



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center, Suite 801**  
**Newark, NJ 07102**  
**[www.nj.gov/bpu/](http://www.nj.gov/bpu/)**

CABLE TELEVISION

IN THE MATTER OF VERIZON NEW JERSEY, INC  
FOR RELIEF OF COMPLIANCE WITH CERTAIN  
PROVISIONS OF N.J.A.C. 14:18 PURSUANT TO )  
N.J.A.C. 14:18-16.7

ORDER

DOCKET NO. CO10040249

William D. Smith, Assistant General Counsel, for Verizon New Jersey, Inc.

BY THE BOARD:

On April 1, 2010, Verizon New Jersey, Inc. ("Verizon" or "Petitioner") filed a petition with the Board of Public Utilities ("Board") requesting relief from certain rules as permitted by N.J.A.C. 14:18-16.7. N.J.A.C. 14:18-16.7 provides that a cable television company that is subject to effective competition may seek relief from nine separate provisions of N.J.A.C. 14:18, as discussed more fully below. On October 14, 2010, Verizon amended its petition withdrawing its request for relief from N.J.A.C. 14:18-3.23 (Reimbursement for lost, stolen or damaged equipment) and N.J.A.C. 14:18-6.5 (Complaint records).

Verizon was granted a system-wide franchise by the Board on December 18, 2006, to provide cable television service to 316 municipalities<sup>1</sup> pursuant to the newly enacted amendments to the State Cable Television Act, N.J.S.A. 48:5A-1 et seq. (the "Act").<sup>2</sup> Through subsequent filings as provided in N.J.A.C. 14:18-14.14(a), Verizon is currently authorized to provide service to 369 municipalities.

Verizon is also an incumbent local exchange carrier ("ILEC") that has been providing telecommunications services for over one hundred years throughout most of New Jersey. 47 C.F.R. § 76.905 sets forth the criteria for determining whether a cable system is subject to effective competition, and 47 C.F.R. § 76.905 (b)(4) provides that effective competition exists in an area if an ILEC offers video service programming in the franchise area of an unaffiliated cable television operator, provided that such service is "comparable." Verizon, as an ILEC,

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<sup>1</sup>Order, In the Matter of the Application of Verizon New Jersey, Inc. for a Systemwide Cable Television Franchise, Docket No. CE06110768 (December 18, 2006).

<sup>2</sup>L.2006, c.83, effective August 4, 2006.

provides comparable service in the franchise area of unaffiliated cable operators, and thus the Federal Communications Commission ("FCC") effective competition definition is triggered.

N.J.A.C. 14:18-16.7(b) provides that a "cable television company that has not been certified by the Board as subject to rate regulation may seek relief from (a) above without the need for decertification from the FCC." Verizon falls into this category.

In addition to information supplied in the petition, Board staff met with Verizon and with the Division of Rate Counsel ("Rate Counsel") to discuss the petition.

On December 22, 2010, Rate Counsel filed comments objecting to Verizon's petition for relief of most of the foregoing rules, as discussed more fully below. Rate Counsel stated that the existence of competition does not eliminate the need for consumer protection regulation. Rate Counsel further stated that Verizon's petition lacks any substantiation for the request for relief and therefore must be denied. On January 11, 2011, Verizon responded to Rate Counsel's comments recommending denial of the relief sought. On January 20, 2011, Rate Counsel filed a response to Verizon's January 11, 2011 letter.

## DISCUSSION

N.J.A.C. 14:18-3.8 "Method of billing." This section allows cable television companies to bill for service in a number of options (monthly, quarterly, semi-annually or annually or shorter intervals in unusual credit situations) and allows for advanced billing. The rule also requires cable television companies to prorate service in the event of disconnection. Relief can be sought provided that the cable television company provides a sample bill to be utilized in lieu of compliance with this section for approval by the Office of Cable Television (OCTV).

Verizon requests relief from this rule and submitted several sample bills for review by the OCTV. Verizon asserts that competition will ensure that its billing is done in a customer-oriented method; that the rule limits Verizon's flexibility to adapt its billing to meet its customers' needs; and that its sample bill demonstrates how the company will prorate its bills pursuant to the requirements of this section.

Rate Counsel contends that relief from N.J.A.C. 14:18-3.8 "Method of billing" should be denied because the rule was designed to protect consumers by requiring that bills contain basic information on prices charged. They argue that seeking a waiver of this rule attempts to controvert 47 C.F.R. § 76.1619 which requires itemization of billing. Verizon asserts that while federal law permits a local franchise authority (LFA), in this case the Board, to enforce customer protection standards, the LFA is not required to do so, and may enforce lesser standards.

Rate Counsel responded that Verizon has shown no empirical evidence as to why it should be granted relief. Rate Counsel contends that Verizon has not provided any support or justification for its waiver request to be granted, and that by not providing sample bills for cable television service which reflect each type of billing, as requested by Rate Counsel, Verizon's waiver request should be deemed deficient and therefore should be denied. Further, Rate Counsel states, this request is Verizon's attempt to circumvent the provisions of N.J.A.C. 14:18-3.7 "Bills for service; form of bill." Customers must be provided a clear framework that reflects the services purchased and the amount due for each service subscribed to in order to make informed decisions as to whether to keep their current cable television provider or switch. Rate Counsel also argues that the bills do not show "cable only" services but include telephone and Internet services and that Verizon cannot seek relief from those billing requirements. Rate

Counsel further states that the consumer credit reporting section appears to violate federal and state cable television privacy laws. Verizon notes that it was not seeking relief from anything other than cable television service billing requirements under this rule.

Initially, the Board would like to note that the standard for rule relief deals with competition, not inability to perform or undue hardship as required for a waiver. The Board identified certain provisions of its cable television rules for which a cable television company can seek relief. The Board determined that upon a final determination of effective competition by the FCC, or, as in the case of Verizon, a company that was not rate regulated, the Board could relieve a cable television company of these provisions since such relief would not harm customers. Therefore, when the Board is satisfied that consumers are adequately protected, the Board is obligated to grant the requested relief.

The Board has reviewed the sample bills submitted by Verizon and is satisfied that Verizon is billing its customers adequately and in a manner which provides its customers sufficient information. To address Rate Counsel's comments, relief of this rule does not relieve Verizon of bill itemization required by N.J.A.C. 14:18-3.7, which as Rate Counsel noted, an LFA is allowed to require pursuant to federal law. Furthermore, state and federal privacy laws require that a cable television company provide information when the customer subscribes and thereafter, on an annual basis, as to how the company will use the information provided; and 47 U.S.C. § 551(c)(2)(A) provides that a cable television operator may disclose personally identifiable information if the disclosure is "necessary to render, or conduct a legitimate business activity related to, a cable service or other service provided by the cable operator to the subscriber..." This, the Board believes, allows a cable television operator to disclose the information for the purpose of debt collection.

Therefore, the Board **FINDS** that Verizon has satisfied the requirements of this rule relief provision and is **HEREBY GRANTED** relief of N.J.A.C. 14:18-3.8.

N.J.A.C. 14:18-3.15 "Trial services" at subsection (b). This section requires a cable television company to keep records of any trial service for a period of three years and to provide the OCTV notice of the terms and conditions prior to offering a trial. Pursuant to N.J.A.C. 14:18-1.2, a "trial service" means the initial offering of a new capability or technology over a cable television system to some or all existing customers in the cable television company's service area for a limited, specified period of time, not to exceed six months, during which the cable television company assesses the performance or marketability of the new capability or technology, and after which the service is either introduced as a standard offering or discontinued.

Verizon seeks relief from this provision as it is actively testing new products and product enhancements on actual customers. To comply with this rule, Verizon maintains, which is burdensome and unnecessary, the company has spent substantial resources in notifying the OCTV of the scope and term of each offering.

Rate Counsel states that relief from N.J.A.C. 14:18-3.15(b) should be denied because in the 2007 adoption notice for N.J.A.C. 14:18 (39 N.J.R. 1776(a)), the Board noted that "multi-year records have been needed to resolve significant customer disputes involving promotional agreements." Rate Counsel notes that Verizon's offerings often come with fine print not always readily apparent or understandable to the common customer, and further that the rule is necessary to eliminate common marketing schemes such as "cramming." Verizon asserts that Rate Counsel is incorrect since the specific section for which relief is sought deals with trial

services, not promotional services. Verizon notes that it is still required to maintain records on promotional services for a period of three years. Rate Counsel contends that Verizon has not proven why such relief should be granted or how consumers would be protected and therefore should be denied.

The Board has accepted Verizon's assertions that it offers numerous trial services and to provide notice and keep detailed records of these services is burdensome. In addition, since trial services are for a limited time only (up to six months) and must thereafter either be introduced as a standard offering or discontinued, there is a limited time window for potential dispute. If introduced as a standard offering, Verizon would be required to provide notice to the Board of the terms and conditions of that service. Because of the limited nature of these trial services, the Board believes that customers are adequately protected. Therefore, the Board **HEREBY GRANTS** Verizon the relief from compliance with N.J.A.C. 14:18-3.15(b) as requested in its petition.

N.J.A.C. 14:18-3.17 "Notice of alteration in channel allocation". This section requires 30 day notice of deletions and advanced notice of additions in a cable television company's channel line-up to be provided to the OCTV, consumers and municipalities. The rule also requires cable television companies to file a full revised channel allocation list, twice yearly.

Verizon seeks relief from this rule because it is unduly burdensome and unnecessary. Verizon has more than 600 channels in its line-up. In the past year, Verizon was required to provide 31 separate channel allocation notices to the OCTV, involving 130 channel alterations, and over 10,000 notices were provided in 2009. The burden of providing these notices far outweighs the benefit. Additionally, Verizon provides an easily accessible interactive guide for customers to determine which channels are on the system.

Rate Counsel recommends denial of relief from N.J.A.C. 14:18-3.17 because Verizon has provided no valid reason to waive this important consumer notification. They contend that the Communications Policy Act of 1934, as amended, requires cable television companies to provide this notice (47 U.S.C. § 544(h)(1)). Verizon notes that the Board and its OCTV are permitted to enforce federal standards such as those referenced by Rate Counsel, but are not required to do so. Verizon should be permitted to decide how and when to notify customers of channel changes. Verizon notes that its current channel line-ups are on its website. Rate Counsel contends that relief of this rule would run counter to federal law and should be denied and that such relief would allow Verizon not to notify its customers at all. Furthermore, Rate Counsel contends that Verizon has not supported its request for waiver of this provision.

The Board notes Rate Counsel's concerns, but believes it is appropriate at this time to conditionally grant the relief sought under this rule, based on the information provided. The relief sought is not expected to have an adverse impact on customer notice protections, since channel allocation sheets are not how a customer would generally learn about channel changes. Moreover, it is in the cable television company's best interest to provide notice to its customers of channel additions, so as to avoid calls to its customer service center(s) and potentially lose customers. Further, relief of this rule does not run counter to federal law. The Board is permitted to enforce federal standards, but it is not required to do so. The Board notes that cable television companies are required to provide channel line-up cards to their customers on a yearly basis, pursuant to N.J.A.C. 14:18-3.18. Therefore, the Board believes that granting conditional relief by allowing post-notification of channel additions within five days to its customers and the Board is reasonable. Furthermore, the Board believes it is appropriate to relieve Verizon from filing channel allocations sheets, except upon specific request of Board

staff. However, the Board believes that notice to the OCTV and to customers of channel deletions is vital and retains that provision. Customers are billed in advance and need to be able to make an informed decision as to whether to stay with their current cable television company or change cable television providers. Board staff needs notice in order to address concerns from customers of any channel deletion. It is noted that a waiver of the 30-day notice of deletion can be sought if timely compliance is not possible. However, the Board is convinced that municipal notice serves little purpose and relieves Verizon of the notice requirement to municipalities in all cases. Therefore, the Board **HEREBY GRANTS** Verizon relief from the provisions of N.J.A.C. 14:18-3.17 under the following conditions: 1) Verizon shall continue to provide 30 day notice to the OCTV and to its customers of any channel deletion in a manner reasonably calculated to provide such information; 2) Verizon shall notify the OCTV and its customers no later than five days after the addition of a channel; and 3) Verizon shall file updated channel allocation sheets upon request of Board staff.

N.J.A.C. 14:18-3.20 "Discounts for senior and/or disabled citizens" at paragraphs (a)2 and 3. These sections require a cable television company, prior to the effective date of any such discount, to provide notice to each customer and municipality served and to the OCTV along with revised schedule of prices, rates, terms and conditions showing any such changes.

Verizon seeks relief from the provisions of paragraphs (a)2 and 3 because the expense in notifying each customer and municipality served prior to offering the discount may reduce the frequency of the discount offerings to seniors and disabled persons. Verizon states it should be permitted the flexibility to offer such discounts without advanced notice.

Rate Counsel contends that this rule provides substantial consumer benefit to these citizens and they should be notified that such a benefit exists. Verizon contends that it certainly would communicate the availability of such a discount to its customers. Rate Counsel countered that Verizon has not proven why this waiver is necessary or otherwise in the public interest.

The Board notes here that currently Verizon does not offer discounts to seniors or disabled citizens. The relief sought is in the event the company does decide it will offer such a discount. There is no requirement that a cable television company offer a senior and/or disabled discount, although a cable television company may offer one on a voluntary basis. The Board believes that because the senior/disabled discounts are voluntary, it is in the best interest of the cable television company to notify its customers of the discount that is applicable to them. Otherwise, there would be no point to offering the discount. Additionally, cable television companies are required under N.J.A.C. 14:18-3.18 to provide notice to customers on a quarterly basis of the availability of a senior and/or disabled discount. Therefore, the Board believes that customers are adequately protected and **HEREBY GRANTS** Verizon relief from the provisions of N.J.A.C. 14:18-3.20(a)2 and 3.

N.J.A.C. 14:18-3.22 "Notice of planned interruptions". This section requires a cable television company to provide reasonable notice to all customers in advance of any planned interruption.

Verizon seeks relief of this rule because it deals with the relationship between a cable television company and its customers and Verizon should be able to determine how to manage that relationship. Because Verizon is in a competitive environment, Verizon contends, it will work to minimize any customer inconvenience.

Rate Counsel states that customers are entitled to a notice of when Verizon plans to interrupt service; the rule concerns terms of service and service quality, which the Board has the right to

regulate. Waiver of this rule does not provide an alternative safeguard for customers who are subject to early termination fees and cannot “vote with their feet.” Verizon responded that there is no requirement for demonstration of need of a waiver. Verizon contends that it does not bear the burden of proof as characterized by Rate Counsel, to demonstrate adequately why the rule should be eliminated. Rate Counsel responded that customers with multiple packages (i.e., double play, triple play) may not have an incentive to disrupt their other acceptable services (such as Internet and telephone) just because Verizon will not provide notice of a cable television planned outage.

While the Board agrees that advanced notice of a planned outage or interruption to customers is good business practice, it is not convinced if a customer does not receive notice, that the customer is irreparably harmed. The Board believes that, in a competitive environment, the cable television company can decide how and when to notice its customers. Therefore, the Board **HEREBY GRANTS** Verizon relief from the provisions of N.J.A.C. 14:18-3.22.

N.J.A.C. 14:18-7.4 “*Notification of system rebuilds, upgrades, hub and headend relocations*”. This section requires a cable television company to provide at least 30 days’ notice of a system rebuild, upgrade, hub or headend relocation or other significant change in the system as designed as well as providing information as to how the system will perform once the work has been performed.

Verizon requested relief from this rule noting that it should not be held to the 30 days advanced notice of infrastructure changes to the OCTV. Verizon should be allowed flexibility to modify or enhance its infrastructure in a timely manner in response to market indicators. Rate Counsel did not object to Verizon’s request for relief of this rule, provided that the Board was satisfied it would not adversely affect cable television service.

The Board **HEREBY GRANTS** Verizon relief from the provisions of N.J.A.C. 14:18-7.4, under the following condition: if Verizon plans to perform major infrastructure changes on its Video Hub Office(s) (VHO) or Super Headend(s) (SHE) that would affect its New Jersey customers, it must notify the OCTV prior to the start of the project. Board staff discussed this matter with Verizon and Verizon was amenable to providing notice, but didn’t want to be held to a strict 30 day notice requirement. The Board agrees.

N.J.A.C. 14:18-7.6 “*Telephone system information*”. This section requires a cable television operator to provide the OCTV with information concerning the operation of its telephone system.

Verizon requested relief because it contends that the report is burdensome to compile and provides very little corresponding benefit, arguing that cable television companies have sufficient telecommunications infrastructure to handle customer calls. Rate Counsel did not object to Verizon’s request for relief of this rule.

The Board believes in a competitive environment, it is necessary for a cable television company to have the equipment available to answer its telephones. In addition, N.J.A.C. 14:18-7.8 “*Telephone Performance*” will ensure that Verizon is answering its telephones in accordance with the federal standard found at 47 C.F.R. § 76.309, regardless of how the company chooses to do so. Therefore, the Board **HEREBY GRANTS** Verizon relief from the provisions of N.J.A.C. 14:18-7.6.


Having reviewed this matter the Board **HEREBY FINDS** for good cause shown, that the relief requested pursuant to N.J.A.C. 14:18-16.7 is appropriate. Therefore, the Board **HEREBY APPROVES** Verizon's request for rule relief subject to the following conditions:

1. Verizon shall continue to provide 30 day notice to the Board and to its customers of any channel deletion in a manner reasonably calculated to provide such information.
2. Verizon shall notify the Board and its customers no later than five days after the addition of a channel.
3. Verizon shall file updated channel allocation sheets upon request of Board staff.
4. If Verizon plans to perform major infrastructure changes on its Video Hub Office(s) (VHO) or Super Headend(s) (SHE) that would affect its New Jersey customers, it must notify the OCTV prior to the start of the project.
5. Verizon shall cooperate with any reasonable requests for information from the Board or Board staff regarding any matter for which relief has been granted.
6. Verizon shall continue to comply with all other applicable State and federal laws, and the rules and regulations of the Board and the OCTV.

DATED: 3/30/11

BOARD OF PUBLIC UTILITIES  
BY:

  
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PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

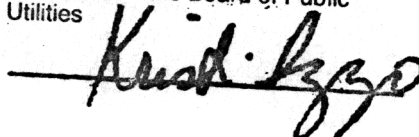
  
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KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



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CERTAIN PROVISIONS OF N.J.A.C. 14:18 PURSUANT TO N.J.A.C. 14:18-16.7  
DOCKET NO. CO10040249**

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