

CHAPTER 10

TELEPHONE

Authority

N.J.S.A. 48:2-13.

Source and Effective Date

R.1996 d.412, effective August 7, 1996.
See: 28 N.J.R. 2832(a), 28 N.J.R. 4107(a).

Executive Order No. 66(1978) Expiration Date

Chapter 10, Telephone, expires on August 7, 2001.

Chapter Historical Note

Chapter 10, Telephone, was filed and became effective prior to September 1, 1969. Subchapter 4, Regulation for Residential Telephone Underground Extensions, became effective December 31, 1971 as R.1971 d.183. See: 1 N.J.R. 9(a), 3 N.J.R. 227(c). Subchapter 5, Regulation of InterLATA Telecommunications Carriers, became effective September 8, 1986 as R.1986 d.368. See: 17 N.J.R. 2012(a), 18 N.J.R. 1830(b). Subchapter 6, Regulation of Alternative Operator Service (AOS) Providers, was adopted as R.1989 d.463, effective September 5, 1989. See: 20 N.J.R. 3115(a), 21 N.J.R. 2801(d). Pursuant to Executive Order No. 66(1978) Chapter 10, Telephone, was readopted as R.1991 d.489, effective September 6, 1991, with amendments effective October 7, 1991. See: 23 N.J.R. 2270(a), 23 N.J.R. 3035(a). Subchapter 7, Access to Adult-Oriented Information-Access Telephone Service, was adopted as R.1993 d.180, effective May 3, 1993. See: 24 N.J.R. 1238(a), 25 N.J.R. 1882(b). Subchapter 5, Regulation of InterLATA Telecommunications Carriers, was repealed and Subchapter 5, Regulation of Competitive Telecommunication Services, was adopted as R.1993 d.248, effective June 7, 1993. See: 24 N.J.R. 1868(a), 25 N.J.R. 2492(a). Subchapter 10, IntraLATA Toll Competition on a Presubscription Basis, was adopted as R.1996 d.346, effective August 5, 1996. See: 28 N.J.R. 250(a), 28 N.J.R. 3824(b). Pursuant to Executive Order No. 66(1978), Chapter 10, Telephone, was readopted as R.1996 d.412, effective August 7, 1996. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. SERVICE

14:10-1.1 Service connections

(a) Each telephone utility shall supply, without cost to the customer, at least 150 feet, or more if no pole or structure is involved, of overhead service connection as measured from the curb line nearest to the customer's property to the nearest point of service connection at the customer's building or other structure. Where the customer desires an underground service connection, such facilities shall be provided, installed and maintained at the customer's sole cost and expense.

(b) If the length of service connection exceeds the requirements specified in (a) above, the customer may be required to pay for the cost of such excess.

(c) The provisions of this regulation do not affect "Service Connection Charges" associated with the establishment of telephone service, as provided for in the utility's filed tariff.

Amended by R.1991 d.489, effective October 7, 1991.
See: 23 N.J.R. 2270(a), 23 N.J.R. 3035(a).
Stylistic revisions.

14:10-1.2 Rate and special charges information

(a) Upon the request of any customer or applicant, each telephone utility shall provide an explanation of the rates, charges and provisions applicable to the service 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 economical communications service conforming to the needs of such customer or applicant. The customer or applicant shall be advised as to alternative services available to meet the communications requirements of said customer or applicant in accordance with N.J.A.C. 14:11-7.4. Such information may include printed explanations of alternative services and rates. When requested, the telephone utility shall notify the customer or applicant of the minimum installation and service connection charge to be applied to the bill of such customer or applicant prior to undertaking any action and shall inform the customer or applicant of the estimated initial bill for local service.

(b) The customer shall be provided with an estimate of the charges where special charges not specifically set forth in a telephone utility's tariff are levied on the basis of actual cost for such items as extraordinary construction, maintenance or replacement costs or expenses, overtime work at the customer's request and special installations, equipment and assemblies for which the tariff does not prescribe a rate. This estimate need not be furnished if the customer specifically requests that the special equipment and services be provided before the charges for those services and equipment are available.

R.1978 d.89, effective March 10, 1978.
See: 9 N.J.R. 130(a), 10 N.J.R. 171(b).
Amended by R.1996 d.412, effective September 3, 1996.
See: 28 N.J.R. 2832(a), 28 N.J.R. 4107(a).

14:10-1.3 Business offices

(a) Business offices shall be staffed to provide customers and others with convenient access to qualified personnel, including supervisory personnel where warranted, to provide information relating to services and rates, accept and process applications for service, explain charges on customer's bills, adjust charges made in error and to generally act as the representative of the telephone utility. If one business office serves several communities, toll free calling from such communities will be provided.

(b) Business offices will be open during normal working hours of the telephone utility's normal work week in the area being served and at such other times and such other places as may be warranted by circumstances.

(c) Qualified personnel will be instructed to be courteous, considerate, efficient, and available to promptly serve those who contact the business office.

R.1978 d.89, effective March 10, 1978.
See: 9 N.J.R. 130(a), 10 N.J.R. 171(b).

14:10-1.4 Public information

(a) Access to the following information shall be made available at the business office upon request:

1. Maps showing exchange, base rate area and zone boundaries (if applicable) in sufficient size and detail from which most customer locations can be determined and mileage or zone charges quoted.

2. Information concerning plans for major service changes in the area served by the business office.

R.1978 d.89, effective March 10, 1978.

See: 9 N.J.R. 130(a), 10 N.J.R. 171(b).

14:10-1.5 Directories

(a) Telephone directories shall be published regularly, listing the name, location and telephone number of all

customers, except telephone service not published at customer's request and public telephones.

(b) Upon issuance, a copy of each directory shall be distributed to all customers within the service area covered by the directory and a copy of each directory shall be furnished to the board.

(c) The name of the telephone utility, the area included in the directory, and the month and year of issue shall appear on the cover.

(d) Data pertaining to emergency numbers shall be conspicuously listed in the front part of the directory pages which shall include space for the customer to list emergency numbers, including those of gas, electric and water companies.

2. Means of communication, including patron's tie-lines, between offices of the telegraph company and offices of recognized general commercial customers.

(d) The list of registrations required in this Section shall be available to the Attorney General, county prosecutors and municipal police departments.

Recodified from N.J.A.C. 14:11-1.14 by R.1998 d.84, effective February 2, 1998.

See: 29 N.J.R. 4250(b), 30 N.J.R. 563(a).

SUBCHAPTER 2. PAYMENTS FOR SERVICE

14:10-2.1 Bills for service

(a) The customer's bill shall include as applicable:

1. The telephone number or other numerical or alphabetical designation;

2. The date of the assigned billing period;

3. Clear identification of each service provider;

4. The toll-free number the customer can call with questions;

5. Total recurring charges for service and equipment, and the number and total charge for message units, if any, supported by statement which reflects amounts due and payable before and after application of payment;

6. A separate line item on a monthly basis for basic residential local telephone service (BRLTS), as defined at N.J.A.C. 14:3-3.17(a), and a separate line item on a

monthly basis for nonbasic residential telephone service, as defined at N.J.A.C. 14:3-3.17(a), if any, supported by statement which reflects amounts due and payable before and after application of payment;

7. A separate line item on a quarterly basis for each optional service provided, if any;

8. Total charges for intraLATA and interLATA toll calls, supported by statement;

9. Total nonrecurring charges for service and equipment, supported by statement;

10. Total United States Federal Excise Tax;

11. Total New Jersey Sales Tax;

12. Total Subscriber Line Charge, Universal Service Fund, Lifeline, Link-Up America or similar charges or credits; and

13. Total charge for advertising in telephone directories.

Amended by R.1991 d.489, effective October 7, 1991.

See: 23 N.J.R. 2270(a), 23 N.J.R. 3035(a).

Stylistic revisions.

Amended by R.1996 d.412, effective September 3, 1996.

See: 28 N.J.R. 2832(a), 28 N.J.R. 4107(a).

Amended by R.2000 d.85, effective March 6, 2000 (operative September 6, 2000).

See: 31 N.J.R. 742(a), 32 N.J.R. 819(a).

Rewrote (a).

Case Notes

Customer whose telephone service was transferred to new business entity was liable for telephone charges incurred under name of former business. *Harcord Packard Company v. Bell Atlantic New Jersey, Inc.*, 96 N.J.A.R.2d (BRC) 67.

14:10-2.2 Itemization of toll charges

All toll charges shall be itemized so as to facilitate the customer identifying his calls.

R.1978 d.89, effective March 10, 1978.
See: 9 N.J.R. 130(a), 10 N.J.R. 171(b).

14:10-2.3 Out of service refund

In the event the customer's service is interrupted otherwise than by the negligence or willful act of the customer and it remains out of service for a period of 24 hours or more after being reported to be out of service, appropriate adjustments or refunds shall be made upon request of the customer or automatically by the telephone utility if out of service beyond 72 hours after being reported or found.

R.1978 d.89, effective March 10, 1978.
See: 9 N.J.R. 130(a), 10 N.J.R. 171(b).

14:10-2.4 Voluntary suspension

Communications service shall, at the request of a customer, be temporarily suspended. The suspension period may be for any period exceeding one month or such lesser period as specified in the tariff. Each telephone utility's tariff shall provide a suspension of service rate chargeable during such period.

R.1978 d.89, effective March 10, 1978.
See: 9 N.J.R. 130(a), 10 N.J.R. 171(b).

SUBCHAPTER 3. SUGGESTED FORMULAE FOR EXTENSION OF TELEPHONE SERVICE

14:10-3.1 General provisions

(a) These formulae shall not be binding on the parties but are suggested as a guide to customers and utilities. Parties are still free to exercise their rights under N.J.S.A. 48:2-27. When an applicant for an extension is dissatisfied with these suggested extension rules, he may petition the Board for a finding that the extension should be made without charge.

(b) An extension shall be construed to mean the extension of facilities located on streets, highways, and/or rights-of-way acquired by the utility for common distribution. The utility may demand that the applicant furnish a bond or other security to insure the use of the services requested, which bond or security will be returned upon the commencement of service.

Amended by R.1975 d.243, effective August 14, 1975.
See: 7 N.J.R. 29(a), 7 N.J.R. 437(b).

14:10-3.2 Construction on public highways

(a) Where an extension is necessary in order to serve an applicant for exchange telephone service within the base

rate area as defined in the utility's tariff on file with the Board, no charge shall be made for such extension.

(b) Where an extension is required outside the base rate area, up to 1,200 feet of pole line will be constructed for each customer to be served. Where such an extension requires more than 1,200 feet of pole line construction for each customer to be served, the customers involved may be required to deposit the estimated cost of such excess construction and at the completion thereof the utility shall refund any excess of the estimated over the actual cost or the customers shall pay the excess of the actual cost over the estimated cost upon being so billed by the utility. Refunds on the basis of 1,200 feet per customer shall be given to customers who have made a construction deposit, if within a period of five years from the date of establishment of service the poles are used in furnishing exchange service to additional customers. Refunds shall also be made to customers, in whole or in part, if within said five-year period all or a portion of said pole line is used for carrying the utility's toll circuits.

14:10-3.3 Construction and attachments on private property

(a) If it is necessary to place poles on private property solely to serve an individual customer, the customer may be required to pay the utility the actual cost of each pole placed.

(b) Where attachment charges are made for the use of poles owned by another utility or individual and located on private property, the full attachment rental may be charged to the customer.

(c) Where a customer for such an extension desires underground installation of cable, he may be required to pay the actual cost of such underground extension. Where a customer for such an extension furnishes installed conduit, the utility will furnish wire connections through the conduit.

14:10-3.4 Guaranty in lieu of deposit

Where the cost to the utility for an extension to individual permanent residential customers exceeds the amount which the utility must install without cost to the customer, in accordance with N.J.A.C. 14:10-3.2, the utility and the customer may agree that in lieu of requesting a deposit by the customer equal to the excess cost of the extension, the customer will guarantee a monthly revenue. Such guarantee shall be not more than $\frac{1}{60}$ of the total cost of the extension.

Amended by R.1991 d.489, effective October 7, 1991.
See: 23 N.J.R. 2270(a), 23 N.J.R. 3035(a).
Stylistic revisions.

**SUBCHAPTER 4. REGULATION FOR
RESIDENTIAL TELEPHONE
UNDERGROUND EXTENSIONS**

14:10-4.1 Applicability

(a) Extensions of telephone distribution lines installed after the effective date of this subchapter, and necessary to furnish permanent telephone service to new residential buildings and mobile homes within an approved subdivision having three or more building lots or to new multiple-occupancy buildings, shall be made underground, except for interconnecting points and pedestals.

(b) Such extensions of service shall be made by the utility in accordance with the provisions in this subchapter.

As amended, R.1973 d.335, effective December 3, 1973.

See: 6 N.J.R. 22(b).

Amended by R.1975 d.243, effective August 14, 1975.

See: 7 N.J.R. 29(a), 7 N.J.R. 437(b).

Amended by R.1991 d.489, effective October 7, 1991.

See: 23 N.J.R. 2270(a), 23 N.J.R. 3035(a).

Stylistic revisions.

14:10-4.2 Definitions

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

“Applicant” means the subdivider, developer, builder or owner applying for the construction of a telephone distribution system in a subdivision.

“Board” means the Board of Public Utilities.

“Building” means a permanent structure enclosed within exterior walls or fire walls, built, erected and framed of component structural parts and designed for single family or duplex-family occupancy.

Note: A duplex-family building may consist of either a duplex apartment with rooms on two floors and a private interstairway, or a duplex house with two separate family units side by side.

“Cost” means actual expense incurred for materials and labor employed in the installation of an underground residential distribution system, including overheads directly attributable to the work, but excluding overrides or loading factors such as for back-up personnel for mapping, records, clerical, superintendence or general office.

“Existing street” means a public street, road or highway, traversing or abutting the applicant’s subdivision, that was in existence and utilized prior to the approval and establishment of the subdivision.

“Extension” means an extension of facilities located on streets, highways and/or rights-of-way acquired by the utility for common distribution.

“Mobile home” means a dwelling unit constructed for permanent occupancy which is designed for moving along roads and highways by towing with a truck or tractor and which is installed on a permanent foundation.

“Multiple-occupancy building” means a permanent structure enclosed or within exterior walls or fire walls, built, erected and framed of component structural parts and designed to contain three or more individual dwelling units and consisting of not more than four stories.

“New street” means a public street, road or highway, traversing or abutting the applicant’s subdivision, that was or will be constructed subsequent to the approval and establishment of the subdivision.

“Subdivision” means the tract of land which is divided into lots as approved by the appropriate authorities for the construction of new residential buildings or the placement of mobile homes, or the land on which new multiple-occupancy buildings are to be erected.

“Utility” means a “telephone company” as defined in N.J.S.A. 48:2-13.

As amended, R.1973 d.335, effective December 3, 1973.

See: 6 N.J.R. 22(b).

Amended by R.1975 d.243, effective August 14, 1975.

See: 7 N.J.R. 29(a), 7 N.J.R. 437(b).

Amended by R.1991 d.489, effective October 7, 1991.

See: 23 N.J.R. 2270(a), 23 N.J.R. 3035(a).

Stylistic revisions.

14:10-4.3 Rights-of-way and easements

(a) Within the applicant’s subdivision, the utility shall construct, own, operate and maintain underground distribution lines only along public streets, roads and highways which the utility has the legal right to occupy, and on public lands and private property across which rights-of-way and easements satisfactory to the utility both as to location and legal sufficiency are provided without cost to or condemnation by the utility.

(b) Rights-of-way and easements suitable to the utility must be furnished by the applicant in sufficient time to permit the utility to meet service requirements and at no cost to the utility. The rights-of-way or easements so granted must be cleared of trees, tree stumps and other obstructions above or below grade at no charge to the utility to a width sufficient to permit the use of machinery and equipment, and must be graded to within six inches of final grade by the applicant before the utility will commence construction. Such clearance and grading must be maintained by the applicant during construction by the utility.

(c) The applicant shall supply to the utility the preliminary or tentative subdivision map which has been submitted to and approved by the appropriate authorities, showing the full layout of the subdivision to be developed in order to facilitate planning for the cables.

Amended by R.1996 d.412, effective September 3, 1996.
See: 28 N.J.R. 2832(a), 28 N.J.R. 4107(a).

14:10-5.10 Standards for monitoring the competitiveness of services

(a) In monitoring the competitiveness of services, the Board may:

1. Use information collected pursuant to N.J.A.C. 14:10-5.9 to conduct an analysis as to whether services are becoming more or less competitive; specifically, monitor the market shares of carriers as measured by number of calls, minutes of use, number of customers and customer complaints;

2. Consider using an economic measure of concentration or any other appropriate economic indicator to measure market share and the competitiveness of individual services; or

3. Consider using a customer survey to solicit information related to the perception of the level of competition by actual telecommunications users.

(b) The Board may reclassify a service that had previously been found to be competitive, if, after notice and hearing, the Board finds:

1. That the market concentration for an individual carrier results in a service no longer being sufficiently competitive;

2. That significant barriers to market entry exist;

3. That there is a lack of significant presence of competitors;

4. That there is a lack of like or substitute services in the relevant geographic area;

5. That a carrier is not providing safe, adequate or proper service; or

6. That the public interest is no longer served by available competition.

Amended by R.1996 d.412, effective September 3, 1996.
See: 28 N.J.R. 2832(a), 28 N.J.R. 4107(a).

Case Notes

Cable television operator not entitled to emergent relief; television pole attachments not located at reference gain. In Matter of Report on Status of Construction by Shore Cable Company, 92 N.J.A.R.2d (BRC) 37.

14:10-5.11 Discontinuance of service offerings

(a) Any carrier providing competitive services may, upon 30 days notice to the Board and its customers, discontinue any competitive service offering.

(b) Service offerings provided solely by a single carrier, may be discontinued, unless the Board notifies the carrier

that it will postpone the discontinuance of the service pending Board review and approval.

SUBCHAPTER 6. REGULATION OF OPERATOR SERVICE PROVIDERS

Authority

N.J.S.A. 48:2-13, 48:2-21.22, 48:2-21.23 and 48:17-24.

Source and Effective Date

R.1997 d.46, effective February 3, 1997.
See: 28 N.J.R. 68(a), 28 N.J.R. 1195(b), 29 N.J.R. 464(a).

Subchapter Historical Note

Subchapter 6, Regulation of Alternative Operator Service (AOS) Providers, was repealed and a new Subchapter 6, Regulation of Operator Providers, was adopted by R.1997 d.46, effective February 3, 1997. See: Source and Effective Date.

14:10-6.1 Scope

The rules contained in this subchapter shall apply to alternate operator service providers, operator service providers, and aggregators, as defined in N.J.A.C. 14:10-6.2, including aggregators whose location offers services equivalent to an operator service provider. In addition to this subchapter, those aggregators who are also public pay telephone service (PPTS) providers are subject to N.J.A.C. 14:10-9.

14:10-6.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings:

“Aggregator” means a person or entity which, in the ordinary course of its business, makes telephones available to the public or to transient users of its premises, including, but not limited to, hotels, motels, hospitals, or universities, and which provides operator-assisted services through either automated store and forward technology or through an operator service provider.

“Alternate operator service provider” or “AOS” means a non-facilities based telecommunications carrier that is a reseller leasing lines from local exchange carrier(s) and/or interexchange carrier(s) and which, using these leased facilities, provides operator-assisted intrastate services through the use of its own operators, either through live intervention or automated intervention, including automated store and forward technology where the placement or charging of a telephone call is accomplished at an aggregator location.

“Billing agent” means a billing and collection company or billing clearing house which processes an alternate operator service provider’s call data to appear on local exchange company telephone bills, or any other forms of bills, issued

to the consumer that utilized the services of an alternate operator service provider.

“Board” means the Board of Public Utilities.

“Branding” means verbal identification of the OSP prior to connection of the call and implementation of billing.

“Equal access code” means an access code that allows the public to obtain an equal access connection to the carrier associated with that code, such as 10XXX or 101XXXX, if applicable.

“Incumbent local exchange carrier” or “incumbent LEC” means a telecommunications carrier with a Board authorized tariff in effect prior to February 8, 1996, to provide switched local exchange services in the State of New Jersey.

“IXC” means interexchange carrier.

“Operator-assisted services” means services which assist consumers in the placement or charging of a telephone call, either through live intervention or automated intervention, including automated store and forward technology where the placement or charging of a telephone call is accomplished at an aggregator location.

“Operator service provider” or “OSP” means any telecommunications carrier that provides operator-assisted services, including AOS providers.

“Presubscribed provider of operator services” means the provider of intrastate operator services to which the consumer places a call using a provider of operator services without dialing an access code.

“Rate” means the total charge to a consumer for the completion of a call utilizing operator-assisted service including all surcharges, premises imposed fees and other charges, collected from the consumer.

“Slamming” means an unauthorized change of a consumer’s primary interexchange carrier.

“Splashing” means billing for a call that does not reflect the location of the origination of the call.

“Tariffed facilities-based carrier” means any communications carrier that provides services on a common carrier basis through the use of their own facilities and currently has, or would be required by statute or rule to file, a tariff. This specifically excludes alternative operator service providers as defined in this subchapter.

14:10-6.3 Operator service provider requirements

(a) Operator service providers may complete intrastate operator-assisted calls subject to this subchapter.

(b) Operator service providers and aggregators shall be subject to Board regulation as described in this subchapter. The Board or its staff may investigate the conduct of any OSP or aggregator and take appropriate action as required.

(c) Operator service providers and aggregators are responsible for conformance with all rules as specified in this subchapter. The Board may, after notice and an opportunity to be heard in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, take such action against an OSP and/or aggregator as is necessary to rectify any non-conformance with the rules or to protect the general public interest. The Board’s actions may include the imposition of penalties for violations as described in N.J.A.C. 14:10-6.6, disconnection of intrastate service to individual aggregator locations experiencing persistent violations, as well as the restriction of certain billing and collection activities subject to the Board’s regulation.

(d) Each aggregator connected to an OSP shall place directly on the telephone instrument, in plain view of consumers:

1. The name, address, and toll free number of the provider of operator services;
2. A clear and precise description of the geographic area served by the LEC and the geographic area served by the presubscribed OSP. That is, local operator-assisted calls are carried by the LEC, intrastate operator-assisted toll calls within the area code are carried by one OSP, intrastate operator assisted calls outside the area code are carried by a second OSP;
3. A written disclosure that the rates for all operator-assisted calls are available on request and free of charge, and dialing instructions on how to obtain this information;
4. A written disclosure that consumers have a right to obtain access to the intrastate operator service provider of their choice and may contact their preferred carrier for information on accessing that carrier’s service using that telephone;
5. Dialing instructions which detail the OSP’s dialing procedures;
6. Dialing instructions for access to the LEC operator;
7. The Board’s toll free customer complaint telephone number; and
8. All information required by the Federal Communications Commission at 47 C.F.R. 64.703, as amended and supplemented, incorporated herein by reference, copies of which may be obtained upon request from the Secretary of the Board, except that implementation of 47 C.F.R. 64.703(a)(4) shall be effective on October 1, 1999.

ii. If the caller is incoherent and the operator is, as a result, required to spend additional time with the caller in order to ascertain the nature of the emergency; and

iii. When the nature of the emergency is such (for example, a suicide attempt) that the operator becomes an integral part of the process, bridges the emergency service agency on the line and assists the agency in its efforts, rather than simply transferring the call.

9. Record all emergency calls in detail immediately after the call is transferred or terminated, as appropriate. Call detail will include but not be limited to originating telephone number and location, the emergency service agency requested or to which the operator transferred the call, the date of the call, the time the call was received, the time the call was connected to the emergency service agency, a brief description, and if known, where an injury is involved and the severity of that injury;

10. Submit a list of its New Jersey customers to the Board's staff on an annual basis. This list shall include, but not be limited to, customer locations and customer phone numbers. The customer list shall be afforded confidential treatment; and

11. Submit reports to the Board's staff annually regarding its emergency call completion as detailed above.

14:10-6.6 Penalty for violations

Any AOS provider which violates the provisions of this subchapter shall be subject to the schedule of fines as described below. The amount of the fine identified shall be assessed for each infraction. Each call completed in violation of these rules, or each day a violation exists, is considered a separate infraction.

Exceed maximum permissible rates N.J.A.C. 14:10-6.3(h), 6.3(i)	\$5,000
Violate emergency call procedures N.J.A.C. 14:10-6.5	\$5,000
Slamming N.J.A.C. 14:10-6.3(l)	\$3,000
Deny free access to all OSPs N.J.A.C. 14:10-6.4(a)	\$2,500
Branding, rate quote and reporting requirements N.J.A.C. 14:10-6.3(e), 6.3(g) and 6.7	\$2,000
Splashing or billing for uncompleted calls N.J.A.C. 14:10-6.4(c) and 6.3(m)	\$2,000
Any other violation	\$1,000

Amended by R.1998 d.529, effective November 2, 1998.

See: 30 N.J.R. 331(a), 30 N.J.R. 3967(a).

Updated N.J.A.C. references in "Exceed maximum permissible rates".

14:10-6.7 Alternate operator service informational tariffs

(a) AOS providers, as defined in N.J.A.C. 14:10-6.2, shall file informational tariffs with the Board. These tariffs shall contain:

1. The name, address and telephone number of the party responsible for the resolution of customer complaints;
2. A complete list of all terms and conditions of service applicable to intrastate operator-assisted calls;
3. The total charge for each category of service, including but not limited to collect calls, credit or calling card calls and person-to-person calls, as well as the individual rate elements that comprise the total charge, such as operator surcharges, premises imposed fees, mileage and time of day charges, and every other surcharge or fee; and
4. An acknowledgment that penalties for violations of the conditions of operator service may result in the imposition of fines, as set forth in N.J.A.C. 14:10-6.6, or disconnection of intrastate service, as set forth in N.J.A.C. 14:10-6.3(c).

(b) In addition to the requirements contained in (a) above, the following information shall be submitted with the initial informational tariff filing, and annually thereafter:

1. A comparative balance sheet for the most recent two year period on either a calendar or fiscal year basis;
2. A comparative income statement for the most recent two year period on either a calendar year or fiscal year basis;
3. A balance sheet as of the most recent date available;
4. A statement of the amount of revenue, expenses, number of calls completed, and number of complaints filed against the company with any regulatory agency, in the last preceding calendar year;
5. A list of all principals of the firm, with the following information:
 - i. The name, address and telephone number of each principal; and
 - ii. The percent ownership interest of the principals owning more than five percent; and
6. The qualifications and the business or technical experience of the officers, directors or other principal management and operating personnel with particular respect to their ability to carry out the AOS provider's obligation to render safe, adequate and proper service.

14:10-6.8 Customer billing

(a) LECs that provide billing and collection services to other operator service providers shall include a statement on the other operator service provider's portion of each cus-

tomers' bill advising the customer that the other OSP is not affiliated with the LEC.

(b) LECs that provide billing and collection services to a billing agent, as defined in N.J.A.C. 14:10-6.2, shall, in addition to the requirements in (a) above, include and clearly identify the name of the OSP who furnished operator services to the consumer.

SUBCHAPTER 7. ACCESS TO ADULT-ORIENTED INFORMATION-ACCESS TELEPHONE SERVICE

14:10-7.1 Scope

(a) This subchapter applies only to telephone companies electing to provide a subscriber access to adult-oriented information-access telephone service in the State.

(b) For purposes of this subchapter, telephone companies include local exchange telephone companies (LEC) and interexchange carrier telephone companies (IXC) operating in the State. IXC includes both facilities based carriers and resellers.

(c) The provisions of this subchapter shall apply to both "976" services accessed by a seven digit telephone number of the form NXX-XXXX and "900" or "700" services accessed by a 10 digit telephone number of the form 900-NXX-XXXX or 700-NXX-XXXX as well as any future access arrangement.

14:10-7.2 Definitions

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

"Adult-oriented information-access telephone service" means a class of telephone service where for a charge, in addition to the basic exchange charge, sexually explicit messages are furnished.

"IXC" means interexchange carrier telephone companies or other such providers, both facilities based and resellers.

"Information providers" means those entities who utilize LEC or IXC adult-oriented information-access telephone services to provide sexually explicit messages.

"LEC" means local exchange telephone companies, including competitive access providers or other providers of local or toll services.

"Subscriber" means a telephone customer of an LEC or IXC.

14:10-7.3 Restrictions on access

(a) No telephone company operating in the State shall provide a subscriber access to adult-oriented information-access telephone service in the State without written authorization from the subscriber.

(b) LECs offering seven digit adult-oriented information-access telephone service shall assign all lines providing such service to a specific Central Office code, or codes (NXX), and arrange all lines in the code or codes, to be normally blocked. Unblocked access shall be pursuant to N.J.A.C. 14:10-7.4(a).

(c) LECs and IXC's offering 10 digit adult-oriented information-access telephone service shall assign all lines accessing such service to a specific 900-NXX or 700-NXX code or codes and arrange all lines in the code to be normally blocked. Unblocked access shall be pursuant to N.J.A.C. 14:10-7.4(a).

(d) Alternatively, LECs and IXC's may:

1. Require as a condition of service that information providers utilizing the LEC or IXC intrastate adult-oriented information-access telephone service restrict access to the service as indicated in N.J.A.C. 14:10-7.4(a). Such LECs or IXC's shall be responsible for assurance that information providers restrict access in accordance with this rule; or

2. Require as a condition of service that the information provider offering intrastate adult-oriented information-access service scramble its transmissions and supply audio descramblers to ensure that inadvertent or unauthorized access will not result in intelligent transmission. Descrambler provision shall be pursuant to N.J.A.C. 14:10-7.4(a).

(e) No telephone company operating in the State and offering adult-oriented information-access telephone service originating in the State shall permit access of such service from telephone operators or pay telephones.

(f) Subscribers to local telephone service in the State shall be advised of these rules through inclusion in the informational consumer guide pages in the front of local telephone directories.

14:10-7.4 Subscriber requests for service; charges

(a) Telephone companies or information providers offering intrastate adult-oriented information-access telephone service shall permit access to the service only upon receipt of a written and signed subscriber request.

1. The subscriber request shall include an appropriate means of proof (such as a photocopy of a birth certificate or a valid State driver's license), in the same name as the telephone account of record, that the requesting subscriber is over 18 years of age.

2. The telephone company or information provider offering the adult-oriented information-access telephone service shall maintain the hard copy signed subscriber request with proof of age for the duration that access to the service is unblocked.

(b) The initial subscriber request to unblock access at a given location shall be free of charge to the subscriber.

(c) If an LEC elects to charge for subsequent requests to reblock or unblock, the subscriber shall be charged the then prevailing service order charge for adding service to an existing line and the central office work charge for an existing line.

(d) If an IXC elects to charge for subsequent requests to reblock or unblock, the subscriber shall be charged the then prevailing service order charge for adding service to an existing line and the central office work charge for an existing line charged by the LEC providing the subscriber basic telephone service.

(e) In the event that the serving LEC does not have a tariffed service order charge for adding service to an existing line and for central office work for an existing line, the tariffed charge from the LEC serving the largest number of telephone lines in the State having such a tariffed charge shall be used.

SUBCHAPTER 8. (RESERVED)

SUBCHAPTER 9. PUBLIC PAY TELEPHONE SERVICE
Authority

N.J.S.A. 48:2-13

Source and Effective Date

R.1997 d.47, effective February 3, 1997.
See: 28 N.J.R. 71(a), 28 N.J.R. 1195(b), 29 N.J.R. 471(a).

14:10-9.1 Scope

The rules contained in this subchapter shall apply to the provision of public pay telephone service ("PPTS") as defined in N.J.A.C. 14:10-9.2, for any PPTS provider in New Jersey, with the exception of inmate pay telephone service providers in government controlled correctional facilities as set out in N.J.A.C. 14:10-9.7.

14:10-9.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings:

14:10-9.7 Exemption for inmate pay telephone service

(a) Providers of inmate telephone service in government controlled correctional facilities are exempt from the requirements set out in the following subsections:

1. N.J.A.C. 14:10-9.3(a) through (g) and (i); and
2. N.J.A.C. 14:10-9.4(a).

(b) Installation of inmate telephone service in government controlled correctional facilities shall be in accordance with any applicable local, municipal, county and/or State requirements imposed by the appropriate governing entity.

(c) Providers of inmate telephone service in government controlled correctional facilities shall provide a letter of notification to the Board containing a complete description of the service to be provided along with the name of the correctional facility where the service will be provided.

14:10-9.8 Complaint handling procedures

(a) Each PPTS provider shall provide to the Board, the name, address and telephone number of the party responsible to resolve customer complaints.

(b) Each PPTS provider shall maintain adequate complaint handling procedures, including the acceptance, processing and the prompt investigation and resolution of a complaint in a simple manner and form.

(c) Each PPTS provider shall maintain accurate complaint records indicating:

1. The date of the complaint;
2. The name and address of the individual making the complaint;
3. The location and phone number of the telephone involved in the complaint;
4. A description of the complaint; and
5. A description of how the complaint was resolved.

(d) The complaint records described in (c) above shall be made available to Board staff upon request. All such records shall be retained by the PPTS provider for a period of two years commencing with the date of the incident giving rise to the complaint.

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**SUBCHAPTER 10. INTRALATA TOLL
COMPETITION ON A PRESUBSCRIPTION
BASIS**

14:10-10.1 Scope

This subchapter applies to the completion of toll calls, as defined below, within Local Access Transport Areas, or

LATAs, located within the State of New Jersey. The Board's Order Approving Presubscription and Proposal of Rules dated December 14, 1995, issued in Docket No. TX94090388, provides that presubscription is the policy of the State of New Jersey. These rules are intended to implement that policy as fully set forth in the Order.

14:10-10.2 Definitions

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

"Access code" means a code that permits a caller to obtain a connection to the carrier associated with that code, for example, 10XXX or 101XXXX.

"Basic service element", within the context of these rules, means a local exchange carrier network component which is necessary for a competitor to configure its service offering. For example, see FCC's Memorandum Opinion and Order in CC Docket No. 88-2, Phase 1, released December 22, 1988, or as otherwise ordered by the Board.

"Board" means the Board of Public Utilities.

"Full 2-PIC" means a system which allows a consumer to presubscribe to an intraLATA toll carrier that may be different from the consumer's interLATA carrier.

"Interexchange carrier" or "IXC" means a carrier, other than a local exchange carrier, authorized by the Board to provide long-distance telecommunications services.

"InterLATA toll call" means a toll call that originates and terminates in two different LATAs.

"IntraLATA toll call" means a toll call that originates and terminates in a single LATA.

"LATA" means a geographical area which marks boundaries beyond which a Bell Operating Company does not carry telephone calls. (See *United States v. Western Electric*, 569 F. Supp. 990 (D.D.C. 1983).)

"Local exchange carrier" or "LEC" means a carrier authorized by the Board to provide local telecommunications services, in accordance with N.J.A.C. 14:10-5.2.

"Message telecommunications service" or "MTS" means toll service.

"Presubscription" means the pre-selection of a carrier to complete toll calls without the requirement of dialing an access code, that is, dialing parity.

"Primary interexchange carrier" or "PIC" means the carrier chosen by a consumer to carry that consumer's presubscribed calls.

“Slamming” means an unauthorized change of a consumer’s primary interexchange carrier.

“Toll call” means any call outside the local calling area as defined in the LEC tariffs filed with and approved by the Board.

14:10-10.3 Implementation of presubscription

(a) Full Statewide implementation of intraLATA presubscription shall commence on May 5, 1997, subject to (c), (d) and (e) below.

(b) A committee consisting of industry representatives, Board Staff and the Division of Ratepayer Advocate shall be formed to develop non-discriminatory business office practices complying with N.J.A.C. 14:10-10.5(b). The committee shall make its recommendations to the Board, in writing, no later than April 7, 1997. Final business office practices shall be in place on or about May 5, 1997. A waiver from this requirement may be granted by the Board for good cause if requested 45 days in advance.

(c) Limited waivers to the requirement to convert all central offices to provide intraLATA presubscription may be granted on a case-by-case basis. Such waiver requests must include specific justification and information regarding when the office will be converted. Waivers will only be granted for just cause as determined by the Board.

(d) For any waiver granted by the Board, and/or if pre-subscription capability is not provided from a LEC central office in conformance with the requirements set forth in this section, a 55 percent discount on switched access charges for intraLATA (10XXX) minutes completed from the non-converted central offices shall apply to reflect the inferior access provided from such offices. LECs shall revise their tariffs on file with the Board to reflect the discounted rates by September 4, 1996. No discounts are applicable for 2BESS central offices.

(e) The implementation of intraLATA toll presubscription shall permit consumers to presubscribe to an intraLATA carrier that may be different from the consumer’s interLATA PIC. Therefore, “Full 2-PIC”, as described in N.J.A.C. 14:10-10.2, shall be implemented.

(f) Balloting for intraLATA presubscription shall not be required except in any LEC central office that has not yet been converted to interLATA equal access. At the time of conversion for those central offices, the interLATA ballot shall include a choice of intraLATA toll carriers as well.

14:10-10.4 Cost recovery

(a) The costs of implementing intraLATA toll presubscription shall be paid by all intraLATA toll providers as follows: IXC’s shall be responsible for 70 percent and LEC’s shall be responsible for 30 percent of the total costs. These costs shall be recovered over a five year period, beginning with the commencement date of intraLATA presubscription as provided for in N.J.A.C. 14:10-10.3(a), through an equal access recovery charge (EARC) assessed on IXC’s total intrastate toll minutes of use (including both interLATA and intraLATA) for their portion of the total costs and LEC’s intrastate toll minutes for use for their portion of the total costs.

(b) The only costs to be included in the EARC as described in (a) above are the direct, incremental costs associated with the implementation of intraLATA toll presubscription, with no costs included that would have been incurred without its implementation. Such direct costs include, but are not limited to, switch software, translation costs, and costs to modify customer service and customer records systems and business office practices, to accommodate presubscription.

(c) Any dispute over the cost components described in (b) above shall be resolved by the Board through the use of settlement procedures, including, but not limited to, alternative dispute resolution (ADR) techniques, and/or a proceeding which shall be conducted in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

14:10-10.5 Local exchange safeguards

(a) Since LECs operate as both intraLATA toll competitors and as providers of essential access connections that competitors use to provide their services, LECs shall be subject to the imputation standard contained in N.J.A.C. 14:10-10.7, ensuring that they cannot price their services at a level that is below the access rates charged to IXC’s.

(b) LECs are prohibited from engaging in any discriminatory or anti-competitive practices when processing PIC service orders.

(c) No telecommunications carrier shall submit to a LEC a primary interexchange carrier change order to change long distance carriers until the order has first been confirmed in accordance with the procedures set forth by the Federal Communications Commission, at 47 C.F.R. 64.1100, and as may be amended or supplemented, copies of which may be obtained upon request from the Secretary of the Board. To do otherwise results in slamming, as defined in N.J.A.C. 14:10-10.2, a practice which is prohibited by this subchapter.

(d) All local exchange carriers must provide in their resale tariffs a requirement that resale customers must comply with the provisions of N.J.A.C. 14:10-10.5(c).

Amended by R.1997 d.58, effective February 3, 1997.

See: 28 N.J.R. 3714(a), 29 N.J.R. 477(a).

Inserted (a) and (b).

(e) The Board shall monitor the customer service activities of the LECs with regard to new customers and to customers making requests of the LECs to change their intraLATA carrier. LECs shall maintain customer service statistics and records regarding customer change requests and provide such information to Board staff upon request.

(f) Effective with a LEC's intraLATA toll service being classified as competitive under the Telecommunications Act of 1992 (N.J.S.A. 48:2-21.16 et seq.), the LEC shall attribute to the non-competitive, rate-regulated portion of its business, revenue equal to the imputation amount required by the imputation standard set forth in N.J.A.C. 14:10-10.7.

(g) Upon receipt of any complaint alleging a violation of the provisions in (a) through (f) above, the Board shall investigate such complaint and take whatever action it deems necessary to rectify any non-conformance with such rules.

14:10-10.6 Classification of intraLATA toll service as competitive

(a) LEC intraLATA toll services shall be reclassified as competitive as defined in N.J.S.A. 48:2-21.16 et seq., coincident with the effectuation of full Statewide implementation of intraLATA presubscription, as required in N.J.A.C. 14:10-10.3(c), subject to the imputation standard and procedure for attribution of access charges as described in N.J.A.C. 14:10-10.5(a) and (f).

(b) The MTS service of any LEC with a Board approved plan for alternative regulation, as provided by N.J.S.A. 48:2-21.18, shall be included in the standards for determining and monitoring competitiveness of services which may be incorporated in the LECs' plans for alternative regulation. In addition, all LECs' MTS services are subject to the standards for monitoring the competitiveness of services provided for in N.J.S.A. 48:2-21.19 and set out in N.J.A.C. 14:10-5.10. LECs' MTS services shall be included in the quarterly and annual reports for competitive services filed by LECs, which are used by the Board to ensure that such services remain competitive.

(c) Following a review of the quarterly and annual reports, as set out in (b) above, should there be a finding that a LEC's MTS service no longer meets the statutory criteria for a competitive service, the Board may reclassify the service as non-competitive if it determines sufficient competition is no longer present, pursuant to the provisions of N.J.S.A. 48:2-21.19(d).

14:10-10.7 Imputation standard

(a) The rates charged for any LEC toll service (and interexchange private line service) shall equal or exceed the rates set forth in this section:

(b) The switched access rate elements in (b)1 through 6 below shall be multiplied by the applicable access minutes

associated with toll service offered by the LEC. Access minutes shall be determined by converting the LEC billed minutes to conversation minutes and then to access minutes. Where switched access is used on only one end of a service, the LEC billed minutes shall be converted to applicable access minutes.

1. The LEC's zero-mileage band premium local transport rate element;
2. The LEC's premium local switching rate element;
3. The LEC's premium intercept rate element;
4. The LEC's premium line termination rate element;
5. The LEC's lowest message recording rate to any of its billing services customers, stated on a per-access-minute basis; and
6. The LEC's other non-access incremental costs of completing the call, stated on a per-access minute basis.

(c) Notwithstanding the provisions of (b) above and subject to the condition set forth in (c)1 below, for a customer which has entered a customer-specific pricing arrangement with the LEC, the LEC may substitute its FCC tariff rates for special access (using the term discount rate that corresponds to the term of the customer specific pricing arrangement) including applicable non-recurring special access rate elements levelized over the term of the contract, for either originating switched access for WATS and MTS services or terminating switched access for dedicated 800 services. The special access rate to be imputed shall apply to each equivalent circuit (for example, DS1). For every 2,000 hours, or portion thereof, per month of intraLATA toll calling at a location, the LEC must impute the cost of one circuit except where a particular customer's usage demonstrates that more traffic could be completed over the facility. The mileage will be rated at 10 miles. The elements listed in (b)1 through 6 above will apply to the terminating end of WATS and MTS services and the originating end of dedicated 800 services.

1. The LEC's revenues from all customers of a service being provided under a customer-specific pricing arrangement in paragraph (c) above must, in the aggregate, satisfy the requirements set forth in (b) above.

(d) The price charged for each LEC service using special access shall be greater than the sum of (d)1 through 6 below for each special access connection used; for example, twice for a typical private line circuit. For competitive access services such as Hi-Cap, however, imputation is not applicable.

1. The zero-mileage band of the LEC's special transport rate element;
2. The LEC's special access line rate element;
3. The applicable rate elements for optional features and functions;

4. Any applicable LEC special access surcharge rate element;

5. Any applicable non-recurring special access rate elements levelized over a 24-month period; and

6. The LEC's other non-access incremental costs of providing the service.

(e) If the Board orders or approves any changes in the LEC's access rate structure, the LEC shall be required to seek Board approval of appropriate changes in the imputation formulas in (b), (c) and (d) above.

(f) Where the LEC structures a package of services to include discounts and/or packaging of noncompetitive services in addition to interexchange calling, the LEC's price for the package of services must be greater than the amounts described in (b), (c) and (d) above plus: where basic service elements are used to provide the discounts or packages, an amount determined by multiplying the pricing units for the basic service elements used times the LEC's tariff price(s) for those basic service elements; and an amount determined by multiplying the LEC's per unit incremental costs for the discounts or packages, excluding those for the basic service elements, times the applicable number of units. The LEC shall, within 14 calendar days of a request from the IXCs or Board staff, provide information adequate to show compliance with the imputation requirement. The information shall reflect usage data for a one year period, or, if such data is unavailable, for the longest available time period for which the LEC has data. Pursuant to this imputation requirement, the LEC shall retain interexchange usage data for a rolling 24-month period. The LEC shall not be required to respond to any such request more frequently than once annually, except that the LEC shall be required to respond to any such request that is made in conjunction with the LEC proposing changes to an interexchange service or with the LEC proposing a customer-specific pricing arrangement. As part of any such showing, the LEC shall provide all supporting documentation including dates, data sources and calculations. The IXCs and Board staff shall have discovery rights to examine the documentation and computations underlying the LEC's data. To the extent that the LEC's showing includes information it deems proprietary, such information shall be made available subject to the following:

1. Information deemed by a party to be proprietary in nature shall be so marked by stamp or otherwise clearly identified as such. Proprietary information described in its subsection means trade secrets and other confidential, nonpublic, or privileged information, as defined by the LEC submitting the data.

2. Except when proprietary information is in the possession of the Board, exclusive custody of the proprietary information shall remain with the party submitting such information. The sole exception shall be the agreement by the submitting party to furnish each other party with a single copy of the proprietary information, which information shall be kept under seal when not under review.

3. The examination of the proprietary data provided to a party shall be solely by the counsel of record and/or any lawyer employed by or any employee of said counsel, expert consultants retained by a party, Board staff, the Ratepayer Advocate and staff, employees, and any expert consultants which the Ratepayer Advocate may retain, and any employee of a party whose review of the proprietary information is necessary, provided such persons have executed an acknowledgment of the handling of proprietary information in compliance with this subchapter and have provided the submitting party with an executed copy of the acknowledgment. No other disclosure shall be made to any person or entity except with the express written consent of counsel for the submitting party.

4. The proprietary data delivered or otherwise made available to a party pursuant to this subchapter, any photographic or other copies made thereof, as well as notes taken and other information obtained as a result of examination of the proprietary data, shall be disclosed only to persons who have executed the requisite acknowledgment, shall be kept in confidence, shall not be disclosed to anyone involved in competitive decision making for any party, and shall not be opened to public inspection. No person who may be entitled to receive, or which is afforded access to any proprietary information, shall use or disclose such information for the purposes of business or competition, or any purpose other than the preparation for and conduct of any administrative or judicial review thereof. Upon conclusion of the proceedings, all proprietary information which has been submitted pursuant to this subsection shall be returned to the submitting party. This requirement does not apply to the Board or its staff.

5. A party shall have no obligation to preserve the confidential nature of any information that it can demonstrate and document to the submitting party in advance of disclosure that the subject information:

- i. Was previously known to the party free of any restriction on use and disclosure;
- ii. Is received from a third party without restrictions on use or disclosure and without breach of any terms of this subchapter;
- iii. Is disclosed to third parties by the submitting party without restrictions on use and disclosure;
- iv. Is or becomes publicly available by authorized disclosure by the submitting party without any restrictions on use or disclosure;
- v. Is independently developed by the party;
- vi. Is approved for release by written authorization of the submitting party.

(4) That the customer understands that a different TSP may be designated for each of the customer's services, that is, interLATA, intraLATA toll or local exchange. The letter of agency shall contain separate check-off boxes for each such choice, with only one signature line at the bottom, although a separate letter of agency for each choice is not necessary; and

(5) That the customer understands that each change of a primary TSP selection the customer chooses may involve a charge to the customer. The customer is to be advised of the amount of the charge up to the maximum;

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

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

viii. 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;

2. The submitting TSP has obtained the customer's electronic authorization to submit the primary TSP order. Such authorization shall be placed from the telephone number(s) on which the primary TSP is to be changed and shall confirm the information required in (b)1 above. Submitting TSP selecting to confirm sales electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) shall connect a customer to a voice response unit or similar mechanism that records the required information regarding the primary TSP change, including automatically recording the originating automatic numbering identification; or

3. An appropriately qualified independent third party has obtained the customer's oral authorization to submit the primary TSP change order which confirms and includes appropriate verification data (for example, the customer's date of birth or social security number). The independent 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. The content of the verification shall include clear and conspicuous confirmation that the customer has authorized primary TSP change.

(c) The verification requirements of this subchapter apply to all primary TSP change requests, regardless of whether a request is initiated by the customer or the TSP, its agents or representatives.

(d) 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.

14:10-11.4 TSP change order procedures

(a) Notwithstanding the time frame for execution of primary TSP change orders set forth in this section, all primary TSP change orders solicited and verified in compliance with this subchapter shall be executed as soon as possible and without unreasonable delay.

(b) Upon receipt of a primary TSP change order which complies with this subchapter, the executing TSP, person, firm or corporation acting as an agent or representative on behalf of a TSP, shall, on behalf of the customer, promptly and without unreasonable delay, process the TSP change order to assure that the order is completed and service can be provided by the submitting TSP no later than three business days for toll services, whether intraLATA or interLATA, and no later than 30 business days for local exchange service. The 30 day period for completing local exchange service changes may be extended for good cause by the Board for an additional 30 day period, unless otherwise agreed to by the customer, or as agreed to by the TSPs involved in the change, or by Federal law or rule. The 30 day period may be reduced by order of the Board pursuant to N.J.S.A. 56:8-88.

(c) When an authorized change of a TSP is made, the new TSP shall notify the new customer of the change within 30 days of submitting the primary TSP change order. The notice shall be separate from the primary 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 placed by the customer and confirming the type of service being changed, that is, local, intraLATA or interLATA services;

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

3. The name of the newly requested telecommunications service provider with telephone number and address;

4. A description of any and all terms, conditions or charges that shall be incurred; and

5. The telephone number and address of both the Board of Public Utilities Division of Customer Relations, 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 (973) 504-6200.

(d) The TSP, or other person, firm or corporation acting as an agent or representative on behalf of a submitting TSP, shall make available to any customer, upon written or verbal request, for the period records are maintained, the TSP's verification of confirmation of that customer's TSP change order. However, in those instances where the customer is unable to obtain the verification from the submitting TSP, then the executing TSP will be required to provide it if such information is in its possession.

14:10-11.5 Unauthorized service termination and transfer (slamming)

(a) In construing and enforcing the provisions of this subchapter, the act of any person, firm or corporation acting as an agent or representative on behalf of a TSP, within the parameters of the working agreement set forth by the TSP, shall be deemed to be the act of that TSP. A person or entity representing or as an agent for a TSP shall be construed as a TSP subject to all the provisions of this subchapter.

(b) Upon reasonable notice that an agent of a TSP is violating this subchapter, the TSP shall immediately take measures sufficient to prevent further violations of this subchapter. The term "reasonable notice" shall be construed to include, but not be limited to, receipt by the TSP of any complaint of violations of this subchapter.

(c) 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. In addition, in the case of a residential customer, the basic residential local telephone service provider, as defined in N.J.A.C. 14:3-7.17, shall neither apply residual or partial payments to the customer's charges for the slammed service nor discontinue the customer's slammed service because of nonpayment. A customer is required to pay all interLATA and intraLATA toll and local exchange charges that are not affected by the unauthorized TSP change.

(d) Changes in customer carrier selections shall be in conformance with Commission rules at 47 C.F.R. § 64.1100 as amended or supplemented, as follows:

1. No TSP shall submit or execute a change on the behalf of a customer in the customer's selection of a TSP except in accordance with the procedures prescribed in this subchapter.

i. No submitting TSP shall submit a change on the behalf of a customer in the customer's selection of a TSP prior to obtaining authorization from the customer, and verification of that authorization in accordance with the procedures prescribed in N.J.A.C. 14:10-11.3. For a submitting TSP, compliance with the verification procedures prescribed in this subchapter shall be defined as compliance with this paragraph and (d)2 below, as well with N.J.A.C. 14:10-11.3. The submitting TSP shall maintain and preserve records of verification of customer authorization for a minimum period of three years after obtaining such verification.

ii. An executing TSP shall not verify the submission of a change in the customer's selection of a TSP received from a submitting TSP. For an executing TSP, compliance with the procedures prescribed in this subchapter shall be defined as prompt execution, without any unreasonable delay, of changes that have been verified by a submitting TSP.

2. Where a TSP is selling more than one type of telecommunications service (for example, local exchange, intraLATA toll, and interLATA toll), that TSP shall obtain separate authorization from the customer for each service sold, although the authorizations may be made within the same solicitation. Each authorization shall be verified separately from any other authorizations obtained in the same solicitation. Each authorization shall also be verified in accordance with the verification procedures prescribed in this subchapter.

(e)-(f) (Reserved)

(g) Each TSP authorized to provide telecommunications services in New Jersey shall submit quarterly to the Board and to the Division three copies of a report of all slamming complaints received, and the resolution thereof indicating the customer's name, address, telephone number, the type of service that was slammed, and the submitting TSP or agent that requested the alleged unauthorized switch of the customer's primary TSP.

(h) Each executing TSP shall submit quarterly to the Board a report indicating the number of authorized primary TSP change orders in sufficient detail to show the number of change orders that were and that were not completed or uncompleted within the time frames specified in N.J.A.C. 14:10-11.4(b), along with the specific reason(s) or reasons for noncompliance.

14:10-11.6 Primary TSP freezes

(a) A primary TSP freeze prevents a change in a customer's primary TSP without the express consent of the customer.