

CHAPTER 10**TELECOMMUNICATIONS****Authority**

N.J.S.A. 48:2-13, 48:2-21.15 through 21.23 and 56:8-1 et seq.

Source and Effective Date

R.2007 d.276, effective July 28, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).

Chapter Expiration Date

Chapter 10, Telecommunications, expires on July 28, 2012.

Chapter Historical Note

Chapter 10, Telephone, was adopted and became effective prior to September 1, 1969.

Subchapter 4, Regulation for Residential Telephone Underground Extensions, was adopted as R.1971 d.183, effective December 31, 1971. See: 1 N.J.R. 9(a), 3 N.J.R. 227(c).

Subchapter 5, Regulation of InterLATA Telecommunications Carriers, was adopted as R.1986 d.368, effective September 8, 1986. 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. 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Subchapter 5, Regulation of InterLATA Telecommunications Carriers, was repealed and Subchapter 5, Regulation of Competitive Telecommunication Services, was adopted as new rules by R.1993 d.248, effective June 7, 1993.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: 28 N.J.R. 2832(a), 28 N.J.R. 4107(a).

Subchapter 11, Telecommunications Service Providers, was adopted as R.2000 d.257, effective June 19, 2000. See: 31 N.J.R. 1574(b), 32 N.J.R. 2249(a).

Chapter 10, Telephone, was readopted as R.2001 d.307, effective August 1, 2001. See: 33 N.J.R. 1500(a), 33 N.J.R. 3043(a).

Subchapter 3, Suggested Formulae for Extension of Telephone Service was repealed; Subchapter 3, Extension of Telephone Service was adopted as new rules; and Subchapter 4, Regulations for Residential Underground Telephone Extensions was repealed by R.2004 d.462, effective December 20, 2004. See: 36 N.J.R. 276(a), 36 N.J.R. 5928(a).

Subchapter 12, Mass Migration upon TSP Departure from a Service Territory, was adopted as new rules by R.2006 d.368, effective November 6, 2006. See: 38 N.J.R. 4729(a).

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 10, Telephone, was scheduled to expire on January 28, 2007. See: 38 N.J.R. 3250(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 10, Telephone, was extended by gubernatorial directive from January 28, 2007 to July 28, 2007. See: 39 N.J.R. 498(a).

Chapter 10, Telephone, was readopted as R.2007 d.276, effective July 28, 2007. As a part of R.2007 d.276, Chapter 10, Telephone, was renamed Telecommunications; Subchapter 1, General Provisions, was adopted as new rules; former Subchapter 1, Service, was recodified to Subchapter 1A and renamed Telephone Utilities; Subchapter 3, Extension of Telephone Service, was repealed and Subchapter 3, Number Reclamation, was adopted as new rules; Subchapter 4, Non-Financial Reporting Requirements, was adopted as new rules; Subchapter 5, Regulation of Competitive Telecommunications Services, was renamed Competitive Telecommunications Services; Subchapter 6, Regulation of Operator Service Providers, was renamed Operator Service Providers; Subchapter 10, Intralata Toll Competition on a Prescription Basis, was renamed Intralata Toll Competition; and Subchapter 11, Telecommunications Service Providers, was renamed Anti-Slamming Requirements for TSPs, effective September 17, 2007. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

14:10-1.1 Applicability

(a) This chapter applies to the following:

1. A public utility, as defined at N.J.S.A. 48:2-13a, that operates a telephone system;
2. A telecommunications carrier, as defined at N.J.A.C. 14:10-1.2;
3. An aggregator;
4. Providers of adult-oriented information access telephone service; and
5. Any person that is subject to the numbering guidelines of the FCC. N.J.A.C. 14:10-3, Number Reclamation.

(b) This chapter applies only to intrastate telecommunications service. Interstate telecommunications service is governed by the Federal Communications Commission.

(c) Extensions of telephone service, including service connections, shall be governed by the provisions for extensions set forth at N.J.A.C. 14:3-8 and N.J.S.A. 48:5A-28.

(d) The act of any person, as defined at N.J.A.C. 14:10-1.2, acting as an agent of an entity that is subject to this chapter, shall be deemed to be the act of that entity.

New Rule, R.2007 d.276, effective September 17, 2007.

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

Former N.J.A.C. 14:10-1.1, (Reserved), recodified to N.J.A.C. 14:10-1A.1.

14:10-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions that apply to this chapter can be found at N.J.A.C. 14:3-1.1.

"Access code" means a sequence of numbers that, when dialed, permits a telephone caller to obtain a connection to the carrier associated with that code. All access codes take the form of 10XXX or 101XXXX, with X meaning any numerical value from 0 to 9.

“Adult-oriented information-access telephone service” means a telephone service to which a customer can subscribe, through which, for a charge, sexually explicit messages are furnished to a caller.

“Agent” means any person, as defined at N.J.A.C. 14:3-1.1, including, but not limited to, employees, servants or marketers, acting on behalf of another person, in order to bring about, modify, affect performance of, or terminate obligations between the other person and a third party.

“Aggregator” means a person, as defined at N.J.A.C. 14:3-1.1, that, in the ordinary course of its business, makes PPTS, as defined in this section, available to the public or to transient users, and that provides operator-assisted services through either automated store and forward technology or through an operator service provider. This term includes but is not limited to hotels, motels, hospitals, and universities.

“Alternate operator service provider” or “AOS” means a carrier that leases lines from a LEC and/or an IXC, and uses the leased lines and its own operators to provide operator-assisted services for intrastate calls. An AOS is a type of OSP, as defined in this section.

“Automated intervention” means automated store and forward technology, through which the placement or charging of a telephone call is provided without human involvement in each call or charge.

“Branding” means verbal identification of the OSP prior to connection of a call and starting the timing of the call for charging purposes.

“Carrier” or “telecommunications carrier” means a telephone utility, including an ILEC, an IXC, or a CLEC, and/or a reseller, as those terms are defined in this section.

“Clear” means, in regards to a problem or request for assistance with telecommunications service, to resolve the problem or satisfy the request.

“Competitive local exchange carrier” (CLEC) means a local exchange telecommunications carrier, other than an incumbent local exchange carrier, to which the Board has granted authority to provide telecommunications services.

“Competitive telecommunications services” means any telecommunications service that the Board has determined to be competitive pursuant to N.J.S.A. 48:2-21.19.

“Correctional facility” means an institution, including a prison, jail or detention center, operated by a governmental entity, which is dedicated to the treatment, rehabilitation or confinement of criminal offenders.

“Customer provided pay telephone service” or “CPPTS” means telephone service furnished to the public, for a per-use fee, by an individual, business or partnership or corporation that is a reseller.

“Customer provided pay telephone service provider” or “CPPTS provider” means the customer of record that purchases a CPPTS line and is responsible for the pay telephone instrument.

“Exchange access” means the provision of exchange services for the purpose of originating or terminating interexchange telecommunications. Such services are provided by facilities in an exchange area for the transmission, switching or routing of interexchange telecommunications that originate or terminate within the exchange area.

“FCC” means the Federal Communications Commission, which is a United States government agency.

“Facilities-based carrier” means a carrier or TSP that owns some portions of the telephone system, and that uses its own facilities for some portion of its provision of telecommunications service. Examples of facilities are local loop, transport and switches.

“Incumbent local exchange carrier” (ILEC) means a facilities-based telecommunications carrier with a Board-approved tariff in effect prior to February 8, 1996, which authorizes the carrier to provide telecommunications services in New Jersey. An ILEC may also operate as an OSP.

“Information provider” means an entity that uses LEC or IXC telecommunications services to provide information to callers for a fee, for example, adult-oriented information-access telephone services to provide sexually explicit messages.

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

“InterLATA toll call” means a toll call that originates in one LATA and terminates in another.

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

“Intrastate telecommunications service” means a telecommunications service which remains within the boundaries of New Jersey, regardless of the specific routing of the call.

“Local Access Transport Area” or “LATA” means a geographic area, outside of 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 call” means a call within a local calling area, as defined in this section.

“Local calling area” is a group of exchange areas in which an end-user can call without an extra fee, over and above the monthly local calling fee. The local calling area is delineated in an ILEC’s tariff. A local calling area is a subset of a LATA.

“Local exchange carrier” or “LEC” means an ILEC or a CLEC, as defined in this section.

“Operator-assisted services” means services that assist callers in placing or charging a telephone call, either through live intervention or automated intervention.

“Operator service provider” or “OSP” means a facilities-based telecommunications carrier that provides operator-assisted services.

“Presubscribed OSP” means an OSP that a customer has chosen to provide operator assisted services for intrastate calls from a telephone that the customer owns, so that an end-user can place a call from the telephone using the OSP, without having to dial an access code.

“Primary interexchange carrier” or “PIC” means an interexchange carrier, as defined in this section, that a customer has chosen to provide interexchange service, so that the customer can place a toll call from its landline using the PIC without having to dial an access code.

“Public pay telephone service” or “PPTS” means telephone service provided in an area used by the transient public, for public use for a per-use fee. This term includes customer provided pay telephone service, as defined in this section.

“Public pay telephone service provider” or “PPTS provider” means a person, as defined at N.J.A.C. 14:3-1.1, that provides PPTS.

“Reseller” means a non facilities-based carrier that leases lines or other physical infrastructure from a facilities-based carrier for use in providing telecommunications services to customers.

“Retail customer” is an end user that purchases telecommunications services for their own use and not for resale.

“Slamming” means an unauthorized change of a customer’s primary interexchange carrier or the failure to execute an authorized change in a customer’s primary interexchange carrier.

“Splashing” means the practice of a carrier calculating the charge for a long distance call initiated at a public pay telephone based on the location from which the long distance carrier picks up the call, rather than on the call’s point of origin. Splashing typically occurs when a PPTS call is routed to a call center, and the carrier picks up the call from the call center. Then the carrier charges the caller as if the call originated at the call center, rather than at the public pay telephone. If the call center is located at a substantial distance from the PPTS where the call originated, the carrier’s charges could be substantially increased by the use of the call center rather than the initiation point of the call.

“Subscriber” means a telecommunications service customer of a LEC or IXC.

“Telecommunications” means the transmission, between or among points specified by the user, or information of the user’s choosing, without change in the form or content of the information as sent and received.

“Telecommunications service” means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

“Telecommunications service provider” or “TSP” has the same meaning as “carrier,” as defined in this section.

“Telephone utility” means a public utility, as defined at N.J.A.C. 14:3-1.1, as well as any person, as defined at N.J.A.C. 14:3-1.1, that provides telecommunications services to the public for a fee.

“Toll call” means a call that terminates outside the local calling area in which the call originated. The local calling area is defined in the ILEC’s tariffs filed with and approved by the Board.

“Toll service” means the provision of toll calls.

“Type of service” means the category of telephone services provided to customers by telecommunications carriers. Examples of such types of service include, but are not limited to, toll, wide area telephone service, toll free, operator services, channel services, virtual private networks and optional services.

“Wholesale customer” means a person that purchases telecommunications services for resale to others.

New Rule, R.2007 d.276, effective September 17, 2007.

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

Former N.J.A.C. 14:10-1.2, Rate and special charges information, recodified to N.J.A.C. 14:10-1A.3.

14:10-1.3 (Reserved)

Recodified to N.J.A.C. 14:10-1A.4 by R.2007 d.276, effective September 17, 2007.

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

Section was “Business offices”.

14:10-1.4 (Reserved)

Repealed by R.2007 d.276, effective September 17, 2007.

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

Section was “Public information”.

14:10-1.5 (Reserved)

Recodified to N.J.A.C. 14:10-1A.5 by R.2007 d.276, effective September 17, 2007.

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

Section was “Directories”.

14:10-1.6 (Reserved)

Recodified to N.J.A.C. 14:10-1A.6 by R.2007 d.276, effective September 17, 2007.

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

Section was “Held applications”.

14:10-1.7 (Reserved)

Recodified to N.J.A.C. 14:10-1A.7 by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Section was "Customer complaints and trouble reports".

14:10-1.8 (Reserved)

Recodified to N.J.A.C. 14:10-1A.8 by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Section was "Public telephone".

14:10-1.9 (Reserved)

Recodified to N.J.A.C. 14:10-1A.9 by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Section was "Adequacy of service".

14:10-1.10 (Reserved)

Recodified to N.J.A.C. 14:10-1A.10 by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Section was "Service standards".

14:10-1.11 (Reserved)

Recodified to N.J.A.C. 14:10-1A.12 by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Section was "Measuring devices".

14:10-1.12 (Reserved)

Recodified to N.J.A.C. 14:10-1A.13 by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Section was "Inspections, tests and maintenance".

14:10-1.13 (Reserved)

Recodified to N.J.A.C. 14:10-1A.14 by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Section was "Service interruptions".

14:10-1.14 (Reserved)

Recodified to N.J.A.C. 14:10-1A.15 by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Section was "Construction".

14:10-1.15 (Reserved)

Repealed by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Section was "Preservation of records".

14:10-1.16 (Reserved)

Recodified to N.J.A.C. 14:10-1A.16 by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Section was "Adoption by reference of the Uniform System of Accounts".

14:10-1.17 (Reserved)

Repealed by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Section was "Telegraph company registration".

14:10-1.18 (Reserved)

Repealed by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Section was "Number reclamation notice".

14:10-1.19 (Reserved)

Repealed by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Section was "Reclamation extensions".

SUBCHAPTER 1A. TELEPHONE UTILITIES**14:10-1A.1 Applicability**

This subchapter applies to telephone utilities, as defined at N.J.A.C. 14:10-1.2.

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.

Repealed by R.2004 d.462, effective December 20, 2004.

See: 36 N.J.R. 276(a), 36 N.J.R. 5928(a).

Section was "Service connections".

Recodified from N.J.A.C. 14:10-1.1 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 "(Reserved)".

14:10-1A.2 General provisions

(a) In addition to the requirements in this chapter, telephone utilities are subject to all applicable requirements of the Board's rules for all utilities at N.J.A.C. 14:3.

(b) (Reserved)

(c) A telephone utility shall, when requested, furnish appropriate information concerning location of underground facilities, as necessary to comply with the Board's rules for protection of underground facilities at N.J.A.C. 14:2.

New Rule, R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).

14:10-1A.3 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).

Recodified from N.J.A.C. 14:10-1.2 by R.2007 d.276, effective September 17, 2007.

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

14:10-1A.4 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).

Recodified from N.J.A.C. 14:10-1.3 by R.2007 d.276, effective September 17, 2007.

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

14:10-1A.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.

(e) The opening pages of the directory shall contain a conspicuous notice advising customers that should the company fail to satisfactorily resolve telephone service or billing problems, customers may refer their problems to the board. The address of the board shall be shown.

(f) The directory shall contain instructions concerning placing local and long distance calls, calls to repair and directory assistance services, and location and telephone numbers of telephone company business offices as may be appropriate to the area served by the directory. Rate schedules or representative rates for toll calls shall be included.

(g) Directory assistance operators shall maintain records of all telephone listings (except those not published at customer request) in the area for which they are responsible for furnishing directory assistance service.

(h) Each telephone company shall list its customers in the directory assistance directory as necessary for the directory assistance operators to provide the requested telephone numbers (except those not published at customer request) based on customer name and location to minimize "not found" numbers.

(i) In the event of an error in the listed number of any customer, the telephone utility shall intercept all calls to the listed number for a reasonable period of time provided existing central office equipment will permit and the number is not in service. In the event of an error or omission in the name listing of a customer, such customer's correct name and telephone number shall be in the files of the directory assistance or intercept operators and the correct number furnished the calling party either upon request or interception.

(j) Whenever any customer's telephone number is changed after a directory is published, the utility shall intercept all calls to the former number for a reasonable period of time and give the calling party the new number provided existing central office equipment will permit, and the customer so desires.

(k) When telephone utility operations necessitate a large group of number changes, reasonable notice shall be given to

all customers so affected even though the addition or changes may be coincident with a directory issue.

(I) The informational consumer pages in the front of each local telephone directory shall include information regarding restrictions on access to adult-oriented services, in accordance with N.J.A.C. 14:10-7.

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

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

Recodified from N.J.A.C. 14:10-1.5 and amended by R.2007 d.276, effective September 17, 2007.

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

Added (I).

14:10-1A.6 Held applications

(a) During such period of time as the telephone utility may not be able to supply regular telephone service to an applicant within five working days or to upgrade an existing customer within 30 days or to provide special communication service within a reasonable period after the date applicant desires service, the telephone utility shall keep a record by business office showing the name and address of each applicant for service, the date of application, the date service was desired, class and grade of service applied for, together with the reason for the inability to provide the new or higher grade service to the applicant.

(b) When, because of shortage of facilities, a telephone utility is unable to supply main telephone service on dates requested by applicants, priority shall be given to furnishing those services which are essential to public health and safety. In cases of prolonged shortage or other emergency, the Board may require establishment of a priority plan subject to its approval for clearing held orders, and may request periodic reports concerning the progress being made.

(c) Where a previously provided date for service installation cannot be met by the telephone utility, every reasonable effort shall be made to advise the customer of the reason for the delay, interim service available, and probable date the requested service will be provided.

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

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

Recodified from N.J.A.C. 14:10-1.6 by R.2007 d.276, effective September 17, 2007.

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

14:10-1A.7 Customer complaints and trouble reports

(a) Each telephone utility shall provide for the receipt of customer trouble reports at all hours and make a full and prompt investigation of all complaints.

(b) Every reasonable effort shall be made to clear line-out-of-service troubles not requiring unusual repairs, such as cable failures, within 24 hours of the time a report is received by the company. When such reports are received during a

period when a telephone utility does not have repair personnel scheduled to work, or on Sundays or holidays, every reasonable effort shall be made to clear such line-out-of-service troubles within the same period, provided the service involved is essential to the general public welfare, or the service is required by reason of unusual emergent conditions and demand is made for prompt restoration.

(c) Except when unavoidable, all commitments to customers shall be kept. Every reasonable effort shall be made to notify customers of unavoidable changes. If unusual repairs are required, or other factors preclude cleaning of reported trouble promptly, reasonable efforts shall be made to notify affected customers.

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

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

Recodified from N.J.A.C. 14:10-1.7 by R.2007 d.276, effective September 17, 2007.

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

14:10-1A.8 Public telephone

In each exchange the telephone utility shall have at least one coin telephone available to the public at all hours, prominently located and properly maintained, equipped with dialing instructions, and lighted at night.

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

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

Recodified from N.J.A.C. 14:10-1.8 by R.2007 d.276, effective September 17, 2007.

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

14:10-1A.9 Adequacy of service

(a) Each telephone utility shall make traffic studies and maintain records as required to determine that sufficient equipment and an adequate operating force are provided at all times.

(b) Each telephone utility shall employ recognized procedures to determine the adequacy of service provided for customers.

(c) Where service is found to be inadequate, the telephone utility shall immediately institute corrective measures to return that service to an adequate condition.

(d) The telephone utility shall employ prudent management and engineering practices, including the employment of reliable procedures for forecasting future demand for service, conduct studies and maintain records to the end that reasonable margins of facilities and adequate personnel are available with the objective that service will meet all standards prescribed by the Board.

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

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

Recodified from N.J.A.C. 14:10-1.9 by R.2007 d.276, effective September 17, 2007.

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

14:10-1A.10 Service quality standards

(a) These standards establish service levels, which should generally be provided by a telephone utility. Failure to attain these levels does not by itself indicate poor service and the liability of the telephone utility to its customers or other persons using its facilities for any such failure shall be governed by the applicable provisions of its tariff. Each telephone utility shall make measurements to determine the level of service for each item included in these standards. Each telephone utility shall provide the Board or its staff with the measurements and summaries thereof for any of the items included herein on request of the Board or its staff. Records of these measurements and summaries shall be retained by the utility as specified by the Board and monthly reports on all service measurements may be required by the Board. When a utility fails to meet any of the minimum service levels listed below in a reporting entity for three consecutive months the service data for the standard not met in that entity shall be reported to the Board.

(b) The following are the minimum service levels referred to in (a) above:

1. Installation of service:

i. Seventy-five percent of regular service installations shall be completed within five working days unless a later date is requested by the applicant. The interval commences with the receipt of the application;

ii. Eighty-eight percent of the commitments made to customers, with the exception of customer-caused delays, as to the date of installation of regular service, shall be met.

iii. A regrade request shall be filled no later than 30 days after the customer has made application for a different grade of service except where the customer requests a later date. In the event the telephone utility is unable to so fill such an order, the customer will be advised and furnished the date or approximate date the order will be filled.

2. Operator handled calls: Each telephone utility shall maintain adequate personnel to provide an average operator answering performance as follows, on a monthly basis:

i. Eighty-five percent of repair service calls shall be answered within 20 seconds or equivalent.

ii. Eighty-five percent of toll assistance operator calls shall be answered within 10 seconds or equivalent.

iii. Seventy-eight percent of directory assistance calls shall be answered within 10 seconds or equivalent.

iv. An "answer" shall mean that the operator or representative is ready to render assistance and/or ready to accept the information necessary to process the call. An acknowledgment that the customer is waiting on the line shall not constitute an "answer."

3. Dial service: Sufficient central office capacity and equipment shall be provided to meet the following requirements:

i. Ninety-five percent of dialed local calls shall be completed without the caller encountering an all trunk busy or equipment irregularity.

ii. Ninety-five percent of originating direct distance dialing calls shall reach the toll network without experiencing blockage or failure.

4. Customer trouble reports: The average rate of customer trouble reports shall not be in excess of 8.0 per 100 telephones per month.

5. Transmission requirements: All customer loops shall meet the resistance design standards and trunk facilities shall conform to the transmission design factors required for meeting the objectives of direct distance dialing.

(c) The following refer to reports and records required in (a) above and the standards set forth in (b) above:

Service Measure	Reporting Unit and Minimum Reporting Size
Held Primary Service Orders	Plant Installation District or Business Office
Installation Commitments	Plant Installation District or Business Office
Held Regrade Service Orders	Plant Installation District or Business Office
Toll Assistance Operator Answering Time.....	Traffic Office handling toll assistance calls—average business day call volume of 2,000 or more.
Directory Assistance Operator Answering Time.....	Traffic Office handling directory assistance calls—average business day call volume of 2,000 or more.
Dialed Local Calls.....	Central Office entity
Direct Distance Dialing.....	Toll Recording Center or Area
Customer Trouble Reports	Plant Maintenance Center—Central Office under 1,000 lines need not be included in performance reports.

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.

Recodified from N.J.A.C. 14:10-1.10 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 "Service standards". In (a), inserted a comma following the first instance of "levels"; recodified (c)2 through (c)4 to N.J.A.C. 14:10-1A.11(f)1-4.

14:10-1A.11 Service quality reporting

(a) Each telephone utility shall take measurements of its performance in relation to the standards in N.J.A.C. 14:10-1A.10, and shall compile summaries of the measurements.

(b) (Reserved)

(c) Each telephone utility shall report its performance in relation to these standards on a monthly average (arithmetic mean) basis.

(d) For the purpose of reports submitted under this section, each telephone utility shall provide Statewide totals of its per-

formance measurements relating to all quality service standards set forth at N.J.A.C. 14:10-1A.10.

(e) (Reserved)

(f) All reports submitted under this section shall set forth the following:

1. Reporting unit name, and further identification if name does not convey geographic location;
2. Service quality standard being measured;
3. Results of measurements, and summaries of the results; and
4. Months being reported on.

(g) If any service quality standard set forth in this subchapter has not been met, the report shall include, in addition to the information required in (f) above, the following information:

1. The cause of performance at the reported level;
2. If the standard not met involved an installation commitment or customer trouble report, the specific reporting units affected;
3. Corrective action taken by the utility; and
4. Completion date, or expected completion date, of the corrective action.

New Rule, R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).

14:10-1A.12 Measuring devices

(a) When mechanical and/or electronic measuring and record keeping devices are used at the telephone utility's premises in connection with telecommunication service, the measured data and related customer records from which the customer's bills are prepared shall show:

1. Identifying number or means to determine readily the customer's name, address and service classification;
2. Measuring device readings;
3. Date of reading;
4. Multiplier or constant, if used.

(b) As nearly as practicable, measuring devices shall be read at intervals to correspond to customer billing periods.

(c) All measuring and/or record keeping devices used to record data and prepare customers' bills shall be in good mechanical and electrical condition, shall be accurately read and shall not involve approximations. All such devices shall accurately perform the following:

1. For message rate service, the device shall accumulate the number of message units used.

2. For toll service, when in addition to counting the calls, it is necessary to time the calls, the device shall show the number of calls and the chargeable time involved in each call.

3. Where the measuring equipment provides coded information that is used to automatically prepare customer bills, accurate interpretation of such coded information is required.

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

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

Recodified from N.J.A.C. 14:10-1.11 by R.2007 d.276, effective September 17, 2007.

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

14:10-1A.13 Inspections, tests and maintenance

(a) Each telephone utility shall adopt a program of periodic tests, inspections and preventative maintenance aimed at achieving efficient operation of its system and the rendering of safe, adequate and proper service.

(b) The actual transmission performance of the telephone utility's system shall be monitored in order to determine if the established objectives and operating requirements are met. This monitoring function consists of circuit order tests prior to placing trunks in service, routine periodic trunk maintenance tests, tests of actual switched trunk connections, periodic noise tests of a sample of customer loops in each exchange, and special transmission surveys of the system.

(c) Each telephone utility shall maintain or have access to test facilities enabling it to determine the operating and transmission capabilities of all equipment and facilities, both for routine maintenance and for trouble location.

(d) Each telephone utility shall maintain or have access to the necessary facilities, instruments, and equipment for testing its measuring and record keeping equipment and shall adopt appropriate practices for the periodic testing of such equipment.

(e) A record of all measuring device tests and adjustments and data sufficient to allow checking of the results shall be recorded. Such record shall include the identifying number of the device, its type, the data and kind of test, and the results of each test.

(f) Maintenance shall include keeping all plant and equipment in a good state of repair consistent with safety and adequate service performance. Broken, damaged, or deteriorated parts which are no longer serviceable shall be repaired or replaced. Adjustable apparatus and equipment shall be readjusted as necessary when found by preventive routines or fault location tests to be in unsatisfactory operating condition. Electrical faults, such as leakage or poor insulation, noise induction, cross-talk or poor transmission characteristics, shall be corrected to the extent practicable.

(g) A telephone utility shall not connect more customers on any line than are contemplated under the grade of service for which the customers on such line are charged.

(h) Telephone utilities shall, when requested, furnish appropriate information concerning location of underground facilities, in order to prevent any interruption of service to telephone customers. Nothing in this rule is intended to affect the responsibility, liability, or legal rights of any party under applicable laws or statutes.

R.1978 d.89, effective March 10, 1978.
See: 9 N.J.R. 130(a), 10 N.J.R. 171(b).
Recodified from N.J.A.C. 14:10-1.12 by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).

14:10-1A.14 Prevention and reporting of service interruptions

(a) Each telephone utility shall take all appropriate measures to minimize service interruptions. Each telephone utility shall make provisions to meet emergencies resulting from failure of power, sudden and prolonged increases in traffic, absences of employees or from fire, storm, natural disasters, attacks or similar contingencies. Each telephone utility shall inform its employees as to procedures to be followed in the event of such contingencies in order to prevent or mitigate interruption or impairment of service.

(b) Each central office, and each remote central office that carries inter-community calls without routing them to the main central office, shall contain sufficient battery reserve to keep the office operational until auxiliary power can be placed into service.

(c) In exchanges exceeding 5,000 lines, the telephone utility shall install a source of permanent auxiliary power.

(d) (Reserved)

(e) Each utility shall submit to Board staff all reports submitted to the FCC in accordance with 47 CFR Part 63, Notification of service outage.

R.1978 d.89, effective March 10, 1978.
See: 9 N.J.R. 130(a), 10 N.J.R. 171(b).
Recodified from N.J.A.C. 14:10-1.13 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 "Service interruptions". In (a), substituted "Each telephone utility shall take all appropriate measures" for "Appropriate measures shall be taken" and inserted ", natural disasters, attacks"; in (b), inserted ", and each remote central office that carries inter-community calls without routing them to the main central office,"; in (c), inserted "the telephone utility shall install" and deleted "shall be installed" following "power"; and added (d) and (e).

14:10-1A.15 Construction

(a) Telephone plant shall be designed, constructed, maintained, and operated in accordance with provisions of the current National Electrical Safety Code, the National Elec-

trical Code, and such other appropriate regulations as may be prescribed.

(b) Telephone utilities shall not provide switching service to lines or facilities that do not meet standard technical criteria and shall eliminate nonconforming switching services.

R.1978 d.89, effective March 10, 1978.
See: 9 N.J.R. 130(a), 10 N.J.R. 171(b).
Recodified from N.J.A.C. 14:10-1.14 by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).

14:10-1A.16 Adoption by reference of the Uniform System of Accounts

All carriers that are required by the FCC to use the Uniform System of Accounts for Telephone Companies found in 47 CFR Part 32 shall use that system of accounts for intrastate reporting purposes. The FCC Uniform System of Accounts for Telephone Companies is incorporated herein by reference, as amended and supplemented.

New Rule, R.1988 d.10, effective January 4, 1988.
See: 19 N.J.R. 1789(a), 20 N.J.R. 103(d).
Recodified from N.J.A.C. 14:10-1.16 and amended by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Rewrote the section.

SUBCHAPTER 2. PAYMENTS FOR SERVICE

14:10-2.1 (Reserved)

Recodified to N.J.A.C. 14:10-2.2 by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Section was "Bills for service".

14:10-2.2 Contents of bills, back billing

(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).

Recodified from N.J.A.C. 14:10-2.1 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 "Bills for service".

Former N.J.A.C. 14:10-2.2. Itemization of toll charges, repealed.

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.

14:10-2.3 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. If the customer's service is interrupted for more than 72 hours after being reported or discovered, the telephone utility shall adjust the customer's bill or provide a refund, regardless of whether the customer makes such a request.

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

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

Amended by R.2007 d.276, effective September 17, 2007.

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

In the first sentence, deleted "to the customer's bill" following "refunds" and "or automatically by the telephone utility if out of service beyond 72 hours after being reported or found" from the end; and inserted the last sentence.

14:10-2.4 Voluntary suspension

Telecommunications 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).

Amended by R.2007 d.276, effective September 17, 2007.

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

Substituted "Telecommunications" for "Communications".

14:10-2.5 (Reserved)

Repealed by R.2006 d.368, effective November 6, 2006.

See: 37 N.J.R. 3623(a), 38 N.J.R. 4729(a).

Section was "Discontinuance of service to end-users; notice".

SUBCHAPTER 3. NUMBER RECLAMATION

14:10-3.1 Number reclamation definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions that apply to this subchapter can be found at N.J.A.C. 14:3-1.1 and 14:10-1.2.

"Guidelines" means, as regards NXX codes, the FCC Industry Numbering Committee's Central Office Code Assignment Guidelines (COCAG); and as regards thousands-blocks, the Thousands-Block Pooling Administration Guidelines (TBPA); both of which are incorporated herein by reference, as amended and supplemented, and are available at: www.atis.org/inc/docs.asp.

"North American Numbering Plan Administrator" or "NANPA" means the entity selected by the FCC to provide assistance to regulatory authorities to ensure that numbering resources are used in the best interests of all participants in the North American Numbering Plan. NANPA is responsible for managing the North American Numbering Plan.

"NXX code" or "central office code" means the fourth, fifth, and sixth digits in a 10-digit telephone number. This term also means a group of 10,000 sequential telephone numbers, which all share the same fourth, fifth, and sixth digits. The NXX code denotes the exchange area within an area code. One central office code contains ten thousands-blocks, as defined in this section.

"Part 4 Form" means the FCC's Central Office Code (NXX) Assignment Request and Confirmation Form-Part 4. It also means the TBPA Thousands-Block Application Form – Part 4. The FCC requires each service provider to submit the Part 4 Form to the NANPA or pooling administrator to confirm that the numbering resources allocated to the service provider have been placed in service. The Part 4 Form is required by the Guidelines.

“Pooling administrator” means an entity or entities selected by the FCC to administer those thousands-blocks in an NXX code that are subject to pooling, in accordance with the Guidelines. The pooling administrator allocates thousands-blocks to service providers through thousands-block number pooling.

“Reclamation” means the process through which a service provider is required to return numbering resources in accordance with FCC requirements at 47 CFR §§52.7 through 20, and this subchapter.

“Service provider” means a person, as defined at N.J.A.C. 14:3-1.1, that receives numbering resources from the NANPA, the pooling administrator, or another entity approved by the FCC. Examples of service providers are carriers, and persons who provide wireline or wireless telephone service, voice over internet protocol service, paging service, or similar services.

“Thousands-block” means a group of 1,000 sequential telephone numbers, which all share the same central office code, as defined in this section, and which follow that central office code with a number from X000 to X999, where X is a value from 0 to 9.

“Thousands-block number pooling” means the process by which the pooling administrator allocates to service providers those thousands-blocks in an NXX code that are subject to pooling.

14:10-3.2 General provisions

(a) The Board may, in accordance with this section, investigate and determine whether a service provider has complied with FCC requirements regarding the use of numbering resources, set forth at 47 CFR §§52.7 through 20.

(b) Each service provider shall ensure that the NANPA, the pooling administrator, and Board staff have up-to-date contact information for the service provider at all times, including contact name, telephone number, fax number, street address and electronic mail address.

(c) When the Board receives from NANPA or a pooling administrator a list of service providers that have failed to file a Part 4 Form, as defined at N.J.A.C. 14:10-3.1, within the deadline set forth in the Guidelines, Board staff shall send written notice to the listed service providers, requiring submittal of the Part 4 Form to the Board.

(d) Within 14 days after receiving the notice required under (c) above, the listed service providers shall submit to the Board all of the following:

1. A properly completed Part 4 Form;
2. Written proof that the service provider has activated all of its assigned numbering resources, so that the numbers are serving end-users or are programmed and ready to serve end-users. Examples of proof that Board staff may

require include, without limitation, a list of telephone numbers assigned, or service orders; and

3. The number of end users to which the service provider has assigned numbers in the NXX code or thousands-block.

(e) A service provider may request an extension of the 14-day deadline in (d) above in accordance with N.J.A.C. 14:10-3.3.

(f) If a service provider does not submit the information required under (d) above, and does not request an extension under (e) above, within the 14-day deadline, the service provider’s numbering resources shall be subject to immediate reclamation, in accordance with the Guidelines.

(g) A service provider’s numbering resources shall be subject to reclamation, after notice to the service provider, if either of the following conditions are met:

1. If Numbering Resources Utilization and Forecast (NRUF) reports provided to Board staff by NANPA show that a service provider has inventories that are greater than a six-month supply; or

2. If NRUF reports show noncompliance with the requirements for sequential number assignments set forth at 47 CFR 52.15(j).

(h) If either of the conditions in (g) above are met, the Board may require the service provider to reduce contamination levels of its numbering resources, in accordance with 47 CFR 52.15i(3), so as to facilitate any reclamation that is required.

14:10-3.3 Extension of Part 4 Form submittal deadline

(a) If a service provider meets the requirements of this section, Board staff shall grant an extension to the 14-day deadline set forth in N.J.A.C. 14:10-3.2(d). Board staff shall grant only one extension to the service provider, of up to 90 days from the date the service provider’s Part 4 Form was initially due.

(b) To obtain an extension under this section, a service provider shall submit an extension request to Board staff in writing. The request shall include all of the following:

1. The reason for the delay in activating the service provider’s numbering resources;
2. The projected date upon which the service provider will activate the numbering resources;
3. The duration of the extension requested;
4. The role played in causing the delay, if any, of the act or omission of a person other than the service provider during the six months after the service provider was assigned the numbering resources;

5. Be considered public records.

(b) Cross-references to Federal Communications Commission interstate tariffs are permitted for volume discounts, optional features and other provisions not specifically required to be included in intrastate tariffs pursuant to (a) above.

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

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

Recodified from N.J.A.C. 14:10-5.3 by R.2007 d.276, effective September 17, 2007.

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

Former N.J.A.C. 14:10-5.2, Definitions, repealed.

14:10-5.3 Tariff revisions that increase charges

(a) Tariff revisions regarding existing competitive telecommunications services, which create increased charges to any customer, shall become effective five business days after notice of the proposed revision as described in (b) below, without the requirement of prior Board approval.

(b) The notice requirement for a tariff revision, as described in (a) above, shall be by direct mail to all affected customers or by publication in newspapers of general circulation throughout the affected service area, within 24 hours of filing of revised tariff pages with the Board.

(c) Proposed revisions as described in (a) above shall be served on the Division of the Ratepayer Advocate within 24 hours of filing with the Board.

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

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

Recodified from N.J.A.C. 14:10-5.4 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 "Requirements for tariff revisions to existing services which create increased charges to any customer". In (a), substituted "regarding" for first occurrence of "to" and inserted a comma following "customer".

Former N.J.A.C. 14:10-5.3, Informational tariff filings, recodified to N.J.A.C. 14:10-5.2.

14:10-5.4 Tariff revisions that do not increase charges

(a) Tariff revisions to existing competitive telecommunications services, or to any CLEC or IXC tariff, which do not increase charges to any customer, shall become effective one day after the filing of revised tariff pages with the Board, without the requirement of prior Board approval; except that a tariff revision for withdrawal of a service offering shall be governed by N.J.A.C. 14:10-5.8.

(b) Proposed revisions described in (a) above shall be served on the Public Advocate within 24 hours of filing with the Board.

(c) Revisions to non-competitive telecommunications service tariffs are governed by the Board's rules for all utilities at N.J.A.C. 14:3.

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.2002 d.90, effective March 18, 2002.

See: 33 N.J.R. 2041(a), 34 N.J.R. 1275(b).

Rewrote (a).

Recodified from N.J.A.C. 14:10-5.5 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 "Requirements for tariff revisions to existing services which do not create increased charges to any customer". Rewrote (a); in (b), deleted "as" preceding "described" and substituted "Public" for "Division of the Ratepayer"; and added (c).

Former N.J.A.C. 14:10-5.4, Requirements for tariff revisions to existing services which create increased charges to any customer, recodified to N.J.A.C. 14:10-5.3.

14:10-5.5 New competitive telecommunications service offerings by interexchange carriers

(a) New competitive telecommunications service offerings of existing interexchange carriers shall become effective five business days after filing without the requirement of prior Board approval.

(b) An IXC shall file a tariff revision for a service offering described in (a) above on the Public Advocate within 24 hours of filing with the Board.

(c) A proposed tariff revision filing for new competitive telecommunications services offerings by existing interexchange carriers shall include a letter describing the new service and tariff pages with all rates, terms and conditions.

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

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

Recodified from N.J.A.C. 14:10-5.6 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 "Requirements for new competitive telecommunications service offerings for existing interexchange carriers". Rewrote (b) and (c); and deleted (d).

Former N.J.A.C. 14:10-5.5, Requirements for tariff revisions to existing services which do not create increased charges to any customer, recodified to N.J.A.C. 14:10-5.4.

14:10-5.6 Initial CLEC or IXC tariff

(a) Initial tariffs filed by CLECs for local exchange and exchange access services, or by IXCs for interexchange services, shall be effective as filed 30 days following submittal to the Board, without the requirement of prior Board approval.

(b) (Reserved)

(c) All initial tariff filings made by a CLEC or IXC shall be certified to be accurate, and in compliance with existing law, by an officer of the CLEC or IXC.

(d) Should an initial tariff filing be inconsistent with existing laws, Board staff shall forward a letter of deficiency to the submitting CLEC or IXC. The deficiency letter shall:

1. List the deficiencies in the initial tariff as submitted;
2. Identify the submittals required to correct the deficiencies;
3. Provide a deadline for the submittals required under (d)2 above; and

4. Notify the submitting CLEC or IXC that the initial tariff is suspended until the Board receives the necessary submittals required under (d)2 above.

(e) If Board staff receive the submittals identified in (d)2 above within the deadline in (d)3 above, the initial tariff shall be effective immediately following the Board's receipt of the submittals.

(f) If Board staff do not receive the submittals required under (d)2 above within the deadline, the CLEC or IXC petition shall be considered withdrawn. The CLEC or IXC may subsequently submit a new tariff filing and begin the review process again.

New Rule, R.2002 d.90, effective March 18, 2002.

See: 33 N.J.R. 2041(a), 34 N.J.R. 1275(b).

Former N.J.A.C. 14:10-5.7, was reserved.

Recodified from N.J.A.C. 14:10-5.7 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 "Initial tariff of competitive local exchange carriers (CLECs) and interexchange carriers (IXCs)". Rewrote the section.

Former N.J.A.C. 14:10-5.6, Requirements for new competitive telecommunications service offerings for existing interexchange carriers, recodified to N.J.A.C. 14:10-5.5.

14:10-5.7 Board monitoring of competitiveness

(a) In monitoring the competitiveness of rate regulated and competitive telecommunications services and/or providers of those services, the Board may request any information necessary from a carrier. In addition, the Board may use information collected pursuant to N.J.A.C. 14:10-4 to conduct an analysis as to whether individual services and/or the markets for telecommunications services are becoming more or less competitive.

(b) In conducting the analysis described under (a) above, the Board may:

1. Monitor the market shares of carriers as measured by number of calls, minutes of use, number of customers and customer complaints;

2. Use an economic measure of concentration or any other appropriate economic indicator, statistical technique or analytical tool to measure existing or projected market share and the competitiveness of individual services and providers; and/or

3. Use a customer survey to solicit information related to the perception of the level of competition by telecommunications end users.

(c) The Board may reclassify a service that had previously been found to be competitive, if, after notice and hearing, the Board finds that one or more of the following conditions are met:

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 the existing regulatory flexibility afforded to carriers.

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

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

Recodified from N.J.A.C. 14:10-5.10 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 "Standards for monitoring the competitiveness of services". Rewrote the section.

Former N.J.A.C. 14:10-5.7, Initial tariff of competitive local exchange carriers (CLECs) and interexchange carriers (IXCs), recodified to N.J.A.C. 14:10-5.6.

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.

14:10-5.8 Withdrawal of a competitive service from subscribers

(a) Any carrier providing competitive services may withdraw a competitive service from subscribers after 30 days notice to all of its affected customers and the Board, except as specified under (b) below.

(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.

Repealed by R.2002 d.90, effective March 18, 2002.

See: 33 N.J.R. 2041(a), 34 N.J.R. 1275(b).

Section was "Requirements for interexchange carriers initial tariff filings".

Recodified from N.J.A.C. 14:10-5.11 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 "Discontinuance of service offerings". Rewrote (a).

Former N.J.A.C. 14:10-5.8, Requirements for interexchange carriers initial tariff filings, repealed.

14:10-5.9 Discontinuance of a competitive service offering

(a) A carrier may discontinue offering a competitive service after providing one day notice of the discontinuance to all customers and the Board. New customers will not have the option to subscribe to the service. However, existing subscribers shall continue to receive the service.

(b) Notwithstanding (a) above, if a competitive service is offered solely by a single carrier, the carrier shall not discontinue the service offering if Board staff notifies the carrier that the discontinuance requires prior Board review and approval.

Rate caps set forth in the Board of Public Utilities' regulations establishing current rate caps on alternate operator service (AOS) providers in telecommunications industry did not violate federal and state equal protection guarantees, on basis that caps precluded AOS providers from charging identical rates to those charged by facility-based operator service providers (OSP), where facilities-based OSPs and non-facilities based OSPs, that is, AOS providers, were not similarly situated, and capping rates was an effective means to remedy the overcharging of telephone consumers by AOS providers. In the Matter of the Regulation of Operator Service Providers, 778 A.2d 546 (2001).

Rulemaking procedures followed by the Board of Public Utilities in promulgating regulations establishing current rate caps on alternate operator service (AOS) providers in telecommunications industry fully complied with letter and spirit of Administrative Procedure Act (APA), where Board offered at least a 30-day period for interested parties to submit their views and, after receiving comments, Board published written responses in State Register demonstrating that the comments had been fully considered. In the Matter of the Regulation of Operator Service Providers, 778 A.2d 546 (2001).

Section of the federal Telecommunications Act of 1996 providing that Federal Communications Commission's (FCC) regulations relating to provision of payphone service will preempt state requirements to extent that state requirements are inconsistent with FCC regulations did not preempt Board of Public Utilities' regulations establishing current rate caps on alternate operator service (AOS) providers in telecommunications industry, which regulations established maximum rates for intrastate telephone calls, where there were no FCC regulations governing intrastate rates for intrastate telecommunications services, and federal TCA deregulated local coin rates for payphones. In the Matter of the Regulation of Operator Service Providers, 778 A.2d 546 (2001).

Sections of the federal Telecommunications Act of 1996 setting forth general statement of removal of barriers to entry, governing state regulatory authority with respect to removal of barriers to entry, and governing nondiscrimination safeguards in provision of payphone service do not preempt states from acting in subject matter area in manner prescribed by Board of Public Utilities' regulations establishing current rate caps on alternate operator service (AOS) providers in telecommunications industry. In the Matter of the Regulation of Operator Service Providers, 778 A.2d 546 (2001).

When legislature enacted statutes reestablishing a degree of rate authority in the Board of Public Utilities with respect to alternate operator service (AOS) providers in telecommunications industry, legislature was acting to address particular problems and manifested no intention to impose standards of traditional rate-making upon a non-franchised competitive telecommunications service. In the Matter of the Regulation of Operator Service Providers, 778 A.2d 546 (2001).

14:10-6.4 AOS rates for intrastate operator-assisted calls

(a) An alternate operator service provider may charge the following maximum rates:

1. For a local or non-local intrastate calling card call that does not require the intervention or use of a live operator (that is, an "0+" calling card call at a transient location), and is no longer than five minutes, the maximum rate shall be \$2.75;

2. For a local or non-local intrastate call that requires a live operator (that is, an "0-" operator assisted call at a transient location), and is no longer than five minutes, the maximum rate shall be \$4.25;

3. For a collect call that does not use a live operator, but uses a voice prompt, the rate shall be the same as for an operator assisted call under (a)2 above;

4. For a call described at (a)1-3 above, that is greater than five minutes, an additional per minute rate may be charged, in addition to the charges under (a)1-3 above. The per minute rate shall equal the applicable per minute rate in the AT&T tariff on file with the Board at the time of the call. The AT&T rate is posted on the Board's webpage at http://www.bpu.state.nj.us/bpu/pdf/telecopdfs/njac_rates.pdf; and

5. Notwithstanding (a)4 above, an AOS's rate for a call described in (a)2 or 3 above shall be capped at \$5.25 (\$4.25 plus \$1.00). The AOS shall not charge more than \$5.25 without prior Board approval. A request for Board approval of a higher rate shall conform to the requirements for petitions at N.J.A.C. 14:1-5.12.

(b) Alternate operator service providers shall file informational tariffs showing the applicable maximum rates and any subsequent rate adjustments with the Board, as required by N.J.A.C. 14:10-6.8, for intrastate services. The Board will permit rate changes in response to a rate change request from an AOS provider, if the new rate remains below the maximum rates described in (a) above. Such filings shall conform to and be governed by N.J.A.C. 14:10-5.4 or 5.5, as may be applicable.

(c) (Reserved)

(d) Surcharges associated with non-pay telephones, which are not part of the actual telephone bill or imposed by an OSP, but are add-on charges imposed by hotels, motels, hospitals, universities and/or other CPPTS providers, are not prohibited by these rules. However, notice of any surcharge shall be displayed by the aggregator in accordance with N.J.A.C. 14:10-6.3(b)2.

(e) Operator service providers shall not bill for calls that are not completed.

(f) For the purpose of this subchapter, "rate" means the total charge to a caller for the completion of a call utilizing operator-assisted service, including all surcharges, premises-imposed fees and other charges, collected from the caller.

Recodified in part from N.J.A.C. 14:10-6.3 and amended by R.2007 d.276, effective September 17, 2007.

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

Rewrote the section.

Former N.J.A.C. 14:10-6.4, Access to all operator service providers, recodified to N.J.A.C. 14:10-6.5.

14:10-6.5 Access to all operator service providers

(a) The aggregator that utilizes an OSP shall ensure that all callers have free access to all operator service providers, including the LEC operator serving that geographical area, from all instruments connected to operator service providers, with the exception of government controlled correctional facilities.

(b) Each aggregator shall ensure that each of its telephones in service, that utilizes a presubscribed OSP, allows the caller to obtain access, without charge, to the OSP desired by the consumer. This subsection does not apply to the use of access code dialing sequences that result in billing to the originating telephone.

(c) Each OSP shall:

1. Ensure, by contract, that each aggregator for which such provider is the presubscribed OSP complies with (a) and (b) above; and

2. Withhold payment to aggregators of any compensation, including commissions, on a location-by-location basis, if the OSP reasonably believes that the aggregator is blocking access to other operator service providers in violation of (a) and (b) above.

(d) No operator service provider shall transfer a call to another OSP unless that transfer is accomplished at, and billed from, the point of origination of the call. To do otherwise results in splashing, as defined in N.J.A.C. 14:10-1.2. If such a transfer is not technically possible, the OSP shall inform the caller that the call cannot be transferred as requested and that the caller should hang up and attempt to reach another operator service provider through the means provided by that other OSP.

(e) A carrier shall calculate charges based on a call's point of origination, unless:

1. The caller requests to be transferred to a different carrier's OSP; or

2. Both of the following requirements are met:

- i. The caller is informed, before timing of the call for billing purposes begins, that the call may be billed as if it originated somewhere other than the location from which the call actually originated; and

- ii. The caller consents to the change in billing location.

Recodified from N.J.A.C. 14:10-6.4 and amended by R.2007 d.276, effective September 17, 2007.

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

In (a), substituted "The aggregator that utilizes an OSP shall ensure that all callers have free" for "Free", and deleted "shall be made available" following "geographical area,"; inserted designation (b) preceding the former second sentence of (a); rewrote (b); recodified former (b) as (c); in introductory paragraph of (c), substituted "OSP" for "provider of operator services"; rewrote (c)1 and (c)2; recodified former (c) as (d); in (d), substituted "1.2" for "6.2, which is hereby prohibited"; and added (e).

Former N.J.A.C. 14:10-6.5, "0-" and emergency call handling, recodified to N.J.A.C. 14:10-6.6.

14:10-6.6 "0-" and emergency call handling

(a) All "0-" calls, which are calls originated by dialing "0" and no other digits within four seconds, shall be sent promptly and directly to the incumbent LEC operator serving

the geographic area where the instrument is located, unless the presubscribed operator service provider has certified to the Board, as described in (b) through (e) below, its ability to provide such service.

(b) An operator service provider may petition the Board for authority to provide "0-" and emergency call completion. The OSP shall certify that it is capable of meeting the technical parameters in (c) through (e) below.

(c) The Board shall authorize an OSP to offer "0-" services only if the OSP also offers both free public access to the incumbent LEC operator serving that geographical area and emergency call handling. Incumbent LEC access must be available and be accomplished by either a direct dialing sequence or by direct connection to the incumbent LEC operator upon request.

(d) To obtain Board approval to offer "0-" and emergency call completion under (b) above, an OSP shall meet the following technical standards:

1. Operate on a full time basis 24 hours a day, seven days a week;

2. Require by contract that all connecting users provide free access to all other operator service providers upon request, in accordance with N.J.A.C. 14:10-6.5, including the incumbent LEC operator service and, in addition, that all connecting users:

- i. Are capable of receiving the provider's multifrequency tone for the re-origination of calls to the incumbent LEC operator service; and

- ii. Instruments be capable of transferring "0-" calls directly to the incumbent LEC at the calling party's request;

3. Ensure that in the event of a network outage or malfunction that all "0-" call traffic is directed to the incumbent LEC for completion;

4. Direct all of its New Jersey customers to program their equipment to route all "0-" traffic to the incumbent LEC in the event of a malfunction;

5. Ensure that all components of its network meet or exceed industry standards for a P.01 grade of service, which is no more than one busy signal in 100 call attempts in the average busiest hour;

6. Assure that 90 percent of calls will be answered in 10 seconds during the average busiest hour and that all calls will be answered within 20 seconds;

7. Make traffic studies and maintain records as required to ensure that sufficient equipment and an adequate operating force are provided at all times to ensure compliance with the performance requirements set forth herein. These studies and records shall be made available to the Board's staff upon request for review purposes. Further, the OSP

shall submit certified reports upon request to the Board's staff showing that grade of service and response time are within the performance limits described in this subchapter; and

8. Transfer emergency calls in an average of 20 seconds or less to the appropriate emergency service agency. This time includes initial screening by the operator and a maximum ringdown time of 10 seconds except:

- i. When the emergency service agency takes longer than the time allotted to answer its phone;
- 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.

Recodified from N.J.A.C. 14:10-6.5 and amended by R.2007 d.276, effective September 17, 2007.

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

In (a), substituted "certified to" for "been granted approval by"; rewrote (b) and (c) and the introductory paragraph of (d); in (d)2, updated the N.J.A.C. reference; in (d)7, deleted "annually" preceding "upon" two times and inserted "and" at the end; and deleted (d)9 through (d)11.

Former N.J.A.C. 14:10-6.6, Penalty for violation, recodified to N.J.A.C. 14:10-6.7.

14:10-6.7 Penalties for violations

(a) Any AOS provider which violates this subchapter shall be subject to the applicable penalty set forth in Table A below.

(b) Each violation of this subchapter shall constitute a separate and distinct violation, for which the Board may assess a separate penalty.

(c) If a violation is of a continuing nature, the Board may deem each day that the violation continues to be a separate and distinct violation, for which a separate and distinct penalty may be assessed.

(d) The penalty amounts for violations of this subchapter are set forth in Table A below:

TABLE A
Penalties for Violations

<u>Violation</u>	<u>Penalty</u>
Exceeding maximum rates authorized under N.J.A.C. 14:10-6.4(a)	\$5,000
Noncompliance with emergency call procedures set forth at N.J.A.C. 14:10-6.6	\$5,000
Slamming, in violation of N.J.A.C. 14:10-11	\$3,000
Noncompliance with the free access requirements at N.J.A.C. 14:10-6.5	\$2,500
Noncompliance with branding, rate quote and reporting requirements at N.J.A.C. 14:10-6.3(b) and (c), and 6.8	\$2,000

Splashing or billing for uncompleted calls, in violation of N.J.A.C. 14:10-6.5(d) and 6.4(e)	\$2,000
Noncompliance with any other provision of this subchapter	\$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". Recodified from N.J.A.C. 14:10-6.6 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 "Penalty for violations". Inserted designation (a) preceding the first sentence; in (a), deleted "the provisions of" following "violates", substituted "applicable penalty set forth in Table A" for "schedule of fines as described", and deleted the last sentence; added (b) through (d); and recodified and rewrote the table as part of (d).

Former N.J.A.C. 14:10-6.7, Alternate operator service informational tariffs, recodified to N.J.A.C. 14:10-6.8.

14:10-6.8 Alternate operator service provider 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.

Recodified from N.J.A.C. 14:10-6.7 by R.2007 d.276, effective September 17, 2007.

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

Former N.J.A.C. 14:10-6.8, Customer billing, recodified to N.J.A.C. 14:10-6.9.

14:10-6.9 LEC billing for operator assisted services

(a) If an LEC provides billing and collection services to other operator service providers, the LEC shall include a statement on the other OSP's portion of each customer's bill advising the customer that the other OSP is not affiliated with the LEC.

(b) If an LEC provides billing and collection services to a billing agent, as defined in N.J.A.C. 14:10-1.2, the LEC shall, in addition to meeting the requirements in (a) above, clearly identify on the bill the name, address and telephone number of the OSP who furnished operator service to the consumer.

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 "address and telephone number" preceding "of the OSP".

Recodified from N.J.A.C. 14:10-6.8 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 "Customer billing". Rewrote the section.

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

14:10-7.1 Scope

(a) This subchapter applies to any entity that elects to provide subscribers with access to adult-oriented information-access telephone service in the State.

(b) This subchapter shall apply to both "976" services, which are accessed by a seven digit telephone number of the form NXX-XXXX, and "900" or "700" services, which are accessed by a 10 digit telephone number of the form 900-NXX-XXXX or 700-NXX-XXXX, as well as any future access arrangement for adult-oriented information-access telephone service.

Amended by R.2007 d.276, effective September 17, 2007.

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

In (a), substituted "to any entity that elects to provide subscribers with" for "only to telephone companies electing to provide a subscriber"; deleted former (b); recodified (c) as (b); and in (b), substituted "This" for "The provisions of this", inserted " , which are" two times,

inserted commas following "NXX-XXXX" and "700-NXX-XXXX", and inserted "for adult-oriented information access telephone service".

14:10-7.2 (Reserved)

Repealed by R.2007 d.276, effective September 17, 2007.

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

Section was "Definitions".

14:10-7.3 Restrictions on access to adult-oriented services

(a) No telephone utility shall provide a subscriber with 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 the same Central Office code, or codes (NXX).

(c) LECs and IXC's offering 10 digit adult-oriented information-access telephone service shall assign all lines accessing such service to the same 900-NXX or 700-NXX code or codes.

(d) An LEC or IXC that offers adult-oriented information-access telephone service shall do one or more of the following to ensure that non subscribers do not obtain access to the service:

1. Ensure that all lines used for that service are blocked, except as necessary to provide service to subscribers enrolled pursuant to N.J.A.C. 14:10-7.4(a);

2. Require as a condition of service that adult-oriented information providers restrict access to the service for all callers except subscribers enrolled pursuant to 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

3. Require as a condition of service that an adult-oriented information provider scramble its transmissions, and supply audio descramblers to subscribers, so as to ensure that inadvertent or unauthorized access will not result in intelligent transmission.

(e) No telephone utility 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 are to be advised of these rules through inclusion in the informational consumer guide pages in the front of local telephone directories in accordance with N.J.A.C. 14:10-1A.5.

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 "Restrictions on access". Rewrote the section.

14:10-7.4 Subscriber requests for service; charges

(a) Telephone utilities or information providers offering intrastate adult-oriented information-access telephone service shall require submittal of the following prior to granting a subscription to the service:

1. A written and signed subscriber request; and
2. 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 customer of record listed on the telephone account, that the requesting subscriber is over 18 years of age.

(b) The telephone utility or adult-oriented 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 of the subscription.

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

(d) 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.

(e) 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.

(f) 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.

Amended by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).

Rewrote (a); recodified former (a)2 as new (b); rewrote (b); and recodified former (b) through (e) as (c) through (f).

SUBCHAPTER 8. (RESERVED)**SUBCHAPTER 9. PUBLIC PAY TELEPHONE SERVICE****14:10-9.1 Scope**

This subchapter shall apply to the provision of public pay telephone service (PPTS) as defined in N.J.A.C. 14:10-1.2, in New Jersey.

Amended by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Rewrote the section.

14:10-9.2 The PPTS instrument

(a) Each PPTS instrument shall provide a dial-tone without requiring the caller to insert payment into the instrument.

(b) Each PPTS instrument shall allow consumers free access to the following calls, without use of coin or credit cards to originate such calls:

1. Operator calls ("0");
2. Access to toll-free service, including all 800 numbers and 950 numbers;
3. Calls using access codes necessary to enable the caller to obtain access to the consumer's desired provider of operator services;
4. Completion of collect, third party billed, and carrier calling card calls;
5. Telecommunications Relay Service calls for the hearing disabled; and
6. Dialing and completion of 9-1-1 calls.

(c) The keypad of each PPTS instrument shall feature both numbers and letters in the standard arrangement typically provided on telephone sets.

(d) PPTS providers shall prominently display the following information directly on each telephone instrument, in plain view of consumers:

1. All of the information required under N.J.A.C. 14:10-6.3(a);
2. The rate for a direct-dialed, coin-generated local call;
3. Notice of the inability to accept incoming calls where PPTS providers prevent such call completion;
4. The telephone number of the PPTS instrument unless the notice requirement contained in (d)3 above is present;
5. Notice of the inability to complete international calls where PPTS providers block such calls; and
6. Instructions on how to access the emergency enhanced 9-1-1 system.

Recodified in part from N.J.A.C. 14:10-9.3 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 "Public pay telephone service requirements". Rewrote (a); in (b)2, deleted "carrier access code" following "950"; rewrote (b)3; in (b)4, deleted "and" from the end; in (b)5, substituted "; and" for a period at the end; added (b)6; rewrote (c); rewrote (d)1; deleted former (d)2 through (d)7; recodified former (d)8 through (d)10 as (d)2 through (d)4; and in (d)4, substituted "(d)3" for "(d)9".

Former N.J.A.C. 14:10-9.2, Definitions, repealed.

14:10-9.3 Public pay telephone service (PPTS)

(a) Caller requested rate quotes and alternative carrier access information shall be available to users upon request and free of charge.

(b) PPTS shall include local and intrastate toll calling.

(c) Where PPTS providers prevent incoming call completion, said providers shall make arrangements to ensure non-publication of its number in directory listing services offered by the incumbent LEC for each service location.

(d) PPTS providers shall designate a person, as defined in N.J.A.C. 14:3-1.1, within the State of New Jersey, that is responsible for processing refunds to consumers. All refunds shall be in the form of cash, a check, or a credit on the customer's telephone bill. The PPTS provider shall provide contact information for the person to Board staff, and shall update the contact information if it changes.

(e) The Board or its staff shall investigate the conduct of any PPTS provider following receipt of a customer complaint to the Board concerning the PPTS provider. The Board shall, after notice and 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 appropriate action against a PPTS provider as is necessary to rectify any non-conformance with these rules or to protect the general public interest.

(f) PPTS providers shall not charge for calls that are not completed.

Amended by R.1998 d.402, effective August 3, 1998.

See: 30 N.J.R. 1370(a), 30 N.J.R. 2929(b).

Repealed (g).

Recodified in part to N.J.A.C. 14:10-9.2 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 "Public pay telephone service requirements". Recodified former (a) through (d) to N.J.A.C. 14:10-9.2; recodified (e) and (f) as (a) and (b); in (b), substituted "include" for "have the ability to complete"; deleted former (g) and (h); recodified former (i) through (l) as (c) through (f); rewrote (d); in (e), inserted "to the Board concerning the PPTS provider" and deleted "including disconnection of intrastate service to individual PPTS locations experiencing persistent violations," preceding "as is necessary"; and deleted (m).

14:10-9.4 Additional regulation of customer provided pay telephone service

(a) In addition to the requirements at N.J.A.C. 14:10-9.3, CPPTS providers, as defined in N.J.A.C. 14:10-1.2, are subject to the following:

1. CPPTS providers shall not charge more for directory assistance calls than the rate which the LEC charges the CPPTS provider for directory assistance service;

2. More than one CPPTS instrument may be connected per CPPTS exchange access line, such as behind a PBX or

other types of call concentration equipment, provided that such arrangements ensure user privacy;

3. A CPPTS provider shall ensure that any extension of CPPTS exchange access lines is either technically unable to monitor the CPPTS instrument, or the CPPTS provider shall prominently display notice to end users that the CPPTS is subject to monitoring by an extension;

4. CPPTS providers shall provide to the Board the address and telephone number of each CPPTS instrument, by location, separated by municipality. Such information shall be submitted to the Board at the time of installation of CPPTS service and shall be updated as additional instruments are installed; and

5. CPPTS providers shall provide a list to Board staff of all principals of the firm, including the name, address and telephone number of each principal.

(b) In addition to the provisions of N.J.A.C. 14:10-9.3 and (a) above, incumbent LECs, as defined in N.J.A.C. 14:10-1.2, shall permit customer retention of telephone numbers that are associated with a customer's incumbent LEC public telephone for use with CPPTS.

(c) Each incumbent LEC shall submit quarterly reports of CPPTS installation in their service territories to Board staff. Such report shall include the number of installations and disconnections as well as a list containing the name and address of each CPPTS provider by location. Such list shall indicate CPPTS connections separated by municipality. This information will be afforded confidential treatment.

Recodified in part from N.J.A.C. 14:10-9.5 and amended by R.2007 d.276, effective September 17, 2007.

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

Rewrote (a); and recodified (b) and (c) from N.J.A.C. 14:10-9.5.

14:10-9.5 Placement and repair of PPTS

(a) Installation of all PPTS instruments shall be in accordance with any applicable local, municipal, county and State requirements.

(b) Upon receipt of a complaint from any authorized local, municipal, county or State official, that a PPTS instrument is in violation of any applicable installation requirement, including, but not limited to, municipal ordinances or State legislation, Board staff shall direct the PPTS provider to comply with such requirements or remove the PPTS instrument within 48 hours. Such removal shall ensure that all necessary repairs are performed so that the street, sidewalk, building, or any other structure where the PPTS was located, is restored to its exact condition prior to the PPTS installation.

(c) This section shall not affect the authority of the affected local government entity or the PPTS provider to seek available judicial remedies.

(d) PPTS providers shall make every reasonable effort to repair instruments within 48 hours of notification of a service outage.

Recodified from N.J.A.C. 14:10-9.6 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 "Placement of PPTS". Added designations (a) through (c); in (b), substituted "was" for "may be" and deleted the former last sentence; in (c), substituted "shall not affect the authority of" for "in no way precludes the ability of" and "to seek" for "from seeking" and deleted "prior to removal" following "remedies"; and added (d).

Former N.J.A.C. 14:10-9.5, Additional regulation of incumbent local exchange carriers, recodified in part to N.J.A.C. 14:10-9.4.

14:10-9.6 Special provisions for inmate pay telephone service

(a) Providers of PPTS for use by inmates in government controlled correctional facilities are exempt from the requirements of the following:

1. N.J.A.C. 14:10-9.2(a) through (g) and (i), which set forth minimum requirements for non-inmate PPTS telephone instruments; and
2. N.J.A.C. 14:10-9.3(a), which sets forth the requirement that every PPTS instrument provide an initial dial-tone.

(b) A PPTS provider shall ensure that the installation of inmate telephone service in government controlled correctional facilities complies with any applicable local, municipal, county and/or State requirements imposed by the appropriate governing entity.

Recodified from N.J.A.C. 14:10-9.7 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 "Exemption for inmate pay telephone service". In the introductory paragraph of (a), substituted "PPTS for use by inmates" for "inmate telephone service", "of" for "set out in" and deleted "sub-sections" from the end; rewrote (a)1 and (a)2; in (b), substituted "A PPTS provider shall ensure that the installation" for "Installation" and "complies" for "shall be in accordance"; and deleted (c).

Former N.J.A.C. 14:10-9.6, Placement of PPTS, recodified to N.J.A.C. 14:10-9.5.

14:10-9.7 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.

Recodified from N.J.A.C. 14:10-9.8 by R.2007 d.276, effective September 17, 2007.

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

Former N.J.A.C. 14:10-9.7, Exemption for inmate pay telephone service, recodified to N.J.A.C. 14:10-9.6.

14:10-9.8 (Reserved)

Recodified to N.J.A.C. 14:10-9.7 by R.2007 d.276, effective September 17, 2007.

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

Section was "Complaint handling procedures".

SUBCHAPTER 10. INTRALATA TOLL COMPETITION

14:10-10.1 Scope; general provisions

(a) This subchapter applies to any carrier that completes toll calls in New Jersey.

(b) Presubscription is a customer's enrollment with a particular intraLATA telecommunications carrier.

(c) LECs shall adhere to the following business practices:

1. LECs are to process intraLATA PIC change orders within the same time frame as interLATA PIC change orders are processed; and

2. LECs shall not encourage or attempt to persuade customers to subscribe to their own intraLATA service, and shall not discourage or attempt to dissuade customers from selecting another carrier.

(d) A customer may presubscribe to a different intraLATA carrier than the consumer's interLATA PIC.

Recodified in part from N.J.A.C. 14:10-10.3 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 "Scope". Rewrote the section.

14:10-10.2 Responsibilities of LECs

(a) LECs shall not engage in any discriminatory or anti-competitive practices when processing PIC service orders.

(b) All carriers shall comply with the requirements of N.J.A.C. 14:10-11, Anti-slamming.

(c) All local exchange carriers shall provide in their tariffs a requirement that resale customers must comply with the provisions of N.J.A.C. 14:10-10.2(b).

(d) LECs shall maintain customer service statistics and records regarding customer change requests, in accordance with applicable recordkeeping requirements in this chapter, and shall provide such information to Board staff upon request.

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

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

Rewrote "Slamming".

Recodified from N.J.A.C. 14:10-10.5 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 "Local exchange safeguards". Rewrote the section.

Former N.J.A.C. 14:10-10.2, Definitions, repealed.

14:10-10.3 Imputation standard

(a) The rates that an LEC charges customers for toll service and/or interexchange private line service shall equal or exceed the total applicable switched access rates set forth in the LEC's tariff.

(b) Notwithstanding (a) above, and subject to the condition set forth in (d) 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 leveled over the term of the contract, for either originating switched access for WATS and toll services or terminating switched access for dedicated 800 services.

(c) The special access rate to be imputed in accordance with (e) below 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.

(d) If an LEC provides a service under a customer-specific pricing arrangement in accordance with (b) above, the LEC's revenues from all customers of that service shall, in the aggregate, satisfy the requirements in this section.

(e) The price charged for each service for which the LEC uses special access shall be the total special access rate set forth in the LEC's tariff.

(f) If the Board orders or approves any changes in the LEC's access rate structure, the LEC shall seek Board approval of appropriate changes in the imputation formulas in this section.

(g) Where the LEC structures a package of services to include discounts and/or packaging of noncompetitive ser-

vices in addition to interexchange calling, the LEC's price for the package of services shall be greater than the amounts described in this section.

(h) The LEC shall, within 14 calendar days of a request from the IXC's 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.

(i) Pursuant to the 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.

(j) The IXC's and Board staff shall have rights to examine the documentation and computations underlying the LEC's data. To the extent that the LEC's data includes information it deems proprietary, the LEC may make a request for a confidentiality determination under the Board's OPRA rules in N.J.A.C. 14:1-12.

(k) Should the data demonstrate that the LEC is not in compliance with the imputation requirement, upon receipt of notice from the IXC's or Board staff, the LEC shall, within 30 days, either increase the price(s) for its interexchange service to bring the LEC into compliance, or petition the Board for a compliance ruling. In any such proceeding, the Board shall not accept or consider any argument that this imputation requirement should be changed.

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).

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

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

Rewrote (b).

Recodified from N.J.A.C. 14:10-10.7 and amended by R.2007 d.276, effective September 17, 2007.

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

Rewrote the section.

Former N.J.A.C. 14:10-10.3, Implementation of presubscription, recodified in part to N.J.A.C. 14:10-10.1.

14:10-10.4 (Reserved)

Repealed by R.2007 d.276, effective September 17, 2007.

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

Section was "Cost recovery".

14:10-10.5 (Reserved)

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

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

In (c), rewrote first sentence.

Recodified to N.J.A.C. 14:10-10.2 by R.2007 d.276, effective September 17, 2007.

See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Section was "Local exchange safeguards".

14:10-10.6 (Reserved)

Repealed by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Section was "Classification of intraLATA toll service as competitive".

14:10-10.7 (Reserved)

Amended by R.1997 d.440, effective October 20, 1997.
See: 28 N.J.R. 4414(a), 29 N.J.R. 4558(a).
Inserted (f).
Recodified to N.J.A.C. 14:10-10.3 by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Section was "Imputation standard".

SUBCHAPTER 11. ANTI-SLAMMING REQUIREMENTS FOR TSPs

14:10-11.1 Scope; general provisions

(a) This subchapter is intended to protect against unauthorized changes or "switches" in a customer's primary telecommunications carrier, also called a telecommunications service provider, as these terms are defined at N.J.A.C. 14:10-1.2. This subchapter utilizes the term "telecommunications service provider" or "TSP" in place of the term "telecommunications carrier" in order to be consistent with FCC anti-slamming rules. The two terms have the same meaning.

(b) This subchapter applies to all TSPs, including LECs, telephone utilities, and resellers, as these terms are defined at N.J.A.C. 14:10-1.2.

(c) If a TSP has reasonable notice that a person representing or acting on behalf of the TSP has violated this subchapter, the TSP shall immediately take measures sufficient to prevent any further violations. For the purpose of this subsection, "reasonable notice" includes, but is not limited to, receipt by the TSP of one or more complaints of a violation.

New Rule, R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
Former N.J.A.C. 14:10-11.1, Definitions, recodified to N.J.A.C. 14:10-11.2.

14:10-11.2 Definitions

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

"Agent" means any person, as defined at N.J.A.C. 14:3-1.1, including, but not limited to, employees, servants or marketers, acting on behalf of a TSP in order to bring about, modify, affect performance of, or terminate mutual obligations between a TSP and the customer.

"Authorized TSP" means a TSP that a customer has chosen as its provider of a telecommunications service, through an authorization that has been verified in accordance with this subchapter.

"Customer" means a person that meets any one or more of the following criteria:

1. The party identified in the account records of the TSP as responsible for payment of the telephone bill;
2. Any adult person (over the age of 18) authorized by such party to change telecommunications services or to charge services to the account; or
3. Any adult person contractually or otherwise lawfully authorized to represent such party.

"Executing TSP" means any TSP that receives a change order that complies with this subchapter and carries out a request that a customer's TSP be switched. Any TSP may be treated as an executing TSP, if it is responsible for any unreasonable delays in the execution of TSP switches, including fraudulent authorizations in violation of this subchapter.

"Primary TSP" means the customer's chosen TSP for a telecommunications service for which there are multiple providers. To the extent permitted by statute, rule or Board order, a customer may select a primary TSP for intrastate interLATA, intraLATA toll, and local exchange telecommunications services, and may select the same or different TSP for each type of service.

"Submitting TSP" means any TSP that:

1. Submits a change order on behalf of a retail or wholesale customer, in order to request a switch in the customer's primary TSP; and
2. Seeks to provide retail telecommunications services to the customer.

"Unauthorized switch" means a change in a customer's selection of a TSP, that was made without an authorization that was verified in accordance with this subchapter.

Amended by R.2003 d.355, effective September 2, 2003.
See: 34 N.J.R. 3200(a), 35 N.J.R. 4126(a).
Added "Authorized carrier" and amended "Customer".
Recodified from N.J.A.C. 14:10-11.1 and amended by R.2007 d.276, effective September 17, 2007.
See: 38 N.J.R. 3250(a), 39 N.J.R. 3953(a).
In the introductory paragraph, inserted " , unless the context clearly indicates otherwise"; in definition "Agent", substituted " , as defined at N.J.A.C. 14:3-1.1," for "or entity,"; deleted definitions "Authorized carrier", "Authorized TSP change", "Board", "Commission", "Division", "InterLATA telecommunications service", "Intrastate telecommunications service", "Local access and transport area", "Local exchange telecommunications service", "Slamming", "Soliciting telecommunications service provider", "Telecommunications", "Telecommunications service" and "Telecommunications service provider"; in the introductory paragraph of definition "Customer", inserted "a person that meets", "or more" and "criteria"; rewrote definitions "Executing TSP" and "Submitting TSP"; in definition "Primary TSP", substituted " , TSP for" for "provider of" and inserted a comma following "toll"; and

substituted definition "Unauthorized switch" for "Unauthorized change" and rewrote the definition.

Former N.J.A.C. 14:10-11.2, Solicitation of customer's authorization for service termination and transfer, recodified to N.J.A.C. 14:10-11.3.

14:10-11.3 Solicitation of authorization to change TSPs

(a) All solicitations by a TSP for a customer's authorization to terminate that customer's existing primary TSP and to transfer said customer to a new primary TSP shall include a clear and conspicuous statement of the following:

1. The identity of the soliciting TSP;
2. That the solicitation seeks the customer's authorization to switch the customer's TSP from the customer's existing primary TSP to the soliciting TSP;
3. The types of services that will be affected by the switch; for example, local, regional, and/or long distance;
4. The soliciting TSP's current complete rates, fees, terms and conditions; and
5. All information that the soliciting TSP will require from the customer in order to assume accurate billing for the particular services involved in the switch.

(b) When soliciting a customer's authorization to switch TSPs, a reseller shall not disclose the identity of the TSP whose telecommunications service is being resold, unless the information is provided in a truthful, non-misleading manner in accordance with this subchapter. The reseller shall identify itself as a reseller, disclose that it is not the customer's primary TSP, and advise the customer that accepting the reseller's offer will change the customer's primary TSP.

Recodified from N.J.A.C. 14:10-11.2 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 "Solicitation of customer's authorization for service termination and transfer". Rewrote the section.

Former N.J.A.C. 14:10-11.3, Verification of change orders for telecommunications service providers, was repealed in part and recodified in part to N.J.A.C. 14:10-11.5 and 11.6.

Administrative correction.

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

14:10-11.4 Obtaining verified customer authorization; submitting a change order

(a) To switch a customer from one primary TSP to another, the acquiring TSP shall submit a change order, which complies with this subchapter, to an executing TSP.

(b) No TSP shall submit a change order on behalf of a customer without first obtaining a verified authorization from the customer in accordance with this subchapter. Such an authorization may be obtained through any of the following means:

1. The customer's signature, either written or electronic, on a letter of agency, in accordance with N.J.A.C. 14:10-11.5;

2. The customer's verbal authorization obtained by telephone in accordance with N.J.A.C. 14:10-11.6; or

3. A third-party verification that meets the requirements at N.J.A.C. 14:10-11.6.

(c) The requirements in this section and N.J.A.C. 14:10-11.5 and 11.6 are in addition to the FCC slamming requirements at 47 CFR §64.1100 through 1190, incorporated herein by reference, as amended or supplemented. Should there be a difference between the FCC regulations and these rules, the more stringent provision shall govern.

(d) If a TSP sells 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 separate access line being switched and each separate service sold, although the authorizations may be verified within the same solicitation. Each authorization shall be verified separately from any other authorizations obtained in the same solicitation, even if the same primary TSP is chosen to provide two or more telecommunications services.

(e) A TSP shall submit a primary TSP change order on behalf of a customer within 60 days after obtaining the verified authorization for that customer.

(f) Notwithstanding N.J.A.C. 14:10-1.3, a submitting TSP shall maintain and preserve records of all verifications of customer authorization for a minimum of three years after obtaining the verification.

New Rule, R.2007 d.276, effective September 17, 2007.

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

Former N.J.A.C. 14:10-11.4, TSP change order procedures, recodified to N.J.A.C. 14:10-11.7.

14:10-11.5 Letters of agency

(a) A TSP that elects to use a letter of agency to obtain a verified authorization for a change in a customer's TSP shall ensure that the letter of agency complies with all requirements of the FCC rules governing letters of agency at 47 CFR §64.1130, incorporated herein by reference, as amended and supplemented. As of September 17, 2007, the substance of 47 CFR §64.1130 is set forth at 1 through 12 below:

1. A TSP may use a letter of agency to obtain written or electronically signed authorization and or verification of a customer's request to change his/her primary TSP selection. A letter of agency that does not conform with this section is invalid for purposes of this subchapter;

2. The letter of agency shall be a separate (or an easily separable) document or located on a separate screen or web page containing only the authorizing language described in (a)5 below having the sole purpose of authorizing a TSP to initiate a primary TSP change. The letters of agency shall be signed and dated by the customer who subscribes to the telephone line(s) requesting the primary TSP change;

3. The letter of agency shall not be combined on the same document, screen, or web page with inducements of any kind. For example, it cannot be used in combination with sweepstakes offerings, entries or boxes.

4. Notwithstanding (a)2 and 3 above, the letter of agency may be combined with check(s) that contain only the required letter of agency language as prescribed in (a)5 below and the necessary information to make the check(s) a negotiable instrument. The letter of agency check(s) shall not contain any promotional language or material. The letter of agency check(s) shall contain, easily readable bold-face type on the front of the check(s), a notice that the customer is authorizing a primary TSP change by cashing the check(s). The letter of agency language shall be placed near the signature line on the back of the check;

5. At a minimum, the letter of agency shall be printed with a type of sufficient size and readable type to be clearly legible and must contain clear and unambiguous language that confirms:

i. The customer's billing name and address and each telephone number to be covered by the primary TSP change order;

ii. The decision to change the primary TSP from the current TSP to the submitting TSP;

iii. That the customer designates (name of submitting TSP) to act as the customer's agent for the primary TSP change;

iv. 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

v. 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;

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) 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) 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 au-

thorization 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).

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 a timely manner 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. However, if the customer is unable to obtain the verification from the submitting TSP, then the executing TSP shall provide it to the customer, if such information is in its possession.

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.

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. 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.

(b) Reimbursement procedures and TSP liability for slamming shall be in conformance with FCC rules at 47 CFR §64.1140, and §§64.1160 and 1170 as amended or supplemented. As of September 17, 2007, the substance of those regulations is as follows:

1. Any submitting TSP that violates the procedures prescribed in this subsection shall be liable to the primary TSP in an amount equal to 150 percent of all charges paid to the submitting TSP by such customer after such violation, as well as for additional amounts as prescribed in (b)4 below. The remedies provided in this subsection are in addition to any other remedies available by law;

2. Any customer whose selection of a primary TSP is switched without authorization verified in accordance with the procedures set forth in this subchapter is absolved from liability for charges as follows:

i. If the customer has not already paid charges to the unauthorized TSP, the customer is absolved of liability for charges imposed by the unauthorized TSP for service provided during the first 30 days after the unauthorized switch. Upon being informed by a customer that an unauthorized switch has occurred, the recipient of the call, that is, the authorized carrier, the unauthorized TSP, or the executing TSP, shall inform the customer of this 30-day absolution period. Any charges imposed by the unauthorized TSP on the customer for service provided after this 30-day period shall be paid by the customer to the authorized TSP at the rates the customer was paying to the authorized carrier at the time of the unauthorized switch in accordance with (b)3v below;

ii. If the customer has already paid charges to the unauthorized carrier, and the authorized TSP receives payment from the unauthorized TSP as provided for in (b)1 above, the authorized carrier shall refund or credit to the customer any amounts determined in accordance with the provisions of (b)4vi below; and

iii. If the customer has been absolved of liability as prescribed by this subsection, the unauthorized TSP shall also be liable to the customer for any charge required to return the customer to his or her properly authorized carrier, if applicable;

3. Absolution procedures where the customer has not paid charges are as follows:

i. This paragraph shall only apply after a customer has alleged that an unauthorized switch has occurred and the customer has not paid charges to the allegedly unauthorized TSP for service for 30 days, or a portion thereof, after the unauthorized switch is alleged to have occurred;

ii. An allegedly unauthorized TSP shall remove all charges incurred for service provided during the first 30 days after the alleged unauthorized switch from a customer's bill upon notification that such unauthorized switch is alleged to have occurred;

iii. An allegedly unauthorized TSP may challenge a customer's allegation that an unauthorized switch has occurred. An allegedly unauthorized TSP choosing to

challenge such allegation shall immediately notify the complaining customer that: the unauthorized TSP is required to file the challenge with the Board within 30 days of the date of removal of charges from the complaining customer's bill in accordance with (b)3ii above. The TSP, upon investigation, is required to provide the Board with the name, address, phone number of the customer, the date of the alleged slam, the name of the unauthorized TSP to which service was switched, the type of services that were switched, and any evidence to substantiate the TSP's position. The alleged unauthorized TSP may reinstate charges to a customer's bill which were removed pursuant to the provisions of (b)3ii above upon notice that an investigation was completed by the Division of Customer Assistance that determined the switch was authorized;

iv. If it is determined after reasonable investigation that an unauthorized switch, as defined by N.J.A.C. 14:10-11.1, has occurred, the Board or its designees will issue a notice indicating that the customer is entitled to absolution from the charges incurred during the first 30 days after the unauthorized TSP switch occurred, and neither the authorized nor unauthorized TSP may pursue any collection against the customer for those charges;

v. If the customer has incurred charges for services provided for more than 30 days after the unauthorized TSP switch, the unauthorized TSP shall forward the billing information for such services to the authorized TSP, which may bill the customer for such services using either of the following means:

(1) The amount of the charge may be determined by a re-rating of the services provided based on what the authorized TSP would have charged the customer for the same services had an unauthorized switch not occurred; or

(2) The amount of the charge may be determined using a 50 percent proxy rate as follows: Upon receipt of billing information from the unauthorized TSP, the authorized TSP may bill the customer for 50 percent of the rate the unauthorized TSP would have charged the customer for the services provided. However, the customer shall have the right to reject use of this 50 percent proxy method and require that the authorized carrier perform a re-rating of the services provided, as described in (b)3v(1) above;

vi. If the unauthorized TSP received payment from the customer for services provided after the first 30 days after the unauthorized switch occurred, the obligations for payments and refunds provided for in this subsection shall apply to those payments; and

vii. If the Board or its designee determines after reasonable investigation that the TSP switch was authorized, the TSP may re-bill the customer for charges incurred; and

4. Reimbursement procedures where the customer has paid charges are as follows:

i. The procedures in this paragraph shall only apply after an unauthorized switch has occurred and the customer has paid charges to an allegedly unauthorized TSP;

ii. If the Board or its designee had determined after reasonable investigation that an unauthorized switch has occurred, it shall issue a notice directing the unauthorized carrier to forward to the authorized TSP the following:

(1) An amount equal to 150 percent of all charges paid by the customer to the unauthorized TSP; and

(2) Copies of any telephone bills from the unauthorized carrier to the customer;

iii. A copy of the notice under (b)4ii above shall be sent to the customer, the unauthorized TSP, and the authorized TSP;

iv. Compliance with (b)4ii and iii above does not preclude the Board from seeking additional administrative remedies where deemed appropriate;

v. Within 10 days of receipt of the amount provided for in (b)4ii(1) above, the authorized TSP shall provide a refund or credit to the customer in the amount of 50 percent of all charges paid by the customer to the unauthorized TSP. The customer has the option of asking the authorized TSP to re-rate the unauthorized carrier's charges based on the rates of the authorized TSP and, on behalf of the customer, seek an additional refund from the unauthorized TSP, to the extent that the re-rated amount exceeds the 50 percent of all charges paid by the customer to the unauthorized TSP. The authorized TSP shall also send notice to the Board Secretary and the Director of Customer Assistance that it has given a refund or credit to the customer;

vi. If an authorized TSP incurs billing and collection expenses in collecting charges from the unauthorized TSP, the unauthorized TSP shall reimburse the authorized TSP for reasonable expenses;

vii. If the authorized TSP has not received payment from the unauthorized TSP as required by (b)4v above, the authorized TSP is not required to provide any refund or credit to the customer. The authorized TSP shall, within 45 days of receiving the notice or decision as described in (b)4ii and iii above, inform the customer and the Director of Customer Assistance if the unauthorized TSP has failed to forward to it the appropriate charges, and also inform the customer of his or her right to pursue a claim against the unauthorized TSP for a refund of all charges paid to the unauthorized TSP; and

viii. Where possible, the properly authorized TSP shall reinstate the customer in any premium program in

which that customer was enrolled prior to the unauthorized switch, if the customer's participation in that program was terminated because of the unauthorized switch. If the customer has paid charges to the unauthorized TSP, the properly authorized TSP shall also provide or restore to the customer any premiums to which the customer would have been entitled had the unauthorized switch not occurred. The authorized TSP must comply with the requirements of this paragraph regardless of whether it is able to recover from the unauthorized TSP any charges that were paid by the customer.

(c) All investigation procedures are as follows:

1. When an executing or primary TSP is informed of an unauthorized TSP switch by a customer, it shall immediately notify both the authorized and allegedly unauthorized TSP of the incident. This notification shall include the identity of both TSPs;

2. Any TSP, executing, authorized, or allegedly unauthorized, that is informed by a customer or an executing TSP of an unauthorized TSP switch can attempt to resolve the complaint to the satisfaction of the customer. If the TSP is unable to resolve the complaint, the TSP must send the complaint to the Board. The complaint must include the name, address and telephone number of the customer; the date the alleged unauthorized switch occurred; and the name of the alleged unauthorized TSP to which the customer was switched; the type of service switched; and any evidence to substantiate the TSP's position. Nothing in this subsection shall prevent an allegedly unauthorized TSP from resolving the complaint by providing the customer with all relief to which the customer is entitled under this subchapter;

3. Upon receipt of an unauthorized TSP switch complaint, the Board or its designee will notify the allegedly unauthorized TSP of the complaint and require the TSP to remove all unpaid charges for the first 30 days after the slam from the customer's bill pending a determination of whether an unauthorized switch, as defined by N.J.A.C. 14:10-11.1, has occurred, if it has not already done so; and

4. Not more than 30 days after notification of the complaint, the alleged unauthorized TSP shall provide to the Board or its designee a copy of any valid proof of verification of the TSP switch. This proof of verification shall contain clear and convincing evidence of a valid authorized TSP switch. The Board or its designee will determine whether an unauthorized switch has occurred using such proof and any evidence supplied by the customer. Failure by the submitting TSP to respond or provide proof of verification will be presumed to be clear and convincing evidence of a violation.

(d) (Reserved)

(e) Each TSP shall, upon request, submit to the Board and the Division three copies of a report of all slamming com-

plaints received, and the resolution thereof indicating the customers' 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.

Amended by R.2003 d.355, effective September 2, 2003.

See: 34 N.J.R. 3200(a), 35 N.J.R. 4126(a).

Rewrote (e) through (g).

Recodified from N.J.A.C. 14:10-11.5 and amended by R.2007 d.276, effective September 17, 2007.

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

Rewrote the section.

Former N.J.A.C. 14:10-11.8, Penalties for violations, recodified to N.J.A.C. 14:10-11.10.

14:10-11.9 TSP freezes

(a) A TSP freeze is an additional restriction that prevents a switch in an end-user's primary TSP without the end-user's verified authorization for both of the following:

1. The lifting of the TSP freeze; and
2. The switch itself.

(b) All TSPs responsible for implementing changes of primary TSPs shall offer a plan to freeze and lift the freeze of the customer's local, intraLATA toll or interLATA primary TSPs upon the customer's request.

(c) Customer requests for the imposition or lifting of primary TSP freezes shall be honored without charge.

(d) A TSP freeze applies to each end-user, regardless of the customer of record.

(e) An end-user's authorization to lift a freeze does not satisfy the requirement for a separate verified authorization to make a TSP switch. Therefore, if an end-user has a TSP freeze in effect, both of the following shall apply:

1. A submitting TSP that fails to obtain both authorizations required under (a) above shall be subject to penalties or other enforcement under this subchapter; and

2. A primary TSP that allows a submitting TSP to switch the end-user's TSP without both verifications required under (a) above shall also be subject to penalties or other enforcement under this subchapter.

(f) All TSPs responsible for the imposition or lifting of primary TSP freezes shall, in addition to complying with this chapter, also comply with FCC regulations at 47 CFR 64.1190, preferred carrier freezes, incorporated herein by reference, as amended or supplemented. As of September 17, 2007, the substance of those regulations is as follows:

1. A primary TSP freeze (or freeze) prevents a change in a customer's primary TSP selection unless the customer gives the TSP from whom the freeze was requested his or her express consent to make the switch. All TSPs responsible for the imposition or lifting of primary TSP freezes shall comply with the provisions of this section;

2. All TSPs responsible for the imposition or lifting of primary TSP freezes shall offer freezes on a nondiscriminatory basis to all customers, regardless of the customer's TSP selections;

3. Primary TSP freeze procedures, including any solicitation, shall clearly distinguish among telecommunications services (for example, local exchange, intraLATA toll, and interLATA toll) subject to a primary TSP freeze. The TSP offering the freeze shall obtain separate authorization for each service for which a primary TSP freeze is requested;

4. The following apply to solicitation and imposition of primary TSP freezes:

i. All TSP provided solicitation and other materials regarding primary TSP freezes shall include:

(1) An explanation, in clear and neutral language, of what a primary TSP freeze is and what services may be subject to a freeze; and

(2) A description of the specific procedures necessary to lift a primary TSP freeze; an explanation that these steps are in addition to the verification rules in N.J.A.C. 14:10-11.3 for changing a customer's primary TSP selections; and an explanation that the customer will be unable to make a change in TSP selection unless he or she lifts the freeze;

ii. No TSP responsible for the imposition or lifting of primary TSP freezes shall implement a primary TSP freeze unless the customer's request to impose a freeze has first been confirmed in accordance with one of the following procedures:

(1) The TSP responsible for the imposition or lifting of primary TSP freezes has obtained the customer's written or electronically signed authorization in a form that meets the requirement of (f)4iii below;

(2) The TSP responsible for the imposition or lifting of primary TSP freezes has obtained the customer's electronic authorization, placed from the telephone number(s) on which the primary TSP freeze is to be imposed, to impose a primary TSP freeze. The electronic authorization shall confirm appropriate verification data (for example, the customer's date of birth or social security number) and the information required in (f)4iii(2)(A) through (C) below. TSPs electing to confirm primary TSP freeze orders electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a customer to a voice response unit, or similar mechanism that records the required information regarding the primary TSP freeze request, 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 preferred TSP freeze and confirmed the

appropriate verification data (for example, the customer's date of birth or social security number) and the information required in (f)4iii(2)(A) through (C) below. The independent third party shall not be owned, managed, or directly controlled by the TSP or the TSP's marketing agent; not have any financial incentive to confirm primary TSP freeze requests for the TSP or the TSP's marketing agent; and 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 a primary TSP freeze;

iii. A TSP responsible for the imposition or lifting of primary TSP freezes may accept a customer's written or electronically signed authorization to impose a freeze on his or her primary TSP selection. Written authorization that does not conform with this section is invalid and shall not be used to impose a primary TSP freeze;

(1) The written authorization shall comply with N.J.A.C. 14:10-11.5 concerning the form and content for letters of agency;

(2) At a minimum, the written authorization shall be printed with a readable type of sufficient size to be clearly legible and shall contain clear and unambiguous language that confirms:

(A) The customer's billing name and address and the telephone number(s) to be covered by the primary TSP freeze;

(B) The decision to place a primary TSP freeze on the telephone number(s) and particular service(s). The authorization shall contain separate statements regarding the particular selections (for example, for local exchange, intraLATA toll, and interLATA toll service) to be frozen;

(C) That the customer understands that she or he will be unable to make a change in TSP selection unless she or he lifts the primary TSP freeze for that particular service; and

5. All TSPs responsible for the imposition or lifting of primary TSP freezes shall, at a minimum, offer customers the following procedures for lifting a primary TSP freeze:

i. A TSP responsible for the imposition or lifting of primary TSP freezes shall accept a customer's written or electronically signed authorization stating her or his intent to lift a preferred TSP freeze; and

ii. A TSP responsible for the imposition or lifting of primary TSP freezes shall accept a customer's oral authorization stating her or his intent to lift a primary TSP freeze and shall offer a mechanism that allows a submitting TSP to conduct a three-way conference call with the TSP administering the freeze and the customer in order to lift a freeze. When engaged in oral authorization to lift a primary TSP freeze, the TSP administering the freeze

shall confirm appropriate verification data (for example, the customer's date of birth or social security number) and the customer's intent to lift the particular freeze for a particular service (for example, intraLATA, interLATA, local).

Amended by R.2003 d.355, effective September 2, 2003.

See: 34 N.J.R. 3200(a), 35 N.J.R. 4126(a).

In (d), inserted "or electronically" preceding "signed authorization" in ii(1), iii and 5i.

Recodified from N.J.A.C. 14:10-11.6 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 "Primary TSP freezes". Rewrote the section.

Former N.J.A.C. 14:10-11.9, Scope of authority, recodified to N.J.A.C. 14:10-11.10.

Administrative correction.

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

14:10-11.10 Enforcement

(a) TSPs shall adhere to a standard of due care when submitting and processing switches of primary TSPs. Adherence to this standard means that the TSP has taken all reasonable steps necessary to ensure compliance with this subchapter. There shall be a rebuttable presumption that any violation of this standard is "willful or intentional." The burden of proof shall be upon the submitting or executing TSP to rebut the presumption.

(b) Any TSP determined by the Board, after notice and hearing, to have violated this subchapter, or a Board order adopted pursuant to N.J.S.A. 56:8-1 et seq., or to have violated any Federal law or regulation, relating to switches in primary telecommunications service providers, shall be subject to the following, as applicable:

1. Suspension or revocation of the TSP's authority to conduct business in the State;
2. Civil penalties within the following ranges:
 - i. Up to \$7,500 for the first violation; and
 - ii. Up to \$15,000 per violation for each subsequent violation associated with a specific access line; and/or
3. Such other remedies, including, but not limited to, the ordering of restitution to customers as the Board deems appropriate.

(c) In the event the State owes money to the TSP, the amount of the penalty, when finally determined, may be deducted from any sums due and owing.

(d) All monies recovered from a civil or administrative penalty imposed pursuant to this section shall be paid into the State Treasury to the credit of the General Fund.

(e) In the event that the Board suspends or revokes the authority of a TSP to conduct business in this State, the TSP which controls access, and/or the TSP responsible for call completion, shall immediately discontinue the revoked TSP's access to the facilities of any underlying TSP, and the TSP responsible for billing the customers of the revoked TSP shall

notify each affected customer, advising that each customer has 30 days to choose another TSP.

(f) The Board may investigate, upon its own initiative or upon complaint, any allegation of a violation of this subchapter.

(g) The Board may compel the attendance of witnesses, compel the production of documents, and issue subpoenas in connection with any investigation of an alleged violation of this subchapter.

(h) The remedies provided for in this subchapter are in addition to any other remedies available under any Board order, rule, or finding; and in addition to remedies provided by any other applicable law.

Recodified from N.J.A.C. 14:10-11.8 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 "Penalties for violations". Rewrote the section.

14:10-11.11 Determination of penalties within statutory ranges

(a) Each violation as it relates to each separate access line shall be a separate and distinct violation, for which a separate penalty may be assessed. For example, if a customer has two telephone lines, and a TSP improperly switches the customer's primary TSP for long distance service on both lines, the TSP is liable for two violations. Similarly, if a customer has one telephone line, and a TSP switches both intraLATA and long distance service improperly on that telephone line, the TSP is liable for two violations.

(b) The Board may, in its discretion, adjust a penalty determined in accordance with this section, on the basis of one or more of the following factors:

1. The nature, circumstances and gravity of the violation, including the individual and cumulative effect on customers;
2. The degree of the TSP's culpability;
3. Any history or pattern of prior violations;
4. The prospective effect of the penalty on the ability of the TSP to conduct business;
5. Any good faith effort on the part of the TSP in attempting to achieve compliance;
6. The TSP's ability to pay the penalty; and/or
7. Any other factors the Board determines to be appropriate.

(c) The rights, remedies, and prohibitions accorded the Board under this chapter are in addition to and cumulative of any right, remedy or prohibition accorded by the common law or any statute of this State. Nothing in this subchapter shall be construed to deny, abrogate or impair any such common law or statutory right, remedy or prohibition.

(d) Neither P.L. 1998, c. 82, nor this subchapter, shall be construed in any way to limit the authority and power of the Attorney General and the Division of Consumer Affairs in the Department of Law and Public Safety to enforce any other sections of the Consumer Fraud Act, P.L. 1960, c. 39 (N.J.S.A. 56:8-1 et seq.) or any other applicable law, rule or regulation in connection with the activities of telecommunications service providers, even if such activities involve slamming. Nothing in this subchapter shall be construed in any way to abrogate a customer's private right of action, pursuant to N.J.S.A. 56:8-19.

New Rule, recodified in part from N.J.A.C. 14:10-11.9 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 "Scope of Authority". Rewrote the section.

APPENDIX

(RESERVED)

Amended by R.2003 d.355, effective September 2, 2003.

See: 34 N.J.R. 3200(a), 35 N.J.R. 4126(a).

Repealed 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 Slamming Activity Report".

SUBCHAPTER 12. MASS MIGRATION UPON TSP DEPARTURE FROM A SERVICE TERRITORY

14:10-12.1 Definitions

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

"Acquiring TSP" means the telecommunications service provider (TSP) that has entered into an agreement with the departing TSP to acquire the departing TSP's end user base.

"Alternative TSP" means a TSP, other than the acquiring TSP, which has been selected by an end user of the departing TSP to be the end user's service provider after the departure of the departing TSP.

"Competitive local exchange carrier" or "CLEC" has the same meaning as is assigned to this term N.J.A.C. 14:10-1.2.

"Cutover coordinator" means a person designated by the acquiring, or alternative, TSP, who is responsible for the line-by-line transfer of accounts from the departing TSP to the acquiring or alternative TSP. The cutover coordinator works under the direction of the project manager, as defined in this section.

"Cut-off date" means the date by which end users must select an alternative TSP or else be automatically transferred to the acquiring TSP, if there is one.

"Departing TSP" means the telecommunications service provider (TSP) that is exiting its New Jersey service territory in whole or in part.

"Departure date" means the date on which the departing TSP ceases to provide service.

"End user" has the same meaning as is assigned to this term in N.J.A.C. 14:3-1.1.

"Firm order confirmation" or "FOC," also known as local service request confirmation (LSR), means a notification from the departing TSP or from a network service provider to the acquiring TSP that the LSR, as defined in this section, is correct and stating the scheduled completion date for the service activity requested in the LSR.

"Full facilities-based" means a TSP that uses its own facilities, that is, local loop, transport and switch(es), to provide telecommunications service to end users.

"Incumbent local exchange carrier" or "ILEC" has the same meaning as is assigned to this term in N.J.A.C. 14:10-1.2.

"Local exchange carrier" or "LEC" has the same meaning as is assigned to this term in N.J.A.C. 14:10-1.2.

"Local service request" or "LSR" means an electronic or written communication that a TSP must send to a network service provider and/or a departing TSP to request a transfer of, or a change to, an end user's existing service, including a change that involves the porting of a telephone number.

"Migration manager" means a person designated by the departing TSP to coordinate end user migrations between the departing TSP and the acquiring TSP or the alternative TSP. The migration manager may be the project manager, as defined in this section, for the departing TSP.

"North American Numbering Plan Administrator" or "NANPA" means the company selected by the Federal Communications Commission to consult with and provide assistance to regulatory authorities and national administrators to ensure that numbering resources are used in the best interests of all participants in the North American Numbering Plan.

"National Emergency Number Association" or "NENA" means the membership association whose mission is to promote research, planning, training and education to promote the implementation and improvement of 9-1-1 service.

"Network service provider" or "NSP" means a TSP that provides the network platform by which service is delivered to an end user.

"NXX code" has the same meaning as is assigned to this term in N.J.A.C. 14:10-3.1.

"Program manager" means the person responsible for coordinating a mass migration, monitoring compliance with this