

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Regulations of Cable Television

Proposed Readoption with Amendments: N.J.A.C. 14:18

Proposed New Rules: N.J.A.C. 14:18-3.27 and 16.8

Proposed Repeal: N.J.A.C. 14:18-6.5

Authorized By: Lawanda R. Gilbert, Acting Director, Office of Cable Television (with approval of the New Jersey Board of Public Utilities, Dianne Solomon, President, Jeanne M. Fox, Joseph L. Fiordaliso, and Mary-Anna Holden, Commissioners).

Authority: N.J.S.A. 48:5A-10 and 48:5A-19.b.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

BPU Docket Number: CX14020154.

Proposal Number: PRN 2014-050.

A **public hearing** concerning the proposal will be held on June 13, 2014, at 10:30 A.M. at:

Board of Public Utilities
First Floor Multipurpose Room
44 South Clinton Avenue
Trenton, NJ 08609

Comments may be submitted through June 20, 2014, by email in **Microsoft Word format**, or in a format that can be easily converted to Word, to: rule.comments@bpu.state.nj.us or on paper to:

Kristi Izzo, Secretary
NJ Board of Public Utilities
Attn: Docket No. CX14020154
44 South Clinton Avenue, 9th Floor
PO Box 350
Trenton, NJ 08625-0350

The agency proposal follows:

Summary

Pursuant to the New Jersey Cable Television Act ("Cable Television Act" or "Act"), specifically N.J.S.A. 48:5A-9 and 10, the Director of the Office of Cable Television (OCTV), with approval of the Board of Public Utilities (Board) is empowered to promulgate rules and regulations necessary to carry out the purposes of the Act. N.J.A.C. 14:18 contains the substantive rules of the Board governing cable television companies. These rules are necessary to ensure orderly regulation of the cable television industry in the State of New Jersey.

By filing this notice of rules proposed for readoption with amendments, repeals, and new rules with the Office of Administrative Law prior to April 13, 2014, the expiration date of these rules is extended 180 days to October 10, 2014, pursuant to N.J.S.A. 52:14B-5.1.c(2). As the Board has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements set forth at N.J.A.C. 1:30-3.1 and 3.2, pursuant to N.J.A.C. 1:30-3.3(a)5.

In developing the rulemaking, the Board conducted stakeholder outreach through public meetings and acceptance of written comments. The feedback received was carefully considered and many suggestions were incorporated into the rules. Filing comments were: New Jersey Cable and Telecommunications Association, Verizon New Jersey, Inc. (Verizon), and the Division of Rate Counsel.

Following is a section-by-section summary of the rules proposed for readoption and the proposed amendments, new rules, and repeals.

Subchapter 1 contains the general provisions of the chapter.

N.J.A.C. 14:18-1.1 contains the scope of the rules.

N.J.A.C. 14:18-1.2 defines certain words and terms utilized in this chapter. The Board proposes to replace the definition of "normal business hours" to conform to the Board's rules for utilities and other regulated entities, which was adopted in 2010 (see 42 N.J.R. 2271(a)), found at

N.J.A.C. 14:3-1.1. Specifically, the definition of "normal business hours" is amended to clarify that a day upon which the New Jersey State government is closed for business is not a normal business day, even if the reason the State government is closed is not a State holiday. This reflects actions by the State to close for business periodically as a result of weather or other reasons.

Subchapter 2 deals with cable television plant.

N.J.A.C. 14:18-2.1 pertains to how cable television companies must construct plants.

N.J.A.C. 14:18-2.2 requires cable television companies to inspect work performed by contractors on their behalf.

N.J.A.C. 14:18-2.3 pertains to how cable television companies must construct plants in existing public utility rights-of-way.

N.J.A.C. 14:18-2.4 pertains to the identification of property, buildings, and structures of cable television companies.

N.J.A.C. 14:18-2.5 pertains to the identification of property, poles, or structures supporting or connecting wires or cables of cable television companies.

N.J.A.C. 14:18-2.6 pertains to the maintenance of plant, equipment, and facilities by cable television companies.

N.J.A.C. 14:18-2.7 requires cable television companies to inspect their property at sufficiently frequent intervals to ensure proper operating conditions.

N.J.A.C. 14:18-2.8 pertains to construction work near cable television facilities.

N.J.A.C. 14:18-2.9 pertains to the calculation of pole attachment rent where the Board must determine the appropriate rental rate.

N.J.A.C. 14:18-2.10 through 2.12 pertain to pole attachment rate changes, calculation of duct and conduit rent, pole attachment disputes, and methods for resolution thereof.

Subchapter 3 pertains to customer rights, in general.

N.J.A.C. 14:18-3.1 provides that every cable television company must furnish and maintain safe, adequate, economical, and efficient service.

N.J.A.C. 14:18-3.2 pertains to requests for service by customers and how cable television companies must treat those requests.

N.J.A.C. 14:18-3.3 pertains to customer information required to be furnished by the cable television companies. Pursuant to P.L. 2013, c. 232, the Board proposes new subsection (e) to provide that a cable television company may provide its current schedule of prices, rates, terms, and conditions on its Internet website in a manner that allows current and potential customers to make informed decisions. Additionally, proposed subsection (e) would require a cable television company to provide a paper copy of its current schedule of prices, rates, terms, and conditions upon request of a customer, if the customer cannot access the information on the cable television company's Internet website. New subsection (f) is proposed to require quarterly notice of how a customer can obtain information regarding the cable television company's schedule of prices, rates, terms, and conditions.

N.J.A.C. 14:18-3.4 requires cable television companies to provide copies of its current schedule of prices, rates, terms, and conditions to customers, upon request, and post notice at each of its customer walk-in centers that the schedule of prices, rates, terms, and conditions is available for inspection. Pursuant to P.L. 2013, c. 232, the Board proposes to add new subsection (e) to provide that a cable television company may elect to post its current schedule of prices, rates, terms, and conditions on its website in lieu of providing copies of its schedule of prices, rates, terms, and conditions to customers upon request. New subsection (f) is proposed to require quarterly notice of how a customer can obtain information either in electronic or paper form. New subsection (g) is proposed to provide that a cable television company must provide in paper form its schedule of prices, rates, terms, and conditions to customers who cannot access said schedule on the cable television company's website.

N.J.A.C. 14:18-3.5 pertains to how cable television companies must provide outage credits to customers. Pursuant to P.L. 2013, c. 97, proposed new paragraph (a)7 provides that a cable television company may offer a customer a form of compensation other than a credit or rebate; however, nothing shall require a customer to accept an alternative form of compensation in lieu of a credit or rebate. Proposed new paragraph (f)1 provides that a cable television company that provides

outage credit information on its website shall not be required to provide quarterly notice to its customers. Proposed new paragraph (f)2 provides that a cable television company that provides outage credit information on its Internet website must provide notice on at least an annual basis to its customers informing them of the option to receive periodic notices in written form.

The Board proposes to add new paragraph (a)8, which would provide that if a customer accepts a promotional service in lieu of a credit or rebate, a cable television company may not continue to charge for the service unless the customer affirmatively agrees to it.

N.J.A.C. 14:18-3.6 requires that customer phone calls must be answered 24-hours a day.

N.J.A.C. 14:18-3.7 pertains to bills for service and the required information that must be included. The Board proposes to amend paragraph (a)3 to provide that a cable television operator only need provide identification of service packages if required by Federal law. Subsection (f) and paragraph (g)1 are proposed to be amended to lessen the filing requirements to quarterly instead of bi-monthly.

N.J.A.C. 14:18-3.8 pertains to the method of billing customers.

N.J.A.C. 14:18-3.9 pertains to the due date of payment and notice of discontinuance.

N.J.A.C. 14:18-3.10 pertains to the basis for restoration of discontinued services.

N.J.A.C. 14:18-3.11 pertains to disputes regarding bills and requires that cable television companies shall not disconnect a customer on the basis of a disputed bill.

N.J.A.C. 14:18-3.12 pertains to service call scheduling.

N.J.A.C. 14:18-3.13 requires cable television companies to promptly restore service interruptions and outages and contains specific requirements for restoration.

N.J.A.C. 14:18-3.14 requires that cable television companies must offer special equipment, parental locks, and devices for the hearing impaired, upon request of the customer.

N.J.A.C. 14:18-3.15 pertains to trial and promotional services taken by customers. The Board proposes to amend subsection (b) to eliminate the requirement for cable television companies to submit notice prior to introducing trial offerings and only require a cable television company to provide copies of records of trial services upon request.

N.J.A.C. 14:18-3.16 requires specific notice of price changes. Pursuant to P.L. 2013, c. 232, the Board proposes to amend paragraph (a)1 to require each cable television company to electronically file its schedule of prices, rates, terms, and conditions on an annual basis with the Board, and to further provide that a cable television company may file notices of price changes electronically with revisions of any specific changes as applicable. The Board proposes to eliminate the requirement to file notice of price changes to municipalities. Further, pursuant to P.L. 2012, c. 54, the Board proposes to eliminate advance notification of price decreases and instead require that notice shall be submitted to the Office within 10 days' of implementation which shall be reflected on the customer's next bill.

N.J.A.C. 14:18-3.17 requires specific notice of alteration in channel allocation. Pursuant to P.L. 2012, c. 54, the Board proposes to require that the cable television company provide 30 days' advance notification in subsection (a) to the Office for deletions and cutbacks in service only, and for new additions, provide electronic notice to the Office within 10 days of the effective date of the addition; and in subsection (b), to provide that customers be notified similarly and to allow notification by any reasonable written means.

The Board proposes the following additional amendments to N.J.A.C. 14:18-3.17: amend subsection (a) to provide that a cable television company only need provide an updated channel allocation list annually instead of biannually; eliminate notification to municipalities in subsection (b); add new subsection (c), which would provide that a cable television company must notify municipalities of an addition of a public, educational, and/or governmental (PEG) access channel within 10 days of the effective date, and at least 30 days prior to the effective date of a change in channel location or deletion of a PEG access channel; amend recodified subsection (d) to provide that the Office must consider the cable television operator in compliance in certain circumstances where a channel is deleted when it is not within the exclusive control of the cable

television operator; add new paragraph (d)1, providing how a cable television operator must notify the Office of a deletion or cutback in channel allocation that is not within its exclusive control; recodified paragraph (d)2 is amended with modifications to allow that notice should be provided at the earliest practical date; delete existing paragraphs (d)2 and 3; make paragraph (d)4 part of recodified paragraph (d)2; and add new paragraph (d)3 to provide an additional criteria for the cable television company to demonstrate compliance with this section.

N.J.A.C. 14:18-3.18 requires cable television companies to provide certain periodic notices to customers. Pursuant to P.L. 2013, c. 97 and P.L. 2013, c. 232, the Board proposes to add new subsection (d) to provide that a cable television company may provide the required periodic notices in electronic format, in accordance with proposed new N.J.A.C. 14:18-3.27, which is discussed below.

N.J.A.C. 14:18-3.19 pertains to interest on uncorrected bills.

N.J.A.C. 14:18-3.20 pertains to the requirements for discounts for senior and disabled citizens.

N.J.A.C. 14:18-3.21 pertains to the avoidance of interruptions and requirement for prompt restoration.

N.J.A.C. 14:18-3.22 pertains to notice of planned interruptions.

N.J.A.C. 14:18-3.23 pertains to the reimbursement for lost, stolen, or damaged equipment by customers.

N.J.A.C. 14:18-3.24 pertains to late fees and charges.

N.J.A.C. 14:18-3.25 pertains to refunds and credits and timeframes attached thereto.

N.J.A.C. 14:18-3.26 permits a customer to extend cable wiring within a home within the parameters specified.

The Board proposes to add new N.J.A.C. 14:18-3.27 to allow a cable television company to: provide electronic notice to customers, which shall be considered the equivalent of notice on the paper bill; that a customer must affirmatively provide explicit consent to receive such electronic notices; that a customer may opt out or withdraw consent to provide said electronic notice; and that a cable television operator may not provide notice of discontinuance via electronic notice.

Subchapter 4 pertains to cable television operator rights, in general.

N.J.A.C. 14:18-4.1 requires cable television companies to obtain permits for street openings, where necessary.

N.J.A.C. 14:18-4.2 pertains to when a cable television company may refuse to connect a customer.

N.J.A.C. 14:18-4.3 pertains to the basis of discontinuance of service of a customer.

N.J.A.C. 14:18-4.4 pertains to when and how a cable television company may obtain access to customer's premises.

N.J.A.C. 14:18-4.5 pertains to compensation for taking because of installation of cable television facilities.

N.J.A.C. 14:18-4.6 provides that a cable television operator may require a deposit where credit has not been established.

N.J.A.C. 14:18-4.7 provides that a cable television operator may require a deposit on auxiliary equipment, such as a converter.

N.J.A.C. 14:18-4.8 requires a cable television operator to provide receipts and records to customers posting a deposit.

N.J.A.C. 14:18-4.9 pertains to the return of deposits to customers by cable television operators upon termination of service.

N.J.A.C. 14:18-4.10 allows cable television operators to provide customers a consolidated notice of information required by N.J.A.C. 14:18-3.18(a) or (b).

N.J.A.C. 14:18-4.11 pertains to the disposition of cable home wiring when a customer disconnects cable television service.

N.J.A.C. 14:18-4.12 pertains to home run wiring in multi-dwelling units (MDUs).

N.J.A.C. 14:18-4.13 pertains to access to molding in an MDU setting by cable television companies.

Subchapter 5 pertains to offices maintained by cable television companies.

N.J.A.C. 14:18-5.1 pertains to location and closing of local offices maintained by cable television operators. The Board proposes to amend subsection (c) to provide that a cable television company must seek prior consent to close or relocate an office only in cases where a local office is expressly required by municipal consent and Board order to be in a specific location, where the location would be more than 35 aerial miles

from any of the cable television company's other offices within the State, or where it would be located outside the cable television company's service territory or the State. The Board also proposes to delete the beginning timeframe for notice to comment, which reads "20 or more than," in the second to last sentence, and simply amend it to not less than 30 days after publication and posting. The Board also proposes to add new subsection (d) to provide how notice of an office closing or relocation must be provided if it does not meet the criteria in subsection (c) requiring filing of a petition.

N.J.A.C. 14:18-5.2 requires cable television operators to file a listing of personnel to be contacted for routine matters and in cases of emergency during and after working hours.

Subchapter 6 pertains to records.

N.J.A.C. 14:18-6.1 requires notification to the OCTV of the location of records and availability of records for review by OCTV staff.

N.J.A.C. 14:18-6.2 requires maintenance of plant and operating records.

N.J.A.C. 14:18-6.3 requires records of accidents to be kept and reported.

N.J.A.C. 14:18-6.4 provides what is deemed public records and how the public may obtain copies of those records.

N.J.A.C. 14:18-6.5 requires complaints records to be kept for a period of one year and to be open for inspection by OCTV staff. This section contains duplicate recordkeeping requirements to N.J.A.C. 14:18-6.7, with the exception that it requires cable television companies to maintain complaint records for a period of three years, instead of one as found in N.J.A.C. 14:18-6.7. Therefore, the Board proposes to repeal this section.

N.J.A.C. 14:18-6.6 requires the reporting and recordkeeping of interruptions and outages by cable television operators.

N.J.A.C. 14:18-6.7 requires cable television companies to record, retain, and report all complaints received at their offices. N.J.S.A. 48:5A-26.1 requires cable television companies to keep records of all complaints for a period of three years and therefore, this section is proposed to be amended accordingly.

Subchapter 7 pertains to reports and filings.

N.J.A.C. 14:18-7.1 requires filing of periodic reports. The Board proposes to add new subsection (d) to permit cable television companies to file certain financial or periodic reports on a system, legal entity, regional, or Statewide basis, at their choosing. However, certain other financial, statistical, and ownership information would still be required to be filed pursuant to subsection (b) or (c) on a system-level, municipality, or other basis as specified on the forms prescribed by the Office. New subsection (e) to permit cable television companies to file unaudited financial statements with a certification from a company officer, in lieu of audited financial statements.

N.J.A.C. 14:18-7.2 requires the filing of special reports at the request of the OCTV or the Board.

N.J.A.C. 14:18-7.3 describes other filings that cable television operators must provide to the Board, including pole attachment agreements and schedules of prices, rates, terms, and conditions. Pursuant to P.L. 2013, c. 232, the Board proposes to amend subsection (b) to provide that a cable television company must submit its schedule of prices, rates, terms, and conditions electronically to the Office and allow for the filing of revised individual sheets for changes. The amendments further provide that a cable television company may continue to submit revisions in paper form, and may file one copy of individual revised sheets in lieu of the entire filing.

N.J.A.C. 14:18-7.4 requires cable television operators to notify the OCTV of system rebuilds, upgrades, hub, and headend relocations. The Board proposes to amend subsection (a) to provide that a cable television company need only provide advance notice to the Office of any major rebuild, upgrade, headend, or hub relocation, rather than "at least 30 days notice" of any system rebuild, upgrade, headend, or hub relocation.

N.J.A.C. 14:18-7.5 provides written procedures for use of public, educational, and governmental (PEG) access channels where the cable television operator maintains control of the channel.

N.J.A.C. 14:18-7.6 requires cable television operators to file information about their customer service and internal telephone systems on an annual basis. The Board proposes to amend this section to eliminate quarterly reporting; instead, only requiring reports when requested by the

Board or Board staff when a cable television operator has failed to demonstrate compliance with N.J.A.C. 14:18-7.8, Telephone customer service.

N.J.A.C. 14:18-7.7 requires cable television operators to file telephone system performance reports on a quarterly basis.

N.J.A.C. 14:18-7.8 requires cable television operators to comply with existing Federal customer service obligations concerning telephone availability and answer time under normal operating conditions.

Subchapter 8 pertains to liability insurance.

N.J.A.C. 14:18-8.1 specifies that any cable television company operating in New Jersey must file copies of liability insurance certificates.

Subchapter 9 contains the requirements for testing of cable television service.

N.J.A.C. 14:18-9.1 pertains to equipment for testing and requires that cable television operators make available this equipment for use by OCTV staff, for oversight and enforcement of technical standards.

N.J.A.C. 14:18-9.2 requires that cable television operators submit FCC proof-of-performances to the OCTV each March and September.

Subchapter 10 contains the technical standards for system operation.

N.J.A.C. 14:18-10.1 pertains to the scope of technical standards on cable television operators.

N.J.A.C. 14:18-10.2 pertains to technical performance requirements by cable television operators.

N.J.A.C. 14:18-10.3 pertains to the requirements for specialized NTSC video, MPEGx and non-video signals.

N.J.A.C. 14:18-10.4 and 10.5 are reserved.

N.J.A.C. 14:18-10.6 pertains to additional tests that can be required to ensure compliance with Subchapter 10.

N.J.A.C. 14:18-10.7 through 10.13 are reserved.

Subchapter 11 pertains to the application by cable television companies for municipal consent.

N.J.A.C. 14:18-11.1 pertains to application for municipal consent and who may apply.

N.J.A.C. 14:18-11.2 requires an application for municipal consent to operate a cable television system be filed and specifies what information must be filed on the application.

N.J.A.C. 14:18-11.3 pertains to the appointment of citizens' committee and the duties of the committee.

N.J.A.C. 14:18-11.4 pertains to the hearing date to be held by the governing body on the application. The Board proposes to amend this section to clarify a municipality's options in holding hearings on applications for municipal consent-based franchises and renewal municipal consent-based franchises.

N.J.A.C. 14:18-11.5 pertains to the prohibition of ex parte communications where there are two or more initial applicants.

N.J.A.C. 14:18-11.6 pertains to the notice of hearing.

N.J.A.C. 14:18-11.7 specifies before whom the hearings on the application must be held.

N.J.A.C. 14:18-11.8 specifies the procedure at the hearing.

N.J.A.C. 14:18-11.9 pertains to amendments to the application and notice thereof.

N.J.A.C. 14:18-11.10 pertains to the filing of additional information by the applicant other than amendatory and notice thereof.

N.J.A.C. 14:18-11.11 specifies how the record of a hearing must be made.

N.J.A.C. 14:18-11.12 pertains to adjournments of hearings.

N.J.A.C. 14:18-11.13 specifies the time for decision of the governing body and the contents of the decision.

N.J.A.C. 14:18-11.14 pertains to notification of utilities and negotiation of pole attachments.

N.J.A.C. 14:18-11.15 specifies the form of consent required.

N.J.A.C. 14:18-11.16 specifies the contents of the ordinance.

N.J.A.C. 14:18-11.17 specifies restrictions as to the contents of the ordinance.

N.J.A.C. 14:18-11.18 requires OCTV review of the ordinance prior to introduction and adoption.

N.J.A.C. 14:18-11.19 pertains to acceptance by a company of the ordinance.

N.J.A.C. 14:18-11.20 specifies the commencement date of the ordinance.

Subchapter 12 pertains to certificates of approval and their issuance.

N.J.A.C. 14:18-12.1 pertains to the filing for a certificate of approval by a cable television operator.

N.J.A.C. 14:18-12.2 specifies the information to accompany the petition for certificate of approval.

N.J.A.C. 14:18-12.3 pertains to the requirements for plant rearrangement verification.

Subchapter 13 pertains to renewals of municipal-consent-based cable television franchises.

N.J.A.C. 14:18-13.1 pertains to the initiation of the municipal consent renewal process.

N.J.A.C. 14:18-13.2 pertains to the optional pre-proposal, "ascertainment," phase.

N.J.A.C. 14:18-13.3 specifies when a cable television operator must file a municipal-consent application.

N.J.A.C. 14:18-13.4 pertains to the mandatory pre-proposal municipal consent phase.

N.J.A.C. 14:18-13.5 pertains to the cable television operator's proposal for Renewal Certificate of Approval.

N.J.A.C. 14:18-13.6 pertains to automatic renewals.

N.J.A.C. 14:18-13.7 pertains to a hearing before an Administrative Law Judge in cases of denial or arbitrary refusal.

N.J.A.C. 14:18-13.8 pertains to compliance with Federal terms and conditions for sale upon denial of a Certificate.

N.J.A.C. 14:18-13.9 specifies that where Subchapter 13 does not apply, Subchapter 11 shall apply.

Subchapter 14 contains the procedures for applying for and obtaining a system-wide franchise.

N.J.A.C. 14:18-14.1 provides who may apply for a system-wide franchise and indicates how they must do so.

N.J.A.C. 14:18-14.2 indicates the requirements for the form of the system-wide franchise application.

N.J.A.C. 14:18-14.3 specifies that the Board must hold two hearings on the system-wide franchise application, pursuant to N.J.S.A. 48:5A-16.f.

N.J.A.C. 14:18-14.4 provides how notice must be provided for the mandatory hearings.

N.J.A.C. 14:18-14.5 provides who may preside over the hearings.

N.J.A.C. 14:18-14.6 provides how a system-wide franchise applicant may amend its application.

N.J.A.C. 14:18-14.7 provides how a system-wide franchise applicant may supplement its filing if the information filed is not amendatory.

N.J.A.C. 14:18-14.8 provides the method of recording the mandatory public hearings.

N.J.A.C. 14:18-14.9 provides how and when the Board must make a decision on an application for system-wide franchise.

N.J.A.C. 14:18-14.10 provides that upon being granted a system-wide franchise, the applicant must provide notice to all affected utilities and individuals whose facilities are needed for the construction of the cable television system.

N.J.A.C. 14:18-14.11 specifies what provisions must be contained in a Board order authorizing a system-wide franchise.

N.J.A.C. 14:18-14.12 specifies how a system-wide franchise applicant may appeal a decision by the Board to deny its application for a system-wide franchise.

N.J.A.C. 14:18-14.13 provides the method by which a cable television company may convert its municipal consent ordinance-based franchises to a system-wide franchise and what the contents of the notice to municipalities and the Board must contain.

N.J.A.C. 14:18-14.14 pertains to the addition of municipalities to a system-wide franchise.

N.J.A.C. 14:18-14.15 provides that the Board may enforce the provisions of the system-wide franchise.

N.J.A.C. 14:18-14.16 specifies how the initiation of the system wide-franchise renewal process will take place.

N.J.A.C. 14:18-14.17 specifies how the OCTV must undertake the ascertainment process, what it must review during the ascertainment process, and governs any proceedings undertaken during ascertainment.

N.J.A.C. 14:18-14.18 specifies the procedures a cable television company must follow to apply for a renewal of its system-wide franchise, as well as the procedures the OCTV and the Board must use to process the renewal application.

N.J.A.C. 14:18-14.19 governs the process for Board assessment of denial of a system-wide franchise renewal and directs that the matter be treated as a contested case pursuant to applicable rules.

N.J.A.C. 14:18-14-20 provides that a cable television company that is operating under a system-wide franchise may either seek municipal consent or renewal municipal consent from a municipality or convert its system-wide franchise into a municipal-consent-based franchise at any time.

Subchapter 15 provides how a system-wide franchise may be enforced and how disputes over system-wide franchise terms and conditions will be resolved by the Board and its Office of Cable Television.

N.J.A.C. 14:18-15.1 provides the authority by which the Office of Cable Television may enforce the terms and conditions specified within this subchapter.

N.J.A.C. 14:18-15.2 specifies deployment responsibilities of a system-wide franchise holder and includes the specific requirements that apply to system-wide franchise holders that provide more than 40 percent of the local telephone service market in the State pursuant to P.L. 2006, c. 83.

N.J.A.C. 14:18-15.3 describes the circumstances under which a system-wide franchisee can seek relief from certain of its deployment requirements related to multiple dwelling units. The Board proposes to amend subsection (a) to add a timeframe of 30 days from the date of determining it cannot service a particular MDU for a system-wide franchisee to file a petition with the Board seeking relief. This is in keeping with the Board's order issuing a System-wide Cable Television Franchise to Verizon New Jersey, Inc. dated December 18, 2006, in Docket No. CE06110768, page 12.

N.J.A.C. 14:18-15.4 provides the rules for the provision of public, educational, and governmental access channels; return lines; interconnection of the cable television companies within a particular municipality and for disputes between municipalities and cable television companies and between cable television companies regarding interconnection.

N.J.A.C. 14:18-15.5 requires system-wide franchise holders to provide free service to certain municipal service properties and public schools.

N.J.A.C. 14:18-15.6 requires system-wide franchise holders to provide equipment and training for PEG access purposes.

N.J.A.C. 14:18-15.7 deals with franchise fees and which cable television company must pay which amount and when, in accordance with N.J.S.A. 48:5A-30.

Subchapter 16 contains miscellaneous provisions related to the regulation of cable television.

N.J.A.C. 14:18-16.1 provides that the rules specified in Chapter 18 are not retroactive.

N.J.A.C. 14:18-16.2 pertains to deviation and modification of the rules specified in Chapter 18.

N.J.A.C. 14:18-16.3 pertains to conflict between tariffs and Chapter 18 and specifies that in those cases, Chapter 18 governs.

N.J.A.C. 14:18-16.4 provides that no cable television operator shall discriminate in rates.

N.J.A.C. 14:18-16.5 pertains to the authority of the OCTV and Board to promulgate rules.

N.J.A.C. 14:18-16.6 provides that prior rules are revoked, except as otherwise provided.

N.J.A.C. 14:18-16.7 provides that in the event a cable television operator is found to be subject to effective competition pursuant to 47 CFR 76.905, certain provisions of this chapter may not apply. The Board proposes to delete paragraph (a)7, because it is contradictory to statute (N.J.S.A. 48:5A-26.1).

The Board proposes to add new section N.J.A.C. 14:18-16.8 to provide how the OCTV may examine alleged non-compliance by a cable television company and how a penalty may be assessed on a cable television company. Subsection (a) provides that the OCTV must provide written notice of the alleged violation within 90 days of becoming aware of it, and that the cable television company must be provided an opportunity to file documentation; subsection (b) provides that a

reporting or notice violation or one that affects 25 or fewer customers, as demonstrated by the company, shall not be subject to penalty if the cable television operator cures the alleged violation within 30 days of notice. The notice and cure opportunity shall not apply, however, where the Board determines that the alleged violator has demonstrated a pattern or practice of willful and repeated violations occurring within three years prior to the date of the written notice of the particular rule at issue; subsection (c) provides that prior to assessing any penalty, the Board or Office shall provide a cable television operator with a written explanation, with specificity, of the proposed penalty for each violation and the particular rules alleged to have been violated, and that any penalty may be waived or compromised by the Board; subsection (d) provides the mitigating factors the Board/Office must consider when determining the amount of the penalty, if any, including the number of customers affected and any violation of the particular rule within the past three years; subsection (e) provides that the Board/Office must resolve enforcement actions within 180 days of written notice, which may be extended by 90 days by a Board determination of the need for additional time to be in the public interest; however, the 180-day deadline is inapplicable where the cable television operator fails to timely respond to the written notice; and subsection (f) provides that the Board may not look back more than three years prior to the date of written notice to the cable television operator in assessing violations.

N.J.A.C. 14:18 Appendix A specifies certain forms to be filed with the OCTV: Form CATV-1; Form CATV-2; Form F99; Channel Allocation Form; Cable Facts Questionnaire; Line Extension Policy Form; Outage Form; and Accident/Injury Form.

Social Impact

The rules proposed for readoption with amendments, new rules, and a repeal govern the substantive rules and requirements of the OCTV, setting forth the rights and obligations of customers and cable television operators, along with technical, reporting, and filing standards. The chapter also contains subchapters that govern the initial municipal consent-based and system-wide cable television franchise process, as well as the renewal of municipal consent-based and system-wide cable television franchises. The rules govern the protection of the public safety and welfare by ensuring that cable television facilities and equipment are installed and used in an appropriate manner.

Subchapter 3, Customer Rights, defines the rights of customers and the obligations of cable television operators. Most of the proposed amendments to Subchapter 3 fall into two categories: 1) allowance of electronic filings, which is in keeping with statutory requirements of P.L. 2012, c. 221 and P.L. 2013, c. 232; and 2) reduction of filing requirements, again in keeping with recently passed legislation, P.L. 2013, c. 97 and P.L. 2013, c. 232. The Board believes the proposed amendments will benefit the cable television industry by reducing the amount and method of filing. These changes will also benefit customers by reducing industry compliance costs, thereby reducing overall costs and, accordingly, rate pressures. Although these amendments will cause a change in the method and reduction in the frequency of the notices, by providing the notices electronically on an Internet website, notices will be readily accessible to customers at any time from anywhere. Moreover, the proposed amendments allow for customers who cannot access the information online to continue to receive the notices in paper form.

Proposed changes to the outage credit rule (N.J.A.C. 14:18-3.5) will benefit both cable television operators and customers alike. Alternative forms of compensation may be more appealing to customers, although the proposed amendments would require a customer to affirmatively agree to continue a free promotional service upon expiration. This would protect customers from receiving additional charges on their bills, since promotions lasting six months or less are not required to be listed on a customer's bill and since N.J.A.C. 14:18-3.15(a) requires a customer who takes a promotional service to cancel prior to the end of the promotional period or risk being charged regular price for it.

Subchapter 4, Cable Television Operator Rights, specifies the rights of cable television operators and the obligations of customers on issues of billing, disconnection, access to facilities, and deposits. This subchapter protects the rights of both cable television operators and customers by clearly setting forth the respective obligations of both.

Subchapter 5 pertains to office locations and closings. N.J.A.C. 14:18-5.1(c) requires cable television companies to petition the Board prior to closing an office. The Board proposes to delete the requirement for approval of local office closings unless: they trigger municipal commitments; the office to be closed or relocated is more than 35 aerial miles away from any other office within New Jersey; where the office is to be relocated outside the cable television company's service territory; or where the office is to be relocated outside of New Jersey. The Board is responsible for insuring that all local commitments are met, which will continue to benefit customers. Some local commitments require cable television companies to maintain local offices within specified areas.

Currently, N.J.A.C. 14:18-5.1(c) requires a cable television company that wishes to close or relocate a business office to file a petition for Board approval at least 60 days prior to the closure or relocation. A cable television company is not permitted to close or relocate the office until Board approval is received. This rule makes closing or relocating an office in response to customer demands a lengthy and cumbersome process. Approval can take several months and such requirements remain even though there are multiple means to satisfy customer need, including 24-hour customer service, direct shipment of set top boxes, online bill pay and email customer service, and thousands of bill payment locations through the State. The proposed amendment would allow a cable television company to simply provide notice to the Board, municipalities and subscribers of the closure or relocation of a business office in its franchise area. No Board approval or municipal consent approval would be required. This proposed revision, however, streamlines the process while still protecting consumers because they would be notified of any office relocation or closure.

Subchapters 6, 7, and 8, Records; Reports and Filings; and Liability Insurance, concern the non-technical operations of the cable television company, such as the location of offices, records, reports, filings and insurance requirements. The provisions pertaining to records, reporting, filings, and insurance impose administrative burdens on cable television operators, which must collect, file, and in some cases report, certain information. However, the rules proposed for readoption are necessary to permit the OCTV to monitor compliance with all statutory and franchise requirements. The proposed repeal of N.J.A.C. 14:18-6.5 and the proposed amendment of N.J.A.C. 14:18-6.7 should have no effect on customers or the cable television industry.

The proposed amendments to N.J.A.C. 14:18-7.1 is not expected to have any effect on customers, but should benefit cable television operators in that it is sometimes difficult to file reports on a system-level and the amendments provide the option of filing on any level, up to Statewide, a cable television operator chooses. Like many other amendments contained in this rulemaking, this amendment eliminates an unnecessary administrative burden, thereby cutting red tape, reducing compliance costs, and, accordingly, reducing upward pressure on rates.

Proposed amendments to N.J.A.C. 14:18-7.3 will benefit the cable television industry by reducing the amount and method of filing but should not harm customers. It only addresses how a cable television operator will file its schedule of prices, rates, terms, and conditions with the OCTV and will benefit cable television operators by allowing them to choose the method of filing. This change leverages technology and seeks to, again, streamline compliance, thereby reducing costs.

Proposed amendments to N.J.A.C. 14:18-7.4 will benefit the cable television industry by allowing filing of only advance notice of major work. It should not affect customers.

The proposed amendments to N.J.A.C. 14:18-7.6 will benefit the cable television industry as they will no longer have to file telephone system information unless a cable television operator has failed to demonstrate compliance with the Board's telephone customer service standards, N.J.A.C. 14:18-7.8. It should have no effect on customers.

Subchapters 9 and 10 on plant, testing of service, and technical standards for system operation concern the technical aspects of cable television regulation. The rules proposed for readoption ensure that cable television companies operate in a safe and reasonable manner. The rules are intended to ensure that the cable television companies supply an adequate level of service.

Subchapters 11, 12, and 13 concerning the application for municipal consent, the application for a Certificate of Approval, and renewals all

govern the traditional municipal-consent-ordinance-based franchising process. They are intended to clearly articulate the procedures for obtaining and renewing a cable television franchise in accordance with State and Federal law. Subchapter 13, Renewals, provides municipalities with guidance on the procedures and standards for municipal-consent-ordinance-based franchise renewals. The proposed amendment to N.J.A.C. 14:18-11.4 clarifies that a municipality may hold its required public hearing as part of a regular agenda meeting. It will not affect cable television companies or customers.

Subchapter 14 concerns the application for a system-wide franchise. System-wide franchises allow telecommunications service providers or other entities legally occupying the public right-of-way or intending to do so, to compete in the cable television market without the need for municipal consent. This will benefit customers insofar as competition and choice.

Subchapter 15 concerns enforcement of the terms and conditions of a system-wide franchise. The provisions of Subchapter 15 set forth the procedures for public, educational, and governmental access channels, interconnections, free cable and Internet services to municipal service properties and public schools, and the method the Board must use to resolve these issues and benefit both municipalities and cable television companies in resolving disputes. Furthermore, Subchapter 15 contains rules regarding the deployment responsibilities of any company that serves 40 percent of the local telephone market in the State and provides guidance for certain terms and conditions contained in the P.L. 2006, c. 83. This benefits the system-wide franchisee, the Board, municipalities, and the general public because it clarifies what the system-wide franchise responsibilities are. The proposed amendment to N.J.A.C. 14:18-15.3 is in keeping with the Board order issuing a system-wide franchise to Verizon dated December 18, 2006, in Docket No. CE06110768, which requires Verizon to provide notice within 30 days of the date it makes a determination that it cannot serve a particular property for one of the listed reasons. This rule is consistent with N.J.S.A. 48:5A-25.2.

Subchapter 16 governs miscellaneous matters such as the non-retroactivity of the rules or modifications, as proposed to be amended, the requirements for filing of schedules of prices, rates, terms, and conditions, rate discrimination, the Board's authority, and prior rules.

The proposed new rule regarding violations and penalties, N.J.A.C. 14:18-16.8 will benefit cable television operators, by providing how and when the Board can declare a violation and assess a penalty, but should not harm customers in that they will still be protected by the Board's customer service rules. The proposed rule will also benefit Board staff in that it will allow staff to focus its limited resources on more significant violations.

Economic Impact

This chapter imposes technical and operational requirements on cable television operators. Thus, it has some additional impact on operating costs, which are, to the extent permitted under Federal cable television rate regulations, passed on to the customer.

The rules proposed for re-adoption with amendments, new rules, and a repeal are necessary to adequately protect the safety and interests of the general public and cable television customers. The intent of the rules is for cable television companies to provide safe, adequate, and proper service. The existence and enforcement of the rules require the sufficient staffing of the Board and the corresponding administrative and overhead costs. The Board believes the benefits from the rules exceed the burdens of the costs in absence of any significant competitive market to preserve the public interest.

As with regulated public utilities, all reasonable levels of expenses incurred by cable television operators in complying with these requirements will be considered to be business expenses, recoverable through rate proceedings and cost of service rules. All fees and charges associated with practice and procedure before the Board and OCTV are set by statute pursuant to N.J.S.A. 48:2-56 and 48:5A-1 et seq., respectively. Costs that will be incurred include those of an administrative nature for the collection, maintenance, and reporting of certain information, and the various costs of complying with plant, service testing, and technical operating standards. As noted above, costs

associated with the receipt of a system-wide franchise will incur a system-wide franchisee to provide various services to municipalities and these costs may be significant; however, they are attendant to the grant of a system-wide franchise. The re-adoption of N.J.A.C. 14:18 is necessary to adequately protect the safety and interests of the general public and cable television customers.

However, it is believed that this rulemaking will lessen costs to cable television companies by allowing them to file documents electronically and to provide notice to customers and municipalities less frequently and electronically. By reducing unnecessary administrative burdens and cutting red tape, these rules will reduce compliance costs, thereby mitigating upward pressure on rates and allowing cable television companies to focus their resources on other priorities that too benefit customers.

Proposed changes to the outage credit rule (N.J.A.C. 14:18-3.5) may benefit both cable television operators and customers alike. While outage credits or rebates are usually small, amounting to 1/30 of a customer's cable bill for a day's outage, a widespread outage could cause a significant refund liability. The ability to offer alternative forms of compensation empowers customers with greater choice and may suit certain customers better.

The proposed amendments to N.J.A.C. 14:18-5.1(c), which requires approval of office closings and relocations, has the potential for saving a significant amount of money for cable television companies wishing to close or relocate an office.

Federal Standards Statement

While many of the rules proposed for re-adoption with amendments, new rules, and a repeal are the subject of Federal laws, rules, regulations, and standards, including franchising statute (47 U.S.C. § 546), technical regulations (47 CFR Part 76, Subpart K) and rate regulations (47 CFR Part 76, Subpart N), upon review of the applicable Federal documents, the Board does not believe that any of the rules proposed for re-adoption with amendments, new rules, and a repeal conflict with or exceed Federal standards.

Jobs Impact

The rules proposed for re-adoption with amendments, new rules, and a repeal may result in the creation of new jobs and the retention of existing jobs. By streamlining compliance and eliminating costly and burdensome red tape, cable television companies can focus their resources on other priorities. The rules are unlikely to have an impact on any other sector of the economy of the State of New Jersey.

Agriculture Industry Impact

The rules proposed for re-adoption with amendments, new rules, and a repeal have no impact on the agricultural industry.

Regulatory Flexibility Statement

There are no small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., to which the rules proposed for re-adoption with amendments, new rules, and a repeal would apply. The businesses affected all have more than 100 full-time employees and/or are based out-of-State.

Housing Affordability Impact Analysis

The Board does not expect the rules proposed for re-adoption with amendments, new rules, and a repeal to have an impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the scope of the rules is limited to addressing the regulation of the cable television industry.

Smart Growth Development Impact Analysis

The Board does not expect the rules proposed for re-adoption with amendments, new rules, and a repeal to have an impact on housing production in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plans in New Jersey because the scope of the rules is limited to the regulation of the cable television industry.

Full text of the rules proposed for re adoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:18.

Full text of the proposed amendments, new rules and repeal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

14:18-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

...
 [“Normal business hours” means those hours during which most similar businesses in the community are open to serve customers. In all cases, “normal business hours” must include some evening hours at least one night per week and/or some weekend hours.]

“Normal business hours” means 9:00 A.M. to 5:00 P.M. weekdays, except for days upon which the Board of Public Utilities is closed for business, including, but not limited to, New Jersey State holidays. A list of New Jersey State holidays can be obtained at <http://www.state.nj.us/nj/about/facts/holidays.html>.

...

SUBCHAPTER 3. CUSTOMER RIGHTS

14:18-3.3 Customer information

(a)-(d) (No change.)

(e) A cable television company shall not be required to provide its schedule of prices, rates, terms, and conditions as specified in (d) above if it elects to provide such information on its Internet website in a clear, concise, and readily accessible manner, using any reasonable means and format, that accurately conveys the content of the cable television company’s prices, rates, terms, and conditions, and that allows customers and potential customers to make informed decisions based on the information contained therein. However, upon request of a new customer who is unable to access the Internet or who is otherwise unable to obtain information from the cable television company’s website via the Internet, the cable television company shall provide its currently available prices, rates, charges, and services to such new customer.

(f) If a cable television company elects to provide its schedule of prices, rates, terms, and conditions on its Internet website, it shall, at least quarterly, provide instructions on each customer’s bill.

14:18-3.4 Information on company’s schedule of prices, rates, terms, and conditions

(a)-(d) (No change.)

(e) A cable television company shall not be required to provide notice and explanations specified in (a) through (d) above, if it elects to provide such information on its Internet website in a clear, concise, and readily accessible manner, using any reasonable means and format, that accurately conveys the content of the cable television company’s notices, and that allows customers and potential customers to make informed decisions based on the information contained therein.

(f) A cable television company that elects to provide notice and explanations on its Internet website shall provide quarterly notice to each customer of how a customer can obtain its current schedule of prices, rates, terms, and conditions in either electronic or paper form.

(g) If a customer is unable to access the Internet or is otherwise unable to obtain information from the cable television company’s Internet website, the cable television company shall provide a copy of its current schedule of prices, rates, terms, and conditions in paper form.

14:18-3.5 Outage credit

(a) The cable television operator shall credit customers for outages[, as defined in these rules,] as follows:

1.-6. (No change.)

7. In lieu of credit or rebate, a cable television company may offer to provide a customer an alternate form of compensation for the outage. Nothing in this paragraph shall require a customer to accept an alternate form of compensation from the cable television company.

8. A customer that agrees to take a free promotional service in lieu of credit or rebate must affirmatively request to continue the promotion after the free period is over. No cable television company shall continue to charge a customer for a free promotional service provided in lieu of an outage credit or rebate after the promotional period is over, unless the customer requests that it be continued.

(b)-(e) (No change.)

(f) Each cable television company shall quarterly inform its customers of the procedures by which a customer may obtain a credit.

1. If a cable television company provides information in an electronic format on its Internet website in a manner that reasonably conveys the content of the periodic written outage credit notices, and which allows its customers to make informed decisions concerning compensation for service outages, it shall not be required to provide quarterly outage credit notice to customers.

2. A cable television company that provides electronic notice on its Internet website shall offer each existing and every new customer the option to receive periodic outage credit notices in written form on at least an annual basis.

14:18-3.7 Bills for service; form of bill

(a) All bills shall show the following:

1.-2. (No change.)

3. [Identification] If required by Federal law, the identification of each component for all service packages and the rate or price for each component;

4.-14. (No change.)

(b)-(e) (No change.)

(f) In lieu of the requirements of (a)3 above, a cable television company may provide to each customer the information required in (a)3 above at least [every other month] **quarterly** and no less than [six] **four** times a year, as a bill insert, bill stuffer, separate mailer, or on the front or back of the bill. Such notice shall be provided in clear and conspicuous language, font, and color.

(g) The provisions of (a)3 and (f) above shall go into effect in the method outlined below.

1. Each cable television company shall notify the Office in writing of the method to be used to provide notice: by way of notice on the bill, as outlined in (a)3 above, or by way of a [bi-monthly] **quarterly** bill insert, bill stuffer, separate mailer, or on the front or back of the bill, as outlined in (f) above.

2. Once a cable television company has chosen a method of providing notice, the method shall remain in effect until the cable television company files notice that it shall change the method of notification as provided in [paragraph (1)] **(g)1** above.

14:18-3.15 Trial and promotional services

(a) (No change.)

(b) Cable television operators shall maintain records of all such trial services **clearly outlining the terms and scope of offering** for inspection by the Office for a period of three years and shall provide [notice to the Office prior to the offering of such trial services clearly outlining the terms and scope of the offering] **copies of such records to the Office upon request.**

(c) (No change.)

14:18-3.16 Notice of price change

(a) If the prices and charges of a cable television operator are not subject to prior approval by the Board:

1. A cable television company **shall electronically file, no later than January 31 of each year, a current schedule of prices, rates, terms, and conditions. A cable television company** implementing a change in its prices shall file **electronically** with the Office revised **individual sheets of its** schedule of prices, rates, terms, and conditions [sheets] reflecting any price changes where there is an increase in prices[,] and shall [individually] notify [each municipality in its service area and] each

affected customer at least 30 days prior to the effective date. **Should a cable television company seek to file a revision in paper form, it shall file one copy of the individual sheet or sheets reflecting the revised changes to the current schedule of prices, rates, terms, and conditions in lieu of filing the entire document.** Price decreases shall require [advanced] notification **within 10 days** to the Office, **and shall be reflected on the bill provided to the cable television company's affected customers [and affected municipalities] in their next billing cycle that commences no earlier than 10 days after the price decrease.**

2. (No change.)

14:18-3.17 Notice of alteration in channel allocation

(a) Each cable television company shall file with the Office [written] notice of an alteration in channel allocation **at least 30 days** prior to the effective date for [new additions, which do not require rate or price changes.] deletions or cutbacks in other services. For [all other changes] **alterations in channel allocation for new additions**, the cable television operator must provide **electronic** notice [at least 30 days prior] to the **Office within 10 days** of the effective date. [Semi-annually] **Annually**, within 15 days following January 1 [and July 1] of every year, each cable television company shall file with the Office an updated channel allocation list, on a form prescribed by the Director.

(b) Each cable television company shall notify its customers [and affected municipalities] of an alteration in channel allocation [prior to the effective date for new additions which do not require rate or price changes.] **for deletions or cutbacks in [other] services[.** For all other changes, the cable television operator shall provide notice to the Office] at least 30 days prior to the effective date [and 30 days prior to the effective date to the customers and affected municipalities in a manner reasonably calculated to provide such information]. **Such notice may be provided using any reasonable written means in accordance with 47 CFR 76.1603(e) and not inconsistent with any other applicable Federal or State statute.**

(c) Each cable television company shall notify affected municipalities of an alteration in channel allocation for public, educational, and/or governmental access channels **within 10 days of the effective date for new additions, and at least 30 days prior to the effective date of a change in channel location or deletion in a manner reasonably calculated to provide such information.**

[c] (d) [The] **For alterations in channel allocation for deletions or cutbacks not within the exclusive control of the cable television operator, the Office [may relax the time for providing notification upon a showing by the cable television operator that the cable television operator has acted to provide the required notice at the earliest possible date and] shall consider the cable television operator in compliance with the notice obligations where:**

1. The cable television operator provides telephonic or electronic notice of the risk of alteration to the Office no less than 24 hours prior to the deletion or cutback, and notice is provided to customers as soon as practical;

[1.] **2. The cable television operator has acted to provide the required notice at the earliest practical date and either** reasonably believes that timely compliance with this subsection might subject the cable television operator to penalties under State, Federal, or local law[.]; **or that a**

[2. Timely compliance with this subsection is impossible due to the unforeseeable actions of third parties beyond the cable television operator's control;

3. The programming service has been discontinued or withdrawn by the provider in such a manner as to leave the cable television operator without sufficient time to comply; or

4. A] substantial benefit to customers would be irretrievably lost[.]; **or**

3. In any other circumstance not enumerated in this subsection, upon a showing by the cable television operator that there is good cause and measures were taken to notify customers as soon as practical.

14:18-3.18 Periodic notices to customers

(a)-(c) (No change.)

(d) A cable television company that elects to provide the information required under this section to customers in electronic form, shall abide by the provisions of N.J.A.C. 14:18-3.27.

14:18-3.27 Furnishing information and notices to customers in electronic form

(a) For any customer who opts to receive electronic only delivery of monthly bills, notice on the electronic bill shall be the equivalent of notice on the paper bill.

(b) Except as otherwise specified in this chapter and not inconsistent with Federal law, any notice or information required to be provided by a cable television company to a customer under this chapter may be provided electronically, so long as the customer affirmatively provides explicit consent (segregated from the general terms and conditions of service) to receive such information or notice in electronic fashion. Receipt of service cannot be conditioned upon a customer's consent to receiving electronic notice.

(c) A customer shall have the right to opt-out or otherwise withdraw consent of receiving electronic notice at any time and for any reason.

(d) The provisions of this section shall not apply to any notice of discontinuance required to be furnished under N.J.A.C. 14:18-3.9 or 4.3.

SUBCHAPTER 5. OFFICES

14:18-5.1 Location and closing

(a)-(b) (No change.)

(c) At least 60 days prior to the closing or relocation of an office described in (a) or (b) above, **where such office is expressly required pursuant to a municipal consent ordinance and Board order to be located within the municipality or other specific location; or where the office to be closed or relocated is more than 35 aerial miles away from any other office of the cable television company within the State of New Jersey; or where the office is to be relocated outside the cable television company's service territory; or where the office is to be located outside the State of New Jersey**, a cable television company shall file a petition for approval with the Board demonstrating such closure or relocation is not unreasonable, will not unduly prejudice the public interest, and setting forth the means upon Board approval of the petition, by which customers and other interested parties will be adequately notified of the closing or relocation and alternatives available in the case of a closed office. The cable television company shall simultaneously notify its customers and the clerk of each affected municipality of the pending application for permission to relocate or close the subject office by means of posting notice at the office location and, within three days of filing the petition, by placing notice of the office closing or relocation in the newspaper(s) serving the affected area and providing a copy of the notice by mail to the clerk of each affected municipality. Said notice shall inform customers of the Office's toll free number and their right to present to the Board, in writing, any objections they may have to the office closure or relocation. The notice shall specify a date certain for submission of comments, which date shall not be less than [20 or more than] 30 days after publication and posting. Such office shall not be closed or relocated until the cable television company has been informed, in writing, that the Board has approved such request.

(d) **In all other instances, a cable television company must notify with the Board and its customers no later than 30 days prior to the closure or relocation of the office.**

1. Notice to the Board shall include a certification from a company officer certifying that notice has been provided to its customers; that the company will provide all services available at the existing office at the new or alternate location; and that there will be no gap in service if the office is relocated.

SUBCHAPTER 6. RECORDS

14:18-6.5 [Complaints records] (Reserved)

[Each cable television company shall keep for a period of three years, a record of complaints in regard to service received at its office or offices, which shall include the name and address of the customer, the date, the

nature of complaint, the test conducted and corrective action taken if required, and the final disposition. The record shall be available for inspection by the Office staff. Copies of such record shall be provided to the Office staff upon request.]

14:18-6.7 Complaint recording and reporting

(a) Each cable television company shall keep, for at least a period of [one] **three** years beyond the close of the calendar year of the report in (g) below, a record of all complaints received at its offices, which shall include the name and address of the customer, the date, the nature of the complaint, any corrective action taken, and the final disposition of the complaint.

(b)-(i) (No change.)

SUBCHAPTER 7. REPORTS AND FILINGS

14:18-7.1 Periodic reports

(a)-(c) (No change.)

(d) Reports required in (b) and (c) above, as well as reports required pursuant to N.J.S.A. 48:5A-34.a, may be prepared on a system-level, legal entity-, regional-, or Statewide-level (that is, multi-system) basis except for certain financial, statistical, and ownership information, as specified in the form, which shall continue to be required on a system-level basis.

(e) Reports required by (b) and (c) above that are not independently audited may be provided on an unaudited basis, if accompanied by a certification by the operator's financial officer, attesting to the truth, completeness, and accuracy of the filed reports.

14:18-7.3 Other filings

(a) (No change.)

(b) Each cable television company shall file **electronically** with the Board[, and keep open to public inspection,] **its current** schedule[s] of prices, rates, terms, and conditions applicable to the services available, pursuant to the provisions of N.J.S.A. 48:5A-1 et seq., as applicable, with revised **individual** sheets to reflect any changes. **Should the company seek to file the revision in paper form, one copy of the individual sheets reflecting the revised changes in the current schedule of prices, rates, terms, and conditions will be accepted in lieu of filing the entire document.**

(c) (No change.)

14:18-7.4 Notification of system rebuilds, upgrades, hub, and headend relocations

(a) A cable television company shall provide [at least 30 days'] **advanced** written notification to the Office prior to any **major** system rebuild, upgrade, headend, or hub relocation, and/or significant changes in system design as described in the cable television company's initial filing for certificate of approval or renewal thereof. **As used in this section, "major system" refers to any system rebuild or upgrade that affects one or more municipalities; or where a headend or hub is relocated; or where significant changes to system design would affect the cable television company's infrastructure in an entire system (geographically contiguous), or region (several systems).**

1.-2. (No change.)

14:18-7.6 Telephone system information

(a) [Each cable television operator shall provide the Office of Cable Television] **When a cable television operator has failed to demonstrate compliance with the provisions of N.J.A.C. 14:18-7.8, the Board or Board staff may request in writing that the following information concerning the operation of the cable television company's telephone system be filed with the Office of Cable Television:**

1.-21. (No change.)

(b) The information required pursuant to (a) above shall be provided to the Office of Cable Television on or before October 4 of each year.

(c) Each cable television company shall inform the Office of any substantive change in the information filed pursuant to this section.

(d) A cable television company shall be relieved of filing under this section if it is in full compliance with the provisions of N.J.A.C. 14:18-7.8 for four or more consecutive quarters. In order to be relieved of filing under this section, the cable television company must file a letter with the

Office indicating that it believes it is in compliance with this section. The Office shall inform the cable television company of its decision, based on review of the cable television company's filings, within 45 days of receipt of the letter requesting relief under this section.

(e) If the Office determines that a cable television company is not in full compliance with the provisions of N.J.A.C. 14:18-7.8 for three or more consecutive quarters, the Office shall notify the cable television company in writing that it must again file the telephone system information required under this section.]

SUBCHAPTER 11. APPLICATION BY CABLE TELEVISION COMPANIES FOR MUNICIPAL CONSENT

14:18-11.4 Hearing date

The municipal governing body shall, upon receipt of the first application, decide upon a date on which a hearing will be held concerning **the** first application and any other applications filed in accordance with N.J.S.A. 48:5A-23. Such date shall be not earlier than 60 days from the date of the first application, nor later than 90 days from the date the first application is filed. **A municipality may choose to hold its hearing as a separate proceeding or as part of its normal schedule of meetings.**

SUBCHAPTER 15. SYSTEM-WIDE FRANCHISE TERMS AND CONDITIONS

14:18-15.3 Relief from deployment requirements

(a) A cable television company operating under a system-wide franchise that is a local exchange carrier that serves more than 40 percent of the local exchange telephone market in the State must file with the Board if it believes it cannot deploy service as required under N.J.A.C. 14:18-15.2, **within 30 days of the date it makes a determination**, for one or more of the following reasons:

- 1.-3. (No change.)
- (b)-(d) (No change.)

SUBCHAPTER 16. MISCELLANEOUS PROVISIONS

14:18-16.7 Effective competition

(a) Upon a finding by the Board that the Federal Communications Commission has decertified rate regulation for any cable television system, pursuant to 47 CFR 76.905, on a final finding of effective competition, after April 17, 2000, the following provisions may no longer apply to that system:

1.-6. (No change.)

[7. N.J.A.C. 14:18-6.6, Complaint records;]

[8.] 7. N.J.A.C. 14:18-7.4, Notification of system rebuilds, upgrades, hub, and headend relocations; and

[9.] 8. (No change in text.)

(b)-(c) (No change.)

14:18-16.8 Violations

(a) **In any enforcement action by the Office alleging non-compliance with any provision of N.J.S.A. 48:5A-1 et seq., N.J.A.C. 14:17, or this chapter, or Board order for which monetary penalties may be sought, the Office must provide a cable television operator written notice of the alleged violation within 90 days of becoming aware of it. Within 30 days of the written notice of any alleged violation, the cable television operator may file any documentation requested by the Office, including, but not limited to, explanation, mitigation, or evidence that no customers were harmed by such violation. The Office may, in its discretion, extend the time for the cable television company to respond up to 30 days. Failure to file responsive documentation within 30 days, or 60 days if extended, may result in the pursuit of an enforcement action as set forth in this section.**

(b) For any offense involving an alleged notice or reporting violation, or any alleged violation where the company has demonstrated that it directly affects fewer than 25 customers, a 30-day notice and opportunity to cure shall be issued and if the alleged notice or reporting violation or alleged violation where the company has demonstrated that it directly affects fewer than 25 customers is

cured within that time, the violation shall not be subject to a penalty. The notice and opportunity to cure may, but is not required to, be issued concurrently with the notice of alleged violation. No extension of the notice and opportunity to cure shall be granted. An alleged notice or reporting violation, or any alleged violation where the company has demonstrated that it directly affects fewer than 25 customers is ineligible for the foregoing 30-day notice and opportunity to cure provision where the Board determines that the alleged violator has demonstrated a pattern or practice of willful and repeated violations occurring within three years prior to the date of the written notice of the particular rule at issue.

(c) Any penalty that may be assessed pursuant to N.J.S.A. 48:5A-51 may be waived or compromised by the Board. Prior to assessing a penalty, the Board or the Office shall provide the cable television operator with a written explanation, with specificity, of the proposed penalty for each violation and the particular rules alleged to have been violated.

(d) In determining the amount of penalty, if any, the Board and the Office shall consider:

1. The nature, circumstances, and gravity of the violation(s), including, but not limited to, the extent to which customers have been harmed, including the estimated number of customers affected by the alleged violation;
2. Any history of prior violations of that particular and specific rule within the past three years;
3. Any good faith effort by the operator to achieve compliance or cure the violation within a reasonable time period following notice;
4. Whether the violation was willful; and
5. Any other factors deemed relevant by the Office.

(e) Enforcement actions must be resolved within 180 days of the date of the written notice, except that the Office may extend the deadline up to an additional 90 days if additional time will serve the public interest. However, the time frame for completion of the enforcement action shall be inapplicable where a cable television operator fails to provide a response to the written notice within the 30-day time period, or 60-day period if extended, in (a) above. Any extension requested pursuant to (a) above will automatically extend the time frame for completion of an enforcement action by the equivalent number of the days of the extension.

(f) In assessing violations, the Board may not look back more than three years prior to the date of the written notice.

TREASURY — GENERAL

(a)

OFFICE OF THE PUBLIC DEFENDER

Fees for Service

Proposed New Rule: N.J.A.C. 17:39-3

Authorized By: Joseph E. Krakora, Public Defender.
 Authority: N.J.S.A. 2A:158A-7(j), 16, and 19.
 Calendar Reference: See Summary below for explanation of exception to calendar requirement.
 Proposal Number: PRN 2014-044.

Submit written comments by June 20, 2014, to:

Andrew Christian Rojas
 First Assistant Public Defender
 Office of the Public Defender
 Hughes Justice Complex
 P.O. Box 850
 Trenton, NJ 08625-0850
 Fax: (609) 777-1795

The agency proposal follows:

Summary

Since its inception in 1967, the Office of the Public Defender (OPD) has billed its clients for services rendered pursuant to its statutory

mandate that a defendant represented by the OPD pay for the reasonable value of services. Based upon the prior rule at N.J.A.C. 17:39-3.1, which expired on August 7, 2005, the OPD currently charges its clients for representation by designated counsel and investigators as follows:

- Attorney services in the amount of \$30.00 per hour, in- or out-of-court;
- Investigator services in the amount of \$15.00 per hour;
- All litigation expenses (experts and transcripts) at actual cost; and
- A \$50.00 administrative fee, to be paid when client representation commences, to help defray the costs associated with opening a file and beginning representation.

Governor Chris Christie issued Executive Order Nos. 1 and 2 on January 20, 2010, to promulgate administrative rules that emphasize efficiency and effectiveness in New Jersey State government operations. In compliance with these directives, proposed new N.J.A.C. 17:39-3, which consists of N.J.A.C. 17:39-3.1, will replace the aforementioned expired rules containing the existing hourly rate fee schedule with a flat fee rate schedule based on case type and/or degree of associated crime.

In addition to eliminating the existing \$50.00 administrative fee, which helps defray the costs associated with opening a file and beginning representation, proposed new N.J.A.C. 17:39-3.1 includes the following flat fee billing rates:

1. Criminal Court (Adult):
 - i. For 1st and 2nd degree crimes:
 - (1) Pre-indictment plea: \$250.00;
 - (2) Post-indictment plea: \$500.00;
 - (3) Trial (up to five days): \$750.00; and
 - (4) Trial (every three days beyond initial 5): \$500.00; and
 - ii. For 3rd and 4th degree crimes:
 - (1) Pre-indictment plea: \$150.00;
 - (2) Post-indictment plea: \$250.00;
 - (3) Trial (up to five days): \$500.00; and
 - (4) Trial (every three days beyond initial 5): \$500.00; and
2. Family Court (Juvenile Delinquency):
 - i. For 1st and 2nd degree crimes:
 - (1) Plea: \$250.00;
 - (2) Trial (up to five days): \$750.00; and
 - (3) Trial (every three days beyond initial 5): \$500.00; and
 - ii. For 3rd and 4th degree crimes:
 - (1) Plea: \$150.00;
 - (2) Trial (up to five days): \$500.00; and
 - (3) Trial (every three days beyond initial 5): \$500.00;
3. Drug Court:
 - i. Plea: \$250.00; and
 - ii. Program completion: \$250.00.
4. Intensive supervision program: \$100.00;
5. Special hearings unit: \$200.00;
6. Title 9 child abuse and neglect cases: \$500.00; and
7. Title 30 termination of parental rights cases: \$750.00.

Each year, the OPD represents in excess of 125,000 clients, and the new proposed rule will affect those individuals. Knowing the total actual cost for legal representation prior to the rendering of any service will enable clients to commence payments sooner, and it may decrease the need for the OPD to enact a lien if full payment is received prior to disposition of the case.

New subsections (c) through (f) set forth that the defendant will be billed the actual costs under certain circumstances when the OPD does not represent the defendant, but does provide ancillary services and/or transcripts; the OPD will bill clients at the end of the case if the bill has not been paid; no client will be denied services; and partial payments and installment payments may be approved by the Public Defender or designee. New subsection (g) states that all cases closed prior to the effective date of this subchapter shall be billed the hourly rate currently in effect and all cases opened on or after the effective date of this subchapter will be billed at the flat fee rate.

As the OPD has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.