

CHAPTER 18

REGULATIONS OF CABLE TELEVISION

Authority

N.J.S.A. 48:5A-10.

Source and Effective Date

R.1990 d.415, effective July 26, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2527(b).

Executive Order No. 66(1978) Expiration Date

Chapter 18, Regulations of Cable Television, expires on July 26, 1995.

Chapter Historical Note

Chapter 18, Regulations of Cable Television became effective April 27, 1973 as R.1973 d.117. See: 5 N.J.R. 54(d), 5 N.J.R. 200(a). Pursuant to Executive Order No. 66(1978), Subchapter 11, Application by CATV Companies For Municipal Consent, was readopted as R.1983 d.346, effective August 3, 1983 with amendments and recodification of sections within the subchapter effective September 6, 1983. Subchapter 12, Miscellaneous Provisions, recodified to Subchapter 13. New Subchapter 12, Application For Certificate of Approval, codified. See: 15 N.J.R. 874(a), 15 N.J.R. 1483(a). Subchapter 13, Miscellaneous Provisions, was recodified to Subchapter 14 and new Subchapter 13, Renewals, became effective January 20, 1987 as R.1987 d.70. See: 18 N.J.R. 1181(a), 19 N.J.R. 238(a). Pursuant to Executive Order No. 66(1978), Chapter 18 was readopted as R.1990 d.415, effective July 26, 1990. Subchapter 3, Service, Subchapter 4, Testing of Service and Subchapter 7, Bills and Payments for Service, were repealed by R.1990 d.415, effective August 20, 1990.

New Subchapter 3, Customer Rights, Subchapter 4 Cable Operator Rights, Subchapter 7, Reports and Filings and Subchapter 9, Testing of Service, were adopted effective August 20, 1990. See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).

See section annotations for specific rulemaking activity.

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SUBCHAPTER 1. GENERAL PROVISIONS

14:18-1.1 Scope of regulations

(a) These regulations are promulgated in accordance with the authority provided the Office of Cable Television, Board of Public Utility Commissioner, under N.J.S.A. 48:5A-1 et seq. to regulate cable television corporations in the public interest.

(b) The purpose and intent of these regulations is to enforce the statutory mandate of the Legislature, which directs the Office of Cable Television, Board of Public Utility Commissioner, to promulgate rules and regulations necessary to effect the purposes of the act.

(c) These regulations apply to:

1. Cable television companies which own, control, operate or manage a cable television system;
2. Municipalities, cities and counties where applicable.

(d) These regulations do not limit the duties now imposed upon these companies but merely serve to define such duties and to establish standards for their performance.

Amended by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).
Added (d).

Law Review and Journal Commentaries

Multiple Channels of Cable Service Refranchising. Robert G. Goode, 148 N.J.Law. 16 (Mag.) (Sept./Oct. 1992).

Case Notes

Municipal ownership and operation of a cable television system is authorized by the Cable Television Act. Atty.Gen.F.O.1978, No. 5.

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.

“Board” means the Board of Public Utility Commissioners, Department of Public Utilities, as defined by N.J.S.A. 48:1-1 et seq.

“Cable communications system” or “cable communications service” means any communications service other than cable television reception service delivered through the facilities of a cable television system and for which charges in addition to or other than those made for cable television reception service are made or proposed to be made.

“Cable television company or CATV company” means any person owning, controlling, operating or managing a cable television system.

“Cable television reception service” means the simultaneous delivery through a CATV system of the signals of television broadcast stations to members of the public subscribing to such service, which service may include additional nonbroadcast signals delivered as part of the service with no additional charge.

“Cable television system or CATV system” means any facility within this State which is operated or intended to be operated to perform the service of receiving and amplifying the signals broadcast by one or more television stations and redistributing such signals by wire, cable or other device or means for accomplishing such redistribution to members of the public who subscribe to such service, or distributing through its facility any television signals whether broadcast or not; or any part of such facility. The term “facility” as used in this subsection includes all real property, antennae, poles, wires, cables, conduits, amplifiers, instruments, appliances, fixtures and other personal property used by a CATV company in providing service to its subscribers and customers.

“Certificate of approval” means a certificate issued, or which may be issued, by the Board upon the recommendation of the Director pursuant to N.J.S.A. 48:5A-1 et seq.

“Class I, Class II, Class III and Class IV cable television channels” means signaling paths as defined in Subpart A, Section 76.5, subsections (t), (u), (v) and (w) respectively, of the FCC rules and regulations adopted on February 2, 1972, as amended.

“Customer or subscriber” means any individual, partnership, firm, corporation, governmental subdivision or agency receiving service from a CATV company.

“Director” means the Director of the Office of Cable Television.

“Distribution plant” is the hardware, wires, electronics, equipment and other instrumentalities which deliver cable television service to the drop line feeding an individual subscriber’s home.

“FCC” means the Federal Communications Commission.

“Franchising authority” means the Board of Public Utilities, Office of Cable Television, State of New Jersey.

“Office” means the Office of Cable Television established by N.J.S.A. 48:5A-1 et seq.

“Operator’s proposal” means the operator’s petition to the Board for a Certificate of Approval following completion of municipal consent proceeding.

“Outage” means the total loss of audio and visual portion of any level of cable television service for which the cable television company imposes a separate charge and which affects the cable television company’s distribution plant.

“Person” means any individual or group of individuals or any agency or instrumentality of the State of New Jersey or of any of its political subdivisions; but this definition shall not include a telephone, telegraph or electric utility company regulated by the Board where it merely leases or rents or otherwise provides to a CATV company wires, conduits, cables or pole space used in the redistribution of broadcast signals to or toward subscribers or customers of such CATV company.

“Preliminary assessment of denial” means a decision by the Office of Cable Television to schedule a hearing on a Certificate of Approval application pursuant to N.J.S.A. 48:5A-16(b) and 47 U.S.C.A. § 546(c)(1).

“Preproposal phase” means any proceedings conducted under these rules held prior to an operator’s filing for a renewal of a Certificate of Approval with the Board of Public Utilities.

“Proposal phase” means any proceedings subsequent to the time under these rules when a petition for renewal of a Certificate of Approval is filed with the Board of Public Utilities.

“Renewal” means formal extension or continuation by the Board of any operator’s franchise beyond the duration specified by the existing Certificate of Approval.

“Request for Proposal” means a duly adopted municipal consent ordinance incorporating all terms and conditions for renewal, including but not limited to, any generally imposed obligations under state statute and regulations.

Amended by R.1986 d.376, effective September 8, 1986.
See: 18 N.J.R. 619(a), 18 N.J.R. 1831(a).

Added definitions “distribution plant” and “outage”.
Amended by R.1987 d.70, effective January 20, 1987.
See: 18 N.J.R. 1181(a), 19 N.J.R. 238(a).

Added definitions “franchising authority,” “operator’s proposal,” “preliminary assessment of denial,” “preproposal phase,” “renewal” and “request for proposal.”

Amended by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).

Amended “cable communication system” and “Classes I, II, III, IV cable television channels;” deleted “certificate of compliance.”

Case Notes

Municipal ownership and operation of a cable television system is authorized by the Cable Television Act. Atty.Gen.F.O.1978, No. 5.

SUBCHAPTER 2. PLANT

14:18-2.1 Plant construction

(a) Every cable television company shall construct and install its facilities with the applicable provisions of the National Electrical Safety Code, and subsequent amendments thereto, the National Electrical Code, and subsequent amendments thereto, as well as all Federal, State, and local laws, and any pole, conduit, or trench licensing agreements with utilities.

(b) Every cable television company shall design its plant and facilities in a manner which will enable it to meet all technical standards of operation promulgated by the FCC or this Board.

(c) Each CATV company shall make reasonable efforts to protect the public and its property from injury or damage and shall execute due care to reduce hazards to which employees, customers or the general public may be subjected by reasons of its equipment or facilities.

(d) Every cable television company shall file with the Board, in association with its application for approval of a municipal consent, a schedule for the construction of its facilities. This schedule shall require significant completion of construction within one year of receipt of the certificate of approval.

Amended by R.1990 d.415, effective August 20, 1990.

See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).

Stylistic revisions.

14:18-2.2 Inspection of work performed by contractors

To the extent necessary to assure compliance with safe practices, any construction work performed for a CATV company by contractors shall be inspected by a qualified representative of the CATV company before being placed in active service.

14:18-2.3 Construction in existing utility rights-of-way

(a) Where practicable, every cable television company shall use existing electric and/or telephone utility rights-of-way and facilities.

(b) In areas which are presently being provided with overhead utility service or which this Board has designated as areas which may, in the future, be provided with overhead utility service, each CATV company wishing to serve therein may make arrangements with the utility or utilities owning the existing poles or structures for the joint use of these facilities.

(c) In areas where electric and telephone utility distribution facilities are underground or are required by the Board to be placed underground, each CATV company wishing to provide service therein shall be required to install its cable underground.

14:18-2.4 Identification of property; buildings and structures

Each group of buildings or structures shall be provided with a sign or suitable marking displaying the name of the operating cable television company.

14:18-2.5 Identification of property; poles or structures supporting or connecting wires or cables

(a) Each cable television company owning solely or jointly (with a utility) poles, pedestals or structures supporting or connecting wires or cables along, under or over public highways shall properly mark each such pole, pedestal, or structure with the initials of its name, abbreviation of its name, corporate symbol or other distinguishing mark or code by which ownership may be readily and definitely ascertained and with number or symbol or both by which the location of each such pole, pedestal or structure may be determined on office records:

1. Such markings may be made with paint, brand or with a soft metal plate and the characters of the mark shall be of such size and so spaced and hereafter maintained as to be easily read.

2. In the case of joint ownership of any such structure by a CATV company and one or more utilities, the distinguishing mark or number of each owner shall be placed thereon. The numbering may be in accordance with a code which will indicate joint ownership.

3. In the case of such structures erected upon private rights-of-way or on public highways, of such character that the construction may be deemed to be a through or transmission trunk line, such mark need be affixed only to every fifth structure, provided, however, that each and every structure situated within the limits of any "built-up" community shall be marked.

4. The requirements herein shall apply to all existing and future structures erected and to all changes in ownership and name.

5. Every such CATV company shall have available a statement showing:

- i. The initials, abbreviations of name, corporate symbol or distinguishing mark;

- ii. The means of the marking employed;

- iii. The method followed in numbering structures, to wit, within the limits of cities, towns or other built-up communities, and upon through or transmission trunk lines.

6. Each cable television company should make reasonable efforts to prevent the placing upon its poles and pedestals of any marks, signs, placards, bulletins, notices or any foreign object other than as provided in N.J.S.A. 27:5-1.

Amended by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).
In (a), added "pedestal".

14:18-2.6 Maintenance of plant, equipment and facilities

Every cable television company shall have and maintain its entire plant in such condition as will enable it to provide adequate, economical and efficient cable television service.

14:18-2.7 Inspection of property

(a) Each CATV company shall inspect its equipment and facilities at efficiently frequent intervals to disclose conditions, if existing, which would interfere with efficient service and shall promptly take corrective action where conditions disclosed by such inspection so warrant.

(b) Whenever any equipment is removed from the system for any reason, it shall be inspected as to safety and serviceability before being reinstalled in the same or other location.

(c) Each pole, post, tower, pedestal, or other structure owned by the cable television company shall be inspected by the company owning it with sufficient frequency and comprehensiveness to disclose the necessity for replacement or repair in order to maintain service in accordance with established practice.

Amended by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).
In (c), added "pedestal".

14:18-2.8 Construction work near cable television facilities

(a) A CATV company shall endeavor, to the extent feasible and practicable, to obtain prompt notice and information concerning commencement and progress of construction work in close proximity to its facilities through contractors, government agencies, or others who may be permitted to perform construction work within the confines of its territory.

(b) Nothing herein shall affect the duties and obligations of persons working in the vicinity of high voltage lines as set forth in N.J.S.A. 34:6-47.1 et seq.

Amended by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).
In (b), amended citation.

14:18-2.9 Calculation of pole attachment rent

(a) In cases where the Board must determine the appropriate rental rate for cable television attachments on utility poles, it shall be calculated in the following manner:

1. Total percentage of gross plant as annual cost shall be the sum of the following percentages:

- i. Rate of return;
- ii. Depreciation expense;
- iii. Miscellaneous taxes;
- iv. Maintenance expenses;
- v. Administrative expenses;
- vi. Federal income tax.

2. Total yearly ownership expense	= Unweighted average original installed per pole cost	Multiplied by	Total percentage gross pole plant as annual cost
3. Common space	= Setting depth plus ground clearance		
4. Usable space	= Total pole length	minus	common space
5. Footage of usable space allocated to CATV	= 1.0 feet		
6. Footage of common space allocated to CATV	= 1.0 feet		
7. Percentage of total space allocated to CATV	= Footage of CATV common space	plus	Footage of CATV usable space
8. Annual rental charge per pole	= Percentage space allocated to CATV	Multiplied by	Total yearly ownership expense

(b) Weighted average original installed per pole cost may be used in (a)2 above, upon mutual agreement of the cable company and the utility; however, should the parties be unable to agree on weighted or unweighted costs, the Board shall employ the unweighted average original installed per pole cost.

(c) The quotient of total common space on the pole divided by the number of parties on the pole may be used to set the footage of common space allocated to cable television upon mutual agreement of the cable company and the utility; however, should the parties be unable to agree to allocate common space equally, the Board shall employ the formula set forth in (a)6 above.

(d) Any terms not defined by (a) above shall be interpreted in a manner consistent with established Board policies and orders.

(e) The Board shall from time to time, designate those utility account numbers which are appropriate sources of data.

Emergency New Rule, R.1985 d.323, effective May 30, 1985 (expires July 29, 1985).
See: 17 N.J.R. 1589(b).
Readopted New Rule, R.1985 d.425, effective July 29, 1985.
See: 17 N.J.R. 1589(b), 17 N.J.R. 2047(b).
Amended subsections (c) and (e).

14:18-2.10 Rate changes and disputes

(a) In the event of a dispute over pole attachment rates, any party to a pole attachment agreement under N.J.A.C. 14:18-2.9 may petition the Board for a resolution of such dispute by filing a petition with supporting documentation in accordance with N.J.A.C. 14:17-6.1 through 6.5.

(b) In the event of a dispute over terms and conditions, any party to a cable television pole attachment agreement may petition the Board for resolution.

New Rule, R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).

SUBCHAPTER 3. CUSTOMER RIGHTS**14:18-3.1 Scope**

It shall be the duty of every cable television company to furnish and maintain safe, adequate, economical, and efficient service.

Law Review and Journal Commentaries

NYT Cable TV v. Homestead at Mansfield, Inc.: Assessing the Role of Cable Access Statutes. Gerard G. Brew, 15 Rutgers Computer & Tech. L.J. 103 (1989).

14:18-3.2 Requests for service

(a) Applications by a customer for the establishment of service may be made at the CATV company office either in person, by mail or by telephone. If the CATV company requires a written application, the same may be subsequently submitted to the customer for signature.

(b) Within 20 days of ordering service, a subscriber is entitled to one of the following:

1. Installation of service;
2. Cost estimate for line extension or nonstandard premises installation where applicable; or
3. If access has been denied by a landlord or property owner, a copy of a letter to the landlord or property owner requesting access; and

(c) In the event that an operator cannot comply with (b) above, the operator shall provide to the subscriber an explanation of why service cannot be provided within such time.

(d) Cable television operators shall complete 85 percent of standard service installations, as specified in the operator's filed tariff, within seven business days, unless a later date is requested by the customer.

Amended by R.1991 d.78, effective February 19, 1991.
See: 22 N.J.R. 2890(a), 23 N.J.R. 612(a).
Maximum times set for installations.

14:18-3.3 Customer information

(a) Each CATV company shall, upon request, furnish its subscribers with such information as is reasonable, in order that the customers may obtain safe, adequate, efficient and economical service.

(b) Each CATV company shall inform its customers, where peculiar or unusual circumstances prevail, as to the conditions under which sufficient and satisfactory service may be secured from its system.

(c) The cable operator shall provide prospective customers, and existing customers upon any changeover to a new type of equipment, with a written description of any auxiliary equipment necessary to receive cable television service, such as converters or remote control units, required for service with an explanation of how such equipment interfaces with subscriber owned equipment such as VCR's, remote control units, "cable ready" sets, etc.

(d) Every new subscriber shall be provided with a complete copy of the cable company's tariff containing all rates, terms, and conditions applicable to that type of subscriber, for example, residential, commercial, etc.

14:18-3.4 Tariff information

(a) Upon request, the cable television operator shall provide, at no charge, a complete copy of the cable television company's tariff showing all rates, charges, and services.

(b) The cable television company shall post a complete copy of its tariff showing all rates, charges, and services in a prominent location in its local business offices.

14:18-3.5 Outage credit

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

1. In the event of an outage lasting six or more hours, the company shall make an appropriate credit on the subscriber's bill.
2. The amount of credit shall be in one-day units, prorated on the basis of the subscriber's monthly rate for each service not available.
3. For outages which extend more than 24 hours, subscribers shall receive a credit for each calendar day or part thereof if greater than six hours, during which service is out.

4. The cable television company shall not be liable to a subscriber for any indirect or consequential damages resulting from the outage unless the cable television company expressly agrees to such liability.

5. In order to obtain a credit, subscribers must notify the cable television company by phone or in writing within 30 days after any such outage, or else within 30 days notify the Office or other designated complaint officer.

6. A cable television company may, at its option, provide a subscriber with a rebate rather than a credit on the subscriber's bill to fulfill the requirements of this subsection.

(b) A cable television company shall not be required to provide a credit or rebate under (a) above if:

1. The cable television company can demonstrate that restoration of service was not possible within the six-hour period due to factors beyond the control of their company; and

2. If service is restored within six hours after the restoration of service becomes possible.

(c) Any cable television company may petition the Board for a waiver of providing credit required by (a) above in the event such credits would create an undue hardship on the cable television company.

(d) In instances where a subscriber is without cable television service for at least 24 hours, and the loss of the service is not the result of an outage, the company shall credit or rebate, at the company's option, the subscriber for one day unit for each 24-hour period in which the subscriber was without service. No cable company shall be required to provide a subscriber with a rebate or credit if the loss of service was caused by an act on the part of the subscriber requesting such a credit or rebate.

(e) Intermittent or cumulative service interruptions and other service related complaints are to be analyzed in accordance with the complaint procedure pursuant to N.J.A.C. 14:17-7.1.

(f) Each company shall quarterly inform its subscribers of the procedures by which a subscriber may obtain a credit.

14:18-3.6 Access to company representatives

Subscriber phone calls shall be answered by a representative or agent of the cable company 24 hours a day. Such representative or agent shall be able to contact appropriate personnel of the company in the event an emergency situation exists. If used by the cable system, an Automatic Response Unit (ARU) must allow an escape option by which a subscriber can speak to the next available operator.

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

(a) Any bill issued after January 29, 1991 shall show the following:

1. The name, address, and telephone number of the cable television company;
2. Identification of each service for which a separate charge is imposed and the rate for each service;
3. The amount due during the current period;
4. The amount past due;
5. The date by which payment is due;
6. Any appropriate credits to the bill;
7. Any separate charges for equipment provided by the cable television company;
8. Any other separate fees;
9. The period of service covered by current charges on the bill;
10. The late charge rate, if any;
11. The amount of accumulated late charges; and
12. Periodic interest credits on deposits held by the cable television company pursuant to N.J.A.C. 14:18-4.6 and 4.7.

(b) Each CATV company shall adopt some method of informing its subscribers as to the address of an office where complaints, service inquiries and bill payments will be received.

(c) Each CATV company shall keep a record of each subscriber's account in such a manner as will permit computation of the bill for any billing period occurring within three years.

(d) Prior to introduction of a new billing format pursuant to this section, a cable operator may submit a sample for review and approval by the Office.

(e) A cable operator may obtain a single six month extension of the implementation period for this section upon prior application and upon showing diligent efforts to conform to the requirement and good cause why it cannot do so.

14:18-3.8 Method of billing

(a) Bills for cable television service shall be rendered monthly, bi-monthly, quarterly, semi-annually or annually and shall be prorated upon establishment and termination of service. In unusual credit situations, bills may be rendered at shorter intervals.

(b) Cable television seasonal service may be billed in accordance with reasonable terms and conditions of service set forth in the filed tariff.

(c) A CATV company may, under uniform nondiscriminatory terms and conditions, require payment, in advance, for a period not to exceed that for which bills are regularly rendered, as specified in its applicable filed tariff. Any such advance payment for a greater period shall reflect appropriate discount for the additional period involved. Unless otherwise provided for in the applicable filed tariff, initial and final bills shall be prorated as of the date of the initial establishment and final termination of service. Nothing herein shall preclude a CATV company from issuing "payment books" which conform to the above requirements.

14:18-3.9 Due date of payment and notice of discontinuance

(a) The specified due date for payments shall be no less than 15 days from the postmark on the bill; if there is no postmark, the burden of proving the date of mailing shall be upon the cable company.

(b) Prior to disconnection for non-payment, a subscriber must receive 15 days' written notice from the cable television company. Such notice must be mailed separately and not as part of the periodic bill. Such notice shall not be issued until 15 days beyond the due date on the previous bill.

(c) A new notice shall be served by the CATV company each time the company intends to discontinue service for nonpayment of a bill.

(d) In case of fraud, illegal use or when it is clearly indicated the subscriber is preparing to leave, immediate payment of accounts may be required.

(e) A subscriber wishing to discontinue service must give notice to that effect. Where such notice is not received by the CATV company, the subscriber shall be liable for service until such notice is received by the CATV company.

(f) Notice to discontinue service will not relieve a subscriber from any minimum or guaranteed payment under any contract or rate.

14:18-3.10 Basis for restoration of discontinued services

Service shall be restored upon proper application when the conditions under which such service was discontinued are corrected, and upon the payment of all proper charges due from the subscriber provided in the tariff of the CATV company if the Office so directed when a complaint involving such matter is pending before it.

Case Notes

Provision of the Cable Television Act requiring cable companies to indemnify building owners for any damage caused by installation, operation, or removal of cable television facilities could not be read as actually requiring payment of compensation to owners by cable television companies for rights of access and installation; wording clearly indicated that legislature was referring to actual physical damage caused to property by cable installation and not to compensation for taking of property. *NYT Cable TV v. Homestead at Mansfield, Inc.*, 111 N.J. 21, 543 A.2d 10 (1988).

Validity of regulation must be challenged in the Appellate Division; regulation history. *Ocean Cablevision Associates v. Hovbilt, Inc.*, 210 N.J.Super. 626, 510 A.2d 308 (Law Div.1986).

14:18-3.11 Disputes

(a) A CATV company shall not discontinue service because of nonpayment of bills in cases where a charge or service is in dispute, provided a request is made to the Office for an investigation of the disputed charge or service, and, in the case of a disputed bill, the undisputed charges are paid to the CATV company and a check in the amount of the disputed charges is placed with an escrow agent designated by the Office.

(b) In such cases, the CATV company shall notify the subscriber that unless steps are taken to invoke formal or informal action by the Office within five days, service will be discontinued for nonpayment.

14:18-3.12 Service call scheduling

(a) When a service call is scheduled to a subscriber's home, the cable operator shall inform the subscriber upon request whether the service call is scheduled for morning, afternoon, or, if provided, evening.

(b) If the cable operator is unable to keep the scheduled appointment, the cable operator shall inform the subscriber and the appointment shall be rescheduled within 24 hours, unless good cause is shown.

14:18-3.13 Prompt restoration standards

(a) For systems over 10,000 subscribers, the cable television operator shall dispatch personnel to begin corrective action within two hours of notification of any total loss of service affecting five or more contiguous subscribers within the cable system.

1. In situations where a system experiences multiple simultaneous or near-simultaneous outages due to weather or other causes beyond the system operator's control, the operator shall make every reasonable attempt to respond to and restore the multiple outages as soon as possible.

(b) In situations where it is not practicable to respond for reasons of safety or access to equipment, the company shall respond as soon as the situation would allow.

(c) Systems having less than 10,000 subscribers shall dispatch personnel to begin corrective action in response to a total loss of cable service affecting five or more contiguous subscribers within the system as promptly as possible.

(d) All operators shall respond immediately to emergency situations at the request of police, fire, rescue or other authorized emergency service providers or utilities.

(e) All operators shall dispatch personnel to begin corrective action as promptly as possible to any service interruptions or service deficiencies within the control of the operator and affecting the cable distribution plant, which interrupt one or more programming services to subscribers.

(f) For purposes of this rule, contiguous subscribers are those subscribers residing on the same streets or in the same neighborhood or geographic area of the system.

New Rule, R.1991 d.298, effective June 17, 1991.
See: 23 N.J.R. 682(a), 23 N.J.R. 1961(b).

14:18-3.14 Availability of special equipment

(a) The cable television operator shall provide, upon the request of the subscriber, the following equipment:

1. A/B (input selector) switches to allow switchover to subscriber's antenna as required by 47 C.F.R. § 76.66;
2. A parental lock to allow subscriber blocking of a specified cable service or channel as required by 47 U.S.C. § 544(d)(2)(A); and
3. Devices to insure adequate access to cable television service for hearing-impaired persons pursuant to 47 U.S.C. § 543(f)(2).

(b) The cable television operator may impose fees to the subscriber for any equipment listed in (a)3 above, which shall not exceed the purchase cost plus overhead.

14:18-3.15 Trial services

(a) Subscribers who affirmatively agree to take a service marketed by the cable television operator for a specified trial period on a free or reduced rate basis shall not be charged for the disconnection or downgrade of the service provided the subscriber notifies the operator prior to the end of the trial period that they no longer want the service.

(b) Cable television operators shall maintain records of all such trial services for public inspection for a period of one year.

14:18-3.16 Notice of rate change

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

1. A cable TV company implementing a change in its rates shall file with the Office revised tariff sheets reflecting any rate changes at least 35 days prior to the effective date.
2. Each cable TV company shall individually notify, in writing, its subscribers and affected municipalities of a rate change at least 30 days prior to the effective date, with a simultaneous copy of the notice to the Office.
3. The notice requirements of (a)1 and 2 above are not applicable to limited time promotional activities provided the cable television company maintains a file for

public inspection showing the nature of the promotional activity, the rates to be charged, and the time period of the promotional activity.

(b) Cable television operators may be issued a waiver for any notification provision pursuant to this requirement in the instance of rate decrease. In no instance will a waiver of timely compliance be issued for a rate increase.

Amended by R.1991 d.79, effective February 19, 1991.
See: 22 N.J.R. 2892(a), 23 N.J.R. 613(a).

Permits the waiver of notification requirements in event of a rate decrease, does not allow a waiver of compliance for rate increase.

14:18-3.17 Notice of alteration in channel allocation

(a) Each cable TV company shall file with the Office written notice of an alteration in channel allocation, on a form prescribed by the Director, at least five days prior to the effective date for new additions which do not require deletions or cutbacks in other services. For all other changes the operator shall provide notice at least 35 days prior to the effective date.

(b) Each cable TV company shall notify its subscribers and affected municipalities of an alteration in channel allocation at least five days prior to the effective date for new additions which do not require deletions or cutbacks in other services. For all other changes the operator shall provide notice to the Office at least 35 days prior to the effective date and 30 days prior to the effective date to the subscribers in a manner reasonably calculated to provide such information.

(c) The Office may relax the time for providing notification upon a showing by the cable television operator that the operator has acted to provide the required notice at the earliest possible date and:

1. The operator reasonably believes that timely compliance with this subsection might subject the operator to penalties under State, Federal, or local law;
2. Timely compliance with this subsection is impossible due to the unforeseeable actions of third parties beyond the operator's control;
3. The programming service has been discontinued or withdrawn by the provider in such a manner as to leave the operator without sufficient time to comply; or
4. A substantial benefit to subscribers would be irretrievably lost.

14:18-3.18 Periodic notices to subscribers

(a) The cable operators shall provide annual notice to each subscriber of the following:

1. Notice of all monthly service packages and corresponding rates available according to the subscriber's billing classification (for example, residential, commercial, hotel/motel);

2. The privacy notice as required by 47 U.S.C. § 551(a) and N.J.S.A. 48:5A-56(b);

3. Notice of the advance payment discount if the cable television operator's filed tariff provides for payments more than 30 days in advance, as required by N.J.A.C. 14:18-3.8(c);

4. Notice of the availability senior citizens/disabled discounts in systems where offered, pursuant to N.J.A.C. 14:18-20;

5. Notice of the availability of devices for hearing impaired as required by N.J.A.C. 14:18-3.14(c);

6. Notice of the availability of A/B (input selector) switches as required by N.J.A.C. 14:18-3.14(a) and 47 C.F.R. § 76.66(a);

7. Notice of the availability of parental lock devices as required by N.J.A.C. 14:18-3.14(b) and 47 U.S.C. § 544(d)(2)(A); and

(b) The cable operators shall provide quarterly notice to each subscriber of the following:

1. Notice of the outage credit availability as outlined in N.J.A.C. 14:18-3.5; and

2. Notice of the complaint officer and the Office's toll free telephone number as required by N.J.S.A. 48:5A-26(c).

(c) The form and content of such notices shall meet the requirements of the applicable State or Federal law specifying such; in all other instances, the notice shall reasonably convey enough information for consumers to make informed decisions.

14:18-3.19 Interest on uncorrected billing errors

(a) Subscribers are entitled to credit for simple interest for any overpayments due to a billing error which are not refunded or corrected within two billing cycles after the subscriber notifies the cable operator in writing.

(b) The interest rate shall be equal to the average yields on six month Treasury Bills for the 12 month period ending each September 30. Said rate shall become effective on January 1 of the following year.

(c) The Board annually shall perform calculation to determine the applicable interest rate and shall notify the cable companies of said rate.

Amended by R.1992 d.319, effective August 17, 1992.
See: 24 N.J.R. 1470(b), 24 N.J.R. 2925(a).

Deleted requirement for rounding up or down to the nearest half percent.

14:18-3.20 Discounts for senior and disabled citizens

(a) Prior to offering, altering, or discontinuing a senior and disabled citizen discount, a cable company shall:

1. Specify the rates, terms, and conditions for the discount, and which services are included;

2. Provide at least 30 days advance notice to each subscriber and municipality served; and

3. Provide at least 35 days advance notice to the Office of Cable Television along with revised tariff sheets showing any such changes.

(b) New subscribers shall be informed in writing when a senior and disabled citizens discount program is available and the eligibility requirements for participation.

(c) Subscribers shall establish eligibility for this discount program by either:

1. Presenting a Pharmaceutical Assistance card and certifying that the subscriber is at least 62 years of age and that no more than one other person under the age of 62 resides in the same dwelling unit; or

2. Executing and notarizing a standard form of affidavit stating:

i. The subscriber's name and that he or she is at least 62 years of age;

ii. The subscriber's address and that he or she has been a permanent resident of this State for at least 30 days;

iii. That no more than one other person under the age of 62 resides in the same dwelling unit; and

iv. That the subscriber is:

(1) Single with an income less than \$13,650 per year, including social security income benefits;

(2) Married, with a combined income of less than \$16,750 per year including social security income benefits; or

(3) Such other limits as subsequently may be established for Pharmaceutical Assistance to the Aged and Disabled under N.J.S.A. 30:4D-21, as amended.

(d) Participation in a senior and disabled citizens discount plan shall not affect a subscriber's eligibility for other generally offered discounts and marketing promotions.

14:18-3.21 Avoidance of interruption; prompt restoration

Each CATV company shall exercise reasonable diligence to avoid interruptions, curtailments or deficiencies of service and, when such interruptions occur, service shall be restored as promptly as possible, consistent with safe practice.

14:18-3.22 Notice of planned interruptions

Planned interruptions for operating reasons shall always be preceded by reasonable notice, preferably on the local origination channel, to all affected subscribers, and the work shall be planned to minimize subscriber's inconvenience.

14:18-3.23 Reimbursement for lost, stolen or damaged equipment

(a) The cost charged to subscribers by cable television operators to replace lost or stolen converters or other auxiliary equipment shall be in an amount not to exceed the actual cost or the cable television operator's replacement cost, whichever is greater, of the equipment at the time the equipment was installed in the subscriber's home.

(b) The cost charged to subscribers by cable television operators for damaged equipment shall not exceed the reasonable repair costs or actual replacement cost, whichever is lesser.

(c) A cable television company shall not charge a subscriber for any damage to converters or other auxiliary equipment which may have resulted from the design, operation or maintenance of the equipment or from normal wear and tear.

(d) In the event the cable television company seeks to impose a charge for a subscriber pursuant to this section, the company shall give written notice to the subscriber of the amount sought and the reasons for the charge. The subscriber shall also be notified of the opportunity to refer the matter to the Office of Cable Television or the appropriate complaint officer pursuant to N.J.S.A. 48:5A-26.

(e) Cable television operators shall provide written notification to all new subscribers and subscribers receiving new or additional equipment of the rights and obligations of this section.

(f) The operator's replacement cost may include normal postage, shipping and handling costs.

New Rule: R.1991 d.80, effective February 19, 1991.
See: 22 N.J.R. 2892(b), 23 N.J.R. 614(a).

14:18-3.24 Late fees and charges

(a) In the event a cable television operator imposes an additional fee or charge or penalty to a subscriber for billing balances which are considered past due or late, the cable television operator shall clearly specify the amount of the fee, charge or penalty on the subscriber's bill. The cable television company shall also specify the method of calculation of the fee, charge or penalty on the bill.

(b) A cable television operator shall not impose an additional fee, charge or penalties specified in (a) above on any account balance less than 30 days past due.

New Rule: R.1991 d.81, effective February 19, 1991.
See: 22 N.J.R. 2893(a), 23 N.J.R. 615(a).

SUBCHAPTER 4. CABLE OPERATOR RIGHTS**14:18-4.1 Permits**

(a) The CATV company, where necessary, shall make application for any street opening permits for installing its

cables and shall not be required to furnish service until after such permits are granted.

(b) The municipal charge, as set forth in N.J.S.A. 48:5A-1, for use of the streets shall be paid annually by the CATV company.

14:18-4.2 Refusal to connect

A CATV company may refuse to connect with any customer's installation when it is not in accordance with the standard terms and conditions of the tariff schedules of the CATV company furnishing the service which have been filed with the Office, and with the provisions of applicable governmental requirements.

14:18-4.3 Basis of discontinuance of service

(a) The CATV company shall, upon reasonable notice, when it can be reasonably given, have the right to suspend or curtail or discontinue service for the following reasons:

1. For the purpose of making permanent or temporary repairs, changes or improvements in any part of its system;
2. For compliance in good faith with any governmental order or directive, notwithstanding such order or directive subsequently may be held to be invalid;
3. For any of the following acts or omissions on the part of the subscriber:
 - i. Nonpayment of a valid bill due for service furnished at a present or previous location in accordance with the further requirements stipulated in N.J.A.C. 14:18-7.9. However, nonpayment for business service shall not be a reason for discontinuance of residence service without the prior approval of the Office;
 - ii. Tampering with any facility of the CATV company;
 - iii. Fraudulent representation in relation to the use of the service within the subscriber's premises;
 - iv. Subscriber moving from the premises, unless the subscriber requests that service be continued;
 - v. Providing cable television service to others through the "tapping" of the CATV company's system without approval of the company;
 - vi. Refusal to contract for service where such contract is required by the filed tariff;
 - vii. Failure to make or increase an advance payment or deposit as provided for in these regulations or the tariff;
 - viii. Connecting and operating in such manner as to produce disturbing effects on the service of the CATV company or other subscribers;

ix. Failure of the subscriber to comply with any reasonable standard terms and conditions contained in the CATV company's tariff;

x. Where the condition of the subscriber's installation presents a hazard to life or property;

xi. Failure of subscriber to repair any faulty television or FM receiver or other CATV receiving facility belonging to the subscriber.

4. For refusal of reasonable access to subscriber's premises for necessary purposes in connection with rendering of service, including the proper and legal maintenance or removal of the CATV company's property.

(b) A subscriber wishing to discontinue service must give notice to that effect. Where such notice is not received by the CATV company, the subscriber shall be liable for service until such notice is received by the CATV company.

14:18-4.4 Access to customer's premises

(a) The CATV company shall have the right of reasonable access to subscriber's premises, and to all property furnished the CATV company at all reasonable times for the purpose of inspection of premises incident to the installation of service, inspecting, testing or repairing its facilities used in connection with supplying the service or for the removal of its property.

(b) The subscriber shall obtain, or cause to be obtained, all permits needed by the CATV company for access to the company's facilities at the subscriber's terminal.

(c) Access to the CATV company's facilities shall not be given except to authorized employees or agents of the company or duly authorized governmental officials, who shall present proper identification.

(d) In the case of defective service, the subscriber shall not interfere or tamper with the apparatus belonging to the CATV company but shall immediately notify the CATV company to have the defects remedied.

14:18-4.5 Compensation for taking because of installation of cable television facilities

(a) A cable television operator shall award \$1.00 to a fee owner, as defined by N.J.S.A. 48:5A-49(b)(1), in consideration of the access granted pursuant to the Cable Television Act, N.J.S.A. 48:5A-49.

(b) Unless cable television service is being currently provided to a certain multi-family property, a cable television operator shall serve written notice to the fee owner, landlord or agent of its intent to install cable television service or facilities upon the fee owner's property at least 30 days prior to commencing such installation. The Director of the Office of Cable Television has prescribed that notice be served by certified mail and that the form and content of such notice include at a minimum:

1. The name and address of the cable operator;
2. The name and address of the fee owner, manager or superintendent;
3. The approximate date of the installation;
4. Citations from the Cable Television Act and New Jersey Administrative Code, specifically N.J.S.A. 48:5A-49 and N.J.S.A. 48:5A-51, and N.J.A.C. 14:18-4.5;
5. A general description of the proposed method of installation;
6. Notice that the amount of \$1.00 in consideration for the access granted pursuant to the Cable Television Act will be tendered when an agreement is signed.

(c) If no response to the notice is forthcoming within 30 days, the cable operator has a statutory right and a franchise obligation to provide cable television service. In order to enforce this right and satisfy said obligation, a company must apply for an administrative approval for access. To apply, said company must submit to the Board of Public Utilities, copies of its notice and a specific description of the proposed method of installation.

1. If a response is received pursuant to (b) above and an agreement for access is not reached within 45 days of said response, the cable operator may apply to the Director for approval to install its cable television facilities. At such time the Director will either recommend to the Board that such an administrative order issue or alternatively deem such matter contested. In the event of the latter, the matter shall be handled in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the rules of the Office of Administrative Law, N.J.A.C. 1:1-1.1 et seq.

(d) Upon notice served pursuant to (b) above, except when such notice does not apply to multi-family properties currently receiving cable television service, fee owners may apply to the Office of Cable Television for just compensation. The owner has the burden of proof to clearly demonstrate:

1. The value of the applicant's property before the installation of cable television facilities;
2. The value of the applicant's property subsequent to the installation of cable television facilities;
3. The criteria, data, method or methods used to determine such values;
4. Out of pocket costs directly attributed to the installation and presence of cable television facilities in the multi-unit dwelling;
5. Any extraordinary costs to be borne by the applicant associated with the installation and presence of cable television facilities.

(e) The Director may, upon good cause shown, permit the filing of additional information to supplement the application. Copies of the application filed with the Office of Cable Television shall be served upon the cable television company in compliance with N.J.A.C. 14:17-5.1 et seq. Answers, if any, shall be filed within 20 days in compliance with N.J.A.C. 14:17-8.1 et seq. If said filing is limited to an application for compensation, the Director may permit the installation of cable television facilities provided that all issues relating to indemnification and protection of property have been satisfied.

(f) The Director shall determine whether an application filed consistent with (d) above establishes a contested case for compensation pursuant to (d). In such an event the matter shall be handled in accordance with the Administrative Procedure Act, N.J.A.C. 52:14B-1 et seq., and the rules of the Office of Administrative Law, N.J.A.C. 1:1-1.1 et seq.

(g) All executed access agreements must be filed with the Office of Cable Television pursuant to N.J.S.A. 48:5A-9(b).

Case Notes

Access rights section of the Cable Television Act required payment of just compensation to building owners by cable television companies for rights of access and installation. *NYT Cable TV v. Homestead at Mansfield, Inc.*, 111 N.J. 21, 543 A.2d 10 (1988).

Requirement under Board of Public Utilities rule that cable operator who desires to install cable must supply property owner with general description of proposed cable installation adequately describes taking involved to satisfy requirements of due process. *NYT Cable TV v. Homestead At Mansfield, Inc.*, 214 N.J.Super. 148, 518 A.2d 748 (A.D.1986), certification granted 107 N.J. 154, 526 A.2d 213, affirmed 111 N.J. 21, 543 A.2d 10.

Board of Public Utilities' rule regarding just compensation for taking needed for installation of cable television service provides for adequate notice by notice to fee holder notwithstanding claims of interests of tenants, owners of easements and holders of liens. *NYT Cable TV v. Homestead At Mansfield, Inc.*, 214 N.J.Super. 148, 518 A.2d 748 (A.D.1986), certification granted 107 N.J. 154, 526 A.2d 213, affirmed 111 N.J. 21, 543 A.2d 10.

Board of Public Utilities rule regarding just compensation for taking needed for installation of cable television service required that compensation be based on difference between fair market value of property before and after taking. *NYT Cable TV v. Homestead At Mansfield, Inc.*, 214 N.J.Super. 148, 518 A.2d 748 (A.D.1986), certification granted 107 N.J. 154, 526 A.2d 213, affirmed 111 N.J. 21, 543 A.2d 10.

14:18-4.6 Deposits to insure credit

(a) Where the credit of a subscriber is not established or where a subscriber is in default in the payment of bills, the CATV company may require a reasonable deposit as a condition of supplying service or continuing service.

(b) The credit established, by whatever method, shall apply at any location within the area of the CATV company furnishing the service; that is, service is not to be regarded as restricted to a particular location.

(c) The amount of a deposit shall be reasonably related to the charge for service during a billing period, provided such period does not exceed two months.

(d) In all cases where bills are rendered quarterly, semi-annually or annually, the amount of deposit shall not exceed the estimated average charge for service during any two months of the billing period.

(e) In determining the amount of any deposit, there shall be excluded from the average bill such portion thereof, if any, for which payment is received in advance.

(f) Simple interest, at the prevailing rate determined pursuant to N.J.A.C. 14:18-3.19, shall be paid by the cable television company on all credit deposits held by it, provided the deposit has remained with the company for at least six months. Moneys collected as deposits, pursuant to this section, shall be held in a separate account and shall not be used for any purpose other than the maintenance of subscriber accounts.

(g) Where a subscriber is in default in the payment of bills, service shall not be discontinued for failure to make such deposit except after proper notice, in accordance with N.J.A.C. 14:18-3.9(b).

(h) If a subscriber who has made a deposit fails to pay a bill, the CATV company may apply such deposit insofar as is necessary to liquidate the bill and may require that the deposit be restored to its original amount.

14:18-4.7 Deposits on auxiliary equipment

(a) When a CATV company supplies auxiliary equipment, such as a converter or other modifying device, to a subscriber's CATV receiving facility, the company may require the payment of a reasonable deposit thereon, provided, however, that said deposit shall not exceed the replacement cost of the unit(s).

(b) The simple interest provision of N.J.A.C. 14:18-4.6 shall apply to auxiliary equipment deposits. However, moneys collected as deposits pursuant to this section may be used by the CATV company to defray the cost of and service to such unit(s).

(c) If the CATV company is required to replace or repair the unit(s) because of subscriber abuse, the company may apply such deposit insofar as is necessary and may require that the deposit be restored to its original amount.

14:18-4.8 Receipts and records

(a) The CATV company shall furnish a receipt to each subscriber who has made a deposit.

(b) Where return of the deposit is made in cash, surrender of the receipt or, in lieu thereof, proof of identity may be required.

14:18-4.9 Return of deposits

(a) Upon closing any account, the balance of any deposit remaining after the closing bill for service has been settled shall be returned promptly to the depositor with interest due.

(b) With reference to N.J.A.C. 14:18-4.6, deposits to insure credit, each CATV company shall review a subscriber's account at least once every two years, and if such review indicates that the subscriber has established credit satisfactory to the CATV company, then the outstanding deposit shall be refunded to the subscriber.

(c) With reference to N.J.A.C. 14:18-4.7, deposits on auxiliary equipment, the amount of deposit shall be refunded to the subscriber upon termination of service and return of the unit(s) in good condition, reasonable wear and tear excepted. If any portion of the deposit is required to offset the cost of replacement or repair necessitated by customer abuse to such unit(s), the difference between such cost and the amount of deposit shall be refunded to the subscriber.

14:18-4.10 Consolidated notice

All notices required by N.J.A.C. 14:18-3.18(a) or (b) may be provided to subscribers in a single annual or quarterly notice, respectively, to each subscriber as long as all required information for each item is included.

SUBCHAPTER 5. OFFICES

14:18-5.1 Location and closing

(a) Each cable television company shall maintain, in or within reasonable proximity of its service area, a local business office, the current location of which shall be furnished to the Office where applications for service, complaints, service inquiries, bill payments, and so forth will be received.

(b) Each cable television company shall furnish the Office with the current location of its offices where maps and records showing the various services areas and facilities are available to supply, upon reasonable request, information to subscribers, governmental bodies, utilities, other CATV companies and contractors.

(c) At least 60 days prior to the closing or relocation of an office described in (a) or (b) above, 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. Said notice shall inform customers of 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 utility has been informed, in writing, that the Board has approved such request.

(d) Cable television companies are required to maintain and provide toll free or local exchange telephone numbers for use by the general public and subscribers affected by an office closing or relocation for billing, service and sales inquiries. This toll free number or local exchange number shall be posted on any notice at the office location as well as in the notice placed in the newspaper(s), pursuant to (c) above, serving the affected area.

Amended by R.1990 d.415, effective August 20, 1990.

See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).

Added (c).

Amended by R.1991 d.82, effective February 19, 1991.

See: 22 N.J.R. 2894(a), 23 N.J.R. 616(a).

Required cable TV companies to apply to the Board for permission to close or relocate an office.

14:18-5.2 Personnel to be contacted

(a) Each CATV company shall furnish to the Office and keep current a list of names, addresses and telephone numbers of responsible officials to be contacted in connection with routine matters during normal working hours.

(b) Each CATV company shall also furnish to the Office and keep current a list of names, addresses and telephone numbers of responsible officials who may be contacted in event of emergency during other than normal work-hours.

SUBCHAPTER 6. RECORDS

14:18-6.1 Availability of records

(a) Each CATV company shall notify the Office, upon request, of the location of its office or offices at which various records are kept.

(b) These records shall be open for examination by the Office's representatives.

14:18-6.2 Plant and operating records

(a) Each cable television company shall maintain adequate maps or records reflecting the latest available information and data concerning the size, type, location and date of construction and installation of its major units of property.

(b) Each CATV company shall keep for a period of one year, a record of complaints in regard to service received at its office or offices, which shall include the name and address of the subscriber, the date, the nature of complaint, the tests conducted and corrective action taken if required, and the final disposition. The record shall be available for inspection by the Office's staff.

(c) Each local business office shall maintain copies of filings required by the FCC related to the operation of that particular system.

Amended by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).
Added (c).

14:18-6.3 Accidents

Each CATV company shall keep a record of, and report to the Office, all accidents involving the operation or maintenance of its system on forms prescribed and furnished by the Office.

Recodified from 14:18-6.4 by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).
Prior text at section, "Periodic reports," repealed.

14:18-6.4 Public records

(a) The fee for copies of records, instruments and documents of the Board shall be the fee established pursuant to N.J.S.A. 47:1A-1 *et seq.*

(b) All records which are required to be made, maintained or kept by and for the Office which relate to accidents and investigation of accidents (provided such investigations have been completed) concerning CATV companies and to performance tests, safety inspections and surveys of property and equipment of CATV companies shall be deemed public records, copies of which may be purchased or reproduced under the provisions of N.J.S.A. 47:1A-1 *et seq.*

Amended by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).
Recodified from 14:18-6.5. Deleted (c).

14:18-6.5 Complaints records

Each CATV company shall keep for a period of one year, a record of complaints in regard to service received at its office or offices, which shall include the name and address of the subscriber, 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.

New Rule, R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).

14:18-6.6 Reporting and records of interruptions and outages

(a) All outages where service to subscribers is interrupted for at least two hours and which affect 50 or more subscribers shall be reported by each cable television company to the Office on a form prescribed by the Director.

1. Such reports shall be collected and forwarded to the Office monthly, and shall be sent to the Office within 15 days of the end of the month for which the report is filed.

2. Cable companies must report to the Office by telephone during the course of the outage all outages which exceed one hour in length and affect more than 500 subscribers.

(b) Records of outages shall be kept in a manner suitable for analysis for the purpose of minimizing possible future interruptions and shall include the time, cause and duration of the interruptions as well as the remedial action taken.

(c) Each CATV company shall keep a record of each outage for a period of one year showing location, duration and estimated number of subscribers affected.

New Rule, R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).

SUBCHAPTER 7. REPORTS AND FILINGS

14:18-7.1 Periodic Reports

(a) Each certified cable television company shall file with the Office a Cable Facts Questionnaire as listed in Appendix A of this Chapter, no later than March 1st of each year.

(b) Each CATV company shall file with the Office on or before March 31 of each year a summary of its finances and operations for the preceding calendar year on forms prescribed and furnished by the Office.

(c) Other periodic reports shall be filed on or before the due date noted on the report form or as otherwise required by law.

14:18-7.2 Special reports

(a) In special instances, cable television companies may be required to submit reports quarterly, monthly or at any other interval as directed by the Board or Office.

(b) Cable television companies shall promptly report to the Office details of all accidents involving a death or serious injury.

14:18-7.3 Other filings

(a) All cable television companies shall file with the Office copies of any executed pole attachment agreements and amendments thereto.

(b) Each CATV company shall file with the Office and keep current a list of names, addresses and telephone numbers of responsible officials to be contacted in connection with routine matters during normal working hours.

(c) Each CATV company shall also furnish to the Office and keep current a list of names, addresses and telephone numbers of responsible officials who may be contacted in

event of emergency during other than normal working hours.

(d) Each cable television company shall file with the Board, and keep open to public inspection, tariffs applicable to the services available, pursuant to the provisions of N.J.S.A. 48:5A-1 et seq., as applicable, with revised sheets to reflect any changes.

(e) Each cable television company shall file with the Office of Cable Television a copy of any FCC document required to be kept locally by N.J.A.C. 14:18-6.2(c).

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

(a) A cable television company shall provide at least 30 days' written notification to the Office prior to any system rebuild, upgrade, headend or hub relocation, and/or significant changes in system design as described in the company's initial filing for certificate of approval or renewal thereof.

1. Notice of significant system design changes shall be accompanied by new theoretical system performance specifications.
2. Notice of headend or hub relocation shall include new signal surveys for off-air channels and other appropriate satellite or microwave surveys.

14:18-7.5 Written procedures for use of public, educational and governmental access channels

(a) All cable television operators which have managerial or operational control over an access channel shall develop written guidelines concerning the use of channel capacity designated as public, educational and/or governmental access channels. These guidelines shall contain information on the following:

1. The designation of and restrictions upon any channels available for such use;
2. The number of channels available for such use;
3. The municipalities served by each channel;
4. The procedure by which persons arrange to use each channel;
5. The cost, if any, for use of each channel;
6. The method by which persons deliver programming for insertion of on channel;
7. The studio and production equipment available, including costs and restrictions on use;
8. The method by which persons arrange to use any available studio or production equipment;
9. The training which is available in use of any studio or production equipment;

10. A written agreement between user groups, operators, and companies which states the rights and responsibilities of each; and

11. A specified contact person to see that interested parties are accommodated.

(b) Each cable television operator who has managerial or operational control over an access channel shall keep a record of all users of access channels available for public inspection at the local business office of the cable television operator. This record shall contain the names, addresses, and telephone numbers of access users, and shall be kept for a period of two years.

(c) A cable television operator who has managerial or operational control over an access channel shall provide a copy of the revision to the OCTV and the municipality within 30 days of any revision to the procedural rules for the use of a channel. All parties affected by the revision shall be provided immediate written notice by the operator.

(d) These guidelines shall be posted and available at local business offices and studios in the cable system.

(e) For any access not within the cable operator's control or management, each cable television operator shall maintain a listing of the person or entity having such control and management authority.

New Rule: R.1991 d.83, effective February 19, 1991.
See: 22 N.J.R. 2894(b), 23 N.J.R. 618(a).

14:18-7.6 Telephone system information

(a) Each cable television operator shall provide the Office of Cable Television the following information concerning the operation of the company's telephone system:

1. The location of each office from which telephone calls from subscribers and the general public are normally received and the number of subscribers served by the office;
2. The days of the week and the hours in which an office is open to conduct business with the public and receive telephone calls;
3. The telephone numbers by which subscribers may call the cable television operator;
4. The method by which subscribers are informed of the telephone number(s) used to contact the cable operator;
5. Whether subscribers are requested to dial a single telephone or separate numbers depending on the nature of their inquiry;
6. Whether inward telephone traffic is grouped to individual departments (that is, service, billing, etc.), along with the total number of such departments and the identification of each department;

7. The total number of inward telephone trunk lines assigned to each telephone number used by the cable television operator;

8. A brief description of the type of telephone system used in the office and the manufacturer and model number of any equipment used.

9. Whether the office has an on-premises private branch exchange (PBX) or other private switching device and whether the device handles all telephone traffic for the office;

10. The total number of functional lines on the line side (telephone extension/CSR side) of the PBX or other private switching device and, if segregated by department, the number of functional lines assigned to each department;

11. The total number of customer service representatives (CSRs) normally available to answer calls. If CSRs are segregated by department, the total number of CSRs available for each department;

12. If the assignment of CSRs varies by hour, day or other time period, the cable operator shall describe the variation in the assignment;

13. A brief description of the initial and ongoing training provided to the CSRs;

14. A brief description of the billing cycle including dates on which bills are mailed;

15. Whether the CSRs have access to computer terminals for billing or service information and, if so, a brief description of the information available to the CSR;

16. Whether the telephone system serving the office has automated call distribution capability for the entire office or for specific departments. If so, the cable television operator shall supply a brief description on the method of call distribution;

17. Whether the telephone system places incoming calls in queue, and the maximum number of callers that can be placed in queue;

18. Whether the telephone system has an Automated Response Unit (ARU) and a description of the routing options available to callers through the ARU;

19. Whether the telephone system provides recorded messages to callers and a description of the messages provided;

20. Whether telephone answering machines or devices are used, the hours which they are used and the departments in which they are used; and

21. The name and address of the answering service, if used, and the hours in which the service is used. Also, indicate whether the answering service receives all incoming calls or specific departments.

(b) The information required pursuant to (a) above shall be provided to the Office of Cable Television on or before October 4, 1991 and annually thereafter.

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

New Rule, R.1991 d.375, effective August 5, 1991.
See: 22 N.J.R. 2895(a), 23 N.J.R. 2342(a).

14:18-7.7 Telephone system performance

(a) Each cable television operator shall provide the Office with the following information for all telephone trunk lines normally used by subscribers and the general public for every office it maintains:

1. The total number of incoming calls received during each day of the listed month;

2. The percentage of time in which an inward dialed telephone call would receive a busy signal for each day for the listed month;

3. The average length of time of incoming calls held in queue (hold time) for each day for the listed month; and

4. The percentage of calls terminated by the caller (abandoned) while the call is held in queue during each day for the listed month.

(b) The data requested by (a) above shall be provided for the calendar months of January, March, May, July, September and November, and shall be accompanied by a certification from the system manager or other appropriate system personnel that the information is correct.

(c) Reports of the information required by (a) above shall be filed by the operator within 10 days of the end of the month for which the report is filed. The data shall be submitted in a summary format, on forms prescribed by the Director.

(d) The Office may direct a cable television operator to record and submit additional data or to conduct, or have conducted, other or more detailed telephone traffic analyses, if circumstances so require.

(e) All averages and percentages compiled pursuant to (a) above shall consider only the hours in which the cable television company's office is open to receive incoming calls.

(f) A cable television operator shall submit an explanation of any extraordinary change in telephone traffic patterns as indicated by the data provided to the Office. Explanations shall be provided for extraordinary changes caused by situations such as outages, phone equipment failure and rate changes.

(g) A cable television operator may request, in writing, a waiver of one or more of the reporting requirements or required report formats of (a) above from the Director. Any such waivers will be for periods of up to one year and are renewable. In considering such requests, the Director shall consider factors such as the size of the system, the burden on the cable television operator for providing the information, the capability of the cable television operator's telephone system and the nature and type of alternative information the cable television operator intends to provide.

New Rule, R.1991 d.594, effective December 16, 1991.
See: 23 N.J.R. 2273(a), 23 N.J.R. 3768(a).

SUBCHAPTER 8. LIABILITY INSURANCE

14:18-8.1 Liability insurance

(a) Any person operating a CATV company in accordance with the applicable statutes shall file with the Office two copies of a certificate of insurance.

(b) Said certificate shall be signed by the issuing insurance company and shall state that the CATV company is insured in compliance with N.J.S.A. 48:5A-1 et seq. under the standard form of insurance policy, and, in addition thereto, they shall furnish information as to the types and amounts of all insurance coverage.

SUBCHAPTER 9. TESTING OF SERVICE

14:18-9.1 Equipment for testing

(a) A list of testing equipment by which system performance tests may be conducted pursuant to the rules now promulgated or which may be promulgated by the FCC or the Office and the location of such equipment shall be kept on file at the local cable company office. Such equipment shall be available, upon reasonable request by the Office, for such additional or special tests as may be required.

14:18-9.2 Proof of performance

(a) Each cable television company shall be required to file with the Office copies of semiannual proof-of-performance tests conducted in accordance with Part 76 Subpart K of Title 47 CFR Section 76.601(c) to determine the extent of system compliance with technical standards 76.605(a).

(b) Copies of the semiannual proof-of-performance test results shall be filed with the Office during the months of March and September of each calendar year.

(c) Test results shall be accompanied by a statement indicating the extent to which the system complies with the applicable standards.

Amended by R.1993 d.234, effective June 21, 1993.
See: 24 N.J.R. 4497(a), 25 N.J.R. 2700(a).

SUBCHAPTER 10. TECHNICAL STANDARDS FOR SYSTEM OPERATION

14:18-10.1 Scope

The following requirements shall apply to cable television system performance as measured at any subscriber terminal with a matched terminating impedance, and to each National Television Systems Committee (NTSC) or similar video downstream cable television channel in the cable system.

Amended by R.1993 d.234, effective June 21, 1993.
See: 24 N.J.R. 4497(a), 25 N.J.R. 2700(a).

14:18-10.2 Technical performance requirements

(a) Every cable television system providing cable television service shall be required to do so in accordance with the rules and regulations specified in Part 76, Subpart K of Title 47 CFR.

(b) Each system operator shall be prepared to show, on request by an authorized representative of the Office, that the system does, in fact, comply with the rules and regulations of Part 76, Subpart K of Title 47 CFR.

Amended by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).

Stylistic revisions.
Amended by R.1993 d.234, effective June 21, 1993.
See: 24 N.J.R. 4497(a), 25 N.J.R. 2700(a).

14:18-10.3 Requirements for specialized NTSC video and non-video signals

(a) Every cable television operator providing locally originated television programming received from any origination source, shall make reasonable efforts to use good engineering practices in the processing of each programming signal to guard against any unnecessary degradation in the signal received and delivered to the subscriber.

(b) Every cable television operator providing non-video signals or data transmission for testing, encoding, decoding or addressing purposes, shall use good engineering practices in transmitting the signal without material degradation or objectionable interference to any channel delivered to the subscriber.

Amended by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).

Repealed section was "Additional technical standards"; "Requirements for Class III and IV channels" recodified from 14:18-10.9. Added Class II.
 Repeal and new rule: R.1993 d.234, effective June 21, 1993.
 See: 24 N.J.R. 4497(a), 25 N.J.R. 2700(a).

14:18-10.4 (Reserved)

Amended by R.1990 d.415, effective August 20, 1990.
 See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).

Repealed section was "FM (Broadcasting) signal level"; "Initial performance tests" recodified from 14:18-10.10. Deleted (b) and (e); redesignated (c)-(d) as (b)-(c).
 Repealed by R.1993 d.234, effective June 21, 1993.
 See: 24 N.J.R. 4497(a), 25 N.J.R. 2700(a).

14:18-10.5 (Reserved)

Amended by R.1990 d.415, effective August 20, 1990.
 See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).

Repealed section was "System carrier to noise ratio"; "Monitor point tests" recodified from 14:18-10.12. In (b)1, added visual and aural carrier.
 Amended by R.1994 d.235, effective May 16, 1994.
 See: 26 N.J.R. 1318(a), 26 N.J.R. 2146(c).
 Section was "Monitor point tests".

14:18-10.6 Additional tests to ensure compliance

The Office of Cable Television may request certain specific tests at any time and, where necessary and feasible, to show compliance with this subchapter.

Amended by R.1990 d.415, effective August 20, 1990.
 See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).

Repealed section was "Cross modulation"; "Special provisions for older and small systems" recodified from 14:18-10.13 and deleted (a)1-3.

14:18-10.7 (Reserved)

Repealed by R.1990 d.415, effective August 20, 1990.
 See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).
 Section was "Converters."

14:18-10.8 (Reserved)

Repealed by R.1990 d.415, effective August 20, 1990.
 See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).
 Section was "Requirements for subscriber terminal interface channel conversion devices."

14:18-10.9 (Reserved)

Recodified to 14:18-10.3 by R.1990 d.415, effective August 20, 1990.
 See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).
 Section was "Requirements for Class III and IV channels."

14:18-10.10 (Reserved)

Recodified to 14:18-10.4 by R.1990 d.415, effective August 20, 1990.
 See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).
 Section was "Initial performance tests."

14:18-10.11 (Reserved)

Repealed by R.1990 d.415, effective August 20, 1990.
 See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).
 Section was "Annual tests to determine extent of compliance."

14:18-10.12 (Reserved)

Recodified to 14:18-10.5 by R.1990 d.415, effective August 20, 1990.
 See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).
 Section was "Monitor point tests."

14:18-10.13 (Reserved)

Recodified to 14:18-10.6 by R.1990 d.415, effective August 20, 1990.
 See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).
 Section was "Special provisions for older systems and for small systems."

SUBCHAPTER 11. APPLICATION BY CATV COMPANIES FOR MUNICIPAL CONSENT

14:18-11.1 Application for municipal consent; who may apply

(a) Any person may apply to any municipality in the State of New Jersey for the issuance of a municipal consent for the operation of a cable television system by submitting, in triplicate, an application to the clerk of that municipality. One additional copy of the application shall be filed with the Office within three days after the municipal filing.

(b) Application for consent shall conform to the requirements of N.J.A.C. 14:18-11.2, shall be filed on forms promulgated by the Office, and shall have attached a filing fee in the amount of \$100.00.

Amended by R.1976 d.18, effective January 21, 1976.
 See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).

14:18-11.2 Application for municipal consent to operate a cable television system

(a) Every application for a consent shall be submitted on a standard form supplied by the office, which form shall include but not be limited to the following information:

1. Organization and management:
 - i. Type of business organization;
 - ii. System name, address and telephone number;
 - iii. Stockholders, directors, owners;
 - iv. Personnel, including system manager, accountant, attorney, chief engineer and registered agent;
2. Legal:
 - i. Individuals or organizations other than those listed in (a)1 above with financial interests in the applicant;
 - ii. Affiliations with other media enterprises, including but not limited to newspapers, television companies and radio stations;
 - iii. Public licenses revoked or suspended, or legal or administrative action by any government agency;

- iv. Conviction of any applicants, or party to the application, by the United States Federal Court concerning violation relating to unlawful restraints and to all agreements in restraint of trade;
 - v. Convictions by any court or administrative agency concerning any felony, libel, slander, obscenity, invasion of privacy, lotteries or unfair methods of competition;
 - vi. Any bankruptcy proceedings;
 - vii. Any outstanding unsatisfied judgments or decrees against the applicant or any party to the application;
3. Cable experience: Affiliation with other television or communications systems;
4. System design and construction timetable:
- i. The system design concept contemplated, indicating initial construction proposed and the development and extension of the system within the franchise boundaries. The total signals to be carried in terms of auxiliary equipment to be provided to subscribers. Two-way capability of proposed system;
 - ii. The schedule for the construction of the system;
5. Proposed services:
- i. Broadcast signals to be carried;
 - ii. Access channels to be carried;
 - iii. Local origination channels to be carried;
 - iv. Production facilities to be available;
 - v. Other services available to subscribers;
6. Rates for television reception service:
- i. Installation of service;
 - ii. Monthly service charges;
 - iii. Rental charges for any ancillary equipment required to be provided.
7. Bonding and insurance:
- i. The types and amounts of insurance coverage applicant proposes to carry;
 - ii. The amount of bond applicant proposes to file with the municipality;
8. Financing:
- i. The capital required for construction of the proposed system, including but not limited to estimates as to transmission system and distribution, and drop cables and office equipment; studio equipment, vehicles, telephones and power pole make ready, administrative and technical personnel, wages and bonuses;

- ii. The annual revenues anticipated from system operation. Operating expenses and working capital needed in of that required for construction;
- iii. Source of funds to be provided for the above purposes.

(b) The office's guidelines for the composition of the municipal consent ordinance may be utilized.

Case Notes

Unclear violations of application amendment and disclosure regulations required on certificate of approval (citing former N.J.A.C. 14:18-11.20). In re: Controlled Cable Corp., 95 N.J. 473, 472 A.2d 130 (1984).

Required contents of application for cable franchise set forth in regulation (citing former N.J.A.C. 14:18-11.20); municipal ordinance consenting to franchise cannot be altered by parol evidence. In re: Cable Systems, Inc., 5 N.J.A.R. 75 (1981).

14:18-11.3 Appointment of citizens' committee; duties

(a) The municipal governing body, prior to or upon receipt of the first application for municipal consent to operate a cable television system, may appoint a citizen's committee which shall be responsible for obtaining and disseminating information concerning cable communications generally, analyzing those services which a cable system may be required or able to provide, investigating the backgrounds of the applicants or parties to the application, ascertaining the desires of the citizens of the municipality concerning the cable television and studying those sections of the application concerning which they, as residents of the municipality, have special knowledge for example, the acceptability of the construction schedule in the areas proposed.

(b) It shall be further their responsibility to file a written report concerning these investigations and studies, which report shall become part of the record of the proceeding in accordance with section 10 of this subchapter. Members of the citizens' committee shall afford each applicant an equal opportunity to supply any information.

Amended by R.1976 d.18, effective January 21, 1976.
See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).

Case Notes

Establishment of citizen's advisory committee (citing former N.J.A.C. 14:18-11.2). In re: Cable Systems, Inc., 5 N.J.A.R. 75 (1981).

14:18-11.4 Hearing date

The municipal governing body shall, upon receipt of the first application, decide upon a date on which hearing will be held concerning first application and any other applications filed in accordance with N.J.S.A. 48:5A-23c. 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.

Amended by R.1976 d.18, effective January 21, 1976.
See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).

14:18-11.5 Ex parte communications; prohibitions

No member of the municipal governing body may communicate ex parte by telephone or otherwise, or meet with any applicant concerning any substantive matter contained in the application on file without first notifying all other applicants of such meeting or communication. Nothing herein shall prohibit communication, without notice, concerning procedural matters associated with the filing or hearing of an application.

Amended by R.1976 d.18, effective January 21, 1976.
See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).

Case Notes

Unclear violations of application amendment and disclosure regulations, as opposed to clear violation of ex parte communications ban, required hearing on certificate of approval (citing former N.J.A.C. 14:18-11.4). In re: Controlled Cable Corp., 95 N.J. 473, 472 A.2d 130 (1984).

Violation by applicant without municipal consent who communicated with mayor and council regarding application without prior notice to other applicants (citing former N.J.A.C. 14:18-11.4). In re: Micro-Cable Communications Corp., 176 N.J.Super. 197, 422 A.2d 780 (App. Div.1980).

Allegation of violation due to applicant's ex parte conversation with mayor after prehearing conference; not addressed due to closing of record (citing former N.J.A.C. 14:18-11.4). In re: Tri-County Cable, Inc., 4 N.J.A.R. 260 (1981).

14:18-11.6 Notice of hearing

(a) The municipal governing body shall give notice of the date scheduled for hearing concerning the first application or any further applications by publishing in a newspaper or newspapers of general circulation in the area information as to:

1. The identity of the applicant or applicants;
2. The time and place of hearing; and
3. The place at which and time within which applications may be examined by residents of the municipality and other interested parties.

(b) This notice must be published twice in accordance with N.J.S.A. 48:5A-23c, which specifies that the first publication must be, at the latest, on the 45th day prior to the hearing, and the second between the 14th day and the seventh day prior to the hearing. Copies of both proposed notices shall be filed with the Office at the time submitted to publication.

Amended by R.1976 d.18, effective January 21, 1976.
See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).

14:18-11.7 Hearings; before whom held

Hearings must be held before the municipal governing body or a majority thereof. The above mentioned governing body shall designate a presiding officer who shall have the responsibility for the conduct of the hearings.

Amended by R.1976 d.18, effective January 21, 1976.
See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).

14:18-11.8 Procedure at hearing

(a) The presiding officer shall call the proceeding for hearing and cause the appearances to be entered on the record. The presiding officer must determine the order in which applicants may be heard. Any person giving testimony shall do so under oath.

(b) Each applicant shall be given time to make an opening presentation concerning the application on file at the first hearing.

(c) All persons shall be given full opportunity to participate in the hearings and to question any applicant concerning the information required in the application.

(d) Nothing herein shall limit the power of the presiding officer to establish reasonable time limits for such questioning and to otherwise limit repetitive statements or questions.

Amended by R.1976 d.18, effective January 21, 1976.
See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).
Amended by R.1978 d.262, effective August 1, 1978.
See: 9 N.J.R. 441(d), 10 N.J.R. 405(b).

14:18-11.9 Amendments to application; notice

(a) An applicant may, until seven days prior to the first hearing scheduled, submit to the municipal governing body changes, modifications or amendments of information contained in the application.

(b) Copies of such amendments shall be served upon the municipality, each applicant in the proceeding, and the Office, at the same time by the same method of service.

Amended by R.1976 d.18, effective January 21, 1976.
See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).

Case Notes

Violation by applicant without municipal consent who communicated with mayor and council regarding application without prior notice to other applicants (citing former N.J.A.C. 14:18-11.8). In re: Micro-Cable Communications Corp., 176 N.J.Super. 197, 422 A.2d 780 (App. Div.1980).

Precedent support cited for regulation being a strict liability provision (citing former N.J.A.C. 14:18-11.8). In re: Tri-County Cable, Inc., 4 N.J.A.R. 260 (1981).

14:18-11.10 Additional information other than amandatory; notice

(a) An applicant may, until four days prior to the close of hearings, submit to the governing body such additional, clarifying, explanatory, or supplemental information as may be helpful to the members in reaching a decision.

(b) At any stage prior to the close of the hearing, the presiding officer may require further information upon any issue to be presented by the applicant(s) concerned.

(c) Copies of such information shall be served upon the municipality, each applicant in the proceeding, and the Office at the same time by the same method of service.

Amended by R.1976 d.18, effective January 21, 1976.
See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).

Case Notes

Failure of municipality to have stenographic record of proceedings found inadequate to raise cable franchise award to level of improper arbitrary action. In re: Tri-County Cable, Inc., 4 N.J.A.R. 260 (1981).

14:18-11.11 Record of hearing

The municipal governing body will cause to be made a record of all public hearings conducted pursuant to the requirements of N.J.S.A. 48:5A-23, which record with all papers filed in the proceeding and, if applicable, the report of citizens' committee referred to hereinabove shall constitute the record for decision. Such record shall be a stenographic record made by a court reporter certified in this State.

Amended by R.1976 d.18, effective January 21, 1976.
See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).
Amended by R.1978 d.262, effective August 1, 1978.
See: 9 N.J.R. 441(d), 10 N.J.R. 405(b).

14:18-11.12 Adjournments of hearing

Adjournment of any hearing shall be permitted, provided that all hearings are completed within 30 days of the date of initial hearing as required by N.J.S.A. 48:5A-23b.

Amended by R.1976 d.18, effective January 21, 1976.
See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).

14:18-11.13 Decision; time; contents

The municipal governing body shall, not later than 30 days from the date of the last hearing, make a decision as to whether to grant one or more of the applicants a municipal consent to operate a cable television system. A report of that decision shall be filed promptly with the clerk of the municipality and with the Office of Cable Television. In addition to the decision itself, the report shall contain detailed and specific information as to the reason for the decision and shall have attached information concerning the municipality, governing body and hearing proceedings.

Amended by R.1976 d.18, effective January 21, 1976.
See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).

Case Notes

Municipal governing body must make decision concerning a CATV application within 30 days after conclusion of application hearings and must issue written report of decision detailing reasons therefor; reports found inadequate (citing former N.J.A.C. 14:18-11.12). In re: Tri-County Cable, Inc., 4 N.J.A.R. 260 (1981).

14:18-11.14 Notification of utilities; negotiations

The successful applicant(s) immediately, upon the filing of the municipal decision and report, shall notify the utilities or individuals whose facilities are required for the construction of the cable television system and shall be authorized to begin negotiations for pole attachment or conduit-use agreements or rights-of-way, as applicable.

Amended by R.1976 d.18, effective January 21, 1976.
See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).

14:18-11.15 Form of consent

A grant of consent to operate a cable television system shall be in the form of an ordinance passed in accordance with the applicable provisions of N.J.S.A. 40:49-1 et seq.

Amended by R.1976 d.18, effective January 21, 1976.
See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).

14:18-11.16 Contents of ordinance

(a) Every ordinance passed shall conform to the requirements of N.J.S.A. 48:5A-24, 25 and 26, and shall contain information as to the following:

1. The territory to which it applies;
2. The term for which it is issued, and the term for renewal if any;
3. The designation of a complaint officer;
4. The requirement that the successful applicant(s) shall maintain a local business office;
5. The incorporation of the application for municipal consent;
6. The amount of the franchise fee payable to the municipality;
7. Any modifications to the information contained in the application.

(b) The office's guidelines for the composition of the municipal consent ordinance may be utilized.

Amended by R.1976 d.18, effective January 21, 1976.
See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).

Case Notes

Municipal ordinance consenting to cable franchise incorporates terms of the application for municipal consent; municipal consent ordinance cannot be altered by parol evidence. In re: Cable Systems, Inc., 5 N.J.A.R. 75 (1981).

14:18-11.17 Restrictions

(a) Nothing contained herein shall permit the municipal governing body to include in its ordinance requirements as to any area which is within the responsibility or authority of the office or the Federal Communications Commission to regulate, or which is in conflict with applicable law, including but not limited to:

1. Technical standards;
2. Construction standards;
3. Assignment of the consent;
4. Revocation of the consent;
5. Rates, charges or classifications of service other than those for initial cable television reception service as defined in N.J.S.A. 48:5A-3e;
6. Transfers of property or stock;
7. Free services.

Amended by R.1976 d.18, effective January 21, 1976.
See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).

14:18-11.18 Office review

If the municipal governing body has, in its decision, indicated that it will grant a consent to one or more of the applicants to operate a cable television system, it shall then prepare a draft of an ordinance granting consent and submit a copy of the draft, within 45 days after the decision, to the office for its review, comment and approval. Such ordinance, after approval of the office, shall be introduced at the next regularly scheduled municipal meeting and reintroduced for final consideration not more than one month (30 days) after initial reading.

Case Notes

Draft of cable consent ordinance must be sent to CATV Office within 45 days after municipal decision; after office approval, ordinance must be introduced at next regular municipal meeting and reintroduced for final consideration not more than 30 days after initial reading; non-compliance noted. In re: Tri-County Cable, Inc., 4 N.J.A.R. 260 (1981).

14:18-11.19 Acceptance by company

(a) The municipality shall serve the applicant with a copy of the consent ordinance within two working days after a final vote upon second reading of the ordinance.

(b) A cable television company shall accept the consent ordinance, and its terms and conditions, in writing within 10 days of service.

Amended by R.1977 d.295, eff. August 16, 1977.
See: 9 N.J.R. 291(a), 9 N.J.R. 443(a).
Repeal and New Rule, R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).

Case Notes

Former regulation required holders of municipal consents given prior to effective date of regulation to file for certificate within 30 days; inapplicability of laches due to lack of prejudice; propriety of award to single company of seven franchises under regionalization statute. In re: Meadowlands Communications Systems, Inc., 175 N.J.Super. 53, 417 A.2d 575 (App.Div.1980), certification denied 85 N.J. 455, 427 A.2d 556 (1981).

Applicant for municipal cable franchise consent must accept terms and conditions of consent within time specified in regulation; municipal

consent ordinance cannot be altered by parol evidence. In re: Cable Systems, Inc., 5 N.J.A.R. 75 (1981).

14:18-11.20 Commencement date

For purpose of determining the term of a consent ordinance, the date of issuance of a certificate of approval shall be deemed the commencement date.

14:18-11.21 (Reserved)

R.1984 d.436, eff. October 1, 1984.

See: 16 N.J.R. 348(a), 16 N.J.R. 2680(b).

Old section "Special provision for renewal of municipal consents" repealed.

Repealed, R.1987 d.70, effective January 20, 1987.

See: 18 N.J.R. 1181(a), 19 N.J.R. 238(a).

Repealed section dealing with renewal of municipal consents.

SUBCHAPTER 12. APPLICATION FOR CERTIFICATE OF APPROVAL

14:18-12.1 Filing for a certificate of approval

(a) Within 30 days of the date of acceptance by the company, a petition for a certificate of approval and any completed forms and information required by N.J.A.C. 14:18-12.2 shall be filed with the Office in accordance with the provision of N.J.A.C. 14:17-6.6 unless specific approval is given by the director for filing at a later date.

(b) A petition for a certificate of approval filed pursuant to N.J.S.A. 48:5A-17(d) (Arbitrary Refusal) shall:

1. Be filed within 30 days of the date of service of a final ordinance by a municipality in accordance with N.J.A.C. 14:18-11.19; and
2. Be served upon the clerk of the respondent municipality; and
3. Where failure to act is alleged as arbitrary refusal, be filed within 30 days of the appropriate statutory deadline.

(c) A municipality contesting the petition shall then have 20 days in which to file an answer to the petition.

Amended by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).
Added (b)2 and (c).

14:18-12.2 Information to accompany petition for certificate of approval

(a) At the time of filing of a petition for a certificate of approval, the applicant(s) shall file with the office on standardized forms, where applicable, information including, but not necessarily limited to, the following:

1. System design:
 - i. Equipment to be used;

- ii. Expected performance specifications of the system;
- iii. Block diagram of system construction;

2. Rates:

- i. Installation charges for all services, other than cable television reception service, available to subscribers;
- ii. Monthly charges for all the above services;
- iii. Advertising rates;
- iv. Leased channel rates;
- v. Equipment or personnel used charges;

3. Financing:

- i. Written evidences of commitments from persons who will provide funds, including parent and subsidiary companies, together with detailed terms and conditions of those commitments and any obligation which may affect the operation of the system;
- ii. Copies of all contracts and/or leases pertaining to the proposed system.

Amended by R.1977 d.295, eff. August 16, 1977.
See: 9 N.J.R. 291(a), 9 N.J.R. 443(a).

Case Notes

Propriety of award to single company of seven franchises under regionalization statute; inapplicability of laches due to lack of prejudice (citing former N.J.A.C. 14:18-11.21) In re: Meadowlands Communications Systems, Inc., 175 N.J.Super. 53, 417 A.2d 575 (App.Div.1980), certification denied 85 N.J. 455, 427 A.2d 556 (1981).

14:18-12.3 Requirements for plant rearrangement verification

(a) Applicants for a certificate of approval for an additional cable television franchise shall submit verifiable cost estimates of projected aerial utility and cable television plant rearrangement needed (make-ready work) to permit the attachment of the proposed cable television system.

(b) The estimates shall be compiled by one of the following methods:

1. A field survey conducted by the applicant of all utility poles on which the applicant may attach in the proposed service area;
2. A field survey conducted by the applicant of at least 10 percent of the poles on which the applicant may attach using a statistical random sampling method and extrapolation process. The sample shall include the full range of all make-ready work categories which the applicant can reasonably expect to encounter in the proposed service area; or

3. A field survey conducted at the applicant's cost by the pole-owning utility or other such utility that owns or controls those portions of the poles to which the applicant proposes to attach.

(c) Any survey shall be submitted in a form permitting verification by the pole owning utility, the Office or an independent party with experience in conducting utility make-ready surveys. All surveys shall contain the underlying facts and assumptions determining the cost estimate and a description of the process for conducting the survey.

New Rule: R.1991 d.84, effective February 19, 1991.
See: 22 N.J.R. 2897(a), 23 N.J.R. 619(a).

SUBCHAPTER 13. RENEWALS

14:18-13.1 Initiation of renewal process

(a) Renewal procedures shall commence in either of two ways:

1. Either the municipality or the cable operator may commence a municipal fact finding process by filing notice with the Office and the other party (municipality or cable operator) between 30 and 36 months prior to the expiration of the Certificate of Approval; or

2. If no notice is filed pursuant to (a)1 above, the cable operator shall commence the process by filing an application for municipal consent.

Amended by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).
Deleted (b).

14:18-13.2 Optional pre-proposal phase

(a) Upon the filing of a notice pursuant to N.J.A.C. 14:18-13.1, the municipality shall conduct proceedings to assess its future cable-related community needs and interests and to review past performance of the cable operator. Such proceedings shall afford the municipality, the public and the cable operator notice and opportunity for participation.

1. Proceedings shall take place before either the governing body of the municipality or before an advisory committee appointed by the governing body. The names of designees and a mailing address for the advisory committee shall be forwarded to the Office of Cable Television and the cable operator.

2. In the event the municipality deems that a public hearing is necessary to assess the municipality's future cable related needs and interests and to review the operator's past performance, such hearing shall be held upon at least 15 days' written notice to the public and the cable operator. At any such hearing all participants shall have the right to present relevant evidence.

3. Any proceedings pursuant to this section shall include transcripts of any public hearings and opportunity for public comment, written or oral. Transcripts shall be made at the expense of the municipality.

(b) In assessing community cable related needs and reviewing operator performance, consideration may include, but shall not necessarily be limited to the following:

1. Any statewide needs and requirements as may be established by regulations of the Office of Cable Television;
2. Any regional community cable-related needs;
3. Any uniquely local cable-related needs;
4. Performance and substantial compliance with material terms and conditions of the existing franchise based on notice and opportunity to cure under applicable Federal law as placed on the record.
5. Any correspondence pursuant to Section 27 of the Cable Television Act.

(c) At least 12 months prior to the expiration of the Certificate of Approval the body conducting such hearings shall issue a report to the governing body, the cable operator, and the Office of Cable Television which shall be available for public inspection.

(d) Upon receipt of the municipal report, the cable operator shall have 90 days in which to file a municipal consent application.

(e) A municipality which has begun the ascertainment process and determines not to issue a report shall promptly notify the Office in writing stating the reasons therefor.

(f) This subsection authorizes a municipality to conduct the ascertainment proceeding, consistent with these rules, the record and report for which may be used in lieu of one conducted by the Board.

Amended by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).
Added (e)-(f).

14:18-13.3 Municipal consent

(a) The operator shall file for a municipal consent in the following manner:

1. If the renewal proceeding of N.J.A.C. 14:18-13.1 has commenced the operator shall file for municipal consent within 90 days of receipt of the municipal report;
2. If the municipality fails to issue a report at least 12 months prior to the expiration of the certificate of approval, the operator shall file for municipal consent no later than nine months prior to the expiration of the certificate of approval.

(b) In the event that the existing certificate of approval was issued to the cable operator without an underlying municipal consent ordinance, the procedures outlined in this subchapter for renewals shall be followed, except for good cause shown.

Amended by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).
Deleted (a)2; redesignated 3 as 2.

14:18-13.4 Mandatory pre-proposal phase

(a) The municipality may, in the form of a consent ordinance, issue a request for proposal in the following manner:

1. Consent phase hearings shall commence between 60 and 90 days after the consent application is filed.
2. Any hearings concerning the consent application shall be completed within 120 days after the consent application is filed.
3. The municipal governing body shall render a decision no later than 150 days from the filing.
4. The applicant shall pay to the municipality a fee of \$50.00 per day of hearing or fraction thereof.
5. Any amendments to the consent application shall be in writing.
6. The OCTV shall be provided with copies of all correspondence between the municipality or its officials and the cable operator.

(b) The municipality shall complete the needs assessment/performance review proceedings either:

1. By resolution recommending that the Board issue a preliminary assessment of denial specifying the reasons; or
2. By ordinance granting a municipal consent for renewal, which shall serve as a request for proposal from the operator.

14:18-13.5 Operator proposal

(a) Upon recommendation by the municipality to deny renewal, or upon the operator's failure to accept the municipal consent ordinance, the cable operator shall have 30 days in which to file with the Board a petition in accordance with N.J.S.A. 48:5a-1 et seq. and 47 U.S.C.A. 546(c) accompanied by a completed application for a renewal certificate of approval.

1. A copy of the petition must be served on the municipality.
2. The papers shall include a copy of the initial needs assessment/performance review report, if issued, and the resolution stating reasons for the recommendation of denial.

(b) The failure of the municipality to issue either a consent ordinance or a resolution recommending that the Board issue a preliminary assessment of denial within the time period specified herein, shall be deemed to be a recommendation that the Board issue a preliminary assessment of denial.

(c) If a renewal consent ordinance is granted, the operator shall have 30 days in which to file a COA petition with completed application, with a copy of the petition and completed application shall be served on the municipality.

(d) Upon receipt of a petition, the Director shall publish notice that a COA renewal petition has been filed.

(e) Upon receipt of a complete COA renewal petition, the Board of Public Utilities shall have 30 days to either issue a Certificate of approval or refer the matter to an Administrative Law Judge for hearing upon a preliminary assessment of denial. The hearing shall be pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:1.

1. The municipality and the cable operator shall be noticed of either the issuance of a Certificate of Approval or a preliminary assessment of denial.

2. In making a preliminary assessment of denial, the Board shall consider the following:

i. Any recommendations by the municipality.

ii. Whether the operator's proposal meets the future community related needs as established by the municipality and the statewide criteria and standards of rules and regulations, as established by the Office of Cable Television.

14:18-13.6 Automatic renewals

(a) The following procedures shall govern the renewal process when the consent ordinance provides for automatic renewal whether or not the ordinance requires a hearing:

1. At least 60 days prior to the expiration of the initial term either the municipality or the CATV company must serve both the other party and the Office of Cable Television with a notice of intention not to accept renewal in order to deny renewal.

2. Prior to giving notice of intention not to accept automatic renewal, a municipality must hold a public hearing with a stenographic record by a certified shorthand reporter upon 30 days' notice to the public and the cable company.

3. A notice of intention not to accept automatic renewal must be based upon substantial evidence in the record leading to a finding that the operator has not met the criteria of N.J.A.C. 14:18-13.7(a)1 through 4.

4. If a municipality has arbitrarily issued a notice of intention not to accept renewal, the CATV company may file a petition for direct certification pursuant to N.J.S.A. 48:5A-17(d) prior to the expiration of the initial certificate.

5. The Board shall issue a certificate of automatic renewal unless:

i. A notice of intention not to accept renewal has been filed; or

ii. After full hearing, upon notice to the municipality and the CATV company, the Board makes one of the findings listed in N.J.A.C. 14:18-13.7(a)1-4.

6. Any renegotiation of the terms of a consent subject to automatic renewal must be completed and submitted to the Board for approval as an amended consent ordinance at least 60 days prior to the expiration of the initial certificate.

(b) In cases where renewal is denied:

1. The Board shall act to minimize the disruption of service to subscribers; and

2. No acquisition of an ownership interest in the system, or sale of the system to any other cable television company as defined by N.J.S.A. 48:5A-3(g) may be required at less than fair market value.

14:18-13.7 Hearing before an Administrative Law Judge

(a) Upon transmittal from the Office of Cable Television to an Administrative Law Judge, a hearing shall be held to determine if:

1. The cable operator has substantially complied with the material terms of the existing franchise and with applicable law;

2. The quality of the operator's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix, quality, or level of cable services or other services provided over the system, has been reasonable in light of community needs;

3. The operator has the financial, legal, and technical ability to provide the services, facilities, and equipment as set forth in the operator's proposal; and

4. The operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

(b) At least one hearing for public comment shall be held in the affected municipality.

Amended by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).
Added (b).

14:18-13.8 Compliance with Federal terms and conditions for sale

(a) In the event renewal of a Certificate is denied and the Board must determine the fair market value of the system, the determination shall be done in the following manner:

1. The Board and the cable operator shall each name an independent appraiser.
2. Each appraiser shall have 60 days in which to prepare an appraisal according to Member Appraisal Institute (MAI) standards.
3. Both appraisals shall be submitted simultaneously to the Board.
4. In reviewing the appraisals:
 - i. Identical appraisals shall be conclusive as to fair market value;
 - ii. If a higher appraisal does not exceed the lower by more than 20 percent, the average of the two shall be the fair market value.
 - iii. If the differential is greater than 20 percent, the Board shall compare the two appraisal reports and determine fair market value.

(b) The procedure in (a) above shall also apply in the event a certificate is revoked for cause, and the Board must determine an equitable price for the system.

(c) Notwithstanding the provisions of (a) and (b) above, the cable operator shall have a right to a hearing, upon application, to have the Board determine fair market value, or an equitable price, as appropriate.

SUBCHAPTER 14. MISCELLANEOUS PROVISIONS
14:18-14.1 Regulations not retroactive

The foregoing regulations shall not be construed to be retroactive with respect to the construction of facilities.

14:18-14.2 Deviation and modification

(a) Should conditions exist where a deviation from any of these regulations should be made to suit such conditions, petition may be made to the Office for such deviation.

(b) These regulations may be amended or modified by the Office from time to time upon due notice and in accordance with applicable statutes.

14:18-14.3 Tariffs

(a) Where these regulations are in conflict with any terms and conditions contained in any CATV company's tariff,

these regulations shall govern, unless otherwise authorized by the Office with the approval of the Board.

(b) A CATV company's tariff shall not be construed to be in conflict with these regulations if said tariff provides for more liberal treatment of subscribers than that provided for in these regulations.

14:18-14.4 Discrimination in rates

(a) No CATV company shall impose any excessive, unreasonable, unjustly discriminatory or unduly preferential individual or joint rate, charge or schedule for any service supplied or rendered by the CATV company.

(b) No CATV company shall adopt any unjust, unreasonable or discriminatory classification in the making or as the basis of any individual or joint rate, charge or schedule for any service supplied or rendered by the CATV company.

14:18-14.5 Authority

These regulations are made and promulgated pursuant to authority vested in the Office and Board by N.J.S.A. 48:5A-1 et seq. and shall be construed in conformity with, and not in derogation of, such statute.

Recodified from 14:18-14.7 by R.1990 d.415, effective August 20, 1990. See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).

Section repealed was "Notice of rate change" adopted as new Rule R.1987 d.367 effective September 8, 1987.

See: 19 N.J.R. 505(a), 19 N.J.R. 1651(a)

Prior rule "Authority" was codified at 14:18-14.7.

14:18-14.6 Prior regulations

Except as otherwise provided herein, rules, regulations and standards heretofore promulgated with respect to the subject matter encompassed by these regulations are hereby superseded and revoked.

Recodified from 14:18-14.8 by R.1990 d.415, effective August 20, 1990. See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).

Section repealed was "Notice of alteration in channel allocation" adopted as new rule R.1987 d.367, effective September 8, 1987.

See: 19 N.J.R. 505(a), 19 N.J.R. 1651(a).

Prior rule "Prior regulations" was codified at 14:18-14.8.

APPENDIX A**LIST OF FORMS**

Form CATV-1

Form CATV-2

Form F99

Form 100

Channel Allocation Form

Cable Facts Questionnaire

Line Extension Policy Form

New Rule R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).