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**DRAFT**

**3/26/21**

**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

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Proposal Number:

A virtual **public hearing** concerning the proposal will be held on \_\_\_\_\_ 2021 at 10:00 A.M. at:

Comments may be submitted through \_\_\_\_\_ 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](mailto:rule.comments@bpu.nj.gov) or by mail to:

Aida Camacho-Welch, Secretary  
NJ Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> 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

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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 re Adoption 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, 2021, 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. The feedback received was carefully considered and many suggestions were incorporated into the rules. Comments were filed following the first stakeholder meeting by the following parties: Altice USA, Inc., (Altice), Charter Communications (Charter), Comcast Communications (Comcast), Verizon New Jersey (Verizon) and the Division of Rate Counsel (DRC).

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Following is a section-by-section summary of the rules proposed for re-adoption 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.

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 pertains to the identification of property, buildings and structures of cable television companies.

N.J.A.C. 14:18-2.5 pertains to 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 pertains to the maintenance of plant, equipment and facilities by cable television companies.

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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 a reporting mechanism post completion of maintenance to equipment and facilities.

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

N.J.A.C. 14:18-2.9 pertains to the calculation of pole attachment rent where the Board must determine the appropriate rental rate. Proposed changes include significant modifications to delete existing methodology set forth in the rules and to replace the method of calculation to reflect changes in FCC rules regarding pole attachments.

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 pertains to 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 pertains to customer information required to be furnished by the cable television companies.

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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 includes language to clarify the requirements when posting terms on the web, and removes the requirement for posting in the local business office, as recommended in Comcast's comments.

N.J.A.C. 14:18-3.5 pertains to how cable television companies must provide outage credits to customers. The proposal includes an annual reporting requirement regarding credits, rebates and promotional offerings.

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 a customer may request access to a "live" representative at any point in time during a call to the company.

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

N.J.A.C. 14:18-3.8 pertains to the method of billing customers. The proposal deletes text regarding filed schedule of prices, rates, terms and conditions in order to clarify the method of billing requirements.

N.J.A.C. 14:18-3.9 pertains to the due date of payment and notice of discontinuance. The proposal includes language that specifies a customer need not speak with a retention specialist when cancelling service, and added language regarding the provision of disconnection notices consistent with federal rules, as recommended by Comcast.

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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 pertains to disputes regarding bills and requires that cable television companies shall not disconnect a customer on the basis of a disputed bill.

N.J.A.C. 14:18-3.12 pertains to service call scheduling. The proposal includes a requirement that the service representative verify no access to the home 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 serves to include language that clarifies the requirement of filing of notice of price changes with the Board and customers, as recommended by Comcast.

N.J.A.C. 14:18-3.17 requires specific notice of alteration in channel allocation. The proposal adopts Comcast's recommendations to require the filing of channel lineups instead of channel allocation lists, and updates the requirements to reflect modifications in FCC rules regarding notices of changes in channel allocations outside of the control of the operator.

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N.J.A.C. 14:18-3.19 pertains to interest on uncorrected bills.

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 pertains to the avoidance of interruptions and requirement for prompt restoration.

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

N.J.A.C. 14:18-3.23 pertains to the reimbursement for lost, stolen or damaged equipment by customers.

N.J.A.C. 14:18-3.24 pertains to 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 to allow 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 adopts language recommended by Comcast



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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. Proposed modification to include language that provides for company web posting of information.

N.J.A.C. 14:18-4.3 pertains to the basis of discontinuance of service of 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 pertains to compensation for taking because of installation of cable television facilities. The proposal adopts Comcast's recommended language regarding the inability of a fee owner, landowner or agent to restrict or condition the provision of cable television service in compliance with a Board Order.

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 provides that a cable television operator may 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.

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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 pertains to 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 pertains to 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 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 pertains to 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 adopts Comcast's recommendation providing for review of records via a computer terminal.

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N.J.A.C. 14:18-6.2 requires maintenance of plant and operating records.

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 modifications to 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 pertains to 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.

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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 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 established 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.

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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 pertains to technical performance requirements by cable television operators.

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.

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

Subchapter 11 pertains to 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 Office and specifies what information must be filed on the application.

N.J.A.C. 14:18-11.3 pertains to the appointment of citizens' committee and 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 pertains to the prohibition of ex parte communications where there are two or more initial applicants.

N.J.A.C. 14:18-11.6 pertains to the notice of hearing.

N.J.A.C. 14:18-11.7 specifies before whom the hearings on the application must be held.

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

N.J.A.C. 14:18-11.9 pertains to amendments to the application and notice thereof.

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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 specifies the 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.

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Subchapter 12 pertains to 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 pertains to renewals of municipal-consent-based cable television franchises.

N.J.A.C. 14:18-13.1 pertains to 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 pertains to the cable television operator's proposal for Renewal Certificate of Approval.

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



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N.J.A.C. 14:18-13.7 pertains to a hearing 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. Modifications proposed include providing for electronic filing and requirements for proof of notice to the effected municipality and Rate Counsel.

N.J.A.C. 14:18-14.2 indicates 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 modifications allow for a comment period ending five business days following the hearing, and requires notice to municipalities and proof of notice to the Board and Rate Counsel.

N.J.A.C. 14:18-14.5 provides who may preside over the hearings.

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

N.J.A.C. 14:18-14.7 provides 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 allows for further comments.

N.J.A.C. 14:18-14.8 provides the method of recording the mandatory public hearings. Proposed changes include the requirement that the applicant provide for the transcription of the proceeding.

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 specifies how a system-wide franchise applicant may appeal a decision by the Board to deny its application for a system-wide franchise.

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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 versus conducting 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 specifies the procedures a cable television company must follow to apply for a renewal of its system-wide franchise as well as the procedures the OCTV and the Board must use to process the renewal application. The Proposal clarifies that application information must be provided to municipalities; proof of notice to municipalities, the Board and Rate Counsel; a comment period ending 5 business days post hearings; notice of the hearing to municipalities and modifies the 120 day decision timeframe to prior to the expiration of the franchise.

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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 provides 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 access channels; return lines; interconnection of the cable television companies within a particular municipality and for disputes between municipalities and

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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. The proposal includes provisions for notice to municipalities regarding equipment and training 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.

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.

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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.

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. Section has been amended to remove certain applicable sections.

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. Language has been added to require full and complete responses to alleged violations. Noncompliance 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.

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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 governs the substantive rules and 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. The rules protect the public safety and welfare by ensuring that cable television facilities and equipment are installed and used in an appropriate manner.

Subchapter 3, Customer Rights, defines the rights of customers and the obligations of cable television operators. The proposal includes provisions that allow for complete information regarding rates, terms and conditions of service for both existing and potential customers, as well as the addition of a requirement that companies annually report credits, rebates and promotional services provided to customers. Further, the proposal allows customers at any point during a customer service call to access a live customer representative regardless of their billing status to avoid unnecessary customer delays.

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.

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Subchapter 5 pertains to office locations and closings. N.J.A.C. 14:18-5.1(c) requires cable television companies to petition the Board prior to closing an office. The proposal includes provisions that align the rules with existing statutes.

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 re-adoption 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 re-adoption 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



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municipalities with guidance on the procedures and standards for municipal-consent-ordinance-based franchise renewals.

Subchapter 14 concerns the application for a system-wide franchise. System-wide franchises allow telecommunications service providers or other entities legally occupying the public right-of-way or intending to do so, to compete in the cable television market without the need for municipal consent. The proposed inclusions serve among other things to ensure proper notice is provided to effected municipalities.

Subchapter 15 concerns enforcement of the terms and conditions of a system-wide franchise. The provisions of Subchapter 15 set forth the procedures for public, educational and governmental access channels, interconnections, free cable and Internet services to municipal service properties and public schools and the method the Board must use to resolve these issues and benefit both municipalities and cable television companies in resolving disputes. Furthermore, Subchapter 15 contains rules regarding the deployment responsibilities of any company that serves 40 percent of the local telephone market in the State and provides guidance for certain terms and conditions contained in the PL 2006, c.83. This benefits the system-wide franchisee, the Board, municipalities and the general public because it clarifies the responsibilities of the system-wide franchisee. The proposed inclusions provide that the PEG channels are provided in the same manner as commercial channels offered upon request of the municipality. The proposal also includes provisions for notice to municipalities regarding equipment and training 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.

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Subchapter 16 governs miscellaneous matters such as the non-retroactivity of the rules or modifications. The proposal narrows the applicability of the section providing for waiver of certain sections of Chapter 18 based on effective competition. In addition, language has been added to require full and complete responses to alleged violations. Noncompliance 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.

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 are generally considered 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

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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. As noted above, costs associated with the receipt of a system-wide franchise will incur a system-wide franchisee to provide various services to municipalities and these costs may be significant; however, they are attendant to the grant of a system-wide franchise. 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 Statement**

While many of the rules proposed herein are the subject of Federal laws, rules, regulations and standards, including but not limited to franchising statute (47 U.S.C. § 546), technical regulations (47 CFR Part 76, Subpart K) and customer service regulations (47 CFR Part 76, Subparts H and T), 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.

### **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**

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The rules proposed for re adoption 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 re adoption 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 re adoption 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 re adoption 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.

### **Smart Growth Development Impact Analysis**

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The Board does not expect the proposed readoption with amendments and proposed new rules to have an impact on housing production in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plans in New Jersey because the scope of the rules is limited to the regulation of the cable television industry.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:18.

**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 15-day period, unless a written grant of extension by the Office is provided. The company must report the issue and the resolution to the Office within 30 days.**
- (b) (no change)
- (c) Each pole, post, tower, pedestal, or other structure owned by the cable television company shall be inspected by the cable television company owning it **in accordance with the maintenance plan filed annually by the company** [~~with~~

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~~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]~~.

14:18-2.9 Calculation of pole attachment rates

(a) In cases where the Board must determine the appropriate rental rate for cable television or similar third party attachments on utility poles, it shall be calculated [~~in the following manner]~~ **using the following formula:**

$$\text{Maximum Rate} = \text{Space Factor} \times \text{Net Cost of a Bare Pole} \times \text{Carrying Charge Rate}$$

Where

$$\text{Space Factor} = \frac{\text{Space Occupied by Attachment}}{\text{Total Usable Space}}$$

**b. the maximum rate shall be the higher of the rate yielded by paragraphs (i) or (ii) of this section.**

**(1) The following formula applies to the extent that it yields a rate higher than that yielded by the applicable formula in paragraph (b)(2) of this section:**

$$\text{Rate} = \text{Space Factor} \times \text{Cost}$$

**Where Cost**

**in Service Areas where the number of Attaching Entities is 5 = 0.66 × (Net Cost of a Bare Pole x Carrying Charge Rate)**

**in Service Areas where the number of Attaching Entities is 4 = 0.56 × (Net Cost of a Bare Pole x Carrying Charge Rate)**

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**in Service Areas where the number of Attaching Entities is 3 = 0.44 × (Net Cost of a Bare Pole x Carrying Charge Rate)**

**in Service Areas where the number of Attaching Entities is 2 = 0.31 × (Net Cost of a Bare Pole x Carrying Charge Rate)**

**in Service Areas where the number of Attaching Entities is not a whole number = N × (Net Cost of a Bare Pole × Carrying Charge Rate), where N is interpolated from the cost allocator associated with the nearest whole numbers above and below the number of Attaching Entities.**

$$\text{Where Space Factor} = \left[ \frac{\left( \frac{\text{Space Occupied}}{\text{Pole Height}} \right) + \left( \frac{2}{3} \times \frac{\text{Unusable Space}}{\text{No. of Attaching Entities}} \right)}{\text{Pole Height}} \right]$$

**(2) The following formula applies to the extent that it yields a rate higher than that yielded by the applicable formula in paragraph (b)(1) of this section:**

$$\text{Rate} = \text{Space Factor} \times \text{Net Cost of a Bare Pole} \times \left[ \begin{array}{l} \text{Maintenance and Administrative} \\ \text{Carrying Charge Rate} \end{array} \right]$$

$$\text{Where Space Factor} = \left[ \frac{\left( \frac{\text{Space Occupied}}{\text{Pole Height}} \right) + \left( \frac{2}{3} \times \frac{\text{Unusable Space}}{\text{No. of Attaching Entities}} \right)}{\text{Pole Height}} \right]$$

**c. Allocation of Unusable Space Costs.**

**(1) With respect to the formula referenced in (b)(2), a utility shall apportion the cost of providing unusable space on a pole so that such apportionment equals two-thirds of the costs of providing unusable space that would be**

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**allocated to such entity under an equal apportionment of such costs among all attaching entities.**

**(2) All attaching entities attached to the pole shall be counted for purposes of apportioning the cost of unusable space.**

**(3) Utilities may use the following rebuttable presumptive averages when calculating the number of attaching entities with respect to the formula referenced in (b)(2). For non-urbanized service areas (under 50,000 population), a presumptive average number of attaching entities of three. For urbanized service areas (50,000 or higher population), a presumptive average number of attaching entities of five. If any part of the utility's service area within the state has a designation of urbanized (50,000 or higher population) by the Bureau of Census, United States Department of Commerce, then all of that service area shall be designated as urbanized for purposes of determining the presumptive average number of attaching entities.**

**(4) A utility may establish its own presumptive average number of attaching entities for its urbanized and non-urbanized service area as follows:**

**(i) Each utility shall, upon request, provide all attaching entities and all entities seeking access the methodology and information upon which the utilities presumptive average number of attachers is based.**

**(ii) Each utility is required to exercise good faith in establishing and updating its presumptive average number of attachers.**



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**(iii) The presumptive average number of attachers may be challenged by an attaching entity by submitting information demonstrating why the utility's presumptive average is incorrect. The attaching entity should also submit what it believes should be the presumptive average and the methodology used. Where a complete inspection is impractical, a statistically sound survey may be submitted.**

**(iv) Upon successful challenge of the existing presumptive average number of attachers, the resulting data determined shall be used by the utility as the presumptive number of attachers within the rate formula.**

**d. Use of presumptions in calculating the space factor.**

**(1) With respect to the formulas referenced in (b)(1) and (b)(2) above, the usable space is presumed to be 13.5 feet. The amount of unusable space is presumed to be 24 feet. The pole height is presumed to be 37.5 feet. These presumptions may be rebutted by either party.**

~~[1. Total percentage of gross plant as annual cost shall be the sum of the following percentages:]~~

- ~~\_\_\_\_\_ [i. Rate of return;~~
- ~~\_\_\_\_\_ ii. Depreciation expense;~~
- ~~\_\_\_\_\_ iii. Miscellaneous taxes;~~
- ~~\_\_\_\_\_ iv. Maintenance expenses;~~
- ~~\_\_\_\_\_ v. Administrative expenses;~~

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\_\_\_\_\_vi. Federal income tax.]  
 \_\_\_\_\_

- |    |   |   |  |                          |   |
|----|---|---|--|--------------------------|---|
| 2. | <del>Total yearly ownership expense</del> | = | <del>Unweighted average original installed per pole cost</del> | <del>Multiplied by</del> | <del>Total percentage gross pole plant as annual cost</del> |
| 3. | Common space                              | = | Setting depth plus ground clearance                            |                          |   |
| 4. | Usable space                              | = | Total pole length  | Minus                    | Common space  |

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5.	<del>Footage of usable space allocated to cable television or third party attacher</del>	=	<u>1.0 feet</u>		
6.	<del>Footage of common space allocated to cable television or third party attacher</del>	=	<del>Total usable space on pole</del>	<del>Multiplied by</del>	<del>Total common space on pole</del>
7.	<del>Percentage of total space allocated to cable television or third party attacher</del>	=	<del>Footage of cable television or third party attacher common space</del>	<del>Plus</del>	<del>Footage of cable television or third party attacher usable space</del>
<hr/>					
			<del>Total pole length</del>		
8.	<del>Annual rental charge per pole</del>	=	<del>Percentage allocated to cable television or third party attacher</del>	<del>Multiplied by</del>	<del>Total yearly ownership expense]</del>

~~— [(b) Weighted average original installed per pole cost may be used in (a)2 above, upon mutual agreement of the cable television company or other third party attacher and the utility; however, should the parties be unable to agree on weighted or unweighted costs, the Board shall employ the unweighted average original installed per pole cost.]~~

~~— [(c) The quotient of total common space on the pole divided by the number of parties on the pole may be used to set the footage of common space allocated to cable television or other third party attacher upon mutual agreement of the cable television company or other third party attacher and the utility; however, should the parties be unable to agree to allocate common space equally, the Board shall employ the formula set forth in (a)6 above.]~~

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

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

### SUBCHAPTER 3. CUSTOMER RIGHTS

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

(a) – No changes

~~[(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.]~~

(e)(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 rate 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.

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(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] **full and complete information regarding all of its rates, terms and conditions of service** on its Internet website in a clear **and** [ , ]concise[, and readily accessible] manner[, ] **readily accessible to both existing and potential customers; such information should be provided** using any reasonable means and format, that accurately conveys the content of the cable television company's notices, and that allows **existing** [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.

#### 14:18-3.5 Outage credit

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

1 – 8 (No change.)

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**9. The company will report annually to the Office the amount of credits, rebates and free promotional services provided to its customers during the course of the year under sections 1-8 above.**

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 **at any point in time during the call** by which a customer can speak to the next available operator **absent any further action on the part of the customer. The cable television company may not restrict a customer's access to a live operator based on their 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 advance payment for a greater period shall reflect appropriate discount for the additional period involved. [~~Unless otherwise provided for in the applicable filed schedule of prices, 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

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(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 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.**

(c)-(d) - no change

(e) 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. **Customer requests to discontinue service by speaking to a customer service representative of the cable television company shall be processed without the need for any additional approvals from other departments or personnel (i.e. retention).** 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.

(f) (No change)

(g) [By November 5, 2005, and annually thereafter] E[e]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 third party as well as to the customer. Once a customer has made a third party designation, notification of this provision need no longer be provided to that customer. After the initial notice, notice of this provision may be provided 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)

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14:18-3.12 Service call scheduling

- (a) –(d) (No change)
- (e) **The cable television operator is required to provide affirmative proof of 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

- (a) ~~[(f-t)]~~ **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 rates shall file electronically with the Office revised individual sheets of its schedule of prices, rates, terms and conditions reflecting any price changes w]~~ **Where there is an increase in prices and with respect to cable television service, the cable television company shall notify the Office and 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. Cable television service [P]price decreases or other service changes not reflecting an increase in prices shall require notification within ten 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 ten days after the price decrease or service change.**



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2. (No change.)

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(eb)** and not inconsistent with any other applicable Federal or State statute.

(c) Each cable television company shall notify affected municipalities of an alteration in channel allocation for public, educational, and/or governmental access channels within 10 days of the effective date for new additions, and at least 30 days

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prior to the effective date of a change in channel location or deletion in a manner reasonably calculated to provide such information.

(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. The cable television operator has acted to provide the required notice at the earliest practical date and either reasonably believes that timely compliance with this subsection might subject the cable television operator to penalties under State, Federal, or local law or that a substantial benefit to customers would be irretrievably lost; or

3. In any other circumstance not enumerated in this subsection, upon a showing by the cable television operator that there is good cause and measures were taken to notify customers as soon as practical.

**(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

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(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.

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

(a) - (g) No change

**(h) A fee owner or other person shall not prohibit, restrict, or otherwise condition the provision of cable television service, or any other services provided by a cable television operator, that are provided by means of the equipment or facilities 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(b), 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

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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 in the cable franchise system or county**, 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.

## SUBCHAPTER 6. RECORDS

### 14:18-6.1 Availability of records

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(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.)

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(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 telephone or 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.~~

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~~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; ]~~

11-21 (changed to 5-15)

#### **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 extraordinary 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.**



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- 2) Busy Signal: Under normal operating conditions, customer shall receive a busy signal less than 3% of the time.**
- 3) Call Back: not less than 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.**
- 4) Mean Time to Install: not less than 95% of Standard installations, defined as those that are located up to 125 feet from the existing distribution system, shall be completed within 7 days of the order being placed.**
- 5) Call Resolution: not less than 85% of customer service calls shall be resolved within 14 days**
- 6) Appointments: not less than 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, not less than 95 % of the time, the company shall begin working on service interruptions within 24 hours after the interruption becomes known.**

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**8) Repeat Trouble Reports: not less than 90% of repeat service trouble reports shall be completed within 14 days.**

**(c) Each cable provider shall report its performance in relation to the standards set forth herein at section (b) on a quarterly basis to the Office. 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 three days of the filing.**

(c) (No change)

14:18-14.4 Notice of hearing

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(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 the same day as publication in the newspapers. The applicant shall provide the Office and Rate Counsel with the notice and proof of the notice was provided to all municipalities of the hearings and comment period.**

14:18-14.6 Amendments to application; notice

An applicant for a system-wide franchise may, until seven days prior to the first hearing scheduled, submit to the Office changes, modifications or amendments of information

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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 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

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ascertainment proceedings. Those proceedings shall: review, consistent with 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 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 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

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(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**, with a copy provided to the Division of Rate Counsel. **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 **with proof of the notice to the affected municipalities 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 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 14:18-14.4 which 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**

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**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 14:18-14.1 9, 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 14:18-14.1 1. 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 changes.

## 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. **The public, educational and governmental access channels shall be provided in**

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**the same manner as commercial channels offered on the applicant's system, upon request of the municipality**

#### 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 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 training and equipment as well as company personnel to be responsible for addressing municipalities' concerns with obtaining training and equipment.**

### SUBCHAPTER 16. MISCELLANEOUS PROVISIONS

#### 14:18-16.7 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;]~~

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



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~~3. N.J.A.C. 14:18-3.17 Notice of alteration in channel allocation;~~

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

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

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

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

6.~~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. any regulation found at N.J.A.C. 14:17.1.1 et seq., N.J.A.C. 14:18-1.1 et seq., or any applicable Board order for which monetary penalties may be sought, the Office [must] will provide [a] cable television operator with written notice detailing the alleged violation within 30 days of becoming aware of it. Within 30 days of the written notice of any alleged violation, the 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,

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extend the time for the cable television company to respond up to 30 days.

Failure to file **a full and complete response inclusive of requested** [responsive] documentation within 30 days, or 60 days if extended, may result **in the operator being deemed in default, and 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.** [~~pursuit of enforcement action as set forth in this section.~~]

(b) For any first-time offense involving an alleged notice or reporting violation, or any alleged violation directly affecting fewer than 25 customers, a 30 day notice and opportunity to cure shall be issued and if the alleged notice or reporting violation or alleged violation directly affecting fewer than 25 customers is cured within that time, the violation shall not be subject to a penalty. The notice and opportunity to cure may (but is not required) to be issued concurrently with the notice of alleged violation. No extension of the notice and opportunity to cure shall be granted. Reporting violations do not include failure to file required notices.

(c) For purposes of this section, a first-time offense means that within the three years prior to the alleged violation, the cable television operator has violated the implicated reporting notice, or other requirement, regardless of whether a penalty was assessed, compromised, or waived.

(d) Any penalty which 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 of the proposed penalty for each violation that includes a

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recitation of the specific and particular regulations alleged to have been violated. **The operator may file a proposed Offer of Settlement with any response submitted to the written explanation.**

(e) In determining the amount of penalty, if any, the Board and the Office must consider:

- 1) the nature, circumstances and gravity of the violation(s), including but not limited to the extent to which customers have been harmed, including the estimated number of customers affected by the alleged violation;
- 2) Any history of prior violations of that particular and specific regulation within the past three years;
- 3) Any good faith effort by the operator to achieve compliance or cure the violation within a reasonable time period following notice;
- 4) whether the alleged actions constitute a violation of a federal rule or regulation enforced by the Board;
- 5) whether the violation was willful; and
- 6) any other factors deemed relevant by the Office.

~~[(e) Enforcement actions must be resolved within 180 days of the date of the written notice, except that the Office may extend the deadline up to an additional 90 days if additional time will serve the public interest. However, the time frame for completion of the enforcement action shall be inapplicable where a cable~~

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~~television operator fails to provide a response to the written notice within the 30 day time period, or 60 day period if extended, noted in (a) above. Any extension requested pursuant to (a) above will automatically extend the time frame for completion of enforcement action by the equivalent number of the days of the extension.]~~

~~(f) [In assessing violations, the Board may not look back more than 3 years prior to the date of the written notice.]~~