

**CHAPTER 18
REGULATIONS OF CABLE TELEVISION**

Authority

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

Source and Effective Date

R.2003 d.452, effective October 23, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 1047(a), 35 N.J.R. 5294(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 18, Regulations of Cable Television, expires on June 25, 2007. See: 38 N.J.R. 4822(b).

Chapter Historical Note

Chapter 18, Regulations of Cable Television, was adopted as R.1973 d.117, effective April 27, 1973. 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. Subchapter 12, Application for Certificate of Approval, was adopted as new rules and Subchapter 12, Miscellaneous Provisions, was recodified as Subchapter 13, Miscellaneous Provisions, by R.1983 d.346, effective September 6, 1983. See: 15 N.J.R. 874(a), 15 N.J.R. 1483(a).

Subchapter 13, Renewals, was adopted as new rules and Subchapter 13, Miscellaneous Provisions, was recodified as Subchapter 14, Miscellaneous Provisions, by R.1987 d.70, effective January 20, 1987. See: 18 N.J.R. 1181(a), 19 N.J.R. 238(a).

Pursuant to Executive Order No. 66(1978), Chapter 18, Regulations of Cable Television, 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 Subchapter 3, Service, Subchapter 4, Testing of Service, and Subchapter 7, Bills and Payments for Service, were repealed and Subchapter 3, Customer Rights, Subchapter 4, Cable Operator Rights, Subchapter 7, Reports and Filings, and Subchapter 9, Testing of Service, were adopted as new rules by R.1990 d.415, effective August 20, 1990. See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).

Pursuant to Executive Order No. 66(1978), Chapter 18, Regulations of Cable Television, was readopted as R.1995 d.313, effective May 25, 1995. See: 27 N.J.R. 873(a), 27 N.J.R. 2430(a).

Pursuant to Executive Order No. 66(1978), Chapter 18, Regulations of Cable Television, was readopted as R.2000 d.155, effective March 17, 2000. See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Chapter 18, Regulations of Cable Television, was readopted as R.2003 d.452, effective October 23, 2003. See: Source and Effective Date. See, also, section annotations.

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APPENDIX A

SUBCHAPTER 1. GENERAL PROVISIONS

Law Reviews and Journal Commentaries

Multiple Channels of Cable Service Refranchising. Robert G. Goode, 148 N.J.L.J. 16 (1992).

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 Utilities, 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 Utilities, 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).
Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

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:

“Ascertainment” means the formal pre-proposal fact finding process performed by the municipality in lieu of one performed by the Board.

“Board” means the Board 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 home wiring” means the internal wiring contained within the premises of a customer which begins at the demarcation point. Cable home wiring includes passive splitters on the customer’s side of the demarcation point, but does not include any active elements such as amplifiers, converters or decoder boxes or remote control units.

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

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

“Cable television reception service” means the simultaneous delivery through a cable television 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” 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, microwave transceiver, satellite 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 section includes all real property, antennas, towers, poles, wires, cables, conduits, amplifiers, instruments, appliances, fixtures and other personal property used by a cable television company in providing service to its 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.

“Complaint” means any written or verbal contact, including by telephone, by an assistive technology device for the hearing impaired such as TTY/DDD, a telecommunications relay service, in person, by facsimile, e-mail, or any other reasonable means, with a cable television operator in connection with any product or service it offers in which a person expresses discontent or dissatisfaction with an act, omission, product, service, service content or complement, term or condition of service.

“Component” means any individually offered service or piece of equipment.

“Customer” means any individual, partnership, firm, corporation, government subdivision or agency receiving service from a cable television company.

“Demarcation point” means:

1. For new and existing single unit installations, a point at or about 12 inches outside where the cable wire enters the customer’s premises;

2. For new and existing multiple dwelling unit installations with non-loop-through wiring configurations, a point at or about 12 inches outside of where the cable wire enters the customer’s dwelling unit, or, where the wire is physically inaccessible at such point, the closest practicable point thereto that does not require access to the individual customer’s dwelling unit; and

3. For new and existing multiple dwelling unit installations with loop-through wiring configurations, a point at or about 12 inches outside of where the cable wire enters or exits the first and last individual dwelling unit on the loop, or, where the wire is physically inaccessible at such point(s), the closest practicable point thereto that does not require access to the individual customer’s dwelling unit.

“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 customer’s home.

“FCC” means the Federal Communications Commission.

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

“Hearing impaired individual” means an individual who, because of an injury to, disease of, or defect in the inner, middle or outer ear, or any combination thereof, has suffered a loss of hearing acuity such that the individual cannot

receive linguistic information without amplification, dubbing or captions.

“MDU” means multiple dwelling unit.

“MVPD” means multichannel video programming distributor.

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

“Normal operating conditions” means those service conditions which are within control of the cable television operator. Those conditions not within the control of the cable television operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions. Those conditions which are ordinarily within control of the cable television operator, include, but are not limited to, special promotions, pay-per-view events, rate increases, channel and/or service alterations, regular peak or seasonal demand periods, and maintenance or upgrade of the cable television system.

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

“Outage” means the total loss of audio or 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 cable television company wires, conduits, cables or pole space used in the redistribution of broadcast signals to or toward customers of such cable television company.

“Physically inaccessible” means a location where access thereto would require significant modification of, or significant damage to, preexisting structural elements, that would add significantly to the physical difficulty and/or cost of accessing the customer’s home wiring.

“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. § 546(c)(1).

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

“Promotional service” means the offering of an existing product, service, group of services or capability at a reduced introductory charge for a limited, specified period of time, usually not exceeding one month, during which the cable television company attempts to encourage new or additional customers to the product service.

“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 cable television 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.

“Trial service” means the initial offering of a new capability or technology over a cable television system to some or all existing customers in the cable television company’s service area for a limited, specified period of time, not to exceed six months, during which the cable television company assesses the performance or marketability of the new capability or technology, and after which the service is either introduced as a standard offering or discontinued.

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.”

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Inserted “Ascertainment”, “Cable television operator’s proposal” and “Hearing impaired individual”; in “Cable television system”, inserted references to microwave transceivers, satellites and towers; deleted “Operator’s proposal”; in “Outage”, substituted “or” for “and” following “audio”; and in “Preproposal phase” and “Renewal”, substituted references to cable television operators for references to operators.
Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Rewrote the section.

Amended by R.2005 d.137, effective May 2, 2005.

See: 36 N.J.R. 4674(a), 37 N.J.R. 1536(a).

Added “Complaint”.

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 in accordance with the applicable provi-

sions 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 or other managers of rights-of-way.

(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).

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Inserted references to third party attachers throughout.

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

In (a), inserted "or similar third party" following "television" in the introductory paragraph and inserted "space" following "Total common" in 6.

14:18-2.10 Rate changes and disputes

(a) In the event of a dispute over pole attachment or conduit rental rates, any party to a pole attachment agreement under N.J.A.C. 14:18-2.9 or conduit rental under N.J.A.C. 14:18-2.11 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 pole attachment or conduit rental 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).

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (b), substituted a reference to pole attachment agreements for a reference to cable television pole attachment agreements.

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Inserted references to conduit rental throughout; in (a), inserted a N.J.A.C. reference preceding "may petition the board".

14:18-2.11 Calculation of duct and conduit rent

(a) The following formula shall apply to joint use of conduit by cable television operators and telecommunications carriers:

$$\begin{aligned} \text{Maximum Rate per Linear ft./m.} &= \left[\frac{1}{\text{Number of Ducts}} \times \frac{1 \text{ Duct}}{\text{No. of Inner Ducts}} \right] \times \left[\frac{\text{No. of Ducts}}{\text{Ducts}} \times \frac{\text{Net Conduit Investment}}{\text{System Duct Length (ft./m)}} \right] \times \text{Carrying Charge Rate} \\ \text{simplified as:} & \\ \text{Maximum Rate Per Linear ft./m.} &= \frac{1 \text{ Duct}}{\text{No. of Inner Ducts}} \times \frac{\text{Net Conduit Investment}}{\text{System Duct Length (ft./m)}} \times \text{Carrying Charge Rate} \end{aligned}$$

If no inner-duct is installed the fraction, "1 Duct divided by the No. of Inner-Ducts" is presumed to be 1/2.

New Rule, R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

14:18-2.12 Imputation of rates; modification costs

(a) A company that engages in the provision of cable television or telecommunications services shall impute to its costs of providing such services (and charge any affiliate, subsidiary, or associate company engaged in the provision of such services) an equal amount to the pole attachment rate for which such company would be liable.

(b) The costs of modifying a pole, conduit, duct or right-of-way facility shall be borne by all parties that obtain access to the facility as a result of the modification and by all parties that directly benefit from the modification. Each such party shall share proportionately in the cost of the modification. A party with a preexisting attachment to the modified facility shall be deemed to directly benefit from a modification if, after receiving notification of the modification, it adds to or modifies its attachment. However, a party with a preexisting attachment to a pole, conduit, duct or right-of-way facility shall not be required to bear any cost of rearranging or replacing its attachment if such rearrangement or replacement is necessitated solely as a result of an additional attachment

or of the modification of an existing attachment sought by another party. If a party makes an attachment to the facility after the completion of the modification, such party shall share proportionately in the cost of the modification if such modification rendered possible the added attachment.

New Rule, R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(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 cable television company office either in person, by mail or by telephone. If the cable television company requires a written application, the same may be subsequently submitted to the customer for signature.

(b) Within 20 days of ordering service, a customer 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 a cable television operator cannot comply with (b) above, the cable television operator shall provide to the customer an explanation of why service cannot be provided within such time.

(d) Cable television operators shall complete 75 percent of standard service installations, as specified in the cable television operator's filed tariff, within five business days, unless a later date is requested by the customer.

(e) A cable television company may not refuse to connect with any customer following a directive to do so by the Office, unless the cable television company can demonstrate that such a connection will present a hazard to life or property or is to likely to produce disturbing effects on the service of the cable television company or other customers.

(f) If a cable television company refuses to connect with a potential customer, the cable television company shall provide written notification to the potential customer and advise the customer of the right to appeal the cable television company's refusal decision with the Office.

(g) In an area not designated for growth, as defined at N.J.A.C. 14:3-8.2, any Certificate of Approval or Renewal Certificate of Approval to a cable television company for which an ordinance was issued after November 7, 2005 shall include provisions ensuring compliance with N.J.A.C. 14:3-8, more specifically with the provisions of N.J.A.C. 14:3-8.1, 8.2 through 8.5, 8.6(b), 8.8 and 8.13.

(h) In a designated growth area, as defined at N.J.A.C. 14:3-8.2, any Certificate of Approval or Renewal Certificate of Approval for which an ordinance was issued after November 7, 2005 shall specify that a cable television company shall provide service in accordance with its tariff on file with the Office of Cable Television or in accordance with a municipal consent ordinance as approved by the Board.

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.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (c) and (d), substituted references to cable television operators for references to operators throughout; and in (d), substituted a reference to 75 percent for a reference to 85 percent, and substituted a reference to five business days for a reference to seven business days.

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

In the introductory paragraph of (b) and (c), substituted "customer" for "subscriber"; added (e) and (f).

Amended by R.2005 d.377, effective November 7, 2005.

See: 37 N.J.R. 1401(a), 37 N.J.R. 4292(a).

Added (g) and (h).

14:18-3.3 Customer information

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

(b) Each cable television 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 television 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 customer owned equipment such as VCR's, remote control units, "cable ready" sets, etc.

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

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted references to customer for subscriber throughout.

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 notice in a prominent location in its local business office that a complete copy of its tariff showing all rates, charges, and services is available for inspection. The notice shall specifically identify the location of the tariff, which shall be placed in a prominent location within the customer service area of the local business office.

(c) Upon the request of any customer or applicant, each cable operator shall provide an explanation, in non-technical terms, of the service packages, rates, charges and provisions applicable to the services furnished or available to such

customer or applicant, and shall take reasonable steps to provide any information and assistance necessary to enable the customer or applicant to obtain the most affordable service conforming to the needs of such customer or applicant.

(d) Where more than one rate schedule is available to particular customers, each cable operator shall have at all times the duty to assist such customers in the selection of the rate schedule most favorable for their individual requirements and to make every reasonable effort to insure that such customers are served under the most advantageous schedule.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Added (c) and (d).

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Rewrote (b).

14:18-3.5 Outage credit

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

1. In the event of an outage lasting three or more hours, the cable television company shall make an appropriate credit on the customer's bill.

2. The amount of credit shall be in one-day units, prorated on the basis of the customer's monthly rate for each service not available.

3. For outages which extend more than 24 hours, customers shall receive a credit for each calendar day or part thereof if greater than three hours, during which service is out.

4. The cable television company shall not be liable to a customer 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, customers 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 customer with a rebate rather than a credit on the customer'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 three-hour period due to factors beyond the reasonable control of their company; and

2. If service is restored within three 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 it can clearly demonstrate that such credits would create an undue hardship on the cable television company.

(d) In instances where a customer is without cable television service for at least 24 hours, and the loss of the service is not the result of an outage, the cable television company shall credit or rebate, at the cable television company's option, the customer for one day unit for each 24-hour period in which the customer was without service. No cable television company shall be required to provide a customer with a rebate or credit if the loss of service was caused by an act on the part of the customer 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. 14:17-6.5.

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

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Substituted references to cable television companies for references to companies throughout; and in (e), changed N.J.A.C. reference.

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted references to customer for subscriber and three hour outage for six hour outage throughout; in (a)5, added a second sentence; in (b)1, inserted "reasonable" preceding "control of"; in (c), inserted "it can clearly demonstrate that" preceding "such credits".

14:18-3.6 Access to company representatives

Customer phone calls shall be answered by a representative or agent of the cable television company 24 hours a day. Such representative or agent shall be able to contact appropriate personnel of the cable television 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 customer can speak to the next available operator.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Substituted a reference to cable television companies for a reference to companies.

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted "customer" for "subscriber" throughout.

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

(a) All bills 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. Identification of each component for all service packages and the rate for each component;

4. The amount due during the current period;

5. The amount past due;

6. The date by which payment is due;

7. Any appropriate credits to the bill;

8. Any separate charges for equipment provided by the cable television company;

9. Any other separate fees;

10. The period of service covered by current charges on the bill;

11. The late charge rate, if any;

12. The amount of accumulated late charges; and

13. 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 cable television company shall adopt some method of informing its customers as to the address of an office where complaints, service inquiries and bill payments will be received.

(c) Each cable television company shall keep a record of each customer'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 television operator may submit a sample for review and approval by the Office.

(e) Once a year on May 1, or upon change in billing format, each cable television company shall submit a sample form of bill to the Office of Cable Television.

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

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

1. Each cable television company shall declare in writing its intention to the Office, no later than November 15, of the method to be used to provide notice: by way of notice on the bill, as outlined in (a)3 above, or by way of a bi-monthly bill insert or separate mailer, as outlined in (f) above for the following year. The cable television company shall provide notice to customers in this manner beginning with the billing cycle starting on January 1 for the remainder of the calendar year.

2. If the Office fails to receive written notice of a cable television company's intention by the dates specified in (g)1 above, the requirements of (a)3 above shall be imposed on that cable operator for the following calendar year.

Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (a), deleted "issued after January 29, 1991" following "bills" in the introductory paragraph; and rewrote (e).

Amended by R.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

In (a), added a new 3, recodified former 3 to 12 as 4 to 13; substituted references to customers for subscribers throughout.

Amended by R.2005 d.296, effective September 6, 2005.
See: 37 N.J.R. 959(a), 37 N.J.R. 3444(b).

Added (f) and (g).

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 cable television 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 cable television company from issuing "payment books" which conform to the above requirements.

(d) If a cable television company electronically disconnects or otherwise curtails, interrupts or discontinues all or a portion of the customer's services for non-payment of a valid bill or for other reasons provided under N.J.A.C. 14:18-4.3, the cable television company shall prorate the charges for all affected services as of the date of the electronic service curtailment, interruption or disconnection.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Added (d).

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

(a) The specified due date of payment shall be no less than 15 days from the start of the billing cycle of the bill.

(b) Prior to disconnection for non-payment, a customer 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 cable television company each time the cable television company intends to discontinue service for nonpayment of a bill.

(d) If a cable television company issues a notice of discontinuance, but fails to act upon it within 30 days of issuance, a new notice shall be served prior to service suspension.

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

(f) A customer wishing to discontinue service must give notice to that effect. Where such notice is not received by the cable television company, the customer shall be liable for

service until such notice is received by the cable television company.

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

(h) By November 5, 2005, and annually thereafter, each cable television company shall notify all residential customers that, upon written request, notice of disconnection of service will be sent to a designated third party as well as to the customer. Once a customer has made a third party designation, notification of this provision need no longer be provided to that customer. After the initial notice, notice of this provision may be provided as part of the annual notices required by N.J.A.C. 14:18-3.18.

1. A customer requesting such a third party designation must send a written notification to his or her cable television operator on a form which may be designated by the cable television operator. The notification shall contain the written acceptance of the person to act as a third party to receive the notification(s) on behalf of the customer.

2. Notice of third party designation shall be effective no later than 10 business days following the date of receipt by the cable television operator.

3. A cable television operator shall notify the third party designee of disconnection of the customer in the same method that it notifies the subscriber, in accordance with the provisions of (b) through (d) above, where notice of third party designation has been received and is effective.

4. Designation of a third party shall not constitute liability on the part of the third party for payment of the cable television bill and the cable television operator shall not demand payment from the third party.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Rewrote (a); and in (c), substituted a reference to cable television companies for a reference to companies.

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted "customer" for "subscriber" throughout; in (a), substituted "start of billing cycle" for "date" preceding "of the bill"; added a new (d); recodified existing (d) through (f) as (e) through (g).

Amended by R.2005 d.296, effective September 6, 2005.

See: 37 N.J.R. 959(a), 37 N.J.R. 3444(b).

Added (h).

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 customer provided in the tariff of the cable television company if the Office so directed when a complaint involving such matter is pending before it.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted "customer" for "subscriber" preceding "provided in the tariff".

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 cable television 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 by the customer for an investigation of the disputed charge or service, and, in the case of a disputed bill, the undisputed charges are paid to the cable television 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 cable television company shall notify the customer that unless steps are taken to invoke formal or informal action by the Office within five days, service will be discontinued for nonpayment.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

In (a), inserted "by the customer" preceding "for an investigation"; in (b), substituted "customer" for "subscriber".

14:18-3.12 Service call scheduling

(a) When a service call is scheduled to a customer's home, the cable television operator shall inform the customer upon request whether the service call is scheduled for morning, afternoon, or, if provided, evening. The "appointment window" alternatives for installations, service calls, and other activities will be either a specified time or, at a maximum, a four-hour time block during normal business hours. The cable television operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.

(b) If the cable television operator is unable to keep the scheduled appointment, the cable television operator shall inform the customer and the appointment shall be rescheduled as necessary within 24 hours, or at a time which is convenient for the customer.

(c) Under normal operating conditions, a cable television operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(d) Where the cable television operator has a service call guarantee program which provides reduced fee, free service, free installation, etc. or some other monetary benefit in the event the cable operator is late or unable to keep a scheduled appointment, the terms of such a program shall be clearly explained to the customer at the time the appointment is scheduled, and shall be made a conspicuous part of the terms and conditions of service in the company's tariff.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Added (c).

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Rewrote the section.

14:18-3.13 Prompt restoration standards

(a) All cable television operators shall dispatch personnel to begin corrective action within two hours of notification of any total loss of service affecting five or more contiguous customers 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 cable television operator's control, the cable television 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 cable television company shall respond as soon as the situation would allow.

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

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

(e) For purposes of this rule, contiguous customers are those customers 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).
Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Substituted references to cable television operators for references to operators throughout; in (a), substituted "All" for "For systems over 10,000 subscribers, the" at beginning of the introductory paragraph, and substituted a reference to cable television operators for a reference to system operators in 1; in (b), substituted a reference to cable television companies for a reference to companies; deleted a former (c); recodified former (d) through (f) as (c) through (e); and in the new (d), substituted a reference to reasonable control for a reference to control. Amended by R.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted "customers" for "subscribers" throughout.

14:18-3.14 Availability of special equipment

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

1. A parental lock to allow customer blocking of a specified cable service or channel as required by 47 U.S.C. § 544(d)(2); and
2. Devices to insure adequate access to cable television service for hearing-impaired persons pursuant to 47 U.S.C. § 543 (e)(2).

(b) The cable television operator may impose fees to the customer for any equipment listed in (a)2 above, which shall not exceed the purchase cost.

Amended by R.1995 d.313, effective June 19, 1995.
See: 27 N.J.R. 873(a), 27 N.J.R. 2430(a).
Deleted a former (a)1 and renumbered the remainder. Administrative change.
See: 28 N.J.R. 4591(b).
Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).
In (a), changed U.S.C. references throughout.
Amended by R.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).
Substituted "customer" for "subscriber" throughout.

14:18-3.15 Trial and promotional services

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

(b) Cable television operators shall maintain records of all such trial services for inspection by the Office for a period of one year, and shall provide notice to the Office at least 30 days prior to the offering of such trial services clearly outlining the terms and scope of the offering.

(c) Cable television operators shall maintain records of all promotional service offerings for public inspection for a period of one year clearly outlining the terms and scope of the offering.

Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (a), substituted a reference to cable television operators for a reference to operators; and rewrote (b).
Amended by R.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Rewrote (a); in (b), deleted "public" following "trial services for" and inserted "by the Office" following "inspection"; added (c).

14:18-3.16 Notice of rate change

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

1. A cable television company implementing a change in its rates shall file with the Office revised tariff sheets reflecting any rate changes where there is an increase in rates at least 30 days prior to the effective date. Rate decreases shall require advanced notification to the Office.

2. Each cable television company shall individually notify, in writing, its customers and affected municipalities of a rate change where there is a rate increase at least 30 days prior to the effective date, with a simultaneous copy of the notice to the Office. Rate decreases shall require advanced notification to the customers and affected municipalities.

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.

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. Amended by R.1995 d.313, effective June 19, 1995.

See: 27 N.J.R. 873(a), 27 N.J.R. 2430(a).
In (a)1 substituted "30 days" for "35 days".
Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).
Amended by R.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

In (a), inserted references to rate increases preceding "at least 30 days"; added last sentences in 1 and 2, substituted "customers" for "subscribers" preceding "and affected municipalities" in 2; deleted (b).

14:18-3.17 Notice of alteration in channel allocation

(a) Each cable television company shall file with the Office written notice of an alteration in channel allocation, on a form prescribed by the Director, prior to the effective date for new additions which do not require rate changes, deletions or cutbacks in other services. For all other changes the cable television operator must provide notice at least 30 days prior to the effective date.

(b) Each cable television company shall notify its customers and affected municipalities of an alteration in channel allocation prior to the effective date for new additions which do not require rate changes, deletions or cutbacks in other services. For all other changes, the cable television operator shall provide notice to the Office at least 30 days prior to the effective date and 30 days prior to the effective date to the customers 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 cable television operator has acted to provide the required notice at the earliest possible date and:

1. The cable television operator reasonably believes that timely compliance with this subsection might subject the cable television 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 cable television operator's control;
3. The programming service has been discontinued or withdrawn by the provider in such a manner as to leave the cable television operator without sufficient time to comply; or
4. A substantial benefit to customers would be irretrievably lost.

Amended by R.1995. d.313, effective June 19, 1995.
See: 27 N.J.R. 873(a), 27 N.J.R. 2430(a).

Inserted "rate changes" throughout and substituted "30 days" for "35 days".

Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Substituted references to cable television operators for references to operators throughout; in (a), deleted "at least five days" following "Director," in the first sentence; and in (b), deleted "at least five days" following "allocation" in the first sentence.

Amended by R.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted "customers" for "subscribers" throughout.

14:18-3.18 Periodic notices to customers

(a) Each cable television operator shall provide annual notice to each customer of the following:

1. Notice of all monthly service packages and corresponding rates available according to the customer's billing classification (for example, residential, commercial, hotel/motel);
2. The privacy notice as required by 47 U.S.C. § 551(a)(1) 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 of senior citizens/disabled discounts in systems where offered, pursuant to N.J.A.C. 14:18-3.20;
5. Notice of the availability of devices for hearing impaired as required by N.J.A.C. 14:18-3.14 (a)2; and
6. Notice of the availability of parental lock devices as required by N.J.A.C. 14:18-3.14 (a)1 and 47 U.S.C. § 544(d)(2).

(b) Each cable television operator shall provide quarterly notice to each customer of the following:

1. The outage credit availability as outlined in N.J.A.C. 14:18-3.5;

2. 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.

Amended by R.1995 d.313, effective June 19, 1995.

See: 27 N.J.R. 873(a), 27 N.J.R. 2430(a).

Deleted a former (a)6 and redesignated (a)7 as (a)6.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (a), changed U.S.C. references in 2 and 6, and changed N.J.A.C. references in 4 through 6.

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted references to customer for subscriber throughout.

14:18-3.19 Interest on uncorrected billing errors

(a) Subscribers are entitled to credit with 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 television operator in writing.

(b) The interest rate shall be equal to the IRS rates for over and underpayments utilized by the FCC at 47 C.F.R. § 76.942(e), incorporated herein by reference, compounded daily through the date of distribution.

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.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (a), substituted "with" for "for" following "credit".

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Rewrote (b); deleted (c).

14:18-3.20 Discounts for senior and/or disabled citizens

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

1. Specify the rates, terms, and conditions for the discount, and which services are included;
2. Provide notice prior to the effective date to each customer and municipality served; and
3. Provide notice prior to the effective date to the Office of Cable Television along with revised tariff sheets showing any such changes.

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

1. Provide at least 30 days advance notice prior to the effective date to each customer and municipality served; and

2. Provide at least 30 days advance notice prior to the effective date to the Office of Cable Television along with revised tariff sheets showing any such changes.

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

(d) Customers shall establish eligibility for this discount program by either:

1. Presenting a Pharmaceutical Assistance card and certifying that the customer 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 customer's name and that he or she is at least 62 years of age;

ii. The customer'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 customer is:

(1) Single with an income less than \$18,151 per year, including social security income benefits;

(2) Married, with a combined income of less than \$22,256 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.

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

Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Rewrote (a); inserted a new (b); recodified former (b) through (d) as (c) through (e); and in the new (d)2iv, substituted a reference to \$18,151 for a reference to \$13,650 in (1), and substituted a reference to \$22,256 for a reference to \$16,750 in (2).

Amended by R.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted references to customer for subscriber throughout.

14:18-3.21 Avoidance of interruption; prompt restoration

Each cable television 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.

Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

14:18-3.22 Notice of planned interruptions

Planned interruptions for operating reasons shall always be preceded by reasonable notice, preferably on a locally originated channel, to all affected customers, and the work shall be planned to minimize customer's inconvenience.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted references to customer for subscriber throughout.

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

(a) The cost charged to customers 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 customer's home.

(b) The cost charged to customers 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 customer 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 customer pursuant to this section, the cable television company shall give written notice to the customer of the amount sought and the reasons for the charge. The customer 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 customers and customers receiving new or additional equipment of the rights and obligations of this section.

(f) The cable television 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).

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (d), substituted a reference to cable television companies for a reference to companies; and in (f), substituted a reference to cable television operators for a reference to operators.

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted references to customers for subscribers throughout.

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 customer 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 customer 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).
Amended by R.1995 d.313, effective June 19, 1995.
See: 27 N.J.R. 873(a), 27 N.J.R. 2430(a)
Amended by R.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted references to customer for subscriber throughout.

Case Notes

Late payment charges imposed by cable television company were in compliance with all applicable laws and regulations. *Sayreville Cable Television v. TKR Cable Company/Tri-System*, 96 N.J.A.R.2d (BRC) 32.

14:18-3.25 Refunds and credits

(a) Where a customer is due a refund, refund checks shall be issued promptly, but no later than either:

1. The customer's next billing cycle following the resolution of the issue giving cause for the rebate, or 30 days whichever is earlier; or
2. The return of the equipment supplied by the cable television operator if service is terminated.

(b) Credits for service shall be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

New Rule, R.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

14:18-3.26 Pre-termination access to cable home wiring

(a) Prior to termination of service, a customer may install or provide for the installation of their own cable home wiring, or connect additional home wiring, splitters or other equipment within their premises to the wiring owned by the cable television operator, so long as no electronic or physical harm is caused to the cable television system and the physical integrity of the cable television operator's wiring remains intact.

(b) Cable television operators may require that home wiring (including passive splitters, connectors and other equipment used in the installation of home wiring) meets reasonable technical specifications, not to exceed the technical specifications of such equipment installed by the cable television operator; provided, however, that if electronic or

physical harm is caused to the cable television system, the cable television operator may impose additional technical specifications to eliminate such harm. To the extent a customer's installation or rearrangement of wiring degrades the signal quality of or interferes with other customers' signals or causes electronic or physical harm to the cable television system, the cable television operator may discontinue service to that customer until such degradation or interference is resolved.

(c) Customers shall not physically cut, substantially alter, improperly terminate or otherwise destroy cable television operator owned home wiring.

New Rule, R.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

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

(a) The cable television 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-3e and 30, for use of the streets shall be paid annually by the cable television company.

(c) A municipality may require that a cable television operator seek permits for work performed under this section. However, the fee provided in (b) above is in lieu of all other fees that may be assessed for road openings permits.

Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).
In (b), changed N.J.S.A. reference; and added (c).

14:18-4.2 Refusal to connect

A cable television 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 cable television company furnishing the service which have been filed with the Office, and with the provisions of applicable governmental requirements.

Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

14:18-4.3 Basis of discontinuance of service

(a) The cable television 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 customer:

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. 14:18-3.9. 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 cable television company;

iii. Fraudulent representation in relation to the use of the service within the customer's premises;

iv. Customer moving from the premises, unless the customer requests that service be continued;

v. Providing cable television service to others through the "tapping" of the cable television company's system without approval of the cable television 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 cable television company or other customers;

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

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

xi. Failure of customer to repair any faulty television or FM receiver or other cable television receiving facility belonging to the customer; or

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

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

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (a)3, changed N.J.A.C. reference in i, and substituted a reference to cable television companies for a reference to companies in v. Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted references to customer for subscriber throughout.

14:18-4.4 Access to customer's premises

(a) The cable television company shall have the right of reasonable access to customer's premises, and to all property furnished the cable television 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 customer shall obtain, or cause to be obtained, all permits needed by the cable television company for access to the cable television company's facilities at the customer's customer terminal.

(c) Access to the cable television company's facilities shall not be given except to authorized employees or agents of the cable television 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 cable television company but shall immediately notify the cable television company to have the defects remedied.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (b) and (c), substituted references to cable television companies for references to companies.

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted references to customer for subscriber throughout.

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 multifamily 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. Notice shall be served by certified mail and the form and content of such notice shall include at a minimum:

1. The name and address of the cable television 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 television 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 cable television 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 television 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.

(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. 14:17-6. Answers, if any, shall be filed within 20 days in compliance with N.J.A.C. 14:17-7. 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 available for inspection by the Office of Cable Television.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (b), rewrote the last sentence of the introductory paragraph; in (c), substituted a reference to cable television companies for a reference to companies in the introductory paragraph; in (e), changed N.J.A.C. references throughout; and rewrote (g).

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

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 customer is not established or where a customer is in default in the payment of bills, the cable television 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 cable television 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 cable television 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 customer accounts.

(g) Where a customer 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 customer who has made a deposit fails to pay a bill, the cable television 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.

Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (f), substituted a reference to cable television companies for a reference to companies.

Public Notice: Interest rates on deposits.

See: 33 N.J.R. 136(a).

Public Notice: Interest rates on deposits.

See: 33 N.J.R. 333(a).

Public Notice: Interest rates on deposits.

See: 33 N.J.R. 734(b).

Public Notice: Interest rates on deposits.

See: 33 N.J.R. 4396(a).

Public Notice: Interest rates on deposits.

See: 34 N.J.R. 4478(a).

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted "customer" for "subscriber" throughout.

Public Notice: Notice of Applicable Interest Rate on Customer Deposits Effective for Calendar Year 2004.

See: 35 N.J.R. 5623(b).

Public Notice: Notice of applicable interest rate on customer deposits; effective for calendar year 2006.

See: 37 N.J.R. 4329(a).

Public Notice: Notice of applicable interest rate on customer deposits effective for calendar year 2007.

See: 38 N.J.R. 5421(a).

14:18-4.7 Deposits on auxiliary equipment

(a) When a cable television company supplies auxiliary equipment, such as a converter or other modifying device, to a customer's cable television receiving facility, the cable television 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 cable television company to defray the cost of and service to such unit(s).

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

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (c), substituted a reference to cable television companies for a reference to companies.

Public Notice: Interest rates on deposits.

See: 33 N.J.R. 136(a).

Public Notice: Interest rates on deposits.

See: 33 N.J.R. 333(a).

Public Notice: Interest rates on deposits.

See: 33 N.J.R. 734(b).

Public Notice: Interest rates on deposits.

See: 33 N.J.R. 4396(a).

Public Notice: Interest rates on deposits.

See: 34 N.J.R. 4478(a).

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted references to customer for subscriber throughout.

Public Notice: Notice of Applicable Interest Rate on Customer Deposits Effective for Calendar Year 2004.

See: 35 N.J.R. 5623(b).

Public Notice: Notice of applicable interest rate on customer deposits; effective for calendar year 2006.

See: 37 N.J.R. 4329(a).

Public Notice: Notice of applicable interest rate on customer deposits effective for calendar year 2007.

See: 38 N.J.R. 5421(a).

14:18-4.8 Receipts and records

(a) The cable television company shall furnish a receipt to each customer 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.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

In (a), substituted "customer" for "subscriber".

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 cable television company shall review a customer's account at least once every two years, and if such review indicates that the customer has established credit satisfactory to the cable television company, then the outstanding deposit shall be refunded to the customer.

(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 customer 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 customer.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a)

Substituted references to customer for subscriber throughout.

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 customers in a single annual or quarterly notice, respectively, to each customer as long as all required information for each item is included.

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted references to customers for subscribers throughout.

14:18-4.11 Disposition of cable home wiring

(a) The following applies to all individual customer's home wiring:

1. Upon voluntary termination of cable television service by a customer in a single unit installation, a cable television operator shall not remove the cable home wiring unless it gives the customer the opportunity to purchase the wiring at the replacement cost, and the customer declines. If the customer declines to purchase the cable home wiring, the cable television system operator shall then remove the cable home wiring within seven days of the customer's decision, under normal operating conditions, or make no subsequent attempt to remove it or to restrict its use.

2. Upon voluntary termination of cable television service by an individual customer in a multiple-unit installation, a cable television operator shall not be entitled to remove the cable home wiring unless: it gives the customer the opportunity to purchase the wiring at the replacement cost; the customer declines, and neither the MDU owner nor an alternative MVPD, where permitted by the MDU owner, has provided reasonable advance notice to the incumbent provider that it would purchase the cable home wiring pursuant to this section if and when a customer declines. If the cable television system operator is entitled to remove the cable home wiring, it shall then remove the wiring within seven days of the customer's decision, under normal operating conditions, or make no subsequent attempt to remove it or to restrict its use.

3. The cost of the cable home wiring is to be based on the replacement cost per foot of the wiring on the customer's side of the demarcation point multiplied by the length in feet of such wiring, and the replacement cost of any splitters or other passive equipment located on the customer's side of the demarcation point.

(b) During the initial telephone call in which a customer contacts a cable television operator to voluntarily terminate cable television service, the cable television operator—if it owns and intends to remove the home wiring—shall inform the customer:

1. That the cable television operator owns the home wiring;

2. That the cable television operator intends to remove the home wiring;

3. That the customer has the right to purchase the home wiring; and

4. What the per-foot replacement cost and total charge for the wiring would be (the total charge may be based on either the actual length of cable television wiring and the actual number of passive splitters on the customer's side of the demarcation point, or a reasonable approximation thereof; in either event, the information necessary for calculating the total charge shall be available for use during the initial phone call).

(c) If the customer voluntarily terminates cable television service in person, the procedures set forth in (b) above apply.

(d) If the customer requests termination of cable television service in writing, it is the operator's responsibility—if it wishes to remove the wiring—to make reasonable efforts to contact the customer prior to the date of service termination and follow the procedures set forth in (b) above.

(e) If the cable television operator fails to adhere to the procedures described in (b) above, it will be deemed to have relinquished immediately any and all ownership interests in the home wiring; thus, the operator will not be entitled to compensation for the wiring and shall make no subsequent attempt to remove it or restrict its use.

(f) If the cable television operator adheres to the procedures described in (b) above, and, at that point, the customer agrees to purchase the wiring, constructive ownership over the home wiring will transfer to the customer immediately, and the customer will be permitted to authorize a competing service provider to connect with and use the home wiring.

(g) If the cable television operator adheres to the procedures described in (b) above, and the customer asks for more time to make a decision regarding whether to purchase the home wiring, the seven day period described in (b) above, will not begin running until the customer declines to purchase the wiring; in addition, the customer may not use the wiring to connect to an alternative service provider until the customer notifies the operator whether or not the customer wishes to purchase the wiring.

(h) If an alternative video programming service provider connects its wiring to the home wiring before the incumbent cable television operator has terminated service and has capped off its line to prevent signal leakage, the alternative video programming service provider shall be responsible for ensuring that the incumbent's wiring is properly capped off in accordance with the FCC's signal leakage requirements as set forth in Subpart K (technical standards) of the FCC's Cable Television Service rules (47 C.F.R. §§ 76.605(a)(13) and 76.610 through 76.617).

(i) Where the customer terminates cable television service but will not be using the home wiring to receive another alternative video programming service, the cable television operator shall properly cap off its own line in accordance with the FCC's signal leakage requirements.

(j) Cable television operators are prohibited from using any ownership interests they may have in property located on the customer's side of the demarcation point, such as molding or conduit, to prevent, impede, or in any way interfere with, a customer's right to use his or her home wiring to receive an alternative service. In addition, incumbent cable television operators shall take reasonable steps within their control to ensure that an alternative service provider has access to the home wiring at the demarcation point. Cable television operators and alternative multichannel video programming delivery service providers are required to minimize the potential for signal leakage in accordance with FCC guidelines set forth in 47 C.F.R. §§ 76.605(a)(13) and 76.610 through 76.617, theft of service and unnecessary disruption of the consumer's premises.

(k) These provisions, except for (a)1 above, shall apply to all MVPDs in the same manner that they apply to cable television operators.

New Rule, R.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

14:18-4.12 Home run wiring in MDU settings

(a) The following applies to home run wiring where an MDU owner has an ownership interest:

1. Where an MDU owner has an ownership interest in the home run wiring utilized by the incumbent franchised cable operator, and the MDU owner desires to utilize the home run wiring for services to be provided by an alternate MVPD, it is the MDU owner's responsibility to ensure that any actions taken to gain control of the home run wiring are consistent with the mandatory access rights granted to the cable television operator under N.J.S.A. 48:5A-49, N.J.S.A. 48:5A-51, and N.J.A.C. 14:18-4.5. Pursuant to these sections, no MDU owner may terminate access to existing home run wiring in which it has an ownership interest without proper notice to the incumbent franchised cable television operator and without affording the incumbent cable television operator an opportunity to replace existing home run wiring in the MDU.

2. No MDU owner or agent of an MDU owner shall deny any tenant of a dwelling under its control access to the services of a franchised cable television operator, nor otherwise abridge the rights or discriminate against any such tenant receiving cable television service; in accordance with the provisions of N.J.S.A. 48:5A-49 and any other relevant rule or statute now in effect or hereinafter enacted.

(b) The following applies to home run wiring where an MDU owner does not have an ownership interest:

1. Where an MDU owner does not have an ownership interest in the home run wiring utilized by the incumbent franchised cable television operator, the MDU owner is prohibited from entering into any contracts with an alternate MVPD to remove, alter, modify, disrupt or share the incumbent franchised cable television operator's home run wiring to provide service without the written consent of the cable television operator.

2. Cable television operators are required to respond to written inquiries from MDU owners regarding the status and proposed use of existing home run wiring within 30 days of receipt by the cable television operator. The cable television operator's response shall include a full explanation of its position, supported by appropriate contractual and legal documentation in accordance with State and Federal law.

(c) In no event shall the actions taken by any party in accordance with this section disrupt existing service to cable television customers.

(d) The rules regarding the disposition of cable home wiring will continue to apply to the wiring on the customer's side of the cable demarcation point.

(e) After November 17, 2003, franchised cable television operators shall include a provision in all service contracts entered into with MDU owners setting forth the disposition of any home run wiring in the MDU upon the termination of the contract.

1. Incumbent cable television providers are prohibited from using any ownership interest they may have in property located on or near the home run wiring, such as molding or conduit, to prevent, impede, or in any way interfere with, the ability of an alternative MVPD to provide service to an MDU. This paragraph shall not apply where the incumbent franchised cable television operator possesses a contractual right to maintain its molding on the premises without alteration by the MDU owner.

New Rule, R.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

14:18-4.13 Access to molding

(a) An MVPD shall be permitted to install one or more home run wires within the existing molding of an MDU where the MDU owner finds that there is sufficient space to permit the installation of the additional wiring without interfering with the ability of an existing franchised cable television operator to provide service, and gives its affirmative consent to such installation. This subsection shall not apply where the incumbent provider has an exclusive contractual right to occupy the molding.

(b) If an MDU owner finds that there is insufficient space in existing molding to permit the installation of the new wiring without interfering with the ability of an existing franchised cable television operator to provide service, but gives its affirmative consent to the installation of larger molding and additional wiring, the MDU owner (with or without the assistance of the incumbent and/or the alternative provider) shall be permitted to remove the existing molding, return such molding to the incumbent, if appropriate, and install additional wiring and larger molding in order to contain the additional wiring. This subsection shall not apply where the incumbent franchised cable television operator possesses a contractual right to maintain its molding on the premises without alteration by the MDU owner.

(c) The alternative provider shall be required to pay any and all installation costs associated with the implementation of (a) or (b) above, including the costs of restoring the MDU owner's property to its original condition, and the costs of repairing any damage to the incumbent franchised cable television operator's wiring or other property.

New Rule, R.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

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 customers, governmental bodies, utilities, other cable television 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 the Office's toll free number and their right to present to the Board, in writing, any objections they may have to the office closure or relocation. The notice shall specify a date certain for submission of comments which date shall not be less than 20 or more than 30 days after publication and posting. Such office shall not be closed or relocated until the cable television company has been informed, in writing, that the Board has approved such request.

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.

Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (c), substituted a reference to cable television companies for a reference to utilities in the last sentence.

Amended by R.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

In (b), substituted "customers" for "subscribers"; in (c), inserted "the Office's toll free number and" in the third sentence; deleted (d).

14:18-5.2 Personnel to be contacted

(a) Each cable television 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 cable television 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.

Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

SUBCHAPTER 6. RECORDS

14:18-6.1 Availability of records

(a) Each cable television company shall notify the Office, upon request, of the location of its office or offices within the State at which various records may be made accessible for review by Office staff within five days of request.

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

Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).
Rewrote (a).

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

(c) Each cable television operator shall comply with the requirements for recordkeeping and reporting set forth at N.J.A.C. 14:3-6.2.

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.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Deleted a former (b); and recodified former (c) as (b).

Amended by R.2005 d.377, effective November 7, 2005.

See: 37 N.J.R. 1401(a), 37 N.J.R. 4292(a).

Added (c).

14:18-6.3 Accidents or injury to personnel

Each cable television company shall keep a record of, and report to the Office, all serious accidents resulting in injury or death to personnel involving the operation or maintenance of its system on forms prescribed and furnished by the Office in addition to providing a detailed narrative explaining the cause of the accident resulting in injury or death, any corrective action taken, as well as copies of police reports generated as a result of the accident resulting in injury or death.

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.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Rewrote the section.

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted references to accidents resulting in injury or death for accident or injury throughout.

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-2.

(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 cable television companies and to performance tests, safety inspections and surveys of property and equipment of cable television companies shall be deemed public records, copies of which may be purchased or reproduced under the provisions of N.J.S.A. 47:1A-2.

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).

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Changed N.J.A.C. references throughout.

14:18-6.5 Complaints records

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

New Rule, R.1990 d.415, effective August 20, 1990.

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

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Added the last sentence.

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted "customer" for "subscriber".

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

(a) All outages where service to customers is interrupted for at least two hours and which affect 50 or more customers 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 within 15 days of the end of the month for which said report is filed.

2. Cable television 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 customers.

(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 cable television company shall keep a record of each outage for a period of one year showing location, duration and estimated number of customers affected.

(d) Each cable television company shall notify the appropriate Office personnel by telephone in the event of an outage, emergency or other significant occurrence affecting its system or personnel during other than normal work-hours. Notification shall be in accordance with the procedure established by the Office, as provided to each cable television company which provides that each cable television operator speak directly with a representative of the Office in the event of an interruption of service that lasts four hours or more, that affects 50 percent of customers where the system serves less than 20,000 customers, or affects 10,000 or more customers where the system serves 20,000 customers or more, or in the event of serious injury resulting in hospitalization or death to any person as a result of the cable television company's operations.

New Rule, R.1990 d.415, effective August 20, 1990.

See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).
 Amended by R.2000 d.155, effective April 17, 2000.
 See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).
 Amended by R.2003 d.452, effective November 17, 2003.
 See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).
 Substituted "customers" for "subscribers" throughout; added (d).

14:18-6.7 Complaint recording and reporting

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

(b) Each cable television company shall seek, collect and document consent from each customer for the release of personally identifiable information, as defined by N.J.S.A. 48:5A-55(d), to the Board and to the Office, as follows:

1. Upon a new request for service, the cable television company shall provide an initial written notice seeking the customer consent required under this subsection. Such consent shall be confirmed in writing;

2. At least once per calendar year, the cable television company shall notify customers that the customer may provide the consent required above. The notice may be given through a bill insert, bill notice, direct first class mailing or through another manner if specifically directed by the Board. This notice shall, at a minimum, provide the customer with a method of responding to the cable television company so that consent can be recorded and retained by the cable television company. The method of response may be in either a physical or electronic format;

3. The cable television company shall obtain the approval of the Office for the written initial and annual notices required under this subsection prior to sending the notice to customers; and

4. A refusal on the part of a customer to provide consent does not release the cable television company from the requirements for recording, retaining and reporting all complaints received in accordance with this section, except as provided in (d) and (e) below.

(c) The cable television company shall make all complaint records available at any time for inspection by the staff of the Board or the Office.

(d) All complaint records available for inspection, which involve a customer for whom the cable television company has obtained release of personally identifiable information, shall contain said personally identifiable information. If a complaint record involves a customer for whom the cable television company has not obtained release of personally identifiable information, the cable television company shall redact that information prior to inspection under (c) above.

(e) The cable television company shall provide copies of all complaint records to the staff of the Board or Office upon request. All complaint records so provided, which involve a customer for whom the cable television operator has obtained release of personally identifiable information, shall contain said personally identifiable information. If a complaint record involves a customer for whom the cable television operator has not obtained release of personally identifiable information, the cable television company shall redact that information prior to providing the copy.

(f) The Board may order a cable television company to utilize other methods, as necessary, to:

1. Ensure that customers are provided with adequate opportunity to provide consent for the release of personally identifiable information to the Board and the Office; and/or

2. Ensure that the Board receives the information described under (a) above.

(g) Each cable television company shall furnish to the Office annually, on or before January 31, a detailed report of the number and character of complaints made by customers and communicated to the cable television company during the previous year. This report shall be submitted on a form prescribed by the Director, which shall use a uniform reporting methodology and shall require information containing those matters as the Office may from time to time prescribe.

(h) All reports submitted to the Office shall comply with the State's Cable Subscriber Privacy Protection Act, N.J.S.A. 48:5A-54 et seq. and the Federal Protection of Subscriber Policy, 47 U.S.C. § 551.

(i) The Office shall forward copies of the reports required under (g) above to the Governor and members of the Legislature by the Office within 30 days of receipt of the reports.

New Rule, R.2004 d.392, effective October 18, 2004.
 See: 36 N.J.R. 1178(a), 36 N.J.R. 4830(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 cable television 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.

Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

14:18-7.2 Special reports

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.

Amended by R.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).
Deleted (b).

14:18-7.3 Other filings

(a) All cable television companies shall provide to the Office upon request copies of any executed pole attachment agreements and amendments thereto.

(b) 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.

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

Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).
Rewrote the section.

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 cable television company's initial filing for certificate of approval or renewal thereof.

1. Notice of significant system design changes shall be accompanied by the cable television company's last proof-of-performance tests, as well as 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.

Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (a), substituted a reference to cable television companies for reference to companies in the introductory paragraph, and rewrote 1.

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 and the normal hours of operation of each channel;
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 programs for insertion 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, cable television 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 one year.

(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 cable television operator.

(d) A prominent notice of the availability of these guidelines shall be posted and the guidelines shall be available for public inspection at local business offices and studios in the cable system.

(e) For any access not within the cable television 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).

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (a)2, added "and the normal hours of operation or each channel" at the end; in (a)10 and (c), substituted references to cable television operators for references to operators; and in (b), substituted a reference to one year for a reference to two years at the end.

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Rewrote (d).

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 cable television company's telephone system:

1. The location of each office at which telephone calls from customers and the general public are normally received and the number of customers 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 customers may call the cable television operator;

4. The method by which customers are informed of the telephone number(s) used to contact the cable television operator;

5. Whether customers 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 television 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, the departments in which they are used and the time it takes, typically, on average, and in the worst case to return the call to the customer; and

(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 customer.

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).

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted "customer" for "subscriber" throughout.

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 CABLE TELEVISION 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. Three additional copies 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).

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

In (a), substituted "Three additional copies" for "One additional copy".

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 customers. 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 service, including a statement that the applicant shall comply with N.J.A.C. 14:3-8, more specifically with the provisions of N.J.A.C. 14:3-8.1, 8.2 through 8.5, 8.6(b), 8.8 and 8.13, regarding extension 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.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Deleted a former (b).

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

In (a)4i, substituted "customers" for "subscribers".

Amended by R.2005 d.377, effective November 7, 2005.

See: 37 N.J.R. 1401(a), 37 N.J.R. 4292(a).

Rewrote (a)6i.

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 applicant 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).

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (a), substituted a reference to cable television applicants for a reference to cable television.

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-23. Such date shall be not earlier than 60 days from the date of the first application, nor later than 90 days from the date the first application is filed.

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.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).
Changed N.J.S.A. reference.

14:18-11.5 Ex parte communications; prohibitions

Where there are two or more initial applicants, no member of the municipal governing body may communicate ex parte by telephone or otherwise, or meet with any one 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).
Amended by R.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted "Where there are two or more initial applicants, no" for "No", inserted "one" preceding "applicant" in the first sentence.

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 amendatory; 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 herein above shall constitute the record for decision. Record of the hearing shall be made in the manner in which the municipality causes its general public hearing records to be made.

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).
Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).
Rewrote the last sentence.

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 ordinance to operate a cable television system and shall issue a written report. A written 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. The written report may be in the form of a draft ordinance or a resolution.

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.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Inserted "ordinance" following "consent", "and shall issue a written report at the end of the first sentence. "written" at the beginning of the second sentence and added the fourth sentence.

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).
Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

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).
Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

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 considered for adoption not more than one month (30 days) after initial reading.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Substituted "considered for adoption" for "reintroduced for final consideration" following "meeting and" in the last sentence.

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 cable television 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 or 6.9 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).

Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (a), substituted a reference to cable television companies for a reference to companies, and changed N.J.A.C. reference.

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

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 information required under N.J.A.C. 14:18-11.2.

Amended by R.1977 d.295, eff. August 16, 1977.

See: 9 N.J.R. 291(a), 9 N.J.R. 443(a).

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Rewrote the section.

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 television operator may commence a municipal fact finding process (ascertainment) by filing notice with the Office and the other party (municipality or cable television operator) between 36 and 30 months prior to the expiration of the Certificate of Approval; or
2. If no notice is filed pursuant to (a)1 above, the cable television operator shall commence the process by filing an application for municipal consent between 12 and nine months prior to the expiration 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(a).

Deleted (b).

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (a), inserted a reference to ascertainment in 1, and rewrote 2.

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 ascertainment proceedings to assess its future cable-related community needs and interests and to review past performance of the cable television operator. Such proceedings shall afford the municipality, the public and the cable television 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 television 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 cable television operator's past performance, such hearing shall be held upon at least 15 days' written notice to the public and the cable television 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 the cable television operator's 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 with copies to the cable television operator, and the Office of Cable Television. The report shall be made available for public inspection.

(d) Upon receipt of the municipal report, the cable television 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 and the cable television operator 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).
Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Substituted references to cable television operators for references to operators throughout; in (a), substituted a reference to ascertainment proceedings for a reference to proceedings in the introductory paragraph; and in (e), inserted a reference to cable television operators.

Law Reviews and Journal Commentaries

Multiple Channels of Cable Service Refranchising. Robert g. Goode, 148 N.J.L.J. 16 (1992).

14:18-13.3 Municipal consent

(a) The cable television 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(a)1 has commenced, the cable television operator shall file an application 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 cable television operator shall file for municipal consent no later than nine months prior to the expiration of the certificate of approval;
3. At any time upon agreement of the cable television operator and the municipality pursuant to 47 U.S.C. § 546(h) which allows for informal renewal proceedings.

(b) In the event that the existing certificate of approval was issued to the cable television 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.
Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (a), substituted references to cable television operators for references to operators throughout, and added 3.

14:18-13.4 Mandatory pre-proposal phase

(a) Upon filing by the cable television operator of an application for renewal of its cable television franchise pursuant to N.J.A.C. 14:18-13.3, 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. Notice shall be provided pursuant to N.J.A.C. 14:18-11.6.

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.

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

1. By issuing a resolution recommending that the Board issue a preliminary assessment of denial specifying the reasons; or

2. By adopting an ordinance granting a municipal consent for renewal, which shall serve as a request for proposal from the cable television operator. Grant of the consent ordinance shall follow the procedures outlined in N.J.A.C. 14:18-11.15 through 11.18.

(c) The Office shall be provided with copies of all correspondence between the municipality or its officials and the cable television operator.

Amended by R.2000 d.155, effective April 17, 2000.

Sec: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Rewrote the section.

14:18-13.5 Cable television operator proposal

(a) The municipality may either adopt an ordinance granting renewal municipal consent to the cable television operator or issue a resolution denying renewal. Upon action by the municipality the cable television operator shall proceed as follows:

1. Upon recommendation by the municipality to deny renewal, or upon the cable television operator's failure to accept the municipal consent ordinance, the cable television 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. § 546(c) accompanied by a completed application for a renewal certificate of approval.

i. A copy of the petition must be served on the municipality.

ii. The petition 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. The cable television operator shall file pursuant to (a) above.

(c) If a renewal consent ordinance is granted, the cable television operator shall have 30 days in which to file a COA petition with completed application. Said application shall reflect any modifications made as a result of negotiations with the municipality. 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 as a contested case upon the 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. At the option of the parties, the Office may schedule a pretransmittal settlement conference pursuant to N.J.A.C. 14:17-8 prior to transmittal to the Office of Administrative Law.

(f) The municipality and the cable television operator shall be noticed of either the issuance of a Certificate of Approval or transmittal to the Office of Administrative Law for hearing on the preliminary assessment of denial.

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

- i. Any recommendations by the municipality.
- ii. Whether the cable television 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.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Rewrote the section.

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 cable television 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 television 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 cable television operator has not met the criteria of N.J.A.C. 14:18-13.7(a)1 through 4. The cable television company shall file pursuant to the provisions of N.J.A.C. 14:18-13.5(a).

4. If a municipality has arbitrarily issued a notice of intention not to accept renewal, the cable television 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. The cable television company shall file pursuant to the provisions of N.J.A.C. 14:18-13.5(a).

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 cable television company, the Board makes one of the findings listed in N.J.A.C. 14:18-13.7(a)1 through 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.

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (a), substituted a reference to cable television companies for a reference to companies in 1, substituted a reference to cable television operators for a reference to operators and added a second sentence in 3, and added a second sentence in 4; and deleted a former (b).

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 television operator has substantially complied with the material terms of the existing franchise and with applicable law;

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

4. The cable television 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).

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (a), substituted references to cable television operators for references to operators throughout.

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

(a) In the event renewal of a certificate is denied, the Board shall act to minimize the disruption of service to customers.

(b) If 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 television 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.

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

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

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Rewrote the section.

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

In (a), substituted "customers" for "subscriber".

14:18-13.9 Applicability of N.J.A.C. 14:18-11 to renewal process

Except for provisions of this subchapter to the contrary, the provisions of N.J.A.C. 14:18-11 shall apply to the renewal process.

New Rule, R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

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 cable television company's tariff, these regulations shall govern, unless otherwise authorized by the Office with the approval of the Board.

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

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (b), substituted a reference to beneficial treatment for a reference to liberal treatment.

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

In (b), substituted "customers" for "subscriber".

14:18-14.4 Discrimination in rates

(a) No cable television 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 cable television company.

(b) No cable television 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 cable television company.

Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

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.

14:18-14.7 Effective competition

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

1. N.J.A.C. 14:18-3.15 Trial services at subsection (b);
2. N.J.A.C. 14:18-3.16 Notice of rate change;
3. N.J.A.C. 14:18-3.17 Notice of alteration in channel allocation;

4. N.J.A.C. 14:18-3.20 Discounts for senior and disabled citizens at paragraphs (a)2 and 3;

5. N.J.A.C. 14:18-3.22 Notice of planned interruptions;

6. N.J.A.C. 14:18-3.23, Reimbursement for lost, stolen or damaged equipment; and

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

New Rule. R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Amended by R.2003 d.452, effective November 17, 2003.

See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

In (a), substituted "§ 76.905" for "§ 76.915" in the introductory paragraph and deleted 8 and 9.

APPENDIX A

LIST OF FORMS

Form CATV-1

Form CATV-2

Form F99

Application for Cable Television Franchise

Channel Allocation Form

Cable Facts Questionnaire

Line Extension Policy Form

Outage Form

Accident/Injury Form

New Rule R.1990 d.415, effective August 20, 1990.

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

Amended by R.2000 d.155, effective April 17, 2000.

See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Substituted a reference to Application for Cable Television Franchise for a reference to Form 100, and added a reference to Outage Form and Accident/Injury Form.