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**Rules of Practice and Procedure of the Office of Cable Television
Proposed Readoption with Amendments: N.J.A.C. 14:17**

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PUBLIC UTILITIES

BOARD OF PUBLIC UTILITIES

Rules of Practice and Procedure of the Office of Cable Television
Proposed Readoption with Amendments: N.J.A.C. 14:17

Authorized by: Celeste M. Fasone, Director, Office of Cable Television (with approval of the Board of Public Utilities, Jeanne M. Fox, President; Joseph L Fiordaliso, Commissioner, Nicholas Asselta, Commissioner and Elizabeth Randall, Commissioner)

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

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

BPU Docket Number: CX09010093

Proposal Number: PRN 2009-165

A public hearing concerning the proposal will be held on Wednesday, July 8, 2009 at 10:30 A.M. at:

Board of Public Utilities
Hearing Room, 8th Floor
Two Gateway Center
Newark, NJ 07102

Comments may be submitted through July 31, 2009 by e-mail in Microsoft Word format, or in a format that can be easily converted to Word, to rule.comments@bpu.state.nj.us; or on paper to:

Celeste M. Fasone, Director
Office of Cable Television
ATTN: Docket No. CX09010093
Two Gateway Center
Newark, NJ 07102

The agency proposal follows:

Summary

Pursuant to the New Jersey Cable Television Act (Cable Television Act), specifically N.J.S.A. 48:5A-9 and 10, the Director of the Office of Cable Television, with approval of the Board of Public Utilities (hereinafter, the Board), is empowered to promulgate rules and procedures necessary to carry out the purposes of the Cable Television Act. N.J.A.C. 14:17 contains the procedural rules governing cable television companies. These rules are necessary to ensure orderly regulation of the cable television industry in the State of New Jersey.

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Pursuant to N.J.S.A 52:14B-5.1c, N.J.A.C. 14:17, Rules of Practice and Procedure of the Office of Cable Television, is scheduled to expire on June 24, 2009. The Director and the Board of Public Utilities have reviewed the rules and determined that they are necessary, reasonable and proper for the purpose for which they were originally promulgated and amended.

The Board proposes that N.J.A.C. 14:17 be readopted with certain amendments. These amendments fall into the categories of: (1) technical changes for clarity of the rules; (2) amendments to bring the rules into compliance with the general rules of practice for the Board (N.J.A.C 14:1) as well as federal law and changes in state statutes; and (3) modification and/or deletion of rules that have become obsolete.

The substantive provisions of the rule proposed for readoption and amendment by the Board are summarized as follows:

N.J.A.C. 14:17-1.1 pertains to the scope of the rules.

N.J.A.C. 14:17-1.2 pertains to construction of and amendments to the rules.

N.J.A.C. 14:17-1.3 defines certain words and terms utilized in this chapter.

N.J.A.C. 14:17-1.4 designates the OCTV's official address.

N.J.A.C. 14:17-1.5 designates the official hours of the OCTV.

N.J.A.C. 14:17-1.6 pertains to the transmittal of communications with the Board and OCTV. The Board proposes to add electronic communications as correspondence not officially received except in the case of comments filed electronically on rulemakings. This amendment is proposed to conform the OCTV's rules to amendments to the Board's Rules of Practice, specifically N.J.A.C. 14:1-1.6 (see 39 N.J.R. 4551(a) and 40 N.J.R. 1917(a)).

N.J.A.C. 14:17-1.7 pertains to public records maintained by the Board and the Cable Television Advisory Council.

N.J.A.C. 14:17-1.8 pertains to the use of cameras and recording devices at proceedings before the Board and the role of the Office of Communications in making arrangements for such use.

N.J.A.C. 14:17-2.1 notes that the Board and OCTV have statutory authority to collect fees and charges, pursuant to N.J.S.A. 48:5A-1 et seq. and N.J.S.A 47:1A-1 et seq... N.J.A.C. 14:17-2.1(b) is intended to parallel the Board's rule contained at N.J.A.C. 14:1-2.1 in that the collection of fees and charges is inapplicable to cable television operators except for as otherwise provided for. N.J.A.C. 14:1-2.1 provides that, pursuant to N.J.S.A. 48:2-72, the collection of fees and charges shall be inapplicable to public utilities subject to assessment pursuant to N.J.S.A. 48:2-59.

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N.J.A.C. 14:17-2.2 requires all fees to be paid prior to the acceptance of any filing or the processing of any request for copies of documents. An amendment is proposed to subsection (b) to specify that checks should be made out to the Treasurer, State of New Jersey, mailed to the Secretary of the Board, and contain a description of what the payment is for. This amendment is proposed to conform the OCTV's rules to amendments to the Board's Rules of Practice, specifically N.J.A.C. 14:1-2.2(b) (see 39 N.J.R. 4551(a) and 40 N.J.R. 1917(a)).

N.J.A.C. 14:17-3.1 pertains to evidence of authority to appear before the Board.

N.J.A.C. 14:17-3.2 pertains to ethical conduct before the Board and ex parte communications.

N.J.A.C. 14:17-3.3 pertains to the appearance of former employees before the Board.

N.J.A.C. 14:17-4.1 defines pleadings before the Board.

N.J.A.C. 14:17-4.2 sets forth the number of copies of pleadings to be filed with the Board.

N.J.A.C. 14:17-4.3 pertains to attachments to pleadings.

N.J.A.C. 14:17-4.4 pertains to defective pleadings.

N.J.A.C. 14:17-4.5 pertains to service and notice of proceedings.

N.J.A.C. 14:17-4.6 pertains to verification of pleadings.

N.J.A.C. 14:17-4.7 pertains to the amendment of pleadings as a result of changes in fact or circumstances.

N.J.A.C. 14:17-6.1 pertains to the form and content of petitions.

N.J.A.C. 14:17-6.2 pertains to those occasions where the relief sought in a petition also requires the approval or authorization of any other State or Federal regulatory body.

N.J.A.C. 14:17-6.3 pertains to the joinder of requests for relief.

N.J.A.C. 14:17-6.4 pertains to the procedures to be employed by the OCTV upon filing of a petition.

N.J.A.C. 14:17-6.5 pertains to filing of complaints in lieu of petition and to complaint procedures where the OCTV is designated as complaint officer by the municipal consent. The Board proposes to amend subsection (a) to clarify that in all municipalities served by a system-wide franchisee, the OCTV is the complaint officer, pursuant to N.J.S.A. 48:5A-26c. The Board also proposes to amend this section, specifically at subsections (a), (c) and (f) to recognize the ability of a cable television subscriber to file electronic and facsimile complaints and the OCTV's responsibility towards handling those electronically filed complaints. This amendment is also proposed to conform the OCTV's rules to amendments to the Board's Rules of Practice,

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specifically N.J.A.C. 14:1-5.13 (see 39 N.J.R. 4551(a) and 40 N.J.R. 1917(a)). Amendment is further proposed to subsection (i) to specify the procedures for filing a petition, as found elsewhere in the chapter.

N.J.A.C. 14:17-6.6 pertains to petitions for certificates of approval. The Board proposes to amend paragraph (a)2 to require that in the case of a regional filing in accordance with N.J.S.A. 48:5A-17b, if more than one municipality has taken action, all resolutions must be filed. Since regional filings usually encompass more than one municipality, the amendment is proposed for the sake of clarity.

N.J.A.C. 14:17-6.7 pertains to petitions for approval of the modification or amendment of the terms or conditions of a municipal consent upon which a certificate of approval is based.

N.J.A.C. 14:17-6.8 pertains to petitions for approval of the transfer of certificates of approval. An amendment is proposed to paragraph (a)6 to reference the terminology for schedules of rates referenced therein to conform to changes made to N.J.A.C. 14:18-3.16 in the readoption of N.J.A.C. 14:18 (see 38 N.J.R. 4822(b) and 39 N.J.R. 1766(a)). The Board proposes to amend N.J.A.C. 14:17-6.8, to specify the requirements necessary in a petition seeking approval from the Board for transfer of a system-wide franchise. On August 4, 2006, Governor Jon S. Corzine signed legislation (L. 2006, c. 83) that amended the State's "Cable Television Act," P.L.1972, c.186 (N.J.S.A. 48:5A-1 et seq.) to provide an alternate method of obtaining approval for providing cable television service in this State. The legislation, L. 2006, c. 83, specifically N.J.S.A. 48:5A-17, provides that the Board may issue a system-wide franchise to construct, operate and maintain a cable television system within the State in which an applicant, at the time of issuance of the system-wide franchise, either has plant or equipment in use for the provision of any consumer video, cable or telecommunications service, or has proposed to place such plant or equipment into use to provide such service. An existing cable television company is also permitted to convert municipal consent ordinance-based franchise or franchises to a system-wide franchise, pursuant to N.J.S.A. 48:5A-25.1. Currently, there are two cable television companies, Verizon New Jersey, Inc. and Cablevision, which hold system-wide franchises in the state. Verizon New Jersey, Inc. is operating one system-wide franchise with a total of 368 municipalities; Cablevision is operating two system-wide franchises, one for Cablevision of New Jersey, Inc. for one municipality and one for Cablevision of Oakland, LLC for one municipality. The proposed amendment would require a cable television company operating under a system-wide franchise to seek approval prior to transferring its system-wide franchise to another cable television company. As part of this requirement, the Board proposes to add a new paragraph (a)3 to require a system-wide franchise holder to provide a copy of the order authorizing the system-wide franchise. This serves a dual purpose: 1) to insure that the transferee is aware of the requirements under which it is required to abide; and 2) to assist the Board in its review of the transfer petition. While municipal consent ordinance-based franchise holders are only required to provide evidence of receipt of the municipal consent ordinances and certificates of approval to the transferee, since the system-wide franchise is a single document, the Board believes it is simpler just to provide the document.

The Board also proposes to add new paragraphs (a)11 and (a)12 and renumber paragraph (a)10 to (a)13 without change in text. The proposed new paragraphs would require cable television companies to provide, in the event of a transfer of certificates of approval or a system-wide franchise, an affidavit that all previously required commitments, including

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extensions of plant, wiring of buildings, provision of capital grants and/or studio equipment, have been met and if not, what the status of the commitments are. The Board believes that a general affidavit that the petitioner has met its obligations under its franchises is helpful not only to the Board but also to the cable television company which will assume the responsibilities and commitments of the current cable television company. The Board does not believe this will overly burden the cable television company as it is required to perform due diligence in any sale or transfer.

N.J.A.C. 14:17-6.9 pertains to petitions for renewal of certificates of approval. The Board proposes an amendment to paragraph (a)3 to reference the Board as it has the authority to issue orders, rules and regulations.

N.J.A.C. 14:17-6.10 pertains to petitions for the approval of the sale or lease of property. The Board proposes to add reference to the New Jersey State Cable Act, N.J.S.A. 48:5A-1 et seq. as that is the statute that governs approvals of sales and leases of property as well as limitations thereto.

N.J.A.C. 14:17-6.11 is reserved.

N.J.A.C. 14:17-6.12 pertains to petitions for reconsideration of assessments.

N.J.A.C. 14:17-6.13 pertains to petitions for authority to issue stocks, bonds, notes, other evidence of indebtedness or to execute mortgages.

N.J.A.C. 14:17-6.14 pertains to petitions for authority to transfer capital stock.

N.J.A.C. 14:17-6.15 pertains to petitions for permission to lend money or property.

N.J.A.C. 14:17-6.16 presently pertains to tariff filings which do not propose increases in charges to customers. The Board proposes to change all references of "tariff" in this section to "schedule of all prices, rates, terms and conditions" to conform to changes made to N.J.A.C. 14:18-3.16 in the readoption of N.J.A.C. 14:18 (see 38 N.J.R. 4822(b) and 39 N.J.R. 1766(a)).

N.J.A.C. 14:17-6.17 pertains to tariff filings or petitions which propose increases in charges, and requires Board adherence to FCC rate regulation rules. The Board proposes to change all references of "tariff" in this section to "schedule of all prices, rates, terms and conditions" to conform to changes made to N.J.A.C. 14:18-3.16 in the readoption of N.J.A.C. 14:18 (see 38 N.J.R. 4822(b) and 39 N.J.R. 1766(a)). The Board also proposes to amend paragraph (b)2 to reference "Division of Rate Counsel, Department of the Public Advocate" instead of "Division of Ratepayer Advocate" to reflect the change in the agency's name.

N.J.A.C. 14:17-6.18 pertains to petitions for approval of a merger or consolidation. The Board proposes to add reference to the New Jersey State Cable Act, N.J.S.A. 48:5A-1 et seq. as that is the statute that governs approvals of mergers and consolidations as well as limitations thereto.

N.J.A.C. 14:17-6.19 pertains to petitions for permission to keep books and records outside the State of New Jersey.

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N.J.A.C. 14:17-6.20 pertains to petitions by municipalities for permission to charge franchise fee above that prescribed in N.J.S.A. 48:5A-1 et seq.

N.J.A.C. 14:17-6.21 pertains to petitions to set aside municipal or county refusal of zoning or other necessary authorization refusal pursuant to N.J.S.A. 48:5A-17(e).

N.J.A.C. 14:17-6.22 requires anyone wishing to act as a private aggregator for the purpose of facilitating the joint municipal consent action by two or more municipalities to register with the office.

N.J.A.C. 14:17-7.1 pertains to the form and content of answers and replies filed in proceedings before the Board.

N.J.A.C. 14:17-7.2 pertains to the time for the filing of answers and replies filed in proceedings before the Board.

N.J.A.C. 14:17-8.1 sets forth the purposes of conducting pre-transmittal conferences.

N.J.A.C. 14:17-8.2 pertains to the initiation of pre-transmittal conferences.

N.J.A.C. 14:17-8.3 pertains to the stipulation of pre-transmittal conference results.

N.J.A.C. 14:17-8.4 sets forth the authority of Board or OCTV-designated officers.

N.J.A.C. 14:17-9.1 sets forth the procedures to be followed in contested cases.

N.J.A.C. 14:17-9.2 pertains to oral argument before the Board after receipt of an initial decision and the exceptions and answers thereto.

N.J.A.C. 14:17-9.3 pertains to the review of an initial decision by the Board on its own motion.

N.J.A.C. 14:17-9.4 sets forth the method of reopening a hearing prior to the issuance of a final decision by the Board.

N.J.A.C. 14:17-9.5 pertains to motions to reopen a proceeding after the issuance of a final decision by the Board.

N.J.A.C. 14:17-9.6 pertains to motions for the rehearing, reargument or reconsideration of a proceeding.

N.J.A.C. 14:17-9.7 pertains to motions and answers on rehearing. The Board proposes to add the phrase "unless the parties are otherwise notified by the Board or its Secretary" to subsection (c). This amendment is proposed to conform the OCTV's rules to amendments to the Board's Rules of Practice, specifically N.J.A.C. 14:1-8.7(c) (see 39 N.J.R. 4551(a) and 40 N.J.R. 1917(a)).

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N.J.A.C. 14:17-10.1 pertains to uncontested case proceedings before the Board.

N.J.A.C. 14:17-10.2 pertains to the designation by the Board of a person to act as the Board's representative to conduct a hearing in an uncontested matter pending before the Board.

N.J.A.C. 14:17-10.3 pertains to the filing of pleadings, correspondence, and other documents regarding an uncontested case.

N.J.A.C. 14:17-10.4 pertains to the use of cameras and recording devices in uncontested cases.

N.J.A.C. 14:17-10.5 pertains to appearances before the Board in uncontested cases.

N.J.A.C. 14:17-10.6 requires that three days be added to any prescribed period when service is made by mail.

N.J.A.C. 14:17-10.7 is reserved.

N.J.A.C. 14:17-11.1 requires parties to whom an order is directed to notify the Board on or before the date specified in said order whether or not the party has come into compliance.

N.J.A.C. 14:17-11.2 requires a party to respond within 15 days to any recommendation made by the Board.

N.J.A.C. 14:17-11.3 pertains to the extension of time limits for compliance.

N.J.A.C. 14:17-11.4 requires that a cable television company must submit a report within 15 days of receipt of any letter or telegram from the Board or OCTV directing an investigation of any matter under its jurisdiction.

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

Social Impact

The chapter proposed for readoption governs the procedural rules for initial petition filings and uncontested cable television matters brought before the Board and/or the Director of the OCTV.

The proposed readoption with amendments, as were the expiring rules, is designed to insure orderly practice and procedure before the Board and OCTV by establishing both guidelines and specific requirements pertaining to the filing of petitions requesting relief from the Board or OCTV, and to all other submissions related thereto, as well as to the handling of all proceedings before the OCTV and to the participation and conduct of all affected parties. As the proposed rules set forth the specific information that must be included in all filings as well as the time frames within which said information must be submitted, the rules proposed for

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readoption are essential if the OCTV is to process those petitions lawfully before it in an expeditious and just manner. While the majority of matters before the OCTV are brought by regulated cable television companies, petitions are also filed by persons who have grievances against regulated television companies or who seek other relief that is within the jurisdiction of the Board and OCTV.

With regard to the proposed changes to N.J.A.C. 14:17-6.5, handling an informal complaint, the proposed changes to this section will benefit the public as it recognizes that the OCTV and the Board accept electronic complaints and that these complaints will be handled accordingly.

With regard to the proposed changes to N.J.A.C. 14:17-6.8 requiring a system-wide franchise holder to seek approval to transfer its system-wide franchise, a system-wide franchise is not transferable unless the Board approves it, pursuant to N.J.S.A. 48:5A-19(a). The proposed changes to the rule simply set forth the method by which a system-wide franchise holder must seek approval of the transfer. The proposed amendments to the rule provide guidance for the cable television company operating under a system-wide franchise and to the cable television company assuming the system-wide franchise as well as to the Board. Without this rule, the Board would be required to administer the statute directly and the system-wide franchise holder would be required to abide by any requests from the Board regarding the transfer without specific guidance.

Proposed changes to N.J.A.C. 14:17-6.8 requires either a cable television company operating under a municipal consent ordinance based franchise or a system-wide franchise to certify that it is in compliance with its commitments under those documents at the time of the transfer; if not the cable television company must provide a status of the project(s) ((a)11 and (a)12 respectively). These requirements will formalize the discovery process utilized by Board staff upon filing of a petition for transfer and allows the Board to handle any potential issues prior to the transfer. The proposed amendments will ensure that if there are to be commitments assumed, the transferee is aware of those commitments prior to the transfer.

Economic Impact

This chapter imposes procedural requirements on cable television operators. Thus, it has some additional impact on operating costs which are, to some extent, passed on to the subscriber.

While the rules proposed for readoption with amendments impose no direct or specific costs, with the exception of the cost for filing of petitions pursuant to N.J.S.A. 48:5A-16, 17 and 18, all petitioners and other parties will incur varying levels of expenses in preparing and litigating petitions before the Board. Said expenses will include costs related to legal assistance, accounting work, engineering input, and expert witnesses, as well as to those expenses involved in physically preparing and filing the appropriate submissions. With regard to regulated cable companies, all reasonable levels of expenses incurred in complying with these requirements will be considered business expenses recoverable through customer charges. All fees and charges associated with practice and procedures before the Board and OCTV are set forth pursuant to statute. N.J.S.A. 47:1A-2 and N.J.S.A. 48:5A-1 et seq.

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With regard to the proposed changes to N.J.A.C. 14:17-6.8 which require a system-wide franchise holder to seek approval under the rule prior to transferring it to another cable television company, a system-wide franchise is not transferable unless the Board approves it, pursuant to N.J.S.A. 48:5A-19(a). The rules simply set forth the method by which a system-wide franchise holder must seek approval of the transfer. While the Board does not believe there will significant economic burdens to the system-wide franchise holder, compliance will incur some costs. However, these costs are part of doing business and part of compliance with the statute.

The proposed changes to N.J.A.C. 14:17-6.8 which require either a cable television company operating under a municipal consent ordinance based franchise or a system-wide franchise to certify that it is in compliance with its commitments under those documents at the time of the transfer; if not the cable television company must provide a status of the project(s). The Board does not believe that this will present a significant economic burden to the cable television company since the cable television company is required to perform due diligence and report to the assuming cable television company any liability, and because Board staff requires the cable television company to provide this information in discovery.

Federal Standards Statement

While many of the rules proposed herein are predicated upon federal laws, rules, regulations and standards, including rate regulations and associated procedures (47 C.F.R. § 76.900), the Board does not believe that any of the rules proposed herein conflict or exceed Federal standards. Instead, the proposed rules either directly codify existing federal requirements or are explicitly within the scope of regulation that the federal government reserved for the local franchising authority, which in this case is the Board.

Agriculture Industry Impact

The proposed readoption with amendments will have no impact on the agricultural industry.

Jobs Impact

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

Regulatory Flexibility Statement

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

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Smart Growth Impact

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

Housing Affordability Impact

The proposed readoption with amendments will have no impact on the cost of housing or number of housing units. The proposed readoption with amendments concerns practice and procedure before the Board of Public Utilities.

Smart Growth Development Impact

The proposed readoption with amendments will have no impact on the cost of housing, the number of housing units, or new construction within Planning Areas 1 and 2, or Development Centers, under the State Development and Redevelopment Plan. The proposed readoption with amendments concerns practice and procedure before the Board of Public Utilities.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:17.

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

SUBCHAPTER 1. GENERAL PROVISIONS

14:17-1.6 Communications

(a) – (c) (No change.)

(d) As (a) and (b) above require that all correspondence be addressed to the Board and that said submission shall be deemed to be officially received when delivered at the office of the Board, any documents received via fax or electronically will neither be date/time stamped as formally received by the Board nor be entered into the case or rulemaking record, except as provided under N.J.A.C. 14:1-1.6A. Such [faxed] documents shall only be distributed to the addressee.

SUBCHAPTER 2. FEES AND CHARGES

14:17-2.2 Payment of fees and charges

(a) (No change.)

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(b) All checks for payment of such fees and charges shall be made payable to the order of "Treasurer, State of New Jersey" and delivered or mailed to the Secretary of the Board or its designee, [Director of the Office,] Two Gateway Center, Newark, New Jersey 07102. The check shall include a description as to the nature of the payment.

SUBCHAPTER 6. PETITIONS

14:17-6.5 Handling informal complaint to the Office as complaint officer in lieu of petition

(a) For any customer of a cable television company operating under a system-wide franchise, or when [When] a municipality has designated [designates] the Office as the "complaint officer" pursuant to the applicable provisions of N.J.S.A. 48:5A-1 et seq., an informal complaint may be made by letter, email, facsimile or other writing in lieu of filing a petition.

(b) (No change.)

(c) While no form of informal complaint is prescribed, to be considered by the complaint officer such complaint must be signed, unless electronically submitted, and must state the name and address of the complainant and the party complained of as well as the essential facts upon which the complaint is based, including the dates of acts or omissions complained of.

(d) - (e) (No change.)

(f) [A letter will then be forwarded, within 30 days of the receipt of said complaint, to all parties reflecting the results, if any, of the processing of the informal complaint.] Depending upon the type of informal complaint filed, Office staff shall, within 30 days of receipt of said complaint, respond to the informal complaint in the same manner as it was received or in any other manner designed to provide appropriate notice, and provide the results, if any, of the processing of the informal complaint.

(g) - (h) (No change.)

(i) A party desiring a decision on order of the Board must file a petition in accordance with N.J.A.C. 14:17.4 and N.J.A.C. 14:17-6.1 through 6.4 to the extent applicable.

14:17-6.6 Petitions for certificate of approval

(a) Petitions for a certificate of approval shall conform to the provisions of N.J.A.C. 14:17-4 and N.J.A.C. 14:17-6.1 through 6.4, to the extent applicable. The following information shall also be supplied in the body of the petition or in attached exhibits:

1. (No change.)

2. In the case of regional filing pursuant to N.J.S.A. 48:5A-17(b), a copy of the affected municipality's or municipalities' resolution(s);

3. - 7. (No change.)

Note: This is a courtesy copy of the proposal notice. The official version will be published in the New Jersey Register on June 1, 2009. Should there be any discrepancies between this courtesy copy and the official version, the official version will govern.

(b) (No change.)

14:17-6.8 Petitions for approval of the transfer of certificates of approval or system-wide franchise

(a) Petitions for approval of the transfer of certificates of approval or system-wide franchise shall conform to the requirements of N.J.A.C. 14:17-4 and N.J.A.C. 14:17-6.1 through 6.4, to the extent applicable, and shall in the body thereof, or in the attached exhibits, also provide the following information:

1. If petition is for approval of the transfer of certificates of approval, evidence [Evidence] by affidavit from both parties that a copy of each certificate has been provided by transferor and that transferee has received said documents;

2. If petition is for approval of the transfer of certificates of approval, evidence [Evidence] by affidavit from both parties that a copy of each municipal consent has been provided by transferor and that transferee has received said documents;

3. If petition is for approval of the transfer of system-wide franchise, a copy of the system-wide franchise or a copy of the order memorializing the conversion to a system-wide franchise issued by the Board;

[3.] 4. (No change in text.)

[4.] 5. The names of all cable television companies operating in areas contiguous to that served by transferor under the [consent] certificate of approval or system-wide franchise involved in the application under this Section;

[5.] 6. The current schedule of prices, rates, terms and conditions charged for the service involved.

[6. - 9.] 7. – 10. (No change in text.)

11. If petition is for transfer of certificates of approval, evidence by affidavit from the existing cable television operator that all commitments contained in the current certificate of approval(s), municipal consent ordinance(s) and application(s) for municipal consent have been completed. If the commitments have not been met, the cable television operator must provide the status of the project in question;

12. If petition is for transfer of a system-wide franchise, evidence that all commitments contained in the current system-wide franchise have been completed. If the commitments have not been met, the cable television operator must provide the status of the project in question; and

[10.] 13. (No change in text.)

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

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14:17-6.9 Petitions for renewal of certificate of approval

(a) Petitions for renewal of a certificate of approval shall conform to the provisions of N.J.A.C. 14:17-4 and N.J.A.C. 14:17-6.1 through 6.4, to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. - 2. (No change.)

3. 2. (No change.)

3. Proof that petitioner has been operating its cable television system in conformance with the rules, regulations and orders of the Office and the Board, and is able to continue to do so;

4. - 6. (No change.)

(b) (No change.)

14:17-6.10 Petitions for the approval of the sale or lease of property

(a) Petitions for the approval of the sale, conveyance or lease of real or personal property, or the granting of an easement, or like interest therein as required by law shall conform to the provisions of N.J.S.A. 48:5A-1 et seq., N.J.A.C. 14:17-4 and N.J.A.C. 14:17-6.1 through 6.4, to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. - 13. (No change.)

14. If the property is encumbered by any mortgage, describe the mortgage, state the amount thereof, and the time required to obtain a release; and

15. (No change.)

14:17-6.16 [Tariff filings] Filings for unregulated charges or which do not propose changes in regulated charges to customers.

(a) [Tariff f]ilings for the purpose of making effective initial [tariffs] schedules of all prices, rates, terms and conditions, or revisions, changes or alterations of existing [tariffs] schedules of all prices, rates, terms and conditions and where a rate application form as promulgated by the FCC pursuant to 47 C.F.R. §76.900, et seq. is not being filed shall conform to the provisions of N.J.A.C. 14:17-4, to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. Four copies of the proposed [tariff] schedule of all prices, rates, terms and conditions or revision, change or alteration thereof, together with an explanation of the manner in which the [tariff] schedule of all prices, rates, terms and conditions or change differs from the existing or a prior [tariff] schedule of all prices, rates, terms and conditions;

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2. A statement of the reasons why the said [tariff] schedule of all prices, rates, terms and conditions or change is proposed to be filed;

3. A statement of notices given, if any, together with a copy of the text of each of said notices; and

4. A statement as to the date on which it is proposed to make the [tariff] schedule of all prices, rates, terms and conditions or change effective, which date shall not be earlier than 30 days after the filing unless otherwise permitted by the Office with the approval of the Board except where mere advance notice is sufficient under N.J.A.C. 14:18-3.16.

(b) Review of petitions and [tariffs] schedule of all prices, rates, terms and conditions under this section shall conform and comply with the regulations and procedures established by the Federal Communications Commission for the regulation of cable television rates.

(c) (No change.)

14:17-6.17 [Tariff filings and rate] Rate application filings which propose changes in regulated charges

(a) [Tariff filings or r] Rate application filings for the purpose of making effective revisions, changes or alterations of existing [tariffs] schedules of all prices, rates, charges, and services which propose to change any regulated rate, rental or charge or [so] to alter any classification, practice, rule or regulation shall do so by filing the applicable rate forms promulgated by the FCC, and shall in the body thereof, or in attached exhibits, contain all applicable information and supporting data prepared in accordance with generally accepted accounting and auditing principles, or the applicable FCC regulations and:

1. - 2. (No change.)

3. A statement as to the date on which it is proposed to make the [tariff] schedule of all prices, rates, charges, and services or change effective, which date shall not be earlier than 30 days after the filing unless otherwise permitted by the Office with the approval of the Board.

(b) Each cable television company that makes a filing under (a) above shall, at the same time, unless otherwise ordered or permitted by the Board, give notice thereof as follows:

1. Serve a notice of this filing which includes a statement of the municipality's procedural rights under N.J.S.A. 48:5A-18(b) and N.J.A.C. 1:1-12.1, to elect to intervene as a party presenting evidence or to participate by written and/or oral statements or briefs under N.J.A.C. 1:1- 12.6, and a copy of the proposed [tariff] schedule of all prices, rates, terms and conditions or a copy of the petition or a statement of the effect of the proposed filing upon the municipal clerk in each of the municipalities in which there is rendered cable television service, the regulated charge for which is proposed to be changed.

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2. Serve a notice of the filing and two copies of the [tariff] schedule of all prices, rates, terms and conditions or rate application filing on the Department of Law and Public Safety, 124 Halsey Street, PO Box 45029, Newark, New Jersey 07102 and on the Director, Division of [Ratepayer Advocate] Rate Counsel, Department of the Public Advocate, 31 Clinton Street, PO Box 46005, Newark, New Jersey 07102; and

3. (No change.)

(c) - (g) (No change.)

(h) Review of rate application filings and [tariffs] schedules of all prices, rates, terms and conditions under this section shall conform and comply with the regulations and procedures established by the Federal Communications Commission for the regulation of cable television rates.

(i) If there are changes to the rates as a result of the Board's review, a copy of the final [tariff] schedule of all prices, rates, terms and conditions reflecting the actual rates to be charged shall be filed no later than 30 days prior to the effective date of the rate change.

14:17-6.18 Petitions for approval of a merger or consolidation

(a) Petitions for approval of a merger or consolidation of one cable television company of New Jersey with that of another cable television company, shall conform to the provisions of N.J.S.A. 48:5A-1 et seq., N.J.A.C. 14:17-4, and N.J.A.C. 14:17- 6.1 through 6.4, and 6.13, to the extent applicable, and shall contain in the petition, or as attached exhibits, the following information:

1. - 12. (No change.)

13. Proof of compliance with rules, regulations and statutes requiring approval from other State and Federal regulatory agencies having jurisdiction in the matter; and

14. (No change.)

SUBCHAPTER 9. CONTESTED CASE HEARINGS

14:17-9.7 Motions and answers on rehearing

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

(c) Any motion hereunder which is not granted or otherwise expressly acted upon by the Board within 60 days after the filing thereof, shall be deemed denied, unless the parties are otherwise notified by the Board or its Secretary.

(d) (No change.)