

6. Any TSP designated in a letter of agency as a primary TSP shall be the TSP directly setting the rates for the customer;

7. Letters of agency shall not suggest or require that a customer take some action in order to retain the customer's current TSP;

8. If any portion of a letter of agency is translated into another language then all portions of the letter of agency shall be translated into that language. Every letter of agency shall be translated into the same language as any promotional materials, oral descriptions or instructions provided with the letter of agency;

9. Letters of agency submitted with an electronically signed authorization shall include the consumer disclosures required by § 101(c) of the Electronic Signatures in the Global and National Commerce Act. (Public Laws 106-229) (E-sign Act);

10. TSPs utilizing electronically signed letters of agency shall employ encryption and/or other security measures in keeping with the best practices used for Internet transactions. TSPs shall also provide notice to subscribers regarding the level of security that applies to the submission of such electronically signed letters of agency.

11. A TSP shall submit a primary TSP change order on behalf of a subscriber within 60 days of obtaining a written or electronically signed letter of agency; and

12. Letters of agency submitted with electronically signed authorizations shall comply with all relevant provisions of the Electronic Signatures in the E-sign Act and the Uniform Electronic Transactions Act, N.J.S.A. 12A:12-1 et seq.

(b) A submitting TSP may also obtain a customer's electronic authorization to submit the primary TSP order in accordance with 47 CFR §64.1120(c)(2).

Recodified in part from N.J.A.C. 14:10-11.3 by R.2007 d.276, effective September 17, 2007.

See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).

Section was "Verification of change orders for telecommunications service providers". Rewrote the section.

Former N.J.A.C. 14:10-11.5, Unauthorized service termination and transfer (slamming), recodified to N.J.A.C. 14:10-11.8.

14:10-11.6 Third-party verification of authorization

(a) A submitting TSP may obtain a customer's authorization to submit a change order on the customer's behalf through an independent third-party verification in accordance with this section.

(b) The company that obtains a third-party verification shall be independent of the acquiring TSP. The third party shall not be owned, managed, controlled, or directed by the TSP or the TSP's marketing agent; shall not have any financial incentive to confirm primary TSP change orders for the TSP or the TSP's marketing agent; and shall operate in a

location physically separate from the TSP or the TSP's marketing agent.

(c) A TSP may use third-party verification systems and three-way conference calls for verification purposes, so long as, the requirements of this section are satisfied. Automated systems shall provide customers with the option to speak with a live person at any time during the call.

(d) A TSP or a TSP's sales representative initiating a three-way conference call or a call through an automated verification system shall drop off once the three-way connection has been established, unless the third-party verifier obtains a waiver for this requirement from the FCC.

(e) All third-party verification methods shall elicit, at a minimum, all of the following:

1. Confirmation of the identity of the customer (for example, the customer's date of birth or social security number);
2. The date of the verification;
3. Confirmation that the person on the call is authorized to make the TSP switch;
4. Confirmation that the person on the call wants to make the TSP switch;
5. The names of the TSPs affected by the change;
6. Each of the telephone numbers that will be affected by the switch; and
7. The types of service being switched.

(f) Third-party verifiers shall not market the TSP's services by providing additional information during the verification call, including information regarding preferred TSP freeze procedures.

(g) All third-party verifications shall be conducted in the same language that was used in the underlying sales transaction and shall be recorded in their entirety.

(h) If a customer has any questions regarding the switching of telecommunications service, the rates, or any other matter; which a third-party verifier is not qualified or not authorized to answer under this subchapter, the third-party verifier shall:

1. Inform the customer that the third-party verifier is not qualified or authorized to answer the question;
2. Offer to terminate the verification and instruct the customer on how to contact the TSP's sales agent to answer the question; and
3. Terminate the verification if the customer requests it, or, if the customer clearly consents to continue the call without having the question answered, continue the call.

(i) If a verification is terminated in accordance with the verification, a new verification may be started only after the

TSP's sales agent has fully responded to the customer's questions.

(j) Each customer selection of a primary TSP for local, intraLATA toll, or interLATA telecommunications service shall be verified separately, in accordance with this subchapter, even if the same primary TSP is chosen to provide two or more telecommunications services. For example, a single authorization for changes of local, intraLATA, and long distance service is not valid. The TSP must obtain a separate authorization for change of local service, a separate authorization for change of intraLATA service, and a separate authorization for long distance.

(k) A TSP may acquire, through a sale or transfer, either part or all of another TSP's customer base, without obtaining each customer's authorization and verification, by complying with the rules set forth at 47 CFR §64.1120(e), as amended and supplemented, which are incorporated herein by reference.

(l) Copies of letter notifications filed with the FCC pursuant to 47 CFR §64.1120(e)(1) and (2) shall also be filed with the Board.

Amended by R.2003 d.355, effective September 2, 2003.
See: 34 N.J.R. 3200(a), 35 N.J.R. 4126(a).

Rewrote the section.
Recodified in part from N.J.A.C. 14:10-11.3 by R.2007 d.276, effective September 17, 2007.

See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).

Section was "Verification of change orders for telecommunications service providers". Rewrote the section.

Former N.J.A.C. 14:10-11.6, Primary TSP freezes, recodified to N.J.A.C. 14:10-11.9.

Administrative correction.

See: 39 N.J.R. 4201(b).

Amended by R.2008 d.304, effective October 20, 2008.

See: 39 N.J.R. 3880(a), 39 N.J.R. 5058(a), 40 N.J.R. 6211(a).

Section was "Third party verification of authorization". In (b), rewrote the first sentence, deleted "independent" preceding "third party" in the second sentence, and deleted the former last sentence.

14:10-11.7 Requirements for the executing TSP

(a) A TSP that receives a primary TSP change order that has been solicited and verified in compliance with this subchapter shall execute the requested TSP change as soon as possible, and in no case later than three business days after a change order for toll services is submitted, whether intraLATA or interLATA; and no later than 30 business days after a change order for local exchange service is submitted.

(b) An executing TSP is not responsible for verifying whether or not a switch is authorized. The executing TSP merely performs the switch in accordance with (a) above after receiving a change order from the submitting TSP.

(c) The 30-day deadline set forth in (a) above for executing local exchange service change orders may be extended for good cause by Board staff. The extension shall last for 30 days, unless a different time period is agreed to by the

customer and the TSPs involved in the switch; or if a different time period is required by Federal law or rule.

(d) The 30-day deadline set forth in (c) above for local exchange service may also be shortened by order of the Board pursuant to N.J.S.A. 56:8-88.

(e) When an authorized change of a TSP is made, the acquiring TSP shall notify the customer of the change within 30 days of submitting the primary TSP change order to the executing carrier that serves the customers.

(f) The notice required under (e) above shall be separate from the acquiring TSP's billing statement and shall clearly and conspicuously include at least the following information:

1. That the information is being sent to confirm a primary telecommunications service provider change order, and to confirm the type of service being changed, that is, local, intraLATA or interLATA services;

2. The name of the customer's former telecommunications service provider, if that information is known to the acquiring TSP;

3. The name of the acquiring telecommunications service provider, with telephone number and address;

4. A description of any and all terms, conditions or charges that the customer will pay for the change and for service from the new TSP; and

5. The telephone number and address of both the Board of Public Utilities Division of Customer Assistance, at Two Gateway Center, Newark, New Jersey 07102, 1 (800) 624-0241; and the Division of Consumer Affairs Consumer Service Center, at 124 Halsey Street 7th Fl, PO Box 45027, Newark, New Jersey 07102 (973) 504-6200.

(g) The submitting TSP shall make available to any customer, upon written or verbal request, for the period records are maintained, the TSP's verification of that customer's TSP change order.

Amended by R.2001 d.307, effective September 4, 2001.

See: 33 N.J.R. 1500(a), 33 N.J.R. 3043(a).

In (b), inserted the fourth sentence.

Recodified from N.J.A.C. 14:10-11.4 and amended by R.2007 d.276, effective September 17, 2007.

See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).

Section was "TSP change order procedures". Rewrote the section.

Former N.J.A.C. 14:10-11.7, Investigations, repealed.

Amended by R.2008 d.304, effective October 20, 2008.

See: 39 N.J.R. 3880(a), 39 N.J.R. 5058(a), 40 N.J.R. 6211(a).

In (b), substituted "accordance with (a) above" for "a timely manner"; and in (g), deleted the former last sentence.

14:10-11.8 Unauthorized service termination and transfer (slamming)

(a) In the event a customer notifies the Board that slamming, as defined in this subchapter, has allegedly occurred, that portion of the bill that relates to the alleged slamming shall be considered in dispute pursuant to N.J.A.C. 14:3-7.13.