

**14:10-9.7 Exemption for inmate pay telephone service**

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

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

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

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

**14:10-9.8 Complaint handling procedures**

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

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

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

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

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

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

**14:10-10.1 Scope**

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

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

**14:10-10.2 Definitions**

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

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

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

"Board" means the Board of Public Utilities.

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

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

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

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

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

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

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

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

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

"Slamming" means an unauthorized change of a consumer's primary interexchange carrier.

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

#### 14:10-10.3 Implementation of presubscription

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

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

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

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

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

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

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

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

Inserted (a) and (b).

#### 14:10-10.4 Cost recovery

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

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

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

#### 14:10-10.5 Local exchange safeguards

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

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

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

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

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

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

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

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

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

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

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

#### 14:10-10.7 Imputation standard

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

(b) The switched access rate elements in (b)1 through 6 below shall be multiplied by the applicable access minutes associated with toll service offered by the LEC. Access minutes shall be determined by converting the LEC billed minutes to conversation minutes and then to access minutes. Where switched access is used on only one end of a service, the LEC billed minutes shall be converted to applicable access minutes.

1. The LEC's zero-mileage band premium local transport rate element;
2. The LEC's premium local switching rate element;
3. The LEC's premium intercept rate element;

4. The LEC's premium line termination rate element;

5. The LEC's lowest message recording rate to any of its billing services customers, stated on a per-access-minute basis; and

6. The LEC's other non-access incremental costs of completing the call, stated on a per-access minute basis.

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

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

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

1. The zero-mileage band of the LEC's special transport rate element;

2. The LEC's special access line rate element;

3. The applicable rate elements for optional features and functions;

4. Any applicable LEC special access surcharge rate element;

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

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

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

(f) (Reserved)

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