

CHAPTER 18

REGULATIONS OF CABLE TELEVISION

Authority

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

Source and Effective Date

R.2007 d.154, effective April 13, 2007.
See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

Chapter Expiration Date

Chapter 18, Regulations of Cable Television, expires on April 13, 2012.

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 Subchapter 3, Service, Subchapter 4, Testing of Service, and Subchapter 7, Bills and Payments for Service, were repealed and Subchapter 3, Customer Rights, Subchapter 4, Cable Operator Rights, Subchapter 7, Reports and Filings, and Subchapter 9, Testing of Service, were adopted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: 35 N.J.R. 100(a), 35 N.J.R. 1047(a), 35 N.J.R. 5294(a).

Chapter 18, Regulations of Cable Television, was readopted as R.2007 d.154, effective April 13, 2007. As a part of R.2007 d.154, Subchapter 13, Renewals, was renamed Municipal-Consent-Based Franchise Renewals, Subchapter 14, Application for System-Wide Franchise and Subchapter 15, System-Wide Franchise Terms and Conditions, were adopted as new rules, and former Subchapter 14, Miscellaneous Provisions, was recodified to Subchapter 16, effective May 7, 2007. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 14:18-1.1 Scope of regulations
- 14:18-1.2 Definitions

SUBCHAPTER 2. PLANT

- 14:18-2.1 Plant construction
- 14:18-2.2 Inspection of work performed by contractors
- 14:18-2.3 Construction in existing utility rights-of-way
- 14:18-2.4 Identification of property; buildings and structures
- 14:18-2.5 Identification of property; poles or structures supporting or connecting wires or cables
- 14:18-2.6 Maintenance of plant, equipment and facilities
- 14:18-2.7 Inspection of property
- 14:18-2.8 Construction work near cable television facilities
- 14:18-2.9 Calculation of pole attachment rent
- 14:18-2.10 Rate changes and disputes
- 14:18-2.11 Calculation of duct and conduit rent
- 14:18-2.12 Imputation of rates; modification costs

SUBCHAPTER 3. CUSTOMER RIGHTS

- 14:18-3.1 Scope
- 14:18-3.2 Requests for service
- 14:18-3.3 Customer information
- 14:18-3.4 Information on company's schedule of prices, rates, terms and conditions
- 14:18-3.5 Outage credit
- 14:18-3.6 Access to company representatives
- 14:18-3.7 Bills for service; form of bill
- 14:18-3.8 Method of billing
- 14:18-3.9 Due date of payment and notice of discontinuance
- 14:18-3.10 Basis for restoration of discontinued services
- 14:18-3.11 Disputes
- 14:18-3.12 Service call scheduling
- 14:18-3.13 Prompt restoration standards
- 14:18-3.14 Availability of special equipment
- 14:18-3.15 Trial and promotional services
- 14:18-3.16 Notice of price change
- 14:18-3.17 Notice of alteration in channel allocation
- 14:18-3.18 Periodic notices to customers
- 14:18-3.19 Interest on uncorrected billing errors
- 14:18-3.20 Discounts for senior and/or disabled citizens
- 14:18-3.21 Avoidance of interruption; prompt restoration
- 14:18-3.22 Notice of planned interruptions
- 14:18-3.23 Reimbursement for lost, stolen or damaged equipment
- 14:18-3.24 Late fees and charges
- 14:18-3.25 Refunds and credits
- 14:18-3.26 Pre-termination access to cable home wiring

SUBCHAPTER 4. CABLE TELEVISION OPERATOR RIGHTS

- 14:18-4.1 Permits
- 14:18-4.2 Refusal to connect
- 14:18-4.3 Basis of discontinuance of service
- 14:18-4.4 Access to customer's premises
- 14:18-4.5 Compensation for taking because of installation of cable television facilities
- 14:18-4.6 Deposits to insure credit
- 14:18-4.7 Deposits on auxiliary equipment
- 14:18-4.8 Receipts and records
- 14:18-4.9 Return of deposits
- 14:18-4.10 Consolidated notice
- 14:18-4.11 Disposition of cable home wiring
- 14:18-4.12 Home run wiring in MDU settings
- 14:18-4.13 Access to molding

SUBCHAPTER 5. OFFICES

- 14:18-5.1 Location and closing
- 14:18-5.2 Personnel to be contacted

SUBCHAPTER 6. RECORDS

- 14:18-6.1 Availability of records
- 14:18-6.2 Plant and operating records

14:18-14.2 Application for system-wide franchise to operate a cable television system

(a) Every application for a system-wide franchise 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;
2. Legal qualifications;
3. Cable experience: affiliation with other television or communications systems;
4. System design and construction timetable;
5. Proposed services;
6. Proposed rates for cable service;
7. Bonding and insurance, including a statement that the system-wide franchise applicant will hold harmless both the Office and each municipality it serves from any liability arising out of the construction and operation of its system;
8. Financing; and
9. Commitments as required by N.J.S.A. 48:5A-28h through n.

14:18-14.3 Public hearings

(a) The Office shall schedule, within 45 days of receipt of the application for a system-wide franchise, two public hearings in different geographical areas of the State, in accordance with N.J.S.A. 48:5A-16f.

(b) The system-wide franchise applicant shall pay to the Office a fee of \$500.00 per day of hearing or fraction thereof. Checks shall be made payable, to "Treasurer, State of New Jersey."

14:18-14.4 Notice of hearing

(a) The system-wide franchise applicant shall give notice of the date scheduled for the hearings concerning the application for a system-wide franchise by publishing in a newspaper or newspapers of general circulation information as to:

1. The identity of the applicant or applicants;
2. The time and place of the hearings; and
3. The place at which, and time within which, system-wide franchise applications may be examined by interested parties.

(b) This notice shall be published, at the latest, on the 10th day prior to the hearing.

14:18-14.5 Hearings; before whom held

Hearings may be heard before the Director of the Office or before any person designated by the Board as a presiding officer who shall have the responsibility for the conduct of the hearings.

14:18-14.6 Amendments to application; notice

An applicant for a system-wide franchise may, until seven days prior to the first hearing scheduled, submit to the Office changes, modifications or amendments of information contained in the application. Notice of any significant amendments to the application shall be provided to affected municipalities, which shall include information as to how a municipality can receive a copy of or review the amendments filed with the Office.

14:18-14.7 Additional information other than amendatory; notice

(a) An applicant for a system-wide franchise may, no later than five days after the close of the hearing, submit to the Office such additional, clarifying, explanatory, or supplemental information as may be helpful to the Board 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 system-wide applicant. Such information shall be provided no later than five days after the close of hearing.

14:18-14.8 Record of hearing

The Office will cause to be made a record of all public hearings conducted pursuant to the requirements of N.J.S.A. 48:5A-16f, which record, with all papers and transcripts filed in the proceeding shall constitute the record for decision.

14:18-14.9 Decision; time and contents

(a) The Board shall, not later than 45 days from the date of filing, issue a written decision of its findings to approve or deny the application for a system-wide franchise to operate a cable television system. If the Board issues a finding denying the application, it shall issue a decision in writing citing such reasons for disapproval.

(b) In considering whether to approve or deny an application for system-wide franchise, the Board shall only consider the provisions of N.J.S.A. 48:5A-17 and 28.

14:18-14.10 Notification of utilities; negotiations

Upon the grant of a system-wide franchise to an applicant, the system-wide franchisee 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.

14:18-14.11 Contents of the Board order granting a system-wide franchise

(a) Every system-wide franchise authorized by the Board shall contain information as to the following:

1. The territory to which it applies;
2. That the term for which it is issued is seven years;
3. The designation of a complaint officer;
4. The requirement that the applicant shall maintain a local business office or local business offices for purpose of receiving, investigating and resolving all complaints regarding the quality of service, equipment malfunctions, and similar matters;
5. A statement that the cable television company receiving a system-wide franchise shall abide by the commitments of N.J.S.A. 48:5A-28h through n and any details thereto;
6. The incorporation of any and all commitments provided by the applicant in its application for a system-wide franchise;
7. The amount of the franchise fee payable to each municipality to be served by the system-wide franchise; and
8. Any modifications to the information contained in the application.

14:18-14.12 Appeal of Board denial of system-wide franchise

(a) If, during the 45-day review period, the Board determines to disapprove the application for a system-wide franchise, the Board or a Board-appointed designee shall schedule a meeting with the applicant to explain such reasons for the Board's disapproval of the application and to allow the system-wide franchise applicant to question the Board or its appointed designee concerning the reasons for the Board's disapproval.

(b) Such meeting shall be scheduled no later than two weeks following the expiration of the 45-day review period required by (a) above.

(c) The system-wide franchise applicant shall have 30 days following the date of the meeting with the Board or its appointed designee required by (b) above to file an appeal of the Board's decision.

(d) Subsequent to the system-wide franchise applicant's filing of an appeal, the Board shall thereafter schedule an administrative hearing not later than 30 days following the date of the filing of the applicant's appeal for consideration of the system-wide franchise applicant's appeal.

(e) The Board shall issue a final decision on the system-wide franchise applicant's appeal not later than 60 days following the administrative hearing required by (d) above.

14:18-14.13 Cable television operator system-wide franchise conversion

(a) Any cable television company currently operating under authority of a municipal consent(s) and Certificate(s) of Approval issued by the Board prior to the effective date of P.L. 2006, c. 83 may convert any or all such Certificate(s) of Approval into a system-wide franchise.

(b) A cable television company wishing to convert any or all of its existing Certificate(s) of Approval to a system-wide franchise must provide notice to the Board and each municipality affected, via certified mail, that it intends to convert to a system-wide franchise.

(c) In its notice to the Board and each affected municipality, the cable television company shall:

1. Confirm that it will abide by the provisions of N.J.S.A. 48:5A-28h through n; and
2. List each municipality that is to be initially converted to a system-wide franchise.

(d) Upon receipt by the Board of the letter indicating the cable television company's intent to convert to a system-wide franchise, which letter must include the requirements of (c) above, the cable television company will be deemed to have been granted a system-wide franchise.

(e) The Board shall issue a system-wide franchise order memorializing the conversion of the Certificate(s) of Approval to a system-wide franchise, which shall specify:

1. The municipalities included in the system-wide franchise;
2. That the franchise term is for seven years from the date of receipt of the cable television company's notice specifying its intent to convert to a system-wide franchise; and
3. The cable television company's commitment to comply with the provisions of N.J.S.A. 48:5A-28h through n.

14:18-14.14 Addition of municipalities to system-wide franchise

(a) Upon decision by a cable television company operating under a system-wide franchise pursuant to this subchapter to add additional municipalities to its system-wide franchise, the cable television company shall provide notice to the Board and to the affected municipality or municipalities, via certified mail. The seven-year franchise term issued or renewed by the Board shall not be affected by the addition of municipalities to a system-wide franchise and the Board shall issue an amended order which specifies which municipalities have been added to the system-wide franchise.

(b) If the cable television company is an existing cable television operator, as of August 4, 2006, the effective date of

P.L. 2006, c. 83, who is currently operating under a converted system-wide franchise, notice must be provided pursuant to this section.

(c) If the cable television company operating under a converted system-wide franchise does not currently provide cable television service to the municipalities to be added, such cable television company operating under a system-wide franchise shall specify a proposed deployment schedule and a commitment to abide by the provisions of N.J.S.A. 48:5A-28h through n.

14:18-14.15 Enforcement

The Board may enforce any provision of the system-wide franchise in accordance with the provisions of this subchapter.

SUBCHAPTER 15. SYSTEM-WIDE FRANCHISE TERMS AND CONDITIONS

14:18-15.1 Authority

The Office of Cable Television shall enforce the terms and conditions of a system-wide franchise as provided by N.J.S.A. 48:5A-10 and 28.2.

14:18-15.2 Deployment requirements

(a) Each cable television company receiving a system-wide franchise shall be required to deploy cable television service within each municipality for which it has applied in accordance with any line extension policy in place by the existing cable television operator at the time the system-wide franchise commences; except that a cable television company operating under a system-wide franchise may adopt a line extension policy that is more favorable to residents of a municipality within its franchise territory. If the existing cable television operator maintains a policy whereby all residents of the municipality receive service at no cost beyond standard and non-standard installation rates, the cable television company operating under a system-wide franchise shall also provide service to any resident within the municipality at no cost beyond standard and non-standard installation rates.

(b) If the cable television company operating under a system-wide franchise is a local exchange carrier that serves more than 40 percent of the local exchange telephone market in the State, it shall be required to comply with N.J.S.A. 48:5A-25.2a(1) and (2).

14:18-15.3 Relief from deployment requirements

(a) A cable television company operating under a system-wide franchise that is a local exchange carrier that serves more than 40 percent of the local exchange telephone market in the State must file with the Board if it believes it cannot

deploy service as required under N.J.A.C. 14:18-15.2 for one or more of the following reasons:

1. The cable television company, operating under a system-wide franchise, cannot access a development or building because of a claimed exclusive arrangement with another cable television company;

2. The cable television company, operating under a system-wide franchise, cannot access a development or building using its standard technical solutions, under commercially reasonable terms and conditions after good faith negotiation; or

3. The cable television company, operating under a system-wide franchise, cannot access the public rights-of-way under reasonable terms and conditions.

(b) If such a cable television company as described in (a) above believes it cannot deploy service for one or more of the reasons listed in (a)1 through 3 above, it shall provide documentation to the Board, which shall include a thorough description of the reason or reasons supporting such invocation.

(c) A copy of any such filing from a cable television company operating under a system-wide franchise claiming relief from its deployment requirements as described in (a) above, shall be provided to the Department of Public Advocate and the Division of Rate Counsel at the same time as it is filed with the Board and by the same method of service.

(d) As used in this section, the Board provides the following guidance regarding the meaning of the terms contained in N.J.S.A. 48:5A-25.2 and listed below:

1. "Claimed exclusive arrangement" retains its usual and standard meaning, and includes, but is not limited to, assertions made by owners or operators of multiple unit dwelling facilities that a cable television operator is forbidden or otherwise not allowed to provide service based upon a valid contract or other agreement or limitation, which contract, agreement, or limitation is not in violation of N.J.S.A. 48:5A-49. Any contract or other agreement or limitation that is in violation of N.J.S.A. 48:5A-49 may not serve as a foundation for a valid claimed exclusive agreement.

2. "Commercially reasonable terms and conditions" retains its usual and standard meaning, and within that context includes, but is not limited to, issues associated with pricing and availability or restrictions on costs, remediation, installation, sharing of services and other elements of access and the impact upon rates, costs and reasonable rates-of-return.

3. "Good faith negotiation" retains its usual and standard meaning, and within that context includes, but is not limited to, open, honest and fair discussions between parties capable and willing to reach a mutually beneficial