

14:18-1.1 Scope of regulations

(a) These regulations are promulgated in accordance with the authority provided the Office of Cable Television, Board of Public Utilities, under N.J.S.A. 48:5A-1 et seq. to regulate cable television corporations in the public interest.

(b) The purpose and intent of these regulations is to enforce the statutory mandate of the Legislature, which directs the Office of Cable Television, Board of Public Utilities, to promulgate rules and regulations necessary to effect the purposes of the act.

(c) These regulations apply to:

1. Cable television companies which own, control, operate or manage a cable television system;
2. Municipalities, cities and counties where applicable.

(d) These regulations do not limit the duties now imposed upon these companies but merely serve to define such duties and to establish standards for their performance.

Amended by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).

Added (d).

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

Law Review and Journal Commentaries

Multiple Channels of Cable Service Refranchising. Robert G. Goode, 148 N.J.Law. 16 (Mag.) (Sept./Oct. 1992).

Case Notes

Municipal ownership and operation of a cable television system is authorized by the Cable Television Act. Atty.Gen.F.O.1978, No. 5.

14:18-1.2 Definitions

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

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

“Board” means the Board of Public Utilities, as defined by N.J.S.A. 48:1-1 et seq.

“Cable communications system” or “cable communications service” means any communications service other than cable television reception service delivered through the facilities of a cable television system and for which charges in addition to or other than those made for cable television reception service are made or proposed to be made.

“Cable home wiring” means the internal wiring contained within the premises of a customer which begins at the demarcation point. Cable home wiring includes passive splitters on the customer’s side of the demarcation point, but

does not include any active elements such as amplifiers, converters or decoder boxes or remote control units.

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

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

“Cable television reception service” means the simultaneous delivery through a cable television system of the signals of television broadcast stations to members of the public subscribing to such service, which service may include additional nonbroadcast signals delivered as part of the service with no additional charge.

“Cable television system” means any facility within this State which is operated or intended to be operated to perform the service of receiving and amplifying the signals broadcast by one or more television stations and redistributing such signals by wire, cable, microwave transceiver, satellite or other device or means for accomplishing such redistribution to members of the public who subscribe to such service, or distributing through its facility any television signals whether broadcast or not; or any part of such facility. The term “facility” as used in this section is limited to the optical spectrum wavelengths, bandwidth, or other current or future technological capacity used for the transmission of video programming directly to subscribers.

“Certificate of approval” means a certificate issued, or which may be issued, by the Board upon the recommendation of the Director pursuant to N.J.S.A. 48:5A-1 et seq.

“Class I, Class II, Class III and Class IV cable television channels” means signaling paths as defined in Subpart A, Section 76.5, subsections (t), (u), (v) and (w) respectively, of the FCC rules and regulations adopted on February 2, 1972, as amended.

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

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

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

“Demarcation point” means:

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

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

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

“Director” means the Director of the Office of Cable Television.

“Distribution plant” is the hardware, wires, electronics, equipment and other instrumentalities which deliver cable television service to the drop line feeding an individual customer’s home.

“FCC” means the Federal Communications Commission.

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

“Hearing impaired individual” means an individual who, because of an injury to, disease of, or defect in the inner, middle or outer ear, or any combination thereof, has suffered a loss of hearing acuity such that the individual cannot receive linguistic information without amplification, dubbing or captions.

“MDU” means multiple dwelling unit.

“MVPD” means multichannel video programming distributor.

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

“Normal operating conditions” means those service conditions which are within control of the cable television operator. Those conditions not within the control of the cable television operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions. Those conditions which are ordinarily within control of the cable television operator, include, but are not limited to, special

promotions, pay-per-view events, rate increases, channel and/or service alterations, regular peak or seasonal demand periods, and maintenance or upgrade of the cable television system.

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

“Outage” means the total loss of audio or visual portion of any level of cable television service for which the cable television company imposes a separate charge and which affects the cable television company’s distribution plant.

“Person” means any individual or group of individuals or any agency or instrumentality of the State of New Jersey or of any of its political subdivisions; but this definition shall not include a telephone, telegraph or electric utility company regulated by the Board where it merely leases or rents or otherwise provides to a cable television company wires, conduits, cables or pole space used in the redistribution of broadcast signals to or toward customers of such cable television company.

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

“Preliminary assessment of denial” means a decision by the Office of Cable Television to schedule a hearing on a Certificate of Approval application pursuant to N.J.S.A. 48:5A-16(b) and 47 U.S.C. § 546(c)(1).

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

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

“Proposal phase” means any proceedings subsequent to the time under these rules when a petition for renewal of a Certificate of Approval is filed with the Board of Public Utilities.

“Renewal” means formal extension or continuation by the Board of any cable television operator’s franchise beyond the duration specified by the existing Certificate of Approval.

“Request for Proposal” means a duly adopted municipal consent ordinance incorporating all terms and conditions for renewal, including but not limited to, any generally imposed obligations under state statute and regulations.

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

Amended by R.1986 d.376, effective September 8, 1986.
See: 18 N.J.R. 619(a), 18 N.J.R. 1831(a).

Added definitions “distribution plant” and “outage”.
Amended by R.1987 d.70, effective January 20, 1987.
See: 18 N.J.R. 1181(a), 19 N.J.R. 238(a).

Added definitions “franchising authority,” “operator’s proposal,” “preliminary assessment of denial,” “preproposal phase,” “renewal” and “request for proposal.”

Amended by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).

Amended “cable communication system” and “Classes I, II, III, IV cable television channels;” deleted “certificate of compliance.”

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

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

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

Rewrote the section.

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

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

Added “Complaint”.

Amended by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

In definition “Cable television system”, substituted “is limited to the optical spectrum wavelengths, bandwidth, or other current or future technological capacity used for the transmission of video programming directly to subscribers” for “includes all real property, antennas, towers, poles, wires, cables, conduits, amplifiers, instruments, appliances, fixtures and other personal property used by a cable television company in providing service to its customers”.

Case Notes

Municipal ownership and operation of a cable television system is authorized by the Cable Television Act. Atty.Gen.F.O.1978, No. 5.

SUBCHAPTER 2. PLANT

14:18-2.1 Plant construction

(a) Every cable television company shall construct and install its facilities in accordance with the applicable provisions of the National Electrical Safety Code, and subsequent amendments thereto, the National Electrical Code, and subsequent amendments thereto, as well as all Federal, State, and local laws, and any pole, conduit, or trench licensing agreements with utilities or other managers of rights-of-way.

(d) Any terms not defined by (a) above shall be interpreted in a manner consistent with established Board policies and orders.

(e) The Board shall from time to time, designate those utility account numbers which are appropriate sources of data.

Emergency New Rule, R.1985 d.323, effective May 30, 1985 (expires July 29, 1985).

See: 17 N.J.R. 1589(b).

Readopted New Rule, R.1985 d.425, effective July 29, 1985.

See: 17 N.J.R. 1589(b), 17 N.J.R. 2047(b).

Amended subsections (c) and (e).

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

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

Inserted references to third party attachers throughout.

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

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

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

14:18-2.11 Calculation of duct and conduit rent

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

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

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

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

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

14:18-2.12 Imputation of rates; modification costs

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

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

14:18-2.10 Rate changes and disputes

(a) In the event of a dispute over pole attachment or conduit rental rates, any party to a pole attachment agreement under N.J.A.C. 14:18-2.9 or conduit rental under N.J.A.C. 14:18-2.11 may petition the Board for a resolution of such dispute by filing a petition with supporting documentation in accordance with N.J.A.C. 14:17-6.1 through 6.5.

(b) In the event of a dispute over terms and conditions, any party to a pole attachment or conduit rental agreement may petition the Board for resolution.

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

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

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

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

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

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

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

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

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

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

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

SUBCHAPTER 3. CUSTOMER RIGHTS

14:18-3.1 Scope

It shall be the duty of every cable television company to furnish and maintain safe, adequate, economical, and efficient service.

Law Review and Journal Commentaries:

NYT Cable TV v. Homestead at Mansfield, Inc.: Assessing the Role of Cable Access Statutes. Gerard G. Brew, 15 Rutgers Computer & Tech. L.J. 103 (1989).

14:18-3.2 Requests for service

(a) Applications by a customer for the establishment of service may be made at the cable television company office either in person, by mail or by telephone. If the cable television company requires a written application, the same may be subsequently submitted to the customer for signature.

(b) Within 20 days of ordering service, a customer is entitled to one of the following:

1. Installation of service;
2. Cost estimate for line extension or nonstandard premises installation where applicable; or
3. If access has been denied by a landlord or property owner, a copy of a letter to the landlord or property owner requesting access; and

(c) In the event that a cable television operator cannot comply with (b) above, the cable television operator shall provide to the customer an explanation of why service cannot be provided within such time.

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

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

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

Amended by R.1991 d.78, effective February 19, 1991.
See: 22 N.J.R. 2890(a), 23 N.J.R. 612(a).

Maximum times set for installations.

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

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

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

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

Amended by R.2005 d.377, effective November 7, 2005.
See: 37 N.J.R. 1401(a), 37 N.J.R. 4292(a).

Added (g) and (h).

Amended by R.2007 d.154, effective May 7, 2007.
See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

In (d), substituted "schedule of all prices," for "tariff"; in (e), deleted "to" preceding "likely"; and deleted (g) and (h).

14:18-3.3 Customer information

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

(b) Each cable television company shall inform its customers, where peculiar or unusual circumstances prevail, as to the conditions under which sufficient and satisfactory service may be secured from its system.

(c) The cable television operator shall provide prospective customers, and existing customers upon any changeover to a new type of equipment, with a written description of any auxiliary equipment necessary to receive cable television service, such as converters or remote control units, required for service with an explanation of how such equipment interfaces with customer owned equipment such as VCR's, remote control units, "cable ready" sets, etc.

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

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

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

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

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

Substituted references to customer for subscriber throughout.

Amended by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

In (d), substituted "current schedule of all prices," for "tariff containing all".

14:18-3.4 Information on company's schedule of prices, rates, terms and conditions

(a) Upon request, the cable television operator shall provide, at no charge, a complete copy of the cable television company's current schedule of all prices, rates, charges, and services.

(b) The cable television company shall post a notice in a prominent location in its local business office that a complete copy of its schedule of all prices, rates, charges, and services is available for inspection. The notice will specifically identify the location of the schedule, which shall be placed in a prominent location within the customer service area of the local business office.

(c) Upon the request of any customer or applicant, each cable operator shall provide an explanation, in non-technical terms, of the service packages, rates, prices, charges and provisions applicable to the services furnished or available to such customer or applicant, and shall take reasonable steps to provide any information and assistance necessary to enable the customer or applicant to obtain the most affordable service conforming to the needs of such customer or applicant.

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

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

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

Added (c) and (d).

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

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

Rewrote (b).

Amended by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

Section was "Tariff information". In (a), substituted "current schedule of all prices," for "tariff showing all"; in (b), substituted "schedule of all prices," for "tariff showing all" and "schedule" for "tariff"; in (c), inserted "prices,"; and in (d), substituted "schedule of prices, rates, terms and conditions" for "rate schedule" throughout.

14:18-3.5 Outage credit

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

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

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

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

4. The cable television company shall not be liable to a customer for any indirect or consequential damages resulting from the outage unless the cable television company expressly agrees to such liability.

5. In order to obtain a credit, customers must notify the cable television company by phone or in writing within 30 days of any such outage, or else within 30 days notify the Office or other designated complaint officer. A customer who contacts the cable television company during an outage requesting a credit shall be entitled to receive credit for service based on that contact, if applicable.

6. A cable television company may, at its option, provide a customer with a rebate rather than a credit on the customer's bill to fulfill the requirements of this subsection.

(b) A cable television company shall not be required to provide a credit or rebate under (a) above if:

1. The cable television company can demonstrate that restoration of service was not possible within the three-

hour period due to factors beyond the reasonable control of their company; and

2. If service is restored within three hours after the restoration of service becomes possible.

(c) Any cable television company may petition the Board for a waiver of providing credit required by (a) above in the event it can clearly demonstrate that such credits would create an undue hardship on the cable television company.

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

(e) Intermittent or cumulative service interruptions and other service related complaints are to be analyzed in accordance with the complaint procedure pursuant to N.J.A.C. 14:17-6.5.

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

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

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

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

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

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

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

Amended by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

In (a)5, substituted "of" for "after" and inserted the last sentence.

14:18-3.6 Access to company representatives

Customer phone calls shall be answered by a representative or agent of the cable television company 24 hours a day. Such representative or agent shall be able to contact appropriate personnel of the cable television company in the event an emergency situation exists. If used by the cable system, an Automatic Response Unit (ARU) must allow an escape option by which a customer can speak to the next available operator.

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

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

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

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

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

Substituted "customer" for "subscriber" throughout.

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

(a) All bills shall show the following:

1. The name, address, and telephone number of the cable television company;
2. Identification of each service for which a separate charge is imposed and the rate or price for each service;
3. Identification of each component for all service packages and the rate or price for each component;
4. The amount due during the current period;
5. The amount past due;
6. The date by which payment is due;
7. Any appropriate credits to the bill;
8. Any separate charges for equipment provided by the cable television company;
9. A full itemization of any other separate fees or charges including, but not limited to, any Form 1235 add-on fees;
10. The period of service covered by current charges on the bill;
11. The late charge rate, if any;
12. The amount of accumulated late charges;
13. Periodic interest credits on deposits held by the cable television company pursuant to N.J.A.C. 14:18-4.6 and 4.7; and
14. The number of months that a promotional price is in effect, if any, and the date on which the promotion is scheduled to end.

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

(c) Each cable television company shall keep a record of each customer's account in such a manner as will permit computation of the bill for any billing period occurring within three years.

(d) Prior to introduction of a new billing format pursuant to this section, a cable television operator may submit a sample for review and approval by the Office.

(e) Upon change in billing format, each cable television company shall submit a sample form of bill to the Office of Cable Television.

(f) In lieu of the requirements of (a)3 above, a cable television company may provide to each customer the information required in (a)3 above at least every other month and no less than six times a year, as a bill insert, bill stuffer, separate

mailer or on the front or back of the bill. Such notice shall be provided in clear and conspicuous language, font and color.

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

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

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

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

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

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

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

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

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

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

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

Added (f) and (g).

Amended by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

In (a)2 and (a)3, inserted "or price"; in (a)9, substituted "A full itemization of any" for "Any" and inserted "or charges including, but not limited to, any Form 1235 add-on fees"; in (a)12, deleted "and" following "charges;"; in (a)13, substituted "; and" for a period at the end of the sentence; added (a)14; in (e), substituted "Upon" for "Once a year on May 1, or upon"; in (f), deleted "or" preceding "separate mailer" and added "or on the front or back of the bill" and ", font and color"; and in (g)1, substituted "bill stuffer," for "or" and inserted "or on the front or back of the bill".

14:18-3.8 Method of billing

(a) Bills for cable television service shall be rendered monthly, bi-monthly, quarterly, semi-annually or annually and shall be prorated upon establishment and termination of service. In unusual credit situations, bills may be rendered at shorter intervals.

(b) Cable television seasonal service may be billed in accordance with reasonable terms and conditions of service set forth in the filed schedule of prices, rates, terms and conditions.

(c) A cable television company may, under uniform non-discriminatory terms and conditions, require payment, in advance, for a period not to exceed that for which bills are regularly rendered, as specified in its applicable filed schedule of prices, rates, terms and conditions. Any such advance payment for a greater period shall reflect appropriate discount

for the additional period involved. Unless otherwise provided for in the applicable filed schedule of prices, rates, terms and conditions, initial and final bills shall be prorated as of the date of the initial establishment and final termination of service.

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

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

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

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

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

Added (d).

Amended by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

Substituted "schedule of prices, rates, terms and conditions" for "tariff" throughout; and in (c), deleted the last sentence.

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

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

(b) Prior to disconnection for non-payment, a customer must receive 15 days' written notice from the cable television company. Such notice must be mailed separately and not as part of the periodic bill. Such notice shall not be issued until 15 days beyond the due date on the previous bill.

(c) A new notice shall be served by the cable television company each time the cable television company intends to discontinue service for nonpayment of a bill.

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

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

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

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

(h) By November 5, 2005, and annually thereafter, each cable television company shall notify all residential customers that, upon written request, notice of disconnection of service will be sent to a designated third party as well as to

the customer. Once a customer has made a third party designation, notification of this provision need no longer be provided to that customer. After the initial notice, notice of this provision may be provided as part of the annual notices required by N.J.A.C. 14:18-3.18.

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

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

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

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

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

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

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

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

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

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

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

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

Added (h).

Amended by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

In (g), inserted "agreement".

14:18-3.10 Basis for restoration of discontinued services

Service shall be restored upon proper application when the conditions under which such service was discontinued are corrected, and upon the payment of all proper charges due from the customer provided in the cable television company's schedule of prices, rates, terms and conditions if the Office so directed when a complaint involving such matter is pending before it.

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

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

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

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

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

Amended by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

Deleted "tariff of the" preceding "cable television", and inserted "company's schedule of prices, rates, terms and conditions" for "company".

Case Notes

Provision of the Cable Television Act requiring cable companies to indemnify building owners for any damage caused by installation, operation, or removal of cable television facilities could not be read as actually requiring payment of compensation to owners by cable television companies for rights of access and installation; wording clearly indicated that legislature was referring to actual physical damage caused to property by cable installation and not to compensation for taking of property. *NYT Cable TV v. Homestead at Mansfield, Inc.*, 111 N.J. 21, 543 A.2d 10 (1988).

Validity of regulation must be challenged in the Appellate Division; regulation history. *Ocean Cablevision Associates v. Hovbilt, Inc.*, 210 N.J. Super. 626, 510 A.2d 308 (Law Div. 1986).

14:18-3.11 Disputes

(a) A cable television company shall not discontinue service because of nonpayment of bills in cases where a charge or service is in dispute, provided a request is made to the Office by the customer for an investigation of the disputed charge or service, and, in the case of a disputed bill, the undisputed charges are paid to the cable television company and a check in the amount of the disputed charges is placed with an escrow agent designated by the Office.

(b) In such cases, the cable television company shall notify the customer that unless steps are taken to invoke formal or informal action by the Office within five days, service will be discontinued for nonpayment.

Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).
Amended by R.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

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

14:18-3.12 Service call scheduling

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

(b) If the cable television operator is unable to keep the scheduled appointment, the cable television operator shall inform the customer no later than the close of business on the business day before the appointment, under normal operating conditions, and the appointment shall be rescheduled as necessary within 24 hours, or at a time which is convenient for the customer.

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

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

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

Added (c).

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

Rewrote the section.

Amended by R.2007 d.154, effective May 7, 2007.
See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

In (b), inserted "no later than the close of business on the business day before the appointment, under normal operating conditions,;" and in (d), inserted "cable television company's schedule of prices, rates," and deleted "in the company's tariff" at the end of the paragraph.

14:18-3.13 Prompt restoration standards

(a) All cable television operators shall dispatch personnel to begin corrective action within two hours of notification of any total loss of service affecting five or more contiguous customers within the cable system.

1. In situations where a system experiences multiple simultaneous or near-simultaneous outages due to weather or other causes beyond the cable television operator's control, the cable television operator shall make every reasonable attempt to respond to and restore the multiple outages as soon as possible.

(b) In situations where it is not practicable to respond for reasons of safety or access to equipment, the cable television company shall respond as soon as the situation would allow.

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

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

(e) For purposes of this rule, contiguous customers are those customers residing on the same streets or in the same neighborhood or geographic area of the system.

New Rule, R.1991 d.298, effective June 17, 1991.
See: 23 N.J.R. 682(a), 23 N.J.R. 1961(b).
Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Substituted references to cable television operators for references to operators throughout; in (a), substituted "All" for "For systems over 10,000 subscribers, the" at beginning of the introductory paragraph, and

substituted a reference to cable television operators for a reference to system operators in 1; in (b), substituted a reference to cable television companies for a reference to companies; deleted a former (c); recodified former (d) through (f) as (c) through (e); and in the new (d), substituted a reference to reasonable control for a reference to control.

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

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

Substituted "customers" for "subscribers" throughout.

14:18-3.14 Availability of special equipment

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

1. A parental lock to allow customer blocking of a specified cable service or channel as required by 47 U.S.C. § 544(d)(2); and

2. Devices to insure adequate access to cable television service for hearing-impaired persons pursuant to 47 U.S.C. § 543 (e)(2).

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

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

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

Deleted a former (a)1 and renumbered the remainder.

Administrative change.

See: 28 N.J.R. 4591(b).

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

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

In (a), changed U.S.C. references throughout.

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

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

Substituted "customer" for "subscriber" throughout.

14:18-3.15 Trial and promotional services

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

(b) Cable television operators shall maintain records of all such trial services for inspection by the Office for a period of three years and shall provide notice to the Office prior to the offering of such trial services clearly outlining the terms and scope of the offering.

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

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

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

In (a), substituted a reference to cable television operators for a reference to operators; and rewrote (b).

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

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

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

Amended by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

In (a), substituted "price" for "rate"; in (b), deleted "at least 30 days"; and in (b) and (c), substituted "three years" for "one year".

14:18-3.16 Notice of price change

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

1. A cable television company implementing a change in its prices shall file with the Office revised schedule of prices, rates, terms and conditions sheets reflecting any price changes where there is an increase in prices, and shall individually notify each municipality in its service area and each affected customer at least 30 days prior to the effective date. Price decreases shall require advanced notification to the Office, the cable television company's customers and affected municipalities.

2. The notice requirements of (a)1 above are not applicable to limited time promotional activities provided the cable television company maintains a file for public inspection showing the nature of the promotional activity, the prices to be charged, and the time period of the promotional activity.

Amended by R.1991 d.79, effective February 19, 1991.

See: 22 N.J.R. 2892(a), 23 N.J.R. 613(a).

Permits the waiver of notification requirements in event of a rate decrease, does not allow a waiver of compliance for rate increase.

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

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

In (a)1 substituted "30 days" for "35 days".

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

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

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

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

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

Amended by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

Section was "Notice of rate change". In introductory sentence of (a), substituted "prices" for "rates"; in (a)1, substituted "prices" for "rates", "schedule of prices, rates, terms and conditions" for "tariff", "price" for "rate" throughout, "prices, and shall individually notify each municipality in its service area and each affected customer" for "rates" preceding "at least 30 days prior", and inserted "the cable television company's customers and affected municipalities" at the end of the paragraph; deleted (a)2; recodified former (a)3 as (a)2; and in new a(2), deleted "and 2" preceding "above", and substituted "prices" for "rates".

14:18-3.17 Notice of alteration in channel allocation

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

(b) Each cable television company shall notify its customers and affected municipalities of an alteration in channel allocation prior to the effective date for new additions which

do not require rate or price changes, deletions or cutbacks in other services. For all other changes, the cable television operator shall provide notice to the Office at least 30 days prior to the effective date and 30 days prior to the effective date to the customers and affected municipalities in a manner reasonably calculated to provide such information.

(c) The Office may relax the time for providing notification upon a showing by the cable television operator that the cable television operator has acted to provide the required notice at the earliest possible date and:

1. The cable television operator reasonably believes that timely compliance with this subsection might subject the cable television operator to penalties under State, Federal, or local law;
2. Timely compliance with this subsection is impossible due to the unforeseeable actions of third parties beyond the cable television operator's control;
3. The programming service has been discontinued or withdrawn by the provider in such a manner as to leave the cable television operator without sufficient time to comply; or
4. A substantial benefit to customers would be irretrievably lost.

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

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

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

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

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

Substituted "customers" for "subscribers" throughout.
Amended by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

In (a) and (b), inserted "or price"; and in (b), inserted "and affected municipalities".

14:18-3.18 Periodic notices to customers

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

1. Notice of all monthly service packages and corresponding rates available according to the customer's billing classification (for example, residential, commercial, hotel/motel);
2. The privacy notice as required by 47 U.S.C. § 551(a)(1) and N.J.S.A. 48:5A-56(b);
3. Notice of the advance payment discount if the cable television operator's filed schedule of prices, rates, terms and conditions provides for payments more than 30 days in advance, as required by N.J.A.C. 14:18-3.8(c);

4. Notice of the availability of devices for hearing impaired as required by N.J.A.C. 14:18-3.14(a)2; and

5. Notice of the availability of parental lock devices as required by N.J.A.C. 14:18-3.14(a)1 and 47 U.S.C. § 544(d)(2).

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

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

2. The complaint officer and the Office's toll free telephone number as required by N.J.S.A. 48:5A-26(c); and

3. Notice of the availability of senior citizens/disabled discounts in systems where offered, pursuant to N.J.A.C. 14:18-3.20.

(c) The form and content of such notices shall meet the requirements of the applicable State or Federal law specifying such; in all other instances, the notice shall reasonably convey enough information for consumers to make informed decisions.

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

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

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

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

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

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

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

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

Substituted references to customer for subscriber throughout.

Amended by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

In (a)3, substituted "schedule of prices, rates, terms and conditions" for "tariff"; deleted (a)4; recodified former a(5) and (a)6 as new (a)4 and (a)5; in b(2), substituted "; and" for a period at the end; and added b(3).

14:18-3.19 Interest on uncorrected billing errors

(a) Subscribers are entitled to credit with interest for any overpayments due to a billing error which are not refunded or corrected within two billing cycles after the subscriber notifies the cable television operator in writing.

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

Amended by R.1992 d.319, effective August 17, 1992.

See: 24 N.J.R. 1470(b), 24 N.J.R. 2925(a).

Deleted requirement for rounding up or down to the nearest half percent.

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

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

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

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

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

Rewrote (b); deleted (c).

Amended by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

In (a), deleted "simple" preceding "interest".

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

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

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

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

1. Provide at least 30 days advance notice prior to the effective date to each customer and municipality served; and
2. Provide at least 30 days advance notice prior to the effective date to the Office of Cable Television along with a revised schedule of prices, rates, terms and conditions showing any such changes.

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

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

1. Presenting a Pharmaceutical Assistance card and certifying that the customer is at least 62 years of age and that no more than one other person under the age of 62 resides in the same dwelling unit; or
2. Executing and notarizing a standard form of affidavit stating:
 - i. The customer's name and that he or she is at least 62 years of age;
 - ii. The customer's address and that he or she has been a permanent resident of this State for at least 30 days;
 - iii. That no more than one other person under the age of 62 resides in the same dwelling unit; and
 - iv. That the customer meets the income eligibility requirements established for Pharmaceutical Assistance to the Aged and Disabled under N.J.S.A. 30:4D-21, as amended and any such other limits as subsequently may be established by the Pharmaceutical Assistance to the Aged and Disabled program.

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

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

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

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

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

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

Substituted references to customer for subscriber throughout.

Amended by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

In (a)3 and (b)2, substituted "schedule of prices, rates, terms and conditions" for "tariff sheets"; and rewrote (d)2iv.

14:18-3.21 Avoidance of interruption; prompt restoration

Each cable television company shall exercise reasonable diligence to avoid interruptions, curtailments or deficiencies of service and, when such interruptions occur, service shall be restored as promptly as possible, consistent with safe practice.

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

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

14:18-3.22 Notice of planned interruptions

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

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

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

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

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

Substituted references to customer for subscriber throughout.

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

(a) The cost charged to customers by cable television operators to replace lost or stolen converters or other auxiliary equipment shall be in an amount not to exceed the actual cost or the cable television operator's replacement cost, whichever is greater, of the equipment at the time the equipment was installed in the customer's home.

(b) The cost charged to customers by cable television operators for damaged equipment shall not exceed the reasonable repair costs or actual replacement cost, whichever is lesser.

(c) A cable television company shall not charge a customer for any damage to converters or other auxiliary equipment which may have resulted from the design, operation or maintenance of the equipment or from normal wear and tear.

(d) In the event the cable television company seeks to impose a charge for a customer pursuant to this section, the cable television company shall give written notice to the customer of the amount sought and the reasons for the charge. The customer shall also be notified of the opportunity to refer the matter to the Office of Cable Television or the appropriate complaint officer pursuant to N.J.S.A. 48:5A-26.

(e) Cable television operators shall provide written notification to all new customers and customers receiving new or additional equipment of the rights and obligations of this section.

(f) The cable television operator's replacement cost may include normal postage, shipping and handling costs.

New Rule: R.1991 d.80, effective February 19, 1991.
See: 22 N.J.R. 2892(b), 23 N.J.R. 614(a).
Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

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

Substituted references to customers for subscribers throughout.

14:18-3.24 Late fees and charges

(a) In the event a cable television operator imposes an additional fee or charge or penalty to a customer for billing balances which are considered past due or late, the cable television operator shall clearly specify the amount of the fee, charge or penalty on the customer bill. The cable television company shall also specify the method of calculation of the fee, charge or penalty on the bill.

(b) A cable television operator shall not impose an additional fee, charge or penalties specified in (a) above on any account balance less than 30 days past due.

New Rule: R.1991 d.81, effective February 19, 1991.
See: 22 N.J.R. 2893(a), 23 N.J.R. 615(a).
Amended by R.1995 d.313, effective June 19, 1995.
See: 27 N.J.R. 873(a), 27 N.J.R. 2430(a).
Amended by R.2003 d.452, effective November 17, 2003.
See: 35 N.J.R. 100(a), 35 N.J.R. 5294(a).

Substituted references to customer for subscriber throughout.

Case Notes

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

14:18-3.25 Refunds and credits

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

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

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

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

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

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

(b) Cable television operators may require that home wiring (including passive splitters, connectors and other equipment used in the installation of home wiring) meets reasonable technical specifications, not to exceed the technical specifications of such equipment installed by the cable television operator; provided, however, that if electronic or physical harm is caused to the cable television system, the cable television operator may impose additional technical specifications to eliminate such harm. To the extent a customer's installation or rearrangement of wiring degrades the signal quality of or interferes with other customers' signals or causes electronic or physical harm to the cable television system, the cable television operator may discontinue service to that customer until such degradation or interference is resolved.

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

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

SUBCHAPTER 4. CABLE TELEVISION OPERATOR RIGHTS

14:18-4.1 Permits

(a) The cable television company, where necessary, shall make application for any street opening permits for installing its cables and shall not be required to furnish service until after such permits are granted.

(b) The municipal charge, as set forth in N.J.S.A. 48:5A-3e and 30, for use of the streets shall be paid annually by the cable television company.

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

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

21. The name and address of the answering service, if used, and the hours in which the service is used. Also, indicate whether the answering service receives all incoming calls or specific departments.

(b) The information required pursuant to (a) above shall be provided to the Office of Cable Television on or before October 4 of each year.

(c) Each cable television company shall inform the Office of any substantive change in the information filed pursuant to this section.

New Rule, R.1991 d.375, effective August 5, 1991.

See: 22 N.J.R. 2895(a), 23 N.J.R. 2342(a).

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

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

In (a), substituted a reference to cable television companies for a reference to companies in the introductory paragraph, and rewrote 20; and in (b), substituted "of each year" for ", 1991 and annually thereafter" at the end.

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

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

Substituted "customers" for "subscribers" throughout.

14:18-7.7 Telephone system performance

(a) Each cable television operator shall provide the Office with the following information for all telephone trunk lines normally used by subscribers and the general public for every office it maintains:

1. The total number of incoming calls received during each day of the listed month;
2. The percentage of time in which an inward dialed telephone call would receive a busy signal for each day for the listed month;
3. The average length of time of incoming calls held in queue (hold time) for each day for the listed month; and
4. The percentage of calls terminated by the caller (abandoned) while the call is held in queue during each day for the listed month.

(b) The data requested by (a) above shall be provided quarterly, on a calendar year basis, and shall be accompanied by a certification from the system manager or other appropriate system personnel that the information is correct.

(c) Reports of the information required by (a) above shall be filed by the cable television operator within 10 days of the end of the quarter for which the report is filed. The data shall be submitted in a summary format, on forms prescribed by the Director.

(d) The Office may direct a cable television operator to record and submit additional data or to conduct, or have conducted, other or more detailed telephone traffic analyses, if circumstances so require.

(e) All averages and percentages compiled pursuant to (a) above shall consider only the hours in which the cable television company's office is open to receive incoming calls.

(f) A cable television operator shall submit an explanation of any extraordinary change in telephone traffic patterns as indicated by the data provided to the Office. Explanations shall be provided for extraordinary changes caused by situations such as outages, phone equipment failure and rate changes.

(g) A cable television operator may request, in writing, a waiver of one or more of the reporting requirements or required report formats of (a) above from the Director. Any such waivers will be for periods of up to one year and are renewable. In considering such requests, the Director shall consider factors such as the size of the system, the burden on the cable television operator for providing the information, the capability of the cable television operator's telephone system and the nature and type of alternative information the cable television operator intends to provide.

New Rule, R.1991 d.594, effective December 16, 1991.

See: 23 N.J.R. 2273(a), 23 N.J.R. 3768(a).

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

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

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

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

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

In (b), substituted "quarterly, on a calendar year basis" for "for the calendar months of January, March, May, July, September and November"; in (c), substituted "quarter" for "month".

14:18-7.8 Telephone customer service

(a) Each cable television operator is subject to the following customer service standards concerning cable television system telephone availability:

1. The cable television operator shall maintain a local, toll-free or collect telephone access line which will be available to its customers 24 hours a day, seven days a week.
 - i. Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.
 - ii. After normal business hours, the access line may be answered by a service or automated response system, including an answering machine. Inquiries received after normal business hours shall be responded to by a trained company representative on the next business day.
2. Under normal operating conditions, telephone answer time by a customer service representative, including wait time, shall not exceed 30 seconds from when the connection is made. If the call needs to be transferred, transfer time shall not exceed 30 seconds. These standards shall be met no less than 90 percent of the time under normal operating conditions, measured on a quarterly basis.

3. Under normal operating conditions, the customer shall receive a busy signal less than three percent of the time.

4. Customer service center and bill payment locations shall be open at least during normal business hours and will be conveniently located.

(b) Nothing in this section shall prohibit the cable television operator from exceeding the standards set forth in (a)1 through 4 above.

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

SUBCHAPTER 8. LIABILITY INSURANCE

14:18-8.1 Liability insurance

(a) Any person operating a cable television company in accordance with the applicable statutes shall file with the Office two copies of a certificate of insurance.

(b) Said certificate shall be signed by the issuing insurance company and shall state that the cable television company is insured in compliance with N.J.S.A. 48:5A-1 et seq. under the standard form of insurance policy, and, in addition thereto, they shall furnish information as to the types and amounts of all insurance coverage.

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

SUBCHAPTER 9. TESTING OF SERVICE

14:18-9.1 Equipment for testing

A list of testing equipment by which system performance tests may be conducted pursuant to the rules now promulgated or which may be promulgated by the FCC or the Office and the location of such equipment shall be kept on file at the local cable television company office. Such equipment shall be available, upon reasonable request by the Office, for such additional or special tests as may be required.

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

14:18-9.2 Proof of performance

(a) Each cable television company shall be required to maintain for inspection and file with the Office upon request copies of its semiannual proof-of-performance tests conducted in accordance with Part 76 Subpart K of Title 47 CFR § 76.601(c) to determine the extent of system compliance with technical standards 76.605(a).

(b) Copies of the semiannual proof-of-performance test results shall be filed with the Office during the months of March and September of each calendar year.

(c) Test results shall be accompanied by a statement indicating the extent to which the system complies with the applicable standards.

Amended by R.1993 d.234, effective June 21, 1993.
See: 24 N.J.R. 4497(a), 25 N.J.R. 2700(a).
Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (a), substituted "maintain for inspection and file with the Office upon request" for "file with the Office" following "required to"; and rewrote (b).

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

In (b), substituted "during the months of March and September of each calendar year" for "upon request" and deleted the second sentence.

SUBCHAPTER 10. TECHNICAL STANDARDS FOR SYSTEM OPERATION

14:18-10.1 Scope

The following requirements shall apply to cable television system performance as measured at any subscriber terminal with a matched terminating impedance, and to each National Television Systems Committee (NTSC) or similar video downstream cable television channel in the cable system.

Amended by R.1993 d.234, effective June 21, 1993.
See: 24 N.J.R. 4497(a), 25 N.J.R. 2700(a).

14:18-10.2 Technical performance requirements

(a) Every cable television system providing cable television service shall be required to do so in accordance with the rules and regulations specified in Part 76, Subpart K of Title 47 CFR.

(b) Each cable television operator shall be prepared to show, on request by an authorized representative of the Office, that the system does, in fact, comply with the rules and regulations of Part 76, Subpart K of Title 47 CFR.

Amended by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).

Stylistic revisions.
Amended by R.1993 d.234, effective June 21, 1993.
See: 24 N.J.R. 4497(a), 25 N.J.R. 2700(a).
Amended by R.2000 d.155, effective April 17, 2000.
See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

In (b), substituted a reference to cable television operators for a reference to system operators.

14:18-10.3 Requirements for specialized NTSC video or MPEGx and non-video signals

(a) Every cable television operator providing locally originated television programming received from any origination source, shall make reasonable efforts to use good engineering practices in the processing of each programming signal to guard against any unnecessary degradation in the signal received and delivered to the customer.

(b) Every cable television operator providing non-video signals or data transmission for testing, encoding, decoding or addressing purposes, shall use good engineering practices in transmitting the signal without material degradation or objectionable interference to any channel delivered to the customer.

Amended by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).

Repealed section was "Additional technical standards"; "Requirements for Class III and IV channels" recodified from 14:18-10.9. Added Class II.

Repeal and new rule: R.1993 d.234, effective June 21, 1993.

See: 24 N.J.R. 4497(a), 25 N.J.R. 2700(a).

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

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

Substituted "customer" for "subscriber" throughout.

14:18-10.4 (Reserved)

Amended by R.1990 d.415, effective August 20, 1990.

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

Repealed section was "FM (Broadcasting) signal level"; "Initial performance tests" recodified from 14:18-10.10. Deleted (b) and (e); redesignated (c)-(d) as (b)-(c).

Repealed by R.1993 d.234, effective June 21, 1993.

See: 24 N.J.R. 4497(a), 25 N.J.R. 2700(a).

14:18-10.5 (Reserved)

Amended by R.1990 d.415, effective August 20, 1990.

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

Repealed section was "System carrier to noise ratio"; "Monitor point tests" recodified from 14:18-10.12. In (b)1, added visual and aural carrier.

Amended by R.1994 d.235, effective May 16, 1994.

See: 26 N.J.R. 1318(a), 26 N.J.R. 2146(c).

Section was "Monitor point tests".

14:18-10.6 Additional tests to ensure compliance

The Office of Cable Television may request certain specific tests at any time and, where necessary and feasible, to show compliance with this subchapter.

Amended by R.1990 d.415, effective August 20, 1990.

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

Repealed section was "Cross modulation"; "Special provisions for older and small systems" recodified from 14:18-10.13 and deleted (a)1-3.

14:18-10.7 (Reserved)

Repealed by R.1990 d.415, effective August 20, 1990.

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

Section was "Converters."

14:18-10.8 (Reserved)

Repealed by R.1990 d.415, effective August 20, 1990.

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

Section was "Requirements for subscriber terminal interface channel conversion devices."

14:18-10.9 (Reserved)

Recodified to 14:18-10.3 by R.1990 d.415, effective August 20, 1990.

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

Section was "Requirements for Class III and IV channels."

14:18-10.10 (Reserved)

Recodified to 14:18-10.4 by R.1990 d.415, effective August 20, 1990.

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

Section was "Initial performance tests."

14:18-10.11 (Reserved)

Repealed by R.1990 d.415, effective August 20, 1990.

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

Section was "Annual tests to determine extent of compliance."

14:18-10.12 (Reserved)

Recodified to 14:18-10.5 by R.1990 d.415, effective August 20, 1990.

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

Section was "Monitor point tests."

14:18-10.13 (Reserved)

Recodified to 14:18-10.6 by R.1990 d.415, effective August 20, 1990.

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

Section was "Special provisions for older systems and for small systems."

SUBCHAPTER 11. APPLICATION BY CABLE TELEVISION COMPANIES FOR MUNICIPAL CONSENT

14:18-11.1 Application for municipal consent; who may apply

(a) Any person may apply to any municipality in the State of New Jersey for the issuance of a municipal consent for the operation of a cable television system by submitting, in triplicate, an application to the clerk of that municipality. Three additional copies of the application shall be filed with the Office within three days after the municipal filing. The Office shall be provided with copies of all correspondence between the municipality or its officials and the cable television operator by the party originating the correspondence.

(b) Application for consent shall conform to the requirements of N.J.A.C. 14:18-11.2, shall be filed on forms promulgated by the Office, and shall have attached a filing fee in the amount of \$100.00.

Amended by R.1976 d.18, effective January 21, 1976.

See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).

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

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

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

Amended by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

In (a), inserted the last sentence.

14:18-11.2 Application for municipal consent to operate a cable television system

(a) Every application for a consent shall be submitted on a standard form supplied by the Office, which form shall include, but not be limited to, the following information:

1. Organization and management;
2. Legal qualifications;
3. Cable experience: Affiliation with other television or communications systems;
4. System design and construction timetable;
5. Proposed services;
6. Rates for television reception service;
7. Bonding and insurance; and
8. Financing.

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

Deleted a former (b).

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

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

Amended by R.2005 d.377, effective November 7, 2005.
See: 37 N.J.R. 1401(a), 37 N.J.R. 4292(a).

Rewrote (a)6i.

Amended by R.2007 d.154, effective May 7, 2007.
See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

Rewrote the section.

Case Notes

Unclear violations of application amendment and disclosure regulations required on certificate of approval (citing former N.J.A.C. 14:18-11.20). In re: Controlled Cable Corp., 95 N.J. 473, 472 A.2d 130 (1984).

Required contents of application for cable franchise set forth in regulation (citing former N.J.A.C. 14:18-11.20); municipal ordinance consenting to franchise cannot be altered by parol evidence. In re: Cable Systems, Inc., 5 N.J.A.R. 75 (1981).

14:18-11.3 Appointment of citizens' committee; duties

(a) The municipal governing body, prior to or upon receipt of the first application for municipal consent to operate a cable television system, may appoint a citizen's committee which shall be responsible for obtaining and disseminating information concerning cable communications generally, analyzing those services which a cable system may be required or able to provide, investigating the backgrounds of the applicants or parties to the application, ascertaining the desires of the citizens of the municipality concerning the cable television applicant and studying those sections of the application concerning which they, as residents of the municipality, have special knowledge for example, the acceptability of the construction schedule in the areas proposed.

(b) It shall be further their responsibility to file a written report concerning these investigations and studies, which report shall become part of the record of the proceeding in accordance with section 10 of this subchapter. Members of the citizens' committee shall afford each applicant an equal opportunity to supply any information.

Amended by R.1976 d.18, effective January 21, 1976.

See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).

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

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

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

Case Notes

Establishment of citizen's advisory committee (citing former N.J.A.C. 14:18-11.2). In re: Cable Systems, Inc., 5 N.J.A.R. 75 (1981).

14:18-11.4 Hearing date

The municipal governing body shall, upon receipt of the first application, decide upon a date on which hearing will be held concerning first application and any other applications filed in accordance with N.J.S.A. 48:5A-23. Such date shall be not earlier than 60 days from the date of the first application, nor later than 90 days from the date the first application is filed.

Amended by R.1976 d.18, effective January 21, 1976.

See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).

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

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

Changed N.J.S.A. reference.

14:18-11.5 Ex parte communications; prohibitions

Where there are two or more initial applicants, no member of the municipal governing body may communicate ex parte by telephone or otherwise, or meet with any one applicant concerning any substantive matter contained in the application on file without first notifying all other applicants of such meeting or communication. Nothing herein shall prohibit communication, without notice, concerning procedural matters associated with the filing or hearing of an application.

Amended by R.1976 d.18, effective January 21, 1976.

See: 7 N.J.R. 173(a), 8 N.J.R. 84(b).

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

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

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

Case Notes

Unclear violations of application amendment and disclosure regulations, as opposed to clear violation of ex parte communications ban, required hearing on certificate of approval (citing former N.J.A.C. 14:18-11.4). In re: Controlled Cable Corp., 95 N.J. 473, 472 A.2d 130 (1984).

Violation by applicant without municipal consent who communicated with mayor and council regarding application without prior notice to other applicants (citing former N.J.A.C. 14:18-11.4). In re: Micro-Cable Communications Corp., 176 N.J.Super. 197, 422 A.2d 780 (App.Div.1980).

Allegation of violation due to applicant's ex parte conversation with mayor after prehearing conference; not addressed due to closing of record (citing former N.J.A.C. 14:18-11.4). In re: Tri-County Cable, Inc., 4 N.J.A.R. 260 (1981).

14:18-11.6 Notice of hearing

(a) The municipal governing body shall give notice of the date scheduled for hearing concerning the first application or any further applications by publishing in a newspaper or newspapers of general circulation in the area information as to:

agreement. Failure to agree is not, in and of itself, an example of negotiation in bad faith.

4. "Reasonable terms and conditions" retains its usual and standard meaning, and within that context includes, but is not limited to, issues associated with pricing and availability or restrictions on costs, remediation, installation, sharing of services and other elements of access.

5. "Standard technical solutions" retains its usual and standard meaning, and within that context includes, but is not limited to, current commercially-available methods or products for provision of service in a video network.

14:18-15.4 Public, educational and governmental access channels; return lines; interconnection

(a) A cable television company operating under a system-wide franchise shall provide two public, educational and governmental access channels to each municipality served by that system-wide franchise. The public, educational and governmental access channels shall be made available within a reasonable timeframe after the cable television company, operating under a system-wide franchise, begins to provide cable television service within the municipality.

1. If a municipality served by a system-wide franchise requests more than two public, educational and governmental access channels it shall demonstrate that its cable-related needs require the provision of additional access channels. In its request for additional access channels, the municipality must provide to the cable television company operating under a system-wide franchise, with copies to the Office, proof that:

i. The existing cable television operator provides more than two public, educational and governmental access channels for the use of the municipality and the channels are necessary to be continued by the cable television company; or

ii. The access channels provided by the existing cable television operator are utilized to such an extent that the additional access channels are necessary.

2. A cable television company operating under a system-wide franchise may agree voluntarily to provide additional public, educational and governmental access channels.

3. A municipality served by a system-wide franchise may waive the requirement that the cable television company operating under a system-wide franchise provide either one or both of the public, educational and governmental access channels.

i. If at any time during the system-wide franchise or renewal thereof, the municipality determines it will claim the public, educational and governmental access channel or channels, it may request in writing that the cable television company operating under a system-wide

franchise provide the public, educational and governmental access channel or channels to the municipality.

ii. The cable television company operating under a system-wide franchise shall have 90 days to comply with the municipality's request for a claimed public, educational and governmental access channel or channels.

iii. Until such time as the municipality claims a waived public, educational and governmental access channel or channels, the cable television company operating under a system-wide franchise may utilize the channel or channels for its own purposes in accordance with 47 U.S.C. §531(d).

4. The municipality shall assume responsibility for the management, operations and programming of the public, educational and governmental access channels or it may appoint a non-profit designee to act on behalf of the municipality in this capacity. The municipality shall develop rules for the access channels under its management. Nothing herein shall prevent a municipality from entering into an agreement with surrounding municipalities to manage, operate and program the public, educational and governmental access channels on a joint basis.

(b) If the municipality and the cable television company operating under a system-wide franchise are unable to agree upon the provision of additional access channels as requested by the municipality, the municipality or the cable television company operating under a system-wide franchise may request that the Office of Cable Television intervene to resolve the matter. The Office shall utilize the procedures specified in N.J.A.C. 14:17-8.

(c) Upon written request of a municipality served by a system-wide franchise, the cable television company shall provide one return line from one location in the municipality to a point of interconnection in its cable television system in order to allow live or taped cablecasting of programming by the municipality. Such service will be provided within such time mutually agreed upon by the cable television company and the municipality.

(d) Each cable television company serving a municipality must provide interconnection to its cable television system to any other cable television company serving the same municipality for the purposes of interconnecting public, educational and governmental access channels on reasonable terms and conditions.

1. A cable television company that has interconnected its public, educational and governmental access channel or channels with another cable television company may require the second cable television company to pay for half the cable television company's absorbed costs for the extension.

2. If a cable television company is unable to interconnect with another cable television company because it believes the terms and conditions are not reasonable, it may

petition the Board for assistance in resolution of the dispute. The Board shall utilize the procedures set forth in N.J.A.C. 14:17-8.

14:18-15.5 Provision of free services

(a) A cable television company operating under a system-wide franchise shall install and maintain, without charge, to each municipality served by the system-wide franchise, one service outlet activated for basic cable television service and Internet service to each fire station, public school, police station, public library and any other such building used for municipal purposes.

1. A municipality shall request in writing that free basic cable television and/or Internet service be installed and shall provide to the cable television company a list of the municipal service properties or public schools where service is requested.

2. The free service described in this subsection shall be provided within 90 days of the written request by the municipality, provided that the cable television company passes the municipal service property or public school with its cable television facilities. If the cable television company operating under a system-wide franchise does not already have cable television facilities passing the municipal service property or public school and the municipality requests in writing that service be provided to the location, the cable television company shall provide service within 90 days from the date that it passes the location with cable television facilities.

(b) If a cable television company operating under a system-wide franchise believes that the municipality is unreasonable in its demands or if the municipality believes the cable television company is unreasonable in the satisfaction of the municipality's demands, either party may contact the Office for resolution of the matter. The Office shall use the procedures set forth at N.J.A.C. 14:17-8 in dealing with the complaint.

14:18-15.6 Equipment and training

(a) A cable television company operating under a system-wide franchise shall provide equipment for the use of municipalities covered by the system-wide franchise without charge.

(b) A cable television company operating under a system-wide franchise shall provide training in the use of the equipment specified in (a) above, as well as in general production techniques, without charge. Such training shall be offered upon request of the municipality; and shall be provided in accordance with a schedule agreed upon by the municipality and the cable television company. The cable television company shall not be required to provide training for any group of less than six participants, nor shall the cable television company be required to provide training for any municipality more than four times a year, unless otherwise agreed to by the municipality and the cable television company.

(c) A cable television company may employ an outside entity to provide the equipment and training listed above, as long as the outside entity does not charge users for its services.

(d) If a cable television company operating under a system-wide franchise believes that the municipality is unreasonable in its demands or if the municipality believes the cable television company is unreasonable in the satisfaction of the municipality's demands, either party may contact the Office for resolution of the matter. The Office shall use the procedures set forth at N.J.A.C. 14:17-8 in dealing with the complaint.

14:18-15.7 Franchise fee payment

(a) Upon provision of service to one or more residents in any municipality, a cable television company operating under a system-wide franchise shall annually pay:

1. To the municipality a fee in lieu of all other franchise taxes and municipal fees a sum equal to 3.5 percent of gross revenues, as that term is defined by N.J.S.A. 48:5A-3x, received by subscribers within the municipality; and

2. To the State Treasurer, an amount equal to that paid as charges or fees for basic service by residents that are eligible for the Pharmaceutical Assistance to the Aged and Disabled, not to exceed 0.5 percent of gross revenues, as that term is defined by N.J.S.A. 48:5A-3x. The State Treasurer shall be responsible for administering the program.

(b) A cable television company operating under a system-wide franchise may petition the Board for certification that it is capable of serving 60 percent or more of the households within a particular municipality in the following manner.

1. If a cable television company operating under a system-wide franchise believes it is capable of serving 60 percent or more of the households within a particular municipality, it shall file certification with the Board that such threshold has been reached.

2. Upon receipt of a petition for certification specified in (a)1 above, the Board shall notify the affected municipality, the existing cable television company or companies serving the municipality and the Department of Public Advocate, Division of Rate Counsel.

3. The Board shall review the certification and either approve or deny it within 45 days. The Board shall notify all cable television companies serving a municipality, both system-wide franchises and municipal-consent-ordinance-based franchisees, that it has approved the certification of the cable television company.

(c) A cable television company that has received municipal consent and a Certificate of Approval from the Board shall continue to annually pay to the municipality a fee in lieu of all other franchise taxes and municipal fees a sum equal to

two percent of gross revenues from all recurring charges in the nature of subscription fees from cable television reception service until such time as the Board approves the certification by a cable television company operating under a system-wide franchise serving the same municipality that it is capable of serving 60 percent or more of the households in the municipality.

(d) Upon Board approval of a certification that a cable television company operating under a system-wide franchise is capable of serving 60 percent or more of the households in the same municipality as the cable television company with municipal consent, the cable television company operating under a municipal-consent-ordinance-based franchise shall pay fees to the municipality and the State Treasurer in accordance with (a)1 and 2 above.

(e) If, during the 45-day review period, the Board determines to disapprove the certification, the Board shall, or may designate Board staff to, schedule a meeting with the cable television company operating under a system-wide franchise to discuss the reasons for the Board's disapproval and to allow the cable television company operating under a system-wide franchise to present questions to the Board or its designated staff concerning the reasons for the Board's disapproval.

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

(g) The cable television company operating under a system-wide franchise shall have 30 days following the date of the meeting with the Board or its designated staff required by (f) above to file an appeal of the Board's decision.

(h) Subsequent to filing of an appeal by the cable television company operating under a system-wide franchise, the Board shall thereafter schedule an administrative hearing not later than 30 days following the date of the filing of the appeal by the cable television company operating under a system-wide franchise.

(i) The Board shall issue a final decision on the appeal filed by the cable television company operating under a system-wide franchise not later than 60 days following the administrative hearing required by this section.

SUBCHAPTER 16. MISCELLANEOUS PROVISIONS

14:18-16.1 Regulations not retroactive

The foregoing regulations shall not be construed to be retroactive with respect to the construction of facilities.

Recodified from N.J.A.C. 14:18-14.1 by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

14:18-16.2 Deviation and modification

(a) Should conditions exist where a deviation from any of these regulations should be made to suit such conditions, petition may be made to the Office for such deviation.

(b) These regulations may be amended or modified by the Office from time to time upon due notice and in accordance with applicable statutes.

Recodified from N.J.A.C. 14:18-14.2 by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

14:18-16.3 Schedules of prices, rates, terms and conditions

(a) Where these rules are in conflict with any terms and conditions contained in any cable television company's schedule of prices, rates, terms and conditions, these rules shall govern, unless otherwise authorized by the Office with the approval of the Board.

(b) A cable television company's schedule of prices, rates, terms and conditions shall not be construed to be in conflict with these rules if said schedule of prices, rates, terms and conditions, provides for more beneficial treatment of customers than that provided for in these rules.

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

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

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

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

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

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

Recodified from N.J.A.C. 14:18-14.3 and amended by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

Section was "Tariffs". Substituted "rules" for "regulations" and "schedule of prices, rates, terms and conditions," for "tariff" throughout the section.

14:18-16.4 Discrimination in rates

(a) No cable television company shall impose any excessive, unreasonable, unjustly discriminatory or unduly preferential individual or joint rate, charge or schedule for any service supplied or rendered by the cable television company.

(b) No cable television company shall adopt any unjust, unreasonable or discriminatory classification in the making or as the basis of any individual or joint rate, charge or schedule for any service supplied or rendered by the cable television company.

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

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

Recodified from N.J.A.C. 14:18-14.4 by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

14:18-16.5 Authority

These regulations are made and promulgated pursuant to authority vested in the Office and Board by N.J.S.A. 48:5A-1 et seq. and shall be construed in conformity with, and not in derogation of, such statute.

Recodified from 14:18-14.7 by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).

Section repealed was "Notice of rate change" adopted as new Rule R.1987 d.367 effective September 8, 1987.

See: 19 N.J.R. 505(a), 19 N.J.R. 1651(a)

Prior rule "Authority" was codified at 14:18-14.7.

Recodified from N.J.A.C. 14:18-14.5 by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

14:18-16.6 Prior regulations

Except as otherwise provided herein, rules, regulations and standards heretofore promulgated with respect to the subject matter encompassed by these regulations are hereby superseded and revoked.

Recodified from 14:18-14.8 by R.1990 d.415, effective August 20, 1990.
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(b).

Section repealed was "Notice of alteration in channel allocation" adopted as new rule R.1987 d.367, effective September 8, 1987.

See: 19 N.J.R. 505(a), 19 N.J.R. 1651(a).

Prior rule "Prior regulations" was codified at 14:18-14.8.

Recodified from N.J.A.C. 14:18-14.6 by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

14:18-16.7 Effective competition

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

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

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

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

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

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

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

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

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

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

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

Recodified from N.J.A.C. 14:18-14.7 by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

APPENDIX A**LIST OF FORMS**

Form CATV-1

Form CATV-2

Form F99

Channel Allocation Form

Cable Facts Questionnaire

Line Extension Policy Form

Outage Form

Accident/Injury Form

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

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

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

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

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

Amended by R.2007 d.154, effective May 7, 2007.

See: 38 N.J.R. 4822(b), 39 N.J.R. 1766(a).

Deleted "Application for Cable Television Franchise".