

(h) An operator shall arrange all marks, except for the arrowhead marks in an offset markout, in a line following or paralleling the course of the underground facility. The arrowhead marks used in an offset markout shall be perpendicular to the course of the underground facility.

(i)-(j) (No change.)

(k) Markouts shall include the type of **\*outer\*** infrastructure material, where known or reasonably estimated, using the following letter designation codes at Table B below. Composition codes are to appear once per linear markout or every time there is a change in diameter or composition. These letter designation codes will be used in addition to the letter codes at Table A above.

**Table B**

Infrastructure Material

ABS	Acrylonitrile - Butadiene - Styrene
ACP	Asbestos Cement Pipe
CL	Cast Iron
CMC	Cement Mortar Coated
CML	Cement Mortar Lined
CMP	Corrugated Metal Pipe
CPP	Corrugated Plastic Pipe
CU	Copper
CWD	Creosote Wood Duct
HDPE	High Density Polyethylene
MTD	Multiple Tile Duct
PLA	Plastic (conduit or pipe)
RCB	Reinforced Concrete Box
RCP	Reinforced Concrete Pipe
RF	Reinforced Fiberglass
SCCP	Steel Cylinder Concrete Pipe
STL	Steel
VCP	Vertrified Clay Pipe

(l) The operator shall ensure that all colors used in markouts meet the standards in Standard Z535.1-2017 of the American National Standards Institute, Inc., which is incorporated herein by reference, as amended and supplemented, and is available at <https://www.nema.org/Standards/Pages/American-National-Standard-for-Safety-Colors.aspx>.

(m) The operator shall ensure that all flags used in markouts shall be: 1.-6. (No change.)

7. Marked with the operator’s initials or logo in black letters or symbols at least one inch high\*, the operator’s phone number, the telephone number of the New Jersey One-Call Damage Prevention System operator (811 in New Jersey, or out-of-State, 1-800-272-1000), and the current web address (URL) of the One-Call Damage Prevention System operator, that may be encoded in a QR code]\*; and

8. Marked with the operator’s telephone number\*,\* \*[or]\* the telephone number of the New Jersey One-Call Damage Prevention \*[Center]\* **\*System operator\*** (811 in New Jersey, or out-of-State, 1-800-272-1000), in letters at least one inch high\*, **and the current web address (URL) of the One-Call Damage Prevention System operator, that may be encoded in a QR code\***.

(n) The operator shall ensure that all stakes used in markouts shall be: 1.-5. (No change.)

Recodify existing (n)-(o) as (o)-(p) (No change in text.)

14:2-5.4 Centerline markouts

(a) An operator shall utilize a centerline markout to indicate an underground facility that is 12 inches or less in nominal outside dimension, unless exceptional site conditions would either make it impossible to clearly mark the centerline of the underground facility in accordance with this section, or would make it impossible for the excavator to see the markings in a centerline markout. In a case with such exceptional site conditions, an operator may utilize a centerline offset markout, described at N.J.A.C. 14:2-5.6.

(b)-(c) (No change.)

14:2-5.5 Outside dimension markouts

(a) An operator shall utilize an outside dimension markout to indicate an underground facility that is more than 12 inches in nominal outside dimension, unless exceptional site conditions would either make it impossible to clearly mark the outside walls of the underground facility in accordance with this section; or would make it impossible for the excavator to see the markings in an outside dimension markout. In a case with such exceptional site conditions, an operator may utilize an outside dimension offset markout, described at N.J.A.C. 14:2-5.6.

(b)-(c) (No change.)

14:2-5.6 Offset markouts

(a) An operator shall utilize an offset markout only if exceptional site conditions make it impossible to clearly mark the underground facility with a centerline markout pursuant to N.J.A.C. 14:2-5.4 or an outside dimension markout pursuant to N.J.A.C. 14:2-5.5.

(b)-(g) (No change.)

(h) The distance between an underground facility and an offset markout shall be as small as possible while enabling an excavator to clearly see the location of the underground facility. If site conditions permit this distance to be 18 inches or less, the operator shall not utilize a centerline offset markout, but instead shall utilize a centerline markout or outside dimension markout.

SUBCHAPTER 6. VIOLATIONS, PENALTIES, ENFORCEMENT

14:2-6.2 Penalty amounts

(a) Except as provided pursuant to (b) below, an operator, an excavator, or the One-Call System operator, that violates any provision of this chapter, the Underground Facility Protection Act, or an order adopted pursuant thereto, shall be liable to a penalty of not less than \$1,000 and not more than \$2,500 per day for each day the violation continues, except that the maximum civil penalty shall not exceed \$25,000 for any related series of violations.

(b)-(e) (No change.)

14:2-6.5 Response by alleged violator to Notice of Probable Violation

(a) (No change.)

(b) If the alleged violator wishes to contest the NOPV, the alleged violator shall indicate this on the Answering Certification and provide proofs by both picture and narrative of the alleged violator’s innocence as to the violation charged. Board staff may hold an informal conference with the alleged violator to analyze the record of the matter.

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

14:2-6.9 Actions in Superior Court

(a)-(b) (No change.)

(c) An affected operator may institute an action in the Superior Court for an injunction against a violator whose repeated failure to comply with the Underground Facilities Protection Act constitutes a threat to public safety.

(d) (No change.)

**(a)**

**BOARD OF PUBLIC UTILITIES**

**Telecommunications**

**Readoption with Amendments: N.J.A.C. 14:10**

**Adopted Repeals: N.J.A.C. 14:10-6.5 and 10**

Proposed: November 15, 2021, at 53 N.J.R. 1906(a).

Adopted: June 8, 2022, by the New Jersey Board of Public Utilities, Joseph L. Fiordaliso, President, Mary-Anna Holden, Dianne Solomon, Upendra Chivukula and Robert Gordon, Commissioners.

Filed: June 9, 2022, as R.2022 d.085, **with non-substantial changes** not requiring additional notice or public comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 48:2-13, 48:2-21.15 through 21.23, 48:17-1 et seq., and 56:8-1 et seq.

BPU Docket Number: TX21040718.

Effective Dates: June 9, 2022, Readoption;  
July 18, 2022, Amendments and Repeals.

Expiration Date: June 9, 2029.

**Summary of Public Comment and Agency Response:**

Written comments were submitted by: New Jersey Division of Rate Counsel (Rate Counsel); Altice USA, Inc. (Altice); New Jersey Cable Telecommunications Association (NJCTA); Verizon New Jersey, Inc. (Verizon); and United Telephone Company of New Jersey, Inc. d/b/a CenturyLink (CenturyLink).

The following is a summary of the comments received and the Board of Public Utilities' ("BPU" or "Board") responses.

**General Comments:**

1. COMMENT: Verizon comments that the landscape of telecommunications products and services changed dramatically since the Board last examined Chapter 10 in 2014. Consumers' use of traditional landlines declined in favor of more modern alternatives provided via wireless, cable, VoIP, and broadband. Verizon concludes that the proposed modifications to Chapter 10 still do not reflect the extent to which the telecommunications market has changed in the last seven years. It argues the rules, as currently proposed, undermine competition by increasing the regulatory burden on certain technologies without applying similar levels of regulation to other providers of functionally equivalent services.

2. COMMENT: CenturyLink comments that any rule revision/amendment should be eliminated unless it continues to be necessary and responsive to the purpose for which it was promulgated. It appreciates the Board's adjustment of the proposed rules to provide for force majeure and support for the move to electronic directories but rejects many of the other rule additions and changes. CenturyLink concludes the Telecom Rules do not reflect the vastly changed communications market, are overly burdensome, only apply to Incumbent Local Exchange Carriers and divert resources away from the state of the art technology; and therefore, recommends they be eliminated in their entirety or alternatively further streamlined similar to what was done in Pennsylvania.

3. COMMENT: Altice comments that it became an industry leader in bringing competition to the voice market, due in part to the Board's market-opening policies. For that reason, ILEC-focused regulation should not apply to competitors and the Board should not extend the proposed amended rules to: (1) data and voice service offerings to sophisticated enterprise customers more than able to negotiate protections -- such as outage restoration timelines and credits-according to their own priorities; and (2) competitive VoIP services to residential and SMB customers offered as an alternative to circuit switched voice services delivered by the ILEC. Altice contends that the voice market has only become increasingly competitive, with many residential and SMB customers forgoing a landline VoIP offering altogether for mobile or cloud-based offerings, and thus, any attempts to extend and/or add to such rules on competitors are, unnecessary, and even counterproductive. Altice requests, to the extent the Board intended to increase oversight on entities offering voice service, competitors be exempted from such obligations. Additionally, Altice contends the Board's proposal risks conflict with both State and Federal law and that the attempted rules of VoIP and other broadband offerings is unlawful and should be avoided.

4. COMMENT: NJCTA comments that several of the Board's proposed changes are inconsistent with State law, exceed the Board's authority, or are excessively burdensome and onerous, especially for service providers facing robust competition, without a commensurate regulatory oversight value.

5. COMMENT: Rate Counsel addresses several carriers' comments that the Board's rule revision/amendments are contrary to State law. It states that the proposed rule revision/amendments provide real customer benefits, are not contrary to State or Federal law and were necessary as competition alone is insufficient to protect customers. It posits that the proposed modifications do not regulate the rates, terms, or conditions of competitive carrier services no matter the service offered. It comments

that although competition exists, it has not lessened persistent service interruptions to New Jersey telecommunications customers or diminished service complaints filed with the Board. It concludes that inaction by the Board to address and possibly resolve chronic and persistent service quality issues would be contrary to public safety and contrary to the Board's core mission of ensuring safe and functional service for customers.

Rate Counsel reaffirms the Board's statutory obligation to ensure services provided to customers remained safe and functional and that the Board's proposed rule modifications are driven by the need for improved service quality, regardless of the platform used to provide the telecommunications services.

RESPONSE TO COMMENTS 1, 2, 3, 4, AND 5: The Board believes that the rules serve consumers, are not overly burdensome, and enable it to fulfill its statutory obligations to oversee the provision of safe, adequate, and proper service. The rules do not conflict with State or Federal law and are the vehicle within which the Board can monitor and evaluate the services provided by telephone utilities throughout the State.

**SUBCHAPTER 1. GENERAL PROVISIONS**

**N.J.A.C. 14:10-1.1 Applicability**

6. COMMENT: Verizon generally supports the proposed amendments to this section.

7. COMMENT: Rate Counsel does not oppose the Board's revisions to this section.

8. COMMENT: CenturyLink recommends the addition of language to clarify that these provisions are only applicable to basic stand-alone residential service.

RESPONSE TO COMMENTS 6, 7, AND 8: The Board appreciates the comments of Verizon and Rate Counsel in support of the proposed amendments to the section. The Board declines to adopt CenturyLink's proposal, as the rule is consistent with current State and Federal statutes, which extend the applicability of some of the rules, such as billing and outage reporting for example, beyond basic stand-alone residential service.

**N.J.A.C. 14:10-1.2 Definitions**

9. COMMENT: Verizon generally supports the proposed amendments to this section.

10. COMMENT: Altice avers that the proposed modification to the definition of "subscriber" is unclear and may imply that VoIP and other broadband services fall within the Board's purview violating existing law. Accordingly, to the extent an increase in jurisdiction would apply, Altice argues the Board should not adopt the modification.

11. COMMENT: NJCTA shares Altice's concerns and believes that the definition may result in the application of N.J.A.C. 14:10-5.7 to other unintended services, such as broadband. NJCTA argues the proposed rule seeks to expand the definition of "subscriber" from "a telecommunications service customer" to "a customer receiving service from a telecommunications service provider." It believes the change could be construed as an impermissible effort to expand the jurisdiction of the Board by a definitional change that has no grounding in statute. In combination with other proposed amendments to Chapter 10, this expanded definition may have other unforeseen consequences. The existing definition was precise, clear, and within the bounds of the Board's jurisdiction. It should be retained.

12. COMMENT: Rate Counsel does not oppose the proposed deletions and additions that update the definition of "telecommunications carrier" as a telephone utility, including an ILEC, a CLEC, and/or a reseller, and "subscribers" as those terms are further amended and defined in this section.

RESPONSE TO COMMENTS 9, 10, 11, AND 12: The Board thanks the commenters for their comments and acknowledges their concerns. In consideration of the comments received regarding the confusion resulting from the proposed modification to the definition of "subscriber," the Board is initiating a change, upon adoption, and reverting back to the original definition of "subscriber" found in the existing rule. Accordingly, upon adoption, the rule will reflect the definition of "subscriber" as a telecommunication's customer of a LEC or IXC.

**N.J.A.C. 14:10-1.3 Recordkeeping, General Provisions**

13. COMMENT: Verizon generally supports the proposed revisions at paragraph (a)4 that would change the retention time for verification of the authorization of a requested change or switch of the telecommunications service provider (TSP) to two years; and those at subsection (c), which would clarify that a telecommunications provider shall furnish an explanation of its rates, charges, and provisions to a customer upon request. Additionally, Verizon requests that wholesale and retail customer record retention requirements be on parity, that is, 18 months versus six years, for retail customers.

14. COMMENT: Altice expresses disagreement with the Board's edits at N.J.A.C. 14:10-1.3(c). Altice argues that the Board's proposal to require a TSP to post its rates on its website is in violation of N.J.S.A. 48:2-21.19.a(2). Altice contends that the only information required to be posted by a TSP on its website are its terms and conditions. In addition, Altice asserts that the posting of rates for enterprise customers is incompatible with the section because most of the rates are determined by negotiated agreements.

15. COMMENT: Rate Counsel does not oppose the additional requirement that carriers provide website links to the Board where a complete listing of all the carrier's rates, terms, and conditions are posted, whether listed in a tariff or product guide.

RESPONSE TO COMMENTS 13, 14, AND 15: The Board thanks Rate Counsel and Verizon for its comments, acknowledges Altice's concerns and affirms that it is the Board's responsibility to identify and minimize harms resulting from lack of consumer information that may result in consumers being misled or confused. The Board posits that the posting of a carrier's rates is not aimed at regulating the rates charged, but to ensure consumers are aware of the rates offered and that they receive safe, adequate, and proper service, as well as the opportunity to make timely, informed decisions regarding their ultimate choice of service providers in areas where alternative carriers are available.

The requirement to post rates, while not explicit in law, is not prohibited. It is the Board's position that consumers be provided with the most current and up-to-date information to make informed decisions regarding services. However, the Board agrees with Altice that the section is incompatible for wholesale customers and notes the requirement at subsection (c) is for "a complete listing of the carrier's rates, terms and conditions of services provided in its tariff or product guide." Because negotiated agreements, such as those with wholesale customers, do not appear in tariffs or product guides, the requirement at subsection (c) does not apply to the rates set in such agreements.

The Board declines to adopt Verizon's suggested language changes as they relate to cross referencing, retention time, and wholesale services. The language proposed by the Board is necessary to ensure that both retail and wholesale customers are afforded an opportunity to have the necessary records to challenge and dispute billing.

**SUBCHAPTER 1A. TELEPHONE UTILITIES****N.J.A.C. 14:10-1A.2 General Provisions**

16. COMMENT: Verizon contends that N.J.A.C. 14:3, All Utilities, should not apply to telecommunications providers as this exact same rule applies to monopoly rate-of-return gas, electric, and water utilities.

RESPONSE: N.J.A.C. 14:10-1.2 defines a telephone utility as a public utility, as well as any person that provides telecommunications services to the public for a fee. This section of the rules cross-references N.J.S.A. 48:2-13, which defines the term "public utility" and provides for the Board's general supervision, regulation, and control over public utilities. Consequently, the subject language at N.J.A.C. 14:10-1A.2, that "[i]n addition to the requirements in this chapter, telephone utilities are subject to all applicable requirements of the Board's rules for all utilities at N.J.A.C. 14:3," is correct.

Accordingly, Verizon's suggested modifications are not consistent with N.J.S.A. 48:2-13.

**N.J.A.C. 14:10-1A.3 Rate and Special Charges Information**

17. COMMENT: Verizon supports staff's proposed amendments to this section.

18. COMMENT: Altice argues that the Board's proposal to require a TSP to post its rates on its website is in violation of N.J.S.A. 48:2-21.19.a(2), which prohibits the Board from requiring the filing of rates.

19. COMMENT: Rate Counsel does not oppose the requirement that carriers, upon a customer's request, provide an explanation of all rates, charges, and provisions applicable to the service furnished, including any special charges not specifically set forth in a telephone utility's listing of its rates, terms, and conditions in its tariff or product guide.

RESPONSE TO COMMENTS 17, 18, AND 19: Board staff thanks Verizon and Rate Counsel for its comments and acknowledges Altice's concerns but maintains its position regarding the proposed amendments for readoption. The amendments do not require the filing of tariffs and do not conflict with N.J.S.A. 48:2-21.19.a(2). The posting of a carrier's rates is not aimed at regulating the rates charged, but to ensure consumers are aware of the rates offered and receive safe, adequate, and proper service, as well as the opportunity to make timely, informed decisions regarding their ultimate choice of service providers in areas where alternative carriers are available.

The requirement to post rates, while not explicit in law, is not prohibited. It is the Board's position that consumers be provided with the most current and up-to-date information to make informed decisions regarding services.

**N.J.A.C. 14:10-1A.4 Directories**

20. COMMENT: Verizon supports and Rate Counsel does not oppose the Board's proposed amendments to this section.

RESPONSE: The Board appreciates the comments in support of or not opposing the proposed changes.

**N.J.A.C. 14:10-1A.6 Customer Complaints and Trouble Reports**

21. COMMENT: Verizon objects to this proposed amendment stating that the rule does not take into account certain practical, unavoidable delays, such as when a technician is delayed on a previous job. Verizon does not object to the proposed addition of the phrase "requiring rescheduling or cancellation of scheduled service calls in resolution of the complaint" at the end of the subsection.

22. COMMENT: Rate Counsel supports the additional modification regarding notification to customers in connection with the rescheduling of scheduled service calls. It notes that many complaints are based on what customers term "no show" missed appointments, and the proposed amendment is narrowly tailored to address the recurrent customer complaint.

RESPONSE TO COMMENTS 21 AND 22: The Board thanks Rate Counsel for its comments and acknowledges Verizon's concerns, but declines to revise the rule. The clear intent of the rule is to ensure that appointments are kept, and consumers are not waiting all day only to have the appointment cancelled without any prior notification. The revision, which replaces "unavoidable" with "instances beyond the company's control" raises the standard and places the onus on the company to remedy cancellations and delays within its control.

**N.J.A.C. 14:10-1A.7 Adequacy of Service**

23. COMMENT: Verizon recommends that the rule reflect the level of technological evolution in the last seven years and encourage companies to invest in technology capable of providing services that keep pace with this progress. Additionally, Verizon notes that the Board's proposed amendments requiring the filing of annual maintenance plans with the Board should be revised to require filing them biennially.

24. COMMENT: CenturyLink's position is that the rule is outdated and should be removed in its entirety. It maintains that the rule causes additional regulatory filings, including filings for confidentiality protections of sensitive network data. Absent compelling justification, additional governmental regulatory oversight is contrary to the objectives and directives of reducing administrative rulemaking. There is no unrestrained market according to CenturyLink and the quality of service is strong. CenturyLink contends the degree of competition from alternative providers supports the elimination of outdated rules. It recommends a more tailored approach would be to track and evaluate customer complaints, and in troublesome areas, the Board could implement its investigatory and remediation authority to address the situation.

25. COMMENT: Altice maintains that the proposed obligation to file maintenance and infrastructure improvement plans for Board review is unnecessary and adds costs to doing business in New Jersey. It believes that such oversight may be appropriate for ILECs, but not for competitors. In the event the Board does require such plans, they should be deemed confidential and provided to the Board for informational purposes only.

26. COMMENT: The NJCTA states the proposed rule revision requires telecommunications service provider (TSP) companies, including competitive providers, to file "maintenance and infrastructure improvement plans" with the Board "annually." NJCTA expresses serious concerns about the routine provision of potentially detailed and sensitive information regarding critical infrastructure. In its opinion, the surest way for staff to get current and reliable information is to contact the TSP when it has specific questions or requests. Therefore, the Board should abandon the proposed rule change to subsection (a).

27. COMMENT: Rate Counsel supports the proposed requirement that each telephone utility annually file with the Board an infrastructure improvement plan. Rate Counsel notes that many customer complaints filed are related to nonperforming equipment and infrastructure.

RESPONSE TO COMMENTS 23, 24, 25, 26, AND 27: The Board acknowledges the companies' concerns but maintains its position regarding proposed amendments for re-adoption. As technologies evolve, it is critical that the Board have the ability to assess if facilities and technologies are being deployed in an equitable manner to ensure that all ratepayers and businesses have access to similar levels of service, and that those facilities are properly maintained to provide safe, adequate, and proper service. As for the confidentiality of sensitive network data and information, any data and information filed with the Board deemed confidential by a carrier may be marked accordingly and will be shielded from disclosure, in accordance with the existing standards afforded all carriers and utilities under the Board's rules.

The Board notes that the rule applies to a "telephone utility," which is defined in the Board's rules. To the extent that a provider meets this definition, it is required to fully comply with the rule.

#### **N.J.A.C. 14:10-1A.8 Service Quality Standards**

28. COMMENT: CenturyLink argues that staff has not justified its position for expansion of the rule and did not consider the expansive impact the proposed amendment would have on call centers, staffing, and operating systems, and, therefore, recommends the provision be deleted. CenturyLink states specifically in this case, the addition of the new requirement contained in the Board's proposed amendment fails to achieve the stated purpose of establishing consistent quality of service standards that can be applied to all carriers and to have metrics that provide the same level to all customers. In addition, it objects to the section being augmented to include all types of calls coming into a call center that would impose constraints not required in other industries.

29. COMMENT: Altice argues that the Board's proposal impermissibly attempts to impose service regulation on unregulated VoIP service and cites to N.J.S.A. 48:17-35. It states that a microfocus only on calls requesting a live operator casts to the side the substantial investment carriers have in IVRs, which offer customers substantial information without the need to talk to a representative. Altice suggests revising the rule to apply only to services not deemed competitive by the Board.

30. COMMENT: Rate Counsel supports the amended metrics on live operator calls. Rate Counsel notes that a large volume of complaints filed with the Board concern inability of customers to reach a live operator and prolonged waiting times. The Board's proposed changes are narrowly tailored to meet increased customer concerns and complaints.

31. COMMENT: Verizon comments this rule is obsolete and should be eliminated in its entirety. It suggests that competitive alternatives temper a telephone utility from providing an inferior service because it must compete with other carriers.

RESPONSE TO COMMENTS 28, 29, 30, AND 31: The Board thanks Rate Counsel for its comments. It should be noted that no changes were proposed at subsection (a), though comments suggesting amendments to that subsection are addressed below. While the Board understands CenturyLink, Altice, and Verizon's positions, the Board's rules are designed to standardize service quality across all platforms under the Board's jurisdiction and serve to treat all similarly situated carriers in the

same manner. While Verizon contends competition is the best way to ensure regulated carriers meet customer expectations, the Board believes that providing specific standards with which the telephone carrier must comply is important to ensure customers receive quality service.

#### **N.J.A.C. 14:10-1A.8(a)**

32. COMMENT: In lieu of deletion of the entire section as the rules are problematic, unworkable, and overly burdensome, Verizon suggests that N.J.A.C. 14:10-1A.8(a) be revised to only apply to services not deemed competitive by the Board because, in its estimation, regulated carriers must exceed their customers' service quality expectations in order to compete. Absent deletion of the entire section, Verizon proposes that the entirety of the section be modernized to reflect the actual operations and procedures of telecommunications providers, eliminate duplication and outdated measurements, and take into account that customers have more choices in a competitive market. Verizon suggests its proposed changes will ensure customers receive safe and adequate service.

RESPONSE: The Board notes that it did not propose any modifications to this subsection. Accordingly, with respect to Verizon's recommendation to revise the section to only apply to services not deemed competitive, the Board notes that it is not necessary since this section is currently not applicable to services deemed competitive by the Board, and no changes have been made to expand the applicability of the section. As for Verizon's assertion that the rule should be modernized, the Board's rules serve to balance the needs of ratepayers and the companies it regulates and to establish rules that best serve both the needs of the consumer while taking into consideration the operations of utilities. The standards established by the rules serve to monitor the operations and performance of the companies under the Board's purview and any reduction or modification thereof does not serve consumers.

#### **N.J.A.C. 14:10-1A.8(b)**

33. COMMENT: Verizon comments that the current measures at subsection (b) are reasonable standards and notes that no current changes are being proposed by the Board. However, it raises concerns about proposed changes at N.J.A.C. 14:10-1.9, requiring data at the central office level and asserts that competitive services, should not be included at subsection (b).

RESPONSE: The Board thanks Verizon for its comments. As for Verizon's position that competitive services should not be included, as noted above, the Board did not make any modifications to this section, and accordingly, this section does not apply to services deemed competitive by the Board. Thus, the recommendation of Verizon to revise the section to only apply to services not deemed competitive is not necessary.

#### **N.J.A.C. 14:10-1A.8(c)**

34. COMMENT: Verizon does not oppose retaining the repair service call metric, which measures a very important transaction. However, Verizon comments that the current standard should be adjusted to the same level that Verizon currently reports under its Plan of Alternative Regulation metrics (PAR), which is 75 percent. According to the company, the remaining metrics in this subsection are no longer necessary and should be deleted from the rules, having outlived their usefulness, as evidenced by a marked decline in call volumes to directory assistance and operator assistance.

35. COMMENT: Rate Counsel supports the proposed changes noting that a large number of complaints filed with the Board are regarding the inability of customers to reach a live operator.

RESPONSE TO COMMENTS 34 AND 35: The Board thanks Rate Counsel for its comments supporting the proposed changes. While the Board acknowledges Verizon's reporting obligations set forth in their PARs, the Board disagrees that the metrics are no longer necessary to measure service quality, and, therefore, declines to adopt Verizon's suggestions.

#### **N.J.A.C. 14:10-1A.8(e)**

36. COMMENT: Verizon states subsection (e) consists of two requirements measuring the percentage of calls completed, and recommended that the subsection should be removed because today's

telecommunications networks contain sufficient redundancy to make these measurements obsolete.

RESPONSE: It should be noted that no revisions were proposed by the Board to subsection (e). The Board acknowledges Verizon's position but declines to delete the section. The rules specify the varying method of calls initiated by customers. The specificity reflected in the subsection is not redundant, but serves to distinguish between the two methods of dialing over the network. If a telecommunications provider's system has built in measures sufficient to meet the standards set forth in the rule, the metric will be satisfied.

**N.J.A.C. 14:10-1A.8(f)**

37. COMMENT: Verizon does not oppose retaining this subsection.

RESPONSE: The Board thanks Verizon for its support.

**N.J.A.C. 14:10-1A.8(g)**

38. COMMENT: Verizon does not oppose retaining this subsection.

RESPONSE: The Board thanks Verizon for its support.

**N.J.A.C. 14:10-1A.9 Service Quality Reporting**

39. COMMENT: Verizon argued this rule is no longer necessary and should be eliminated entirely. The Board's request for granular metric reporting should only occur on a case-by-case basis when supported by an increase in customer complaints in a specific area.

40. COMMENT: CenturyLink recommends that similar to Pennsylvania, the entire provision be eliminated, given that the requirements are inherent in day-to-day business practices. It is no longer necessary to maintain this rule in a competitive market. In the last six years, the environment has only become more competitive, making it imperative that the company provide exceptional services to retain existing and garner new customers. Therefore, CenturyLink's recommendation is the same as it was in 2014—delete this provision.

RESPONSE TO COMMENTS 39 AND 40: The proposed reporting requirements measure service quality standards critical to a utility's overall performance throughout its service territory, and more importantly, protect and guarantee customers receive safe, adequate, and proper service. The Board declines to delete this provision.

**N.J.A.C. 14:10-1A.9(a)**

41. COMMENT: Altice argues that in light of the Board's jurisdiction, the reporting requirements in this rule should not apply to VoIP or any service that has been deemed competitive, for the reasons set forth at N.J.A.C. 14:10-1.2 and 1A.8 above. Altice suggested language revising subsection (a) to exclude services provided that the services have been deemed competitive by the Board.

RESPONSE: The rules do not impose any obligations on VoIP providers as they are not included in the definition of a telephone utility.

**N.J.A.C. 14:10-1A.9(e)**

42. COMMENT: Rate Counsel does not oppose the amended metrics at paragraph (e)1 requiring standards for installation of service pursuant to N.J.A.C. 14:10-1A.8(b), and for trouble reports pursuant to N.J.A.C. 14:10-1A.8(e), shall be provided for each central office; and at paragraph (e)2 modifying the reporting unit for measurements relating to the standards for calls requesting a live operator. Rate Counsel does not oppose deletion of paragraphs (e)3 and 4, as the modifications proposed at paragraphs (e)1 and 2, render paragraphs (e)3 and 4 inapplicable.

43. COMMENT: Verizon suggests that subsection (e) be modified to only require disaggregated data and information upon staff request and that the requirement regarding requests for a live operator at paragraph (e)2 be deleted. Verizon supports the deletion of paragraphs (e)3 and 4. Verizon contended if the rules were adopted it would need to disaggregate this data for more than 200 central offices. Many central offices serve a small diminishing number of access lines. If the Board determines a service quality reporting rule is still necessary, the company maintains that the rule requires refining. Verizon states it believes that data at such a granular level could be easily skewed by random individual events and is likely to produce misleading results. The sample sizes may be so small as to result in statistically invalid results. It recommends that the Board should not adopt the proposed requirements; instead the Board's request

for granular metric reporting should only occur on a case-by-case basis when supported by an increase in customer complaints in a specific area.

44. COMMENT: Altice reiterates its objection to the application of reporting requirements to VoIP services or services deemed competitive. It also objects to requiring even more granular reporting requirements, such as the proposed change to require reporting at the "central office" level, arguing that it is in contravention to Executive Order No. 63 (2019), which requires the minimization of regulatory burdens and avoidance of adopting rules which benefits do not justify their costs. Apart from the additional burdens imposed, "central office" is an outdated concept that is not relevant to the structure and operations of Altice as a competitive service provider.

45. COMMENT: CenturyLink objects to the Board's proposed revisions, which would require service quality reporting at the central office level. The company avers that such disaggregation would be difficult for the company to implement and that the Board has not demonstrated the need for carriers to do so.

RESPONSE TO COMMENTS 42, 43, 44, AND 45: The Board thanks Rate Counsel for its comments in support of the rule. The reporting requirements proposed measure service quality standards critical to a utility's overall performance throughout its service territory and more importantly protect and guarantee customers receive safe, adequate, and proper service. By requiring data at a more granular "central office" level, the Board will have the ability to evaluate performance and address deficiencies that would otherwise go undetected when they are part of a much larger average calculation. Reporting at the central office level provides the necessary information to monitor service provided at specific locations and enables the Board to address issues associated with the telephone utilities' performance. Accordingly, the Board acknowledges the carriers' concerns, but declines to adopt their suggestions. Further, the Board declines Verizon's request to delete the requirements for a live operator, as the current automated systems employed by the telephone utility at times cannot always provide the necessary assistance needed to address customer concerns. Regarding Altice's comments concerning application of the rules, as noted in the Response to Comment 10, the proposed modification of the definition of "subscriber" has been rescinded to address confusion regarding application of the rules. The Board is initiating a change to the rulemaking and reverting back to the original definition of subscriber found in the rule. Accordingly, upon adoption the rule will reflect the definition of "subscriber" as a telecommunication's customer of a LEC or IXC.

**N.J.A.C. 14:10-1A.9(i)**

46. COMMENT: Altice argues there is no need to include proposed subsection (i), as the Board already has the authority to assess penalties for failure to comply with its rules. See N.J.S.A. 48:2-16.

47. COMMENT: Verizon recommended deletion of new subsection (i), which indicates that repeated failures may subject providers to penalties assessed upon discretion of the Board. Verizon states subsection (i) is redundant, as the Board already has authority to penalize providers if they do not comply with its rules, as specified at N.J.A.C. 14:10-11.10, Enforcement, and 11.11, Determination of penalties, within statutory ranges.

48. COMMENT: Rate Counsel supports the proposal that "Repeated failures to achieve metrics may subject providers to penalties assessed upon discretion of the Board."

RESPONSE TO COMMENTS 46, 47, AND 48: The inclusion of N.J.A.C. 14:10-1A.9(i), serves to acknowledge the Board's ability to address repeated violations consistent with its statutory authority. The amendment is considered necessary to inform telephone utilities of potential penalties in the event of repeated failures to achieve the metrics set forth in the rules. Accordingly, the Board acknowledges the carriers' concerns, but declines to adopt their suggestions.

**N.J.A.C. 14:10-1A.10 Inspections, Tests, and Maintenance**

49. COMMENT: Verizon appreciates and supports staff's proposal to add provisions that account for circumstances beyond the company's control, such as waiting for an unaffiliated provider with a pole attachment to complete its work, weather conditions, unavailability of materials, or scheduling repairs to avoid taking customers out of service. However,

Verizon maintains its position that plant maintenance schedule filings should be limited to every two years.

50. COMMENT: CenturyLink objects to the proposed amendments as an expansion of an existing rule and increased regulatory oversight in an increasingly competitive environment and proposed deletion or rejection of the modifications. According to the company, the Board has adequate complaint and investigatory powers to address issues that impact only one provider, rather than imposing additional burdens on all providers.

51. COMMENT: Altice has no objection to the Board's proposal to the extent it formalizes Altice's already existing practice of repairing plant promptly. However, it believed that there is no need to impose reporting obligations on competitors and any such information must be afforded confidential treatment to the full extent of the law.

52. COMMENT: NJCTA stated that the Board should abandon the proposed revisions at N.J.A.C. 14:10-1A.10 that would require TSPs to file "inspection schedule(s) on an annual basis." It is concerned that the aggregation of such data could give "bad actors" a roadmap and that modern networks are monitored electronically. Therefore, this inspection schedule requirement should not be adopted.

53. COMMENT: Rate Counsel supports the proposed amendments aimed at enhanced regular plant inspections, maintenance, and the reporting of inspection schedules with the Board on an annual basis. The Board's proposed amendments establish best practices to address and resolve persistent issues of nonfunctioning utility equipment and infrastructure resulting in interrupted voice services for many New Jersey residents.

RESPONSE TO COMMENTS 49, 50, 51, 52, AND 53: The Board acknowledges all of the commenters' positions; however, it maintains that the information required is essential to assist the Board in monitoring the provisioning of safe, adequate, and proper service. The data provided on an annual basis goes directly to the statutory mandate of the Board to ensure customers receive the appropriate level of service from telephone utilities. While the Board recognizes that competition has the potential to encourage telephone utilities to maintain proper levels of performance in the provisioning of service, the Board's mission requires the data and information to enable proper oversight, and address a reduction in service provided by carriers. If providers believe that information filed with the Board pursuant to this section merits confidential treatment, they may request such treatment, consistent with the Board's existing rules governing confidential information.

#### **N.J.A.C. 14:10-1A.11 Prevention and Reporting of Service Interruptions**

54. COMMENT: CenturyLink proposes deletion of auxiliary power and battery reserve requirements, stating that this section is outdated.

RESPONSE: The Board did not propose changes to this section and declines to adopt CenturyLink's proposal, as the requirements ensure that central offices maintain necessary auxiliary and reserve battery power needed to keep them operational during power outages.

### **SUBCHAPTER 2. PAYMENTS FOR SERVICE**

#### **N.J.A.C. 14:10-2.1 Applicability**

55. COMMENT: CenturyLink proposes additions to clarify that the protections in this section only apply to residential stand-alone basic service, and states that other services are competitive and competitive environment, and truth-in-billing and consumer protection laws apply.

RESPONSE: The Board did not propose changes to this section and declines to adopt CenturyLink's proposal as it is inconsistent with current State and Federal laws regarding the extension of consumer protection laws.

#### **N.J.A.C. 14:10-2.2 Contents of Bills; Back Billing**

56. COMMENT: While the Board did not propose changes to this section, Verizon seeks modification of the rules, indicating back-billing and refund terms are business issues that should be left to private contracts negotiated at arm's length in good faith in today's competitive environment. Should the Board retain some version of this rule, it recommends that it should at minimum rectify the unjustified inequity between wholesale and retail customers so that the same requirements apply to everyone. The company proposes revisions to subsection (e), which would standardize wholesale and retail back billing to no more than

18 months and require that a customer promptly notify a carrier of any billing issues.

57. COMMENT: CenturyLink proposes additions to clarify that the billings section only apply to residential stand-alone basic service.

RESPONSE TO COMMENTS 56 AND 57: The Board acknowledges Verizon's proposed modification; however, it maintains that the rules do not require the suggested change. Pursuant to N.J.A.C. 14:10-2.1 this subchapter applies to bills for service absent provisions to the contrary contained in individually negotiated contracts. Verizon's request to leave back-billing and refunds to private contracts to be negotiated in good faith fails to ensure that ILECs meet their obligations to customers and conflicts with the Board's mandate. To suggest that competition and competitive alternatives obviate the need for reasonable customer protection standards fails to establish a reasonable expectation of accountability on the part of carriers. Wholesale customers have the ability to negotiate customized terms and conditions and have the ability to hire experts to negotiate on their behalf. Retail customers generally rely on the Board's rules pertaining to back billing and therefore must be provided ample protections for the resolution of billing disputes. Similarly, the Board declines to adopt CenturyLink's proposal to limit the applicability of the rules to basic residential customers.

#### **N.J.A.C. 14:10-2.3 Out of Service Refund**

58. COMMENT: Verizon appreciates the Board's proposed amendments incorporating Verizon's pre-proposal comments to this section.

59. COMMENT: Rate Counsel supports the proposed modifications that require telecommunications providers issue automatic refund adjustments to a customer's account within 30 days if service is out for 24 or more hours after being reported.

RESPONSE TO COMMENTS 58 AND 59: The Board thanks Rate Counsel and Verizon for their comments.

### **SUBCHAPTER 3. NUMBER RECLAMATION**

60. COMMENT: Verizon appreciates the Board's incorporation of its pre-proposal comments recommending revisions at N.J.A.C. 14:10-3.1 and 3.2 reflecting changes in nomenclature and procedures, as well as, the addition of language at N.J.A.C. 14:10-3.3 to allow for more than one Part 4 extension.

61. COMMENT: Rate Counsel does not oppose the proposed modifications.

RESPONSE TO COMMENTS 60 AND 61: The Board thanks Verizon and Rate Counsel for their comments.

### **SUBCHAPTER 4. NON-FINANCIAL REPORTING REQUIREMENTS**

#### **N.J.A.C. 14:10-4.1 General Provisions**

62. COMMENT: CenturyLink proposes deletion of provisions requiring hard copy filings of material available in the USAC portal. This will streamline staff's review, reduce waste, and eliminate burdensome processes, which include cumbersome confidentiality filings.

RESPONSE: The Board did not propose changes to this subsection and declines to adopt CenturyLink's recommendations at this time. The filing of a single copy of the form with the Board is not burdensome, and is necessary to ensure the documents are included in the Board's official files.

### **SUBCHAPTER 5. COMPETITIVE TELECOMMUNICATIONS SERVICES**

#### **N.J.A.C. 14:10-5.2 Informational Tariff Filings**

63. COMMENT: Verizon supports staff's proposed amendments to this section.

64. COMMENT: Altice comments that the Board's proposal to require a TSP to post its rates on its website is in violation of N.J.S.A. 48:2-21.19.a(2), "which prohibits the Board from requiring the filing of rates."

65. COMMENT: NJCTA argues the proposed changes to N.J.A.C. 14:10-5.2 violate State law. The applicable New Jersey statute is clear that the Board "shall not require" TSPs "to file and maintain tariffs for retail competitive services but shall require any terms and conditions of retail competitive services to be made available" on the TSP's respective websites. N.J.S.A. 48:2-21.19 (hereafter, "21.19"). The Board cannot

circumvent the will of the Legislature's "clear choice to permit the Board to require publication of 'terms and conditions,' but not retail rates," by choosing a new label for prohibited tariffs. Forcing a TSP to disclose its entire pricing structure online to competitors would create a substantial competitive disadvantage for TSPs vis-à-vis wholly unregulated providers with which they must compete. The proposed revisions are inconsistent with State law and should be removed.

NJCTA's addresses the proposed requirement for carriers, including CLECs, to post information on their websites. They argue the proposed changes at N.J.A.C. 14:10-5.2 appear to require the filing of tariffs and thus contravenes the Legislature's prohibition against the Board imposing such a requirement on carriers. (See N.J.S.A. 48:2-21.19.) NJCTA notes that in the contemporaneous rulemaking proceeding for N.J.A.C. 14:18 (Regulations of Cable Television), faced with a similar legislative prohibition against requiring cable operators to file tariffs, the Board recently withdrew an existing tariff requirement (see N.J.A.C. 14:18-3.16) and also abandoned a preliminary proposal to amend N.J.A.C. 14:18-3.4 to require cable operators to list all their prices, rates, offers, terms, and conditions on their website. NJCTA recommended that, as in the N.J.A.C. 14:18 proceeding, the Board should rescind the proposed revisions at N.J.A.C. 14:5.2 that would reintroduce a prohibited tariff requirement.

66. COMMENT: Rate Counsel does not oppose the revisions.

RESPONSE TO COMMENTS 63, 64, 65, AND 66: The Board acknowledges the concerns of Altice and NJCTA but disagrees with their interpretation of N.J.S.A. 48:2-21.19 and maintains its position regarding proposed amendments for readoption. The rule requiring telecommunications carriers to post notice of rates, terms, and conditions on the telephone utilities' websites for informational purposes does not include, or extend the rule to mandate, the filing and maintenance of tariffs for retail competitive services with the Board. The posting of a carrier's rates is for informational purposes and not rules of the rates charged but serves to ensure consumers are aware of the rates offered and receive safe, adequate, and proper service, as well as, the opportunity to make timely, informed decisions regarding their ultimate choice of service providers in areas where alternative carriers are available.

The requirement to post rates, while not explicit in law, is not prohibited. It is the Board's position that consumers be provided with the most current and up-to-date information to make informed decisions regarding services.

#### **N.J.A.C. 14:10-5.3 Tariff Revisions that Increase Charges**

67. COMMENT: Verizon appreciates the Board's incorporation of its pre-proposal comments and generally agrees with staff's proposed revisions to this section. Verizon proposes a change to subsection (b) to specify that telecommunications carriers need only notify subscribers of a service for which the rate is increasing prior to that change.

68. COMMENT: Altice states the Board's proposal would effectively impose improper tariffing requirements upon telecommunication providers and is, therefore, in violation of N.J.S.A. 48:2-21.19.a(2). The law requires only that terms and conditions for competitive service be posted on the provider's website and be provided to customers upon their request. Moreover, as noted by Altice in its comment pertaining to N.J.A.C. 14:10-1.3, posting of rates conflicts with a competitive TSP serving enterprise customers, like Lightpath, where customer rates are negotiated.

69. COMMENT: Rate Counsel does not oppose the revisions.

RESPONSE TO COMMENTS 67, 68, AND 69: The Board thanks Rate Counsel, Altice, and Verizon for their comments. With respect to Verizon's proposed clarification at subsection (b), the Board does not believe the requested clarification is necessary since the methods of notification at subsection (b) specifically refers to all "affected customers," thereby limiting the notice to only the subscribers of a service. With respect to Altice's comments, as stated in the previous response, the rule requiring telecommunications carriers to post notice of rates, terms, and conditions on the telephone utility's website for informational purposes does not include or extend the rule to mandate the filing and maintenance of tariffs for retail competitive services with the Board and, thus is not prohibited.

#### **N.J.A.C. 14:10-5.4 Tariff Revisions that do not Increase Charges**

70. COMMENT: Verizon appreciates the Board's incorporation of its recommended changes in its pre-proposal comments and generally agrees with staff's proposed revisions to this section.

71. COMMENT: Altice argues the Board's proposal would effectively impose improper tariffing requirements upon telecommunication providers and is, therefore, in violation of N.J.S.A. 48:2-21.19.a(2). The rule accordingly cannot be modified as proposed by the Board.

72. COMMENT: Rate Counsel does not oppose the revisions.

RESPONSE TO COMMENTS 70, 71, AND 72: The Board thanks Verizon and Rate Counsel for their comments. With respect to Altice's comments, as noted in the Response to Comments 63, 64, 65, and 66, the rule requiring telecommunications carriers to post notice of rates, terms, and conditions on the telephone utility's website for informational purposes does not include or extend the rule to mandate the filing and maintenance of tariffs for retail competitive services with the Board and thus is not prohibited.

#### **N.J.A.C. 14:10-5.5 Initial CLEC or IXC Tariff**

73. COMMENT: Verizon generally supports the proposed amendments to this section.

74. COMMENT: Rate Counsel does not oppose the revisions.

RESPONSE TO COMMENTS 72 AND 73: The Board appreciates the parties' comments.

#### **N.J.A.C. 14:10-5.6 Staff Monitoring of Competitiveness**

75. COMMENT: Verizon states its position that it is no longer necessary for the Board to monitor the development of competitive services. If the rule remains, the Board should, at minimum, remove the requirement that customer complaints be included in an evaluation of the competitiveness of a service or product. According to the company, the Board has repeatedly held that "market share" and other antitrust concepts are not relevant to competitiveness under the reclassification criteria included at N.J.S.A. 48:2-21.19.b. The recommendation made is to delete all references to "market share" from this rule. If the rule remains, Verizon provided their own suggested "additional" language to be included to the rule, at N.J.A.C. 14:10-5.6(a) and (b), which replaces market share with competitiveness and focuses the monitoring on products and services and removes customer complaints from the equation. In addition, Verizon suggests that subsection (c) should also be deleted because it echoes the reclassification requirements set forth at N.J.S.A. 48:2-21.19. If the Board declines to delete subsection (c), it should be revised to be consistent with N.J.S.A. 48:2-21.19.b.

RESPONSE: No changes were proposed to this subsection by the Board; however, the Board finds that Verizon's proposed additions and deletions would weaken the ability of the Board to monitor the competitiveness of the telecommunications market. As required by statute (N.J.S.A. 48:2-21.19.c and d), the Board is required to monitor competitive services. In the event that the Board finds it necessary to reclassify a service previously found to be competitive, reclassification would only be done after notice and hearing, and a carrier would have the opportunity to provide evidence to support its position and refute any claims to the contrary. Therefore, the Board declines to adopt Verizon's suggestion.

#### **N.J.A.C. 14:10-5.7 Withdrawal of a Competitive Service from Subscribers**

76. COMMENT: Verizon proposed its own language at N.J.A.C. 14:10-5.7 to clarify that Mass Migration requirements apply only when a carrier will no longer serve an area, not when the carrier is legacying a particular solution but continues to offer alternative services. It argues that when alternative services are available, applying Mass Migration to the withdrawal of legacy services will generate tremendous amounts of paperwork.

77. COMMENT: CenturyLink argues the provisions are outdated, recommends rejection of the proposed amendments and suggests deletions to the Mass Migration rules to further streamline their application. It argues there are a myriad of reasons why a provider might discontinue a service: perhaps no customers wanted it, or the offering was replaced with a new, state-of-the-art, offering. The provisions make no

sense in the case of a withdrawal of a competitive service. It restates its position regarding the need to review the purpose of the existing rule and the need to justify the expansion of any additional administrative regulatory oversight in this competitive environment.

78. COMMENT: NJCTA states the proposed revision at N.J.A.C. 14:10-5.7 and 12.2 dramatically expand the circumstances in which TSPs must follow onerous mass migration rules that were originally intended to apply only when a TSP was discontinuing telephone service altogether. Reading the revised language, it is unclear to NJCTA what problem the Board is trying to resolve by adding new language. It argues the “withdrawal of a telecommunications service” is a standard that could be triggered in numerous circumstances where the rationale for the mass migration rules is not implicated.

79. COMMENT: Rate Counsel supports the proposed additional requirement that a carrier file certification with the Board that all provisions at N.J.A.C. 14:10-12 for mass migration of customers has been complied with prior to withdrawal of service. However, Rate Counsel points out that several comments state the Board’s modification pursuant to N.J.A.C. 14:10-5.7 and 12.2 require further examination because as currently worded it may trigger compliance with mass migration rules in situations where the service provider is merely discontinuing a service offering rather than exiting the entire service market. Rate Counsel stated closer consideration and further clarification by the Board may be warranted in connection with the proposed modifications under these sections.

RESPONSE TO COMMENTS 76, 77, 78, AND 79: While the Board appreciates Verizon’s suggested modifications, the Board does not believe the clarifications are necessary. With respect to the erroneous application of Mass Migration rules to instances where an alternative service is provided, the proposed rule change specifically states that the Mass Migration rules would only apply to instances where “a replacement service” or alternative, as suggested by Verizon, is not available to customers. Grandfathering, or “legacying” a service as Verizon refers to it, where a provider is offering an alternative service, is covered at N.J.A.C. 14:10-5.8. As for NJCTA and CenturyLink’s concerns regarding the modifications to this section, as explained above, the rule specifies the instances where the Mass Migration rule applies. In addition, the Mass Migration rules already apply to the variety of circumstances about which the commenters are concerned. As evidenced by the comments themselves, inclusion of the proposed amendments in this section makes obvious the broad applicability of the Mass Migration rules, which are intended to ensure the orderly transition of customers when a service that has no discernable replacement product offered by the existing carrier is withdrawn by the carrier. Nonetheless, the Board acknowledges that all of the requirements of the Mass Migration rules may not be applicable to every situation to which the Mass Migration rules apply. If a telephone provider believes certain Mass Migration rule requirements do not apply to a particular withdrawal of service otherwise governed by the Mass Migration rules, a telephone provider may specify which requirements they believe should not apply and may seek a waiver, in whole or in part, of the Mass Migration rules pursuant to N.J.A.C. 14:10-12.2(d).

#### **N.J.A.C. 14:10-5.8 Discontinuance of a Competitive Service Offering**

80. COMMENT: Verizon noted that it uses the term “legacy” instead of “grandfather” because “legacy” lacks the problematic racial historical connotations associated with the term “grandfathering.”

RESPONSE: The Board agrees that the term should be changed, and will replace “grandfather” with “legacy,” which reflects current industry usage, in the proposed rule.

81. COMMENT: Verizon stated, for the same reasons described in its comments pertaining to N.J.A.C. 14:10-5.6 and 5.7, telecommunications carriers should not be made to follow the Mass Migration rules before they can legacy a service. Verizon provided their own suggested “additional” language to be included at N.J.A.C. 14:10-5.8.

82. COMMENT: CenturyLink proposes deletion/rejection of extension of this requirement to file with the Board regarding any competitive service offering. Current rules require notice to customers, who then can seek an offering from an alternative competitive provider.

RESPONSE TO COMMENTS 81 AND 82: The rule is designed to address when a service is no longer made available to new customers, but

is still being provided to existing customers, defined as “grandfathering” (or “legacying” as suggested by Verizon). Unlike N.J.A.C. 14:10-5.7, this rule does not trigger mass migration requirements, as the services are not being withdrawn from the entire customer base, and are still being provided to existing customers. The Board declines to adopt CenturyLink’s recommendation to limit the rule by deleting the requirements that notice be filed with the Board, as well as customers.

#### **SUBCHAPTER 6. OPERATOR SERVICE PROVIDERS**

##### **N.J.A.C. 14:10-6.1 Scope**

83. COMMENT: Verizon appreciates the Board’s recommended adoption of its proposal to delete N.J.A.C. 14:10-6.1 (d)2 and (g).

RESPONSE: The Board thanks Verizon for its comment.

##### **N.J.A.C. 14:10-6.5 LEC Billing for Operator Assisted Services**

84. COMMENT: Rate Counsel does not oppose deletion of the section, as it is no longer applicable to current services.

RESPONSE: The Board thanks Rate Counsel for its comment.

#### **SUBCHAPTER 11. ANTI-SLAMMING REQUIREMENTS FOR TSPs**

##### **N.J.A.C. 14:10-11.4 Obtaining Verified Customer Authorization; Submitting a Change Order**

85. COMMENT: Verizon proposes that Subchapter 11 be repealed in its entirety because this rule so closely mirrors Federal rules that it is duplicative. If this subchapter is not repealed, Verizon supports the Board’s proposed amendment incorporating Verizon’s pre-proposal comments at N.J.A.C. 14:10-11.4(f), which would change the timing for a submitting telecommunications service provider (TSP) to maintain and preserve customer authorization records from three years to two years.

RESPONSE: The Board thanks Verizon for its comments and support for proposed revisions in lieu of deletion. The Board declines to repeal the subchapter in its entirety, as the rules are required by statute subject to N.J.S.A. 56:8-86 through 91.

#### **SUBCHAPTER 12. MASS MIGRATION UPON TSP DEPARTURE FROM A SERVICE TERRITORY**

##### **N.J.A.C. 14:10-12.1 Definitions**

86. COMMENT: Rate Counsel does not oppose the deletion of UNE-P as it is no longer applicable to current and future service.

RESPONSE: The Board thanks Rate Counsel for its comments.

##### **N.J.A.C. 14:10-12.2 Purpose and Scope**

87. COMMENT: Verizon opposes staff’s proposal that this chapter apply when a carrier withdraws any service as discussed in detail under its comment pertaining to N.J.A.C. 14:10-5.7. Verizon suggests that N.J.A.C. 14:10-12.2 not apply to the withdrawal of a service and in instances where a carrier voluntarily exits a market and has arranged for transfer of its customers to one or more affiliated TSPs approved by the Board.

88. COMMENT: NJCTA states the proposed revision at N.J.A.C. 14:10-5.7 and 12.2 dramatically expand the circumstances in which TSPs must follow onerous mass migration rules that were originally intended to apply only when a TSP was discontinuing telephone service altogether. Reading the revised language, it is unclear to NJCTA what problem the Board is trying to resolve by adding new language. It argues the “withdrawal of a telecommunications service” is a standard that could be triggered in numerous circumstances where the rationale for the mass migration rules is not implicated.

89. COMMENT: CenturyLink argues the provisions are outdated, recommends rejection of the proposed amendments and suggests deletions to the Mass Migrations rules to further streamline their application. CenturyLink recommends revisions to simplify the process where there is an acquisition of the provider by another provider. In that case, it only makes sense to comply with the customer notice requirements. Full requirements, like an exit plan, make sense when a provider is exiting the market without a plan to migrate customers.

90. COMMENT: Rate Counsel does not oppose the proposed modifications at subsections (a) and (c) that further clarify the definition and application of the Board’s Mass Migration rules.



RESPONSE TO COMMENTS 87, 88, 89, AND 90: The Board thanks Rate Counsel for its comments in favor of the proposed amendments. While the Board acknowledges the concerns of Verizon, NJCTA, and CenturyLink, the Board declines to revise the proposed amendment. It is the Board's position that a carrier that withdraws a service from its entire customer base is, in fact, exiting the market for that service. All consumers deserve to receive adequate notice and have the ability to transition to a new provider in an orderly manner. The rules serve to maintain the orderly transition from one provider to another with the least disruption to the customer.

**N.J.A.C. 14:10-12.3 Application to Depart a Service Territory**

91. COMMENT: Rate Counsel does not oppose the proposed modifications that further clarify the TSP's obligations regarding supplementing disclosure of rates, terms, and conditions of service for transferring end users.

92. COMMENT: Verizon recommends that the Board not adopt the proposed rule amendments clarifying that the exit plan must include a supplement to either cancel or modify the TSP's rates, terms, and conditions of service. It also seeks the removal of the requirement that the letter to be sent to the departing TSP's end users informing them of the departure of the TSP and the end users' option to choose another TSP must contain all the information contained in the sample letter at Appendix A of the subchapter.

93. COMMENT: CenturyLink argues that not all of the items required to be filed under the subsection would be applicable in every scenario, and recommends language to eliminate the mandatory nature of the list.

RESPONSE TO COMMENTS 91, 92, AND 93: The Board thanks Rate Counsel for its comments in support of the proposed changes. The Board declines to adopt Verizon's recommended changes at this time, as they are inconsistent with the goal of ensuring, to the extent possible, an orderly transition of customers from a departing TSP to the new TSP. The Board declines to adopt CenturyLink's recommendations because, as noted previously, a TSP may seek a waiver from the Board if they believe any of the requirements are not applicable to them.

**N.J.A.C. 14:10-12.4 Board Notice to Other TSPs**

94. COMMENT: CenturyLink recommends deletion of this section, as it is out of date given the competitive nature of the telecom environment and the plethora of alternative providers, many of whom are not regulated by the Board.

RESPONSE: The Board did not propose changes to this section and declines to adopt CenturyLink's proposal, as it allows the Board to address any issues that may arise from a migration by contacting other certificated TSPs within the State.

**N.J.A.C. 14:10-12.5 Notice to End Users**

95. COMMENT: Verizon recommends amendments to the rule adding at subsection (f) "the departure is involuntary" and thereafter adding subsection (h), which would allow it to obtain reimbursement for costs from departing TSPs who utilize the underlying service of the LEC's network to provision service to its customers and fail to notify its end users of their departure. Verizon seeks inclusion in the rule that the departing TSP is not relieved of its responsibility to pay all application service charges to the ILECs under contractual arrangements between the TSP and ILEC.

96. COMMENT: CenturyLink comments that this section is out of date given the competitive nature of the telecom environment and the plethora of alternative providers, many of whom are not regulated by the Board. The ILEC should not be assumed to be the default provider, and this creates an unfunded mandate. The focus should, instead, be on sufficient customer notice to allow customers to make a timely alternative arrangement.

RESPONSE TO COMMENTS 95 AND 96: The Board declines to adopt Verizon's recommended changes to this subsection. Imposing a financial requirement on departing TSPs by way of rule is improper. Moreover, the resolution of any dispute regarding charges between the ILEC and the TSP in providing notice to end users should be governed by any contractual agreements between the two parties and is outside of the Board's purview.

The Board also declines to adopt CenturyLink's proposal, as the rules should be retained in recognition of the ILEC's designation as the carrier of last resort.

**Summary of Agency-Initiated Change:**

At N.J.A.C. 14:10-5.2, a typographical error is corrected.

**Federal Standards Statement**

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-22 through 24 require State agencies that adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The Federal rules that correspond to N.J.A.C. 14:10 are promulgated and implemented by the Federal Communications Commission (FCC). The Board has incorporated several FCC rules by reference at N.J.A.C. 14:10, including the FCC Uniform System of Accounts for Telephone Companies, 47 CFR Part 32. The rules readopted with amendments exceed the FCC's record retention requirements (see 47 CFR Part 42) for retail customers as regards to billing. The Board requires a six-year period for retention of records, as opposed to 18 months required by the FCC, relating to records necessary to facilitate back billing for retail customers. The Board believes this more stringent requirement is necessary in light of the complexity of bills and the fact that it is now common among customers to have multiple lines. The expanded timeframe for record retention allows customers an opportunity to review their bills and act on any discrepancies discovered in billing.

The non-financial reporting requirements in the rules readopted with amendments, are consistent with the FCC's reporting requirements at 47 CFR Part 43. The readopted provisions relating to adult-oriented information access to telephone service are in some ways more stringent than those of the FCC. At 47 CFR Part 64, the FCC requires that local exchange carriers offer to their subscribers an option to block access to services offered on the 900 access code. Pursuant to N.J.S.A. 48:17-22, the Board, at N.J.A.C. 14:10-7, requires blocking not only of 900 number services, but also of 700 NXX adult-oriented lines. Unblocked access to adult-oriented 700 NXX and 900 NXX may be obtained by written authorization by the subscriber. Further, customers have the ability to block all 900 calls, consistent with 47 CFR Part 64.

The readopted rules are consistent with the FCC rules at 47 CFR 64.703, which contain information disclosure requirements for interstate, interexchange, domestic, and 0+ operator assisted calls. The Board's rules permit the same standards to apply to intrastate, as well as other operator service provider calls. The Board's rules contain the substance of the Federal regulations regarding notifying customers of the rates for operator service assisted calls. However, the Federal regulations specifically address interstate calls. The Board lacks the authority to regulate interstate calls, and, therefore, has tailored the rules to apply to intrastate calls.

The FCC anti-slamming regulations are found at 47 CFR 64.1100 et seq. The readopted rules at N.J.A.C. 14:10-11 mirror the substance of the FCC rules and only exceed them in a few areas, such as the penalty provisions, and requiring submission of a change order within 60 days. The Board believes, based on its experience with change orders, that this additional stringency is necessary to protect consumers. The Board requires the TSP to provide quarterly reports detailing the status of slamming complaints and authorized primary TSP change orders. This is not required by the FCC. These reports assist the Board and the Division of Consumer Affairs in providing timely and accurate information regarding the resolution of the complaints and to ensure that change orders are processed promptly. This requirement does not pose a burden to the TSPs as they have an internal tracking system for the complaints and change orders.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 14:10.

**Full text** of the adopted amendments follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks \*[thus]\*):

## SUBCHAPTER 1. GENERAL PROVISIONS

## 14:10-1.1 Applicability

(a) This chapter applies to all of the following entities:

1. (No change.)
2. A telecommunications carrier;
3. An aggregator; and
4. Providers of adult-oriented information access telephone service.

(b)-(d) (No change.)

## 14:10-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions that apply to this chapter can be found at N.J.A.C. 14:3-1.1.

...  
 “Carrier” or “telecommunications carrier” means a telephone utility, including an ILEC, a CLEC, and/or a reseller, as those terms are defined in this section.

...  
 “Subscriber” means a **\*telecommunications service\*** customer **\*[receiving service from a telecommunications service provider]\* \*of a LEC or IXC\***.

...  
 “Telephone utility” means a public utility, as defined at N.J.A.C. 14:3-1.1, as well as any entity, as defined at N.J.A.C. 14:3-1.1, that provides telecommunications services to the public.

...

## 14:10-1.3 Recordkeeping, general provisions

(a) Notwithstanding N.J.A.C. 14:3, all records that a telecommunications carrier is required to keep pursuant to this chapter shall be preserved for the following minimum periods, as applicable:

- 1.-3. (No change.)
  4. Two years if the record is of a verification of a TSP switch authorization in accordance with N.J.A.C. 14:10-11.
- (b) (No change.)
- (c) Each telecommunications carrier shall provide the Board with a link to the location on its website with a complete listing of the carrier’s rates, terms, and conditions of service provided in its tariff or product guide.
- (d) (No change.)

## SUBCHAPTER 1A. TELEPHONE UTILITIES

## 14:10-1A.3 Rate and special charges information

Upon the request of any customer or applicant, each telephone utility shall provide an explanation of all rates, charges, and provisions applicable to the service furnished, including any special charges not specifically set forth in a telephone utility’s listing of its rates, terms, and conditions in its tariff or product guide.

## 14:10-1A.4 Directories

(a) ILECs shall provide subscribers with access to electronic telephone directories listing the name, location, and telephone number of all customers whose numbers are provided to the ILEC, except information not provided at customers’ request.

(b) Upon request of a subscriber, the ILEC may provide a printed paper copy of a directory to a customer.

(c)-(f) (No change.)

(g) (No change in text.)

## 14:10-1A.6 Customer complaints and trouble reports

Each telephone utility shall provide for the receipt of customer trouble reports at all hours and make a full and prompt investigation of all complaints. In addition, provisions at N.J.A.C. 14:3 governing receipt and investigation of complaints may apply. Except in instances beyond the company’s control, all commitments to customers shall be kept. Every reasonable effort shall be made to notify customers of unavoidable changes requiring rescheduling or cancellation of scheduled service calls in resolution of the complaint.

## 14:10-1A.7 Adequacy of service

(a) Each telephone utility shall maintain equipment and facilities as necessary to ensure the provision of safe, adequate, and proper service at all times.

(b) Maintenance and infrastructure improvement plans shall be filed with the Board annually.

## 14:10-1A.8 Service quality standards

(a)-(b) (No change.)

(c) A telephone utility shall meet the following requirements regarding calls requesting a live operator:

1. Eighty-five percent of repair service calls shall be answered within 20 seconds;
  2. Eighty-five percent of operator calls (that is, calls assisted by a live operator) shall be answered within 10 seconds; and
  3. (No change.)
- (d)-(g) (No change.)

## 14:10-1A.9 Service quality reporting

(a)-(d) (No change.)

(e) In addition to the Statewide totals required at (d) above, each telephone utility shall sort and/or aggregate its performance measurements regarding the following service quality standards by the applicable reporting unit described below:

1. Measurements relating to the standards for installation of service at N.J.A.C. 14:10-1A.8(b), and for trouble reports under at N.J.A.C. 14:10-1A.8(e), shall be provided for each central office; and
2. The additional reporting unit for measurements relating to the standards for calls requesting a live operator at N.J.A.C. 14:10-1A.8(c) shall be the call center.

(f)-(h) (No change.)

(i) Repeated failures to achieve metrics may subject providers to penalties assessed at the discretion of the Board.

## 14:10-1A.10 Inspections, tests, and maintenance

Each telephone utility shall perform inspections of its plant on a regular basis, and file with the Board the inspection schedule(s) on an annual basis. Routine maintenance shall be conducted on all utility plant, poles, and equipment, with any necessary repairs conducted promptly, consistent with safety and adequate service performance, and in compliance with any inspection and/or maintenance requirements at N.J.A.C. 14:3 and pursuant to any Board Order. If repairs are not feasible due to weather, or other causes beyond the reasonable control of the utility, repairs shall be completed as soon as practical after the condition blocking the repair is eliminated. Such conditions may include the presence of equipment owned by one or more other entities that must act prior to the telephone utility.

## SUBCHAPTER 2. PAYMENTS FOR SERVICE

## 14:10-2.3 Out of service refund

In the event the customer’s service is interrupted other than by the negligence or willful act of the customer and it remains out of service for a period of 24 hours or more after being reported to be out of service, appropriate adjustments or refunds shall be made by the telecommunications provider upon request of the customer. If the customer’s service is interrupted for more than 72 hours after being reported or discovered, the telephone utility shall adjust the customer’s bill or provide a refund, regardless of whether the customer makes such a request. However, the Board may, in accordance with N.J.A.C. 14:10-1A.10(a), suspend application of this provision. Any adjustments or credits shall appear on the customer’s bill within two billing cycles from the date on which the outage occurred.

## SUBCHAPTER 3. NUMBER RECLAMATION

## 14:10-3.1 Number reclamation definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions that apply to this subchapter can be found at N.J.A.C. 14:3-1.1 and 14:10-1.2.

“Guidelines” means, as regards to NXX codes, the Alliance for Telecommunications Industry Solutions (ATIS) Industry Numbering Committee’s (INC) Thousands-Block (NPA-NXX-X) & Central Office Code (NPA-NXX) Administration Guidelines (TBCOCAG), document number ATIS-0300119 which is incorporated herein by reference, as amended and supplemented, and available at: [www.atis.org/inc](http://www.atis.org/inc).

“North American Numbering Plan Administrator” or “NANPA” means the entity selected by the FCC to provide assistance to regulatory authorities to ensure that numbering resources are used in the best interests of all participants in the North American Numbering Plan. The NANPA is responsible for managing the North American Numbering Plan. The NANPA administers NXX codes and the thousands-blocks in an NXX code that are subject to pooling, in accordance with the Guidelines. The NANPA allocates NXX codes and thousands-blocks to serve providers through thousands-block number pooling.

“Part 4 Form” means the Confirmation of Code In Service-Part 4. It also means the Confirmation of Thousands-Block In Service-Part 4A. The FCC requires each service provider to submit the Part 4 Form to the NANPA to confirm that the numbering resources allocated to the service provider have been placed in service. The Part 4 Form is required by the Guidelines.

“Service provider” means a person, as defined at N.J.A.C. 14:3-1.1, that receives numbering resources from the NANPA or another entity approved by the FCC. Examples of service providers are carriers, and persons who provide wireline or wireless telephone service, voice over internet protocol service, paging service, or similar services.

“Thousands-block number pooling” means the process by which the NANPA allocates to service providers those thousands-blocks in an NXX code that are subject to pooling.

#### 14:10-3.2 General provisions

(a) (No change.)

(b) Each service provider shall ensure that the NANPA and Board staff have up-to-date contact information for the service provider at all times, including contact name, telephone number, fax number, street address, and electronic mail address.

(c) When the Board receives from NANPA a list of service providers that have failed to file a Part 4 Form, as defined at N.J.A.C. 14:10-3.1, within the deadline set forth in the Guidelines, Board staff shall send written notice to the listed service providers, requiring submittal of the Part 4 Form to the Board.

(d)-(i) (No change.)

#### 14:10-3.3 Extension of Part 4 Form submittal deadline

(a) If a service provider meets the requirements of this section, Board staff shall grant an extension to the 14-day deadline set forth at N.J.A.C. 14:10-3.2(d). Board staff shall grant an extension to the service provider, of up to 90 days from the date the service provider’s Part 4 Form was initially due. More than one extension may be granted upon a showing of good cause.

(b)-(d) (No change.)

### SUBCHAPTER 4. NON-FINANCIAL REPORTING REQUIREMENTS

#### 14:10-4.1 General provisions

(a)-(g) (No change.)

(h) The submittals required pursuant to this section shall be certified to be accurate by an officer of the carrier and shall be submitted in electronic form to the Board Secretary.

### SUBCHAPTER 5. COMPETITIVE TELECOMMUNICATIONS SERVICES

#### 14:10-5.1 Scope

(a) (No change.)

(b) This subchapter applies to the following:

1. (No change.)

2. Competitive services offered by CLECs and ILECs.

(c) (No change.)

#### 14:10-5.2 Informational filings of rates, terms, and conditions of service

A telecommunications carrier shall make available its rates, terms, and conditions of service and/or product guide for all of its retail competitive services for public inspection on its website and a printed copy of its rates, terms, and conditions of service and/or product guide must be provided upon request of a customer. A telecommunications carrier providing such services, shall provide the Board and Rate \*[Council]\* \*Counsel\* with a link to the carrier’s website where its rates, terms, and conditions of service and/or product guide are located, for inclusion on the Board’s website.

#### 14:10-5.3 Revisions of rates, terms, and conditions of service that increase charges

(a) Revisions of rates, terms, and conditions of service and/or product guide regarding existing competitive telecommunications services, which create increased charges to any customer shall become effective no sooner than five business days after notice of the revision as described at (b) below, without the requirement of prior Board approval.

(b) The carrier shall notify the public of a revision of rates, terms, and conditions of service and/or product guide that increase charges to customers in one of the following ways, at least 15 days before the increase becomes effective:

1. By direct mail to all affected customers who already receive the service;

2. By invoice message to all affected customers, delivered electronically to those customers with electronic billing;

3. By bill insert or by invoice message through direct mail for those customers with paper invoice billing; or

4. By Internet notification, such as posting information on the carrier’s web page for affected customers who have given the carrier prior consent to receive Internet notification of price changes.

#### 14:10-5.4 Revisions of rates, terms, and conditions of service that do not increase charges

Revisions of rates, terms, and conditions and/or product guide to existing retail competitive telecommunications services that do not increase charges to any customer shall become effective one day after notice of the revision as described at N.J.A.C. 14:10-5.3(b), without the requirement of prior Board approval; except that a revision for withdrawal of a service offering shall be governed by N.J.A.C. 14:10-5.7.

#### 14:10-5.5 Initial CLEC offering of service

(a) A CLEC filing a petition for local exchange authority shall include an initial offering of service, listing the rates, terms, and conditions of service. Except for an offering found to be deficient pursuant to (c) below, the initial offering shall be effective concurrent with the Board’s grant of local exchange authority to the CLEC. The offering must be posted on the CLEC’s website, as required pursuant to N.J.A.C. 14:10-5.2.

(b) All initial offerings of a CLEC shall be certified to be accurate, and in compliance with existing law, by an officer of the CLEC.

(c) Should an initial offering be inconsistent with existing laws, Board staff shall forward a letter of deficiency to the submitting CLEC. The deficiency letter shall:

1. List the deficiencies;

2. (No change.)

3. Provide a deadline for the submittals required pursuant to (c)2 above; and

4. Notify the submitting CLEC that the service is suspended until the Board receives the necessary submittals required pursuant to (c)2 above.

(d) If Board staff receive the submittals identified at (c)2 above within the deadline at (c)3 above, the service shall be effective immediately following the Board’s receipt of the submittals.

(e) If Board staff do not receive the submittals required pursuant to (c)2 above within the deadline, the CLEC petition shall be considered withdrawn. The CLEC may subsequently submit a new filing and begin the review process again.

## 14:10-5.7 Withdrawal of a competitive service from subscribers

Any carrier providing competitive services may withdraw a competitive service from subscribers after 30 days notice to all of its affected customers and the Board. Where a carrier is withdrawing a service from its entire customer base within New Jersey, and is not offering a replacement service, the carrier must file a certification with the Board that all the provisions at N.J.A.C. 14:10-12 for mass migration of customers have been complied, prior to withdrawing the service.

## 14:10-5.8 Discontinuance of a competitive service offering

In addition to acting pursuant to N.J.A.C. 14:10-5.7 to withdraw a competitive service, a carrier may withdraw competitive service from new customers, but \*[grandfather]\* **\*legacy\*** a competitive service after providing one day notice of the discontinuance to all customers and the Board. As used in this section, \*["grandfather"]\***\*legacy\*** means offering a service that is no longer available to new customers, but is still provided to existing customers.

## SUBCHAPTER 6. OPERATOR SERVICE PROVIDERS

## 14:10-6.1 Scope

(a)-(c) (No change.)

(d) An alternate operator service provider shall provide:

1. (No change.)

Recodify existing 3.-4. as 2.-3. (No change in text.)

(e)-(f) (No change.)

(g) Board staff may investigate the conduct of any operator service provider or aggregator to evaluate compliance with this subchapter and may take appropriate enforcement action.

## 14:10-6.5 (Reserved)

## SUBCHAPTER 10. (RESERVED)

## SUBCHAPTER 11. ANTI-SLAMMING REQUIREMENTS FOR TSPs

## 14:10-11.4 Obtaining verified customer authorization; submitting a change order

(a)-(e) (No change.)

(f) Notwithstanding N.J.A.C. 14:10-1.3, a submitting TSP shall maintain and preserve records of all verifications of customer authorization for a minimum of two years after obtaining the verification.

## SUBCHAPTER 12. MASS MIGRATION UPON TSP DEPARTURE FROM A SERVICE TERRITORY

## 14:10-12.1 Definitions

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

...

## 14:10-12.2 Purpose and scope

(a) This subchapter governs any TSP operating in New Jersey and intending to depart a service territory or withdraw a telecommunications service from its entire base pursuant to N.J.A.C. 14:10-5.7, where that TSP does not intend to offer a replacement service.

(b) (No change.)

(c) This subchapter sets forth requirements to ensure the orderly migration and/or transfer of end users from a departing TSP to another TSP and also applies to transition of customers to another TSP due to withdrawal of a telecommunications service from the State pursuant to N.J.A.C. 14:10-5.7.

(d) (No change.)

## 14:10-12.3 Application to depart a service territory

(a) (No change.)

(b) At least 60 days prior to its planned departure date, a departing TSP shall file an application with the Secretary of the Board that includes all of the following:

1. (No change.)

2. An exit plan that explains the steps the TSP will take to help facilitate the transfer of its end users to a new TSP. The exit plan shall include the following:

i. A supplement to either cancel or modify the TSP's rates, terms, and conditions of service. If the supplement modifies the TSP's rates, terms, and conditions of service, the supplement shall contain plans for transferring end users and preventing slamming problems;

ii.-xi. (No change.)

(c)-(d) (No change.)

## 14:10-12.9 NXX code transfer

(a) If the departing TSP has any NXX codes or thousand number blocks assigned to it, the departing TSP shall make transfer arrangements with the North American Numbering Plan Administrator for NXX codes and for one thousand number blocks. The departing TSP shall ensure that the transfer of NXX codes and thousand number blocks occurs at least 66 days prior to the planned departure date.

(b)-(c) (No change.)