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RULE PROPOSALS

PUBLIC UTILITIES

BOARD OF PUBLIC UTILITIES

Regulations of Cable Television

Proposed Readoption with Amendments: N.J.A.C. 14:18

Proposed New Rules: N.J.A.C. 14:18-7.9– Cable service quality standards

Authorized By: Lawanda R. Gilbert, Director, Office of Cable Television and Telecommunications (with approval of the New Jersey Board of Public Utilities, Joseph L. Fiordaliso, President, Mary-Anna Holden, Dianne Solomon, Upendra Chivukula and Robert Gordon, Commissioners).

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

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

BPU Docket Numbers: CX21010010

Proposal Number:

A virtual **public hearing** concerning the proposal will be held on November 1, 2021

at 10:00 A.M. at:

Comments may be submitted through December 2, 2021, e-filed through the Board's e-filing system or by email **in Microsoft Word format**, or in a format that can be easily converted to Word, to: rule.comments@bpu.nj.gov or by mail to:

Aida Camacho-Welch, Secretary
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
PO Box 350
Trenton, NJ 08625-0350
Attn: Docket No. CX21010010

The agency proposal follows:

Summary

Pursuant to the New Jersey Cable Television Act ("Cable Television Act" or "Act"), specifically N.J.S.A. 48:5A-9 and 10, the Director of the Office of Cable Television ("OCTV"), with approval of the Board of Public Utilities ("Board") is empowered to promulgate rules and regulations necessary to carry out the purposes of the Act. N.J.A.C. 14:18 contains the substantive rules of the Board governing cable television companies. These rules are necessary to ensure orderly regulation of the cable television industry in the State of New Jersey.

Chapter 18 was initially adopted in 1973, and was subsequently readopted with amendments in 1983, 1990, 1995, 2000, 2003 (see 5 N.J.R. 200(a), 15 N.J.R. 1483(a), 22 N.J.R. 2575(a), 27 N.J.R. 2430(a), 32 N.J.R. 1402(a) and 35 N.J.R. 5294(a), respectively). Subchapter 13 was adopted as new rules in 1987 (see 19 N.J.R. 238(a)) and contains procedures for application and approval of renewal municipal consent. On May 7, 2007, N.J.A.C. 14:18 was readopted with amendments and new rules (39 N.J.R. 1766(a)), which new rules contain provisions for a

system-wide franchise application and terms and conditions (Subchapters 14 and 15). On September 2, 2008, April 6, 2009 and February 22, 2011, amendments to Chapter 18 were adopted (40 N.J.R. 5052(a), 41 N.J.R. 1506(a) and (43 N.J.R. 445(a), and on September 30, 2014, Chapter 18 was readopted with amendments and new rules (46 N.J.R. 2165(a)).

By filing this notice of proposed readoption with amendments and proposed new rules with the Office of Administrative Law prior to September 30, 2021, the expiration date of these rules is extended 180 days to March 30, 2022, pursuant to N.J.S.A. 52:14B-5.1.c. As the Board has provided a 60-day comment period on this notice of proposal, it is exempted from the rulemaking calendar requirements set forth at N.J.A.C. 1:30-3.1 and 3.2, pursuant to N.J.A.C. 1:30-3.3(a)5.

In developing the rulemaking, the Board conducted stakeholder outreach through public meetings and acceptance of written comments by interested parties. The feedback received was carefully considered and many suggestions were incorporated into the proposed rule readoption.

Following is a section-by-section summary of the rules proposed for readoption and the proposed amendments.

Subchapter 1 contains the general provisions of the Chapter.

N.J.A.C. 14:18-1.1 pertains to the scope of the rules.

N.J.A.C. 14:18-1.2 defines certain words and terms utilized in this chapter.

Subchapter 2 deals with cable television plant, a term which encompasses centralized facilities, equipment and other types of property such as poles.

N.J.A.C. 14:18-2.1 pertains to how cable television companies must construct plant.

N.J.A.C. 14:18-2.2 requires cable television companies to inspect work performed by contractors on their behalf.

N.J.A.C. 14:18-2.3 pertains to how cable television companies must construct plant in existing public utility rights-of-way.

N.J.A.C. 14:18-2.4 addresses the identification of property, buildings and structures of cable television companies.

N.J.A.C. 14:18-2.5 sets forth the parameters on the identification of property, poles or structures supporting or connecting wires or cables of cable television companies.

N.J.A.C. 14:18-2.6 Requires every cable company to maintain its entire plant to enable adequate, economical and efficient service.

N.J.A.C. 14:18-2.7 requires cable television companies to inspect their property at sufficiently frequent intervals to ensure proper operating conditions. The Board proposes modifications to provide a timeframe for repairs and notification to the Board upon completion, and filing of maintenance plans with the Board on an annual basis.

N.J.A.C. 14:18-2.8 pertains to construction work near cable television facilities.

N.J.A.C. 14:18-2.9 sets forth the method for calculation of pole attachment rent where the Board must determine the appropriate rental rate.

N.J.A.C. 14:18-2.10 through 2.12 pertain to pole attachment rate changes, calculation of duct and conduit rent, pole attachment disputes and methods for resolution thereof.

Subchapter 3 addresses customer rights, in general.

N.J.A.C. 14:18-3.1 provides that every cable television company must furnish and maintain safe, adequate, economical, and efficient service.

N.J.A.C. 14:18-3.2 pertains to requests for service by customers and how cable television companies must treat those requests.

N.J.A.C. 14:18-3.3 delineates the customer information required to be furnished by the cable television companies.

N.J.A.C. 14:18-3.4 requires cable television companies to provide copies of the current schedule of prices, rates, terms and conditions to customers, upon request, and post notice at each of its customer walk-in centers that the schedule of prices, rates, terms and conditions is available for inspection. The proposal removes the requirement for posting in the local business office and recodifies the remaining sections.

N.J.A.C. 14:18-3.5 pertains to how cable television companies must provide outage credits to customers. In lieu of credits, companies may provide rebates, free promotional services, or alternate forms of compensation.

N.J.A.C. 14:18-3.6 requires that customer phone calls must be answered 24-hours a day. The proposal includes language to clarify that the company may not restrict a customer's access to a "live" representative based upon the status of their account (i.e past due, delinquent).

N.J.A.C. 14:18-3.7 sets standards for bills for service and the information that must be included.

N.J.A.C. 14:18-3.8 pertains to the method of billing customers. The proposal deletes text stating that proration of bills is required "unless otherwise provided for in the applicable filed schedule of prices, rates, terms and conditions" in order to clarify the requirement for the proration of initial and final bills as of the date of the beginning and ending of service applies to all providers.

N.J.A.C. 14:18-3.9 sets forth the due date of payment and lays out standards for notices of discontinuance. Language has been added regarding the provision of disconnection notices electronically using any reasonable written means, consistent with federal rules.

N.J.A.C. 14:18-3.10 pertains to the basis for restoration of discontinued services.

N.J.A.C. 14:18-3.11 Prohibits cable television companies from disconnecting a customer on the basis of a disputed bill.

N.J.A.C. 14:18-3.12 pertains to service call scheduling. The proposal adds a requirement that when a service call is scheduled, the company must inform the customer of the amount of any service call fees to be assessed, including missed appointment fees if the customer is not at the residence. In addition, in the event that the customer files a complaint with the Board disputing a missed appointment fee, the company bears the burden of proof in showing the presence of a service representative at the premises prior to imposing a fee to the customer for a missed appointment.

N.J.A.C. 14:18-3.13 requires cable television companies to promptly restore service interruptions and outages and contains specific requirements for restoration.

N.J.A.C. 14:18-3.14 requires that cable television companies must offer special equipment, parental locks and devices for the hearing impaired, upon request of the customer.

N.J.A.C. 14:18-3.15 pertains to trial and promotional services taken by customers.

N.J.A.C. 14:18-3.16 requires specific notice of price changes. The proposal deletes this section, consistent with FCC rules.

N.J.A.C. 14:18-3.17 requires specific notice of alteration in channel allocation. The proposal replaces the requirement for the filing of channel allocation lists with an annual channel lineup, and updates the requirements to reflect modifications in FCC rules regarding notices of changes in channel allocations outside of the control of the operator.

N.J.A.C. 14:18-3.18 requires cable television companies to provide certain periodic notices to customers. The proposal adds annual notice to customers permitting them to designate a third party to receive notices of termination of the account, pursuant to N.J.S.A. 48:5A-36.1

N.J.A.C. 14:18-3.19 entitles customers to interest on uncorrected bills and sets the method for determining the interest to be paid.

N.J.A.C. 14:18-3.20 pertains to the requirements for discounts for senior and disabled citizens.

N.J.A.C. 14:18-3.21 requires cable television companies to exercise reasonable diligence to avoid interruptions, and also requires prompt restoration of service.

N.J.A.C. 14:18-3.22 pertains to notice of planned interruptions.

N.J.A.C. 14:18-3.23 addresses reimbursement to cable television companies for equipment that has been lost, stolen or damaged by customers.

N.J.A.C. 14:18-3.24 sets standards for late fees and charges.

N.J.A.C. 14:18-3.25 pertains to issuance of refunds and credits and timeframes attached thereto.

N.J.A.C. 14:18-3.26 permits a customer to extend cable wiring within a home within the parameters specified.

N.J.A.C. 14:18-3.27 allows a cable television company to provide electronic notice to customers.

Subchapter 4 pertains to cable television operator rights, in general.

N.J.A.C. 14:18-4.1 requires cable television companies to obtain permits for street openings, where necessary. The proposal adds language to confirm that franchise fees paid to the municipality are in lieu of any permit opening fees, charges or assessments.

N.J.A.C. 14:18-4.2 pertains to when a cable television company may refuse to connect a customer. The Board proposes to add language that provides for company web posting of information regarding its terms of service for customer installations.

N.J.A.C. 14:18-4.3 delineates the conditions for which a company may suspend, curtail or discontinue service to a customer..

N.J.A.C. 14:18-4.4 pertains to when and how a cable television company may obtain access to customer's premises.

N.J.A.C. 14:18-4.5 addresses compensation for taking because of installation of cable television facilities. The proposal adds language to clarify that, where a cable operator has obtained BPU authorization to install cable system facilities at a multifamily property, the property owner may not refuse access or condition the provision of service. The clarification was proposed by one of the industry representatives to address disputes with landlords seeking additional compensation or restrictions from cable operators when installing service.

N.J.A.C. 14:18-4.6 provides that a cable television operator may require a deposit where credit has not been established.

N.J.A.C. 14:18-4.7 allows a cable television operator to require a deposit on auxiliary equipment, such as a converter.

N.J.A.C. 14:18-4.8 requires a cable television operator to provide receipts and records to customers posting a deposit.

N.J.A.C. 14:18-4.9 pertains to the return of deposits to customers by cable television operators upon termination of service.

N.J.A.C. 14:18-4.10 allows cable television operators to provide customers a consolidated notice of information required by N.J.A.C. 14:18-3.18(a) or (b).

N.J.A.C. 14:18-4.11 sets standards for the disposition of cable home wiring when a customer disconnects cable television service.

N.J.A.C. 14:18-4.12 pertains to home run wiring in multi-dwelling units (MDUs).

N.J.A.C. 14:18-4.13 pertains to access to molding in an MDU setting by cable television companies.

Subchapter 5 addresses offices maintained by cable television companies.

N.J.A.C. 14:18-5.1 pertains to location and closing of local offices maintained by cable television operators. Language modifications included to ensure compliance with existing statutes regarding maintenance of office within franchise territory of the system/legal operating entity or county.

N.J.A.C. 14:18-5.2 requires cable television operators to file a listing of personnel to be contacted for routine matters and in cases of emergency during and after working hours.

Subchapter 6 concerns records.

N.J.A.C. 14:18-6.1 requires notification to the OCTV of the location of records and availability of records for review by OCTV staff. The proposal provides for review of records by Office staff via a computer terminal.

N.J.A.C. 14:18-6.2 requires maintenance of plant and operating records. The proposal clarifies the requirement for maintenance of FCC filings at local offices.

N.J.A.C. 14:18-6.3 requires records of accidents to be kept and reported.

N.J.A.C. 14:18-6.4 provides what is deemed public records and how the public may obtain copies of those records.

N.J.A.C. 14:18-6.5 (Reserved)

N.J.A.C. 14:18-6.6 requires the reporting and recordkeeping of interruptions and outages by cable television operators. Proposed amendments eliminate the requirement for telephone contact and permit electronic reporting of information pertaining to interruptions and outages.

N.J.A.C. 14:18-6.7 requires cable television companies to record, retain and report all complaints received at their offices.

Subchapter 7 sets forth standards for reports and filings.

N.J.A.C. 14:18-7.1 requires filing of periodic reports.

N.J.A.C. 14:18-7.2 requires the filing of special reports at the request of the OCTV or the Board.

N.J.A.C. 14:18-7.3 describes other filings that cable television operators must provide to the Board, including pole attachment agreements and schedules of prices, rates, terms and conditions.

N.J.A.C. 14:18-7.4 requires cable television operators to notify the OCTV of system rebuilds, upgrades, hub and headend relocations.

N.J.A.C. 14:18-7.5 provides written procedures for use of public, educational and governmental (PEG) access channels where the cable television operator maintains control of the channel.

N.J.A.C. 14:18-7.6 requires cable television operators to file information about their customer service and internal telephone systems on an annual basis. The proposal eliminates language regarding telephone system information, traffic, trunks and private branch exchange information, answering service and training data, as they are no longer necessary in the current regulatory environment.

N.J.A.C. 14:18-7.7 requires cable television operators to file telephone system performance reports on a quarterly basis.

N.J.A.C. 14:18-7.8 requires cable television operators to comply with existing federal customer service obligations concerning telephone availability and answer time under normal operating conditions.

N.J.A.C. 14:18-7.9 New Section – Cable service quality standards provides performance standards to ensure safe, adequate and proper provisioning of service in a timely and efficient manner to all customers. The standards would address the handling of calls to the business office, installations, appointments, the resolution of service calls and attendant reporting requirements.

Subchapter 8 pertains to liability insurance.

N.J.A.C. 14:18-8.1 specifies that any cable television company operating in New Jersey must file copies of liability insurance certificates.

Subchapter 9 contains the requirements for testing of cable television service.

N.J.A.C. 14:18-9.1 pertains to equipment for testing and requires that cable television operators make available this equipment for use by OCTV staff, for oversight and enforcement of technical standards.

N.J.A.C. 14:18-9.2 requires that cable television operators submit FCC proof-of-performances to the OCTV each March and September.

Subchapter 10 contains the technical standards for system operation.

N.J.A.C. 14:18-10.1 pertains to the scope of technical standards on cable television operators.

N.J.A.C. 14:18-10.2 requires cable television operators to meet certain federal performance standards.

N.J.A.C. 14:18-10.3 pertains to the requirements for specialized NTSC video, MPEGx and non-video signals.

N.J.A.C. 14:18-10.4 and 10.5 are reserved.

N.J.A.C. 14:18-10.6 pertains to additional tests that can be required to ensure compliance with Subchapter 10.

N.J.A.C. 14:18-10.7 through 10.13 are reserved.

Subchapter 11 sets standards for the application by cable television companies for municipal consent.

N.J.A.C. 14:18-11.1 pertains to applications for municipal consent and who may apply.

N.J.A.C. 14:18-11.2 requires an application for municipal consent to operate a cable television system must be filed with the OCTV and specifies what information must be filed on the application.

N.J.A.C. 14:18-11.3 requires the appointment of citizens' committee and sets the duties of the committee.

N.J.A.C. 14:18-11.4 pertains to the hearing date to be held by the governing body on the application.

N.J.A.C. 14:18-11.5 prohibits ex parte communications with applicants where there are two or more applicants.

N.J.A.C. 14:18-11.6 delineates what information must be in a notice of hearing and when the notice must be published.

N.J.A.C. 14:18-11.7 requires that hearings on the application must be held before at least a majority of the municipal governing body.

N.J.A.C. 14:18-11.8 specifies the procedure at the hearing.

N.J.A.C. 14:18-11.9 sets forth when and how amendments to the application should be filed by the applicant and what notice is to be provided..

N.J.A.C. 14:18-11.10 pertains to the filing of additional information by the applicant other than amendatory and notice thereof.

N.J.A.C. 14:18-11.11 specifies how the record of a hearing must be made.

N.J.A.C. 14:18-11.12 pertains to adjournments of hearings.

N.J.A.C. 14:18-11.13 specifies the time for decision of the governing body and the contents of the decision.

N.J.A.C. 14:18-11.14 pertains to notification of utilities and negotiation of pole attachments.

N.J.A.C. 14:18-11.15 specifies the form of consent required.

N.J.A.C. 14:18-11.16 provides the required contents of the ordinance.

N.J.A.C. 14:18-11.17 specifies restrictions as to the contents of the ordinance.

N.J.A.C. 14:18-11.18 requires OCTV review of the ordinance prior to introduction and adoption.

N.J.A.C. 14:18-11.19 pertains to acceptance by a company of the ordinance.

N.J.A.C. 14:18-11.20 specifies the commencement date of the ordinance.

N.J.A.C. 14:18-11.21 is reserved.

Subchapter 12 addresses certificates of approval and their issuance.

N.J.A.C. 14:18-12.1 pertains to the filing for a certificate of approval by a cable television operator.

N.J.A.C. 14:18-12.2 specifies the information to accompany the petition for certificate of approval.

N.J.A.C. 14:18-12.3 pertains to the requirements for plant rearrangement verification.

Subchapter 13 concerns renewals of municipal-consent-based cable television franchises.

N.J.A.C. 14:18-13.1 provides the procedures for the initiation of the municipal consent renewal process.

N.J.A.C. 14:18-13.2 pertains to the optional pre-proposal, "ascertainment," phase.

N.J.A.C. 14:18-13.3 specifies when a cable television operator must file a municipal-consent application.

N.J.A.C. 14:18-13.4 pertains to the mandatory pre-proposal municipal consent phase.

N.J.A.C. 14:18-13.5 specifies the methods a municipality may use to address a cable television operator's proposal for Renewal Certificate of Approval.

N.J.A.C. 14:18-13.6 pertains to automatic renewals.

N.J.A.C. 14:18-13.7 sets forth the matters to be heard before an Administrative Law Judge in cases of denial or arbitrary refusal.

N.J.A.C. 14:18-13.8 pertains to compliance with Federal terms and conditions for sale upon denial of a Certificate.

N.J.A.C. 14:18-13.9 specifies that where Subchapter 13 does not apply, Subchapter 11 shall apply.

Subchapter 14 contains the procedures for applying for and obtaining a system-wide franchise.

N.J.A.C. 14:18-14.1 provides who may apply for a system-wide franchise and indicates how they must do so. The Board proposes amendments to provide for electronic filing, and to establish requirements for proof of notice to the effected municipality and Rate Counsel.

N.J.A.C. 14:18-14.2 states the requirements for the form of system wide-franchise application.

N.J.A.C. 14:18-14.3 specifies that the Board must hold two hearings on the system-wide franchise application, pursuant to N.J.S.A. 48:5A-16f.

N.J.A.C. 14:18-14.4 provides how notice must be provided for the mandatory hearings. The proposed changes would allow for a comment period ending five business days following the hearing, and would require notice to municipalities and proof of notice to the Board and Rate Counsel.

N.J.A.C. 14:18-14.5 states that hearings on the system-wide application franchise application may be heard by the Director of the Office or before any person designated by the Board as a presiding officer,

N.J.A.C. 14:18-14.6 provides how a system-wide franchise applicant may amend its application. Proposed new language requires proof of notice of amendments to municipalities and the Board and Rate Counsel.

N.J.A.C. 14:18-14.7 delineates how a system-wide franchise applicant may supplement its filing if the information filed is not amendatory. The proposed changes provide for information to be submitted to the Board and Rate Counsel and allow for further comments.

N.J.A.C. 14:18-14.8 specifies the requirement for the recording of the mandatory public hearings. The rule is modified to require that the applicant provide for the transcription of the proceeding, instead of the Office.

N.J.A.C. 14:18-14.9 provides how and when the Board must make a decision on an application for system-wide franchise.

N.J.A.C. 14:18-14.10 provides that upon being granted a system-wide franchise, the applicant must provide notice to all affected utilities and individuals whose facilities are needed for the construction of the cable television system.

N.J.A.C. 14:18-14.11 specifies what provisions must be contained in a Board order authorizing a system-wide franchise.

N.J.A.C. 14:18-14.12 establishes the procedure through which a system-wide franchise applicant may appeal a decision by the Board to deny its application for a system-wide franchise.

N.J.A.C. 14:18-14.13 provides the method by which a cable television company may convert its municipal consent ordinance-based franchises to a system-wide franchise and what the contents of the notice to municipalities and the Board must contain.

N.J.A.C. 14:18-14.14 pertains to the addition of municipalities to a system-wide franchise.

N.J.A.C. 14:18-14.15 provides that the Board may enforce the provisions of the system-wide franchise.

N.J.A.C. 14:18-14.16 specifies how the initiation of the system wide-franchise renewal process will take place.

N.J.A.C. 14:18-14.17 specifies how the OCTV must undertake the ascertainment process, what it must review during the ascertainment process and governs any proceedings undertaken during ascertainment. Proposed changes allow for written comments in lieu of a public hearing and adds a requirement that the applicant must provide notice of hearings or comment period to the effected municipality.

N.J.A.C. 14:18-14.18 delineates the procedures a cable television company must follow to apply for a renewal of its system-wide franchise as well as the procedures the Office and the Board must use to process the renewal application. The proposal clarifies that a complete application must be filed with the Board, and must include all appendices, exhibits, etc without cross references to documents already filed in order to be deemed complete. Proposed changes add the requirement that the cable company provide the Office and Rate Counsel with proofs of the

required notice of the application provided to all affected municipalities. The amendments would also add a comment period ending 5 business days post hearings, and require the cable company provide the Office and Rate Counsel with proof of notice of the hearing and comment period to municipalities. The proposal also modifies the 120 day decision timeframe for the Board to render a decision on the application to any date prior to the expiration of the franchise.

N.J.A.C. 14:18-14.19 governs the process for Board assessment of denial of a system-wide franchise renewal and directs that the matter be treated as a contested case pursuant to applicable rules.

N.J.A.C. 14:18-14.20 provides that a cable television company that is operating under a system-wide franchise may either seek municipal consent or renewal municipal consent from a municipality or convert its system-wide franchise into a municipal-consent-based franchise at any time.

Subchapter 15 addresses how a system-wide franchise may be enforced and how disputes over system-wide franchise terms and conditions will be resolved by the Board and its Office of Cable Television.

N.J.A.C. 14:18-15.1 provides the authority by which the Office of Cable Television may enforce the terms and conditions specified within this subchapter.

N.J.A.C. 14:18-15.2 specifies deployment responsibilities of a system-wide franchise holder and includes the specific requirements that apply to system-wide franchise holders that provide more than 40 percent of the local telephone service market in the State pursuant to P.L. 2006, c. 83.

N.J.A.C. 14:18-15.3 describes the circumstances under which a system-wide franchisee can seek relief from certain of its deployment requirements related to multiple dwelling units (MDU).

N.J.A.C. 14:18-15.4 provides the rules for the provision of public, educational and governmental (PEG) access channels; return lines; interconnection of the cable television companies within a

particular municipality and for disputes between municipalities and cable television companies and between cable television companies regarding interconnection. The proposal reflects that PEG channels must be offered in the same manner as other cable channel offerings upon request of the municipality.

N.J.A.C. 14:18-15.5 requires system-wide franchise holders to provide free service to certain municipal service properties and public schools.

N.J.A.C. 14:18-15.6 requires system-wide franchise holders to provide equipment and training for PEG access purposes. Proposed amendments provide for notice to municipalities regarding the availability of equipment and training of PEG access users by company representatives within 60 days of approval of a system-wide franchise, as well as annual notice to all affected municipalities of the training offered and the personnel to contact regarding training.

N.J.A.C. 14:18-15.7 deals with franchise fees and which cable television company must pay which amount and when, in accordance with N.J.S.A. 48:5A-30.

Subchapter 16 contains miscellaneous provisions related to the regulation of cable television.

N.J.A.C. 14:18-16.1 provides that the rules specified in Chapter 18 are not retroactive.

N.J.A.C. 14:18-16.2 pertains to deviation and modification of the rules specified in Chapter 18.

N.J.A.C. 14:18-16.3 pertains to conflict between schedules of prices, rates and terms and conditions of the cable provider and Chapter 18 and specifies that in those cases, Chapter 18 governs.

N.J.A.C. 14:18-16.4 provides that no cable television operator shall discriminate in rates.

N.J.A.C. 14:18-16.5 pertains to the authority of the OCTV and Board to promulgate rules.

N.J.A.C. 14:18-16.6 provides that prior rules are revoked except as otherwise provided. This section is being deleted as it is outdated and not in confirmation with the Administrative Procedure Act, N.J.S.A 52:14B et seq.

N.J.A.C. 14:18-16.7 provides that in the event a cable television operator is found to be subject to effective competition pursuant to 47 CFR § 76.905, certain provisions of N.J.A.C. 14:18 may not apply. The proposal would delete the entire section, because due to FCC changes to the effective competition rules, it is now obsolete.

N.J.A.C. 14:18-16.8 provides how the OCTV may examine violations for noncompliance by a cable television company and how a penalty may be assessed on a cable television company. The proposal would add language to require full and complete responses to alleged violations. It would also state that failure to respond may result in a Notice of Probable Violation and a Final Order of Penalty Assessment.

Appendix A specifies certain forms to be filed with the OCTV: Form CATV-1; Form CATV-2; Form F99; Channel Allocation Form; Cable Facts Questionnaire; Line Extension Policy Form; Outage Form; and Accident/Injury Form.

A 60-day comment period is provided and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)(5), the notice of proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and N.J.A.C. 1:30-3.2 governing rulemaking calendars.

Social Impact

The rules proposed for readoption and proposed new rules govern the substantive requirements of the OCTV, setting forth the rights and obligations of customers and cable television operators, along with technical, reporting and filing standards. The chapter also contains subchapters that govern the initial municipal consent-based and system-wide cable television franchise process as well as the renewal of municipal consent-based and system-wide cable television franchises.

Subchapter 2 deals with cable television plant. The rules protect the public safety and welfare by ensuring that cable television facilities and equipment are inspected and maintained properly to ensure the provision of safe, adequate and proper service. Proposed modifications institute time frames for completion of required repairs and submission of maintenance plans to confirm sufficient inspection of plant and assist the Board in addressing complaints about plant that has either been abandoned or in disrepair, possibly posing a safety hazard.

Subchapter 3, Customer Rights, defines the rights of customers and the obligations of cable television operators. The proposed amendments address various customer concerns. The revisions are aimed at anti-consumer practices exhibited by the companies, where customers are unable to reach a live operator to resolve problems if they have a past due balance on the account, and are forced to make payment before they can speak with a representative. Other proposed changes include clarifying requirements for proration of initial and final bills; requiring notice to customer of any fees for service calls at time of scheduling, and placing the burden of proof on the cable operator to provide proof of the presence of the service representative at the premises where a customer disputes the assessment of a fee for a missed call.

Subchapter 4, Cable Television Operator Rights, specifies the rights of cable television operators and the obligations of customers on issues of billing, disconnection, access to facilities and deposits. These sections protect the rights of both cable television operators and customers by clearly setting forth the respective obligations of both.

Subchapter 5 pertains to office locations and closings. The proposal includes provisions to ensure the cable operator maintains at least one local office either within the county, or the franchise territory of the cable system/legal operating entity, to ensure customer access to an office within reasonable proximity of the franchise territory.

Subchapters 6, 7 and 8, Records; Reports and Filings; and Liability Insurance, concern the non-technical operations of the cable television company, such as the location of offices, records, reports, filings and insurance requirements. The provisions pertaining to records, reporting,

filings and insurance impose administrative burdens on cable television operators, which must collect, file, and in some cases report certain information. However, the rules proposed for readoption are necessary to permit the OCTV to monitor compliance with all statutory and franchise requirements. The proposed inclusion of cable service quality standards serves to benefit consumers by ensuring safe adequate and proper service is provided to all customers.

Subchapters 9 and 10 on testing of service and technical standards for system operation concern the technical aspects of cable television regulation. The rules proposed for readoption ensure that cable television companies operate in a safe and reasonable manner. The rules are intended to ensure that the cable television companies supply an adequate level of service.

Subchapters 11, 12 and 13 concerning the application for municipal consent, the application for a Certificate of Approval and renewals all govern the traditional municipal-consent-ordinance-based franchising process. They are intended to clearly articulate the procedures for obtaining and renewing a cable television franchise in accordance with State and Federal law. Subchapter 13, Renewals, provides municipalities with guidance on the procedures and standards for municipal-consent-ordinance-based franchise renewals.

Subchapter 14 concerns the procedures for the application for an initial or renewal system-wide franchise. The proposed amendments serve to ensure proper notice is provided to effected municipalities and the Division of Rate Counsel during the application or renewal process, including provision of all filed information and notice of public hearings and written comment periods.

Subchapter 15 concerns enforcement of the terms and conditions of a system-wide franchise. The Subchapter sets forth the procedures for the provision of public, educational and governmental (PEG) access channels, interconnections, free cable and Internet services to municipal service properties and public schools. Proposed amendments seek to ensure that, upon request of the municipality, the PEG channels shall be provisioned in the same manner and quality as commercial channels are provided on the system. The proposal also includes provisions for notice to municipalities regarding availability of equipment and training for PEG access users by

company representatives within 60 days of approval of a system-wide franchise. The company shall provide annual notice to all affected municipalities of the training offered and the personnel to contact regarding training.

Subchapter 16 governs miscellaneous matters such as the non-retroactivity of the rules or modifications. The proposal deletes the section providing for waiver of certain sections of Chapter 18 based on effective competition, due to changes in the FCC rules. In addition, language has been added to require full and complete responses to alleged violations. Failure of the Company to respond may result in a Notice of Probable Violation and a Final Order of Penalty Assessment.

Economic Impact

This chapter imposes technical and operational requirements on cable television operators. Thus, it has some additional impact on operating costs, which are, to the extent permitted under Federal cable television rate regulations, passed on to the customer.

The rules proposed herein with amendments and proposed new rules are necessary to adequately protect the safety and interests of the general public and cable television customers. The intent of the rules is for cable television companies to provide safe, adequate and proper service. The existence and enforcement of the rules require the sufficient staffing of the Board and the corresponding administrative and overhead costs. The Board believes the benefits from the rules exceed the burdens of the costs in absence of any significant competitive market to preserve the public interest.

The proposal modifies and deletes several notice requirements, including requirements for posting of certain notices in local offices, filing of notices of price changes and channel changes to the Board and provides for electronic filings in lieu of paper filings, which may result in some cost savings to the cable television companies.

As with regulated public utilities, cable television regulation takes into consideration all reasonable levels of expenses incurred by cable television operators in complying with these requirements, and generally considers them to be business expenses. All fees and charges associated with practice and procedure before the Board and OCTV are set by statute pursuant to N.J.S.A. 48:2-56 and 48:5A-1 et seq., respectively. Costs that will be incurred include those of an administrative nature for the collection, maintenance and reporting of certain information, and the various costs of complying with plant, service testing and technical operating standards. The readoption of N.J.A.C. 14:18 is necessary to adequately protect the safety and interests of the general public and cable television customers.

Federal Standards Analysis

N.J.S.A 52:14B-23 requires that State agencies that adopt, readopt or, amend State rules exceeding any Federal standards or requirements include in the rule making document a Federal Standards Analysis. While many of the rules proposed herein are the subject of Federal laws rules, regulations and standards under 47 C.F.R 76, upon review of the applicable Federal documents, the Board does not believe that any of the rules proposed for readoption with amendments herein conflict or exceed Federal standards. Both the amendments to existing rules, as well as the new proposed rule adding cable service quality standards (N.J.A.C. 14:18-7.9) are deemed consumer protection provisions, which the State is not prohibited from enacting or enforcing, to the extent they are not specifically preempted by the Federal Cable Act. See 47 U.S.C. § 552(d)(1). Accordingly, N.J.S.A 52:14B-23 does not require a Federal standards analysis for the proposed amendments.

Jobs Impact

It is not anticipated that the rules proposed for readoption with amendments and proposed new rules will result in the creation of new jobs or the loss of existing jobs. The rules proposed for readoption with amendments and proposed new rules will not have an impact on any other sector of the economy of the State of New Jersey.

Agriculture Industry Impact

The rules proposed for readoption with amendments and proposed new rules have no impact on the agricultural industry.

Regulatory Flexibility Statement

There are no small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., to which the rules proposed for readoption with amendments and proposed new rules would apply. The businesses affected all have more than 100 full-time employees and/or are based out-of-State.

Smart Growth Impact

The proposed readoption with amendments and proposed new rules will not function to achieve the goal of smart growth and the implementation of the State Development and Redevelopment Plan. L. 2006, c. 83, N.J.S.A. 48:5A-28h(2), specifically provides that as of November 2, 2006, the Board's smart growth rules no longer apply to cable television companies.

Housing Affordability Impact Analysis

The Board does not expect the rules proposed for readoption with amendments and proposed new rules to have an impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the scope of the rules is limited to addressing the regulation of the cable television industry.

Racial and Ethnic Community Criminal Justice and Public Safety Impact Statement

The Board evaluated the rulemaking and determined that it will not have an impact on pretrial, detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposed readoption with amendments and proposed new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 2. PLANT

14:18-2.7 Inspection of property

(a) Each cable television company shall inspect its equipment and facilities at efficiently frequent intervals to disclose conditions, if existing, which would interfere with efficient service and shall promptly take corrective action where conditions disclosed by such inspection so warrant. **In the event a condition is discovered requiring repair, said repair must be completed within a thirty (30) day period unless repair is not feasible during such period due to causes beyond the reasonable control of the company. If such condition requires loss of service to customers, the company shall provide notice of the condition to the OCTV, the proposed date of completion and confirmation of resolution of repair and restoration to customers.**

(b) (No change)

(c) **In accordance with the maintenance plan filed annually by the company,** [E]each pole, post, tower, pedestal, or other structure owned by the cable television company shall be inspected by the cable television company owning it with sufficient frequency and comprehensiveness to disclose the necessity for replacement or repair in order to maintain **safe, adequate and proper** service [in accordance with established practice].

SUBCHAPTER 3. CUSTOMER RIGHTS

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

(a) – (No change)

[(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)](b) 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)](c) 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] **ensure** that such customers are served under the most advantageous schedule.

[(e)](d) A cable television company shall not be required to provide notice and explanations specified in (a) through [(d)] (c) above, if it elects to provide such information on its Internet website in a clear, concise, and readily accessible manner, using any reasonable means and format, that accurately conveys the content of the cable television company's notices, and that allows customers and potential customers to make informed decisions based on the information contained therein.

[(f)] (e) A cable television company that elects to provide notice and explanations on its Internet website shall provide quarterly notice to each customer of how a customer can obtain its current schedule of prices, rates, terms, and conditions in either electronic or paper form.

[(g)] (f) If a customer is unable to access the Internet or is otherwise unable to obtain information from the cable television company's Internet website, the cable television company shall provide a copy of its current schedule of prices, rates, terms, and conditions in paper form.

14:18-3.6 Access to company representative

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. **The cable television company may not restrict a customer's access to a live operator based on the customer's billing status.**

14:18-3.8 Method of Billing

(a)-(b) (No change)

(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] **An** advance payment for a greater period shall reflect **an** appropriate discount for the additional period involved. [Unless otherwise provided for in the applicable filed schedule of prices, rate, terms and conditions, i] Initial and final bills shall be prorated as of the date of the initial establishment and final termination of service.

(d) (No change)

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

(a) – (No change)

(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] **provided** 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. **Such notice may be provided using any reasonable written means in accordance with 47 CFR § 76.1600 and not inconsistent with any other applicable Federal or State statute for customers who have opted to receive electronic billing.**

(c)-(e) - (No change)

(f) A customer wishing to discontinue service must give notice to that effect, either verbally **by speaking with a customer service representative on the phone or in person**, or in writing. 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) (No change)

(h) [By November 5, 2005, and annually thereafter] **E[ε]**ach cable television company shall **annually** notify all residential customers that, upon written request, notice of disconnection of service will be sent to a designated thirdparty 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 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.

1-4 (No change)

14:18-3.12 Service call scheduling

(a)-(d) (No change)

(e) **When a service call is scheduled to a customer's home, the cable television operator shall inform the customer of the amount of any fees that will be assessed for the call,**

including but not limited to fees for missed appointments if the customer is not at the residence. In the event of a customer complaint filed at the Board regarding a missed appointment fee, the cable television operator has the burden of proof in showing the presence of the representative at the premises before imposing any fees associated with a missed appointment for a scheduled service call.

14:18-3.16 [Notice of price change] **Reserved**

[(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 shall electronically file, no later than January 31 of each year, a current schedule of prices, rates, terms, and conditions. A cable television company implementing a change in its prices shall file electronically with the Office revised individual sheets of its schedule of prices, rates, terms, and conditions reflecting any price changes where there is an increase in prices and shall notify each affected customer at least 30 days prior to the effective date. Should a cable television company seek to file a revision in paper form, it shall file one copy of the individual sheet or sheets reflecting the revised changes to the current schedule of prices, rates, terms, and conditions in lieu of filing the entire document. Price decreases shall require notification within 10 days to the Office, and shall be reflected on the bill provided to the cable television company's affected customers in their next billing cycle that commences no earlier than 10 days after the price decrease.

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.]

14:18-3.17 Notice of alteration in channel allocation

(a) Each cable television company shall file with the Office notice of an alteration in channel allocation at least 30 days prior to the effective date for deletions or cutbacks in other services. **If the change results from circumstances outside of the cable operator's control (including failed retransmission consent or program carriage negotiations during the last 30 days of a contract), notice shall be provided as soon as possible.** For alterations in channel allocation for new additions, the cable television operator must provide electronic notice to the Office within 10 days of the effective date. Annually, [within 15 days following January 1] no later than January 31 of every year, each cable television company shall **electronically** file with the Office [an updated] **a current channel lineup** [allocation list, on a form prescribed by the Director].

(b) Each cable television company shall notify its customers of an alteration in channel allocation for deletions or cutbacks in services at least 30 days prior to the effective date. **If the change results from circumstances outside of the cable operator's control (including failed retransmission consent or program carriage negotiations during the last 30 days of a contract), such notice shall be provided as soon as possible.** Such notice may be provided using any reasonable written means in accordance with **47 CFR 76.1600 and 47 CFR 76.1603[(e) (b)]** and not inconsistent with any other applicable Federal or State statute.

(c) (No change)

(d) For alterations in channel allocation for deletions or cutbacks not within the exclusive control of the cable television operator **no additional information shall be required and** the Office shall consider the cable television operator in compliance with the notice obligations where:

1. The cable television operator provides telephonic or electronic notice of the risk of alteration to the Office no less than 24 hours prior to the deletion or cutback, and notice is provided to customers as soon as practical **in a manner consistent with 47 CFR 76.1600 and 47 CFR 76.1603(b);**

2. - 3. (No change)

(e) A change in the way that a broadcast station or cable network identifies or brands itself or presents its programming shall not constitute a change in channel allocation for purposes of this provision.

14:18-3.18 Periodic notices to customers

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

1. – 5. (No change)

6. Notice of receipt of termination notice by third party designee, pursuant to N.J.S.A. 48:5A-36.1;

SUBCHAPTER 4. CABLE TELEVISION OPERATOR RIGHTS

14:18-4.1 Permits

(a) - (c) (No change)

(d) The fee provided in (b) above is in lieu of all other fees, charges, or assessments that may be imposed in connection with costs or expenses related to the construction, presence, or operation of a cable television system within the municipality, including without limitation fees for any permits, legal fees for permit application reviews, and engineering fees.

14:18-4.2 Refusal to connect

A cable television company may refuse to connect with any customer's installation when it is not in accordance with the schedule of prices, rates, terms and conditions of the cable television company furnishing the service which have been filed with the Office, **or posted on the company's website** [and] with the provisions of applicable governmental requirements.

14:18-4.5 Compensation for taking because of installation of cable television facilities

(a) - (g) (No change)

(h) A fee owner, landlord or agent shall not prohibit, restrict, or otherwise condition the provision of cable television service installed pursuant to an administrative order issued by the Board of Public Utilities in accordance with paragraph (c)(1) above.

SUBCHAPTER 5. OFFICES

14:18-5.1 Location and closing

(a) Each cable television company **issued a municipal consent or system-wide franchise** shall maintain[, in or] within [reasonable proximity of] its **franchise service area or county of the area served at a minimum**, a local business office **that meets the requirements of N.J.S.A. 48:5A-26(d), and serves the purpose of receiving, investigating and resolving complaints regarding the quality of service, equipment malfunctions and similar matters, as well as** [The current location of which shall be furnished to the Office where] applications for service, [complaints,] service inquiries, bill payments, and so forth [will be received].

(b) (No change)

(c) At least 60 days prior to the closing or relocation of an office described in (a) or (b) above, where such office is expressly required pursuant to a municipal consent ordinance and Board order to be located within the municipality or other specific location; [or where the office to be closed or relocated is more than 35 aerial miles away from any other office of the

cable television company within the State of New Jersey;] or where the office is to be relocated outside the cable television company's service territory; or where the office is to be located outside the State of New Jersey; **or where the office is the sole office located in either the county or the franchise territory of the cable system or legal operating entity under which the cable franchise is organized**, a cable television company shall file a petition for approval with the Board demonstrating such closure or relocation is not unreasonable, will not unduly prejudice the public interest, and setting forth the means upon Board approval of the petition, by which customers and other interested parties will be adequately notified of the closing or relocation and alternatives available in the case of a closed office. The cable television company shall simultaneously notify its customers and the clerk of each affected municipality of the pending application for permission to relocate or close the subject office by means of posting notice at the office location and, within three days of filing the petition, by placing notice of the office closing or relocation in the newspaper(s) serving the affected area and providing a copy of the notice by mail to the clerk of each affected municipality. Said notice shall inform customers of the Office's toll free number and their right to present to the Board, in writing, any objections they may have to the office closure or relocation. The notice shall specify a date certain for submission of comments which date shall not be more than 30 days after publication and posting. Such office shall not be closed or relocated until the cable television company has been informed, in writing, that the Board has approved such request.

(d) (No change)

SUBCHAPTER 6. RECORDS

14:18-6.1 Availability of records

(a) – (b) (No change)

(c) Records shall be deemed accessible for review within the meaning of paragraph (a) above if they are maintained in electronic form, so long as a computer terminal capable

of accessing the records is made available at an office or offices within the State and that office or those offices, upon request, are identified to the Office in accordance with paragraph (a) above.

14:18-6.2 Plant and operating records

(a) (No change)

(b) Each [local business] office **within the State** shall maintain copies of filings required by the FCC [related to the operation of] **to be maintained at that office** [particular system].

14:18-6.6 Reporting and records of interruptions and outages

(a) All outages where service to customers is interrupted for at least two hours and which affect 50 or more customers shall be reported by each cable television company to the Office on a form prescribed by the Director.

(1) Such reports shall be collected and **filed electronically with** [forwarded to] the Office monthly within 15 days of the end of the month for which said report is filed.

(2) Cable television companies must report to the Office by [telephone] **email to designated personnel** during the course of the outage all outages which exceed one hour in length and affect more than 500 customers.

(b)-(c) (No change)

(d) Each cable television company shall notify the appropriate Office personnel by [telephone] **email** in the event of an outage, emergency or other significant occurrence affecting its system or personnel during other than normal work-hours. Notification shall be in accordance with the procedure established by the Office, as provided to each cable television company which provides that each cable television operator [speak directly with] contact a representative of the Office **by email** in the event of an interruption of service that lasts four hours or more, that affects 50 percent of customers where the system serves less than 20,000 customers, or affects 10,000 or more customers where the system serves 20,000

customers or more, or in the event of serious injury resulting in hospitalization or death to any person as a result of the cable television company's operations.

SUBCHAPTER 7. REPORTS AND FILINGS

14:18-7.6 Telephone system information

(a) (1-4) (No change)

[5] Whether customers are requested to dial a single telephone or separate numbers depending on the nature of their inquiry;

6. Whether inward telephone traffic is grouped to individual departments (that is, service, billing, etc.), along with the total number of such departments and the identification of each department;

7. The total number of inward telephone trunk lines assigned to each telephone number used by the cable television operator;

8. A brief description of the type of telephone system used in the office and the manufacturer and model number of any equipment used.

9. Whether the office has an on-premises private branch exchange (PBX) or other private switching device and whether the device handles all telephone traffic for the office;

10. The total number of functional lines on the line side (telephone extension/CSR side) of the PBX or other private switching device and if segregated by department, the number of functional lines assigned to each department;]

[11] **5** (No change)

[12] **6** (No change)

[13] **7** (No change)

[14] **8** (No change)

[15] **9** (No change)

[16] **10** (No change)

[17] **11** (No change)

[18] **12** (No change)

[19] **13** (No change)

[20] **14** (No change)

[21] **15** (No change)

14:18-7.9 Cable service quality standards (New Section)

(a) This section establishes service quality standards that govern cable providers. The Board may, upon review, suspend application of any provision of this chapter for periods of emergency, catastrophe, natural disaster, or other events the Board considers beyond the control of the cable company.

(b) A cable company shall meet the below minimum service quality standards:

1) Answer Calls: Under normal operating conditions during business hours, not less than 90% of calls to the cable operators' customer service center shall be answered within 30 seconds by a representative, including wait time; if a call is transferred, transfer time will not exceed 30 seconds.

2) Busy Signal: Under normal operating conditions, a customer shall receive a busy signal less than 3% of the time.

3) Call Back: at least 90% of the calls to the customer service center placed on hold shall be provided an opportunity to leave a call back number for call to be returned within 30 minutes of initiation of the call. Companies who provide customers with the ability to schedule a call with the customer service center in advance are not subject to this requirement.

4) Mean Time to Install: under normal operating conditions, at least 95% of Standard installations, defined as those that are located within 125 feet from the existing distribution system, shall be completed within 7 business days of the order being placed.

5) Call Resolution: at least 85% of customer service calls requiring a technician visit shall be resolved within 14 days

6) Appointments: under normal operating conditions, at least 95% of appointments scheduled with customers for installations and installation activities and other service calls shall be completed on time as scheduled for a specific time or at maximum, a four hour time block during normal business hours, unless modified by the customer. If a cable representative is running late and must cancel the appointment, the appointment shall be rescheduled at a time convenient for the customer.

7) Service Interruptions: excluding conditions beyond the control of the operator, at least 95 % of the time, the company shall begin working on service interruptions within 24 hours after the interruption becomes known.

8) Repeat Trouble Reports: at least 90% of repeat service trouble reports shall be completed within 14 days.

(c) Each cable provider shall file with the Office a quarterly report of its performance in relation to the standards set forth in section (b) above. The report shall include a list of the standards, the metrics that have not been met, the corrective action taken and the completion date.

SUBCHAPTER 14. APPLICATION FOR SYSTEM-WIDE FRANCHISE

Section 14:18-14.1 - Application for system-wide franchise; who may apply

(a) (No change)

(b) The **complete** application must **either** be submitted in triplicate to the Director of the Office **with all required documents or may be filed electronically. The Application must contain copies of all appendices, exhibits, etc. without cross references to documents previously filed in order to be deemed complete.** Notice of the filing of the system-wide franchise **application** shall be filed with each municipality for which the applicant has applied, which notice shall include information as to how a municipality can receive a copy of or review the **complete** application filed **electronically** with the Office. **The applicant**

shall provide proof of notice of the filing to all the impacted municipalities, the Office and Rate Counsel within 3 days of the filing.

(c) (No change)

14:18-14.4 Notice of hearing

(a) The system-wide franchise applicant shall give notice of the date scheduled for the hearings concerning the application for a system-wide franchise by publishing in a newspaper or newspapers of general circulation information as to:

1. The identity of the applicant or applicants;
2. The time and place of the hearings; and
3. The place at which, and time within which, system-wide franchise applications may be examined by interested parties.

4. Information as to how members of the public may file comments with the Secretary of the Board electronically either via e-mail or the e-filing portal, or mailed to the Board's offices within 5 business days of the last day of hearing. All comments filed shall be made part of the record.

(b) This notice shall be published, at the latest, on the 10th day prior to the hearing. **The applicant shall provide notice of the hearings and the comment period to all municipalities on the same day as publication in the newspapers. The applicant shall provide the Office and Rate Counsel with the notice of the hearings and comment period, and proof that the notice was provided to all municipalities.**

14:18-14.6 Amendments to application; notice

An applicant for a system-wide franchise may, until [seven] 7 days prior to the first hearing scheduled, submit to the Office changes, modifications or amendments of information contained in the application. Notice of any significant amendments to the application shall be provided to affected municipalities, which shall include information as to how a municipality can receive a copy of or review the amendments filed with the Office. **The applicant shall provide the Office and Rate Counsel with proof of notice of any amendment(s) that is provided to the municipalities.**

14:18-14.7 Additional Information other than amendatory; notice

(a) An applicant for a system-wide franchise may, no later than [five] 5 days after the close of the hearing, submit to the Office **and Rate Counsel** such additional, clarifying, explanatory, or supplemental information as may be helpful to the Board in reaching a decision.

[(b) At any stage prior to the close of the hearing, t] The presiding officer may require further information upon any issue to be presented by the system-wide applicant. Such information shall be provided no later than five business days after the close of hearing **to the Office and Rate Counsel.**

14:18-14.8 Record of hearing

[The Office] **The applicant** will cause to be made a record of all public hearings conducted pursuant to the requirements of N.J.S.A. 48:5A-16f, which record, with all papers and transcripts filed in the proceeding shall constitute the record for decision.

14:18-14.17 - System-wide franchise renewal pre-proposal phase

(a) By 30 months prior to the expiration of the system-wide franchise, or within six months of filing of notice by the cable television company operating under a system-wide franchise, whichever is later, the Office shall begin to conduct ascertainment proceedings. Those proceedings shall: review, consistent with N.J.S.A. 48:5A-1 et seq., the past performance of

the cable television operator holding a system-wide franchise; and assess the future cable-related needs and interests of the municipalities covered by the system-wide franchise, consistent with N.J.S.A. 48:5A-28. Such proceedings shall afford affected municipalities, the public and the cable television operator(s) notice and opportunity for participation.

1. Proceedings shall be performed by staff of the Office or any other officer as determined by the Board.
2. If the Office deems that a public hearing or hearings are necessary to assess the cable related needs and interests and to review, consistent with N.J.S.A. 48:5A-1 et seq., the cable television operator's past performance, the public hearing or hearings shall be held in the cable television operator's franchise territory. Such hearing or hearings shall be held upon at least 15 days['] written notice to the public and the cable television operator. At any such hearing or hearings, all participants shall have the right to present relevant comments. **If the Office deems that a public hearing or hearings is not necessary, the Office may allow comments to be filed in lieu of holding hearings.**

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 cable television company operating under a system-wide franchise. **The applicant shall be required to provide notice to the affected municipalities of any hearings and/or comment period.**

(b) – (c) (No change)

14:18-14.18 Application for renewal of a system-wide franchise

(a) (No Change)

(b) The **complete** application must be **filed with the Board**, [submitted in triplicate]**with a copy** to the Director of the Office [with a copy provided to] **and** the Division of Rate Counsel. **The application must contain copies of all appendices, exhibits, etc. without cross references to documents previously filed in order to be deemed complete.** Notice

of the filing for renewal of the system-wide franchise shall be filed with each municipality for which the applicant has authorization to provide service, which notice shall include information as to how a municipality can receive a copy of or review the **entire application and any supporting or supplemental documents** filed with the Office. **Proof of the notice to the affected municipalities shall be provided to the Office and Rate Counsel.**

(c) (No change)

(d) Upon receipt of the application for renewal of a system-wide franchise, the Board shall schedule public hearings on the application in accordance with N.J.A.C .14:18-14.3.

1. Notice of the public hearings **and written comment period** shall be provided by the system-wide franchise applicant **to the affected municipalities** in accordance with N.J.A.C. 14:18-14.4, which provides that public hearings shall be scheduled no later than 45 days of the filing of the application for renewal of a system-wide franchise. **Written comments shall be provided no later than five business days after completion of the last public hearing held. The applicant shall provide proof of notice of the hearings and comment period to the Office and Rate Counsel;**

2. – 3. (No change)

(e) If Board staff does not determine to treat the matter as a contested case pursuant to N.J.A.C.14:18-14.19, the Board shall render a decision to renew the system-wide franchise [no later than 120 days from] **prior to the expiration date of the franchise [of filing by the cable television company operating under a system-wide franchise,]** by order pursuant to the specifications of N.J.A.C.14:18-14.11. A cable television company operating under a system-wide franchise that has applied for renewal of its system-wide franchise and whose franchise has expired prior to Board action on the system-wide franchise renewal application shall have the authority to continue to provide cable television service under its current system-wide franchise until such time as the Board makes a decision.

(f) - (g) (No change)

SUBCHAPTER 15. SYSTEM-WIDE FRANCHISE TERMS AND CONDITIONS

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. **Upon request of the municipality, the public, educational and governmental access channels shall be provisioned in the same manner and quality as commercial channels offered on the applicant's system.**

14:18-15.6 Equipment and training

(a) – (d) No changes

(e) The cable television company shall provide an initial notice to each municipality of available PEG access training and equipment, as well as the name of company personnel responsible for addressing municipalities' concerns with the provision of same, within 60 days of approval of a system-wide franchise by the Board. Thereafter, the cable television company shall provide annual notice to all affected municipalities of available PEG access training and equipment as well as company personnel to be responsible for addressing municipalities' concerns with obtaining training and equipment.

SUBCHAPTER 16. MISCELLANEOUS PROVISIONS

14:18-16.6 Reserved [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.]

14:18-16.7 Reserved[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 CFR § 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[.8, Method of billing, provided that the cable television company provides a sample bill to be utilized in lieu of compliance with this section for approval by the Office;]

[2. N.J.A.C. 14:18-3.15 Trial services at subsection (b);]

[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/or 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;

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

[8. N.J.A.C. 14:18-7.6, Telephone system information.]

[(b) A cable television company that has not been certified by the Board as subject to rate regulation may seek relief from (a) above without the need for decertification from the FCC.]

[(c) A cable television company receiving relief from the Board under (a) above shall, upon request of the Office, provide information regarding any area of relief, in accordance with N.J.A.C. 14:18-7.2.]

14:18-16.8 Violations

(a) In any enforcement action by the Office alleging non-compliance with any provision of N.J.S.A. 48:5A-1 et seq., N.J.A.C. 14:17, or this chapter, or Board order for which monetary penalties may be sought, the Office must provide a cable television operator written notice of the alleged violation within 90 days of becoming aware of it. Within 30 days of the **issuance of the** written notice of any alleged violation, the cable television operator [may] **must file an Answer, which at a minimum must include** any documentation requested by the Office, including, but not limited to, explanation, mitigation, or evidence that no customers were harmed by such violation. The Office may, in its discretion, extend the time for the cable television company to respond up to 30 days. **Upon notice of the [F]failure to file a full and complete response inclusive of requested [responsive] documentation within 30 days, or 60 days if extended, Staff may [result in the pursuit of] pursue** an enforcement action as set forth in this section. **In the event an operator fails to respond to the notice of alleged violation, the operator shall be deemed in default, and following notice to the operator and an opportunity to cure, Board Staff may present a Notice of Probable Violation to the Board and seek the issuance of a Final Order of Penalty Assessment for an assessment of the maximum penalty pursuant to N.J.S.A. 48:5A-51, without further notice to the operator.**

(b) (No change)

(c) Any penalty that may be assessed pursuant to N.J.S.A. 48:5A-51 may be waived or compromised by the Board. Prior to assessing a penalty, the Board or the Office shall provide the cable television operator with a written explanation, with specificity, of the proposed penalty for each violation and the particular rules alleged to have been violated. **The cable television operator may file a proposed Offer of Settlement with any response submitted to the written explanation of penalty.**

(d) – (f) No Change

