

**CHAPTER 18**

**REGULATIONS OF CABLE TELEVISION**

**Authority**

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

**Source and Effective Date**

R.2003 d.452, effective October 23, 2003.  
See: 35 N.J.R. 100(a), 35 N.J.R. 1047(a), 35 N.J.R. 5294(a).

**Chapter Expiration Date**

Chapter 18, Regulations of Cable Television, expires on December 27, 2006.

**Chapter Historical Note**

Chapter 18, Regulations of Cable Television, was adopted as R.1973 d.117, effective April 27, 1973. See: 5 N.J.R. 54(d), 5 N.J.R. 200(a).

Pursuant to Executive Order No. 66(1978), Subchapter 11, Application by CATV Companies For Municipal Consent, was readopted as R.1983 d.346, effective August 3, 1983, and Subchapter 12, Application For Certificate of Approval, was adopted as new rules and Subchapter 12, Miscellaneous Provisions, was recodified as Subchapter 13, Miscellaneous Provisions, by R.1983 d.346, effective September 6, 1983. See: 15 N.J.R. 874(a), 15 N.J.R. 1483(a).

Subchapter 13, Renewals, was adopted as new rules and Subchapter 13, Miscellaneous Provisions, was recodified as Subchapter 14, Miscellaneous Provisions, by R.1987 d.70, effective January 20, 1987. See: 18 N.J.R. 1181(a), 19 N.J.R. 238(a).

Pursuant to Executive Order No. 66(1978), Chapter 18, Regulations of Cable Television, was readopted as R.1990 d.415, effective July 26, 1990, and Subchapter 3, Service, Subchapter 4, Testing of Service, and Subchapter 7, Bills and Payments for Service, were repealed and Subchapter 3, Customer Rights, Subchapter 4, Cable Operator Rights, Subchapter 7, Reports and Filings, and Subchapter 9, Testing of Service, were adopted as new rules by R.1990 d.415, effective August 20, 1990. See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).

Pursuant to Executive Order No. 66(1978), Chapter 18, Regulations of Cable Television, was readopted as R.1995 d.313, effective May 25, 1995. See: 27 N.J.R. 873(a), 27 N.J.R. 2430(a).

Pursuant to Executive Order No. 66(1978), Chapter 18, Regulations of Cable Television, was readopted as R.2000 d.155, effective March 17, 2000. See: 31 N.J.R. 3061(a), 32 N.J.R. 1402(a).

Chapter 18, Regulations of Cable Television, was readopted as R.2003 d.452, effective October 23, 2003. See: Source and Effective Date. See, also, section annotations.

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**APPENDIX A**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**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.

5. The incorporation of the application for municipal consent;

6. The amount of the franchise fee payable to the municipality;

7. Any modifications to the information contained in the application.

(b) The Office's guidelines for the composition of the municipal consent ordinance may be utilized.

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).

#### Case Notes

Municipal ordinance consenting to cable franchise incorporates terms of the application for municipal consent; municipal consent ordinance cannot be altered by parol evidence. In re: Cable Systems, Inc., 5 N.J.A.R. 75 (1981).

#### 14:18-11.17 Restrictions

(a) Nothing contained herein shall permit the municipal governing body to include in its ordinance requirements as to any area which is within the responsibility or authority of the Office or the Federal Communications Commission to regulate, or which is in conflict with applicable law, including but not limited to:

1. Technical standards;
2. Construction standards;
3. Assignment of the consent;
4. Revocation of the consent;
5. Rates, charges or classifications of service other than those for initial cable television reception service as defined in N.J.S.A. 48:5A-3e;
6. Transfers of property or stock;
7. Free services.

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).

#### 14:18-11.18 Office review

If the municipal governing body has, in its decision, indicated that it will grant a consent to one or more of the applicants to operate a cable television system, it shall then prepare a draft of an ordinance granting consent and submit a copy of the draft, within 45 days after the decision, to the Office for its review, comment and approval. Such ordinance, after approval of the Office, shall be introduced at the next regularly scheduled municipal meeting and considered for adoption not more than one month (30 days) after initial reading.

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

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

Substituted "considered for adoption" for "reintroduced for final consideration" following "meeting and" in the last sentence.

#### Case Notes

Draft of cable consent ordinance must be sent to CATV Office within 45 days after municipal decision; after office approval, ordinance must be introduced at next regular municipal meeting and reintroduced for final consideration not more than 30 days after initial reading; non-compliance noted. In re: Tri-County Cable, Inc., 4 N.J.A.R. 260 (1981).

#### 14:18-11.19 Acceptance by company

(a) The municipality shall serve the applicant with a copy of the consent ordinance within two working days after a final vote upon second reading of the ordinance.

(b) A cable television company shall accept the consent ordinance, and its terms and conditions, in writing within 10 days of service.

Amended by R.1977 d.295, eff. August 16, 1977.

See: 9 N.J.R. 291(a), 9 N.J.R. 443(a).

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

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

#### Case Notes

Former regulation required holders of municipal consents given prior to effective date of regulation to file for certificate within 30 days; inapplicability of laches due to lack of prejudice; propriety of award to single company of seven franchises under regionalization statute. In re: Meadowlands Communications Systems, Inc., 175 N.J.Super. 53, 417 A.2d 575 (App.Div.1980), certification denied 85 N.J. 455, 427 A.2d 556 (1981).

Applicant for municipal cable franchise consent must accept terms and conditions of consent within time specified in regulation; municipal consent ordinance cannot be altered by parol evidence. In re: Cable Systems, Inc., 5 N.J.A.R. 75 (1981).

#### 14:18-11.20 Commencement date

For purpose of determining the term of a consent ordinance, the date of issuance of a certificate of approval shall be deemed the commencement date.

#### 14:18-11.21 (Reserved)

R.1984 d.436, eff. October 1, 1984.

See: 16 N.J.R. 348(a), 16 N.J.R. 2680(b).

Old section "Special provision for renewal of municipal consents" repealed.

Repealed, R.1987 d.70, effective January 20, 1987.

See: 18 N.J.R. 1181(a), 19 N.J.R. 238(a).

Repealed section dealing with renewal of municipal consents.

## SUBCHAPTER 12. APPLICATION FOR CERTIFICATE OF APPROVAL

### 14:18-12.1 Filing for a certificate of approval

(a) Within 30 days of the date of acceptance by the cable television company, a petition for a certificate of approval

and any completed forms and information required by N.J.A.C. 14:18-12.2 shall be filed with the Office in accordance with the provision of N.J.A.C. 14:17-6.6 or 6.9 unless specific approval is given by the Director for filing at a later date.

(b) A petition for a certificate of approval filed pursuant to N.J.S.A. 48:5A-17(d) (Arbitrary Refusal) shall:

1. Be filed within 30 days of the date of service of a final ordinance by a municipality in accordance with N.J.A.C. 14:18-11.19; and
2. Be served upon the clerk of the respondent municipality; and
3. Where failure to act is alleged as arbitrary refusal, be filed within 30 days of the appropriate statutory deadline.

(c) A municipality contesting the petition shall then have 20 days in which to file an answer to the petition.

Amended by R.1990 d.415, effective August 20, 1990.  
See: 22 N.J.R. 1330(b), 22 N.J.R. 2575(a).  
Added (b)2 and (c).  
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, and changed N.J.A.C. reference.

#### 14:18-12.2 Information to accompany petition for certificate of approval

At the time of filing of a petition for a certificate of approval, the applicant(s) shall file with the Office on standardized forms, where applicable, information including, but not necessarily limited to, the information required under N.J.A.C. 14:18-11.2.

Amended by R.1977 d.295, eff. August 16, 1977.

See: 9 N.J.R. 291(a), 9 N.J.R. 443(a).

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).

Rewrote the section.

#### Case Notes

Propriety of award to single company of seven franchises under regionalization statute; inapplicability of laches due to lack of prejudice (citing former N.J.A.C. 14:18-11.21) In re: Meadowlands Communications Systems, Inc., 175 N.J.Super. 53, 417 A.2d 575 (App.Div.1980), certification denied 85 N.J. 455, 427 A.2d 556 (1981).

**14:18-12.3 Requirements for plant rearrangement verification**

(a) Applicants for a certificate of approval for an additional cable television franchise shall submit verifiable cost estimates of projected aerial utility and cable television plant rearrangement needed (make-ready work) to permit the attachment of the proposed cable television system.

(b) The estimates shall be compiled by one of the following methods:

1. A field survey conducted by the applicant of all utility poles on which the applicant may attach in the proposed service area;
2. A field survey conducted by the applicant of at least 10 percent of the poles on which the applicant may attach using a statistical random sampling method and extrapolation process. The sample shall include the full range of all make-ready work categories which the applicant can reasonably expect to encounter in the proposed service area; or
3. A field survey conducted at the applicant's cost by the pole-owning utility or other such utility that owns or controls those portions of the poles to which the applicant proposes to attach.

(c) Any survey shall be submitted in a form permitting verification by the pole owning utility, the Office or an independent party with experience in conducting utility make-ready surveys. All surveys shall contain the underlying facts and assumptions determining the cost estimate and a description of the process for conducting the survey.

New Rule: R.1991 d.84, effective February 19, 1991.  
See: 22 N.J.R. 2897(a), 23 N.J.R. 619(a).

**SUBCHAPTER 13. RENEWALS****14:18-13.1 Initiation of renewal process**

(a) Renewal procedures shall commence in either of two ways:

1. Either the municipality or the cable television operator may commence a municipal fact finding process (ascertainment) by filing notice with the Office and the other party (municipality or cable television operator) between 36 and 30 months prior to the expiration of the Certificate of Approval; or
2. If no notice is filed pursuant to (a)1 above, the cable television operator shall commence the process by filing an application for municipal consent between 12 and nine months prior to the expiration of the Certificate of Approval.

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

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

Deleted (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), inserted a reference to ascertainment in 1, and rewrote 2.

**14:18-13.2 Optional pre-proposal phase**

(a) Upon the filing of a notice pursuant to N.J.A.C. 14:18-13.1, the municipality shall conduct ascertainment proceedings to assess its future cable-related community needs and interests and to review past performance of the cable television operator. Such proceedings shall afford the municipality, the public and the cable television operator notice and opportunity for participation.

1. Proceedings shall take place before either the governing body of the municipality or before an advisory committee appointed by the governing body. The names of designees and a mailing address for the advisory committee shall be forwarded to the Office of Cable Television and the cable television operator.

2. In the event the municipality deems that a public hearing is necessary to assess the municipality's future cable related needs and interests and to review the cable television operator's past performance, such hearing shall be held upon at least 15 days' written notice to the public and the cable television operator. At any such hearing all participants shall have the right to present relevant evidence.

3. Any proceedings pursuant to this section shall include transcripts of any public hearings and opportunity for public comment, written or oral. Transcripts shall be made at the expense of the municipality.

(b) In assessing community cable related needs and reviewing the cable television operator's performance, consideration may include, but shall not necessarily be limited, to the following:

1. Any statewide needs and requirements as may be established by regulations of the Office of Cable Television;
2. Any regional community cable-related needs;
3. Any uniquely local cable-related needs;
4. Performance and substantial compliance with material terms and conditions of the existing franchise based on notice and opportunity to cure under applicable Federal law as placed on the record.
5. Any correspondence pursuant to Section 27 of the Cable Television Act.

(c) At least 12 months prior to the expiration of the certificate of approval the body conducting such hearings shall issue a report to the governing body with copies to the cable television operator, and the Office of Cable Television. The report shall be made available for public inspection.

(d) Upon receipt of the municipal report, the cable television operator shall have 90 days in which to file a municipal consent application.

(e) A municipality which has begun the ascertainment process and determines not to issue a report shall promptly notify the Office and the cable television operator in writing stating the reasons therefor.

(f) This subsection authorizes a municipality to conduct the ascertainment proceeding, consistent with these rules, the record and report for which may be used in lieu of one conducted by the Board.

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

Added (e)-(f).

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 a reference to ascertainment proceedings for a reference to proceedings in the introductory paragraph; and in (e), inserted a reference to cable television operators.

#### 14:18-13.3 Municipal consent

(a) The cable television operator shall file for a municipal consent in the following manner:

1. If the renewal proceeding of N.J.A.C. 14:18-13.1(a)1 has commenced, the cable television operator shall file an application for municipal consent within 90 days of receipt of the municipal report;

2. If the municipality fails to issue a report at least 12 months prior to the expiration of the certificate of approval, the cable television operator shall file for municipal consent no later than nine months prior to the expiration of the certificate of approval;

3. At any time upon agreement of the cable television operator and the municipality pursuant to 47 U.S.C. § 546(h) which allows for informal renewal proceedings.

(b) In the event that the existing certificate of approval was issued to the cable television operator without an underlying municipal consent ordinance, the procedures outlined in this subchapter for renewals shall be followed, except for good cause shown.

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

Deleted (a)2; redesignated 3 as 2.

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 references to cable television operators for references to operators throughout, and added 3.

#### 14:18-13.4 Mandatory pre-proposal phase

(a) Upon filing by the cable television operator of an application for renewal of its cable television franchise pursuant to N.J.A.C. 14:18-13.3, the municipality may, in the form of a consent ordinance, issue a request for proposal in the following manner:

1. Consent phase hearings shall commence between 60 and 90 days after the consent application is filed. Notice shall be provided pursuant to N.J.A.C. 14:18-11.6.

2. Any hearings concerning the consent application shall be completed within 120 days after the consent application is filed.

3. The municipal governing body shall render a decision no later than 150 days from the filing.

4. The applicant shall pay to the municipality a fee of \$50.00 per day of hearing or fraction thereof.

5. Any amendments to the consent application shall be in writing.

(b) The municipality shall complete the needs assessment/performance review proceedings either:

1. By issuing a resolution recommending that the Board issue a preliminary assessment of denial specifying the reasons; or

2. By adopting an ordinance granting a municipal consent for renewal, which shall serve as a request for proposal from the cable television operator. Grant of the consent ordinance shall follow the procedures outlined in N.J.A.C. 14:18-11.15 through 11.18.

(c) The Office shall be provided with copies of all correspondence between the municipality or its officials and the cable television operator.

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

Rewrote the section.

#### 14:18-13.5 Cable television operator proposal

(a) The municipality may either adopt an ordinance granting renewal municipal consent to the cable television operator or issue a resolution denying renewal. Upon action by the municipality the cable television operator shall proceed as follows:

1. Upon recommendation by the municipality to deny renewal, or upon the cable television operator's failure to accept the municipal consent ordinance, the cable television operator shall have 30 days in which to file with the Board a petition in accordance with N.J.S.A. 48:5A-1 et seq. and 47 U.S.C. § 546(c) accompanied by a completed application for a renewal certificate of approval.

i. A copy of the petition must be served on the municipality.

ii. The petition shall include a copy of the initial needs assessment/performance review report, if issued, and the resolution stating reasons for the recommendation of denial.