

STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION

November 7, 2019 - 10:05 a.m.  
Concord, New Hampshire

NHPUC 22NOV19PM2:45

RE: DRM 19-156  
RULEMAKING: New Hampshire Code  
of Administrative Rules Chapter  
Puc 1200 Uniform Administration  
of Utility Customer Relations.  
(Hearing to receive public comment)

PRESENT: Cmsr. Kathryn M. Bailey, Presiding  
Cmsr. Michael S. Giaimo  
Susan Gagne, Clerk

APPEARANCES: (No appearances taken)

Court Reporter: Steven E. Patnaude, LCR No. 52

CERTIFIED  
ORIGINAL TRANSCRIPT

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**I N D E X**

**PAGE NO.**

**Summary by Ms. Schwarzer**

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**PUBLIC COMMENT BY:**

Michael Sheehan

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Donald Kreis

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**QUESTIONS BY:**

Cmsr. Bailey

7, 13

Cmsr. Giaimo

16, 17

**P R O C E E D I N G**

1  
2 CMSR. BAILEY: We're here today in  
3 Docket Number DRM 19-156, which is a rulemaking  
4 proceeding regarding the Puc 1200 rules that  
5 simplify and standardize the administrative  
6 processes by which customers and companies  
7 interact in order to increase the level of  
8 information and protection provided to both.

9 This is a readoption of existing  
10 rules, with some amendments. We're here today  
11 to take public comment. I note that we will  
12 also take written comment up to November 20th.  
13 It looks like we only have two parties or two  
14 people signed up to give us oral comments.

15 Before we start with that,  
16 Ms. Schwarzer, could you give us a little  
17 summary about the changes that are being  
18 proposed today?

19 MS. SCHWARZER: Yes, Ms. Chairman.  
20 Thank you. With me today are Amanda Noonan,  
21 Director of the PUC Consumer Services and  
22 External Affairs Division, and Rorie Patterson,  
23 the Assistant Director of that division.

24 These rules would have expired in

1           September if we had not begun this readoption  
2           process. And, as the Chair described, this is  
3           a process to readopt the existing rules, with  
4           some changes.

5                         We have taken the opportunity to  
6           include amendments, for example, eliminating  
7           references to steam utilities and  
8           telecommunications references, including a  
9           definition of "customer in good standing", and  
10          clarifying provisions that have prompted  
11          questions from utilities or consumers in the  
12          past.

13                        In terms of the process that brought  
14          us here today, Staff reached out to and worked  
15          with water, gas, and electric utilities, and  
16          other interested parties, including the Office  
17          of Consumer Advocate and New Hampshire Legal  
18          Assistance.

19                        We held informal work sessions with  
20          stakeholders on March 5th, March 13th, April  
21          2nd, and May 7th. On August 29th, the  
22          Commission voted to adopt the Initial Proposal.  
23          And Staff filed that proposal with the  
24          Legislative Budget Assistant on September 10th.

1 We filed a Rulemaking Notice, the Fiscal Impact  
2 Statement, and the Initial Proposal with the  
3 Office of Legislative Services. And the  
4 Rulemaking Notice appeared in the New Hampshire  
5 Rulemaking Register on September 19th.

6 We hope to receive comments today, or  
7 in writing, for review before the Final  
8 Proposal is filed for consideration with the  
9 Joint Legislative Committee on Administrative  
10 Rules.

11 CMSR. BAILEY: Okay. Thank you.  
12 Mr. Sheehan and Mr. Kreis are the only two  
13 people who have indicated they want to speak.  
14 So, let's start with Mr. Sheehan.

15 MR. SHEEHAN: Thank you. I have two  
16 comments, focused on a total of four words.

17 If you turn to Page 6 of the Initial  
18 Proposal, Puc 1203.03(b)(1). This is the  
19 section governing "Deposits". And, if you look  
20 at (a), it basically says the utility can  
21 request a deposit if one of those four things  
22 exist, a balance or bad history. (b) says --  
23 it gives definition of proof of an intent to --  
24 what's the language? If you look at (a)(4), it

1       says, if the customer gave proof of an intent  
2       "to remain at the location...for 12 months",  
3       that is a reason not to get a deposit. So,  
4       if -- and, then, in (b)(1), it's an example of  
5       what you need to demonstrate to show that  
6       you're going to be -- have an intent to stay  
7       for 12 months.

8               And the focus of my comment is the  
9       word "lease". A new customer, if otherwise  
10      qualifies, the Commission -- I mean, the  
11      utility can ask for a deposit. If that new  
12      customer has a 12-month lease, that's a reason  
13      for a deposit requirement not to be triggered.

14             And what our Company has found is  
15      that the existence of a 12-month lease is not a  
16      good indicator of being a customer who is going  
17      to pay his or her bill. We regularly have the  
18      experience of a 12-month lease, no deposit, the  
19      customer does not pay their bills very well.  
20      They get disconnect notices. They fall behind,  
21      and then they move out after 12 months. And,  
22      so, there is a balance due that's obviously  
23      paid for by other customers.

24             We think simply deleting "leases"

1 from that section solves the problem. In that  
2 case, such a customer can show a history of 12  
3 months paying a bill to another utility, that  
4 would waive the deposit requirement. These  
5 aren't mandatory, it's always subject to  
6 judgment.

7 And the other problem that happens  
8 is, when you have that customer, they're  
9 getting their disconnect notices, there's a  
10 provision later in these rules that say, after  
11 four disconnect notices, we could then ask for  
12 a deposit. Of course, at that point, it's  
13 really too late, that person is behind on their  
14 bill. They can't pay their bill, let alone a  
15 deposit on top of it. So, it's sort of a  
16 spiral.

17 So, for all these reasons, we think  
18 simply removing "leases" from being an  
19 exception to the deposit requirement would  
20 help.

21 CMSR. BAILEY: Do you think there's  
22 any value in having a customer show you that  
23 they intend to stay in one place for the next  
24 12 months?

1 MR. SHEEHAN: I mean, that's -- we're  
2 not asking you to change that part of the rule.  
3 We're just saying that the lease is not a very  
4 good indicator of that.

5 CMSR. BAILEY: A lease isn't a very  
6 good indicator of the fact that they're going  
7 to be there for 12 months or that they're going  
8 to pay their bill?

9 MR. SHEEHAN: The latter.

10 CMSR. BAILEY: Right.

11 MR. SHEEHAN: Right.

12 CMSR. BAILEY: So, what's the purpose  
13 of the rule that requires them to show you  
14 their intent to stay for 12 months?

15 MR. SHEEHAN: Well, maybe -- maybe  
16 that's part of the problem. And I'm not  
17 suggesting a rewrite of the rule.

18 If you have a deed, you own the  
19 house. Two things are there. You are going to  
20 stay there for a while, and there's -- it's a  
21 better indicator that you're going to pay your  
22 bill. And, frankly, there's something -- some  
23 recourse that the utility would have later.

24 A lease is an intent to stay there.

1 But it doesn't fix the -- the reason you have  
2 an intent to stay there is to show you're going  
3 to be a better customer. The lease may show  
4 you're going to stay there, but doesn't  
5 necessarily show you're going to be a better  
6 customer. So, it's sort of two layers.

7 CMSR. BAILEY: Okay. Thank you.  
8 Anything else?

9 MR. SHEEHAN: The other one is on  
10 Page 12 of the Initial Proposal. On Puc  
11 1203.07(c)(6), at the very bottom of the page.  
12 Here we're talking about "Payment  
13 Arrangements". (c) lists the considerations  
14 that should be reviewed in deciding what the  
15 payment arrangement should be. And the focus  
16 is on Subsection (6), "Customer's ability to  
17 pay."

18 The phrase "ability to pay", that's  
19 the only place in the entire 1200 rules where  
20 this phrase exists. It's not defined. And it  
21 leads to lots of ambiguity.

22 The suggestion is to replace  
23 "ability to pay" with "financial hardship",  
24 which is a defined term in the rules. It's

1 Puc 1202.10 [1202.09?], and it's something we  
2 could point to. If you have a financial  
3 hardship, that is a factor to consider in  
4 setting a payment arrangement.

5 If you have a question of your  
6 "ability to pay", that is very gray. And, to  
7 give you the extreme example, and it has  
8 happened, a customer has two brand-new cars in  
9 the driveway, and a need for a payment  
10 arrangement, and they don't have an ability to  
11 pay because their car payments are too high.  
12 And it doesn't seem fair for a customer --  
13 other customers to pay that customer's electric  
14 bill because they decided to buy an expensive  
15 car.

16 So, again, that's just an  
17 illustration of how the "ability to pay" can  
18 keep people from -- give people lower payment  
19 arrangements who otherwise shouldn't be given  
20 that accommodation. And, if you tie it more to  
21 income, an undue -- a "financial hardship" is  
22 an income-based definition, and it's people who  
23 qualify for EAP and for other things.

24 So, that's our request. We have a

1 couple minor editorial stuff we can put in  
2 writing by the 20th.

3 CMSR. BAILEY: Okay.

4 MR. SHEEHAN: Thank you.

5 CMSR. BAILEY: Thank you. Mr. Kreis.

6 MR. KREIS: Thank you, Commissioner  
7 Bailey, and good morning.

8 Let me start by thanking the Consumer  
9 Services Division of the Commission for its  
10 excellent work on updating these rules. I  
11 think that the proposal that they developed,  
12 and that the Commission has issued here, will  
13 be a step forward for these rules, which are,  
14 obviously, extremely important for residential  
15 customers of all of the utilities that are  
16 subject to the rules.

17 I also want to say, somewhat off the  
18 top of my head, that I disagree with the  
19 suggestion that Mr. Sheehan just made. I think  
20 that, while I understand that "ability to pay"  
21 is an ambiguous term in the proposed rules, the  
22 definition of "financial hardship" is, I think,  
23 too restrictive with respect to the question of  
24 when a payment arrangement is reasonable. And,

1 so, the Commission might consider defining the  
2 term "ability to pay", if it deems that a  
3 problem.

4 I have a smattering of comments about  
5 this proposal. And I offer them merely in an  
6 effort to be constructive. I'm generally  
7 supportive of this rulemaking proposal, and  
8 look forward to seeing it work its way through  
9 our highly efficient and friendly rulemaking  
10 process.

11 My first comment has to do with Page  
12 15 of the Initial Proposal, and Puc 1203.10,  
13 which has to do with when a customer notifies a  
14 utility of the customer's intent to terminate  
15 service at their premises. And 1203.10(a)(3)  
16 says that "A utility may require a customer to  
17 provide reasonable notice of intent to  
18 terminate service as follows:...Until the  
19 earlier of the expiration of the notice period  
20 or the requested service termination, the  
21 customer shall be responsible for all charges  
22 incurred for service."

23 I don't disagree with that language.  
24 But my comment is that the rule should make

1 clear when a customer is "no longer responsible  
2 for service" after that service termination  
3 request has been made.

4 Similarly, in Paragraph or  
5 Subparagraph (c) of the proposed rule, there's  
6 new language that says that "If the customer is  
7 unable to provide the utility with access to  
8 the meter," there are circumstances or a --  
9 there is a notice that goes out to the property  
10 owner that suggests that the property owner  
11 will become responsible for service at the  
12 premises in circumstances where there hasn't  
13 been access to the meter.

14 Again, the rule should clarify when  
15 the terminating customer is no longer  
16 responsible for service, in situations where  
17 the property owner, for whatever reason, has  
18 been unwilling or unable to provide the utility  
19 with access to the meter.

20 CMSR. BAILEY: Can I ask you a  
21 question on that?

22 MR. KREIS: You can.

23 CMSR. BAILEY: This requirement has  
24 been in effect for a long time. Are you aware

1 of an example or examples of when customers  
2 didn't know when they were no longer  
3 responsible?

4 I mean, if you call up the electric  
5 company and you say "I want to terminate  
6 service on Tuesday", isn't that the end of the  
7 time that they have to pay?

8 MR. KREIS: That is my understanding,  
9 Commissioner. I'm just, you know, I'm a victim  
10 of my training as a lawyer. And I think that  
11 the rules would -- it would be helpful if the  
12 rules made clear to everybody who is subject to  
13 them when a terminating customer is no longer  
14 responsible.

15 Is this a critical improvement to  
16 these rules? No. I'm just trying to make them  
17 as good as I can possibly think of, --

18 CMSR. BAILEY: Okay. Thank you.

19 MR. KREIS: -- given my somewhat  
20 limited legal brain.

21 Moving to Page 16 of the Initial  
22 Proposal. This is Rule 1203.11, Paragraph (b),  
23 Subparagraph (1) **[1203.11(b)(2)(1)?]** there's a  
24 required statement about when a medical

1 emergency exists. And the proposed rule says  
2 "The statement or a statement substantively  
3 consistent with the statement:", and then  
4 there's a very specific, and I think very well  
5 worded, bit of language there about what  
6 statement needs to be provided to the customer.

7 And, so, I think that the phrase --  
8 the reference to "a statement substantively  
9 consistent" with the statement is unnecessary  
10 and should be deleted.

11 Then, moving ahead to Page 27 of the  
12 Initial Proposal, this is Puc Part 1204, which  
13 is the Winter Disconnection Rules. I would  
14 respectfully suggest to the Commission that the  
15 amounts in 1204.03 should be adjusted for  
16 inflation. These are amounts that -- these are  
17 the amount of arrearages that have to build up  
18 during the winter periods before the utilities  
19 can move forward with disconnection during the  
20 winter period. And, as I understand the  
21 proposal, the existing numbers are still there,  
22 and they should simply be adjusted.

23 Moving ahead to Page 30 of the  
24 Initial Proposal, now I'm looking at Puc Part

1 1205, which is --

2 CMSR. GIAIMO: Mr. Kreis?

3 MR. KREIS: Yes, sir.

4 CMSR. GIAIMO: A quick question. So,  
5 adjust the numbers up for inflation, but don't  
6 link them to an inflation-based index?

7 MR. KREIS: You could do that.

8 CMSR. GIAIMO: Okay.

9 MR. KREIS: It's not a bad  
10 suggestion. I know that the rulemaking gods  
11 sometimes dislike references to things that are  
12 exogenous to the rules. So, that's always a  
13 problem. But I think that's a good suggestion.

14 Puc Part 1205, "Medical Emergency  
15 Rules", I'm looking at Page 30 of the Initial  
16 Proposal. The Commission has proposed limiting  
17 the applicability of the Medical Emergency  
18 Rules to "service provided to residential  
19 customers at their primary residences." I  
20 think the reference to "primary residences"  
21 should be deleted, because, obviously, a  
22 customer who has medically critical utility  
23 service has the same medical issues that  
24 justify nondisconnection, whether that person

1 is at her or his primary residence or not,  
2 because death doesn't know whether you are  
3 dying at your primary residence or not. Sorry  
4 to be glib.

5 And I think those are all my  
6 comments. Thank you for entertaining them.

7 CMSR. GIAIMO: Mr. Kreis, you  
8 commented on one of the two comments from  
9 Attorney Sheehan. Did you have an opinion on  
10 his omission of the "lease" comment?

11 MR. KREIS: No.

12 CMSR. GIAIMO: Okay.

13 CMSR. BAILEY: All right. Is there  
14 anybody else who would like to offer comments  
15 or any response to anything that's been heard  
16 today?

17 *[No verbal response.]*

18 CMSR. BAILEY: All right. Seeing  
19 none.

20 We will adjourn the hearing, and wait  
21 for written comments that are due on November  
22 20th, and take the matter under advisement.  
23 And let you know as soon as possible what the  
24 next step is, probably a Final Proposal. Thank

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you.

*(Whereupon the hearing was  
adjourned at 10:23 a.m.)*