

Notice Number 2024-40

Rule Number En 400

1. Agency Name & Address:

**Department of Energy  
21 S. Fruit St., Ste. 10  
Concord, NH 03301**

2. RSA Authority: RSA 12-P:5, IV

3. Federal Authority: CFR 64.1330(b)

4. Type of Action:

Adoption X

Repeal \_\_\_\_\_

Readoption \_\_\_\_\_

Readoption w/amendment \_\_\_\_\_

5. Short Title: **Rules for Telephone Utilities**

6. (a) Summary of what the rule says and of any proposed amendments including whether the rule implements a state statute for the first time:

**The intended action of the rulemaking is to adopt Chapter En 400 on rules for telephone utilities.**

**The substance of the new Chapter En 400 rules proposed by the Department of Energy (Department) is based on various provisions of the existing Chapter Puc 400 rules of the Public Utilities Commission (PUC) on telephone utilities effectuating the division of regulatory responsibilities between the Department and the PUC. The Department drafted the Chapter En 400 rules in coordination with the PUC.**

**The Department proposes to adopt these new Chapter En 400 rules in accordance with RSA 12-P:2, which created the Department effective July 1, 2021. (2021, 91:187, eff. July 1, 2021)**

**The Department proposes to adopt the existing sections of the Puc 400 rules where the Department's statutory authority to do so exists. The purpose of the En 400 rules is to establish standard procedures, general business rules, and guidelines for telephone utilities to comply with relevant statutes and orders of the PUC. Additionally, En 413, which is based on Puc 413, provides the opportunity for telecommunications carriers, as defined under federal law, to register in New Hampshire to obtain evidence of their rights and obligations under the Communications Act of 1934, as amended.**

**The Initial Proposal sets out regulatory requirements for voice service providers including (1) reports and filings concerning recognition and treatment of such providers as Excepted Local Exchange Carriers (ELECs) (See En 403-En 409), (2) additional requirements for Incumbent Local Exchange Carriers (ILECs) operating as ELECs (See En 410), and (3) reports and filings applicable to Voice Over Internet Protocol (VoIP) Services and Internet Protocol (IP)-Enabled Services providing voice capabilities described in RSA 362:7, I(d)(1) and (3), other than cellular mobile radio communications service providers. (See En 411)**

6. (b) Brief description of the groups affected:

**This rule affects telephone utilities as defined in RSA 362:2 and their customers.**

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

<b>Rule</b>	<b>Specific State Statute the Rule Implements</b>
En 401.01	RSA 12-P:5, IV; RSA 374:3
En 401.02	RSA 12-P:5, IV; RSA 374:3
En 402.01	RSA 12-P:5, IV; RSA 374:1; RSA 374:3
En 402.02	RSA 12-P:5, IV; RSA 374:22-p
En 402.03	RSA 12-P:5, IV; RSA 374:3
En 402.04	RSA 12-P:5, IV; RSA 374:3
En 402.05	RSA 12-P:5, IV; RSA 374:3
En 402.06	RSA 12-P:5, IV; RSA 374:3
En 402.07	RSA 12-P:5, IV; RSA 374:1; RSA 374:3
En 402.08	RSA 12-P:5, IV; RSA 374:3
En 402.09	RSA 12-P:5, IV; RSA 374:3
En 402.10	RSA 12-P:5, IV; RSA 362:7(c)
En 402.11	RSA 12-P:5, IV; RSA 362:7(b); RSA 374:3; RSA 378:18-b; 47 USC 251(h)
En 402.12	RSA 12-P:5, IV; RSA 362:7(b); RSA 362:7(c); 47 USC 251(h)
En 402.13	RESERVED
En 402.14	RSA 12-P:5, IV; 47 CFR 64.1330(b)
En 402.15	RSA 12-P:5, IV; RSA 362:2; 47 CFR 64.1330(b)
En 402.16	RSA 12-P:5, IV; RSA 374:1; RSA 374:3
En 402.17	RSA 12-P:5, IV; RSA 374:22-g; 47 USC 153(44)
En 402.18	RSA 12-P:5, IV; RSA 374:3
En 402.19	RSA 12-P:5, IV; RSA 374:1; RSA 374:3
En 402.20	RSA 12-P:5, IV; 47 USC 225(b)
En 402.21	RSA 12-P:5, IV; 362:2; RSA 362:7
En 402.22	RSA 12-P:5, IV; RSA 374:1-a; RSA 374:28-a
En 402.23	RSA 12-P:5, IV; RSA 374:3
En 402.24	RSA 12-P:5, IV; RSA 362:2; RSA 362:7
En 403.01	RSA 12-P:5, IV; RSA 362:2; RSA 362:7; RSA 374:1; RSA 374:3
En 403.02	RSA 12-P:5, IV; RSA 362:2; RSA 362:7; RSA 374:1; RSA 374:3
En 404.01	RESERVED
En 404.02	RSA 12-P:5, IV; RSA 374:3; RSA 374:22
En 404.03	RSA 12-P:5, IV; RSA 374:3; RSA 374:22
En 404.04	RSA 12-P:5, IV; RSA 363-A:2
En 404.05	RESERVED
En 404.06	RSA 12-P:5, IV; RSA 374:3; RSA 378:1-a
En 404.07	RSA 12-P:5, IV; RSA 374:3; RSA 374:1
En 404.08	RSA 12-P:5, IV; RSA 365:6; RSA 374:4; RSA 374:18
En 404.09	RSA 12-P:5, IV; RSA 374:3
En 404.10	RSA 12-P:5, IV; RSA 362:7, III(e); RSA 374:1-a; RSA 374:3; RSA 374:59
En 404.11	RSA 12-P:5, IV; RSA 374:1-a; RSA 374:59
En 404.12	RSA 12-P:5, IV; 47 CFR 64.1330
En 405	RESERVED
En 406.01	RSA 12-P:5, IV; RSA 374:1; RSA 374:3; RSA 374:4; RSA 374:34-a, VIII
En 406.02	RSA 12-P:5, IV; RSA 374:1; RSA 374:3; RSA 374:4; RSA 374:34-a
En 406.03	RSA 12-P:5, IV; RSA 374:1; RSA 374:3; RSA 374:4; RSA 374:34-a
En 407.01	RSA 12-P:5, IV; 47 USC 251(a); RSA 374:1; RSA 374:3; RSA 374:4

<b>Rule</b>	<b>Specific State Statute the Rule Implements</b>
En 407.02	RSA 12-P:5, IV; RSA 374:1; RSA 374:3; RSA 374:4; 47 USC 251(a)
En 407.03	RSA 12-P:5, IV; RSA 374:1; RSA 374:3; RSA 374:4; 47 USC 251(a)
En 407.04	RSA 12-P:5, IV; RSA 374:1; RSA 374:3; RSA 374:4; 47 USC 251(a)
En 407.05 (a) and (b)	RSA 12-P:5, IV RSA 374:1-a; RSA 374:59
En 407.06	RSA 12-P:5, IV RSA 374:22-p; 47 CFR 64.2301-2345
En 408.01	RSA 12-P:5, IV; RSA 363-A:2 & :4; RSA 374:1; RSA 374:3
En 408.02	RSA 12-P:5, IV; RSA 363-A:2 & :4; RSA 374:1; RSA 374:3; RSA 374:4
En 408.03	RSA 12-P:5, IV; RSA 374:1; RSA 374:3; RSA 374:18
En 408.04	RSA 12-P:5, IV; RSA 91-A
En 409.01	RSA 12-P:5, IV; RSA 363-A:2 & :4; RSA 374:1; RSA 374:3; RSA 374:4; RSA 641.3
En 409.02	RSA 12-P:5, IV; RSA 362:2; RSA 363-A:2 & :4; RSA 641.3
En 409.03	RSA 12-P:5, IV RSA 374:1; RSA 374:3; RSA 374:4; RSA 374:34-a, VIII; RSA 374:37-39; RSA 641.3
En 409.04	RESERVED
En 409.05	RSA 12-P:5, IV; RSA 374:1; RSA 374:3; RSA 374:4; RSA 641.3
En 409.06	RSA 12-P:5, IV; RSA 641.3; 47 CFR 64.1330
En 409.07	RSA 12-P:5, IV; RSA 374:59; RSA 641.3
En 409.08	RSA 12-P:5, IV; RSA 362:2; RSA 374:1; RSA 374:3; RSA 374:4; RSA 374:22; RSA 641.3; 47 USC 253(b)
En 409.09	RSA 12-P:5, IV; RSA 374:1; RSA 374:3; RSA 374:4; RSA 641.3;
En 410.01	RSA 12-P:5, IV; RSA 362:2; RSA 362:7; RSA 374:1; RSA 374:3
En 410.02	RSA 12-P:5, IV; RSA 362:2; RSA 362:7; RSA 374:1; RSA 374:3
En 410.03 (a), (b) and (c)	RSA 12-P:5, IV; RSA 365:1; RSA 374:22-p, III; RSA 374:59
En 410.04	RSA 12-P:5, IV; RSA 374:22-p, VIII
En 410.05	RSA 12-P:5, IV; RSA 365:1; RSA 374:22-p
En 411.01	RSA 12-P-5, IV; RSA 362:7, I(d)(1) and (3); RSA 363-A:2, I(c) and I(d)
En 412	RESERVED
En 413.01	RSA 12-P:5, IV; RSA 363-A:2, III; RSA 374:34-a; RSA 374:59, II & III; 47 U.S.C. 224
En 413.02	RSA 12-P:5, IV; RSA 374:34-a; RSA 374:59, II & III; 47 U.S.C. 224
En 413.03	RSA 12-P:5, IV; RSA 374:59, II & III; 47 CFR 52.15

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

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8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Tuesday, April 23, 2024**

Fax  E-mail  Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Monday, April 15, 2024 @10:00AM**

Physical Location: **Hearing Room A  
21 S. Fruit Street  
Concord, NH 03301**

Electronic Access (if applicable): **N/A**

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

FIS # 24:026 , dated 02/20/24

**1. Comparison of the costs of the proposed rule(s) to the existing rule(s):**

Not applicable as these are new rules. However, there is no difference in cost when comparing the proposed rules to the existing Puc 400 rules.

**2. Cite the Federal mandate. Identify the impact on state funds:**

No federal mandate, no impact on state funds.

**3. Cost and benefits of the proposed rule(s):**

There is no cost or benefit attributable to the proposed rules. Any cost or benefit associated with the proposed rules is attributable to RSA 12-P:2 and not the rules.

**A. To State general or State special funds:**

None.

**B. To State citizens and political subdivisions:**

None.

**C. To independently owned businesses:**

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

**Although the rules modify an existing program or responsibility, they do not apply to any political subdivision of the state, and therefore do not increase the costs a political subdivision must pay. No municipal corporation and county corporation operates as an “incumbent local exchange carrier” as defined and regulated in these rules. Municipal corporations and county corporations operating within their corporate limits are specifically exempted from definition of “excepted local exchange carrier” and therefore from regulation under these rules.**