

# NEW JERSEY BOARD OF PUBLIC UTILITIES

## Proposed Amendments And New Rules:

### N.J.A.C. 14:10, Telephone

Proposed September 17, 2007

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## **PUBLIC UTILITIES**

### **BOARD OF PUBLIC UTILITIES**

#### **Telephone**

Proposed amendments: N.J.A.C. 14:10-1, 1A, 2, 3, 5, 6, 9, 10, and 11

Proposed new rule: N.J.A.C. 14:10-1.3

Authorized by: Board of Public Utilities, Jeanne M. Fox,  
President, Frederick F. Butler, Joseph L.  
Fiordaliso, and Christine V. Bator,  
Commissioners.

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

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

BPU Docket Number: TX07060385

Proposal number: PRN:

Comments may be submitted through November 16, 2007 by e-mail to [rule.comments@bpu.state.nj.us](mailto:rule.comments@bpu.state.nj.us), or on paper to:

Kristi Izzo, Secretary  
New Jersey Board of Public Utilities  
**ATTN: BPU Docket No: TX07060385**  
Two Gateway Center  
Newark, New Jersey 07102

The agency proposal follows:

### **Summary**

The New Jersey Board of Public Utilities (Board) is herein proposing amendments to its rules governing telecommunications service, N.J.A.C. 14:10. These rules govern telephone utilities and other telecommunications providers that are subject to the jurisdiction of the Board, in such areas as service standards, payments for service, extensions of service, and the regulation of telecommunications carriers and Alternative Operator Service (AOS) providers. These amendments, and proposed new rule (N.J.A.C. 14:10-1.3), implement changes the Board determined were necessary based on comments it received on its proposed readoption of these rules. The readoption was proposed in the August 21, 2006 issue of the New Jersey Register, at 39 N.J.R. 498(a), and the adoption appears elsewhere in this issue of the New Jersey Register. This companion proposal incorporates the changes that the Board would have made on adoption but could not because they were substantive changes that required additional notice and comment.

Following is a section-by-section summary of the proposed amendments and new rule:

## **CHAPTER 10 TELECOMMUNICATIONS**

### **Subchapter 1. General provisions**

Proposed new N.J.A.C. 14:10-1.3 includes general requirements for the duration of record retention. Existing Board rules for all utilities at N.J.A.C. 14:3-7.8 require that all telephone utility records be kept for the time periods required by the Federal Communications Commission (FCC) (18 months for toll service).

Proposed new N.J.A.C. 14:10-1.3(a) requires record keeping for a period of 18 months for wholesale customers; 6 years for retail customers; 18 months for service quality reporting; and 3 years for verification of a TSP switch. Subsections (b) and (d) require that records be available to Board staff, and authorize Board investigations of tariff compliance. Proposed new N.J.A.C. 14:10-1.3(c) contains a new requirement that each utility or carrier that maintains a commercial website provide a link to the Board's website.

## **Subchapter 1A. Telephone Utilities**

Proposed N.J.A.C. 14:10-1A.2(b) contains provisions which require a utility to make certain maps available to Board staff upon request.

Existing N.J.A.C. 14:10-1A.3 requires a telephone utility to provide information to customers regarding the rates, charges and conditions that apply to the service furnished or available; any alternative services available to meet the customer's needs; and an estimate of the charges where special charges not specifically set forth in the telephone utility's tariff are levied. Existing language which contains specific examples of rate quotes is being replaced with a more concise requirement that achieves the same goal of providing all rate information while providing more flexibility to telephone utilities.

Existing N.J.A.C. 14:10-1A.4, which sets forth basic requirements for telephone utility business office staffing and services, is proposed for deletion as the requirements for business offices for utilities are already set forth in N.J.A.C. 14:3.

Existing N.J.A.C. 14:10-1A.5, pertains to the publication, distribution and content of telephone directories and the procedures to be followed when telephone numbers are changed subsequent to the publication of a directory. This section is being proposed with new language which specifies that Incumbent Local Exchange Carriers (ILEC) are required to publish and distribute a copy of each directory to all customers within the service area covered by the directory, and that the customer service telephone number and the website for the Board be included in the opening pages. Language has been included in the rule to cover customer number changes. In addition, some clarifying amendments that do not change meaning are proposed. Finally, part of existing N.J.A.C. 14:10-1A.5(f), which refers to telephone company business offices, and (j) and (k) in their entirety are proposed for deletion to streamline requirements to allow more flexibility to carriers, and to eliminate regulations that are no longer necessary.

Existing N.J.A.C. 14:10-1A.6 pertains to situations where a telephone utility cannot provide requested services within required time frames. These deadlines are proposed for deletion to remove unnecessary detail, and because they are redundant with similar provisions in the section. In addition, a requirement for a priority plan is proposed for deletion because it is redundant with other language in the same subsection.

Existing N.J.A.C. 14:10-1A.7 requires utilities to make efforts to keep customers informed and to keep all commitments made to customers. As proposed, this section will no longer include language specifically addressing customer contact and out of service reports on weekends, as this concept is already included in the subsection and therefore a specific reference to "weekends" is no longer necessary. The intent of this rule is to cover all customer trouble situations, weekends or otherwise through the existing language in the first sentence of the first paragraph which says that customer trouble reports will be received at all hours and promptly investigated.

Existing N.J.A.C. 14:10-1A.8, which includes requirements for utilities to make pay telephones available to the public, is proposed for deletion because pay phone service has been deemed competitive.

Existing N.J.A.C. 14:10-1A.9 pertains to procedures to be employed by telephone utilities to ensure that they maintain enough equipment and staff to ensure adequate service. Existing subsections (b), (c) and (d) are proposed for deletion as the appropriate requirements are sufficiently stated in the modified language set forth in (a). The requirements concerning maintenance of equipment and facilities that ensure the provision of safe adequate and proper service which are proposed in a) capture the concepts previously located in b), c) and d) of the rule which deal with procedures to determine the adequacy of service, corrective measures in returning to adequate service, and adequate personnel to meet Board standards.

Existing N.J.A.C. 14:10-1A.10 which establishes minimum standards for various measures of service quality, is amended to delete existing (a) because it is redundant with various other provisions regarding recordkeeping and reporting. Proposed new N.J.A.C. 14:10-1A.10(a) enables the Board to suspend application of the rules when events take place which are beyond the control of the LEC. Numerous other amendments are proposed to reorganize and clarify the section without changing its meaning. Specifically, existing N.J.A.C. 14:10-1A.10(b)1 through 5, which sets forth service quality standards for installation, operator handled calls, customer trouble reports, dial service, and transmission facilities, are separated and recodified in proposed N.J.A.C. 14:10-1A.10(b) through (g). Proposed new (g) sets a maximum number of eight customer complaints to the Board per ten thousand lines per month. Finally, existing N.J.A.C. 14:10-1A.10(c), which details the size of work unit that each type of report must cover, is proposed for deletion in order to provide more flexibility to carriers in aggregating their service quality data for reporting purposes.

Existing N.J.A.C. 14:10-1A.11 contains requirements for reporting measurements and summaries of performance on the service quality standards. Proposed new (b) requires each telephone utility to retain records of the measurements and summaries required for eighteen months. Proposed new (e) requires telephone utilities to sort and/or aggregate performance measurements as set forth in the rules. Proposed new (h) requires that said reports shall be submitted no later than thirty calendar days after the end of the third consecutive month of noncompliance or thirty days after requested by the Board. Existing provisions at (a), (c) (d) (f) and (g) are unchanged.

Existing N.J.A.C. 14:10-1A.12 sets forth requirements for the devices that utilities shall use to measure and record service to customers. Existing (a) and (b) are proposed for deletion because they are obsolete in light of changes in the technology of measuring devices. In addition, amendments are proposed to the remainder of the section which streamline the language but do not change the meaning. Existing N.J.A.C. 14:10-1A.13 requires telephone utilities to adopt a program for inspections, tests and preventive maintenance. Subsections (a) through (e) and g) and h) are proposed for deletion as unnecessarily detailed. In addition, existing (f) has been modified in the proposal to encapsulate the intent of the rule, which is to require that each telephone utility perform regular maintenance on its plant and equipment.

Existing (g) and (h) are proposed for deletion, as well as existing (a) through (e), because their substance is sufficiently described in the remaining text of the proposed rule in the new language that states that each telephone utility shall perform regular

maintenance, and shall comply with any inspection and or maintenance requirements contained in 14:3..

Proposed new N.J.A.C. 14:10-1A.14(d) requires a utility to inform the Board's staff on the same business day of any major service interruption and to describe the cause, the measures the utility is taking to remedy the problem, and a contact to monitor the situation. Proposed new (e) defines "major service interruption".

Existing N.J.A.C. 14:10-1A.15, which pertains to the construction of a telephone plant, is proposed with minor clarifying changes. In addition, existing (b) is proposed for deletion because it is duplicative of other rules which address technical standards for telephone utilities.

## **Subchapter 2. Payments for Service**

Proposed new N.J.A.C. 14:10-2.1 sets forth the applicability of the subchapter, and states that the subchapter applies to all bills, regardless of who presents the bill. The section also includes cross references to other existing requirements at N.J.A.C. 14:3.

Existing N.J.A.C. 14:10-2.2, sets forth the minimum required contents of a bill. Proposed amendments to (a) provide an exception when the customer's calling plan or package makes an item inapplicable. N.J.A.C. 14:10-2.2(a)6 through 8 include minor clarifying amendments that do change their meaning. Proposed amendments to a) 9 deleting the requirement for a statement, which is no longer necessary since the charge is a flat charge that does not warrant a statement. Proposed new (b) requires a Competitive Local Exchange Carrier (CLEC) or ILEC to correct an incorrect bill or to render a bill when the ILEC or CLEC has failed to bill. Proposed new (c) requires the utility to credit or refund the customer for any amounts overcharged. Proposed new (d) requires the utility to allow the customer to repay amounts due on incorrect bills or unrendered bills over a period of time no shorter than the time period for which the billing was incorrect or absent, or for a mutually agreed upon time period. Proposed new (e) provides rules for back billing which specify a time period of 18 months for wholesale customers and six years for retail customers. Proposed (f) requires a telephone utility to retain records in compliance with the back billing timeframes.

## **Subchapter 3. Number Reclamation**

Existing N.J.A.C. 14:10-3.2 contains general provisions for number reclamation. Proposed new (i) provides the service provider with the opportunity to explain the reasons for noncompliance with the number reclamation rules.

## **Subchapter 5. Competitive Telecommunications Services**

Minor clarifying amendments are proposed to existing N.J.A.C. 14:10-5.2, which serve to clearly express that a carrier may include a cross reference in its tariffs to FCC interstate tariffs. This change does not impact the meaning of the rules.

Existing N.J.A.C. 14:10-5.3, which governs tariff revisions that increase charges is proposed for modification to specify that customers who already receive the service must be notified of the increase and that the carrier must mail the notice within 24 hours

after the filing of the revised tariff with the Board. Minor clarifications have also been made to (c).

Existing N.J.A.C. 14:10-5.5 contains requirements for new competitive telecommunications service offerings by existing interexchange carriers. An amendment is proposed to change the effective date of new service offerings from five business days to one business day after filing a tariff revision covering the new service offering. In addition, the term "existing" has been deleted from a) to eliminate any confusion concerning the application of the rules with respect to all interexchange carriers.

Existing N.J.A.C. 14:10-5.6 pertains to initial tariff filings for competitive local exchange carriers (CLECs) and interexchange carriers (IXCs). Proposed new (b) states if a CLEC files an initial tariff for local exchange service concurrently with the CLEC's petition for local exchange authority, the tariff shall become effective 30 days after the Board grants local exchange authority to the CLEC.

Existing N.J.A.C. 14:10-5.8, pertaining to the withdrawal of a competitive service from subscribers, has been modified to delete (b), which pertains to service offerings provided by a single carrier. Proposed N.J.A.C. 14:10-5.8 will serve to notify all carriers, not only those who are the sole providers of a service, of their obligations when withdrawing a service offering.

## **Subchapter 6. Regulation of Operator Service Providers**

Existing N.J.A.C. 14:10-6.4(b) and (c) are proposed for deletion as the Board no longer believes that it is necessary for alternate operator service providers to file informational tariffs.

Existing N.J.A.C. 14:10-6.8, Alternate operator service provider contact information, which contains additional requirements for Alternate Operator Services, is being proposed with some modifications which do not affect the meaning of the rule. In addition, N.J.A.C. 14:10-6.8(a)2, 3 and 4, and (b) are proposed for deletion. The information tariffs previously required by the Board are being eliminated to reduce filing requirements of AOS providers. Since rates will remain capped, tariffs are no longer necessary.

## **Subchapter 9. Public Pay Telephone Service**

An amendment is proposed to N.J.A.C. 14:10-9.2(b), to require that the PPTS instrument allow free 911 calls, as well as free "811" calls. 811 is the new telephone number for reporting planned digging under the Board's rules for protection of underground facilities at N.J.A.C. 14:2.

## **Subchapter 10. IntraLATA Toll Competition**

Minor clarifying amendments are proposed to N.J.A.C. 14:10-10.1, which sets forth the scope of the subchapter and lists the entities to which the subchapter applies. The proposed amendments provide additional detail, but do not change the meaning. The proposal deletes what was previously codified as 14:10-10.2 b), c) and d) as they are covered in 14:10-11.1 b).

Existing N.J.A.C. 14:10-10.2 which pertains to responsibilities of LECs, is merged with existing N.J.A.C. 14:10-10.1, and continues to reflect the activities that LECs are prohibited from engaging in when processing Primary Interexchange Carrier (PIC) orders. Minor clarifying amendments are proposed, which do not change meaning.

Existing 14:10-10.3 is recodified as N.J.A.C. 14:10-10.2. In (a) a reference has been included for interexchange private line service. In (e) an exception from the imputation standards is provided for competitive access services. Existing (f) is proposed for deletion because appropriate changes in the imputation formulas due to access charges are self-executing, and therefore, Board approval is no longer necessary. Subsequent subsections are recodified.

## **Subchapter 11. Anti-Slamming Requirements for TSPs**

Existing 14:10-11.3, Solicitation of authorization to change TSPs deals with the termination of a customer's existing primary TSP. Proposed new N.J.A.C. 14:10-11.3(c) clarifies that the rules apply to any person acting as an agent or representative on behalf of a TSP within the parameters of the working agreement set forth by the TSP, and those actions are considered the acts of the TSP. The term "person" is defined at N.J.A.C. 14:3-1.1, and includes firms, corporations, associations and other entities, as well as individuals.

The first and last sentence in 14:10-11.6(b) is deleted as it was incorporated in to 14:10-11.6 e) on adoption. The amendment adding the language that the company that obtains a third party verification shall be independent of the acquiring TSP as added to N.J.A.C. 14:10-11.6(b), which does not change its meaning as this subsection includes requirements governing the independence of third party verifiers.

N.J.A.C. 14:10-11.7 is proposed with minor clarifying amendments that do not change its meaning. Existing (g) has also been edited to delete the sentence requiring the executing TSP to provide the customer with information if the submitting TSP is unable to do so. This requirement has been removed as no longer necessary.

Proposed N.J.A.C. 14:10-11.8(e), pertaining to unauthorized service termination and transfer, has been modified to include a 15-day deadline for the submission of the requested slamming complaint report. The existing rule does not set a time for the report to be submitted after a request is made.

N.J.A.C. 14:10-11.9(d) is proposed to be clarified to state that a TSP freeze applies to each access line, regardless of the customer of record. N.J.A.C. 14:10-11.9(e) is amended to state that the end-user's authorization to lift a freeze must be submitted to and executed by the primary TSP, and that the authorization alone, does not satisfy the requirement for a separate verified authorization to make a TSP switch. The language

was modified to reflect the intent of the rule. Minor clarifying amendments that do not change meaning are proposed to (e)1 and 2, and to existing (f) (recodified as (g) in the proposal). Reference to penalties is separated from (e), clarified, and placed in proposed new (f).

As the Board has provided a 60-day comment period on these proposed amendments and new rules, the notice is exempt from the rulemaking calendar requirements set forth at N.J.A.C. 1:30-3.1 and 3.2, pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The proposed amendments and new rules will have a positive social impact in that the rules ensure the provision of safe, adequate and proper telecommunications service in New Jersey. The proposed clarifications will assist the regulated community and the public in understanding the rules. In addition, new reporting requirements set out in proposed N.J.A.C. 14:10-1A.11 will improve Board compliance monitoring.

### **Economic Impact**

The proposed amendments and new rules will continue the existing overall beneficial economic impact of the Board's telephone rules. Despite major strides in deregulation of telecommunications, these rules are still instrumental in protecting the public from many types of economic harm that could result from unrestrained market power in the telecommunications industry. The rules affect the operations of telephone utilities and telecommunications service providers through costs for, among other things, inspecting and testing their plant and maintaining and submitting required records or reports and billing information. The benefits of these activities easily outweigh the cost to regulated entities. The slamming subchapter protects the economic interests of TSPs as well as the public, by preventing the unauthorized switching of customers from one TSP to another. The new rules and amendments do not impose any additional fees on the regulated entities and the minimal additional costs associated with the proposed new reporting requirements are outweighed by the importance of obtaining essential information necessary in the regulation of the industry. For telephone utilities, expenses reasonably incurred for compliance with this chapter may be passed along to ratepayers. For competitive telecommunications carriers, the Board believes that these compliance costs are reasonable, and are necessary in order to ensure safe, adequate and proper telecommunications service to New Jersey citizens.

### **Federal Standards Analysis**

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 FCC. The Board has incorporated several FCC rules by reference in N.J.A.C. 14:10, including the FCC Uniform System of Accounts for Telephone Companies, 47 CFR Part 32.

The proposed amendments and new rules exceed the FCC's record retention requirements for retail customers as regards billing (see 47 CFR Part 42). At proposed new N.J.A.C. 14:10-1.3, the Board requires a six year period for retention of records for retail customers with regard to any records necessary to facilitate back billing for those customers. The FCC requires only an 18 month record retention for toll records. 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 costs that may result from the rules is outweighed by the benefits to consumers throughout New Jersey specifically with respect to bill tracking and service quality.

### **Jobs Impact**

The proposed amendments and new rules may result in the hiring of additional personnel to ensure compliance with the rules and to carry out the duty of training staff in the contents of the rules. However, the number of personnel needed is likely to be small, and the rules will not likely have a significant effect on jobs in the State.

### **Agriculture Industry Impact**

The Board does not expect that any impact on the agriculture industry will result from the proposed amendments and new rules. Telecommunications services are not generally an integral part of agricultural operations.

### **Regulatory Flexibility Analysis**

The proposed amendments and new rules will impose minimal recordkeeping, reporting or other compliance requirements on small businesses. A "small business," as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is a business that has fewer than 100 full-time employees. Some of the entities affected by the proposed amendments and new rule are small businesses.

As discussed in the Summary above, N.J.A.C. 14:10 will impose compliance requirements on telecommunications providers, some of which may be "small businesses." In addition, the rules will impose some costs, as described in the Economic Impact and Summary above. However, the overall effect of the proposed amendments is to significantly reduce the prescriptiveness of compliance requirements, in order to increase flexibility and reduce costs for all entities regulated. Only a few of the proposed changes increase the requirements for regulated entities, with the primary one being proposed new N.J.A.C. 14:10-1.3 regarding record keeping.

Compliance with the proposed amendments should not require telecommunications providers to employ professional services, as the requirements can be met utilizing personnel necessary for the conduct of their usual business. Further, as mentioned above, the amendments significantly reduce regulatory burden. As these rules are

designed to benefit customers who are provided telecommunications services, and to ensure the quality of such services, no differentiation in requirements or exceptions are provided to small businesses.

### **Smart Growth Impact**

The Board anticipates that the proposed amendments and new rules will have no impact on either the achievement of smart growth or the implementation of the State Development and Redevelopment Plan. The State Plan is intended to "provide a coordinated, integrated and comprehensive plan for the growth, development, renewal and conservation of the State and its regions" and to "identify areas for growth, agriculture, open space conservation and other appropriate designations." N.J.S.A. 52:18A-199a. Smart growth is based on the concepts of focusing new growth into redevelopment of older urban and suburban areas, protecting existing open space, conserving natural resources, increasing transportation options and transit availability, reducing automobile traffic and dependency, stabilizing property taxes, and providing affordable housing." These rules apply uniformly Statewide and the Board does not expect that they will affect the location of future development.

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

## **CHAPTER 10 TELECOMMUNICATIONS**

### **SUBCHAPTER 1. GENERAL PROVISIONS**

#### **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 under this chapter shall be preserved for the following minimum periods, as applicable:

1. Eighteen months if the record relates to wholesale customers, unless the carrier has negotiated a contract with the customer that provides otherwise; and
2. Six years if the record is necessary to ensure compliance with requirements for back billing of retail customers at N.J.A.C. 14:10-2.2, unless the carrier has negotiated a contract with the customer that provides otherwise;
3. Eighteen months if the record is required under N.J.A.C. 14:10-1A.11, service quality reporting; and
4. Three years if the record is of a verification of a TSP switch authorization in accordance with N.J.A.C. 14:10-11.

(b) Each telecommunications carrier shall make all records required under this chapter available to Board staff upon request.

(c) Each telecommunications carrier that maintains a commercial website which includes the carrier's tariff shall provide the Board with a link to its website.

(d) Board staff may investigate a carrier's compliance with this chapter and/or with its tariff at any time, and may recommend that the Board suspend a tariff if it finds noncompliance with any Board order or rule, or any other applicable law.

## **Subchapter 1A. TELEPHONE UTILITIES**

### **14:10-1A.2 General provisions**

(a) (No change)

(b) [(Reserved)] A telephone utility shall provide to Board staff, upon request, maps of sufficient size and detail so that most customer locations can be determined, and mileage or zone charges quoted.

(c) (No change)

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

(a) Upon the request of any customer or applicant, each telephone utility shall provide an explanation of [the] all rates, charges and provisions applicable to the service furnished including any [or available to such customer or applicant, and shall take reasonable steps to provide any information and assistance necessary to enable the customer or applicant to obtain the most economical communications service conforming to the needs of such customer or applicant. The customer or applicant shall be advised as to alternative services available to meet the communications requirements of said customer or applicant in accordance with N.J.A.C. 14:11-7.4. Such information may include printed explanations of alternative services and rates. When requested, the telephone utility shall notify the customer or applicant of the minimum installation and service connection charge to be applied to the bill of such customer or applicant prior to undertaking any action and shall inform the customer or applicant of the estimated initial bill for local service.

(b) The customer shall be provided with an estimate of the charges where ] special charges not specifically set forth in a telephone utility's tariff. [ are levied on the basis of actual cost for such items as extraordinary construction, maintenance or replacement costs or expenses, overtime work at the customer's request and special installations, equipment and assemblies for which the tariff does not prescribe a rate. This estimate need not be furnished if the customer specifically requests that the special equipment and services be provided before the charges for those services and equipment are available.]

### **14:10-1A.4 (Reserved) [ Business offices**

(a) Business offices shall be staffed to provide customers and others with convenient access to qualified personnel, including supervisory personnel where warranted, to provide information relating to services and rates, accept and process applications for service, explain charges on customer's bills, adjust charges made in error and to

generally act as the representative of the telephone utility. If one business office serves several communities, toll free calling from such communities will be provided.

(b) Business offices will be open during normal working hours of the telephone utility's normal work week in the area being served and at such other times and such other places as may be warranted by circumstances.

(c) Qualified personnel will be instructed to be courteous, considerate, efficient, and available to promptly serve those who contact the business office.]

#### **14:10-1A.5 Directories**

(a) [ Telephone directories] ILECs shall [be published] publish telephone directories regularly, listing the name, location and telephone number of [the] all customers, except telephone service not published at customers' request and public telephones.

(b) Upon [issuance] publication, the ILEC [a copy of each directory shall be distributed to all customers within the service area covered by the directory and] shall distribute a copy of each directory to all customers within the service area covered by the directory, and shall [be furnished] furnish a copy of each directory to the board's Board Secretary.

(c) (No change)

(d) (No change)

(e) The opening pages of the directory shall contain a conspicuous notice advising customers that [should the company fail to satisfactorily resolve telephone service or billing problems, customers] they may refer [their] service or billing problems to the Board. The address, customer service telephone number and the website for [of] the Board shall be shown.

(f) The directory shall contain instructions concerning placing local and long distance calls, calls to repair and directory assistance services, [and location and telephone numbers of telephone company business offices as may be appropriate to the area served by the directory. Rate schedules or representative rates for toll calls shall be included.]

(g) (No change)

(h) Each telephone [company] utility shall list its customers in the directory assistance directory as necessary for the directory assistance operators to provide the requested telephone numbers (except those not published at customer request) based on customer name and location to minimize "not found" numbers.

(i) In the event of [an error in the listed number of any customer,] either of the following, the telephone utility shall intercept all calls to the listed number for a reasonable period of time provided existing central office equipment will permit and the number is not in service:

1. An error in the listed number of any customer; or

**2. A change in a customer's telephone number after a directory is published.**

[In the event of an error or omission in the name listing of a customer, such customer's correct name and telephone number shall be in the files of the directory assistance or intercept operators and the correct number furnished the calling party either upon request or interception.]

(j) Whenever any customer's telephone number is changed after a directory is published, the utility shall intercept all calls to the former number for a reasonable period of time and give the calling party the new number provided existing central office equipment will permit, and the customer so desires.

(k) When telephone utility operations necessitate a large group of number changes, reasonable notice shall be given to all customers so affected even though the addition or changes may be coincident with a directory issue.]

Recodify (l) as (j), no change in text.

**14:10-1A.6 Held applications**

[(a) During such period of time as the telephone utility may not be able to supply regular telephone service to an applicant within five working days or upgrade an existing customer within 30 days or provide special communication service within a reasonable period after the date applicant desires service, the telephone utility shall keep a record by business office showing the name and address of each applicant for service, the date of application, date service was desired, class and grade of service applied for, together with the reason for the inability to provide the new or higher grade service to the applicant.]

[(b)] (a) When, because of shortage of facilities, a telephone utility is unable to supply [main] telephone service on dates requested by applicants, priority shall be given to furnishing those services which are essential to public health and safety. [ In cases of prolonged shortage or other emergency, the Board may require establishment of a priority plan subject to its approval for clearing held orders, and may request periodic reports concerning the progress being made.]

[(c)] (b) Where a previously provided date for service installation cannot be met by the telephone utility, every reasonable effort shall be made to advise the customer of the reason for the delay, any interim service available, and the probable date the requested service will be provided.

**14:10-1A.7 Customer complaints and trouble reports**

[(a)] 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 when unavoidable, all commitments to customers shall be kept. Every reasonable effort shall be made to notify customers of unavoidable changes.

[(b) Every reasonable effort shall be made to clear line-out-of-service troubles not requiring unusual repairs, such as cable failures, within 24 hours of the time a report is received by the company. When such reports are received during a period when a telephone utility does not have repair personnel scheduled to work, or on Sundays or holidays, every reasonable effort shall be made to clear such line-out-of-service troubles within the same period, provided the service involved is essential to the general public welfare, or the service is required by reason of unusual emergent conditions and demand is made for prompt restoration.

(c) Except when unavoidable, all commitments to customers shall be kept. Every reasonable effort shall be made to notify customers of unavoidable changes. If unusual repairs are required, or other factors preclude cleaning of reported trouble promptly, reasonable efforts shall be made to notify affected customers.]

#### **14:10-1A.8 (Reserved) [Public telephone**

In each exchange the telephone utility shall have at least one coin telephone available to the public at all hours, prominently located and properly maintained, equipped with dialing instructions, and lighted at night.]

#### **14:10-1A. 9 Adequacy of service**

[(a)] Each telephone utility shall [make traffic studies and] maintain [records] equipment and facilities as [required] necessary to ensure the provision of safe, adequate and proper[determine that sufficient equipment and an adequate operating force are provided] service at all times.

[(b) Each telephone utility shall employ recognized procedures to determine the adequacy of service provided for customers.

(c) Where service is found to be inadequate, the telephone utility shall immediately institute corrective measures to return that service to an adequate condition.

(d) The telephone utility shall employ prudent management and engineering practices, including the employment of reliable procedures for forecasting future demand for service, conduct studies and maintain records to the end that reasonable margins of facilities and adequate personnel are available with the objective that service will meet all standards prescribed by the Board.]

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

[(a) These standards establish service levels which should generally be provided by a telephone utility. Failure to attain these levels does not by itself indicate poor service and the liability of the telephone utility to its customers or other persons using its facilities for any such failure shall be governed by the applicable provisions of its tariff. Each telephone utility shall make measurements to determine the level of service for each item included in these standards. Each telephone utility shall provide the Board or its staff with the measurements and summaries thereof for any of the items included

herein on request of the Board or its staff. Records of these measurements and summaries shall be retained by the utility as specified by the Board and monthly reports on all service measurements may be required by the Board. When a utility fails to meet any of the minimum service levels listed below in a reporting entity for three consecutive months the service data for the standard not met in that entity shall be reported to the Board.

(b) The following are the minimum service levels referred to in (a) above:]

(a) This section establishes service quality standards that a telephone utility shall meet. These standards apply without exception, regardless of seasonality, weather, work stoppage, accident, sabotage, acts of God or nature, or any other reason. The Board may, however, after investigation, suspend application of any provision of this chapter during periods of emergency, catastrophe, natural disaster, severe storm or other extraordinary events beyond the control of a utility.

(b) A telephone utility shall meet the following minimum service quality standards regarding installations of service:

[1. Installation of service: ]

[i.] 1. Seventy-five percent of regular service installations shall be completed within five working days after the utility receives the request for service, unless a later date is requested by the applicant[. The interval commences with the receipt of the application.]; [ii.] 2. Eighty-eight percent of the commitments made to customers, [with the exception of customer-caused delays,] as to the date of installation of regular service, shall be met[.] , unless the customer causes a delay; and

[iii.] 3. [A regrade request shall be filled no later than 30 days after the customer has made ] An application for a regrade (that is, a change to a different grade of service) shall be filled within 30 days after the utility receives the regrade request, except where the customer requests a later date. In the event the telephone utility is unable to [so fill such an order] meet this deadline, the utility shall notify [.] the customer [will be advised and furnished] of the date or approximate date the order will be filled.

[2. Operator handled calls: Each telephone utility shall maintain adequate personnel to provide an average operator answering performance as follows on a monthly basis:]

(c) A telephone utility shall meet the following requirements regarding operator handled calls:

[i.] 1. Eighty-five percent of repair service calls shall be answered within 20 seconds [or equivalent.];

[ii.] 2. Eighty-five percent of toll assistance operator calls (that is, toll calls assisted by an operator) shall be answered within 10 seconds [or equivalent.]; and

[iii.] 3. Seventy-eight percent of directory assistance calls shall be answered within 10 seconds [or equivalent].

[iv. 4.] (d) An "answer" under (c) above shall mean that the operator or representative is ready to render assistance and/or ready to accept the information

necessary to process the call. An acknowledgment that the customer is waiting on the line shall not constitute an "answer."

[3. Dial service: Sufficient central office capacity and equipment] (e) A telephone utility shall [ be provided to] meet the following requirements regarding dial service, measured as statewide monthly averages:

[i.] 1. Ninety-five percent of dialed local calls shall be completed without encountering an all trunk busy or equipment irregularity [.] and

[ii.] 2. Ninety-five percent of originating direct [distance dialing] dialed toll calls shall reach the toll network without experiencing blockage or failure.

[4. Customer trouble reports: The] (f) Each telephone utility shall ensure that its statewide average rate of customer trouble reports to the utility shall not [be in excess of] exceed 8[.0] per 100 [telephones] lines per month.

[5. Transmission requirements:] (g) All customer loops shall meet the resistance design standards and trunk facilities shall conform to the transmission design\_ factors required for meeting the objectives of direct distance dialing.

[(c) The following refer to reports and records required in (a) above and the standards set forth in (b) above:

1. Record keeping and reporting are to be in accordance with the following table.

| Service Measure                              | Reporting Unit and Minimum Reporting Size                                                               |
|----------------------------------------------|---------------------------------------------------------------------------------------------------------|
| Held Primary Service Orders                  | Plant Installation District or Business Office                                                          |
| Installation Commitments                     | Plant Installation District or Business Office                                                          |
| Held Regrade Service Orders                  | Plant Installation District or Business Office                                                          |
| Toll Assistance Operator Answering Time      | Traffic Office handling toll assistance calls--average business day call volume of 2,000 or more        |
| Directory Assistance Operator Answering Time | Traffic Office handling directory assistance calls--average business day call volume of 2,000 or more.  |
| Dialed Local Calls                           | Central Office entity                                                                                   |
| Direct Distance Dialing                      | Toll Recording Center or Area                                                                           |
| Customer Trouble Reports                     | Plant Maintenance Center--Central Office under 1,000 lines need not be included in performance reports. |

2. Reports on all service measures except held orders shall set forth the following:

- i. Reporting unit name and further identification if name does not convey geographic location;

- ii. Service measure, level, and months, being reported;
  - iii. Cause of performance at the reported level: For installation commitments and customer trouble reports, indicate locations affected if cause is localized within a reporting unit;
  - iv. Corrective action and completion date.
3. Reports on held primary and regrade service orders shall set forth the following:
- i. Reporting unit name and further identification if name does not convey geographic location;
  - ii. Number of held orders or stations for each month of the quarter.
4. Data shall be compiled monthly and reported quarterly.]

(h) Customer complaints to the Board concerning a telephone utility's service shall not exceed eight complaints per ten thousand lines per month, statewide.

#### **14:10-1A.11 Service quality reporting**

(a) (No change)

(b) Each telephone utility shall retain records of the measurements and summaries required under this section for eighteen months, and shall provide the measurements and summaries in a report as described below to Board staff as follows:

- 1. Upon request of Board staff; or
- 2. If a telephone utility fails to meet a service standard in this chapter for three consecutive months.

(c) (No change)

(d) (No change)

(e) In addition to the Statewide totals required under (d) above, each telephone utility shall sort and/or aggregate its performance measurements by the applicable reporting unit described below. The additional reporting unit for measurements relating to the standards for:

- 1. Installation of service under N.J.A.C. 14:10-1A.10(b), and for trouble reports under N.J.A.C. 14:10-1A.10(e), shall be the geographic area for which a second level manager in charge of installation and maintenance is responsible. For the purpose of this section, a second level manager is a person supervising one or more first level managers, where first level managers are supervisors of crews actually performing work on telephone plant;
- 2. Operator handled calls at N.J.A.C. 14:10-1A.10(c)1 through 3 shall be the call center; and
- 3. Dial service at N.J.A.C. 14:10-1A.10(d) shall be the geographic area for which a second level manager in charge of switching is responsible.

(f) - (g) (No change)

(h) Reports shall be submitted no later than thirty calendar days after the end of the third consecutive month of noncompliance, or thirty days after requested by Board staff, whichever comes first.

#### **14:10-1A.12 Measuring devices**

[(a) When mechanical and/or electronic measuring and record keeping devices are used at the telephone utility's premises in connection with telecommunication service, the measured data and related customer records from which the customer's bills are prepared shall show:

1. Identifying number or means to determine readily the customer's name, address and service classification;
2. Measuring device readings;
3. Date of reading;
4. Multiplier or constant, if used.

(b) As nearly as practicable, measuring devices shall be read at intervals to correspond to customer billing periods.]

[(c)] All measuring and/or record keeping devices used to record data and prepare customers' bills shall be in good mechanical and electrical condition, and shall accurately count the item being measured. [be accurately read and shall not involve approximations. All such devices shall accurately perform the following:

1. For message rate service, the device shall accumulate the number of message units used.
2. For toll service, when in addition to counting the calls, it is necessary to time the calls, the device shall show the number of calls and the chargeable time involved in each call.
3. Where the measuring equipment provides coded information that is used to automatically prepare customer bills, accurate interpretation of such coded information is required.]

#### **14:10-1A.13 Inspections, tests and maintenance**

[(a) Each telephone utility shall adopt a program of periodic tests, inspections and preventative maintenance aimed at achieving efficient operation of its system and the rendering of safe, adequate and proper service.

(b) The actual transmission performance of the telephone utility's system shall be monitored in order to determine if the established objectives and operating requirements are met. This monitoring function consists of circuit order tests prior to placing trunks in service, routine periodic trunk maintenance tests, tests of actual switched trunk connections, periodic noise tests of a sample of customer loops in each exchange, and special transmission surveys of the system.

(c) Each telephone utility shall maintain or have access to test facilities enabling it to determine the operating and transmission capabilities of all equipment and facilities, both for routine maintenance and for trouble location.

(d) Each telephone utility shall maintain or have access to the necessary facilities, instruments, and equipment for testing its measuring and record keeping equipment and shall adopt appropriate practices for the periodic testing of such equipment.

(e) A record of all measuring device tests and adjustments and data sufficient to allow checking of the results shall be recorded. Such record shall include the identifying number of the device, its type, the data and kind of test, and the results of each test.]

[(f) Maintenance shall include] Each telephone utility shall perform regular maintenance, keeping all plant and equipment in a good state of repair consistent with safety and adequate service performance, and shall comply with any inspection and/or maintenance requirements at N.J.A.C. 14:3. [Broken, damaged, or deteriorated parts which are no longer serviceable shall be repaired or replaced. Adjustable apparatus and equipment shall be readjusted as necessary when found by preventive routines or fault location tests to be in unsatisfactory operating condition. Electrical faults, such as leakage or poor insulation, noise induction, cross-talk or poor transmission characteristics, shall be corrected to the extent practicable.

(g) A telephone utility shall not connect more customers on any line than are contemplated under the grade of service for which the customers on such line are charged.

(h) Telephone utilities shall, when requested, furnish appropriate information concerning location of underground facilities, in order to prevent any interruption of service to telephone customers. Nothing in this rule is intended to affect the responsibility, liability, or legal rights of any party under applicable laws or statutes.]

#### **14:10-1A.14 Prevention and reporting of service interruptions**

(a)-(c) (No change)

(d) [(Reserved)] A utility shall inform Board staff on the same business day of any major service interruption, by telephone at a telephone number posted for that purpose on the Board's website. The utility contact person shall:

1. Explain the cause of the service interruption;
2. Describe the measures the utility is taking to remedy the problem; and
3. Provide Board staff with the telephone number of a utility contact that Board staff can reach at all times in order to monitor the situation.

(e) For purposes of this subsection, "major service interruption" means any network condition that causes 1,000 or more customers to be out of service for 30 or more minutes, causes an unplanned outage of, or completely isolates, a central office for 30 minutes, or disrupts 911 emergency call processing for any period.

[(e)] (f) Each utility shall submit to Board staff all reports submitted to the FCC in

accordance with 47 CFR Part 63, Notification of service outage.

#### **14:10-1A.15 Construction**

[(a) Telephone plant shall be ] Each telephone utility shall ensure that all of its plant and facilities are designed, constructed, maintained, and operated in accordance with provisions of the current National Electrical Safety Code, the National Electrical Code, and [such other appropriate regulations as may be prescribed] other applicable laws and standards.

[(b) Telephone utilities shall not provide switching service to lines or facilities that do not meet standard technical criteria and shall eliminate nonconforming switching services.]

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

#### **14:10-2.1 Applicability**

[(a) - (b) (Reserved)]

(a) This subchapter applies to a bill for telecommunications service, whether presented to a customer by a telephone utility or a reseller, absent an individually negotiated contract provision to the contrary.

(b) In addition to the requirements of this subchapter, a telephone utility is subject to requirements for billing set forth in the Board's rules for all utilities at N.J.A.C. 14:3.

#### **14:10-2.2 Contents of bills, back billing**

(a) The customer's bill shall include [as applicable] the items listed in (a)1 through 13 below, except if the customer's calling plan or package of services makes an item inapplicable:

- 1.-5. (No change.)
6. A separate line item, calculated on a monthly basis, for basic residential local telephone service (BRLTS), as defined at N.J.A.C. 14:3-[3.17(a)]7.17(a), and a separate line item, calculated on a monthly basis, for nonbasic residential telephone service, as defined at N.J.A.C. 14:3-3.17(a), if any[.]. Each line item shall be supported by a statement which reflects amounts due and payable before and after application of payment;
7. A separate line item, calculated on a quarterly basis, for each optional service provided, if any;
8. Total charges for intraLATA and interLATA toll calls, supported by an itemized list of the calls [statement];
9. Total nonrecurring charges for service and equipment, [supported by statement];
- 10.-13. (No change.)

(b) If a CLEC or ILEC has billed a customer at an incorrect rate, or has failed to bill a customer for a charge the ILEC or CLEC claims is owed, the CLEC or ILEC shall adjust the customer's subsequent bills, or "back bill" the customer in accordance with (c) through (e) below.

(c) If the incorrect rate billed was higher than the correct rate, the telephone utility shall credit or refund the customer for the amount overcharged. The CLEC or ILEC shall refund or credit the full amount within the next two billing cycles after the incorrect billing was discovered.

(d) If the incorrect rate billed was lower than the correct rate, or the ILEC or CLEC has failed to bill the customer, the CLEC or ILEC shall allow the customer to repay the amount over a period no shorter than the time period for which the billing was incorrect or absent, or the customer and the CLEC or ILEC may make other payment arrangements by mutual agreement.

(e) A telephone utility shall neither back bill a customer, nor refund or credit a customer, for incorrect billing that occurred:

1. For a wholesale customer, more than 18 months prior to the month in which the billing error was discovered; and
2. For a retail customer, more than six years prior to the month in which the billing error was discovered.

(f) A telephone utility shall retain all billing records for the time periods set forth in N.J.A.C. 14:10-1.3(a).

### **14:10-2.3 Out of service refund**

In the event the customer's service is interrupted otherwise 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 to the customer's bill shall be made 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 14:10-1A10(a), suspend application of this provision.

## **SUBCHAPTER 3. NUMBER RECLAMATION**

### **14:10-3.2 General provisions**

(a)-(h) (No change)

(i) If a service provider is unable to comply with any part of this subchapter or any applicable provision in the Guidelines, as defined at N.J.A.C. 14:10-3.1, the service provider will have the opportunity to explain to the Board the reasons it cannot comply, prior to reclamation.

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

### **14:10-5.2 Informational tariff filings**

(a) (No change)

(b) [Cross-references] A carrier may include in its tariff cross-references to Federal Communications Commission interstate tariffs [are permitted] for volume discounts, optional features and other provisions not specifically required to be included in intrastate tariffs pursuant to (a) above.

### **14:10-5.3 Tariff revisions that increase charges**

(a) Tariff revisions [ to] regarding existing competitive telecommunications services which create increased charges to any customer shall become effective five business days after notice of the proposed revision as described in (b) below, without the requirement of prior Board approval.

(b) The [notice requirement for a tariff revision, as described in (a) above,] carrier shall notify the public of a proposed tariff revision described in (a) above [be] by direct mail to all affected customers who already receive the service or by publication in newspapers of general circulation throughout the affected service area[,] . The Carrier shall mail notice required by this subsection within 24 hours [of] after the filing of revised tariff pages with the Board.

(c) Proposed tariff revisions [as] described in (a) above shall be served on the Division of [the Ratepayer] Rate Counsel in the Department of the Public Advocate within 24 hours of filing with the Board.

### **14:10-5.5 New competitive telecommunications service offerings by interexchange carriers**

(a) New competitive telecommunications service offerings of [existing] interexchange carriers shall become effective [five] one business day[s] after [filing] the IXC files a tariff revision covering the new service offering with the Board, without the requirement of prior Board approval.

(b) - (c) (No change)

### **14:10-5.6 Initial CLEC or IXC tariff**

(a) (No change)

(b) If a CLEC files an initial tariff for a local exchange service concurrently with the CLEC's petition for local exchange authority, the tariff shall become effective 30 days after the Board grants local exchange authority to the CLEC.

(c) - (f) (No change)

#### **14:10-5.8 Withdrawal of a competitive service from subscribers**

[(a)] 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 [except as specified under (b) below].

[(b) Service offerings provided solely by a single carrier, may be discontinued, unless the Board notifies the carrier that it will postpone the discontinuance of the service pending Board review and approval.]

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

#### **14:10-6.4 AOS rates for intrastate operator-assisted calls**

(a) (No change)

[(b) Alternate operator service providers shall file informational tariffs showing the applicable maximum rates and any subsequent rate adjustments with the Board, as required by N.J.A.C. 14:10-6.7, for intrastate services. The Board will permit rate changes in response to a rate change request from an AOS provider, if the new rate remains below the maximum rates described in (h) and (i) above. Such filings shall conform to and be governed by N.J.A.C. 14:10-5.4 or 5.5, as may be applicable.

(c) (Reserved)]

[(d)] (b) Surcharges associated with non-pay telephones which are not part of the actual telephone bill or imposed by an OSP, but are add-on charges imposed by hotels, motels, hospitals, universities and/or other CPPTS providers, are not prohibited by these rules. However, notice of any surcharges shall be displayed by the aggregator in accordance with N.J.A.C. 14:10-6.3(b)2.

[(e)] (c) Operator Service Providers shall not bill for calls that are not completed.

#### **14:10-6.8 Alternate operator service provider [informational tariffs] contact information**

[(a)] AOS providers, as defined in N.J.A.C. 14:10- [6.2] 1.2, shall file [informational tariffs] with [the] Board [. These tariffs shall contain:]

[1. The] staff the name, address and telephone number of the [party] contact person responsible for the resolution of customer complaints; regarding the performance of the AOS provider. This information shall be kept up to date[;].

[2. A complete list of all terms and conditions of service applicable to intrastate operator-assisted calls;

3. The total charge for each category of service, including but not limited to collect calls, credit or calling card calls and person-to-person calls, as well as the individual rate elements that comprise the total charge, such as operator surcharges, premises imposed fees, mileage and time of day charges, and every other surcharge or fee; and

4. An acknowledgment that penalties for violations of the conditions of operator service may result in the imposition of fines, as set forth in N.J.A.C. 14:10-6.6, or disconnection of intrastate service, as set forth in N.J.A.C. 14:10-6.3 (c).

(b) In addition to the requirements contained in (a) above, the following information shall be submitted with the initial informational tariff filing, and annually thereafter:

1. A comparative balance sheet for the most recent two year period on either a calendar or fiscal year basis;

2. A comparative income statement for the most recent two year period on either a calendar year or fiscal year basis;

3. A balance sheet as of the most recent date available;

4. A statement of the amount of revenue, expenses, number of calls completed, and number of complaints filed against the company with any regulatory agency, in the last preceding calendar year;

5. A list of all principals of the firm, with the following information:

i. The name, address and telephone number of each principal; and

ii. The percent ownership interest of the principals owning more than five percent; and

6. The qualifications and the business or technical experience of the officers, directors or other principal management and operating personnel with particular respect to their ability to carry out the AOS providers obligation to render safe, adequate and proper service.]

## **SUBCHAPTER 9. PUBLIC PAY TELEPHONE SERVICE**

### **14:10-9.2 The PPTS instrument**

(a) (No change)

(b) Each PPTS instrument shall allow consumers free access to the following calls, without use of coin or credit cards to originate such calls:

1. - 5. (No change)

6. Dialing and completion of 811 and 911 calls.

## **SUBCHAPTER 10. INTRALATA TOLL COMPETITION**

### **14:10-10.1 Scope; general provisions**

(a) This subchapter applies to any carrier that completes toll calls in New Jersey.

(b) Presubscription is a customer's enrollment with a particular intraLATA telecommunications carrier. A customer may presubscribe to a different IntraLATA carrier than the consumer's interLATA PIC.

(c) LECs that process PIC change orders shall adhere to the following [business practices]:

1. (No change.)

2. LECs shall not encourage or attempt to persuade customers to subscribe to their own intraLATA service, and shall not discourage or attempt to dissuade customers from selecting another carrier[.]; and

[(d) A customer may presubscribe to a different intraLATA carrier than the consumer's interLATA PIC.

### **14:10-10.2 Responsibilities of LECs**

(a) 3. LECs shall not engage in any discriminatory or anti-competitive practices when processing PIC service orders.

[(b) All carriers shall comply with the requirements of N.J.A.C. 14:10-11, Anti-slamming.

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

(d) LECs shall maintain customer service statistics and records regarding customer change requests, in accordance with applicable recordkeeping requirements in this chapter, and shall provide such information to Board staff upon request.]

### **[14:10-10.3] 14:10-10.2 Imputation standard**

(a) The rates that [an] a LEC charges customers for toll service and/or interexchange private line service shall equal or exceed the total applicable switched access rates set forth in the LEC's tariff.

(b) (No change)

(c) The special access rate to be imputed in accordance with [(e)] (d) below shall apply to each equivalent circuit (for example, DS1). For every 2,000 hours, or portion thereof, per month of intraLATA toll calling at a location, the LEC [must] shall impute the cost of one circuit (except where a particular customer's usage demonstrates that more traffic could be completed over the facility). The mileage will be rated at 10 miles.

(d) (No change)

(e) The price charged for each service for which the LEC uses special access shall be the total special access rate set forth in the LEC's tariff. However, imputation does not apply to competitive access services such as Hi-Cap.

[(f)] If the Board orders or approves any changes in the LEC's access rate structure, the LEC shall seek Board approval of appropriate changes in the imputation formulas in this section.]

[(g)] (f) Where the LEC structures a package of services to include discounts and/or packaging of noncompetitive services in addition to interexchange calling, the LEC's price for the package of services shall be greater than the amounts described in this section.

[(h)] (g) The LEC shall, within 14 calendar days of a request from the IXCs or Board staff, provide information adequate to show compliance with the imputation requirement. The information shall reflect usage data for a one year period, or, if such data is unavailable, for the longest available time period for which the LEC has data.

[(i)] (h) Pursuant to the imputation requirement, the LEC shall retain interexchange usage data for a rolling 24-month period. The LEC shall not be required to respond to any such request more frequently than once annually, except that the LEC shall be required to respond to any such request that is made in conjunction with the LEC proposing changes to an interexchange service or with the LEC proposing a customer-specific pricing arrangement. As part of any such showing, the LEC shall provide all supporting documentation including dates, data sources and calculations.

[(j)] (i) The IXCs and Board staff shall have rights to examine the documentation and computations underlying the LEC's data. To the extent that the LEC's data includes information it deems proprietary, the LEC may make a request for a confidentiality determination under the Board's OPRA rules in N.J.A.C. 14:1-12.

[(k)] (j) Should the data demonstrate that the LEC is not in compliance with the imputation requirement[, upon receipt of notice from the IXCs or Board staff], the LEC shall, within 30 days after receiving notice from the IXCs or Board staff, either increase the price(s) for its interexchange service to bring the LEC into compliance, or petition the Board for a compliance ruling. In any such proceeding, the Board shall not accept or consider any argument that this imputation requirement should be changed.

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

### **14: 10-11.3 Solicitation of authorization to change TSPs**

(a) - (b) (No change)

(c) The act of any person, as defined at N.J.A.C. 14:3-1.1, acting as an agent or representative on behalf of a TSP, within the parameters of the working agreement set forth by the TSP, shall be deemed the act of the TSP.

#### **14:10-11.6 Third party verification of authorization**

(a) (No change)

(b) [An appropriately qualified independent third party has obtained the customer's oral authorization to submit the primary TSP change order which confirms and includes appropriate verification data (for example, the customer's date of birth or social security number). ]The company that obtains a third party verification shall be independent of the acquiring TSP. The [independent ] third party shall not be owned, managed, controlled, or directed by the TSP or the TSP's marketing agent; shall not have any financial incentive to confirm primary TSP change orders for the TSP or the TSP's marketing agent; and shall operate in a location physically separate from the TSP or the TSP's marketing agent. [The content of the verification shall include clear and conspicuous confirmation that the customer has authorized primary TSP change.]

(c) – (l) (No change)

#### **14:10-11.7 Requirements for the executing TSP**

(a) (No change)

(b) An executing TSP is not responsible for verifying whether or not a switch is authorized. The executing TSP merely performs the switch in accordance with (a) above [a timely manner] after receiving a change order from the submitting TSP.

(c) - (f) (No change)

(g) The submitting TSP shall make available to any customer, upon written or verbal request, for the period records are maintained, the TSP's verification of that customer's TSP change order. [However, if the customer is unable to obtain the verification from the submitting TSP, then the executing TSP shall provide it to the customer, if such information is in its possession.]

#### **14:10-11.8 Unauthorized service termination and transfer (slamming)**

(a) –(c) (No change)

[(d) (Reserved)]

[(e)] (d) Each TSP shall, upon request, submit to the Board and the Division within 15 days, three copies of a report of all slamming complaints received, and the resolution thereof indicating the customers' name, address, telephone number, the type of service

that was slammed, and the submitting TSP or agent that requested the alleged unauthorized switch of the customer's primary TSP.

#### **14:10-11.9 TSP freezes**

(a) – (c) (No change)

(d) A TSP freeze applies to each access line [end-user], regardless of the customer of record.

(e) An end-user's authorization to lift a freeze shall be submitted to and executed by the primary TSP. However, this authorization does not satisfy the requirement for a separate verified authorization to make a TSP switch. Therefore, if an end-user has a TSP freeze in effect, both of the following shall apply:

1. A submitting TSP shall obtain authorization for the switch [that fails to obtain both authorizations required under (a) above shall be subject to penalties or other enforcement under this subchapter]; and
2. A primary TSP[that allows a submitting TSP to switch the end-user's TSP without both verifications required under (a) above] shall obtain authorization to lift the freeze.

(f) If the submitting TSP or the primary TSP fails to comply with the applicable requirements described at (e)1 or 2 above, the noncomplying TSP shall [also] be subject to penalties or other enforcement under this subchapter.

[(f)] (g) All TSPs responsible for the imposition or lifting of primary TSP freezes shall, in addition to complying with this chapter, also comply with FCC regulations at 47 CFR 64.1190, preferred carrier freezes, incorporated herein by reference, as amended or supplemented. As of (the effective date of these rules), the substance of those regulations is as follows:

1. A primary TSP freeze (or freeze) prevents a change in a customer's primary TSP selection unless the customer gives the TSP from whom the freeze was requested his or her express consent to lift the freeze in order to make the switch. All TSPs responsible for the imposition or lifting of primary TSP freezes shall comply with the provisions of this section;
- 2.- 5. (No change)