

Readopt Puc 3001, effective 9-25-10 (Document #9796-A), cited and to read as follows:

CHAPTER Puc 3000 COMPETITIVE NATURAL GAS SUPPLIER AND AGGREGATOR RULES

PART Puc 3001 PURPOSE AND APPLICATION OF THE RULES

Puc 3001.01 Purpose.

The purpose of Puc 3000 is to establish requirements for the registration of competitive natural gas suppliers and aggregators, as defined below, with the commission. Puc 3000 also establishes consumer protection requirements and enforcement provisions and procedures.

Puc 3001.02 Application of Rules.

(a) These rules shall apply to competitive natural gas suppliers as defined in Puc 3002.06 and aggregators as defined in Puc 3002.02.

(b) These rules shall not apply to the sale of natural gas to residential or non-residential customers by a local distribution company as defined in Puc 3002.09.

Readopt with amendments Puc 3002 – Puc 3005, effective 9-25-10 (Document #9796-A), to read as follows:

PART Puc 3002 DEFINITIONS

Puc 3002.01 “Affiliate” means any of the following:

(a) Any person or entity that directly or indirectly owns, controls, or holds with power to vote a majority of the outstanding voting securities or such minority thereof as to give such person substantial control of another person or entity;

(b) Any person or entity that is directly or indirectly owned, controlled, or held by any person or entity described in (a) above through either power to vote a majority of the outstanding voting securities or such a minority so as to maintain substantial control of such person or entity;

(c) Any person or entity with which another person or entity has a management or service contract or arrangement that provides such person or entity with effective control over the management, supervision, or operation of the other person or entity; or

(d) Any person or entity who or which actually exercises effective control over the management, supervision, or operation of another person or entity.

Puc 3002.0~~2~~⁴ “Aggregate” means to combine the natural gas loads of 2 or more customers or a single customer with multiple meters or multiple locations.

Puc 3002.0~~3~~² “Aggregator” means any person or entity that aggregates natural gas load but takes no ownership of the natural gas supplies needed to meet that aggregated load. The term includes, but is not limited to, any person or entity that facilitates or otherwise arranges for the purchase or sale of natural gas between customers and approved competitive natural gas suppliers. The term does not include any employee aggregating load on behalf of her or his employer.

Puc 3002.0~~4~~³ “Applicant” means any person or entity who or which has filed an application for registration or renewal as a CNGS or aggregator with the commission pursuant to Puc 3000.

Puc 3002.0~~54~~ “City Gate” means the interconnection between a delivering pipeline and the distribution system of an LDC.

Puc 3002.0~~65~~ “Commission” means the New Hampshire public utilities commission.

Puc 3002.0~~76~~ “Competitive natural gas supplier (CNGS)” means any person or entity that sells or offers to sell natural gas to a customer of an LDC in this state. A CNGS takes ownership of the natural gas supply to the extent it is the entity responsible for delivering that supply to the city gates of an LDC in accordance with the LDC’s balancing requirements. The term does not include any municipal or county corporation operating within its corporate limits, LDCs supplying natural gas in accordance with rates and/or practices approved by the commission, third party suppliers to entities with direct connections to non-utility owned intrastate or interstate natural gas pipelines, suppliers to electrical generation facilities with a capacity of 30 megawatts or more, or persons or entities to the extent that they supply natural gas at wholesale to an LDC.

Puc 3002.08 “Confidential customer information” means information that is collected as part of providing natural gas services to a customer that can identify, singly or in combination, that specific customer, and includes the customer name, address, and account number and the quantity, characteristics, or time of consumption by the customer, and also includes specific customer payment, financial, banking, and credit information.

Puc 3002.0~~97~~ “Customer” means any person or entity in this state, including any governmental unit, that utilizes delivery service with an LDC and purchases natural gas at retail from a CNGS or whose load is aggregated by an aggregator, but does not include residential consumers.

Puc 3002.0~~108~~ “Delivery service” means the distribution of natural gas by an LDC from a city gate to a meter at a customer’s premises.

Puc 3002.11 “Investment grade credit rating” means a current rating for senior unsubordinated debt of AAA, AA, A, or BBB, as issued by S&P Global Ratings, or Aaa, Aa, A, or Baa, as issued by Moody’s Investors Service, Inc.

Puc 3002.1~~209~~ “Local distribution company (LDC)” means a natural gas public utility regulated by the commission which operates a retail gas distribution system.

Puc 3002.1~~30~~ “Natural gas supplier service” means the sale of natural gas to a customer by a CNGS, but does not include any sale by the LDC itself.

Puc 3002.1~~41~~ “Natural gas supply offer” means a solicitation by a CNGS to sell natural gas or a solicitation by an aggregator to arrange for or facilitate the purchase of natural gas by a customer.

Puc 3002.15 “Principals” means, for a corporation, any of its officers, directors, or controlling shareholders, for a limited liability company, any of its managers or controlling members, for a partnership, any of its general partners, and for any other business entity, any of its personnel exercising executive functions and any of its controlling equity owners.

Puc 3002.16 “Sanctionable event” means a CNGS or aggregator has:

- (1) Violated any provision of the rules included in this chapter;
- (2) Violated the requirements of RSA 365:8-a or any other provision of RSA Title XXXIV applicable to CNGS or aggregators; or

(3) Engaged in any unfair or deceptive acts or practices in the marketing, sale, or solicitation of natural gas or related services.

PART Puc 3003 REGISTRATION AND REPORTING REQUIREMENTS

Puc 3003.01 Initial Registration of Competitive Natural Gas Suppliers.

(a) Any person or entityCNGS seeking to sell natural gas to customers in the State of New Hampshire shall complete and submit an file with the commission an original and 2 copies of a registration application for registration as a CNGS containing the information and signature as specified in Puc 3006.01 together with an electronic copy in a file format compatible with the computer system of the commission, pursuant to Puc 203.03.

(b) No person or entityCNGS shall sell, or offer to sell by means ofvia mass media marketing or otherwise, natural gas to any customer until the person or entity# has completed all aspects of the registration process required by Puc 3003, and has had its registration approved in accordance with Puc 3003.01(e).

~~(e) The registration application required by (a) above shall be in the form specified in Puc 3006.01.~~

~~(c)~~ Each applicant shall provide the following in or with its application:

- (1) OriginalEvidence of financial security instrument as specified in as defined in Puc 3003.03;
- (2) Documentation sufficient to demonstrate that the applicantCNGS is an approved shipper on the upstream pipelines and underground storage facilities on which the LDC will assign capacity, if any, to the applicantCNGS; and
- (3) A \$250500.00 registration fee, with payment submitted to the executive director.

(d) The commission shall reject the application when information required to complete a CNGS registration application is not provided by the applicant within 60 days of request for such information.

(e) Unless ~~the commission determines that~~ an application for CNGS registration is incomplete, ~~or does not meet~~comply with the application requirements ~~of this section, or is subject to outstanding requests for additional information or clarification, the application shall either be approved in writing by the commission within 60 days of receipt of a complete application:its submission, or it shall be deemed to have been approved 60 days after receipt.~~

(1) The application shall be approved in writing, which approval shall be issued by the executive director, unless the approval requires the grant of a rule waiver under Puc 201.05;

(2) The application shall be denied in writing; or

(3) The application shall be deemed to have been approved.

(f) The commission shall deny a CNGS application if it determines that the applicant or any of the applicant's principals or affiliates has:

(1) Been found in other state(s), after notice and opportunity to be heard, to have committed violations, such that the commission determines that it is not in the public good to allow registration;

(2) Within the 10 years immediately prior to registration, had any civil, criminal or regulatory sanctions or penalties imposed against it, him, or her pursuant to any state or federal consumer

protection law or regulation, such that the commission determines that it is not in the public good to allow registration;

(3) Knowingly made a false statement of material fact in the application; or

(4) Been the subject of consumer complaints in other states in such number and of such types as establishes a pattern demonstrating engagement in:

a. Misleading or deceptive marketing or sales practices;

b. Inaccurate billing when billed by the CNGS;

c. Fraud;

d. Slamming, meaning the initiation of the transfer of a customer to a new CNGS or aggregator without the customer's authorization; or

e. Other practices found by the commission to be harmful or potentially harmful to customers.

(g) In the event that the commission denies an application for registration, the applicant may, within 30 days, file a request for reconsideration or a hearing before the commission.

(h) An approved CNGS registration shall be valid for a period of 5 years.

~~(i) If the commission has requested information or clarification to complete an application for registration, and such information or clarification is not provided within 60 days of the request, the commission shall suspend the application. If, after 120 days of the date of the request, the applicant has not provided the requested information or clarification, the commission shall reject the application. If an application is rejected, the application fee shall be forfeited and the applicant shall be required to submit a new application and fee prior to acting as a CNGS in New Hampshire.~~

~~(h) Following registration, a CNGS shall continue to maintain compliance with the requirements of Puc 3000.~~

~~(j) An applicant-CNGS shall submit with its application proof that it has notified any LDC in whose service territory it intends to conduct business as a CNGS of the filing of its application for registration at the time it files the application with the commission.~~

~~(k) Each CNGS shall notify the commission of any changes to the information required to be submitted pursuant to in this section and Puc 3006.01. The CNGS shall provide such notice in advance, when practicable, but no later than 10 business ~~within 30~~ days following the effective date of the change, in all cases.~~

~~(l) If a CNGS fails ~~Failure by any CNGS~~ to comply with the requirements or obligations of this chapter, the commission shall determine whether to charge against the CNGS's ~~section may result in an assessment against the~~ financial security ~~filed with the commission, by~~ following the process described in Puc 3005, subject to the priority set forth in Puc 3003.03(b).~~

Puc 3003.02 Renewal Registration of Competitive Natural Gas Suppliers.

(a) Each registered CNGS shall renew its registration ~~re-register~~ with the commission every 5 years by:

(1) Completing and submitting ~~filing with the commission~~ an application for renewal registration containing the information and signature as specified in Puc 3006.01; and

(2) Filing the original financial security instrument as specified in Puc 3003.03 with the executive director, unless the financial security instrument previously filed with the commission will remain in effect during the entire renewal term.

~~(b)~~ Each application for renewal shall be ~~submitted~~filed no less than 60 days and no more than 120 days prior to the expiration of the CNGS's currently effective registration. If a CNGS fails to renew its registration~~meet its re-filing obligation~~, its registration shall expire by its terms.

~~(b) The CNGS shall include in each application for renewal all information required for an initial CNGS application under Puc 3003.01, Puc 3003.03 and 3006.01, and shall note any changes to the information contained in the previous application.~~

~~(c) A CNGS shall include with its application for renewal a renewal fee of \$250.00.~~

(c) The commission shall reject an application for renewal when information required to complete the CNGS registration renewal application is not provided within 60 days of the request for such information.

~~(d) Unless a CNGS renewal, the commission determines that an application for renewal is incomplete, does not meet the application requirements, or is subject to outstanding requests for additional information or clarification or does not comply with the requirements of this section, the application shall either be approved in writing by the commission within 60 days of receipt of a complete application; its submission, or it shall be deemed to have been approved 60 days after receipt.~~

(1) The application shall be approved in writing, which approval shall be issued by the executive director, unless the approval requires the grant of a rule waiver under Puc 201.05;

(2) The application shall be denied in writing; or

(3) The application shall be deemed to have been approved.

(e) The commission shall deny a CNGS application for renewal if it determines that the applicant or any of the applicant's principals or affiliates has:

(1) Been found in New Hampshire or other state(s), after notice and opportunity to be heard, to have committed violations, such that the commission determines that it is not in the public good to allow registration;

(2) Since its registration, had any civil, criminal, or regulatory sanctions or penalties imposed against it, him, or her pursuant to any state or federal consumer protection law or regulation, such that the commission determines that it is not in the public good to allow registration;

(3) Knowingly made a false statement of material fact in the renewal application;

(4) Been the subject of substantiated consumer complaints in New Hampshire or other states in such number and of such types as establishes a pattern demonstrating engagement in:

a. Misleading or deceptive marketing or sales practices;

b. Inaccurate billing;

c. Fraud;

d. Slamming; or

e. Other practices found by the commission to be harmful or potentially harmful to customers; or

(5) Had its registration suspended or revoked pursuant to Puc 3005 and has not:

a. Demonstrated its ability to avoid a similar sanctionable event; and

b. Paid all applicable fines and complied fully with any commission order issued as a result of a sanctionable event.

(f) In the event that the commission denies an application for renewal registration, the applicant may, within 30 days, file a request for reconsideration or a hearing before the commission.

~~(g) An renewedapproved CNGS registrationrenewal shall be valid for a period of 5 years.~~

~~(h) If the commission has requested information or clarification to complete an application for renewal, and such information or clarification is not provided within 60 days of the request, the commission shall suspend the application. If, after 120 days of the date of the request, the applicant has not provided the requested information or clarification, the commission shall reject the application. If an application is rejected, the application fee shall be forfeited and the applicant shall be required to submit a new application and fee prior to acting as a CNGS in New Hampshire.~~

~~(h) Following renewal, a CNGS shall continue to maintain compliance with the requirements of Puc 3000.~~

(i) Each CNGS shall notify the commission of any changes to the information required to be submitted pursuant to this section and Puc 3006.01. The CNGS shall provide such notice in advance, when practicable, but no later than 10 business days following the effective date of the change, in all cases.

(j) If a CNGS failsFailure by any CNGS to comply with the requirements or obligations of this chapter, the commission shall determine whether to chargea section may result in an assessment against the CNGS's financial security filed with the commission, by following the process described in Puc 3005, subject to the priority set forth in Puc 3003.03(b).

Puc 3003.03 Reporting and Financial Security Requirements of Competitive Natural Gas Suppliers.

(a) The financial security instrument required by Puc 3003.01~~(c)~~(1) or Puc 3003.02(a)(2) shall:

(1) Be in the form of:

a. An irrevocable standby letter of credit issued by a bank with assets of at least \$1 billion and presentable at a U.S. office of such bank;

b. A surety bond issued by an insurance company or bonding company included on the U.S. Treasury Department's list of certified companies and licensed in New Hampshire, with demand to be made on a U.S. office of the named surety; or

c. An unconditional guaranty of payment executed by the parent company or other affiliate of the CNGS, if the parent company or affiliate has and maintains an investment grade credit rating or other financial instrument showing evidence of liquid funds, such as a certificate of deposit, an irrevocable letter of credit, a line of credit, a loan or a guarantee;

(2) Be in an amount equal to the greater of:

- a. \$100,000.00;
- b. The estimated highest month's aggregated gas usage of all customers served by the CNGS in New Hampshire multiplied by the same month's Tennessee Gas Pipeline Zone 6 monthly index, for a CNGS's first year of operation; or
- c. The actual highest month's aggregated gas usage of all customers served by the CNGS in New Hampshire multiplied by the same month's Tennessee Gas Pipeline Zone 6 monthly index, for any year after the CNGS's first year of operation;

(3) Not exceed \$~~500~~350,000.00, notwithstanding (2) above;

(4) Name the commission as beneficiary, obligee, or guaranteed party, as applicable;

(5) Have an effective term of not less than 12 months with a 6 month extended claims, draws, or demand period;~~expiration date not less than:~~

~~a. 5 years and 150 days after the date the applicant's application is filed, for an initial application; or~~

~~b. 5 years and 90 days after the date the applicant's application is filed, for an application for renewal; and~~

(6) Have no right of cancellation during the initial effective term of the financial security instrument; and

~~(7)~~ Be adjusted annually, if based upon natural gas usage or estimated usage, under (2)b- or ~~(2)c-~~ above. The CNGS shall report its monthly and annual usage for the prior year ending March 31, as used to determine the amount of financial~~the~~ security, on or before May 31 of each year.

(b) The commission shall make a claim under or pursue an action against financial security instruments for the following purposes and in the following order of payment priority:

(1) Customer complaint reparations, ordered by the commission following notice and hearing and remaining unpaid by the CNGS after 30 days;

(2) Fines or sanctions for violation of applicable laws or rules, assessed by the commission following notice and hearing and remaining unpaid by the CNGS after 30 days; and

(3) Commission annual assessment remaining unpaid by the CNGS on June 1 of any calendar year, in the absence of exemption or good faith objection.

(c) Each financial security instrument shall contain the following operative language:

"The New Hampshire Public Utilities Commission may draw upon this financial security instrument if and when the Company has failed to make required payment(s) and/or payment arrangements in accordance with the terms and conditions of an order issued by the New Hampshire Public Utilities Commission."

(d) In the event the commission draws on a financial security instrument pursuant to Puc 3005 and (b) above, the CNGS shall replenish the financial security instrument to the full amount required by (a)(2) and (a)(3) above within the timeframe specified by the commission in any decision or order.

(e) If the financial security instrument provided by a CNGS to the commission in connection with its original or any renewal registration will not be renewed or extended beyond its expiration date, the CNGS shall:

(1) Provide written notice to the commission of such non-renewal or non-extension not less than 60 days prior to the expiration date; and

(2) File with the executive director a replacement financial security instrument meeting the requirements of (a) above no less than 30 days prior to the expiration date.

(f) A CNGS that fails to comply with the requirement to file a replacement financial security instrument under (e)(2) above shall be subject to fines, suspension, or revocation pursuant to Puc 3005.

Puc 3003.04 Reporting Requirements of Competitive Natural Gas Suppliers.

(a~~b~~) Each CNGS shall file annually, by no later than March 1 of each year, a report of its sales in the prior calendar year.

(b~~e~~) The report required by (a~~b~~) above shall include:

- (1) The name of and responsible reporting agent for the CNGS;
- (2) The date of the report;
- (3) The year covered in the report;
- (4) The number of New Hampshire customers, by rate class, by month, with annual totals; and
- (5) Sales volumes to New Hampshire customers, in dekatherm units, by rate class, by month, with annual totals.

(c~~d~~) With each application for renewal, each CNGS shall file, on a confidential basis, a report listing any aggregators currently using the CNGS to provide service to New Hampshire customers, and the number of customers served by each listed aggregator.

Puc 3003.0~~5~~4 Initial Registration of Natural Gas Aggregators.

(a) Any person or entity seeking to provide aggregation services to customers shall register with the commission prior to providing such services. No aggregator shall enroll customers, or arrange to sell to or contract with customers, or solicit specific customers for such purposes, until such aggregator has completed all aspects of the registration process required by this chapter~~Puc 3003~~.

(b) An applicant seeking to register as an aggregator shall:~~An original and 2 copies of a registration application required by (a) above shall be filed together with an electronic copy in a file format compatible with the computer system of the commission, pursuant to Puc 203.03.~~

(1) Complete and submit an application for registration containing the information and signature as specified in Puc 3006.02; and

(2) Pay the application fee of \$250 to the commission by submitting payment to the executive director.

(c) The commission shall reject an application for aggregator registration when information required to complete such application is not provided within 60 days of request for such information.~~registration application required by (a) above shall be in the form specified in 3006.02~~

~~_____ (d) An aggregator shall include with its registration application a registration fee of \$250.00.~~

~~(de) Unless the commission determines that an application for aggregator registration is incomplete, or does not meet or comply with the application requirements of this chapter, or is subject to outstanding requests for additional information or clarification, within 60 days of receipt of a complete application: the application shall either be approved in writing by the commission within 60 days of its submission, or it shall be deemed to have been approved 60 days after receipt.~~

~~(1) The application shall be approved in writing by the executive director, unless the approval requires the grant of a rule waiver under Puc 201.05;~~

~~(2) The application shall be denied in writing; or~~

~~(3) The application shall be deemed to have been approved.~~

~~(e) The commission shall deny an application for aggregator registration if it determines that the applicant or any of the applicant's principals or affiliates has:~~

~~(1) Been found in other state(s), after notice and opportunity to be heard, to have committed violations, such that the commission determines that it is not in the public good to allow registration;~~

~~(2) Within the 10 years immediately prior to registration, had any civil, criminal, or regulatory sanctions or penalties imposed against it, him, or her pursuant to any state or federal consumer protection law or regulation, such that the commission determines that it is not in the public good to allow registration; or~~

~~(3) Knowingly made a material false statement of fact in the application.~~

~~(f) In the event that the commission denies an application for registration, the applicant may, within 30 days, file a request for reconsideration or a hearing before the commission.~~

~~(g) The application fee shall be forfeited for aggregator applications which are rejected.~~

~~_____ (h) A new application fee pursuant to (b)(2) above shall apply to submission of an aggregator application which has previously been rejected.~~

~~(if) An approved initial aggregator registration application shall be valid for a period of 2 years.~~

~~(g) If the commission has requested information or clarification to complete an application for registration, and such information or clarification is not provided within 60 days of the request, the commission shall suspend the application. If, after 120 days of the date of the request, the applicant has not provided the requested information or clarification, the commission shall reject the application. If an application is rejected, the application fee shall be forfeited and the applicant shall be required to submit a new application and fee prior to acting as an aggregator in New Hampshire.~~

~~_____ (h) Following registration, an aggregator shall continue to maintain compliance with the requirements of Puc 3000.~~

~~(j)~~ Each aggregator shall notify the commission of any changes to the information required to be submitted pursuant to this section and Puc 3006.02. The aggregator shall provide such notice in advance, when practicable, but no later than 10 business days in this section within 30 days following the effective date of the change, in all cases.

Puc 3003.065 Renewal Registration of Natural Gas Aggregators.

(a) Each registered aggregator shall renew its registration~~re-register with the commission~~ after the initial 2 year period, ~~and~~ after any~~the~~ 52 year renewal period as applicable, by completing and submitting~~filing with the commission~~ an application for renewal registration no less than at least 60 days and no more than 120 days prior to the expiration of the aggregator's currently effective registration. ~~If an aggregator fails to meet its re-filing obligation, the original registration shall expire by its terms.~~

(b) The aggregator shall include in each application for renewal registration the all information and signature as specified in~~required - Puc 3006.02 for an initial aggregator application under Puc 3003.04,~~ and shall note any changes to the information contained in the aggregator's most recent previous application.

(c) An aggregator renewing its registration, and not assessed for the fiscal year preceding such renewal, shall include with its application for aggregator registration a renewal fee of \$125.00 payable to the commission and submitted to the executive director~~shall include with its application for renewal a renewal fee of \$125.00.~~

(d) An aggregator renewing its registration, and assessed for the fiscal year preceding such renewal, shall not be required to pay a renewal fee.

~~(e)~~ Unless an application for aggregator registration~~the commission determines that an application for renewal is incomplete, or does not meet the application requirements, or is subject to outstanding requests for additional information or clarification~~comply with the requirements of this chapter, within 60 days of receipt of a complete application; the application shall either be approved in writing by the commission within 60 days of its submission, or it shall be deemed to have been approved 60 days after receipt.

(1) The application shall be approved in writing by the executive director, unless the approval requires the grant of a rule waiver under Puc 201.05;

(2) The application shall be denied in writing; or

(3) The application shall be deemed to have been approved.

(f) The commission shall deny an aggregator application for renewal if it determines that the applicant or any of the applicant's principals or affiliates has:

(1) Been the subject of substantiated consumer complaints in New Hampshire or other states in such number and of such types as establishes a pattern demonstrating engagement in:

a. Misleading or deceptive marketing or sales practices;

b. Fraud;

c. Slamming; or

d. Other practices found by the commission to be harmful or potentially harmful to customers;

(2) Since its registration, had any civil, criminal, or regulatory sanctions or penalties imposed against it, him, or her pursuant to any state or federal consumer protection law or regulation, such that the commission determines that it is not in the public good to allow registration;

(3) Knowingly made a false statement of material fact in the renewal application; or

(4) Had its registration suspended or revoked pursuant to Puc 3005 based on the occurrence of a sanctionable event and has not:

a. Demonstrated its ability to avoid a similar sanctionable event; and

b. Paid all applicable fines and complied fully with any commission order issued as a result of the sanctionable event.

(g) In the event that the commission denies an application for registration, the applicant may, within 30 days, file a request for reconsideration or a hearing before the commission.

(he) A renewed aggregator registration, approved by the commission, ~~An approved aggregator renewal~~ shall be valid for a period of 5 years from the effective date of approval.

~~(f) If the commission has requested information or clarification to complete an application for renewal, and such information or clarification is not provided within 60 days of the request, the commission shall suspend the application. If, after 120 days of the date of the request, the applicant has not provided the requested information or clarification, the commission shall reject the application. If an application is rejected, the application fee shall be forfeited and the applicant shall be required to submit a new application and fee prior to acting as an aggregator in New Hampshire.~~

~~(g) Following re registration, an aggregator shall continue to maintain compliance with the requirements of Puc 3000.~~

(ih) Each aggregator shall notify the commission of any changes to the information required to be submitted pursuant to this section and Puc 3006.02. The CNGS shall provide such notification in advance, when practicable, but no later than ~~in this section within~~ 1030 business days following the effective date of the change, in all cases.

Puc 3003.07 Assessment.

(a) Each CNGS that is registered as of July 1 of any year shall be billed for a \$10,000 assessment, unless an exemption claim containing the information specified in Puc 3006.04 is submitted by the CNGS to the commission on or before July 10 of the same year.

(b) Each aggregator that is registered as of July 1 of any year shall be assessed \$2,000, unless an exemption claim containing the information specified in Puc 3006.04 is submitted by the aggregator to the commission on or before July 10 of the same year.

(c) Annually, a CNGS or an aggregator earning less than \$10,000 in gross revenue in New Hampshire during the most recent fiscal year, from July 1 through June 30, shall complete and submit an exemption claim containing the information specified in Puc 3006.04 or the CNGS or aggregator shall be assessed the amount specified in (a) or (b) above.

Puc 3003.08 Withdrawal of Registration.

(a) A CNGS which no longer sells natural gas to customers in New Hampshire shall request withdrawal of its registration in order to be released from its financial security obligation and subsequent assessment by filing a letter with the executive director confirming that the CNGS has:

(1) Served no customers for the past 120 days; and

(2) Complied with the applicable provisions of Puc 3004.04 through 3004.06.

(b) An aggregator which no longer serves customers in New Hampshire shall request withdrawal of its registration to avoid subsequent assessment by:

(1) Filing a letter with the executive director; and

(2) Attaching a copy of its notice, sent to customers no less than 30 days prior to the request for withdrawal, informing customers that the aggregator will no longer provide service by a specified date.

(c) The commission shall approve withdrawal of registration of a CNGS or aggregator if there are no pending customer complaints against the CNGS or aggregator requesting withdrawal.

(d) If there are pending customer complaints against the CNGS or aggregator requesting withdrawal of registration, the commission shall approve the withdrawal after the complaints are resolved.

PART Puc 3004 CONSUMER PROTECTION REQUIREMENTS

Puc 3004.01 Applicability.

(a) Except as specified herein, each CNGS who sells natural gas either directly or indirectly shall comply with the terms of service provisions that are described in the disclosure statement set forth in Puc 3004.02.

(b) Except as noted, all consumer protection provisions in this chapter apply to any CNGSs or aggregators operating in New Hampshire.

Puc 3004.02 Provision of Information to Customers by Competitive Natural Gas Suppliers.

(a) Each CNGS shall provide to each of its customers ~~with~~ a written statement regarding terms of service within 35 business days of entering into an agreement to sell natural gas.

(b) Each CNGS shall include in the written statement disclosing the terms of service required by (a) above, the following:

(1) The name, business address, telephone number, toll free telephone number, if available, and e-mail address of the CNGS;

(2) All fixed and variable prices of the service being offered to the customer, including an explanation of any variable price and the circumstances that would cause the price to vary;

(3) The due date of bill payments and the consequences of late payments, including the amount of any late payment fee or the interest or finance charge assessed for late payments;

(4) The duration of the CNGS's commitment for price, terms, and conditions;

(5) A statement that the CNGS's price does not include other costs, including, but not limited to, the price of natural gas transportation~~transmission~~ and distribution;

(6) The duration of the customer's commitment to purchase from the CNGS, including a statement that the customer has a right to change its CNGS, subject to the terms of the commitment;

(7) Any fees payable to the CNGS for early termination of the natural gas supply agreement by the customer;

(8) Any other fees, penalties, or charges for which the customer would be responsible;

(9) An explanation of how the customer will be billed for natural gas supplier service and the name, address, and telephone number of the CNGS's billing agent, if any;

(10) A description of the CNGS's dispute resolution process available to the customer;

(11) The toll free telephone number of the commission's consumer services and external affairs division and a statement that customers may contact the commission if they have any questions about their rights and responsibilities;

(12) Deposit requirements, if any, and the rate of interest paid on any required deposits; ~~and~~

(13) A statement that, by accepting the terms of service, the customer affirmatively consents to the LDC sharing billing and payment information with the CNGS, including the customer's participation in any budget billing or extended payment arrangements; and

~~(14) A statement that the CNGS shall not release confidential customer information, except as otherwise permitted under Puc 3004.11, without written authorization from the customer, and a description of confidential customer information and any other information considered confidential by the CNGS along with a statement, not inconsistent with Puc 3004.08, of which customer information shall be considered confidential.~~

(c) The disclosure statement required by this section shall be written in plain language, and be legibly typed or printed in a font size no smaller than 12 point.

(d) A CNGS shall not rely on an aggregator to satisfy any of its obligations required by this chapter unless:

(1) The CNGS has a written agreement with an aggregator specifying that the aggregator accepts the obligations of the CNGS pursuant to this chapter;

(2) The CNGS agrees to provide a copy of the written agreement pursuant to (1) above at the Commission's request; and

(3) The CNGS accepts all financial responsibility for any remedies or damages as a result of the aggregator's failure to satisfy the CNGS' obligations pursuant to this chapter.

Puc 3004.03 Telephone Solicitation of Customers ~~by or for Competitive Natural Gas Suppliers.~~

~~(a)~~ A CNGS or aggregator, or its representative, shall not while soliciting by telephone ~~telemarketing~~:

~~(a)~~ Initiate any telephone call to any of the following:

~~(1)~~ a. An emergency telephone line, including any 911 line or any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency;

~~(2)~~ b. The telephone line of any guest room or patient room of a hospital, health care facility, home for the elderly, or similar type of establishment; ~~or~~

~~(3)e.~~ A telephone number assigned to a paging service, ~~cellular telephone service,~~ specialized mobile radio service, or other radio common carrier service, or any other service for which the called party is charged for the call; or

~~(4)~~ A telephone number assigned to a cellular telephone service, unless the call is directly placed to the number and not initiated using an automatic telephone dialing system.

~~(b2)~~ Use any device to send an unsolicited advertisement to a telephone facsimile machine;

~~(c)~~ Use a pre-recorded automated message to send unsolicited advertisements to potential customers;

~~(d3)~~ Initiate any telephone solicitation to a customer or potential customer before 8:00 a.m. or after 9:00 p.m. eastern time; or

~~(e4)~~ Initiate any telephone solicitation to a customer or potential customer before 11:00 a.m. or after 8:00 p.m. on Sunday or on any state or federal holiday; ~~or~~

~~(5)~~ Initiate any telephone solicitation to a customer or potential customer unless the CNGS has instituted procedures, as provided in (b) below, for maintaining a list of persons who do not wish to receive telephone solicitations made by or on behalf of that CNGS.

~~(b)~~ A CNGS which intends to telemarket, and which has not stated otherwise pursuant to Puc 3006.01(a)(17), shall implement procedures for telephone solicitation including:

~~(1)~~ Providing the called party with the name of the CNGS on whose behalf the call is being made as well as a telephone number or address at which the CNGS can be reached; and

~~(2)~~ Establishing a written policy for maintaining a do not call list, including:

~~a.~~ Maintaining an up to date listing of New Hampshire customers and potential customers who have registered with the National Do Not Call Registry prior to conducting any telephone solicitations;

~~b.~~ Providing notification to customers and potential customers that such a list is maintained and information about how to be placed on that list or a supplier specific list;

~~c.~~ Instituting training for personnel engaged in any aspect of telephone solicitation in the existence and use of the National Do Not Call Registry and any supplier specific do not call list;

~~d.~~ Not making telephone solicitations to any customer or potential customer who has registered with the National Do Not Call Registry or requested do not call treatment;

~~e.~~ Providing daily updates to the do not call list so that customers or potential customers requesting to not be called or to be placed on a do not call list are not called; and

~~e.~~ Creating a mechanism for obtaining prior express consent from the customers or potential customers before a request to be placed on a do not call list can be shared with or forwarded to a party other than the CNGS on whose behalf the solicitation is being made.

Puc 3004.04 Transfer of Service by Competitive Natural Gas Suppliers.

(a) A CNGS shall not submit a change on behalf of a customer in the customer's selection of a natural gas supplier ~~CNGS~~ without first obtaining authorization from the customer; through one of the following means ~~consisting of:~~

- (1) The customer's written authorization in a form that meets the requirements of (f) below; or
- (2) Verbal authorization from the customer as described in (c), (d), and (e) below and which is made in the same language as the underlying solicitation made to the customer;

(b) Each CNGS shall maintain records of verification of customer authorization for a minimum period of 2 years after obtaining the verification.

(c) Verbal authorization for the transfer of service shall be ~~verified~~confirmed by a third party that:

- (1) Is not owned, affiliated, managed, controlled, or directed by the CNGS, or any marketing representative involved in ~~the~~such transaction;
- (2) Has no financial incentive to confirm CNGS change orders for the CNGS or the CNGS's marketing representative;
- (3) Obtains the customer's consent, as required by RSA 570-A, to the tape recording of the customer's authorization for a change in service; and
- (4) Operates in a location physically separate from the CNGS; ~~and from~~ the CNGS's marketing representative.

(d) The CNGS shall disclose to the commission the name, telephone number, and e-mail address of the person or entity acting as a third party verifier for purposes of (c) above.

(e) Verbal authorization verified by the independent third party shall consist of the following:

- (1) A statement, made by the customer, providing the customer's name;
- (2) Confirmation that the caller is the customer authorized to request the CNGS change;
- (3) Confirmation that the customer wants to make the change in CNGS for the applicable service location;
- (4) The name of the customer's current natural gas supplier for that service locationCNGS;
- (5) The name of the CNGS the customer wishes to select; and
- (6) The service ~~location~~address and account number or meter number that the customer wishes to switch to the new CNGS.

(f) The written authorization ~~form~~, referenced in (a)(1) above shall:

- (1) Not be combined with other materials sent to the customer, including, but not limited to, checks or other inducements to change service;
- (2) Be a separate plainly identifiable document, whether provided in tangible form, by electronic mail, or through a secure customer portal or other electronic online enrollment process;
- (3) Contain the customer's billing name and address;
- (4) Contain the account number(s) to be covered by the request for change in CNGS;
- (5) Contain the service ~~location~~address and account number or meter number that is being changed to a new CNGS;

(6) Contain a statement that the customer is changing from ~~the customer's~~ current natural gas supplierCNGS to the new CNGS in which each ~~supplier~~CNGS is identified by name;

(7) Be signed by the customer, which signature may be in electronic form; and

(8) Be written in plain language, and be legibly typed or printed in a font size no smaller than 12 point.

(g) When a customer's request for a change in CNGS is received over the telephone or by verbal request, the CNGS shall mail an information package to the customer within 35 business days of the customer's request.

(h) The information package, described in (g) above, shall include:

(1) A statement that the information is being sent to confirm the telephonemarketing order or verbal request;

(2) The name, address, and telephone number of the newly-requested CNGS; and

(3) The disclosure statement required pursuant to Puc 3004.02.

(i) Upon receipt of valid authorization from ~~at~~the customer, the CNGS shall notify the applicable LDC electronically or by other means, as required by the LDC, of the customer's request to switch service to thea ~~new~~ CNGS.

(j) No CNGS customer enrollment shall be deemed to have been consented to or deemed a valid request for service authorizing the CNGS to enroll the customer unless authorization has been obtained from the customer as required under this section. A CNGS shall provide the commission with proof of valid customer authorization whenever requested by the commission.

(k) A CNGS who fails to obtain customer authorization in accordance with this section and initiates a customer change in service with the LDC shall:

(1) Be liable for all charges billed to the customer by the LDC or any other party arising from the change in service;

(2) Be liable for all charges for supply it billed to the customer; and

(3) Be subject to the penalty and other enforcement provisions of Puc 3005.

(l) If a CNGS proposes to transfer or sell the right to serve any customer of the CNGS, or if the ultimate control of a CNGS is proposed to be transferred or sold as a result of a change of ownership of a majority of the ownership interests in such CNGS or in any entity owning, either directly or indirectly, the ownership interests in the CNGS, then prior to such proposed transfer or sale the CNGS shall:

(1) Provide notice to each affected customer pursuant to (m) below, as follows:

a. With the customer's billing statement;

b. By the original CNGS, not the proposed transferee or purchaser; and

c. Separately from promotional materials relating to services proposed to be provided by the proposed transferee or purchaser;

(2) Provide a copy of such notice to the commission and the LDC on whose system any such customers are served at the same time notice is sent to affected customers; and

- (3) Ensure that the entity to which the customers will be transferred is registered as a CNGS pursuant to Puc 3003, if not already so registered;
- (m) Not less than 30 days prior to the effective date of any transfer or sale described in (l) above, the CNGS proposing such transfer or sale shall provide clear and conspicuous written notice to each affected customer which includes:
- (1) A brief description of the nature of the proposed transaction and the effective date of the proposed transaction;
 - (2) A statement that the customer may elect to terminate service from the CNGS and either enroll with a different CNGS or receive delivery service from the LDC if such election is made within the timeframe established by the LDC's tariff, but only if:
 - a. ~~¶~~The customer's contract with the CNGS provides the customer with the right to elect an alternate supplier or to terminate the contract with the CNGS and purchase supply from an LDC; or
 - b. ~~if~~The customer does not have a contract with the CNGS ~~for a term that has a duration~~ that extends beyond the date of the proposed transaction;
 - (3) Notice of the latest date by which the customer, or a new CNGS supplying the customer, must notify the LDC of its election to receive delivery service from an LDC or be supplied by the new CNGS, unless such change is not permitted under the customer's contract with the existing CNGS;
 - (4) Notice to any customer not previously subject to capacity assignment that, if the customer elects to take delivery service from an LDC, the customer will become subject to capacity assignment if the customer later elects to purchase gas from a CNGS;
 - (5) Notice that if the customer is eligible to select an alternate CNGS or to purchase delivery service from an LDC but fails to do so in the time provided, the customer will either be assigned to the proposed transferee or purchaser or remain with the existing CNGS, depending on the nature of the proposed transaction;
 - (6) The information required by Puc 3004.02(b) regarding the proposed transferee or purchaser ~~unless the customer will be served pursuant to a contract whose duration extends beyond the effective date of the proposed transaction;~~
 - (7) Notice of the amount of any charge that the customer will incur if it changes from its existing CNGS, whether to a new CNGS or to delivery service from an LDC, in accordance with (2) above;
 - (8) Notice that if consummation of the transaction described in (1) above results in a charge by an LDC for a change in the identity of the customer's CNGS, the customer will not be liable for any such charge; and
 - (9) A clear statement of the information in a. or b. below, if the customer does not have a contract with the CNGS ~~for a term with a duration~~ that extends beyond the effective date of the proposed transaction:

- a. ~~Of a~~Any differences ~~between~~ the rates, terms, ~~and~~ conditions of service provided to the customer by the CNGS and the rates, terms, ~~and~~ conditions of service to be provided to the customer by the proposed transferee or purchaser; or
- b. Confirmation ~~T~~hat the rates, terms, and conditions of service of the CNGS and the proposed transferee or purchaser are the same.;

(n) If a CNGS undergoes any transaction described in (l) above, then within 60 days of receipt of information from an LDC regarding the customer's gas usage, the CNGS shall bill the customer for any amounts due or refund any amounts owed to the customer.;

~~(o) If the commission determines that a CNGS has not complied with the provisions for discontinuance of service or for a successor provider, then, in addition to any action that the commission is authorized to take pursuant to Puc 3005, the commission shall order notice to affected customers clarifying the customers' rights and obligations.~~

Puc 3004.05 CNGS Voluntary Discontinuance of Service.

(a) Any CNGS that intends to cease selling natural gas to all customers or to any class of customers within the state, and does not intend to transfer or sell its customer base pursuant to Puc 3004.04 above, and is not subject to any event as described in Puc 3004.06 below, shall prior to discontinuing such service:

(1) Provide no less than 60 days written notice to any affected LDC and to the commission, which notice shall include the following:

- a. The date the CNGS intends to cease selling natural gas to all customers or to any class of customers within the state; and
- b. A detailed plan for transfer of any customers it will no longer serve to LDC delivery service; and

(2) Provide to each affected customer no less than 45 days and no more than 60 days prior to the start of the customer's next billing cycle:

- a. Written notice of the date on which the CNGS intends to cease service to the customer; and
- b. The date by which the customer must select an alternate CNGS or be transitioned to LDC delivery service.

(b) When a CNGS discontinues service pursuant to (a) above, the CNGS shall:

- (1) Ensure that customers who choose an alternate CNGS are not inadvertently switched to LDC delivery service; and
- (2) Refund any outstanding deposits or prepayments within 30 days of the final bill containing charges for service provided by the CNGS to the affected customers.

(c) Upon notification pursuant to (a)(1) above that a CNGS will discontinue service to all customers within the state, the commission shall:

- (1) Suspend the CNGS's registration for 120 days from the date the CNGS:
 - a. Notifies the Commission it has no customers within the state; or

b. Ceases to provide service to all customers within the state; and

(2) After the 120 days specified in (1) above:

a. Terminate the CNGS's registration, if there are no unresolved consumer complaints; or

b. Extend suspension of the CNGS's registration for an additional 90 days while the remaining consumer complaints are resolved.

(d) A CNGS that has discontinued service to all customers within the state shall maintain adequate financial security as required by Puc 3003.03 during the period its registration is suspended pursuant to (c) above.

Puc 3004.06 Transfer of Customers Resulting from Unexpected Cessation of CNGS Service.

(a) If an event occurs that causes a CNGS to be unable to provide service to its customers within the state, the CNGS shall:

(1) Provide immediate notice to the commission describing the event and the effective time of the inability to provide service;

(2) Provide immediate notice to all customers describing the event and the effective time of the inability to provide service;

(3) Provide a copy of the notice sent to customers required in (2) above to the commission at the time it is delivered to customers;

(4) Reimburse the LDC at its filed and approved tariffed rate for transferring the CNGS's customers to LDC delivery service;

(5) Refund any outstanding deposits or prepayments to customers within 30 days of the event which caused the CNGS to be unable to provide natural gas to its customers within the state; and

(6) Pay reparations for customer losses if so ordered by the commission following a proceeding conducted in accordance with Puc 3005.

(b) Upon notification pursuant to (a)(1) above, the commission shall suspend the CNGS's registration for 60 days from the date of the event which caused the CNGS to be unable to provide natural gas to its customers within the state.

(c) The commission shall restore the registration if within 60 days of suspension pursuant to (b) above the CNGS demonstrates:

(1) Proof of financial capitalization;

(2) Financial security is retained or obtained pursuant to Puc 3003.03;

(3) All pending consumer complaints are resolved; and

(4) Financial obligations resulting from (a) above have been met.

(d) The commission shall terminate the CNGS's registration after 60 days of suspension if the requirements in (c)(1)-(4) above are not satisfied.

(e) In the event there are unresolved consumer complaints after 60 days of suspension, the commission shall extend suspension of the registration for an additional 90 days while the remaining consumer complaints are resolved.

(f) The CNGS shall maintain adequate financial security as required by Puc 3003.03 during the period its registration is suspended pursuant to (b) above, and as extended pursuant to (e) above.

Puc 3004.07 Commission Action When Necessary to Maintain Continuous Service.

(a) In the event a CNGS does not make adequate provisions for transfers of affected customers to LDC delivery service or to another CNGS pursuant to Puc 3004.05 or Puc 3004.06, or pursuant to Puc 3005.03 or Puc 3005.04, the commission shall:

(1) Direct the affected LDC or LDCs to immediately begin transferring the CNGS's affected customers to LDC delivery service; and

(2) Direct the issuer or guarantor providing the CNGS's financial security to pay to the commission an amount of that financial security determined to be necessary to ensure continuous service to customers through LDC delivery service or another CNGS, pursuant to Puc 3005.06.

(b) If the commission determines that a CNGS has not complied with the provisions for discontinuance of service or for a successor natural gas supplier pursuant to Puc 3004.05 or Puc 3004.06, then, in addition to any action the commission may take pursuant to Puc 3005, the commission shall order notice be given by the CNGS to affected customers clarifying the customers' rights and obligations.

Puc 3004.08~~5~~ Bill Disclosure Information.

(a) The CNGS shall include on any bills it issues or which are issued on its behalf, the following information:

- (1) The starting and ending date of the billing period;
- (2) Any fixed monthly charges;
- (3) The price structure for natural gas therm usage and all other applicable billing determinants;
- (4) The total number of therms used during the billing period;
- (5) For those CNGSs providing separate bills, a statement that the customer's meter readings are available on the LDC's bill;
- (6) Any applicable penalty date, including, but not limited to, penalties for late payments, and the related penalty amount;
- (7) Any other factors necessary to compute the charges;
- (8) An itemized breakdown of the charges, including any late fee, penalty, or aggregation fee, if applicable, and the name of the company or other entity assessing the charge;
- (9) The telephone number, e-mail address, and toll free telephone number, if available, of the CNGS's customer service department or customer service contact person;
- (10) A statement that the customer has the right to file a complaint with the commission after the customer has attempted to resolve the dispute with the CNGS; and

(11) The toll free telephone number of the commission's consumer services and external affairs division.

(b) Upon request of a customer, the CNGS shall provide the customer with a clear and concise statement of the customer's actual consumption for each billing period during the prior year or the months in which the CNGS sold natural gas to the customer.

Puc 3004.096 Notice of Termination of Service.

(a) When a customer has failed to meet any of the material terms and conditions of its agreement for natural gas service with ~~its~~ CNGS, the CNGS may terminate ~~theirs~~ agreement ~~to provide natural gas supplier service to the customer~~ pursuant to (b) below.

(b) The CNGS shall provide written notice of ~~the~~ termination of the agreement to the customer no less than 30 ~~business~~ days prior to the termination, which notice shall ~~state~~ ing the reason(s) for termination and the date upon which the termination will be effective.

~~— (c) Any CNGS that ceases to sell natural gas to a class of customers within the state shall, prior to discontinuing such service:~~

~~(1) Provide at least 30 calendar days' written notice to the commission, and to any affected LDC by electronic or such other means as may be required by the LDC; and~~

~~(2) Provide each customer written notice of its intent to cease operations at least 30 days prior to the start date of the customer's next billing cycle.~~

~~— (d) Any CNGS that ceases to sell natural gas to a class of customers within the state shall refund to customers any outstanding deposits or prepayments within 30 days of final billing.~~

Puc 3004.107 Customer Protections Required of Aggregators.

(a) An aggregator shall, within 5 days of entering into an agreement with a customer, provide ~~the~~each customer with a written statement disclosing the following information:

(1) The name, business address, telephone number, and e-mail address of the aggregator;

(2) The nature of any business relationships or affiliations with any CNGS or LDC;

(3) The toll free telephone number of the commission's consumer services and external affairs division and a statement that customers may contact the commission if they have any questions about their rights and responsibilities; and

(4) A statement, not inconsistent with Puc 3004.1108, of the customer information that will be accorded confidential treatment.

(b) The disclosure statement required by this section shall be written in plain language, and be legibly typed or printed in a font size no smaller than 12 point.

(c) An aggregator shall comply with the telephone solicitation~~telemarketing~~ provisions of Puc 3004.03 ~~as stated above.~~

Puc 3004.1108 Protection~~Release~~ of Confidential Customer Information.

(a) No CNGS or aggregator shall, except as permitted under (c) below or as otherwise required by law, release confidential customer information without express written authorization from the customer, ~~unless otherwise required by law.~~

(b) A CNGS or aggregator shall implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect confidential customer information from unauthorized access, use, destruction, modification, or disclosure, and to prohibit the use of the confidential customer information for a secondary commercial purpose not related to the primary purpose of the service provided to the customer, without the express written consent of the customer. Confidential customer information shall include, but not be limited to:

(1) Customer name, address and telephone number; and

(2) Individual customer payment information.

(c) A CNGS or aggregator may disclose to a third party subject to non-disclosure restrictions confidential customer information as necessary for any one or more of the following purposes: shall be deemed authorized to obtain customer usage information when it has secured from the customer, in writing, the customer's name, account number(s), and the unique utility assigned authorization number(s).

(1) Billing for natural gas service;

(2) Meeting natural gas system or other operational needs;

(3) Implementing any one or more of the following programs:

a. Demand response;

b. Customer assistance;

c. Energy management; and

d. Energy efficiency.

(d) For purposes of this section, the term "non-disclosure restrictions" means that the CNGS or aggregator has required by contract that the third party implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the confidential customer information from unauthorized access, use, destruction, modification, or disclosure, and to prohibit the use of the confidential customer information for a secondary commercial purpose not related to the primary purpose of the contract without the express consent of the customer.

(e) A customer granting authorization to release confidential customer information for purposes described in the terms and conditions of service shall satisfy the requirement in (a) above.

(f) A CNGS shall be deemed authorized to obtain customer usage information when it has received customer authorization as described in Puc 3004. 04.

(g) In the event of a dispute about the release of confidential customer information, including whether the information is or should be confidential, a CNGS, aggregator, or customer may file a complaint with the commission for resolution.

Puc 3004.1209 Other Consumer Protections.

(a) No CNGS or aggregator shall include provisions in its customer contracts that would waive the requirements of Puc 3004.

(b) Any person may ~~submitfile~~ a complaint with the commission that a CNGS or aggregator has engaged in slamming. For purposes of this paragraph, “slamming” means initiating the transfer of a customer to a new CNGS or aggregator without the customer’s authorization.

(c) The commission shall, within 10 business days of ~~the~~ receipt of a complaint alleging that a CNGS or aggregator has engaged in slamming, investigate the facts and circumstances related to the~~any such~~ complaint.

(d) If, after an investigation, the commission determines that a CNGS or aggregator does not possess evidence of ~~thea~~ customer’s or customers’ affirmative selection or authorization~~choice~~, the commission shall require the unauthorized CNGS or aggregator to refund to the customer or customers within 45 days any charges already paid and any expenses incurred in connection with the unauthorized transfer of service for up to 9 months~~switching~~.

(e) An aggregator discontinuing service to all customers or any class of customers shall provide no less than 30 days prior written notice of such discontinuance to all affected customers.

(f) The provisions regarding terms of service and disclosure prior to enrollment as set forth in Puc 3004.02 and Puc 3004.10(a) and (b), shall not apply to any contract for service entered into prior to the effective date of these rules during the original term of such contract, provided that such contract complied with the Puc 3000 rules applicable as of its initial effective date.

PART Puc 3005 ENFORCEMENT PROVISIONS AND PROCEDURES

Puc 3005.01 Assessment of Fines Through Notice of Violation~~Sanctions for Failure to Comply.~~

(a) If the commission or the commission's division that processes customer complaints, after reviewing evidence and testimony obtained in writing or conferences, determines that a sanctionable event has occurred for which the assessment of fines would serve a punitive or deterrent purpose, the commission or that division shall issue a notice of violation (NOV) to the CNGS or aggregator.

(b) The NOV so issued shall include the following:

- (1) The factual basis and the statutory or regulatory basis for the preliminary determination that a sanctionable event has occurred;
- (2) The fines proposed to be assessed, which shall not exceed \$1,000.00 per day for each sanctionable event;
- (3) Procedures for remitting payment of the assessed fines; and
- (4) The right of the CNGS or aggregator to file a request in writing for a hearing before the commission, under (c)(2) below.

(c) Within 15 business days following the date of issuance of the NOV, the CNGS or aggregator to which the NOV was issued shall:

- (1) Sign a consent agreement and remit the assessed fines to the commission;
- (2) File a request in writing for a hearing before the commission with respect to the sanctionable event described in the NOV; or
- (3) Be deemed to have agreed to the findings described in the NOV and the fines assessed under the NOV, if the CNGS or aggregator failed to respond to the NOV within such 15 business day period.

~~(d) Upon such a hearing request, the commission shall provide the CNGS or aggregator with notice and an opportunity for a hearing, to be held pursuant to Chapter Puc 200.~~

~~(e) At the hearing, the CNGS or aggregator may demonstrate with evidence that the determination in the NOV that a sanctionable event has occurred is incorrect or that the level of fines proposed to be assessed is excessive.~~

~~(f) If the commission finds, after the hearing and based on the record in the proceeding and after consideration of the factors described in Puc 3005.05, that the sanctionable event has occurred with respect to the CNGS or aggregator, the commission shall assess against the CNGS or aggregator the proposed fines recommended in the NOV or such greater or lesser fines, not to exceed \$1,000.00 per day for each sanctionable event, as the commission finds to be necessary to serve the punitive or deterrent purposes.~~

~~(a) For the purposes of this section, "mitigating circumstances" means facts, actions or conditions which may excuse or justify a particular course of action.~~

~~(b) The commission shall, pursuant to RSA 365:8 a, impose a penalty upon a CNGS or aggregator, up to \$1,000.00 per day for each violation, after notice and an opportunity to be heard, for any of the following:~~

~~(1) Failure to register with the commission as required in Puc 3003;~~

~~(2) A violation of any of the provisions of Puc 3004 or any applicable state statute;~~

~~(3) Acting in a manner contrary to or providing false information in the statements required by Puc 3003; or~~

~~(4) A violation of any commission order enforcing RSA 365:8 a or Puc 3000.~~

~~(c) The commission shall suspend the registration of a CNGS or aggregator after notice and an opportunity to be heard for:~~

~~(1) The second and third violations of any of the provisions of Puc 3004 or any applicable state statute; or~~

~~(2) A second violation of any commission order enforcing RSA 365:8 a or Puc 3000.~~

~~(d) The commission shall revoke the registration of a CNGS or aggregator after notice and an opportunity to be heard for:~~

~~(1) Willful misrepresentation of any of the information required by Puc 3003 which, if accurately reported, would have resulted in the denial of the application;~~

~~(2) The fourth or subsequent violations of any of the provisions of Puc 3004 or any applicable state statute; or~~

~~(3) A third or subsequent violation of any commission order enforcing RSA 365:8 a or Puc 3000.~~

~~(e) Any CNGS or aggregator whose registration has been suspended shall be prohibited from doing business in the state as a CNGS or aggregator for a period of no less than 30 days nor more than 6 months from the date of suspension.~~

~~(f) Any CNGS or aggregator whose registration has been revoked shall be prohibited from doing business in the state as a CNGS or aggregator for a period of no less than 6 months nor more than 2 years from the date of revocation.~~

~~_____ (g) The commission shall determine the period of revocation or suspension as described in (e) through (f) above, or the penalty, as described in (b) above, as applicable, based on:~~

~~(1) The severity of the infraction;~~

~~(2) Mitigating circumstances, if any; and~~

~~(3) Other relevant information pertaining to the business practices of the CNGS or aggregator and its principals.~~

~~_____ (h) A CNGS or aggregator which is prohibited from doing business in the state may, at the end of the period of suspension or revocation, petition the commission for reinstatement by submitting a new application.~~

~~_____ (i) In addition to all other information as is required for an initial application, the CNGS or aggregator seeking reinstatement shall also provide the following:~~

~~(1) Evidence that any deficiencies and/or problems regarding the original suspension or revocation have been remedied; and~~

~~(2) A registration fee of \$500.00 if a CNGS or \$250.00 if an aggregator.~~

~~_____ (j) The commission shall waive or lessen the imposition of any sanctions if it determines that:~~

~~(1) The violation was immaterial, unintentional, or both;~~

~~(2) The CNGS or aggregator acted in good faith to comply with all applicable statutory and regulatory requirements; or~~

~~(3) Other mitigating circumstances exist.~~

Puc 3005.02 Prospective Suspension of Marketing and Sales Activities.

(a) If the commission finds, after notice and an opportunity to be heard and after consideration of the factors described in Puc 3005.05, that a sanctionable event has occurred with respect to a CNGS or aggregator and that the interests of customers of the CNGS or aggregator would be protected by such action, the commission shall suspend the right of the CNGS or aggregator to engage in marketing or sales activities on a prospective basis for a specified period of time not to exceed the remaining term of the CNGS's or aggregator's current registration under Puc 3003.

(b) Upon the issuance by the commission of an order under (a) above, the CNGS or aggregator shall not engage, either directly or indirectly, in any marketing or sales activities in the state with respect to the supply of natural gas or the procurement of such supply during the specified period of time.

Puc 3005.03 Suspension of Registration of CNGS or Aggregator.

(a) If the commission finds, after notice and an opportunity to be heard and after consideration of the factors described in Puc 3005.05, that a sanctionable event has occurred with respect to a CNGS or aggregator and that the interests of customers of the CNGS or aggregator would not be harmed by such action, the commission shall suspend the registration of the CNGS or aggregator for a specified period of time not to exceed the remaining term of the CNGS's or aggregator's current registration under Puc 3003.

(b) Upon the issuance by the commission of an order under (a) above, the registration of the CNGS or aggregator shall be suspended and the CNGS or aggregator shall not provide service, either directly or

indirectly, to any customers in the state with respect to the supply of natural gas or the procurement of such supply during the specified period of suspension.

(c) The CNGS or aggregator subject to a suspension order issued under (a) above shall make arrangements for all of its customer accounts to be transferred and provide prior written notice to customers of such transfers in compliance with the provisions of such order and the requirements of this chapter. The CNGS or aggregator shall provide the commission with written confirmation and supporting evidence that it has complied with the foregoing requirements.

Puc 3005.04 Revocation of Registration of CNGS or Aggregator.

(a) If the commission finds, after notice and an opportunity to be heard and after consideration of the factors described in Puc 3005.05, that a sanctionable event has occurred with respect to a CNGS or aggregator and that the interests of customers of the CNGS or aggregator would not be harmed by such action, the commission shall revoke the registration of the CNGS or aggregator.

(b) Upon the issuance by the commission of an order under (a) above, the registration of the CNGS or aggregator shall be revoked and the CNGS or aggregator shall not provide service, either directly or indirectly, to any customers in the state with respect to the supply of natural gas or the procurement of such supply from and after the effective date of revocation.

(c) The CNGS or aggregator subject to a revocation order issued under (a) above shall make arrangements for all of its customer accounts to be transferred and provide prior written notice to customers of such transfers in compliance with the provisions of such order and the requirements of this chapter. The CNGS or aggregator shall provide the commission with written confirmation and supporting evidence that it has complied with the foregoing requirements.

Puc 3005.05 Factors to be Considered Regarding Sanctions.

(a) The amount of any fines to be assessed under Puc 3005.01, the period and scope of any suspension under Puc 3005.02 or Puc 3005.03, as applicable, or the decision to revoke the registration of a CNGS or aggregator under Puc 3005.04, shall be determined based on consideration of the following factors:

- (1) The severity of the sanctionable event;
- (2) Whether the sanctionable event was unintentional or immaterial;
- (3) Whether the CNGS or aggregator acted in good faith to comply with all applicable statutory and regulatory requirements;
- (4) Mitigating circumstances, if any, with respect to the sanctionable event; and
- (5) Other relevant information pertaining to the business practices of the CNGS or aggregator and its principals; and

(b) For the purposes of this section, “mitigating circumstances” means facts, actions or conditions which might excuse or justify a particular course of action.

Puc 3005.06 Commission Claims Against CNGS’s Financial Security. Upon the occurrence of a sanctionable event by or with respect to a CNGS that requires or involves the payment of money and if payment has not been made by the CNGS within 14 days of a commission order requiring such payment, the commission shall make a claim under or pursue an action against the financial security provided by the CNGS under Puc 3003.01(c)(1), Puc 3003.02(a)(2), and Puc 3003.03, for the following amounts and in the following order of payment priority:

(a) Customer complaint reparations or restitution amounts, ordered by the commission to be paid following notice and hearing, and remaining unpaid by the CNGS for 30 days or more after the date due;

(b) Fines assessed by the commission under Puc 3005.01, and remaining unpaid by the CNGS for 60 days or more after the date due; and

(c) Commission annual assessment amounts remaining unpaid by the CNGS on June 1 of any calendar year, in the absence of a pending objection under RSA 363-A:4 or an exemption under RSA 363-A:5.

Puc 3005.07~~2~~ Investigation by the Commission By Reason of Consumer Complaint.

(a) Upon the filing of a complaint with the commission's ~~consumer affairs~~ division that processes customer complaints, either verbally or in writing, against a CNGS or aggregator alleging that the CNGS or aggregator is not in compliance with the provisions of this chapter Puc 3000, ~~that the commission's consumer affairs~~ division shall be authorized to begin an investigation.

(b) The CNGS or aggregator shall provide any relevant information to the ~~commission's consumer affairs~~ division that processes customer complaints which would assist ~~that the consumer affairs~~ division in its efforts to investigate and resolve the dispute that is the subject of such complaint.

(c) The CNGS, ~~the~~ aggregator, or the customer may request a hearing before the commission if dissatisfied with the resolution of the dispute that is the subject of such complaint by the commission's consumer affairs division's ~~that processes customer~~ disposition of the complaints.

(d) The ~~commission's consumer affairs~~ division that processes customer complaints shall request a hearing before the commission when it determines that the dispute that is the subject of such complaint remains unresolved and issues remain which requires resolution by the commission.

Readopt with amendments Puc 3006, effective 9-25-10 (Document #9796-B), to read as follows:

PART Puc 3006 INFORMATION SUBMISSION REQUIREMENTS FORMS

Puc 3006.01 Information Required Form for Initial and Renewal Registration of CNGS ~~competitive~~ Natural Gas Suppliers.

~~(a)~~ The registration application required by Puc 3003.01(a) and Puc 3003.02(a) shall include the following information and signature:

~~(a1)~~ The legal name of the applicant as well as the any trade name(s), if any, under which it intends to operate in this state ~~and, if available, its website address~~;

~~(b2)~~ The applicant's business address, telephone number, ~~and~~ e-mail address, and website address;

~~(c3)~~ The applicant's state or jurisdiction of organization ~~place of incorporation~~, if anything other than an individual;

~~(d4)~~ The name(s), title(s), business address(es), telephone number(s), and e-mail address(es) of the applicant, if an individual, or of the applicant's principal(s), if the applicant is anything other than an individual;

~~(e5)~~ The following regarding any affiliate or subsidiary of the applicant ~~that which~~ is conducting business in New Hampshire:

~~(1)a.~~ The name, business address, and telephone number of the entity;

~~(2)b.~~ A description of the business purpose of the entity; and

~~(3)e.~~ A description of any agreement(s) with any affiliated New Hampshire LDC(s), and the docket number relative to the filing of such agreement(s) with the commission;

~~(f6)~~ The telephone number of the applicant's customer service department or the name, title, telephone number, and e-mail address of the customer service ~~representative~~~~contact person~~ of the applicant, including toll free telephone numbers, if available;

~~(g7)~~ The name, title, business address, telephone number, and e-mail address of ~~each~~~~the~~ individual responsible for responding to commission inquiries regarding:-

(1) Customer complaints;

(2) Regulatory compliance matters; and

(3) Commission assessment payments;

~~(h8)~~ Evidence of the applicant's authorization to do business in New Hampshire from the New Hampshire secretary of state, if anything other than an individual~~The name, title, business address, telephone number and e-mail address of the individual who is the applicant's registered agent in New Hampshire for service of process;~~

~~(i9)~~ Evidence of the applicant's registration of the trade name, if any, to be used by the applicant ~~A copy of the applicant's authorization to do business~~ in New Hampshire from the New Hampshire secretary of state, ~~if anything other than an individual;~~

~~(j10)~~ A list of LDCs in New Hampshire through which the applicant intends to provide service, and, to the extent the applicant does not intend to provide service in the entire franchise area of an LDC, at this list of shall delineate the cities and towns in which where the applicant intends to provide service within such LDC franchise area;

~~(k11)~~ A description of the types of customers the applicant intends to serve;

(l) A list of other states or jurisdictions in which the applicant currently conducts business relating to the sale of natural gas;

~~(m12)~~ A listing disclosing the number and type of customer complaints concerning the applicant or its principals ~~and affiliates, if any, filed with or by any commission or regulatory agency, attorney general's office, or other governmental consumer protection regulatory authority, for the most recent 2 calendar years in every state or other jurisdiction in which the applicant or any such principal or affiliate a state or federal licensing/registration agency, attorney general's office or other governmental consumer protection agency for the most recent calendar year in every state in which the applicant~~ has conducted business relating to the sale of natural gas;

~~(n13)~~ A statement as to whether the applicant or any of the applicant's principals, ~~as listed in a. through c. below, have ever been convicted of any felony that has not been annulled by a court:~~

~~a.-(1) Has ever been convicted of any felony that has not been annulled by a court~~~~For partnerships, any of the general partners;~~

~~b.-(2) Has, within the 10 years immediately prior to application, had any civil, criminal, or regulatory sanctions or penalties imposed against it, him, or her pursuant to any state or federal consumer protection law or regulation~~~~For corporations, any of the officers, directors or controlling stockholders; or~~

~~e.-(3) Has, within the 10 years immediately prior to application, settled any civil, criminal, or regulatory investigation or complaint involving any state or federal consumer protection law or regulation. For limited liability companies, any of the managers or members;~~

~~(4) Is currently the subject of any pending civil, criminal, or regulatory investigation or complaint involving any state or federal consumer protection law or regulation; or~~

~~(5) Has been denied authorization to provide competitive natural gas supply service or natural gas aggregation service in any other state or jurisdiction;~~

~~(14) A statement as to whether the applicant or any of the applicant's principals:~~

~~a. Has, within the 10 years immediately prior to registration, had any civil, criminal or regulatory sanctions or penalties imposed against them pursuant to any state or federal consumer protection law or regulation;~~

~~b. Has, within the 10 years immediately prior to registration, settled any civil, criminal or regulatory investigation or complaint involving any state or federal consumer protection law or regulation; or~~

~~c. Is currently the subject of any pending civil, criminal or regulatory investigation or complaint involving any state or federal consumer protection law or regulation;~~

~~(o15) If an affirmative answer is given to any item in (13) or (n14) above, a detailed explanation of the occurrence and the related circumstances event;~~

~~(p16) For those applicants intending to telemarket, a statement that the applicant shall:~~

~~a.-(1) Maintain a list of consumers who request being placed on the applicant's do-not-call list for the purposes of telemarketing;~~

~~b.-(2) Obtain monthly updated do-not-call lists from the National Do Not Call Registry; and;~~

~~c.-(3) Not initiate calls to New Hampshire customers who have either requested being placed on the applicant's do-not-call list(s) or customers who are listed on the National Do Not Call Registry;~~

~~(q17) For those applicants not that intending not to telemarket, a statement to that effect;~~

~~(r18) A sample of the bill form(s) the applicant intends to use if the applicant does not intend to use the LDC's billing service or a statement that the applicant intends to use the LDC's billing service;~~

~~(s19) A copy of any customer contracts forms or representative samples of contracts the applicant intends to use, including any schedules or other documentation attached to, incorporated into, or referenced in such contracts;~~

~~(t20) A statement that the applicantCNGS has verified the registration of any aggregator with which it has any agreements to provide service to New Hampshire customers, prior to entering into such agreements;~~

~~(u) The date upon which the applicant expects to commence marketing its natural gas supply services to customers in New Hampshire;~~

~~(v21) A statement certifying that the applicant has the authority to file the application on behalf of the CNGS and an attestation that its contents are truthful, accurate, and complete; and~~

~~(w22)~~ The signature of the applicant or its authorized representative.

Puc 3006.02 Information Required Form for Initial and Renewal Registration of Aggregators.

~~(a)~~ The registration application required by Puc 3003.0~~54~~(a) and Puc 3003.0~~65~~(b) shall include the following information and signature:

 ~~(a1)~~ The legal name of the applicant as well as the any trade name, ~~(s) if any,~~ under which it intends to operate in this state;

 ~~(b2)~~ The applicant's business address, telephone number, e-mail address, and website address, if as applicable;

 ~~(c3)~~ The name(s), title(s), business address(es), telephone number(s), and e-mail address(es) of the applicant if an individual or of the applicant's principal(s), if the applicant is anything other than an individual;

 ~~(d4)~~ The telephone number of the customer service department or the name, title, telephone number, and e-mail address of the customer service representative contact person of the applicant, including toll free telephone numbers if available;

 ~~(e)~~ The name, title, business address, telephone number, and e-mail address of each individual responsible for responding to commission inquiries regarding:

- (1) Customer complaints;
- (2) Regulatory compliance matters; and
- (3) Commission assessment payments;

 ~~(f5)~~ Evidence of the applicant's registration ~~A copy of the applicant's authorization~~ to do business in New Hampshire from the New Hampshire secretary of state, if anything other than an individual;

 ~~(g)~~ Evidence of the applicant's registration of the trade name, if any, to be used by the applicant in New Hampshire from the New Hampshire secretary of state;

 ~~(h)~~ A list of other states or jurisdictions in which the applicant currently conducts business relating to the aggregation of natural gas customers;

 ~~(i)~~ A statement as to whether the applicant or any of the applicant's principals:

- (1) Has ever been convicted of any felony that has not been annulled by a court;
- (2) Has, within the 10 years immediately prior to application, had any civil, criminal, or regulatory sanctions or penalties imposed against it, him, or her pursuant to any state or federal consumer protection law or regulation;
- (3) Has, within the 10 years immediately prior to application, settled any civil, criminal, or regulatory investigation or complaint involving any state or federal consumer protection law or regulation;
- (4) Is currently the subject of any pending civil, criminal, or regulatory investigation or complaint involving any state or federal consumer protection law or regulation; or

(5) Has been denied authorization to provide competitive natural gas supply service or natural gas aggregation service in any other state or jurisdiction;

(j) If an affirmative answer is given to any item in (i) above, a detailed explanation of the occurrence and the related circumstances;

(k) A list of the CNGSs in New Hampshire through which the applicant intends to provide service;

(l) A statement that the applicant is not representing any supplier interest; or a listing of any supplier interest(s) the applicant intends to represent; and

(m) The date upon which the applicant expects to commence marketing its services to customers in New Hampshire; Payment of the required filing fee; and

(n) A statement certifying that the applicant has the authority to file the application on behalf of the aggregator and an attestation that its contents are truthful, accurate, and complete; and

(o) The signature of the applicant or its authorized representative.

Puc 3006.03 Information Required for Assessment Exemption Claim. The commission assessment exemption claim required by Puc 3003.07 shall include the following information and signature:

(a) The legal name of the CNGS or aggregator and the trade name, if any, under which it is registered to conduct business in New Hampshire;

(b) The docket number under which the CNGS's or aggregator's most recent registration was approved by the commission;

(c) The gross revenue earned in New Hampshire by the CNGS or aggregator during the most recent fiscal year, which is the period from July 1 through June 30;

(d) A statement identifying the fiscal year for which the exemption is claimed;

(e) The name, telephone number, and e-mail address of the authorized individual preparing the exemption claim;

(f) The date on which the exemption claim was completed, which shall not be prior to July 1 of the applicable year; and

(g) The signature of the exemption claim preparer and an attestation that the information provided in the exemption claim is truthful, accurate, and complete.

Appendix

Rule	Specific State Statute which the Rule Implements
Puc 3000 (other specific statute provisions implemented by specific rules are listed below)	RSA 365:8-a
<u>Puc 3004.11</u>	<u>RSA 363:37-38; RSA 365:8-a</u>
Puc 3005	RSA 365:8-a; RSA 541-A:30,II
<u>Puc 3006</u>	<u>RSA 365:8-a</u>