

perishables, or other dangerous articles. The mover will not be responsible for these items should they be transported without his knowledge.

PACKING

You may pack your own belongings into boxes, crates, etc. or you may have the mover pack your goods for you. Please remember that the mover is not responsible for damage to any goods you pack yourself. The mover can also refuse to transport goods you have packed yourself if he feels he cannot transport them safely. When the mover performs the physical survey, make sure you ask whether the charge for packing and unpacking are included in the price. If you decide to pack your goods yourself, remember that the mover will charge you more than the estimate if you fail to pack all your goods in time and the mover has to do this for you.

TARIFFS

Every mover must file a document containing his rates charges and rules called a "tariff" with the State. Tariffs are open to public inspection and you may examine them at the mover's office or the Office of Consumer Protection, by appointment, during normal business hours. The mover may only require you to pay his charges as listed in the tariff with 2 exceptions: (1) he may always charge you less than his tariff; and (2) he may charge more than his tariff if you have agreed in advance to a binding estimate. No mover may impose a charge unless it is listed in his tariff. Such charges may include packing and unpacking, providing boxes and packing materials, specific charges for large or heavy items such as pianos or snowmobiles.

Public Movers and Warehousemen are regulated by the Office of Consumer Protection, 124 Halsey Street, PO Box 45028, Newark, NJ 07101. If you have a question concerning the mover or warehouseman, or wish to lodge a complaint, please call 1 (973) 504-6200. You may also visit the Office of Consumer Protection's website at www.njconsumeraffairs.gov/pmw/Pages/default.aspx.

GLOSSARY OF MOVING TERMINOLOGY

"Bill of lading" means a *document evidencing the receipt* [given to a consumer by the public mover for all of the cargo picked up from the consumer by the public mover and moved to another point] *of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill.*

"Binding estimate" means a contract which contains a calculation of the cost of a move made after the mover has made a physical survey which clearly describes the goods to be moved and the accessorial services to be performed and which binds the mover to the charges shown on the binding estimate form.

"Increased valuation" means a process by which a public mover and a consumer agree that all items, or specific items, in a shipment will be reimbursed for loss or damage by the mover at a rate greater than the standard \$1.00 per pound.

"Non-binding estimate" means an approximation made by the public mover and/or warehouseman of the cost of the shipment and/or storage made after a physical survey.

"Order for Service" means the contract [which] *that* the consumer *must* receive[s] from a public mover and/or warehouseman at least 24 hours prior to the move [with a non-binding estimate].

"Owner-operator" means a person who owns, leases or rents one or more motor vehicles and who uses the vehicle to provide mover's services for a contracting public mover.

"Short-notice move" means performing a move on the same day that a consumer requests services from a public mover and/or warehouseman.

"Tariff" means a schedule of rates and charges for the storage or transportation of property in intrastate commerce on file with the Director, which shall be used, except in the use of binding estimates by movers, in computing all charges on the storage or transportation of property as of the date of the time in storage or transportation.

"Warehouseman receipt" means a receipt given to a consumer by a warehouseman for all of the consumer's goods stored in the warehouseman's facility.

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Regulations of Cable Television

Readoption with Amendments: N.J.A.C. 14:18

Adopted Repeals: N.J.A.C. 14:18-3.16, 16.6, and 16.7

Adopted New Rule: N.J.A.C. 14:18-7.9

Proposed: October 4, 2021, at 53 N.J.R. 1661(a).

Adopted: March 9, 2022, by Lawanda R. Gilbert, Director, Office of Cable Television and Telecommunications (with approval of the New Jersey Board of Public Utilities, Joseph L. Fiordaliso, President, Mary-Anna Holden, Dianne Solomon, Upendra Chivukula, and Robert Gordon, Commissioners).

Filed: March 9, 2022, as R.2022 d.048, **without change**.

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

BPU Docket Number: CX21010010.

Effective Dates: March 9, 2022, Readoption;

April 4, 2022, Amendments, Repeals and New Rule.

Expiration Date: March 9, 2029.

Summary of Hearing Officer's Recommendation and Agency's Response:

The public hearing was held virtually on November 3, 2021, by the Board of Public Utilities ("BPU" or "Board"). The following persons or entities offered testimony at the public hearing: New Jersey Division of Rate Counsel (Rate Counsel), Altice USA, Inc. (Altice), Comcast Cable Communications (Comcast), New Jersey Cable Telecommunications Association (NJCTA), and Verizon New Jersey, Inc. (Verizon). Commissioner Upendra Chivukula presided at the hearing. The comments and responses are included with the written comments below. A record of the public hearing is available for inspection in accordance with applicable law by contacting:

Secretary of the Board
Board of Public Utilities
Attn: Docket No. CX21010010
44 S. Clinton Avenue, 1st Floor
PO Box 350
Trenton, New Jersey 08625-0350.

Summary of Public Comments and Agency Responses:

In addition to the comments received at the public hearing (as noted above), the following entities submitted written comments: Rate Counsel, Altice, Comcast, NJCTA, Township of Montville (Montville), and Verizon. The following is a summary of the comments received and the Board's responses.

General Comments

1. COMMENT: Altice notes its appreciation that the Board modified certain aspects of its proposal from prior iterations and Altice supports measures to update and streamline the cable rules. However, Altice states that the rules were last updated more than seven years ago and believes that the changes in the rules do not reflect the cable television marketplace. Altice comments that, notwithstanding the Board's effort to streamline some of the rules, the proposed rules add to the oversight of business practices, reporting, and penalties, all of which the cable company does not believe offer any consumer benefit. Altice states that the rules, as proposed, should be revised to reflect current competition and technological trends and avoid adding costs to the provision of cable services with little consumer benefit. (Altice)

RESPONSE: The Board believes that the rules as proposed provide needed consumer benefits. The rules were crafted with the input of multiple stakeholders, were carefully considered, and resulted from numerous exchanges with interested parties. Sections of the rules were modified to accurately reflect changes in the rules. In so doing, the Board balanced the concerns articulated by all parties' including the expressed lack of consumer satisfaction brought to the forefront through the filing

of comments and complaints to the Board. To that end, the rules have been reviewed and revised to address the collective interests of all cable providers, stakeholders, cable consumers, and municipalities.

2. COMMENT: Comcast states that its New Jersey cable television customers are served by one of the most advanced and experienced cable communications companies in the world with extensive resources to meet market needs. Comcast claims it has one of the most advanced networks and has the ability to identify and fix issues quickly to address consumers. Comcast claims that its complaints have fallen and it has experienced a reduction in incoming customer service calls, network outages, and have made fewer service calls. Comcast further notes the ability of customers to self-install equipment and access convenient equipment return options, in addition to their investment in the State and robust capability to serve customers who prefer to address their customer service needs in person while facing competition from other video subscription/streaming providers. (Comcast)

RESPONSE: The Board notes Comcast's general commentary.

3. COMMENT: Comcast asserts that the notice of proposal (Notice) violates the Administrative Procedures Act (APA) on several grounds. First, the Notice's proposed amendments to N.J.A.C. 14:18-3.8 and 5.1, as well as its proposed deletion of N.J.A.C. 14:18-16.7, would impose obligations on cable operators that exceed Federal standards covering the same regulatory matters. Comcast also asserts that the Notice proposes to readopt N.J.A.C. 14:18-3.7, 3.18, 3.27, and 6.7, which likewise exceed Federal standards. (Comcast)

RESPONSE: The Board rules set forth herein are consistent with Federal and State statutes and are in conformance with the provisions contained in the APA.

4. COMMENT: Comcast claims the Economic Impact Statement in the rule is short and conclusory and violates the APA since it does not quantify the costs and benefits of its proposals. Comcast disputes the statement that "the benefits from the rules exceed the burdens of the costs in the absence of any significant competitive market to preserve the public interest." Comcast claims cable operators actively compete in New Jersey. Comcast further disputes the nexus between complaints received by the Board and the need for rule modifications. (Comcast)

RESPONSE: Federal statutes enable a franchising authority to establish and enforce customer service requirements of the cable operator. The Board believes that the rules are consistent with Federal customer service standards designed to protect consumers. Both the amendments to the existing rules, as well as the proposed new rules are consumer protection provisions, which the State is not prohibited from enacting or enforcing, to the extent they are not specifically preempted by the Federal Cable Act. See 47 U.S.C. § 552(d)(1). The Economic Impact Statement acknowledges and addresses attendant costs and thus comports with the requirements outlined in the APA. Additionally, customer complaints are a significant indicator of the quality and adequacy of service provided by cable operators. The promulgation of rules serves to establish customer protections and is therefore appropriate.

5. COMMENT: Comcast states that it believes that the reporting requirements are overly burdensome and exceed those of other jurisdictions. Comcast contends that with the addition of the new reports, cable operators will be required to file more than two dozen reports, about half of which are filed more than once per year. Comcast disagrees with the information that it is required to provide. Comcast also claims that the Board has failed to eliminate what it terms as pointless reporting burdens, while adding new ones, which only diverts resources that could otherwise be spent improving cable services and does nothing to improve protection of cable subscribers or service to cable subscribers. (Comcast)

RESPONSE: Federal statutes allow a franchising authority to establish and enforce customer service requirements of the cable operator as well as construction schedules, including construction-related performance requirements of the cable operator. The Board has considered the commenter's concerns and has weighed them against the requests from cable television subscribers and affected municipalities who have repeatedly reached out to the Board to seek assistance regarding the quality of service provided by cable operators throughout New Jersey and who have requested that the complaints of cable consumers be addressed. The Board believes that the reporting requirements, some of which are triggered by business decisions by the companies, are necessary in

carrying out the duties of the Board in regulating cable operators. The rules, as crafted, reflect Federal customer service standards that allow the Board to properly monitor performance, protect consumers, and ensure that clear standards are in place for the industry. Incorporated therein is sufficient flexibility for cable operators to work within the rules under any circumstances. The Board believes the benefits of the reporting requirements are necessary and proper and outweigh the cost.

6. COMMENT: Comcast believes that the current rule re-adoption proceeding should be used to create a more level playing field between cable operators, such as Comcast, that rely on municipal consent franchises and those that have system-wide franchises. Comcast is a franchised cable operator in the State of New Jersey and franchises are issued to Comcast through the municipal consent-based rules. Comcast states that under certain rules it must file separate reports for each legal entity and permitting a single Statewide reporting for commonly owned cable television companies would rectify the problem. Comcast contends that it would not realize any operational, legal, or tax-related benefits from consolidation of each legal entity under its current structure, which requires internal restructuring and petitioning the Board for approval for each entity to be consolidated, after several rounds of discovery. Therefore, Comcast asserts that the costs and burdens of petitioning for and completing this approval process for each entity to be consolidated cannot be justified. (Comcast)

RESPONSE: The rules are applied equally to all cable providers, regardless of their franchise status. The uniform application of the rules provides a level playing field for similarly situated cable operators. Cable providers have the freedom to choose the most advantageous structure for their business operations. In New Jersey, a cable television company is required to have a cable franchise to operate in municipal rights of way by applying for either a municipal consent-based cable franchise or a system-wide cable franchise. Changes to the New Jersey Cable TV Act enacted in 2006 allow for cable TV providers to convert their municipal consent-based franchises to system-wide franchises. Pursuant to N.J.S.A. 48:5A-25.1, "Such conversions need not take place with respect to all municipalities at the same time, but rather the cable television company may convert additional municipal franchises and add affected municipalities to the service area covered by such system-wide franchise at any time during the term of the system wide franchise." Thus, Comcast could convert any or all of its municipalities under its existing legal entities without the need for any restructuring. Comcast opted to apply for the municipal consent franchise.

In addition, with respect to certain of the reporting rules cited by Comcast, any cable TV provider, such as Comcast, continues to have the ability to file a petition with the Board seeking modifications or waiver of their reporting requirements should there be a legitimate basis to do so.

7. COMMENT: NJCTA notes its appreciation for the work that Board staff has put into the stakeholder process and the opportunity to provide comments on the proposed revisions to the Chapter 18, Cable Television rules, as well as the revision process. However, the NJCTA voices concern that the current proposal represents a significant expansion of oversight, regulatory reporting, and other requirements when its members are experiencing competition from unregulated video providers. (NJCTA)

8. COMMENT: Verizon asserts that due to the competitive market, the rules should be revised, and regulatory burdens should be decreased. Verizon states that consumers would benefit more if there were less regulation on cable providers. Verizon believes that if the proposed amendments were written to address concerns with problem cable providers, the Board should address those problem providers through targeted enforcement actions and not by regulating the entire cable industry. (Verizon)

RESPONSE TO COMMENTS 7 AND 8: The Board thanks the commenters and notes that, while it did consider the cable industry's concerns in light of the applicable rules, it found that the rules remain necessary in a competitive environment, to ensure safe, adequate, and proper service and to allow customers to make informed decisions as to which provider to choose. In addition, due to technical/geographical issues or lack of access to high-speed broadband service, non-regulated providers, such as satellite services or streaming services, are not accessible by all customers, leaving them without a choice of competitive providers, as evidenced by the many complaints the Board receives from

customers lamenting their lack of a competitive choice. The rules represent a fair balance between the cable providers' concerns and needed protections for consumers.

9. COMMENT: Rate Counsel filed comments in favor of the amendments to Chapter 18, stating the proposed rules would continue to afford relevant essential consumer protections. Rate Counsel commended the Board and staff on the stakeholder process that provided ample opportunity for public discussion, which included four rounds of written comment cycles to address the proposed changes to the rules and indicated that it supported the Board's amendments and several new requirements. Rate Counsel states that the rule modifications are aimed at improving service quality by ensuring the reliability and resiliency of the services, which requires several customer service metrics to ensure customers receive the cable services for which they subscribe. Rate Counsel notes the wide range of publicly reported outages indicated that "cable service interruptions do not appear to be sporadic events but appear to be daily occurrences for many customers." Rate Counsel supports the proposed rule changes and expanded regulatory requirements that will address consumer complaints received from the public or that were provided in various ongoing Board investigations that highlight the persistent service quality issue complaints spanning several years. Rate Counsel believes that the proposed amendments and narrowly detailed new sections will ensure that cable television provider networks are adequately maintained. Rate Counsel commends and supports the Board's amendments and new sections which address the service quality and customer service complaints on file with the Board, stating that hopefully, the new customer service protections will assist in protecting consumers. Rate Counsel noted that the Board is well within its statutory authority and core mission to ensure that cable companies provide safe and adequate service to New Jersey customers. (Rate Counsel)

RESPONSE: The Board thanks Rate Counsel for their comments.

Subchapter 2. Plant

N.J.A.C. 14:18-2.7 Inspection of property

10. COMMENT: Altice requested changes to the rule proposed regarding timeframes. Altice states that the existing rule is adequate, and that it addresses repairs "well within the 30-day timeframe proposed by the Board." It recommends that if the 30-day repair timeframe is, nevertheless, added to the rule, it "should be limited to conditions likely to trigger an outage for 10 or more customers for at least 30 minutes or more." It also claims that a blanket 30-day requirement "would exceed the Board's authority, and be arbitrary and capricious." It also recommends limiting the reporting requirement to "only those service-impacting conditions that cannot be addressed within the 30-day timeframe," saying this would avoid the reporting requirement for "individual and/or momentary interruptions." (Altice)

11. COMMENT: Comcast requests that the Board revise subsection (a) so that it does not require cable operators to notify the Board of repair operations that are routine in nature, and instead only applies to conditions affecting service availability. As currently drafted, the proposal would decouple the notice obligation from its intended purpose and lead to over-notification. Comcast further contends that the rule unduly burdens routine maintenance work and limits cable operators' flexibility to efficiently schedule repairs, notably regarding exogenous events such as storms and power outages. It suggests language changes similar to those of other commenters, including the NJCTA, Altice, and Verizon, that add language concerning conditions "likely to disrupt cable service availability or performance," and that "cannot be repaired within thirty (30) days of discovery and is likely to result in loss of service for 10 or more customer accounts." (Comcast)

12. COMMENT: NJCTA asserts that the changes to the rule were unnecessary considering the industry-wide trend of decreasing customer complaints related to maintenance and repair issues. NJCTA recommends amending the section: 1) to prioritize conditions requiring repair that could impact service or performance; and 2) to give cable operators flexibility to accommodate exogenous events, like storms or power outages. NJCTA generally opposes the rule requiring the filing of a maintenance plan as an additional requirement for its members, contending that the maintenance plan will be obsolete when filed, and also

requested the addition of "terms of the" before "maintenance plan" at subsection (c). (NJCTA)

RESPONSE TO COMMENTS 10, 11, AND 12: The rule requires cable television companies to inspect their property at sufficiently frequent intervals to ensure proper operating conditions. The Board proposes modifications to provide a timeframe for corrective action where conditions warrant and provides for notification to the Board upon completion and filing of maintenance plans with the Board on an annual basis. The Board believes that the rules as drafted are necessary and appropriate to ensure proper maintenance of facilities and prompt repairs when a condition is discovered requiring repair. The rule provides a reasonable timeframe for completion of identified repairs. The rule acknowledges there may be circumstances which render a repair infeasible taking into consideration the uncertainties cable providers may be confronted with in the face of repair situations. The Board believes the rule addresses the concerns of commenters that exogenous events beyond their control could render the company unable to take corrective action.

With respect to the concern expressed regarding the applicability of the rule to routine repair reporting, when repair of the condition will result in the loss of service to a customer, the rules provide for notice of the condition requiring repair to Board staff along with a proposed date for completion, confirmation of resolution, and restoration to customers. Adoption of these provisions fall within the Board's authority and are consistent with applicable Federal and State statutes. The rule addresses the concerns of all parties, while enforcing consumer protections in a reasonable manner as directed by Federal rules and regulations. The goal of proper maintenance of cable equipment and facilities is captured in the rule and therefore does not require additional modifications.

13. COMMENT: The Township of Montville requests that cable TV and Internet providers fund those communities that wish to conduct inspections, monitoring, and review of service being provided to customers, inspection of equipment, facilities, and customer service response and effectiveness. (Montville)

RESPONSE: While the Board does not have jurisdiction over internet, the Board is the franchising authority and has the ability to enforce certain technical or customer service provisions as stipulated by statute or rules for cable television only. The FCC has developed guidelines that may be used as technical standards for cable television operators. (47 C.F.R. § 76.605) The Legislature vested in the OCTV the authority to develop and enforce technical standards not inconsistent with FCC requirements. The ability to require cable television providers to fund independent investigations conducted by municipalities is beyond the authority of the Board's enabling statutes.

14. COMMENT: Verizon comments that the changes to the rule are unnecessary because they do not take into account cable providers' normal operating procedures. Verizon does not believe it is necessary to report repairs unless necessitated by a complaint. Furthermore, Verizon disputes the filing of annual maintenance plans and proposes that they should only be required every two years. (Verizon)

RESPONSE: The rules address the concerns of all parties, while enforcing consumer protection in a reasonable manner, pursuant to existing regulations. The Board does not believe the rule will unnecessarily burden cable companies. The Board appreciates the comment but declines to remove reporting requirements determined to be necessary to properly evaluate cable operator's performance. The Board believes that reporting annually rather than every two years better enables the Board to evaluate the cable providers' systems to ensure that the providers are addressing issues on a more timely basis.

Subchapter 3. Customer Rights

N.J.A.C. 14:18-3.4 Information on company's schedule of prices, rates, terms, and conditions

15. COMMENT: Verizon strongly supports the proposed deletion of current subsection N.J.A.C. 14:18-3.4(b) requiring cable television companies to post a notice in its local business office stating that a copy of its schedule of prices, rates, charges, and services is available for inspection. (Verizon)

RESPONSE: The Board appreciates the comment in support of the deletion of the requirement for notice of rates and charges to be posted at the cable office as there are alternate ways of receiving the information.

N.J.A.C. 14:18-3.6 Access to company representative

16. COMMENT: Altice objects to the inclusion of language that would prohibit restricting a customer's access to a live operator based on the customer's billing status, because the company believes it ignores investments it has made in Interactive Voice Response (IVR) units which allow customers to obtain information and make transactions without involving a live operator and may punish operators that delay disconnecting a customer for non-payment as a courtesy. It also believes the revised rule may be legally vulnerable by mandating speech by cable operators and imposing special burdens on them. It states that if the rule is enacted, it should be clarified as allowing real-time contact through an alternate channel such as live chat for customers with broadband connections. (Altice)

17. COMMENT: Comcast believes that the Notice prohibits companies from restricting access to live operators based on customer billing status (for example, where the customer has a past due balance). Comcast does not engage in such practices, but despite several rounds of comment, neither staff nor any commenter has articulated a rational basis for singling out cable operators for this kind of restriction when video service providers with whom they compete do not provide customer service through telephone at all. (Comcast)

18. COMMENT: NJCTA urges the Board to allow NJCTA's members to join the legions of companies, including their competitors, that require a customer with a past due balance to make a payment before being permitted to add to the company's already considerable cost of serving that customer by speaking to a representative. It also recommends permitting cable customers to communicate with the company to which they owe money through an alternate, real-time method such as online chat. (NJCTA)

19. COMMENT: Verizon objects to the proposal although it currently provides Fios TV subscribers with the ability to speak with a live agent at any time during a call, regardless of whether they have an outstanding balance on their accounts. (Verizon)

RESPONSE TO COMMENTS 16, 17, 18, AND 19: N.J.A.C. 14:18-3.6 requires that customer phone calls must be answered 24-hours a day. The rulemaking includes language to clarify that the company may not restrict a customer's access to a "live" representative based upon the status of their account (that is, past due or delinquent). The changes are reflective of Federal rules and regulations and address consumer complaints regarding the ability to access live operators to assist with the issue which prompted the call. The Board has received reports from customers who were repeatedly frustrated by the inability to contact a live operator to address both billing questions as well as service complaints, which further compounds the situation for which the consumer is contacting the company and causes overall dissatisfaction resulting in complaints. Cable operators should not be permitted to discriminate amongst customers who have outstanding balances or bill-related issues when affording customers the benefit of a live representative. The Board believes that the rules address concerns raised by cable constituencies through the inclusion of the revisions regarding access to a live operator and serve to assist cable operators in providing quality service.

N.J.A.C. 14:18-3.7 Bills for service; form of bill

20. COMMENT: While the Board did not propose changes to this section, Comcast requests that the Board delete subsections (d) and (e) of rule N.J.A.C. 14:18-3.7, which require the filing of sample bills prior to any change in bill format. This requirement is an obsolete vestige of cable rate regulation that is unnecessary and creates unfair enforcement exposure for companies. A cable operator should not be subject to penalties for neglecting to timely submit a new bill format that the Board has no authority to change. Any purported concern about deceptive billing practices can be redressed under applicable Federal law and rules, many of which the Board is empowered to enforce. (Comcast)

21. COMMENT: While the Board did not propose changes to this section, Verizon supports Comcast's proposal to delete N.J.A.C. 14:18-3.7, Bills for service, form of bill, subsections (d) and (e) regarding the submission of sample bills to the Office upon change in format. Verizon asserts that in this highly competitive marketplace, cable companies should continue to have the flexibility to design and revise their bills to

best communicate with their customers and respond to those customers' continuously evolving needs. (Verizon)

22. COMMENT: NJCTA proposes to delete subsections (d) and (e). (NJCTA)

RESPONSE TO COMMENTS 20, 21, AND 22: The Board's rules are consistent with Federal rules and as the franchising authority, the Board is able to enforce the revised rules which are consistent with Federal standards. State rules comport with those set forth at 47 CFR 76.1619, Information on Subscriber Bills. While submission of the sample bill prior to introduction of a new billing format is not required by Federal rules, the rule provisions require that changes to the bill format be submitted to the Board to ensure that the content is consistent with applicable laws and serve to ensure the bills comply with Federal and State rules regarding the content of bills.

N.J.A.C. 14:18-3.8 Method of billing

23. COMMENT: Altice requests the elimination of section (c), which pertains to uniform non-discriminatory terms and conditions in billing and states that initial and final bills shall be prorated as of the date of the initial establishment and final termination of service, arguing that multiple judicial determinations have found the proration requirement is preempted. (Altice)

24. COMMENT: Comcast states that the Notice proposes to retain the requirement to prorate initial and final bills, while removing the current exemption from this requirement for companies whose practices are fully disclosed in the company's terms and conditions. It further states that as both Federal and State courts in New Jersey have recently affirmed, because the FCC has determined that cable operators in New Jersey are presumptively subject to effective competition, this BPU rule is preempted as unlawful rate regulation. (Comcast)

25. COMMENT: Verizon respectfully opposes the Board's proposed modifications at subsection (c) of this rule and supports the arguments in the Comcast comments that prorating requirements constitute impermissible rate regulation. Verizon asserts that imposing a restriction unique to cable operators at a time when they face increasing competition is unfair and inconsistent with the law. (Verizon)

RESPONSE TO COMMENTS 23, 24, AND 25: N.J.A.C. 14:18-3.8 pertains to the method of billing customers. The rule was modified to provide clarity and thus deletes existing text that states that proration of bills is required "unless otherwise provided for in the applicable filed schedule of prices, rates, terms, and conditions" in order to resolve any ambiguity regarding the requirement for the proration of initial and final bills as of the date of the beginning and ending of service. The Board acknowledges the issue of billing proration as rate regulation is the subject of pending litigation and may need to be revisited depending on the outcome of that litigation.

N.J.A.C. 14:18-3.9 Due date of payment and notice of discontinuance

26. COMMENT: Altice does not oppose the amendments to clarify how cable operators and customers must give notice of disconnection. (Altice)

RESPONSE: The Board appreciates the comment in support of the proposed change.

27. COMMENT Comcast did not directly address the proposed revisions to this section, however, as part of its comments to N.J.A.C. 14:18-3.27, Comcast stated that it supports the proposed rule amendment permitting electronic delivery of disconnection notices on an opt-out basis so long as the cable operator adheres to the FCC's framework for electronic notices, but requests removal of the requirement for customers to opt-in to receiving electronic billing. (Comcast)

RESPONSE: The Board believes the rule is consistent with the FCC's framework and that removal of the opt-in requirement for customers to receive electronic disconnection notices is contrary to State customer service protections. Ensuring that consumers retain choice in the method they receive billings and notices preserves their ability to ensure they are sufficiently informed as to the services they have contracted for with the cable operator. Additionally, the rule addresses complaints from customers that have inadvertently been switched to electronic billing by applying for certain promotions containing opt-in language in the "fine

print” of the terms and conditions, which are not fully explained to the customer.

28. COMMENT: Verizon applauds the Board’s proposed modernization to subsection (b); however, it proposes that the timeframe of the notice be shortened to five days. (Verizon)

RESPONSE: The Board believes the timeframe is appropriate and comports with the requirement contained in the Federal rules at 47 CFR 76.1602(b).

N.J.A.C. 14:18-3.12 Service call scheduling

29. COMMENT: Altice opposes the changes to the rules regarding service call scheduling which require the cable company to provide proof of the cable representative’s presence before charging for a service call in the case of a dispute by the customer, to the extent that it requires cable operators to collect proof of their representative’s physical presence that would arguably involve collection of their subscribers’ personally identifiable information under New Jersey law. Altice claims the wording of the proposed amendment is also ambiguous and may suggest that cable operators may not impose missed appointment fees until they prevail in a customer complaint proceeding, and recommends amending the language. (Altice)

30. COMMENT: NJCTA recommends a change to N.J.A.C. 14:18-3.12(e) to correct what it claims appears to be a drafting error and asserts that the rule is inadvertently circuitous. (NJCTA)

RESPONSE TO COMMENTS 29 AND 30: N.J.A.C. 14:18-3.12 pertains to service call scheduling. The rulemaking adds a requirement that when a service call is scheduled, the company must inform the customer of the amount of any service call fees to be assessed, including missed appointment fees if the customer is not at the premises. If the customer files a complaint with the Board disputing a missed appointment fee, the company bears the burden of proof in showing the presence of a service representative at the premises prior to imposing a missed service appointment fee. The Board believes that the rule provides needed customer service protections to resolve concerns raised by customers regarding the imposition of fees for missed appointments where the customer alleges that they were at the premises and the cable company representative did not appear. The intent is to allow customers to challenge the assessment of a missed appointment fee by filing a customer complaint with the Board. It is only after a complaint is filed that the burden of proof resides with the cable provider to verify that the representative did, in fact, arrive at the location. The Board does not believe the rule requires collection of personally identifiable information.

N.J.A.C. 14:18-3.15 Trial and promotional services

31. COMMENT: Comcast requests that the Board eliminate the requirements at subsections (b) and (c) to maintain records of all trial and promotional services. The purpose of this requirement remains unclear. Such records would not necessarily be maintained by cable operators in the ordinary course of business since they serve no business purpose. Nor does it appear that such records are useful to BPU staff, which has not requested them. Requiring cable operators to generate and maintain records that are neither used by, nor useful to, either the company or BPU staff is inherently burdensome without any corresponding benefit. (Comcast)

32. COMMENT: Verizon concurs with Comcast’s proposal to delete subsections (b) and (c) of this rule, which requires maintaining records of trial services and of promotional service offerings. Verizon asserts that in the competitive digital age, such requirements no longer serve any useful purpose. (Verizon)

RESPONSE TO COMMENTS 31 AND 32: The Board has considered the cable industry concerns and has weighed them against the requests from cable television subscribers and affected municipalities for information germane to their services, including trial and promotional information which in some instances has been associated with consumer complaints. Records regarding offerings are an essential element in the resolution of customer complaints and queries filed with the Board and it is therefore appropriate to maintain such information should a customer service issue arise regarding the same.

N.J.A.C. 14:18-3.16 Notice of price change

33. COMMENT: Verizon appreciates the Board’s decision to delete this rule. (Verizon)

RESPONSE: The Board thanks Verizon for its comments.

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

34. COMMENT: Verizon comments that the proposed amendments represent positive steps towards modernization since they take into consideration circumstances that are beyond the operator’s control. However, Verizon requests that language regarding the notice to the Board of an alteration in channel allocation be stricken and the rule be revised to only require an annual notice of a current channel lineup be provided. (Verizon)

RESPONSE: The Board has reviewed the above comments and notes Federal statutes allow a franchising authority to establish and enforce customer service requirements of the cable operator which must be applied uniformly. Due to consistent calls from customers regarding cable service including channel allocation queries, it is necessary for the Board’s staff to be informed regarding alterations to best serve consumers.

N.J.A.C. 14:18-3.18 Periodic notices to customers

35. COMMENT: While Comcast did not provide comments on the proposed revisions to the rule, it instead recommended the Board should adopt a rule that: (1) sunsets requirements in current consent decrees to provide proof of mailing of customer notices in perpetuity; and (2) limits any future consent decrees requiring the provision of proof of mailing to three years from the violation. Periodic removal of standing obligations that are no longer necessary is widely recognized as good and modern regulatory policy. Proof of mailing requirements that continue to apply to Comcast have outlived any useful purpose and is an unwarranted bureaucratic burden. Comcast proposed inclusion of subsection (e) as follows “Any provision in any Board order or consent decree requiring cable television company to provide proof of mailing or electronic transmittal of customer notices shall not require the provision of such proofs for a period exceeding (3) three years from the date of the order or consent decree unless the cable television company fails to comply with the terms of the order or consent decree. A Board order or consent decree adopting or approving an enforcement settlement or other matter that requires a cable television company to furnish proofs of mailing of customer notices shall permit the cable television company to furnish such notices within 45 days of completion of the mailing. This subsection (e) shall apply to any Board order or consent decree in effect at the time of this regulation’s adoption.” (Comcast)

36. COMMENT: Verizon also did not address the proposed changes to the rule, but instead encouraged the Board to consider Comcast’s proposal to add subsection (e) to the rule, stating that it is reasonable to limit proof of mailing of electronic transmittal of customer notices and allow a reasonable time frame for the provision of such proofs and their retrospective application for compliant providers, such as Verizon. The Board should aim its regulatory power at those providers who fail to comply through targeted enforcement actions, rather than imposing unnecessarily onerous requirements on the entire industry. (Verizon)

RESPONSE TO COMMENTS 35 AND 36: Comcast’s proposal would remove filing requirements imposed through Board orders resolving past enforcement actions. Modification of a Board order would require a petition seeking the requested action and providing appropriate proof and justification as to why the filing requirements imposed are no longer necessary, as opposed to modifying the rule. The Board declines to adopt Comcast’s proposal at this time.

N.J.A.C. 14:18-3.24 Late fees and changes

37. COMMENT: Verizon proposes revisions to the rule not included in the Board’s Notice, that amends the language that serves to bar the imposition of fees on any account “paid prior to the next bill date.” (Verizon)

RESPONSE: The Board has reviewed the above comment. The Board appreciates the comment but disagrees with the company’s proposed change as the rules provide necessary consumer protections absent the addition of the language suggested.

N.J.A.C. 14:18-3.27 Furnishing information and notices to customers in electronic form

38. COMMENT: Comcast recommends that the Board modify the rule to permit electronic delivery of notices and bills on an opt-out basis under certain circumstances, rather than requiring each customer's affirmative consent in all cases. Specifically, cable operators should be permitted to use email for customers who qualify for delivery of electronic notices under the relevant FCC rule, subject to the important consumer safeguards developed by the FCC for this purpose. By adopting these same protections, the Board can and should permit electronic notices and bills on an opt-out basis, knowing that customers who prefer paper delivery will be able to continue to use that medium. By contrast, as the FCC has recognized, limiting email delivery to only those customers who affirmatively opt-in, as current section N.J.A.C. 14:18-3.27 does, would substantially decrease the number of customers who receive electronic communications, undermine the benefits of electronic delivery, and "does not appear to be necessary to protect consumers" given the safeguards discussed above. Finally, because the FCC has moved to electronic delivery on an opt-out basis, current section N.J.A.C. 14:18-3.27 exceeds the relevant Federal standard. (Comcast)

RESPONSE: The Board finds that the rule is consistent with Federal law and, therefore, does not exceed Federal standards. The rule provides that the cable operator may send electronic notices to the customer's verified email address, defined as: 1) one which the customer has provided for purposes of receiving communication; 2) is regularly used by customers to communicate with the cable operator; or 3) has been confirmed by the customer as an appropriate method for the delivery of communications. The rules preserve the customer's ability to receive electronic only delivery of monthly bills along with notices on the electronic bill and to opt-out or otherwise withdraw consent of receiving electronic notice at any time for any reason. The Board believes that customers should retain the ability to determine the method in which they receive billings and notices from providers, and removal of the consent requirement for customers is contrary to State customer service protections, leaving the customer vulnerable to anti-competitive and deceptive business practices.

Subchapter 4. Cable Television Operator Rights**N.J.A.C. 14:18-4.2 Refusal to connect**

39. COMMENT: Verizon supports staff's proposed amendments to this section. (Verizon)

RESPONSE: The Board thanks Verizon for its comment.

N.J.A.C. 14:18-4.5 Compensation for taking because of installation of cable television facilities

40. COMMENT: Verizon supports staff's proposed amendments to this section. (Verizon)

RESPONSE: The Board thanks Verizon for its comment.

Subchapter 5. Offices**14:18-5.1 Location and closing**

41. COMMENT: Altice objects to the rule and claims that the rule is outdated. Altice opposes the provisions claiming customers have the ability to direct ship equipment and have multiple payment locations, as well as IVR, optimun.net, a support app, and other self-service options. Further, the Board should add a "reasonable proximity" standard to the rule as an alternate to satisfying the obligation to have at least one office per franchise area or county. Altice also supports the Board's amendment as not intending to require existing cable operators to open new offices. (Altice)

42. COMMENT: Comcast states that the rule proposes to require cable operators to establish a local office in each "franchise service area or county of the area served, at a minimum." Comcast describes how the Board afforded cable operators flexibility to reduce their local office presence in 2014. Comcast reports that it has experienced a reduction in walk-in traffic and indicated customer satisfaction increased for those customers using Comcast's digital tools for scheduling, device management, account settings, appointments, viewing and paying bills, and checking connection status, evidencing consumers' preference to transact cable-related business through more convenient means rather

than physically visiting a store. Comcast expresses concern that it would be required to open a new office in a cable system where it currently does not provide one, for example, in the Meadowlands system. Furthermore, Comcast believes that the amendment to the rule, even if limited to only maintaining existing offices, exceeds Federal and State law because the Federal Cable Act states that local office requirements addressed through the franchising process must be "reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests." New Jersey's Cable Television Act requires that offices be "local" and otherwise follows the Federal approach without assigning any limitation on where the office must be. Further, the costs of maintaining local offices have not been considered, especially in areas with relatively few customers.

In addition, Comcast contends the rules do not include an approval standard or criteria for evaluating closing of an office. The amendments Comcast opposes as being overbroad are those which require a petition to approve the closing of a sole office within a franchise. Closing and relocating stores requires planning which is extremely difficult when Board approval is uncertain. Accordingly, Comcast proposes a 90-day period for Board consideration of such petitions or when unable to do so have them deemed approved. In addition, Comcast contends the revisions create a significant unfair arbitrary disparity in the regulatory burdens faced by municipal consent-based franchisees, as compared to system-wide franchisees. The rule revisions impose substantial new obligations on municipal consent franchisees. Comcast claims that a system-wide franchisee need only seek Board approval for the closure of an office "expressly required" by Board order and has no obligation to seek Board approval to relocate or close an office within its footprint, "no matter how far away it moves." Comcast also interprets the rule as allowing a system-wide franchisee to remain in compliance with the rule so long as it maintains at least one office in the State, since the "franchise service area" for a system-wide franchisee can be the cable operator's entire footprint in the State. Comcast seeks to retain the "reasonable proximity" standard in the current rule, which it argues is more flexible than the rigid "county or territory" standard in the proposal, which results in disparate treatment among franchisees. Comcast recommends a bifurcated rule to provide different standards for municipal consent-based and system-wide franchisees. (Comcast)

43. COMMENT: Verizon objects to Board staff's proposed requirement for cable operators to maintain at least one customer office per system or county, citing the costs incurred in maintaining "brick and mortar locations," which Verizon states are not imposed on other industries that the Board regulates. Verizon notes that its telecommunications division received relief from maintaining local offices. (Verizon)

RESPONSE TO COMMENTS 41, 42, AND 43: The Board does not believe the proposed rule will place an unnecessary burden on the cable company. N.J.A.C. 14:18-5.1 pertains to the local office provisions and established parameters for a franchised cable operator to petition the Board when closing or relocating a local business office that meets the requirements of N.J.S.A. 48:5A-26(d), and serves the purpose of receiving, investigating, and resolving complaints regarding the quality of service, equipment malfunctions, and similar matters. Language modifications ensure compliance with existing statutes regarding maintenance of local offices for each municipal consent or system-wide franchise service area. Pursuant to N.J.S.A. 48:5A-26(d), cable operators are required by statute to maintain a local cable office or agent, and as such, cannot be relieved of this requirement by a change in the rules. Additionally, as noted by Comcast, local office requirements are also addressed during the local franchising process, pursuant to the Federal Cable Act. Currently, all cable television companies have agreed to provide local offices or agents to meet the statutory requirements in each of their franchises and afford customers a viable route to resolve a cable complaint. Removal of these obligations would represent an unfair modification to the franchise agreements which have been negotiated with the individual municipalities, inconsistent with both Federal and State franchising procedures (N.J.S.A. 48:5A-1 et seq., 47 U.S.C. §§ 541 and 546), which require the cable operator to comply with applicable franchise laws.

The rule does not require that new offices be opened for the company to be in compliance and the Board does not intend to engage in unlawful retroactive rulemaking to apply the proposed rule to previous office closings or relocations. As amended, the rule requires that companies maintain a customer service office “either in the franchise service area or county of the area served, at a minimum.” The implementation of the rule would address future office closings and clarifies that the companies would be required to file petitions seeking Board approval should they desire to close an office that would result in the company not being in compliance with the rule. Moreover, the Board has retained the ability for companies to provide simple notice to the Board and customers where there is no municipal consent requirement for the office, or where the move of the office is within the cable television operator’s service system territory. Comcast’s proposed example of its Meadowlands system as possibly requiring that it open a new office under the new rule because it currently does not have one in Bergen County highlights Comcast’s misinterpretation of the rule. The rule states that the office be located within the franchise service area or county “at a minimum.” It does not require that an office be located in both the franchise service area and the county. It also does not require an office in every county, but merely provides relief where the provider doesn’t have an office in the franchise service area, but has an office located in the county where the municipalities in the franchise service area are located. In the example of the Meadowlands system, Comcast has municipalities located in both Bergen and Hudson County, and currently maintains an office in Jersey City, located in Hudson County. The Meadowlands system would therefore remain in compliance under the new rule without the need to open a new office. However, should Comcast seek to close the Jersey City office, it would have to seek approval from the Board since it is the sole local office serving the Meadowlands system (as well as the Jersey City system).

The proposed modifications to the rule are aimed at ensuring the availability of a designated local office in each franchise service area or county, at a minimum, to be responsive to customer needs. Despite assertions by Altice and Comcast that there are alternative solutions to the local office, the Board has received numerous reports of problems from dissatisfied cable subscribers who are unable to receive a resolution to their issues through the various digital solutions, such as IVR, email, or chat offerings, and must resort to traveling to a local office to speak to a live representative in person. It is noted that one of the primary components of the statutory office closing requirement is the ability for customers to be able to resolve “equipment malfunctions,” which evolves from the fact that the cable equipment necessary for receiving cable television service can only be obtained from the cable company. While that equipment can be shipped directly, this may cause unnecessary delays when that equipment is necessary to maintain service. Similarly, customers needing to either exchange or return equipment when discontinuing service are burdened with mailing the equipment to the company and may be held responsible for reimbursing the company if the equipment does not arrive. Many customers prefer returning equipment to the local office to ensure it arrives, as well as the added comfort of receiving a receipt confirming the return in case of any discrepancies.

The Board does not agree that different standards are needed for municipal consent-based franchisees and system-wide franchisees to address perceived disparities. A franchised cable television provider is required to comply with applicable Federal and State franchise laws. In New Jersey, a cable television company is required to have a franchise to operate in municipal rights-of-way by applying for either a municipal consent-based franchise or a system-wide franchise. Currently, Comcast may apply for either, but chooses to utilize the municipal consent-based cable franchise and is therefore bound by the rules attendant thereto. Both municipal consent-based, and system-wide franchisees are required to maintain local offices within their respective cable television franchise areas, at a level which meets the “future cable related needs” of the customers served by the franchise. The Board believes that the rules reflect Federal customer service standards that both protect the consumers and provide cable companies with clear standards for the industry, with the potential for flexibility.

Regulated entities are required to maintain local offices in their service territories, as well as seek Board approval for any changes. As codified at

N.J.A.C. 14:3-5.1, Location of offices, subsection (a) “Each utility shall maintain an office in its New Jersey service area, the current location of which shall be furnished to the Board’s Division of Customer Assistance, where applications for service, complaints, service inquiries, bill payments, and so forth, will be received.” In addition, pursuant to subsection (e), utilities seeking to close or relocate an office must apply for approval from the Board and are precluded from closing or relocating the office “until the utility has been informed, in writing, that the Board has approved such request.”

Unlike the local office requirement, which is mandated by statute for cable television providers, the local office requirement for utilities is limited to the Board’s rules as noted above at N.J.A.C. 14:3-5.1. As telecommunications service falls within the parameters of a utility service, Verizon was able to seek relief from this rule for its telecommunications services, as noted. However, Verizon’s cable television offerings under its system-wide cable franchise fall within different Federal and State statutory parameters (47 U.S.C. Sec. 521 et seq.; N.J.S.A. 48:5A-1 et seq.), which include the local office requirement.

Subchapter 6. Records

N.J.A.C. 14:18-6.1 Availability of records

44. COMMENT: The Township of Montville did not comment on the specific rule amendment but urges the BPU to make additional information readily available to members of the public with respect to complaint history, response times, technical and maintenance reviews, and service response time of the cable provider. (Montville)

RESPONSE: N.J.A.C. 14:18-6.1 requires notification to the Board of the location of records and availability of records for review by Board staff. The proposed rule amendment provides for review of records by Board staff through a computer terminal. The purpose of the amendment at N.J.A.C. 14:18-6.1(c) is to expand the availability of records as required by statute or code. The Board acknowledges the municipality’s request and commits to comply with requests for the provision of all requested information, to the extent of the legal ability to do so.

45. COMMENT: Verizon supports Board staff’s proposed amendments to this section which allows for records to be viewed electronically or on a computer terminal. (Verizon)

RESPONSE: The Board thanks Verizon for its comment.

N.J.A.C. 14:18-6.2 Plant and operating records

46. COMMENT: Verizon supports Board staff’s proposed amendments to this section, which allows the FCC records to be maintained at the designated office. (Verizon)

RESPONSE: The Board thanks Verizon for its comment.

N.J.A.C. 14:18-6.6 Reporting and records of interruptions and outages

47. COMMENT: Altice supports replacing the current requirement to notify the Board of interruptions and outages by phone at N.J.A.C. 14:18-6.6(d) with an email notice requirement. Altice claims the proposed update is appropriate given the prevalence of email in today’s workplace, and an email notice requirement would lead to clear written records of service interruptions and outages and having a single, dedicated Board email address for interruption and outage reporting will simplify this process and make outage reporting more efficient overall. (Altice)

RESPONSE: The Board thanks Altice for the comment.

48. COMMENT: Comcast believes the Board should provide relief from New Jersey’s uniquely burdensome reporting rules, which far exceed those of other jurisdictions. This includes the Board’s outage reporting regime, which imposes duplicative and illogically structured requirements that impose substantial costs on cable operators without corresponding regulatory benefits. Cable operators are required to report on outages in real-time as they occur. In addition, they must submit detailed monthly outage reports which are duplicative of the real-time reports. Moreover, because they are triggered by interruptions affecting as few as 50 customers for as little as two hours, they are not helpful to Board staff in monitoring for any systemic issues. The Board should therefore eliminate subsection (a) of rule N.J.A.C. 14:18-6.6 entirely. Alternatively, the Board should at least limit monthly outage reports to outages affecting 10,000 customers for four hours or more. These are the very same criteria that the current rule uses for real-time after-hours outage reporting in

subsection (d) of the same rule. While this approach would still be duplicative of real-time reports, applying the 10,000 customer/four-hour criteria to all monthly outage reports would enable Board staff to focus on more significant outages that may warrant further monitoring, while also reducing the burdens on cable operators.

In addition, the Board should eliminate the unexplained discrepancy in its existing rule between the real-time reporting requirements for outages that occur after business hours and other outages. Because the 10,000 customers/four-hours after-hours outage reporting standard would streamline the Board's monitoring for potential systemic issues, and is also more reasonable for cable operators, this standard should be adopted for all outages. Finally, the Board should permit commonly owned legal entities to file a single Statewide monthly outage report, to the extent those requirements are retained. Comcast contends a single Statewide report would streamline the process for both cable operators and BPU staff, while also reducing arbitrary disparities in the regulatory burdens faced by municipal consent and system-wide franchisees. (Comcast)

49. COMMENT: NJCTA seeks modifications to the rule to harmonize outage reporting standards into a single standard that mirrors the off-hour reporting threshold. It also supports Comcast's recommendation that the Board eliminate subsection (a) of rule N.J.A.C. 14:18-6.6 entirely, and that the Board should permit commonly owned legal entities to file a single Statewide monthly outage report if it continues requiring monthly reporting. (NJCTA)

50. COMMENT: Verizon echoes its previous support of Comcast's proposals to eliminate subsection (a) and amend subsections (b) and (c), and further states that these revisions would be steps in the right direction for the reasons enumerated in the Comcast comments. Should the Board choose not to adopt Comcast's proposals, it should proceed with its proposed revisions which allow for flexibility in the manner by which companies can provide notification. (Verizon)

RESPONSE TO COMMENTS 48, 49, AND 50: The rule serves to update the method of reporting to allow for electronic submissions and does not modify the substance of the well-established and necessary requirement of maintaining a dialogue between cable operators and the Board during an outage, emergency, or significant system affecting events. The rule provides for reporting in such situations so that the Board obtains needed information to fulfill their responsibility to regulate cable operators. Absent up-to-date reporting during the course of an outage, the Board is unable to monitor service impacting situations and ensure the protection of the interests of customers and the safety of the service provided. The monthly reports are not considered duplicative or unnecessary. Experience has proven that information regarding the causes of outages develop following their occurrence and, thus, the monthly reports provide a mechanism to share with the Board the findings of the company following an assessment of the event. The Board does not believe that any of the rules conflict or exceed Federal standards. The rules are consumer protection provisions and are not preempted by the Federal Cable Act. Moreover, the Board believes it cannot address and ensure the provision of safe, adequate, and proper service without information regarding the status of service.

Additionally, the Board notes with respect to Comcast's recommendation for filing a single Statewide report, the rule does not require companies to file outage reports by system, so Comcast or any other company can currently file a single Statewide report.

51. COMMENT: The Township of Montville requests that the rules require that outages of 50 or more customers be reported to the municipality's Police Department and Administration along with the reason for the outage, the anticipated restoration date, and the availability of temporary "hotspots" for Internet access. (Montville)

RESPONSE: N.J.A.C. 14:18-6.6 requires the reporting and recordkeeping of interruptions and outages by cable television operators. The rules eliminate the requirement for telephone contact and permit electronic reporting of information pertaining to interruptions and outages to be considered a sufficient means of communication. The Legislature vested in the Board's OCTV the authority to develop and enforce technical standards pursuant to FCC requirements. Furthermore, due to the number of municipalities in the State, to require the cable operators to provide this information to both the Board and the affected municipalities would be onerous and overly burdensome to the cable operators as well

as the affected municipalities. The proposed additional requirement to report outages to municipal enforcement entities is not considered a necessary modification as the existing regulatory construct is satisfactory in the regulation of cable operators. Therefore, additional modifications will not be adopted. Chapter 18 governs cable television providers and does not extend to Internet service which is not under the Board's jurisdiction.

N.J.A.C. 14:18-6.7 Complaint recording and reporting

52. COMMENT: Comcast urges the Board to eliminate the annual privacy waiver requirement at N.J.A.C. 14:18-6.7. The well-intentioned purpose of this requirement is to enable Comcast and other cable operators to disclose complaint records that may contain New Jersey customers' personally identifiable information (PII) to BPU staff upon request. But the required consent forms are incapable of serving that purpose because they do not—and cannot—satisfy applicable legal prerequisites for an informed, knowing consent by a customer to disclose PII. Any cable operator that relied on these forms would unquestionably violate State and Federal privacy laws, exposing the cable operator and possibly the Board to legal claims and action. This is not the result of any specific problem with the current "customer consent" form itself. Rather, reliance on *any* "customer consent" form that purports to provide advance authorization over an indefinite period of time for the disclosure of any PII requested by BPU staff would necessarily violate Federal and State privacy laws. Because of this rule, Comcast spends a large amount of money annually to mail the legally invalid consent form to each of its customers. The waiver request likely confuses most customers, and few bother to complete and return it. The principal result of this process is substantial amounts of wasted money, paper, and time every year. For all these reasons, it is untenable for Comcast to continue collecting these consent forms for their intended purpose, absent full indemnification, which it is unclear whether the Board has authority to or would ever provide. The Board should eliminate the requirement and instead direct cable operators to cooperate with BPU staff to obtain individual knowing and informed waivers that comply with Federal and State law in the event that specific circumstances requiring the disclosure of PII to evaluate complaint-related issues ever arise. (Comcast)

53. COMMENT: NJCTA asserts that their members spend large sums to prepare and mail a request to customers asking that they waive their privacy rights. (NJCTA)

54. COMMENT: Verizon proposes to eliminate N.J.A.C. 14:18-6.7, Complaint recording and reporting requirement, to annually obtain privacy waivers from each customer for the release of personally identifiable information to staff. (Verizon)

RESPONSE TO COMMENTS 52, 53, AND 54: The Board believes the rule is reflective of Federal requirements for consumer protection of PII and being an annual notice is not unduly burdensome. The requirements regarding notification of personally identifiable information are set forth at N.J.S.A. 48:5A-56 and, accordingly, must be maintained in the rules. In many instances, the cable operator provides the notice as part of the monthly billing statement, which minimizes the cost associated with compliance. The Board rules set forth herein are consistent with Federal and State statutes and are necessary and appropriate.

Subchapter 7. Reports and Filings

N.J.A.C. 14:18-7.1 Periodic reports

55. COMMENT: Comcast requests that the Board rationalize the extensive reporting burdens on cable operators by streamlining the annual Cable Facts questionnaire requirement, as suggested in the markup provided in Exhibit 2 of their comments and substituting annual Securities and Exchange Commission (SEC) filings for the financial forms required to be filed. The Board should also eliminate duplicative reporting by individual legal entities by allowing separate entities that share the same corporate parent to submit a single Statewide report. This would reduce the associated burdens on both BPU staff and cable operators without any adverse regulatory impact. In addition, the Board should revise the financial reporting requirements for companies that already make robust financial disclosures pursuant to SEC regulations. Such financial disclosures are readily accessible online by any member of the public, including BPU staff. These Federal law requirements make it unnecessary

for the Board to require the same financial information to be separately reported under a redundant BPU rule that requires Comcast to develop a report that is effectively an estimate of the finances of the New Jersey portion of a larger multi-state operating unit. Comcast suggests Board staff look the documents up online. (Comcast)

56. COMMENT: Verizon concurs with the recommendation to remove unnecessary requirements from the Cable Facts report. (Verizon)

57. COMMENT: NJCTA is concerned by the tremendous imbalance between the regulatory relief it is requesting on behalf of its member companies and the limited relief provided in the draft proposal. The member companies' individual proposals suggest that the Board modify the rules in ways that provide substantial relief to cable operators without any adverse consequences to the Board's oversight functions. NJCTA members assert that they already spend an extraordinary amount of time and personnel resources creating and filing numerous reports, including Cable Facts multiple financial reports, schedules of prices, terms, and conditions, outage reports, and proof of performance filings. Much of the information they contend can be provided on an as needed basis. Like Comcast, they seek more streamlined reporting, whereby an operator is considered in compliance with the rules if the ultimate parent company of the cable operator files the necessary forms with the SEC and provides Board staff with the URL associated with the same and a statement of revenues. (NJCTA)

RESPONSE TO COMMENTS 55, 56, AND 57: The Board has reviewed the comments and notes that the general powers of the Board contained at N.J.S.A. 48:5A-9(b) and 10 enable the Board to seek certain reports including Cable Facts from Cable Television companies. One of the most important annual filings is the Cable Facts report since the information provided is invaluable to fulfill the statutory duties of the Board to supervise and regulate cable companies operating within the State. The report provides updated annual information regarding the operation of the system, including, but not limited to, technical specifications, infrastructure upgrades, and subscriber counts, which is useful in the Board's historical analysis of the cable television marketplace, as well as addressing various public inquiries in a timely fashion. The Board has considered the cable industry concerns and has weighed them against the benefits of the filing of necessary information in the format set forth in the rules. The filings and format adopted are essential to the governance of cable operators. Notwithstanding, the Board has streamlined several reports, including Cable Facts to address cable company's concerns.

N.J.A.C. 14:18-7.3 Other filings

58. COMMENT: Comcast appreciates that the Notice proposes to eliminate the tariff filing requirement at N.J.A.C. 14:18-3.4, as well as the requirement to notify the Board of price changes at N.J.A.C. 14:18-3.16. However, these changes are of little practical value given the Notice's proposal to readopt similar requirements at N.J.A.C. 14:18-7.3(b) to file and update tariffs. This appears to be an inadvertent oversight that is easily fixed. As shown in Comcast's prior comments, the Board is barred by State law from requiring the filing of tariffs and Federal law expressly preempts the Board from requiring adherence to filed rates. Moreover, to the extent the Board has any concerns about a cable operator's rate practices, the Board would retain ample authority to address any complaints regarding cable service charges. To correct this problem, the Board should eliminate N.J.A.C. 14:18-7.3(b). Alternatively, Comcast proposed changes to the rule that would align with the permissive approach to tariff filing currently applicable to telephone companies in New Jersey. (Comcast)

RESPONSE: The Federal rules at 47 C.F.R. 76.1602 require the information be provided to the customer or applicant upon request. Accordingly, the rule is consistent with applicable law. Comcast has misunderstood the modifications proposed at N.J.A.C. 14:18-3.4 as they did not serve to eliminate the requirement of filing prices, terms, and conditions with the Board. The elimination in the rule served to remove cable operators' obligations to post the same in the local offices maintained by cable operators. N.J.A.C. 14:18-7.3(b) is distinguishable. The Board believes this filing is appropriate to keep staff informed and assist customers.

N.J.A.C. 14:18-7.4 Notice of system rebuilds, upgrades, hub, and headend relocations

59. COMMENT: Comcast asserts the Board should eliminate the notices required by this rule. Its regulatory purpose remains unclear. The record shows that such notices contain highly sensitive information, including the exact locations of key network infrastructure. The routine submission of such information creates serious security, confidentiality, and public safety risks because no computer system or network can be fully secured against cyber attacks, minimizing the number of computer systems on which such information resides is the most effective way to reduce such risks. Conversely, the routine disclosure of highly sensitive information, even on a confidential basis to a well-intentioned party that prioritizes cyber security, necessarily multiplies the risk of a potentially disastrous disclosure, whether inadvertent or malicious. Given the spate of recent cyber attacks across the country, the Board should delete rule N.J.A.C. 14:18-7.4. Any requests for such highly sensitive information should be supported by a clear demonstration of a specific need for it on a case-by-case basis, with assurances that such information will be promptly returned or destroyed once that need has passed. (Comcast)

RESPONSE: The Board has reviewed the comment, and notes that all this information is currently required in applications for initial and renewal Certificate of Approval applications as part of the franchising process, as well as annual Cable Facts submissions and potentially as part of other required filings. All information considered proprietary by the company is appropriately protected and handled accordingly. Board staff utilizes filed information on system rebuilds, upgrades, and hub and headend locations on a regular basis. Examples include the analysis of technical sufficiency in the case of rebuild and upgrade information, and of technical complaints, including outages, in the case of hubs and headends to determine common sources of problems and issues of concern. Therefore, the Board declines to eliminate the rule as requested.

N.J.A.C. 14:18-7.5 Written procedures for use of public, educational, and governmental access channels

60. COMMENT: Comcast believes that the Board should eliminate the requirements at N.J.A.C. 14:18-7.5, Written procedures for use of public, educational, and governmental access channels, to keep public, educational, and governmental (PEG) studio operational rules at local offices and to post notices of their availability in local offices. In the unlikely event that a customer were to travel to a cable operator's local office for such information (rather than simply performing a Google search or calling or emailing the cable operator or the PEG channel operator), that person could be directed to the appropriate PEG studio. (Comcast)

RESPONSE: The rule, in conjunction with the Federal and State statutes provides requested information in an easily viewable format to the public. Comcast has stated that the PEG rules are readily available, however the Board's OCTV continually receives requests for this information. It is considered one of the most frequent inquires staff receives. Furthermore, Board staff notes that the information is not readily available online. More importantly, persons who are not current customers of a cable operator cannot easily access the information. Therefore, the Board declines the proposal to eliminate requirements at N.J.A.C. 14:18-7.5.

N.J.A.C. 14:18-7.9 Cable service quality standards

61. COMMENT: Altice requested several changes to the proposed rule. At subsection (b)3, it requests that all standards be limited to services provided during normal operating conditions, clarification the 30-minute timeframe begins when a customer requests a callback, that the exemption in the rules should be expanded to include other channels providing real-time interaction with a customer representative and clarification when timeframes require resetting due to customer requests. (Altice)

62. COMMENT: Verizon opposes any additional service quality standards and believes that the reporting in this section makes no sense given the extremely competitive video market in the State. (Verizon)

63. COMMENT: NJCTA expresses concern about the new proposed service quality metrics and the imposition of related quarterly reporting. NJCTA encourages the Board to adopt the same regulatory approach to service quality reporting as it recently did in the Chapter 10, Telephone

rules readoption proceeding. NJCTA further asserts that the proposed rule does not account for circumstances in which the customer requests an installation beyond the seven-day window. In addition, the proposed rule does not address the point at which the 14-day time period begins to run, situations beyond the operator's control that impede resolution, or whether the time period restarts when the customer reschedules the appointment or misses a scheduled appointment. NJCTA stated that "Repeat Trouble Report" is not defined and that being precise about what constitutes a repeat trouble report is necessary due to the complexity of cable service repair issues, which occurred due to the pandemic (that is, customer self-installations and self-help solutions). (NJCTA)

64. COMMENT: Comcast's recommended changes to the Mean Time to Install, proposed metric subsection (b)4 to account for circumstances in which the customer requests a later installation date. Regarding Repeat Trouble Reports, Comcast contends proposed subsection (b)8 does not define "repeat service trouble reports," and it is unclear whether the rule would cover the kinds of telephone or chat requests that frequently precede a determination that a visit by a service technician is necessary. Comcast asserts that self-help efforts often result in multiple contacts and Comcast argues it should not be penalized for such situations. Particularly since the pandemic hit, customers have increasingly preferred self-help solutions over having a technician visit their home. The rule should clearly state that it is only triggered when a second service technician visit is necessary to address cable service issues that were unaddressed by and within the control of the cable operator during a first visit. Comcast seeks the rule be modified to reflect, if the customer reschedules the appointment after it is made or is absent from the premises during the appointment window, the 14-day period shall be restarted on the day on which a rescheduled appointment is made. Comcast asserts that the proposed rules would be problematic when the customer requests a later date.

Concerning quarterly reports, the proposed rule would require cable operators to report on the new customer service standards each quarter, even if they have fully complied with those standards. Comcast proposes language be included that provides that, "Each cable provider, upon request of Board staff, or if the provider fails to meet any standard set forth in subsection (b) for three consecutive months shall file with the Office a quarterly report of its performance in relation to that standard set forth herein at section (b) for a period not to exceed one year. The report shall include a list of the standards, the metrics that have not been met, the corrective action taken, and the completion date. Cable companies and cable systems that share the same ultimate corporate parent may submit a single statewide report."

Comcast alleges there is no basis for the additional reporting burdens. Customer service complaints have markedly declined since the Board's 2014 deregulatory readoption order. Having to report on these standards every quarter, even in the absence of noncompliance, is excessive and would require significant resources and capital to implement. In contrast, as recently as November 15, 2021, the Board reaffirmed its view that self-reporting is a reasonable mechanism by which to satisfy itself that jurisdictional companies are complying with the Board's service quality metrics. The Board has proposed to readopt performance-based reporting for telephone companies that are subject to N.J.A.C. 14:10, which triggers reporting only if a company fails to meet the applicable standards for three consecutive months or in response to a BPU staff request. A performance-based framework makes sense and is good regulatory policy because it incents good behavior. (Comcast)

RESPONSE TO COMMENTS 61, 62, 63, AND 64: New N.J.A.C. 14:18-7.9, Cable service quality standards, provides performance standards to ensure safe, adequate, and proper provisioning of service in a timely and efficient manner to all customers. The standards address the handling of calls to the business office, installations, appointments, the resolution of service calls, and attendant reporting requirements. The commenters seek clarification when the 30-minute timeframe at (b)3 commences for a customer callback. The rule provides the call be returned within 30 minutes of initiation of contact by the customer to minimize delays in addressing consumer queries. Responding to customer calls is measured in the metric. Chats over the internet between consumers and the cable operator are not part of the service quality metric.

Adding contingencies to the reporting requirements frustrates the intent of the rule, that being to secure an understanding of how the company is performing and what measures/areas need to be addressed to improve the quality of service provided. Limiting reporting of repeat trouble reports to those involving a second technician visit limits the scope and intent of the rule which is to measure situations involving repeated calls to the cable operator regarding a multitude of varying situations not restricted to those requiring multiple visits. The Board clarifies that contrary to the representations of the commenters, customer initiated scheduling changes beyond the seven- and 14-day window do not fall within the metric. Instances where the customer has requested a date outside the prescribed window are not intended to be included within the measured metric.

Regarding the NJCTA assertion that situations beyond the operator's control that impede resolution are not a consideration in the rules, the rules specify at (a) that the Board may suspend application of any provision in the chapter for periods of emergency, catastrophe, natural disasters, or other events the Board considers beyond the control of the cable company.

Several commenters requested a definition of a "repeat trouble report." The Board finds that this term it is a common industry term which is measured by several companies and needs no definition; however, regarding the commenters' request for a definition of a "repeat trouble report" for purposes of N.J.A.C. 14:18-7.9(b)8, we define it as a call that is initiated by a customer regarding service that is not resolved upon initial contact with the cable operator, and thus results in subsequent contact with the cable company regarding the same issue.

Federal statutes allow a franchising authority to establish and enforce customer service requirements of the cable operator which must be applied uniformly. The Board has considered the cable industry concerns and has weighed them against the benefits of the monitoring of the quality of service through measured standards. Reporting is an essential means of assessing the quality of service provided by cable operators. Barring reporting handicaps, the Board's ability to evaluate the provisioning of services throughout the State. The Board appreciates the cable companies' comments but disagrees with the proposed changes.

65. COMMENT: NJCTA urges the Board not to adopt an arbitrary requirement for a 30-minute call back and states that this rigid standard does not allow for the flexibility that cable operators need to manage the ebbs and flows of customer call volume during unusual or severe events. (NJCTA)

RESPONSE: At subsection (a) of the rule, the Board may suspend application of the rule in the event of a natural disaster, emergency, catastrophe, or other event beyond the company's control. Similar to the other reporting provisions, the measurements are considered "under normal operating conditions" which would exempt occurrences during unusual or severe events. As the rules provide for relief during emergencies, the Board does not believe the 30-minute call back time will interfere with the provider's ability to manage its customer service operations.

66. COMMENT: N.J.A.C. 14:18-7.9(b)4 indicates that mean time to install is proposed at seven business days. The Township of Montville believes that five business days is more appropriate to provide the service. (Montville)

RESPONSE: N.J.A.C. 14:18-7.9, Cable service quality standards, provides performance standards to ensure safe, adequate, and proper provisioning of service in a timely and efficient manner to all customers. The standards address the handling of calls to the business office, installations, appointments, the resolution of service calls, and attendant reporting requirements. The Board, as the franchising authority, has the sole authority to enforce certain technical or customer service provisions as stipulated by statute or rules in relation to cable television and has proposed the above to reflect current applicable Federal rules. The Legislature vested in the OCTV the authority to develop and enforce service quality standards not inconsistent with FCC requirements. This authority, therefore, preempts the municipality's ability to set such service quality standards. The Board believes that the seven business day timeframe is an appropriate standard that the cable company can reasonably comply with for standard installations. The cable operator must complete 95 percent of standard installations within the established timeframes of the rule. Cutting the timeframe for installation by two days would establish an unreasonable standard.

67. COMMENT: Proposed new N.J.A.C. 14:18-7.9(b)5 indicates that call resolution must be within 14 days. The Township of Montville commented this is much too long, many people cannot work or attend school without internet; therefore, the Township insists that the call resolution time be three days. (Montville)

RESPONSE: The Board carefully considered the appropriate timeframe for compliance and believes that the 14-day period as proposed is an appropriate and reasonable standard that allows the cable company time to address the resolution of both routine and complex service calls. A shorter timeframe as proposed by the commenter would not allow the company sufficient time to allocate personnel and resources necessary to resolve the service call. The Board appreciates the comment but disagrees with the proposed change. Additionally, the Board notes that it does not regulate internet service.

68. COMMENT: Proposed new N.J.A.C. 14:18-7.9(b)6 addresses appointments. The Township of Montville recommended that service calls should be rescheduled within four business days at a time convenient for the customer. (Montville)

RESPONSE: The Board understands the municipality's perspective; however, as stated, the rules pertain to cable television and the proposed changes are consistent with Federal and State rules. The recommendation to reschedule service calls within a four-day time period imposes an unreasonable burden on cable operators to sufficiently allocate personnel and resources necessary to resolve the service call. In addition, customers may not be available within the four-day time frame proposed. The Board appreciates the comment but disagrees with the proposed change.

69. COMMENT: Proposed new rule N.J.A.C. 14:18-7.9(b)7 indicates that work to resolve service interruptions should be commenced within 24 hours after interruption. The Township of Montville believes this is unacceptable. Service interruptions should begin to be addressed between four and 12 hours after interruption becomes known. Additionally, if a service interruption lasts more than two days, then the company should be required to appoint a customer service representative with a direct telephone number and texting capability that will be responsive to customers' communications. (Montville)

RESPONSE: The Board notes that often-times the resolution of outages is impacted by a third party, and by situations out of the control of the cable operator. Pursuant to N.J.A.C. 14:18-3.6, the cable operator must provide 24-hour access to customer service representatives, and "such representatives shall be able to contact appropriate personnel in the event an emergency situation exists." Requiring a designated customer service representative as recommended by the Township would unduly burden the cable operator and hamper its ability to adequately manage personnel and resources to respond to customer concerns. The Board believes the rules provide a reasonable response timeframe and therefore declines to make the suggested amendment.

70. COMMENT: Proposed new rule N.J.A.C. 14:18-7.9(b)8 requires that at least 90 percent of repeat trouble calls must be completed within 14 days. The Township of Montville finds this type of call extremely troublesome and should be given top priority. Therefore, the Township recommends that the rule be amended to require 98 percent of repeat service calls to be addressed within seven days. Additionally, the company should be required to provide the name and direct telephone number to a customer service representative so that the customer can be kept informed as to the situation and resolution. (Montville)

RESPONSE: The Board understands the municipality's perspective; however, the recommended shortening of the timeframe proposed sets an unreasonable standard. The Board appreciates the comment but disagrees with the proposed change.

71. COMMENT: With respect to cable service quality standards pursuant to rule N.J.A.C. 14:18-7.9, the Township of Montville urges the Board to require that the cable provider file quarterly reports with the Township with respect to its performance standards and the report include not only a list of standards and the metrics that have not been met, but the actual details of response time and actual customer data as opposed to just a summary of customer data. Members of the public should have the right to verify the accuracy of this data. (Montville)

RESPONSE: The Board, as the franchising authority, has the ability to enforce certain technical and customer service provisions as stipulated by statute or rules. Accordingly, the Board is the appropriate entity to which

cable operators must remit reports regarding performance. The Board appreciates the comments but disagrees with the proposed changes. To provide this information to both the Board and the affected municipalities would be onerous and overly burdensome to the cable operators as well as the affected municipalities. Additionally, the data included in the reports contains non-public confidential information related to the public safety and reliability of the operator's networks, for which the company has traditionally requested confidential treatment.

Subchapter 8. Liability Insurance

N.J.A.C. 14:18-8.1 Liability insurance

72. COMMENT: Comcast requests the Board eliminate N.J.A.C. 14:18-8.1, requiring submission of proof of liability insurance for companies subject to SEC regulation. Preparing and submitting copies of proofs of insurance, which run to hundreds of pages is highly burdensome. (Comcast)

73. COMMENT: Verizon supports Comcast's proposal to amend N.J.A.C. 14:18-8.1, Liability insurance, subsection (a). Verizon claims the filing is archaic, duplicative, and wholly unnecessary for companies under SEC regulation to also be required to annually file certificates of insurance with the Board. (Verizon)

RESPONSE TO COMMENTS 72 AND 73: Pursuant to N.J.S.A. 48:5A-28(f), evidence of sufficient liability insurance is required to be provided for each municipal consent or franchise application.

Subchapter 9. Testing of Service

N.J.A.C. 14:18-9.2 Proof of performance

74. COMMENT: Comcast requests that the Board delete this obsolete requirement, which continues to impose burdens on cable operators despite having no relevance whatsoever to modern cable systems, all of which are digital. The proofs of performance referenced by this rule are for analog cable systems and no such cable systems exist in New Jersey. Comcast must spend hours twice per year to prepare and send separate letters for each legal entity, simply to parrot that these reports are no longer relevant because Comcast's network (like all others in New Jersey) is all digital. The Board should therefore eliminate rule N.J.A.C. 14:18-9.2. Absent this, the rule should at least be revised to permit cable operators to suspend the obligation to file annual proofs of performance upon the provision of a one-time certification that their network is digital. The rule could require the resumption of annual proofs should the cable operator's network return to analog. (Comcast)

RESPONSE: The Board thanks Comcast for its comments, and agrees that the requirement to conduct semiannual proof-of-performance tests of analog channels, as well as to maintain for inspection and file with the Board Office semiannually and upon request, copies of those results, are no longer applicable to operators in New Jersey with fully digital systems. However, submission of notification by a cable operator that their system is fully digital serves to relieve them of this requirement. The Board notes that Comcast already files a one-page certification with the Board indicating that their network is digital, in lieu of filing the proof of performance tests. The same applies to any cable operator with a digital system; therefore, a change in the rule is not needed at this time.

Subchapter 14. System-Wide Franchise Application and Renewal

N.J.A.C. 14:18-14.1 Application for system-wide franchise; who may apply

75. COMMENT: Altice continues to support the proposed changes as they are not inconsistent with established franchise requirements in other states. (Altice)

RESPONSE: The Board thanks Altice for their comment.

14:18-14.4 Notice of hearing

76. COMMENT: Rate Counsel recommends the Board revisit Subchapter 14, concerning notice of hearing for system-wide franchise applications at N.J.A.C. 14:18-14.4 (incorrectly cited as 14:18-14.1(a)4). N.J.A.C. 14:18-14.4(a)4 allows for public comment within five business days from the last day of hearing. Rate Counsel respectfully recommends the Board increase the public comment period from five business days to, at a minimum, 10 business days from the last day of hearing to allow parties an opportunity to review and provide meaningful comment on any

supplemental information. As currently worded, the proposed modification would limit and impinge upon the public's due process rights to provide meaningful and complete comments on a system-wide franchise filing. More importantly, the time frames proposed would frustrate the Board's access to a full review process which is contrary to the public interest and may ultimately adversely affect both ratepayers and cable service operators. (Rate Counsel)

RESPONSE: The amendments to N.J.A.C. 14:18-14.4 provides that the notice of hearing contains information as to how parties may file comments electronically within five business days of the last day of hearings for system-wide franchises. This section enumerates the information that must be contained in the notice of hearing, which must be published, at the latest, on the 10th day prior to the hearing. The proposed amendment clarifies that comments must be provided within five business days of the last day of the hearing. Parties therefore receive advance notice for comments at least fifteen days prior to the deadline for their submissions following the conclusion of the hearing. The Board believes the timeframe for comments as proposed is sufficient and therefore declines to make the change.

77. COMMENT: Altice continues to support the proposed amendments to N.J.A.C. 14:18-14.4, which would add reasonable procedural requirements governing the process for evaluating applications for system-wide franchises. (Altice)

RESPONSE: The Board thanks Altice for their comment.

N.J.A.C. 14:18-14.6 Amendments to application; notice

78. COMMENT: Altice continues to support the proposed amendments at N.J.A.C. 14:18-14.6, which would add reasonable procedural requirements governing the process for evaluating applications for system-wide franchises. (Altice)

RESPONSE: The Board thanks Altice for their comment.

N.J.A.C. 14:18-14.7 Additional information other than amendatory; notice

79. COMMENT: Altice continues to support the proposed amendments at N.J.A.C. 14:18-14.7, which would add reasonable procedural requirements governing the process for evaluating applications for system-wide franchises. (Altice)

RESPONSE: The Board thanks Altice for their comment.

80. COMMENT: Rate Counsel recommends the Board revisit Subchapter 14, concerning system-wide franchise application and renewal and review. At N.J.A.C. 14:8-14.7(a) and (b), parties may supplement the record no later than five days after the close of the hearing. Rate Counsel respectfully seeks the Board increase the time period for supplementing the record from five business days to, at a minimum, 10 business days from the last day of hearing, consistent with their recommended changes at N.J.A.C. 14:18-14.4, to allow parties an opportunity to review and provide meaningful comment on any supplemental information. As currently worded, the proposed modification would limit and impinge upon the public's due process rights to provide meaningful and complete comments on a system-wide franchise filing. More importantly, the time frames proposed would frustrate the Board's access to a full review process which is contrary to the public interest and may ultimately adversely affect both ratepayers and cable service operators. (Rate Counsel)

RESPONSE: N.J.A.C. 14:18-14.7 delineates how a system-wide franchise applicant may supplement its filing if the information filed is not amendatory. The Board has reviewed the comments made by Rate Counsel to extend the period for the submission of supplemental information to 10 days and believes the proposal protracts the process and limits the Board's timeframe for review of the application which is governed by specific timeframes set forth at N.J.S.A. 48:5A-16(f) and therefore the five-day period is sufficient and the Board declines to make the change.

N.J.A.C. 14:18-14.17 System-wide franchise renewal pre-proposal phase

81. COMMENT: Altice continues to support the proposed amendments at N.J.A.C. 14:18-14.17, which would add reasonable procedural requirements governing the process for evaluating applications for system-wide franchises. (Altice)

RESPONSE: The Board thanks Altice for their comment.

14:18-14.18 Application for renewal of a system-wide franchise

82. COMMENT: Altice supports the proposed amendments at N.J.A.C. 14:18-14.18, which would add reasonable procedural requirements governing the process for evaluating applications for system-wide franchises. (Altice)

RESPONSE: The Board thanks Altice for their comment.

Subchapter 15. System-Wide Franchise Terms and Conditions

N.J.A.C. 14:18-15.4 Public, educational, and governmental access channels; return lines; interconnection

83. COMMENT: Altice opposes the revision to the rule that requires the cable company to provide PEG channels in the same manner as other channels, thereby requiring high-definition transmission, the same tier placement and on an equal footing with broadcast channels. Altice argues this modification is unnecessary and is not authorized by the Federal Cable Act. (Altice)

84. COMMENT: NJCTA objects to the Board's proposal, which it asserts is preempted by Federal law, to allow municipalities to direct the format of programming on cable channel lineups. The NJCTA states the need for the PEG platform has been eclipsed by social media platforms such as YouTube and Facebook. (NJCTA)

85. COMMENT: Verizon states that the Board would violate Federal law and exceed its statutory authority under N.J.S.A. 48:5A-28(i) if it enacts its proposed rule that would require a system-wide cable operator's PEG channels to be offered in the same manner as other cable channel offerings upon a municipality's request. Verizon comments that Federal law limits the right of local franchise authorities to require PEG channel capacity to only that amount of capacity that is adequate to meet demonstrated community needs and requires that the costs of meeting those needs be considered. (Verizon)

RESPONSE TO COMMENTS 83, 84, AND 85: N.J.A.C. 14:18-15.4 sets forth the rules for the provision of public, educational, and governmental (PEG) access channels, return lines, interconnection of the cable television companies within a particular municipality, and for disputes between municipalities and cable television companies regarding interconnection. Contrary to the commenters' assertions, the Board is not specifying that the companies carry PEG channels in any specific format or technical standard. To be clear, the rule does not specify, nor does the Board intend to require, that operators carry PEG channels in any particular high-definition format, such as 1080i/p, 720p, 4K, or 8K, a resolution mentioned in Altice's comments which is, by all accounts, not yet offered by any cable operator in the United States. The intent of the revised rule is to prevent any operator from provisioning PEG channels in a format inferior to all other commercial channels on their systems. If any number of commercial channels (such as sub-channels carried by over-the-air broadcast stations) carried by an operator are transmitted to them in a standard definition format such as 480p, PEG channels offered by the operator could be provided in the same format pursuant to the rule. An operator would not be allowed to materially degrade or limit the bandwidth of a PEG channel available to the operator in a high-definition format if, in the future, all the commercial channels offered by the operator were carried in high-definition format. At the current time, a PEG channel could not be carried in analog format where all other channels carried by the operator were carried in digital standard definition 480p or greater resolution. This would apply anywhere in the transmission chain, provided the channel originates in a standard definition digital format at a minimum. The Board has reviewed the proposed rule amendment, and believes it is consistent with and does not exceed the Board's authority and serves to ensure PEG channels are furnished in the same manner and quality as other channels supplied by the cable operator.

N.J.A.C. 14:18-15.6 Equipment and training

86. COMMENT: Altice does not support this proposal, claiming it is not necessary and burdens cable operators since municipalities are aware of the Board's rules and requiring cable operators to designate a company representative for PEG training is not necessary. However, Altice supports efforts by the Board to develop its own guidance for municipalities to operate PEG channels. (Altice)

RESPONSE: N.J.A.C. 14:18-15.6 requires system-wide franchise holders to provide equipment and training for PEG access purposes,

consistent with the statutory commitment at N.J.S.A. 48:5A-28(I). The Board has received numerous complaints from municipalities unable to obtain information from the company as to the designated representative to contact to arrange for PEG access training and equipment, as required under the Board's rules franchise and rules. The amendments address those concerns by requiring the companies provide notice to municipalities regarding the availability of equipment and training of PEG access users by company representatives within 60 days of approval of a system-wide franchise, as well as annual notice to all affected municipalities of the training offered and the designated personnel to contact regarding training. The Board believes that the rule as proposed meets Federal and State statutes and will provide requested relief to the municipalities, as well as provide specific direction to cable operators, so they may plan accordingly.

Subchapter 16. Miscellaneous Provisions

Formerly N.J.A.C. 14:18-16.7 Effective competition (Deleted in Notice of Proposal)

87. COMMENT: Altice requests that the effective competition rule at N.J.A.C. 14:18-16.7, deleted in the Notice of Proposal, be retained and amended to clarify that the cable operators are now exempt from all of the rules listed, rather than requiring them to seek relief. (Altice)

88. COMMENT: Comcast claims the Board should reject the Notice's proposal to delete N.J.A.C. 14:18-16.7, because it is not obsolete and deleting this provision would violate Federal law. The Board is expressly prohibited from regulating cable operators' rates. N.J.A.C. 14:18-16.7 is the mechanism in the BPU rules for cable operators to seek relief from the requirement to prorate initial and final bills at N.J.A.C. 14:18-3.8(c), which has been held to constitute rate regulation that cannot apply to cable operators subject to effective competition. Given the Notice's proposal to retain N.J.A.C. 14:18-3.8(c), Federal law requires that cable operators be able to seek relief from it, which is precisely what N.J.A.C. 14:18-16.7 currently does. Comcast contends elimination of the rule creates an uneven playing field since some providers have not sought the relief provided for by this section. (Comcast)

89. COMMENT: Verizon comments that it is nonsensical to eliminate any relief available to effective competitors from certain Chapter 18 obligations. (Verizon)

RESPONSE TO COMMENTS 87, 88, AND 89: The distinction between effective competition operators and non-effective competition operators was the impetus for the adoption of N.J.A.C. 14:18-16.7 and a review of the rules indicates it is no longer necessary given the FCC's presumption of effective competition for all operators. This finding of effective competition by the FCC negates the need for this section to be maintained within the Board's rules. The rule modification does not impact cable providers' ability to seek relief from any of the provisions contained in the rules. At any time, any operator can seek a waiver of any of the Board's rules pursuant to N.J.A.C. 14:1-1.2, provided the criteria for the same are satisfied. The Board acknowledges the issue of billing proration as rate regulation is the subject of pending litigation and may need to be revisited depending on the outcome of that litigation.

N.J.A.C. 14:18-16.8 Violations

90. COMMENT: Altice opposes the proposed rule and maintains the Board does not have the authority to adopt automatic penalty assessments and should clarify that the "failure to file a full and complete response" standard would not permit staff to pursue penalties for incomplete responses from the cable operator. (Altice)

91. COMMENT: Comcast believes that adopting the Notice's proposed revisions to N.J.A.C. 14:18-16.8(a) would violate multiple provisions of State law, including the CTA, the Penalty Enforcement Law of 1999 ("PEL"), and the APA. It would also violate cable operators' due process rights under the New Jersey Constitution. (Comcast)

92. COMMENT: NJCTA asserts that the proposed changes to the rules pertaining to enforcement and violations effectively create both automatic findings of guilt and automatic assessment of maximum penalties for either unresponsiveness or insufficient responsiveness. It claims that because the proposed language does not contemplate an opportunity for cable operators to be heard either on the enforcement matter itself or the

associated fine, it violates applicable Federal and State statutes and rules. (NJCTA)

93. COMMENT: Verizon appreciates the Board's willingness to work with stakeholders and pivot away from its initial proposal to issue automatic penalties for certain violations. Unfortunately, Verizon believes that the Board's revised proposal is unworkable. Verizon asserts that the proposal would find an operator in automatic default and subject to enforcement action and penalties if the operator fails to provide responsive documentation requested by the Board. (Verizon)

RESPONSE TO COMMENTS 90, 91, 92, AND 93: N.J.A.C. 14:18-16.8 provides how the Office of Cable Television may examine violations for noncompliance by a cable television company and how a penalty may be assessed. The rulemaking adds language to require full and complete responses to alleged violations. The rule expressly establishes enforcement based "Upon notice of the failure to file a full and complete response inclusive of requested documentation within 30 days or 60 days, if extended, staff may pursue an enforcement action as set forth in this section. In the event an operator fails to respond to the notice of alleged violation, the operator shall be deemed in default, and following notice to the operator and an opportunity to cure, Board staff may present a Notice of Probable Violation to the Board and seek the issuance of a Final Order of Penalty Assessment for an assessment of the maximum penalty pursuant to N.J.S.A. 48:5A-51, without further notice to the operator." Subsection (a) of the rule provides that notice must be given, and the operator has an opportunity to respond. Accordingly, the rule provides ample due process. Cable operators have an opportunity to cure and be heard following appropriate notice. If the operators dispute the allegations in the Notice of Probable Violation the matter can be heard as a contested case. Thus, the requisite notice and due process protections are incorporated in the rule.

94. COMMENT: The Township of Montville introduced revisions to Chapter 18 in addition to those proposed by the Board in the Notice. The Township of Montville asks that the BPU consider that the rules permit a \$15,000/year reimbursement allowance for those communities that wish to perform their own technical review with respect to cable and internet services as it relates to service providers. This amount shall be reimbursed and funded by any operator that has a franchise agreement within a municipality. (Montville)

RESPONSE: The Legislature vested in the Board the authority to develop and enforce technical standards not inconsistent with FCC requirements for cable. This authority, therefore, preempts the municipality's ability to set such technical requirements. Furthermore, it is noted that all municipalities that are served by a cable franchise receive a franchise fee. The Federal Act allows franchising authorities to charge the cable operator a fee for the right to operate a cable system in that franchise area, however, the franchise fee is paid by the cable system. In New Jersey the franchise fee is either two percent or three and a half percent which is based on the applicable New Jersey statute, N.J.S.A. 48:5A-30, and is paid to the municipality annually. A municipality may use the money collected from this fee for any purpose, however, the ability to regulate and enforce technical standards still resides with the Board. As previously stated, internet is not regulated by the Board. The Board appreciates the comment but disagrees with the proposed change.

95. COMMENT: The Township of Montville contends too many customers are being charged a monthly fee for service calls. It is being sold by the company as insurance. This practice should not only be abolished, but any company engaging in such practice should be fined. The Township of Montville further suggests when a customer is not the direct cause of the problem that prompts the service call, the service should be performed at no charge to that customer. (Montville)

RESPONSE: Due to changes in Federal law, cable television rates were deregulated, therefore, the Board does not have jurisdiction over the fees the cable television company is allowed to charge for service calls. The above services are optional fees, which are up to the customer to decide if they are appropriate to utilize to forestall a potentially larger fee. Under the Township of Montville's current cable franchise terms and conditions of service, if it is a company-related issue or involves company-owned equipment, then the customer should not be charged for the dispatch of a technician.

96. COMMENT: The Township of Montville states that a clear rate schedule should be advertised and made available on the company's website. Rates should not vary from town to town, and they should not be higher in municipalities where there is no competition. (Montville)

RESPONSE: Due to changes in Federal law, cable television rates were deregulated, therefore, the cable television company is allowed to establish their rates. It is noted that rates are currently available on the cable company's websites, however, some companies only allow access to their website if the party is a cable television customer of the company in question. If one is not a customer of the company, then they can request the rates from the company which will be mailed. In addition, all cable companies are required to keep a schedule of rates at the local office. The Board appreciates the comment, but the Board does not have jurisdiction over rates.

97. COMMENT: The Township of Montville requests that the BPU place a most-favored-nation "MFN" requirement in the rules and regulations, which means that cable service providers in the State of New Jersey will provide equal to or better quality of service, investment, and infrastructure within the State of New Jersey as in all other jurisdictions, which the cable provider serves. (Montville)

RESPONSE: As stated above, the Legislature vested in the Board's OCTV the authority to develop and enforce technical standards not inconsistent with FCC requirements. The Board also has the ability to promulgate customer service standards, as evidenced by the rules, pursuant to State and Federal statutes. When appropriate, an MFN has been included on a case-by-case basis. Regarding cable franchise agreements, the Board has disallowed the inclusion of an MFN because it could potentially allow the modification of franchise obligations without Board review or approval. While the parties may consider modifying the terms and conditions of a cable franchise at any time, any modification to the cable franchise would require an agreement between the parties and a formal petition for approval to the Board pursuant to N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7. For the reasons stated, the Board declines to include the requested change.

98. COMMENT: The Township of Montville contends the "franchise agreement between Altice in the State of New Jersey [sic] requires that Altice provide the State of New Jersey with a most-favored-nation status. Altice has made significant investments in the State of New York and other jurisdictions without providing the State of New Jersey or franchisees with information as to such investment, technical upgrades, and service in order to demonstrate that comparable services are provided in the State of New Jersey." The Township requests that the BPU require operators to provide information to the State, the BPU, and municipalities that evidences their adherence to the most favored nation status. (Montville)

RESPONSE: The Board has the ability to promulgate customer service standards, as evidenced by the proposed rules, pursuant to State and Federal statutes. However, it is beyond the scope of the Board's authority to require a "most-favored-nation" clause as a requirement of the rules. In some instances, such as Cable Franchise agreements, the Board has disallowed the inclusion of an MFN because it could potentially allow the modification of franchise obligations without Board review or approval. While the parties may consider modifying the terms and conditions of a cable franchise at any time, any modification to the cable franchise would require an agreement between the parties and a formal petition for approval to the Board pursuant to N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7.

Comcast's Addendum Response to Montville Comments

99. COMMENT: Comcast responded to the Township of Montville's comments, stating that the comments propose various revisions and additions to the Board's Chapter 18 cable rules, most of which are being introduced for the first time, five business days before the end of the last of three separate comment periods, in a rulemaking proceeding that has lasted nearly a year. Most of the proposals bear little or no relation to the Board's proposals in the Notice, and all of them would substantially increase the burdens and obligations imposed on cable operators compared to the Board's proposed rules. The APA requires a minimum of 30 days' notice to the public of any rule the Board intends to adopt, and any "substantial changes" to the proposals in the published Notice, such

as those contained in the Township's comments, would require republication and a new round of comments. Apart from the procedural issues raised by the Township's proposals, the Township has provided little or no explanation regarding how the proposals would work or why they should be adopted, nor do the Township's comments grapple with the numerous legal issues the proposals raise. For example, many of the proposals relate to broadband Internet service over which the Board lacks regulatory authority. Several of the proposals would improperly shift to the municipal level matters that fall under the Board's exclusive jurisdiction. The comments also lose sight of the Board's duty to balance costs and benefits in its rules, as well as its duty under State law to promote the provision of "economical and efficient cable television service." (Comcast)

RESPONSE: The Board thanks Comcast for its reply comments to Montville's comments. The Board's response to each individual comment submitted by the Township of Montville is found above.

Federal Standards Statement

N.J.S.A. 52:14B-23 requires that State agencies that adopt, readopt, or amend State rules exceeding any Federal standards or requirements include in the rulemaking a Federal standards analysis. While many of the rules adopted are the subject of Federal laws, rules, and standards at 47 CFR Part 76, upon review of the applicable Federal documents, the Board does not believe that any of the rules readopted with amendments, repeals, and a new rule conflict or exceed Federal standards. Both the amendments to existing rules, as well as, the new adopted rule adding cable service quality standards (N.J.A.C. 14:18-7.9) are deemed consumer protection provisions, which the State is not prohibited from enacting or enforcing, to the extent they are not specifically preempted by the Federal Cable Act. See 47 U.S.C. § 552(d)(1). Accordingly, N.J.S.A. 52:14B-23 does not require a Federal standards analysis for the adopted amendments.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 14:18.

Full text of the adopted amendments and new rules follow:

SUBCHAPTER 2. PLANT

14:18-2.7 Inspection of property

(a) Each cable television company shall inspect its equipment and facilities at efficiently frequent intervals to disclose conditions, if existing, which would interfere with efficient service and shall promptly take corrective action where conditions disclosed by such inspection so warrant. In the event a condition is discovered requiring repair, said repair must be completed within a 30-day period, unless repair is not feasible during such period due to causes beyond the reasonable control of the company. If such condition requires loss of service to customers, the company shall provide notice of the condition to the OCTV, the proposed date of completion and confirmation of resolution of repair and restoration to customers.

(b) (No change.)

(c) In accordance with the maintenance plan filed annually by the company, each pole, post, tower, pedestal, or other structure owned by the cable television company shall be inspected by the cable television company owning it with sufficient frequency and comprehensiveness to disclose the necessity for replacement or repair in order to maintain safe, adequate, and proper service.

SUBCHAPTER 3. CUSTOMER RIGHTS

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

(a) (No change.)

(b) Upon the request of any customer or applicant, each cable operator shall provide an explanation, in non-technical terms, of the service packages, rates, prices, charges, and provisions applicable to the services furnished or available to such customer or applicant and shall take reasonable steps to provide any information and assistance necessary to enable the customer or applicant to obtain the most affordable service conforming to the needs of such customer or applicant.

(c) Where more than one schedule of prices, rates, terms, and conditions is available to particular customers, each cable operator shall have at all times the duty to assist such customers in the selection of the schedule of prices, rates, terms, and conditions most favorable for their individual requirements and to make every reasonable effort to ensure that such customers are served under the most advantageous schedule.

(d) A cable television company shall not be required to provide notice and explanations specified at (a), (b), and (c) above, if it elects to provide such information on its Internet website in a clear, concise, and readily accessible manner, using any reasonable means and format, that accurately conveys the content of the cable television company's notices, and that allows customers and potential customers to make informed decisions based on the information contained therein.

Recodify existing (f)-(g) as (e)-(f) (No change in text.)

14:18-3.6 Access to company representative

Customer phone calls shall be answered by a representative or agent of the cable television company 24 hours a day. Such representative or agent shall be able to contact appropriate personnel of the cable television company in the event an emergency situation exists. If used by the cable system, an Automatic Response Unit (ARU) must allow an escape option by which a customer can speak to the next available operator. The cable television company may not restrict a customer's access to a live operator based upon the customer's billing status.

14:18-3.8 Method of billing

(a)-(b) (No change)

(c) A cable television company may, under uniform non-discriminatory terms and conditions, require payment, in advance, for a period not to exceed that for which bills are regularly rendered, as specified in its applicable filed schedule of prices, rates, terms, and conditions. An advance payment for a greater period shall reflect an appropriate discount for the additional period involved. Initial and final bills shall be prorated as of the date of the initial establishment and final termination of service.

(d) (No change.)

14:18-3.9 Due date of payment and notice of discontinuance

(a) (No change.)

(b) Prior to disconnection for non-payment, a customer must receive 15 days written notice from the cable television company. Such notice must be provided separately and not as part of the periodic bill. Such notice shall not be issued until 15 days beyond the due date on the previous bill. Such notice may be provided using any reasonable written means in accordance with 47 CFR 76.1600 and not inconsistent with any other applicable Federal or State statute for customers who have opted to receive electronic billing.

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

(f) A customer wishing to discontinue service must give notice to that effect, either verbally by speaking with a customer service representative on the phone or in-person, or in writing. Where such notice is not received by the cable television company, the customer shall be liable for service until such notice is received by the cable television company.

(g) (No change.)

(h) Each cable television company shall annually notify all residential customers that, upon written request, notice of disconnection of service will be sent to a designated third-party, as well as to the customer. Once a customer has made a third-party designation, notification of this provision need no longer be provided to that customer. After the initial notice, notice of this provision may be provided as part of the annual notices required by N.J.A.C. 14:18-3.18.

1.-4. (No change.)

14:18-3.12 Service call scheduling

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

(e) When a service call is scheduled to a customer's home, the cable television operator shall inform the customer of the amount of any fees that will be assessed for the call, including, but not limited to, fees for missed appointments if the customer is not at the residence. In the event of a customer complaint filed at the Board regarding a missed appointment fee, the cable television operator has the burden of proof in showing the

presence of the representative at the premises before imposing any fees associated with a missed appointment for a scheduled service call.

14:18-3.16 (Reserved)

14:18-3.17 Notice of alteration in channel allocation

(a) Each cable television company shall file with the Office notice of an alteration in channel allocation at least 30 days prior to the effective date for deletions or cutbacks in other services. If the change results from circumstances outside of the cable operator's control (including failed retransmission consent or program carriage negotiations during the last 30 days of a contract), notice shall be provided as soon as possible. For alterations in channel allocation for new additions, the cable television operator must provide electronic notice to the Office within 10 days of the effective date. Annually, no later than January 31 of every year, each cable television company shall electronically file with the Office a current channel lineup.

(b) Each cable television company shall notify its customers of an alteration in channel allocation for deletions or cutbacks in services at least 30 days prior to the effective date. If the change results from circumstances outside of the cable operator's control (including failed retransmission consent or program carriage negotiations during the last 30 days of a contract), such notice shall be provided as soon as possible. Such notice may be provided using any reasonable written means in accordance with 47 CFR 76.1600 and 76.1603(b) and not inconsistent with any other applicable Federal or State statute.

(c) (No change.)

(d) For alterations in channel allocation for deletions or cutbacks not within the exclusive control of the cable television operator, no additional information shall be required and the Office shall consider the cable television operator in compliance with the notice obligations where:

1. The cable television operator provides telephonic or electronic notice of the risk of alteration to the Office no less than 24 hours prior to the deletion or cutback, and notice is provided to customers as soon as practical in a manner consistent with 47 CFR 76.1600 and 47 CFR 76.1603(b);

2.-3. (No change.)

(e) A change in the way that a broadcast station or cable network identifies or brands itself or presents its programming shall not constitute a change in channel allocation for purposes of this provision.

14:18-3.18 Periodic notices to customers

(a) Each cable television operator shall provide annual notice to each customer of the following:

1.-5. (No change.)

6. Notice of receipt of termination notice by a third-party designee, pursuant to N.J.S.A. 48:5A-36.1.

(b) (No change.)

SUBCHAPTER 4. CABLE TELEVISION OPERATOR RIGHTS

14:18-4.1 Permits

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

(d) The fee provided at (b) above is in lieu of all other fees, charges, or assessments that may be imposed in connection with costs or expenses related to the construction, presence, or operation of a cable television system within the municipality, including, without limitation, fees for any permits, legal fees for permit application reviews, and engineering fees.

14:18-4.2 Refusal to connect

A cable television company may refuse to connect with any customer's installation when it is not in accordance with the schedule of prices, rates, terms, and conditions of the cable television company furnishing the service which have been filed with the Office or posted on the company's website with the provisions of applicable governmental requirements.

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

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

(h) A fee owner, landlord, or agent shall not prohibit, restrict, or otherwise condition the provision of cable television service installed

pursuant to an administrative order issued by the Board of Public Utilities in accordance with (c)1 above.

SUBCHAPTER 5. OFFICES

14:18-5.1 Location and closing

(a) Each cable television company issued a municipal consent or system-wide franchise shall maintain within its franchise service area or county of the area served, at a minimum, a local business office that meets the requirements at N.J.S.A. 48:5A-26(d), and serves the purpose of receiving, investigating, and resolving complaints regarding the quality of service, equipment malfunctions, and similar matters, as well as applications for service, service inquiries, bill payments, and so forth.

(b) (No change.)

(c) At least 60 days prior to the closing or relocation of an office described at (a) or (b) above, where such office is expressly required pursuant to a municipal consent ordinance and Board order to be located within the municipality or other specific location; or where the office is to be relocated outside the cable television company's service territory; where the office is to be located outside the State of New Jersey; or where the office is the sole office located in either the county or the franchise territory of the cable system or legal operating entity under which the cable franchise is organized, a cable television company shall file a petition for approval with the Board demonstrating such closure or relocation is not unreasonable, will not unduly prejudice the public interest, and setting forth the means upon Board approval of the petition, by which customers and other interested parties will be adequately notified of the closing or relocation and alternatives available in the case of a closed office. The cable television company shall simultaneously notify its customers and the clerk of each affected municipality of the pending application for permission to relocate or close the subject office by means of posting notice at the office location and, within three days of filing the petition, by placing notice of the office closing or relocation in the newspaper(s) serving the affected area and providing a copy of the notice by mail to the clerk of each affected municipality. Said notice shall inform customers of the Office's toll free number and their right to present to the Board, in writing, any objections they may have to the office closure or relocation. The notice shall specify a date certain for submission of comments, which date shall not be less than 30 days after publication and posting. Such office shall not be closed or relocated until the cable television company has been informed, in writing, that the Board has approved such request.

(d) (No change.)

SUBCHAPTER 6. RECORDS

14:18-6.1 Availability of records

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

(c) Records shall be deemed accessible for review within the meaning at (a) above if they are maintained in electronic form, so long as a computer terminal capable of accessing the records is made available at an office or offices within the State and that office or those offices, upon request, are identified to the Office in accordance with (a) above.

14:18-6.2 Plant and operating records

(a) (No change.)

(b) Each office within the State shall maintain copies of filings required by the FCC to be maintained at that office.

14:18-6.6 Reporting and records of interruptions and outages

(a) All outages where service to customers is interrupted for at least two hours and which affect 50 or more customers shall be reported by each cable television company to the Office on a form prescribed by the Director.

1. Such reports shall be collected and filed electronically with the Office monthly within 15 days of the end of the month for which said report is filed.

2. Cable television companies must report to the Office by email to designated personnel during the course of the outage, all outages which exceed one hour in length and affect more than 500 customers.

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

(d) Each cable television company shall notify the appropriate Office personnel by email in the event of an outage, emergency, or other significant occurrence affecting its system or personnel during other than normal work-hours. Notification shall be in accordance with the procedure established by the Office, as provided to each cable television company which provides that each cable television operator contact a representative of the Office by email in the event of an interruption of service that lasts four hours or more, that affects 50 percent of customers where the system serves less than 20,000 customers, or affects 10,000 or more customers where the system serves 20,000 customers or more, or in the event of serious injury resulting in hospitalization or death to any person as a result of the cable television company's operations.

SUBCHAPTER 7. REPORTS AND FILINGS

14:18-7.6 Telephone system information

(a) When a cable television operator has failed to demonstrate compliance with the provisions of N.J.A.C. 14:18-7.8, the Board or Board staff may request, in writing, that the following information concerning the operation of the cable television company's telephone system be filed with the Office of Cable Television:

1.-4. (No change.)

Recodify existing 11.-21. as 5.-15. (No change in text.)

14:18-7.9 Cable service quality standards

(a) This section establishes service quality standards that govern cable providers. The Board may, upon review, suspend application of any provision of this chapter for periods of emergency, catastrophe, natural disaster, or other events the Board considers beyond the control of the cable company.

(b) A cable company shall meet the following minimum service quality standards:

1. Answer Calls. Under normal operating conditions during business hours, not less than 90 percent of calls to the cable operators' customer service center shall be answered within 30 seconds by a representative, including wait time; if a call is transferred, transfer time will not exceed 30 seconds;

2. Busy Signal. Under normal operating conditions, a customer shall receive a busy signal less than three percent of the time;

3. Call Back. At least 90 percent of the calls to the customer service center placed on hold shall be provided an opportunity to leave a call back number for the call to be returned within 30 minutes of initiation of the call. Companies who provide customers with the ability to schedule a call with the customer service center in advance are not subject to this requirement;

4. Mean Time to Install. Under normal operating conditions, at least 95 percent of standard installations, defined as those that are located within 125 feet from the existing distribution system, shall be completed within seven business days of the order being placed;

5. Call Resolution. At least 85 percent of customer service calls requiring a technician visit shall be resolved within 14 days;

6. Appointments. Under normal operating conditions, at least 95 percent of appointments scheduled with customers for installations and installation activities and other service calls shall be completed on time, as scheduled, for a specific time or, at a maximum, a four-hour time block during normal business hours, unless modified by the customer. If a cable representative is running late and must cancel the appointment, the appointment shall be rescheduled at a time convenient for the customer;

7. Service Interruptions. Excluding conditions beyond the control of the operator, at least 95 percent of the time, the company shall begin working on service interruptions within 24 hours after the interruption becomes known; and

8. Repeat Trouble Reports. At least 90 percent of repeat service trouble reports shall be completed within 14 days.

(c) Each cable provider shall file with the Office a quarterly report of its performance in relation to the standards set forth at (b) above. The report shall include a list of the standards, the metrics that have not been met, the corrective action taken, and the completion date.

SUBCHAPTER 14. SYSTEM-WIDE FRANCHISE APPLICATION AND RENEWAL

14:18-14.1 Application for system-wide franchise; who may apply

(a) (No change.)

(b) The complete application must either be submitted in triplicate to the Director of the Office with all required documents or may be filed electronically. The application must contain copies of all appendices, exhibits, etc. without cross-references to documents previously filed in order to be deemed complete. Notice of the filing of the system-wide franchise application shall be filed with each municipality for which the applicant has applied, which notice shall include information as to how a municipality can receive a copy of, or review, the complete application filed electronically with the Office. The applicant shall provide proof of notice of the filing to all the impacted municipalities, the Office, and the Division of Rate Counsel within three days of the filing.

(c) (No change.)

14:18-14.4 Notice of hearing

(a) The system-wide franchise applicant shall give notice of the date scheduled for the hearings concerning the application for a system-wide franchise by publishing in a newspaper or newspapers of general circulation information as to:

1. (No change.)

2. The time and place of the hearings;

3. The place at which, and time within which, system-wide franchise applications may be examined by interested parties; and

4. Information as to how members of the public may file comments with the Secretary of the Board electronically either by email, or the e-filing portal, or mailed to the Board's offices within five business days of the last day of the hearing. All comments filed shall be made part of the record.

(b) This notice shall be published, at the latest, on the 10th day prior to the hearing. The applicant shall provide notice of the hearings and the comment period to all municipalities on the same day as publication in the newspapers. The applicant shall provide the Office and the Division of Rate Counsel with the notice of the hearings and comment period, and proof that the notice was provided to all municipalities.

14:18-14.6 Amendments to application; notice

An applicant for a system-wide franchise may, until seven days prior to the first hearing scheduled, submit to the Office changes, modifications, or amendments of information contained in the application. Notice of any significant amendments to the application shall be provided to affected municipalities, which shall include information as to how a municipality can receive a copy of or review the amendments filed with the Office. The applicant shall provide the Office and the Division of Rate Counsel with proof of notice of any amendment(s) that is provided to the municipalities.

14:18-14.7 Additional information other than amendatory; notice

(a) An applicant for a system-wide franchise may, no later than five days after the close of the hearing, submit to the Office and the Division of Rate Counsel such additional, clarifying, explanatory, or supplemental information as may be helpful to the Board in reaching a decision.

(b) The presiding officer may require further information upon any issue to be presented by the system-wide applicant. Such information shall be provided no later than five days after the close of hearing to the Office and the Division of Rate Counsel.

14:18-14.8 Record of hearing

The applicant will cause to be made a record of all public hearings conducted pursuant to the requirements at N.J.S.A. 48:5A-16.f, which record, with all papers and transcripts filed in the proceeding shall constitute the record for decision.

14:18-14.17 System-wide franchise renewal pre-proposal phase

(a) By 30 months prior to the expiration of the system-wide franchise, or within six months of filing of notice by the cable television company operating under a system-wide franchise, whichever is later, the Office shall begin to conduct ascertainment proceedings. Those proceedings shall: review, consistent with N.J.S.A. 48:5A-1 et seq., the past performance of the cable television operator holding a system-wide

franchise; and assess the future cable-related needs and interests of the municipalities covered by the system-wide franchise, consistent with N.J.S.A. 48:5A-28. Such proceedings shall afford affected municipalities, the public, and the cable television operator(s) notice and opportunity for participation.

1. (No change.)

2. If the Office deems that a public hearing or hearings are necessary to assess the cable related needs and interests and to review, consistent with N.J.S.A. 48:5A-1 et seq., the cable television operator's past performance, the public hearing or hearings shall be held in the cable television operator's franchise territory. Such hearing or hearings shall be held upon at least 15 days written notice to the public and the cable television operator. At any such hearing or hearings, all participants shall have the right to present relevant comments. If the Office deems that a public hearing or hearings is not necessary, the Office may allow comments to be filed in lieu of holding hearings.

3. Any proceedings pursuant to this section shall include transcripts of any public hearings and opportunity for public comment, written or oral. Transcripts shall be made at the expense of the cable television company operating under a system-wide franchise. The applicant shall be required to provide notice to the affected municipalities of any hearings and/or comment periods.

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

14:18-14.18 Application for renewal of a system-wide franchise

(a) (No change.)

(b) The complete application must be filed with the Board, with a copy to the Director of the Office and the Division of Rate Counsel. The application must contain copies of all appendices, exhibits, etc. without cross-references to documents previously filed in order to be deemed complete. Notice of the filing for renewal of the system-wide franchise shall be filed with each municipality for which the applicant has authorization to provide service, which notice shall include information as to how a municipality can receive a copy of or review the entire application and any supporting or supplemental documents filed with the Office. Proof of the notice to the affected municipalities shall be provided to the Office and the Division of Rate Counsel.

(c) (No change.)

(d) Upon receipt of the application for renewal of a system-wide franchise, the Board shall schedule public hearings on the application in accordance with N.J.A.C. 14:18-14.3.

1. Notice of the public hearings and written comment periods shall be provided by the system-wide franchise applicant to the affected municipalities in accordance with N.J.A.C. 14:18-14.4, which provides that public hearings shall be scheduled no later than 45 days of the filing of the application for renewal of a system-wide franchise. Written comments shall be provided no later than five business days after completion of the last public hearing held. The applicant shall provide proof of notice of the hearings and comment period to the Office and the Division of Rate Counsel;

2.-3. (No change.)

(e) If Board staff does not determine to treat the matter as a contested case pursuant to N.J.A.C. 14:18-14.19, the Board shall render a decision to renew the system-wide franchise prior to the expiration date of the franchise by order pursuant to the specifications at N.J.A.C. 14:18-14.11. A cable television company operating under a system-wide franchise that has applied for renewal of its system-wide franchise and whose franchise has expired prior to Board action on the system-wide franchise renewal application shall have the authority to continue to provide cable television service under its current system-wide franchise until such time as the Board makes a decision.

(f)-(g) (No change.)

SUBCHAPTER 15. SYSTEM-WIDE FRANCHISE TERMS AND CONDITIONS

14:18-15.4 Public, educational, and governmental access channels; return lines; interconnection

(a) A cable television company operating under a system-wide franchise shall provide two public, educational, and governmental access channels to each municipality served by that system-wide franchise. The

public, educational, and governmental access channels shall be made available within a reasonable timeframe after the cable television company, operating under a system-wide franchise, begins to provide cable television service within the municipality. Upon request of the municipality, the public, educational, and governmental access channels shall be provisioned in the same manner and quality as commercial channels offered on the applicant's system.

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

14:18-15.6 Equipment and training

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

(e) The cable television company shall provide an initial notice to each municipality of available PEG access training and equipment, as well as the name of company personnel responsible for addressing municipalities' concerns with the provision of same, within 60 days of approval of a system-wide franchise by the Board. Thereafter, the cable television company shall provide annual notice to all affected municipalities of available PEG access training and equipment, as well as company personnel to be responsible for addressing municipalities' concerns with obtaining training and equipment.

SUBCHAPTER 16. MISCELLANEOUS PROVISIONS

14:18-16.6 through 16.7 (Reserved)

14:18-16.8 Violations

(a) In any enforcement action by the Office alleging non-compliance with any provision at N.J.S.A. 48:5A-1 et seq., N.J.A.C. 14:17, or this chapter, or Board order for which monetary penalties may be sought, the Office must provide a cable television operator written notice of the alleged violation within 90 days of becoming aware of it. Within 30 days of the issuance of the written notice of any alleged violation, the cable television operator must file an Answer, which, at a minimum, must include any documentation requested by the Office, including, but not limited to, explanation, mitigation, or evidence that no customers were harmed by such violation. The Office may, in its discretion, extend the time for the cable television company to respond up to 30 days. Upon notice of the failure to file a full and complete response inclusive of requested documentation within 30 days, or 60 days, if extended, staff may pursue an enforcement action as set forth in this section. In the event an operator fails to respond to the notice of alleged violation, the operator shall be deemed in default, and following notice to the operator and an opportunity to cure, Board staff may present a Notice of Probable Violation to the Board and seek the issuance of a Final Order of Penalty Assessment for an assessment of the maximum penalty pursuant to N.J.S.A. 48:5A-51, without further notice to the operator.

- (b) (No change.)

(c) Any penalty that may be assessed pursuant to N.J.S.A. 48:5A-51 may be waived or compromised by the Board. Prior to assessing a penalty, the Board or the Office shall provide the cable television operator with a written explanation, with specificity, of the proposed penalty for each violation and the particular rules alleged to have been violated. The cable television operator may file a proposed offer of settlement with any response submitted to the written explanation of penalty.

- (d)-(f) (No change.)

OTHER AGENCIES

(a)

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

Disposition of Surplus Real and Personal Property of the New Jersey Schools Development Authority

Adopted New Rules: N.J.A.C. 19:35

Proposed: August 16, 2021, at 53 N.J.R. 1358(a).

Adopted: March 2, 2022, by the New Jersey Schools Development Authority, Manuel M. Da Silva, Chief Executive Officer.

Filed: March 2, 2022, as R.2022 d.044, **without change**.

Authority: P.L. 2007, c. 137, § 4k (N.J.S.A. 52:18A-238k) (rulemaking authority); P.L. 2000, c. 72 (N.J.S.A. 18A:7G-1 et seq.); P.L. 2007, c. 137 (N.J.S.A. 52:18A-235 et seq.) (enabling statutes).

Effective Date: April 4, 2022.

Expiration Date: April 4, 2029.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

A Federal standards analysis is not required because the adopted new rules provide the procedures for the New Jersey Schools Development Authority (SDA) to dispose of surplus property, and there are no Federal standards or requirements applicable to the SDA's disposition of surplus property.

Full text of the adopted new rules follows:

CHAPTER 35

DISPOSITION OF SURPLUS REAL AND PERSONAL PROPERTY OF THE NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

SUBCHAPTER 1. GENERAL PROVISIONS

19:35-1.1 Applicability

This chapter applies to any real or personal property owned by the New Jersey Schools Development Authority (SDA) that may be considered for determination as surplus property. Upon determination that such property is surplus, this chapter governs the SDA's sale, lease, grant of easement, license, or other use or disposition of such surplus property. A proposed disposition of surplus property in accordance with this chapter will not be authorized or enforceable if the disposition would result in the loss of the tax-exempt status, pursuant to the United States Internal Revenue Code of 1986, 26 U.S.C. §§ 1 et seq., and all Federal Department of the Treasury regulations, revenue procedures, and revenue rulings issued pursuant thereto, of the bonds issued by the New Jersey Economic Development Authority pursuant to section 25 of P.L. 2007, c. 137 (N.J.S.A. 18A:7G-14), the proceeds of which financed SDA's original acquisition of said property.

19:35-1.2 Purpose and scope

The purpose of this chapter is to establish and prescribe uniform rules and procedures for the disposition of surplus real or personal property. Proceeds from the disposition of surplus real or personal property shall be used to fund school facilities projects, except that proceeds from the disposition of surplus real property acquired under circumstances described at N.J.S.A. 18A:7G-45 will be used to fund school facilities projects in the school district in which the disposed surplus real property is located. No surplus real or personal property disposition shall be made by the SDA, except in accordance with this chapter.

19:35-1.3 Definitions

The following words and items, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the Educational Facilities Construction and Financing Act, P.L. 2000, c. 72, N.J.S.A. 18A:7G-1 et seq., as amended by P.L. 2007, c. 137, N.J.S.A. 52:18A-235 et seq., which mandates a program for establishing efficiency standards for educational facilities at the elementary, middle, and secondary school levels and which further mandates that the State fund the cost to repair and renovate existing school facilities and to construct new school facilities determined to be necessary in order to meet the established school facilities efficiency standards in school districts determined to be SDA Districts under the program.

"Bidder" means a party submitting a bid for the purchase of surplus real or personal property in response to an advertised Notice of Solicitation for Sealed Bids.

"Bidding period" means the time set forth in the advertisement of a Notice of Solicitation for Sealed Bids for the disposition of surplus