP-3, Sections 13 and 18;
- (17) NHPUC Form CLEC-4;
- (18) NHPUC Form CLEC-40, Section 3;
- (19) Neustar (North American Numbering Plan Administration-designated overseer) Months to Exhaust and Utilization Certification Work Sheets;
- (20) Neustar Part 1A;
- (21) Neustar Part 1B;
- (22) New England Electric Pool “My Settled Certificates” Reports filed in conjunction with annual Renewable Portfolio Standards Reports;
- (23) Listings of prices that utilities pay for fractional Renewable Energy Certificates purchased from utilities’ customers or members;
- (24) Bids for the purchase of RGGI allowances pursuant to RSA 125-O:22;
- (25) Supplier commodity pricing, special terms of supply agreements, and other non-public financial information and statements submitted in connection with Cost of Gas proceedings, including responses to staff data requests;
- (26) NHPUC Form E-1, Monthly Report on Voltage Complaints;
- (27) NHPUC Form E-4, Monthly Report of Electric Meter Complaint Tests;
- (28) NHPUC Form E-5, Accident Reports; and
- (29) Default service solicitations; bidder information, bid evaluations, and purchase power supply agreement materials.

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

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

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- (1) Treated as confidential by the commission; and
- (2) Maintained by the commission according to such conditions as the commission determines are necessary to preserve such confidentiality.

Adopt Puc 201.07 to read as follows:

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

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

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

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

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

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

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

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

- (1) A specific description of the document(s) or specific portions of documents for which confidentiality is sought;
- (2) Specific facts showing how release of the requested document(s) would constitute an invasion of privacy under RSA 91-A:5, including a description of how the requested material includes confidential, commercial, or financial information, or other information subject to the exemptions of RSA 91-A:5;
- (3) A specific description of the harm that would result from release; and
- (4) A representation that the information contained in the document(s) or portions of documents for which confidentiality is sought is not already available to the public.

(f) The commission shall take one of the following actions pursuant to RSA 91-A:5 and other applicable law:

- (1) Approve the public release of the requested documents in their entirety;

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- (2) Approve the partial release of the requested documents, subject to redactions approved by the commission; or
- (3) Deny the request for release in its entirety.
- (g) In making its determination pursuant to (f) above, the commission shall consider:
 - (1) The written request for release;
 - (2) The original request for confidential treatment pursuant to Puc 201.06;
 - (3) Written objections filed with the commission;
 - (4) Additional information that the commission requests; and
 - (5) Any applicable law.
- (h) In making its determination pursuant to (f) above, the commission shall also consider:
 - (1) Whether there is a privacy interest at stake that would be invaded by the disclosure of the requested documents;
 - (2) Whether the public has an interest in disclosure of the requested documents; and
 - (3) The balance of any public interest in disclosure against the State's interest in non-disclosure and any privacy interest in non-disclosure.
- (i) The commission shall provide written notice of its decision.

PART Puc 203 ADJUDICATIVE PROCEEDINGS

Readopt with Amendment Puc 203.08, effective 6-10-06 (Document # 8657-A) to read as follows:

Puc 203.08 Motions for Confidential Treatment.

- (a) The commission shall upon motion issue a protective order providing for the confidential treatment of one or more documents upon a finding that the document or documents are entitled to such treatment pursuant to RSA 91-A:5, or other applicable law based upon the information submitted pursuant to (b) below.
- (b) A motion for confidential treatment submitted pursuant to this rule shall contain:
 - (1) The documents, specific portions of documents, or a detailed description of the types of information for which confidentiality is sought;
 - (2) Specific reference to the statutory or common law support for confidentiality; and
 - (3) A detailed statement of the harm that would result from disclosure and any other facts relevant to the request for confidential treatment.
- (c) Documents submitted to the commission or staff accompanied by a motion for confidential treatment shall not be disclosed to the public until the commission rules on the motion.
- (d) In lieu of immediately filing a motion for confidential treatment, a party providing a document to the commission staff in discovery that the party wishes to remain confidential shall accompany the submission with a written statement that:
 - (1) The party submitting such documents has a good faith basis for seeking confidential treatment of the documents pursuant to this rule; and

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

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

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

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

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

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

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

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

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

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

~~(n) This rule shall not apply to materials submitted to the commission pursuant to RSA 378:43, except that, when reasonably necessary to protect the confidentiality of such materials, the commission shall issue a protective order requiring other parties receiving the material to maintain its confidentiality.~~

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APPENDIX

A cross reference of the specific sections of the state statute and federal statute or regulation, as may be applicable, which the rule is intended to implement is set forth as follows:

| Rule(s) | State Statute (RSA) | Federal Statute | Federal Regulation |
|---|--------------------------------------|-----------------|--------------------|
| Puc 100 (other specific statute provisions implemented by specific rules are listed below) | RSA 365:8, XII RSA 358:8, XIV | none applicable | none applicable |
| Puc 200 | RSA 365:8, XII RSA 358:8, XIV | none applicable | none applicable |

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CHAPTER Puc 100 ORGANIZATIONAL RULES

PART Puc 101 APPLICABILITY

Puc 101.01 Applicability. This chapter shall apply to the conduct of all commission business in furtherance of the agency's statutory responsibilities.

PART Puc 102 DEFINITIONS

Puc 102.01 "Adjudicative proceeding" means a proceeding conducted pursuant to the procedure followed in contested cases, as set forth in RSA 541-A:31 through RSA 541-A:36 and the rules of the commission.

Puc 102.02 "Commission" means the public utilities commission of the State of New Hampshire, its commissioners and its employees.

Puc 102.03 "Complaint" means a writing filed with the commission pursuant to RSA 365:1 which claims a public utility has acted or failed to act in violation of any law, rule, regulation, or order administered or promulgated by the commission.

Puc 102.04 "Contested case" means a proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined by the commission after an opportunity for hearing.

Puc 102.05 "Customer" means any person, firm, corporation, cooperative marketing association, tenant, governmental unit, or subdivision of a municipality or of the state of New Hampshire who has contracted for electric, gas, sewer, steam, telephone, or water service from a utility.

Puc 102.06 "Document" means any paper or electronic record, including but not limited to any application, complaint, petition, motion, prepared testimony, data request, data response, exhibit, brief, written communication or correspondence. With respect to an electronic record, "document" does not include information that would not appear if the document were printed in paper form.

Puc 102.07 "Hearing" means a properly noticed session held in a contested case before the commission or its designee which provides for opportunity for any party, intervenor or commission staff to present evidence and conduct cross-examination. "Hearing" also includes any pre-hearing conferences conducted pursuant to Puc 203.14.

Puc 102.08 "Motion" means a request made to the commission or the presiding officer after the commencement of a contested proceeding for an order or ruling directing some act to be done in favor of the party making the motion, including a statement of justification or reasons for the request.

Puc 102.09 "Order" means the whole or part of the commission's disposition of a matter, other than a rule, but does not include a commission decision to initiate, postpone, investigate or process any matter.

Puc 102.10 "Party" means "party" as defined by RSA 541-A:1, XII, namely, "each person or agency named or admitted as a party, or properly seeking and entitled as a right to be admitted as a party."

Puc 102.11 "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character which appears before the commission for any purpose.

Puc 102.12 "Petition" means the initial pleading filed with the commission to commence a proceeding for the purpose of seeking commission action pursuant to Puc 202.01(a).

Puc 102.13 "Prehearing conference" means a properly noticed session in contested cases which provides the opportunity, pursuant to RSA 541-A:31, V, to consider requests for intervention, offers of settlement, simplification of the issues, stipulations or admissions as to issues of fact or proof, limitations

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on the number of witnesses, changes to standard procedures during the hearing, or other matters which aid in the disposition of the proceeding.

Puc 102.14 "Prehearing order" means the commission's written decision addressing procedural issues raised in a prehearing conference.

Puc 102.15 "Presiding officer" means the chairman of the commission except as provided in Puc 203.14(b)(c).

Puc 102.16 "Proceeding" means a docketed case commenced by the commission.

Puc 102.17 "Public statement hearing" means a meeting of the commission convened in an adjudicative proceeding for the sole purpose of receiving public comment that will not be entered into evidence.

Puc 102.18 "Respondent" means any party subject to the commission's jurisdiction to whom the commission issues notice instituting a proceeding, or investigation or inquiry of the commission, or any party in interest or person ordered before any pending proceeding of the commission.

Puc 102.19 "Routine filings" means documents submitted, on a recurrent basis, by a utility to the commission outside of an adjudicative proceeding.

Puc 102.20 "Rulemaking" means the process for adopting rules as provided for in RSA 541-A:3 and other relevant provisions of RSA 541-A.

Puc 102.21 "Staff" means the employees of the commission other than the commissioners.

Puc 102.22 "Technical session" means a meeting of the parties at which information is shared on an informal basis and at which neither the presiding officer nor any commissioners are present.

PART Puc 103 DESCRIPTION AND CONTACT INFORMATION FOR THE COMMISSION

Puc 103.01 Commission Functions.

(a) The commission is established to carry out the requirements of RSA Title XXXIV relative to public utilities and their customers and the requirements of RSA 38 relative to public utilities and municipalities.

(b) Pursuant to RSA 363:17-a, the commission serves as the arbiter between the interests of the customer and the interests of regulated utilities.

(c) Pursuant to RSA 374:3, the commission has the general supervision of all public utilities and their facilities so far as is necessary to carry out the requirements of RSA Title XXXIV.

(d) Pursuant to RSA 378, the commission has the responsibility to assure that rates charged by public utilities are just, reasonable and lawful.

(e) Pursuant to RSA 363:27, II, the commission shall organize its staff as it determines best achieves the commission's statutory responsibilities.

(f) Pursuant to RSA 363:27, III, the commission shall appoint an executive director and a general counsel.

(g) The staff of the commission is structured around industry-specific divisions and includes divisions with expertise in electric, gas, telecommunications, water and all other types of utilities as set forth in RSA 362:2.

(h) In addition to the industry-specific divisions noted in (g), the commission includes an administration division, a legal division, a safety division, an audit division and a consumer affairs division.

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(i) The commission is located at 21 South Fruit Street, Suite 10, Concord, New Hampshire.

(j) The commission has regular hours from 8:00 a.m. to 4:30 p.m. and is closed on Saturdays, Sundays and state holidays.

(k) The consumer affairs division may be contacted directly by telephone at 1-800-872-2793 or 603-271-2431, TDD Access-Relay NH: 1-800-735-2964, by facsimile at 603-271-3878, or by written communication addressed to the attention of:

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

(l) The safety division may be contacted directly by telephone at 888-397-5444 or 603-271-6022, by facsimile at 603-271-6048, or by written communication addressed to the attention of:

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

(m) General inquiries and requests for public information pursuant to Puc 104 may be directed by telephone at 603-271-2431, by facsimile at 603-271-3878, by e-mail to puc@puc.nh.gov, or by written communication addressed to the attention of:

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

(n) The web site of the commission is www.puc.nh.gov.

Part Puc 104 REQUESTS FOR PUBLIC INFORMATION

Puc 104.01 Public Access to Information.

(a) To the extent required or permitted by RSA 91-A, the commission shall permit members of the public to examine and copy public records.

(b) Members of the public may make a request to examine records by contacting the executive director pursuant to Puc 103.01(m).

(c) The commission shall permit examination and copying of public records, as follows:

- (1) On the commission premises;
- (2) During commission business hours; and
- (3) Within the time-frames set forth in RSA 91-A.

(d) Any person who seeks to examine or copy public records shall describe the information requested sufficiently in detail to allow the commission to identify the records requested.

(e) This section shall not require the release by the commission of information determined, pursuant to RSA 91-A:5, Puc 201.06, Puc 201.07, or Puc 203.08, to be:

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- (1) Confidential; or
- (2) Not a matter of public record.

(f) Within the time period specified by RSA 91-A:4, the commission shall respond to such a request by:

- (1) Making the record available for inspection and copying;
- (2) Denying the request in writing and stating the reasons for denial; or
- (3) Furnishing written acknowledgement of the receipt of the request and a statement of the time reasonably necessary to determine whether the request shall be granted or denied.

(g) For all records submitted to the commission pursuant to Puc 201.06, the procedures established under Puc 201.07 shall govern the commission's response to requests for public release of such documents.

(h) The commission shall charge for copies of public records at the actual cost of providing the copy, pursuant to RSA 91-A:4, IV.

(i) A written denial issued under this rule shall be treated as the final determination of the commission for purposes of appeal to the superior court pursuant to RSA 91-A:7.

CHAPTER Puc 200 RULES OF PRACTICE AND PROCEDURE

PART Puc 201 GENERAL REQUIREMENTS

Puc 201.04 Public Records.

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

- (1) Accident reports under RSA 374:40;
- (2) Information about individual residential customers; the disclosure of which would constitute an invasion of privacy within the meaning of RSA 91-A:5, IV;
- (3) Documents submitted in connection with an adjudicative proceeding pursuant to Puc 203.08;
- (4) Documents subject to a protective order of the commission issued pursuant to Puc 203.08;
- (5) Documents granted confidential treatment pursuant to Puc 201.06 and Puc 201.07; or
- (6) Other documents entitled to confidential treatment pursuant to RSA 91-A or other applicable law.


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

- (1) Bear the legend "REDACTED" at the upper-right-hand corner of every page; and either

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(2) Indicate all confidential segments with the legend "BEGIN CONFIDENTIAL," in all capital letters, at the beginning of the redacted segment, followed by a left bracket. Following the left bracket, the confidential segment shall be replaced by a blank space of approximately equal length to the material being redacted. The end of the redacted segment shall be indicated with a right bracket, followed by the legend "END CONFIDENTIAL," in all capital letters, as follows:

"BEGIN CONFIDENTIAL[*blank space*]END CONFIDENTIAL;" or

(3) If space or format does not allow the redaction to be indicated in the manner set forth in paragraph (2) above, such as for individual numbers in a table or column or very short segments of text, then the submitter may indicate redacted material by blacking it out or highlighting it with a solid black line in the following manner: 

(c) For each redacted document submitted, the person submitting the document shall also provide an unredacted version of the document(s) to the commission. These unredacted documents submitted to the commission shall:

(1) Bear the legend "CONFIDENTIAL" at the upper-right-hand corner of every page; and

(2) Indicate all redactions made pursuant to (b)(2) above with the legend "BEGIN CONFIDENTIAL," in all capital letters, at the beginning of the confidential segment, followed by a left bracket. The end of the confidential segment shall be indicated with a right bracket, followed by the legend "END CONFIDENTIAL," in all capital letters, as follows: **"BEGIN CONFIDENTIAL[*unredacted confidential segment*]END CONFIDENTIAL;"** or

(3) Indicate all redactions made pursuant to (b)(3) above by highlighting the confidential segment in light gray in the following manner: *redacted material*.

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

(a) These are the routine filings to which the procedure established by Puc 201.06 and Puc 201.07 will apply:

- (1) Telephone company cost of service studies;
- (2) Telephone company retail special contract service agreements;
- (3) Telephone company broadband deployment plans;
- (4) Telephone company infrastructure deployment plans;
- (5) Telephone customer proprietary network information;
- (6) Incumbent Local Exchange Carrier (ILEC) capital expense reports;
- (7) ILEC network improvement plans;
- (8) ILEC overtime reports;
- (9) ILEC commercial agreements;
- (10) ILEC annual retail and wholesale provisioning reports by Central Office;
- (11) ILEC annual special contract summaries;
- (12) Preliminary and final Performance Assurance Plan Reports for telecommunications companies containing carrier-specific performance and bill credit calculations;

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- (13) NHPUC Form ILEC-22;
- (14) NHPUC Form ILEC-23;
- (15) NHPUC Form CLEC-3, Sections 13 and 18;
- (16) NHPUC Form CTP-3, Sections 13 and 18;
- (17) NHPUC Form CLEC-4;
- (18) NHPUC Form CLEC-40, Section 3;
- (19) Neustar (North American Numbering Plan Administration-designated overseer) Months to Exhaust and Utilization Certification Work Sheets;
- (20) Neustar Part 1A;
- (21) Neustar Part 1B;
- (22) New England Electric Pool "My Settled Certificates" Reports filed in conjunction with annual Renewable Portfolio Standards Reports;
- (23) Listings of prices that utilities pay for fractional Renewable Energy Certificates purchased from utilities' customers or members;
- (24) Bids for the purchase of RGGI allowances pursuant to RSA 125-O:22;
- (25) Supplier commodity pricing, special terms of supply agreements, and other non-public financial information and statements submitted in connection with Cost of Gas proceedings, including responses to staff data requests;
- (26) NHPUC Form E-1, Monthly Report on Voltage Complaints;
- (27) NHPUC Form E-4, Monthly Report of Electric Meter Complaint Tests;
- (28) NHPUC Form E-5, Accident Reports; and
- (29) Default service solicitations; bidder information, bid evaluations, and purchase power supply agreement materials.

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

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

- (1) Treated as confidential by the commission; and
- (2) Maintained by the commission according to such conditions as the commission determines are necessary to preserve such confidentiality.

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

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

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

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

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

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

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

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

- (1) A specific description of the document(s) or specific portions of documents for which confidentiality is sought;
- (2) Specific facts showing how release of the requested document(s) would constitute an invasion of privacy under RSA 91-A:5, including a description of how the requested material includes confidential, commercial, or financial information, or other information subject to the exemptions of RSA 91-A:5;
- (3) A specific description of the harm that would result from release; and
- (4) A representation that the information contained in the document(s) or portions of documents for which confidentiality is sought is not already available to the public.

(f) The commission shall take one of the following actions pursuant to RSA 91-A:5 and other applicable law:

- (1) Approve the public release of the requested documents in their entirety;
- (2) Approve the partial release of the requested documents, subject to redactions approved by the commission; or
- (3) Deny the request for release in its entirety.

(g) In making its determination pursuant to (f) above, the commission shall consider:

- (1) The written request for release;
- (2) The original request for confidential treatment pursuant to Puc 201.06;
- (3) Written objections filed with the commission;
- (4) Additional information that the commission requests; and
- (5) Any applicable law.

(h) In making its determination pursuant to (f) above, the commission shall also consider:

- (1) Whether there is a privacy interest at stake that would be invaded by the disclosure of the requested documents;
- (2) Whether the public has an interest in disclosure of the requested documents; and

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(3) The balance of any public interest in disclosure against the State's interest in non-disclosure and any privacy interest in non-disclosure.

(i) The commission shall provide written notice of its decision.

PART Puc 203 ADJUDICATIVE PROCEEDINGS

Puc 203.08 Motions for Confidential Treatment.

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

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

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

(c) Documents submitted to the commission or staff accompanied by a motion for confidential treatment shall not be disclosed to the public until the commission rules on the motion.

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

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

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

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

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

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

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

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

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

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

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