

explanation or analysis of the proposed amendment pursuant to Executive Order No. 27 (1994) is not required.

#### **Jobs Impact**

The proposed amendment will have no impact on jobs in New Jersey. The Department does not anticipate an increase or decrease in jobs as a result of this amendment.

#### **Agriculture Industry Impact**

The proposed amendment will have no impact on the agriculture industry.

#### **Regulatory Flexibility Statement**

The proposed amendment does not impose any reporting, recordkeeping, or compliance requirements on small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment increases benefit rates to individuals. Thus, a regulatory flexibility analysis is not required.

#### **Housing Affordability Impact Analysis**

The proposed amendment will not evoke a change in the average costs associated with housing. The basis for this finding is that the proposed amendment pertains to the statutorily mandated annual adjustment to the maximum workers' compensation benefit rates and does not pertain to housing.

#### **Smart Growth Development Impact Analysis**

The proposed amendment will not evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The basis for this finding is that the proposed amendment pertains to the statutorily mandated annual adjustment to the maximum workers' compensation benefit rates and does not pertain to housing production, either within Planning Areas 1 or 2, or within designated centers.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

12:235-1.6 Maximum workers' compensation benefit rates

(a) In accordance with the provisions of N.J.S.A. 34:15-12.a, the maximum workers' compensation benefit rate for temporary disability, permanent total disability, permanent partial disability, and dependency is hereby promulgated as being [\$843.00] **\$855.00** per week.

(b) The maximum compensation shall be effective as to injuries occurring in the calendar year [2014] **2015**.

## **LAW AND PUBLIC SAFETY**

### **(a)**

#### **NEW JERSEY RACING COMMISSION**

#### **Notice of Pre-Proposal**

#### **Benchmarks for the Determination of Progress**

#### **Applicable to the Establishment of an Off-Track Wagering Facility Prior to Its Operation**

#### **N.J.A.C. 13:74-2.4**

Authorized By: New Jersey Racing Commission, Frank Zanzuccki, Executive Director.

Authority: N.J.S.A. 5:5-130.

Pre-Proposal Number: PPR 2014-002.

Comments on this notice of pre-proposal should be sent by October 2, 2014, to:

Frank Zanzuccki, Executive Director  
New Jersey Racing Commission  
140 East Front Street  
P.O. Box 088  
Trenton, New Jersey 08625-0088  
E-mail: [NJRCWebInfo@lps.state.nj.us](mailto:NJRCWebInfo@lps.state.nj.us)

**Take notice** that the New Jersey Racing Commission is soliciting comments regarding amendments to N.J.A.C. 13:74-2.4, which sets forth benchmarks for the determination of progress applicable to the establishment of an off-track wagering facility prior to its operation. The Commission is considering changes to the deadlines and requirements set forth in the rule, which constitute the benchmarks each racetrack permit holder must meet in order to demonstrate that it continues to make progress on an annual basis in establishing the off-track wagering facilities within its share as required by N.J.S.A. 5:5-130.b.

## **PUBLIC UTILITIES**

### **(b)**

#### **BOARD OF PUBLIC UTILITIES**

#### **Telecommunications**

#### **Proposed Re-adoption with Amendments: N.J.A.C. 14:10**

#### **Proposed Repeals: N.J.A.C. 14:10-1A.12, 4.2, 5.5, 6.2, 6.3, 6.5, 6.6, 9.3, 9.4, 9.5, 9.6, 9.7, and 12.12 and 14:10-12 Appendix B**

#### **Proposed Repeal and New Rule: N.J.A.C. 14:10-5.2**

Authorized By: The Board of Public Utilities, Dianne Solomon, President, Jeanne M. Fox, Joseph L. Fiordaliso, and Mary-Anna Holden, Commissioners.

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

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

BPU Docket Number: TX14060550.

Proposal Number: PRN 2014-141.

Comments may be submitted through November 1, 2014, by email in **Microsoft Word format**, or in a format that can be easily converted to Word, to: [rule\\_comments@bpu.state.nj.us](mailto:rule_comments@bpu.state.nj.us) or on paper to:

Kristi Izzo, Secretary  
NJ Board of Public Utilities  
Attn: Docket No. TX14060550  
44 South Clinton Avenue, 9th Floor  
PO Box 350  
Trenton, NJ 08625-0350

The agency proposal follows:

#### **Summary**

The New Jersey Board of Public Utilities (Board) is proposing to readopt with amendments, repeals, and new rules, its rules governing telecommunications service, N.J.A.C. 14:10. These rules pertain to telephone utilities and other telecommunications providers that are subject to the jurisdiction of the Board, in areas such as, service standards, payments for service, telecommunications carrier regulations and mass migration. The proposed amendments, new rules, and repeals are aimed at reducing regulation to reflect the current state of today's telecommunications market, while assuring that basic consumer protections are kept in place.

Pursuant to N.J.S.A. 52:14B-5.1.c(2), the rules are scheduled to expire on January 24, 2015. As the Board has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Below is a section-by-section description of the rules, along with the proposed amendments, repeals, and new rules that will serve to streamline regulation and retain only those rules that are necessary in an evolving telecommunications market.

#### **Subchapter 1. General Provisions**

Existing N.J.A.C. 14:10-1.1, Applicability, provides for the applicability of this chapter. Under paragraph (a)1, the phrase "that operates a telephone system" is proposed for deletion since this language

is redundant as it is already defined in the statute cited in the paragraph. Under paragraph (a)5, the term “any person that is” is being eliminated and replaced with “any entity that is” because this more closely reflects who is subject to the numbering guidelines.

At N.J.A.C. 14:10-1.2, Definitions, under the definition of “wholesale customer” the term “a person” is being eliminated and replaced with “an entity” to best identify the intent of the rules.

N.J.A.C. 14:10-1.3, Recordkeeping, general provisions, is proposed for readoption without amendment.

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

N.J.A.C. 14:10-1A.1, Applicability, is proposed for readoption without amendment.

N.J.A.C. 14:10-1A.2, General provisions, provides language that requires telephone utilities to provide to the Board maps, so that customer locations can be determined and mileage or zone charges quoted. In recognition of varying customer purchasing preferences, it is no longer feasible for the Board to maintain this information. Therefore, subsection (b) is proposed for deletion.

N.J.A.C. 14:10-1A.3, Rate and special charges information, is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-1A.4 is currently “reserved,” but the Board, for administrative purposes, has decided to recodify subsequent sections to use this section codification.

Recodified N.J.A.C. 14:10-1A.4, Directories, pertains to the publication, distribution, and content of telephone directories and the procedures to be followed when telephone numbers are changed subsequent to the publication of a directory. This section is amended to delete reference to the name of the telephone utility, the area included in the directory, and the month and year of issue (subsection (c)); inclusion of space in the directory for customers to list their emergency numbers (subsection (d)); instructions for the placement of local and long distance calls, and calls to directory assistance services (subsection (f)); and the requirement that telephone utilities list its customers as necessary for the directory assistance operations to provide the requested telephone numbers (subsection (h)). These subsections are proposed for deletion in order to streamline requirements, to allow more flexibility to carriers and to eliminate regulations that are no longer necessary.

Existing N.J.A.C. 14:10-1A.6, Held applications, is recodified as N.J.A.C. 14:10-1A.5, and is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-1A.7, Customer complaints and trouble reports, is recodified as N.J.A.C. 14:10-1A.6, and is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-1A.9, Adequacy of service, is recodified as N.J.A.C. 14:10-1A.7, with a technical change.

Recodified N.J.A.C. 14:10-1A.8, Service quality standards, which establishes minimum standards for various measures of service quality, is amended to delete existing paragraph (b)3. This paragraph provides for regrades of service to be filled within 30 days. This requirement is outdated in the current telecommunications environment and, therefore, is no longer necessary. Existing subsection (h) is also deleted because other service quality measurements serve to measure the carrier’s performance.

Recodified N.J.A.C. 14:10-1A.11, Service quality reporting, provides for the measurement of performance in relation to the standards found in N.J.A.C. 14:10-1A.10. Recodified N.J.A.C. 14:10-1A.11(e), contains requirements for performance measurements regarding service quality standards by a reporting unit. Proposed new paragraph (e)4 would require the number of reporting units to be no less than three. The proposed new paragraph is necessary in order to measure and track installation and maintenance in New Jersey. The reporting requirement under paragraph (f)1, which states “the reporting name and further identification if the name does not convey the geographic location” is deleted because this information is no longer necessary.

Existing N.J.A.C. 14:10-1A.12, Measuring devices, is proposed for repeal because it is no longer necessary given the advancements made in billing and computer technology.

Existing N.J.A.C. 14:10-1A.13 Inspections, tests and maintenance, is recodified as N.J.A.C. 14:10-1A.10, and is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-1A.14, Prevention and reporting of service interruptions, is recodified as N.J.A.C. 14:10-1A.11, and is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-1A.15 Construction, is recodified as N.J.A.C. 14:10-1A.12, and is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-1A.16, Adoption by reference of the uniform system of accounts, is recodified as N.J.A.C. 14:10-1A.13, and is proposed for readoption without amendment.

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

Existing N.J.A.C. 14:10-2.1, Applicability, is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-2.2, Contents of bills; back billing, lists those items that are to be included in the customer’s bill and also sets forth the terms and conditions for back billing retail and wholesale customers. Paragraph (a)7 is deleted to streamline requirements to allow more flexibility to carriers and to eliminate regulations that are no longer necessary.

Existing N.J.A.C. 14:10-2.3, Out of service refund, is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-2.4, Voluntary suspension, provides for customers to temporarily suspend their service for certain periods of time, and is proposed for readoption without amendment.

#### **Subchapter 3. Number Reclamation**

Existing N.J.A.C. 14:10-3.1, Number reclamation definitions, is proposed for readoption with technical amendments to the definition of “guidelines.”

Existing N.J.A.C. 14:10-3.2, General provisions, is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-3.3, Extension of Part 4 Form submittal deadline is proposed for readoption without amendment.

#### **Subchapter 4. Non-Financial Reporting Requirements**

Existing N.J.A.C. 14:10-4.1 and 4.2 set forth the non-financial reporting requirements for incumbent local exchange carriers (ILECs) and competitive local exchange carriers (CLECs) that provide intrastate telecommunications services to end-users in New Jersey. N.J.A.C. 14:10-4.1(b) and (g) are being amended to delete phrases that are redundant or are no longer necessary for regulatory purposes. N.J.A.C. 14:10-4.1(i) and (j) are deleted, and N.J.A.C. 14:10-4.2 is proposed for repeal, because the enhanced data required by the FCC is now sufficient to meet the State’s requirements to monitor the level of carrier competition in New Jersey. Carriers are currently required to submit to the State the same reports that they submit to the FCC.

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

Existing N.J.A.C. 14:10-5.1, Scope, which governs the provision of competitive telecommunications services and denotes the type of carrier that is subject to this rule is amended to delete paragraph (b)3 and subsection (c), which address a CLEC’s non-competitive services and related tariffs. A CLEC’s non-competitive services are subject to N.J.A.C. 14:3 and, therefore, new subsection (c) is proposed to state the carrier’s responsibility under N.J.A.C. 14:3 for filing tariffs.

Existing N.J.A.C. 14:10-5.2, Informational tariff filings, is proposed for repeal and replaced with a new section containing tariff content filing requirements to reflect new legislation. Given the changes in law, pursuant to section 4, P.L. 1991, c. 428 (N.J.S.A. 48:2-21.19), it is no longer required that tariffs be filed with the Board. The new section reflects that local exchange and interexchange carriers will be required to make any terms and conditions of retail competitive services available for public inspection on the carriers’ internet website. Also, a link to said website is required to be provided to the Board, so that it can be placed on the Board’s website. A local exchange company or interexchange carrier can in their discretion file tariffs with the Board.

Existing N.J.A.C. 14:10-5.3, Tariff revisions that increase charges, describes the process for tariff revisions that increase charges and is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-5.4, Tariff revisions that do not increase charges, is amended to delete references to CLEC and IXC tariffs from subsection (a). The reference to filing revised tariff pages with the Board

is also deleted from subsection (a) and language stating the tariff is effective after customer notification is also being added. Existing N.J.A.C. 14:10-5.4(c) is deleted in its entirety. These changes are being proposed to streamline requirements to allow more flexibility to carriers and to eliminate regulations that are no longer necessary.

Existing N.J.A.C. 14:10-5.5, New competitive telecommunications offerings by interexchange carriers, is proposed for repeal to streamline requirements to allow more flexibility to carriers and to eliminate regulations that are no longer necessary.

Recodified N.J.A.C. 14:10-5.5, Initial CLEC or IXC tariff, provides for the timeframe for tariffs to become effective. In subsection (a), the terms local exchange, exchange access, and interexchange access services are deleted. The phrase "initial tariffs filed by CLECs" is replaced with the phrase "initial tariffs for CLECs." The phrase "shall be effective as filed" is amended to "shall be effective." Subsection (a) is further amended to require that tariffs must be posted on the carrier's website. Finally, the terms "filings made by" and "filing" are deleted from subsections (c) and (d), respectively, to reflect the fact that CLEC's and IXC's are no longer required to file tariffs but must post their tariffs on their website. These amendments reflect the current telecommunications market.

At recodified N.J.A.C. 14:10-5.6, Board monitoring of competitiveness, the phrase "rate regulated and competitive telecommunications services" are amended to "telecommunications services," since they are no longer required for this analysis.

Recodified N.J.A.C. 14:10-5.7, Withdrawal of a competitive service from subscribers, is proposed for readoption without amendment.

Recodified N.J.A.C. 14:10-5.8, Discontinuance of a competitive service offering, states the notice requirement that a carrier must provide to its customers. The telecommunications market in this area is sufficiently competitive to warrant the elimination of notice requirements for competitive offerings. Therefore, subsection (b) is being amended to delete requirements that are no longer necessary in the current telecommunications environment. The amendments remove the requirement that existing subscribers can keep the service and that in the event the competitive service is offered solely by a single carrier, then the provider may be required to maintain the service upon Board review and approval. In the current competitive environment, these requirements no longer apply.

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

Existing N.J.A.C. 14:10-6.1, Scope, states which entities are subject to the rules of this subchapter. Subsection (b) is amended to state that aggregators who are also public pay telephone service providers are subject to N.J.A.C. 14:10-9.1 and 9.2, rather than all of Subchapter 9. N.J.A.C. 14:10-6.2(b), which states that Board staff may investigate the conduct of any OSP and undertake appropriate enforcement actions is relocated to N.J.A.C. 14:10-6.1, as new subsection (h). Existing N.J.A.C. 14:10-6.3(b) is amended and relocated to N.J.A.C. 14:10-6.1(c) and (d). Existing N.J.A.C. 14:10-6.5(d) is proposed for amendment to delete reference to "splashing" and to relocate the provision as new N.J.A.C. 14:10-6.1(f). In addition, portions of N.J.A.C. 14:10-6.3 and 6.5 are relocated to N.J.A.C. 14:10-6.1, while other sections are being eliminated as they are no longer necessary in the current regulatory environment. The sections that contain language regarding alternate operator service provider notification to callers of an AOS's involvement in a call and ownership of the telephone; the provision of dialing procedures; a procedure for the caller to access; any other operator service provider free of charge and if transferring the caller to another operator service provider; and billing the caller from the point of origination are all being moved to this section, as outlined below. These major revisions condense the rules, retaining only those necessary to manage a declining industry. The language in existing N.J.A.C. 14:10-6.3(b)1 is proposed to be modified and relocated to N.J.A.C. 14:10-6.1(c). The language in N.J.A.C. 14:10-6.3(a)6 is relocated to N.J.A.C. 14:10-6.1(d)1. Existing N.J.A.C. 14:10-6.3(a)7 is amended and relocated to N.J.A.C. 14:10-6.1(d)2. Existing N.J.A.C. 14:10-6.3(b)2 and 3 are relocated to N.J.A.C. 14:10-6.1(d)3. Finally, existing N.J.A.C. 14:10-6.3(a)1 is relocated to N.J.A.C. 14:10-6.1(d)4.

Existing N.J.A.C. 14:10-6.2, Operator service providers and aggregators, states that Board staff may investigate their conduct and requires them to adhere to all rules in this subchapter. The section is proposed for repeal, except as noted above in regards to N.J.A.C. 14:10-6.1, to streamline requirements, to allow more flexibility to carriers and to eliminate regulations that are no longer necessary in light of the reduced use of these services. Such services are used minimally due to the availability of wireless service.

Existing N.J.A.C. 14:10-6.3, Informing callers about the OSP, states the requirements that aggregators must provide to callers when they hire an OSP. This section is proposed for repeal, except as noted above in regards to N.J.A.C. 14:10-6.1, to streamline requirements to allow more flexibility to carriers and to eliminate regulations that are not necessary in the current marketplace.

Recodified N.J.A.C. 14:10-6.2, AOS rates for intrastate operator-assisted calls, states the rates an AOS may charge for all types of calling. Paragraph (a)4 is proposed to no longer reference the AT&T tariff located on the Board's website for the additional minute charges beyond the five-minute initial period. Language is added to direct the provider to AT&T's website to confirm the additional minute charge.

Existing N.J.A.C. 14:10-6.5, Access to all operator service providers, states that aggregators that utilize an OSP shall ensure that all callers have free access to all operator service providers. This section is proposed for repeal and relocation to N.J.A.C. 14:10-6.1, as discussed above. It is no longer necessary to retain this section in the chapter since the telecommunications market place has since evolved with the development of the mobile telecommunications network. The advent of mobile communication has limited the use of OSPs and, therefore, this section is no longer necessary. Specifically, existing N.J.A.C. 14:10-6.5(a) and (b) are relocated to N.J.A.C. 14:10-6.1(e) and N.J.A.C. 14:10-6.5(d) is relocated to N.J.A.C. 14:10-6.1(f).

Existing N.J.A.C. 14:10-6.6, "0" and emergency call handling, states that all "0" calls followed by no other digits within 4 seconds shall be sent to the incumbent local exchange carrier (LEC). It also provides the procedure for operator service providers to petition the Board for authority to provide "0" and emergency call completion. This section is proposed for repeal, except that subsection (a) is relocated to N.J.A.C. 14:10-6.1(g). Relocated N.J.A.C. 14:10-6.1(g) requires OSPs, AOSs, and aggregators to send all "0" calls to the LEC within four seconds.

Recodified N.J.A.C. 14:10-6.3, Penalties for violations, is amended to modify the violation: "noncompliance with emergency call procedures set forth at N.J.A.C. 14:10-6.6." As noted above, N.J.A.C. 14:10-6.6 is proposed for repeal, with subsection (a) relocated to N.J.A.C. 14:10-6.1(g). Therefore, the cross-reference is updated to N.J.A.C. 14:10-6.1(g), with no change in the penalty amount. Similarly, N.J.A.C. 14:10-6.5 is proposed for repeal, so the violation "noncompliance with the free access requirements at N.J.A.C. 14:10-6.5" is amended to update the cross-reference to N.J.A.C. 14:10-6.1, with no change in penalty amount. Since the rules for branding, reporting requirements, and splashing are proposed for repeal, the penalties for these are also proposed for deletion.

Recodified N.J.A.C. 14:10-6.4, Alternate operator service provider contact information, is proposed for readoption without amendment.

Recodified N.J.A.C. 14:10-6.9, LEC billing for operator assisted services, is proposed for readoption without amendment.

#### **Subchapter 7. Access to Adult-Oriented Information-Access Telephone Service**

N.J.A.C. 14:10-7.1, Scope, 7.3, Restrictions on access to-adult-oriented services, 7.4, Subscriber requests for service; charges, are proposed for readoption without amendment.

#### **Subchapter 8 remains reserved.**

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

Existing N.J.A.C. 14:10-9.1, Scope, provides for the provision of public pay telephone service and is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-9.2, The PPTS instrument, is amended to delete paragraph (b)3 and subsections (c) and (d), with the retained language requiring dial-tone first from PPT instruments and free access to certain services to assure public safety.

N.J.A.C. 14:10-9.3, 9.4, 9.5, 9.6, 9.7, and 9.8 apply to the provision of public pay telephone (PPT) service (PPTS). The rules govern the operation of the PPT instruments, rates charged to customers, disposition of refunds, location of PPTS, and reporting of market penetration to the Board. These sections also govern placement and repair, inmate telephone handling, and complaint handling procedures. In today's telecommunications market, in particular with the extensive use of wireless telecommunications, the majority of these rules are no longer necessary. Therefore, these sections are proposed for repeal to reflect the decline in payphone use and the proliferation of wireless phones.

#### Subchapter 10. IntraLATA Toll Competition

Existing N.J.A.C. 14:10-10.1, Scope; general provisions, states the requirements for presubscription. N.J.A.C. 14:10-10.1(b) is deleted. The language refers to a customer's ability to presubscribe to a different intraLATA carrier than the consumer's interLATA choice. Many customers subscribe to bundled services from one carrier. Deletion of this language will promote greater marketing flexibility to carriers.

Recodified N.J.A.C. 14:10-10.1(b)2 is deleted. The language requires LECs not to encourage or persuade customers to subscribe to its intraLATA service. The intraLATA telecommunications marketplace has matured and, therefore, this regulation is no longer necessary. This regulation is being deleted to streamline requirements to allow more flexibility to carriers and to eliminate regulations that are no longer necessary.

Existing N.J.A.C. 14:10-10.2, Imputation standard, provides that the rates that an LEC charges customers for toll service and/or interexchange private line service shall equal or exceed the total applicable switched access rates set forth in the LEC's tariff. Subsections (b) through (j) are deleted. This language provides for the rate treatment for those customers that enter into specific pricing arrangements with the LEC. It also provides for a compliance procedure. In the current environment these requirements are no longer needed. Therefore, they are deleted in their entirety to allow more flexibility to carriers and to eliminate regulations that are no longer necessary.

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

Existing N.J.A.C. 14:10-11.1 sets forth the scope of the subchapter, and lists the entities and the activities to which it applies, and is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-11.2 contains definitions of terms used in the subchapter, and is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-11.3 sets forth requirements and restrictions for information disclosures during solicitation of TSP switch authorizations, and is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-11.3 sets forth requirements for verifying customer authorization of the submittal of a request to switch TSPs, and is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-11.4 contains the basic requirement for verification, and lists the three possible ways to verify an authorization for a switch. It also requires compliance with FCC anti-slamming regulations, which are incorporated by reference, and requires separate authorizations for each line and each service switched. Subsection (e) requires submittal of a change order within 60 days after the verification. Subsection (f) requires the retention of records of verifications for three years. This section is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-11.5 contains provisions for the use of a letter of agency to verify an authorization for a TSP switch. In addition, this section permits authorizations to be obtained by telephone. As the Board's requirements for this type of authorization are the same as those of the FCC at 47 CFR 64.1120, the section contains a cross-reference to the FCC regulation. This section is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-11.6 sets forth the requirements for third-party verification of TSP switch authorizations. The section includes requirements governing the independence of third-party verifiers, the content and language of the verification, the use of conference calls and automated systems, recordkeeping, and a submittal deadline. A requirement that the date of the verification be recorded is located at existing paragraph (e)2. N.J.A.C. 14:10-11.6(h) and (i) contain

requirements for a third-party verifier in addressing questions from the customer, including a requirement that the verifier not offer to terminate the call until after the TSP's sales agent has answered the customer's questions. This section is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-11.7 sets forth the requirements for an executing TSP upon receipt of a valid change order, and is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-11.8 contains provisions regarding the determination of whether a slam has occurred, and is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-11.9 provides for TSP freezes, and is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-11.10 requires due care, and lists the types of remedies for violations that are available to the Board, and is proposed for readoption without amendment.

Existing N.J.A.C. 14:10-11.11 sets forth detailed criteria for the determination of penalties within the ranges authorized by statute. The section includes a penalty matrix, which provides a clear understanding of the factors the Board will use in determining penalties, and the range of penalties for each type of violation. This matrix system will provide consistency and predictability regarding the consequences of violating the slamming rules. Subsection (b) provides that each violation of a separate provision of the rules, as it relates to each separate line, constitutes a separate violation. Thus, a TSP that has performed an unauthorized switch of regional service on each of 10 lines would be liable for 10 violations; and a TSP that performed an unauthorized switch of local, regional, and long distance service on one line would be liable for three violations. This section is proposed for readoption without amendment.

#### Subchapter 12. Mass Migration Upon TSP Departure from a Service Territory

Existing N.J.A.C. 14:10-12.1, Definitions, provides the definitions for the subchapter. This section is amended to delete the terms "cutover coordinator" and "cut-off date" because these terms are being removed from the guidelines. This section also defines "migration manager" and is amended to add that this person can also be known as the "migration coordinator," that the acquiring TSP can also designate this person, and that the migration manager can also be the point of contact with Board staff. These changes are being made to reflect Board experience with the Mass Migration process. This definition is also amended to delete that the migration manager may be the "project manager" because the term "project manager" is no longer in use and is deleted from this section. Finally, this section also defines "program manager" and is amended to delete this definition because the Board, after gaining experience in this area, determined it will only need to use the term migration manager.

Existing N.J.A.C. 14:10-12.2, Purpose and scope, governs the departure of TSPs from the New Jersey service territory. New subsection (d) is added to state that staff may, upon request and with good cause shown, waive provisions of this subchapter as it deems appropriate." This language is added to provide Board staff with the ability to respond to a carrier's request in those instances where for good cause they cannot meet the requirements of this subchapter.

Existing N.J.A.C. 14:10-12.3, Application to depart a service territory, provides the requirements that a TSP must follow to depart a particular service territory. Under existing subsection (b), the departing TSPs application filing date to the Board, is being changed from 90 to 60 days because, as the Board gained experience, it determined that a 60-day filing is sufficient. In an effort to be consistent with the practices of the FCC and to reduce the burden on carriers who traditionally seek a waiver from issuing numerous letter, the Board has determined that only one letter needs to be sent, therefore, subparagraph (b)2iii is proposed for deletion and recodified subparagraph (b)2iii is amended to delete final sentence referring to the second notice. Existing subparagraph (b)2v is proposed for deletion as the cut-off date requirement is being eliminated. Recodified subparagraph (b)2iv is amended to refer to the "migration manager" rather than "cutover coordinator and project manager" as those terms are proposed for deletion from N.J.A.C. 14:10-12.1. Existing subparagraphs (b)2x and xii refer to lists of end users, service records, and record availability. These requirements are no longer useful, and therefore they are being deleted. Board staff has no regulatory need to

maintain such records. This information is only useful to the acquiring TSP, ILEC, or other carrier the affected customer may otherwise choose. Subsection (d) states that if the departing TSP believes 90 days is not a feasible timeframe to submit an application, it may request a modification of the timeline. This subsection is amended to reduce the number of days to 60 for consistency with the change proposed to N.J.A.C. 14:10-12.3(b).

Existing N.J.A.C. 14:10-12.4, Board notice to other TSPs, provides that the Board maintain a TSP service list on its website. Under N.J.A.C. 14:10-12.4(b), the Board is required, within seven days after receiving an application to exit a service territory, to post the notice of departure on the Board's website and also send a notice to the TSPs on the service list. This subsection is being proposed to be deleted. This language in the regulation could have a negative impact because posting information on the website may compromise a departing TSPs ability to market its customer base.

Existing N.J.A.C. 14:10-12.5, Notice to end users, requires that TSPs provide notice of its departure to end users 60 days prior to its departure (subsection (a)). This is amended to 30 days to mirror the FCC guidelines for departure. Subsection (c) is being amended to delete the requirement to send the notice via certified US mail due to the extra financial burden and, therefore, electronic notification of the TSP departure is sufficient. Subsections (d) and (e), which provide for a second letter via certified mail to end users and copies to the Board Secretary, each ILEC, and NSP are proposed for deletion because the FCC only requires one letter be sent and the Board believes letter notification should conform to the FCC guidelines. Paragraph (f)3 is amended to add language stating that the Board's website contains a complete list of licensed CLECs for end users to make an impartial choice. This is being proposed to assist end users in the selection process of an alternative TSP. Recodified subsection (e) states that the subchapter Appendix A contains four sample end user letters that may be used to provide notice to end users. The notification time is being changed from 60 days to 30 days. References to letters #3 and #4 are being deleted in their entirety; thereby reducing the number of letters to two. The change in notification from 60 days to 30 days is in conformance with FCC guidelines. This action will streamline the process and reduce complaints from departing TSPs that the process is burdensome. Recodified paragraph (f)1 provides for the departing TSP to notify its end users twice. Currently the letters go out 55 days and 30 days prior to the planned departure date. This is amended to provide for only one letter to be sent 30 days prior to conform with the requirements in the subsection.

Existing N.J.A.C. 14:10-12.6, Mass migration process, provides rules for the appointment of the program manager. N.J.A.C. 14:10-12.6(a) states that the departing TSP is to designate a migration manager. This language is amended to add that the acquiring TSP will participate in the designation of a migration manager. The term migration coordinator is added to be used interchangeably with the term migration manager. Existing N.J.A.C. 14:10-12.6(b), (c), (d), and (e), which provide for the appointment of a program manager, a project manager, and certain network information to be given to the acquiring TSP, the NSP for the departing TSP, and the ILEC are proposed for deletion. After gaining sufficient experience, the Board determined that it needs only one point of contact, that is, the migration manager. Existing subsections (h), (i), (j), (k), and (l) provide for the cutoff date and notification to end users. These subsections are proposed for deletion because knowledge of a cutoff date and notification to end users is not necessary, as end users will be notified through the letter sent by the departing TSP or the ILEC.

Existing N.J.A.C. 14:10-12.7, End user lists to be supplied by departing TSP, provides that at least 60 days prior to the projected departure date, the departing TSP shall submit an end-user list to the Board. It also provides instances when a list is not needed. Under subsection (a), these requirements are amended to change the minimum timeframe from 60 days to 45 days and to delete the language pertaining to when the end user list is not needed. This is proposed because the Board believes, after gaining sufficient experience, 45 days is adequate time to receive the list. Further, the Board is deleting when the end user list is not needed and replacing it with "due to competitive reasons." Experience indicates that this is the sole reason a TSP will request a waiver.

Existing N.J.A.C. 14:10-12.8, Progress reports, provides for the timing of the progress reports and the information to be contained in each report. Existing subsection (a) is amended and subsections (b) and (c) are proposed for deletion. These requirements are being revised or removed to delete references to multiple reports being filed in specific timeframes and to delete the name(s) of the TSP(s) to which the departing TSPs' end users have transferred. Language is being added to require only one report to the Board on the departure date because the Board, through experience gained, has determined that this information does not assist in its oversight efforts for mass migrations. These amendments assist in enabling staff to monitor and ensure the seamless transition of customers during a mass migration. Existing paragraphs (b)1, 3, 4, and 5 are retained and merged into subsection (a).

Existing N.J.A.C. 14:10-12.9, NXX code transfer, requires the departing TSP to make arrangements with the North American numbering plan or the national pool administrator to transfer any NXX codes or thousand number blocks, and is proposed for reoption without change.

Existing N.J.A.C. 14:10-12.10, E-911 Number unlocking, is proposed for reoption with technical changes.

Existing N.J.A.C. 14:10-12.11, Local service request, requires the acquiring TSP to send a valid local service request (LSR) to the ILEC, the NSP, and/or the departing TSP. This section is amended to delete subsections (b), (c), and (d). The language provides specific instructions for each type of departing TSP. These deletions are proposed because the Board has determined that this level of specificity is no longer required in mass migrations.

Existing N.J.A.C. 14:10-12.12, Notice of discrepancies, provides the procedures to resolve order discrepancies. This section is proposed for repeal because, in reviewing the effectiveness of the rules, the Board has determined that it no longer needs this section in carrying out its duties.

Recodified N.J.A.C. 14:10-12.12, Enforcement, is proposed for reoption without amendment.

#### Subchapter 12 Appendix A

Letters #1 and #2 are proposed for deletion because they reflect a 60-day notice period to end users. Since the Board is conforming with FCC guidelines (at 47 CFR 64.1120(e)) for a 30-day notice, letters #1 and #2 are no longer necessary.

Letters #3 and #4, which are proposed to be renumbered as letters #1 and #2, currently reference the customer choosing a new local telephone service provider 20 days prior to the planned departure date, is proposed for amendment to replace "20 days prior to planned departure date" with "date." The Board has determined through experience that the "20 days" terminology is not necessary since the departing TSP's letter to end-users will reflect the departure date.

#### Subchapter 12 Appendix B

This appendix is proposed for repeal. The timeline has changed and Board staff no longer find this requirement useful in regulating the migration issues.

#### Social Impact

The rules proposed for reoption with amendments, repeals, and new rules reflect advancements in the telecommunications market place. The impact of streamlining the existing rules is to assist utilities in the provision of safe, adequate, and proper service while balancing the interests of the industry. The social impact of the rules is to benefit the public by implementing measures that remove rules that are no longer relevant to the provision of telecommunications services throughout the State. Therefore, tangible, positive social impacts result from this rulemaking.

#### Economic Impact

The rules proposed for reoption with amendments, repeals and new rules will continue the existing overall beneficial economic impact of these rules. These rules are still instrumental in protecting the public from many types of economic harm that could result from unrestrained market in the telecommunications industry. The rules impact the operations of telephone utilities and telecommunications service providers through costs for, among other things, inspecting and testing their plant and

maintaining and submitting required records or reports and billing information. The benefits of these activities easily outweigh the cost to regulated entities. The slamming subchapter protects the economic interests of TSPs as well as the public, by preventing the unauthorized switching of customers from one TSP to another. The new rules, amendments, and repeals do not impose any additional costs or fees on the regulated entities. For telephone utilities, expenses reasonably incurred for compliance with this chapter may be passed along to ratepayers. For competitive telecommunications carriers, the Board believes that these compliance costs are reasonable, and are necessary in order to ensure safe, adequate, and proper telecommunications service to New Jersey citizens.

#### **Federal Standards Statement**

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-22 through 24 require State agencies that adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis.

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

The rules proposed for readoption with amendments, new rules, and repeals exceed the FCC's record retention requirements (see 47 CFR Part 42) for retail customers as regards billing. The Board requires a six-year period for retention of records, as regards any records necessary to facilitate back billing for retail customers. The Board believes this more stringent requirement is necessary in light of the complexity of bills and the fact that it is now common among customers to have multiple lines. The expanded timeframe for record retention allows customers an opportunity to review their bills and act on any discrepancies discovered in billing.

The non-financial reporting requirements in the rules proposed for readoption with amendments, new rules, and repeals are consistent with the FCC's reporting requirements at 47 CFR Part 43.

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

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

The FCC anti-slaming regulations are found at 47 CFR 64.1100 et seq. The rules proposed for readoption at N.J.A.C. 14:10-11 contain the substance of the FCC rules. The rules include requirements that a TSP submit a change order within 60 days after obtaining a verified authorization and that the date of the verification be noted on the change order. The FCC does not impose these requirements and therefore these provisions are more stringent than the Federal ones. The Board believes, based on its experience with change orders, that this additional stringency is necessary to protect consumers. In addition, the rules add a detailed penalty section, which provides additional detail on the process that Board staff will follow to arrive at a penalty in each case.

N.J.A.C. 14:10-11 includes a verification mechanism, which requires that when a consumer initiates a change of telecommunications service provider, the new TSP must verify the change according to the process

set forth in the rules. This confirmation procedure is designed to safeguard the rights of the consumer.

In addition to incorporating the FCC's letter of agency requirements from 47 CFR 64.1130, the rules require that the TSP notify consumers of the rates, terms, and conditions of service and advise them of the amount of the maximum charge to change TSP.

The FCC's rules neither require nor forbid the imposition and lifting of primary TSP freezes, nor do they require or forbid the imposition of charges for such freezes (see 47 CFR 64.1190). The Board's rules require that all TSPs responsible for the implementation of changes of primary TSPs adopt a primary TSP freeze plan, which provides for the imposition and lifting of freezes at no cost to the customer. The Board notes that the State's local exchange carriers already provide a primary TSP freeze at no charge to customers when requested. These consumer protection features continue the Board's policy of protecting the consumer at minimal cost to the TSP. The public policy of consumer protection outweighs the minimal cost to the TSP.

The Board requires the TSP to provide quarterly reports detailing the status of slamming complaints and authorized primary TSP change orders. This is not required by the FCC. These reports assist the Board and the Division of Consumer Affairs in providing timely and accurate information regarding the resolution of the complaints and to ensure that change orders are processed promptly. This requirement does not pose a burden to the TSPs as they have an internal tracking system for the complaints and change orders.

#### **Jobs Impact**

The rules proposed for readoption with amendments, repeals, and new rules should not result in the hiring of additional personnel to ensure compliance with the rules or to carry out the duty of training staff in the contents of the rules.

#### **Agriculture Industry Impact**

Under N.J.S.A. 52:14B-4, an evaluation of the impact the rules proposed for readoption with amendments, repeals, and new rules have on the agricultural industry must be undertaken. The rules proposed for readoption with amendments, repeals, and new rules will not affect the agriculture industry since agricultural practices generally do not factor into rules respecting the provision of telecommunications services. Accordingly, the rules proposed for readoption with amendments, repeals, and new rules will have no impact on the agricultural industry.

#### **Regulatory Flexibility Analysis**

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

As discussed in the Summary above, N.J.A.C. 14:10-1 through 9 will impose compliance requirements on telecommunications providers, some of which may be "small businesses." Compliance with these requirements should not require telecommunications providers to employ professional services, as the requirements can be met utilizing personnel necessary for the conduct of their business. As these rules are designed to benefit customers who are provided telecommunications services, and to ensure the quality of such services, no differentiation in requirements or exceptions are provided to small businesses.

N.J.A.C. 14:10-10 affects competitive telecommunications carriers, none of which are "small businesses" as that term is defined in the Regulatory Flexibility Act. The carriers affected either employ more than 100 full-time people or are based outside of New Jersey.

The majority of the requirements set forth in N.J.A.C. 14:10-11, as described in the Summary above, are the same as the FCC rules regarding slamming. The public interest in assuring that only authorized switches of telephone service providers occurs outweighs any minimal burden placed on TSPs by these rules. Accordingly, exceptions to these requirements for small businesses have not been provided.

#### **Housing Affordability Impact Analysis**

The Board does not expect the rules proposed for readoption with amendments, repeals, and new rules to have an impact on affordable housing in New Jersey and it is not anticipated that the rules would evoke

a change in the average cost associated with housing as the rules address the regulation of telecommunications providers.

#### Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments, repeals, and new rules will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules address the regulation of telecommunications providers.

**Full text** of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 14:10-1A.12, 4.2, 5.2, 5.5, 6.2, 6.3, 6.5, 6.6, 9.3, 9.4, 9.5, 9.6, 9.7, and 12.12, and 14:10-12 Appendix B.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:10.

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

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 14:10-1.1 Applicability

(a) This chapter applies to the following:

1. A public utility, as defined at N.J.S.A. 48:2-[13a, that operates a telephone system]**13.a**;
  - 2.-4. (No change.)
  5. Any [person] **entity** that is subject to the numbering guidelines of the FCC. **See** N.J.A.C. 14:10-3, Number Reclamation.
- (b)-(d) (No change.)

#### 14:10-1.2 Definitions

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

“Wholesale customer” means [a person] **an entity** that purchases telecommunications services for resale to others.

### SUBCHAPTER 1A. TELEPHONE UTILITIES

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

(a) (No change.)

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

[c] **(b)** (No change in text.)

#### 14:10-[1A.5]**1A.4** Directories

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

[c] The name of the telephone utility, the area included in the directory, and the month and year of issue shall appear on the cover.]

[d] **(c)** Data pertaining to emergency numbers shall be conspicuously listed in the front part of the directory pages [which shall include space for the customer to list emergency numbers, including those of gas, electric and water companies].

[e] **(d)** (No change in text.)

[f] **(e)** The directory shall contain instructions concerning placing [local and long distance calls,] calls to repair [and directory assistance services].

[g] **(f)** (No change in text.)

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

Recodify existing (i) and (j) as **(g) and (h)** (No change in text.)

Recodify existing 14:10-1A.6 and 1A.7 as **14:10-1A.5 and 1A.6** (No change in text.)

#### 14:10-[1A.9]**1A.7** Adequacy of service

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

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

(a) (No change)

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

1.-2. (No change.)

[3. An application for a regrade (that is, a change to a different grade of service) shall be filled within 30 days after the utility receives the regrade request, except where the customer requests a later date. In the event the telephone utility is unable to meet this deadline, the utility shall notify the customer of the date or approximate date the order will be filled.]

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

[h] Customer complaints to the Board concerning a telephone utility’s service shall not exceed eight complaints per 10,000 lines per month, Statewide.]

#### 14:10-[1A.11]**1A.9** Service quality reporting

(a) Each telephone utility shall take measurements of its performance in relation to the standards in N.J.A.C. 14:10-[1A.10]**1A.8**, and shall compile summaries of the measurements.

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

(d) For the purpose of reports submitted under this section, each telephone utility shall provide Statewide totals of its performance measurements relating to all quality service standards set forth at N.J.A.C. 14:10-[1A.10]**1A.8**.

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

1. The additional reporting unit for measurements relating to the standards for installation of service under N.J.A.C. 14:10-[1A.10(b)]**1A.8(b)**, and for trouble reports under N.J.A.C. 14:10-[1A.10(e)]**1A.8(e)**, shall be the geographic area for which a second level manager in charge of installation and maintenance is responsible. For the purpose of this section, a second level manager is a person supervising one or more first level managers, where first level managers are supervisors of crews actually performing work on a telephone plant;

2. The additional reporting unit for measurements relating to the standards for operator handled calls at N.J.A.C. 14:10-[1A.10(c)]**1A.8(c)**1 through 3 shall be the call center; [and]

3. The additional reporting unit for measurements relating to the standards for dial service at N.J.A.C. 14:10-[1A.10(d)]**1A.8(d)** shall be the geographic area for which a second level manager in charge of switching is responsible[.]; **and**

**4. The number of reporting units described in (e)1, 2, and 3 above shall be no less than three.**

(f) All reports submitted under this section shall set forth the following:

[1. Reporting unit name, and further identification if name does not convey geographic location;]

Recodify existing 2.-4. as **1.-3.** (No change in text.)

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

Recodify existing 14:10-1A.13, 1A.14, 1A.15, and 1A.16 as **1A.10, 1A.11, 1A.12, and 1A.13** (No change in text.)

### SUBCHAPTER 2. PAYMENTS FOR SERVICE

#### 14:10-2.2 Contents of bills; back billing

(a) The customer’s bill shall include the items listed in (a)1-13 below, except if the customer’s calling plan or package of services makes an item inapplicable:

1.-6. (No change.)

[7. A separate line item, calculated on a quarterly basis, for each optional service provided, if any;]

Recodify existing 8.-13. as **7.-12.** (No change in text.)

(b)-(f) (No change.)

### SUBCHAPTER 3. NUMBER RECLAMATION

#### 14:10-3.1 Number reclamation definitions

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

“Guidelines” means, as regards to NXX codes, the FCC industry Numbering Committee’s Central Office Code Assignment Guidelines (COCAG); and as regards to thousands-blocks, the Thousands-Block Pooling Administration Guidelines (TBPA); both of which are incorporated herein by reference, as amended and supplemented, and are available at: [www.atis.org/inc/docs.asp](http://www.atis.org/inc/docs.asp).

### SUBCHAPTER 4. NON-FINANCIAL REPORTING REQUIREMENTS

#### 14:10-4.1 General provisions

(a) (No change.)

(b) Each carrier shall submit to the Board an unredacted copy of its semi-annual FCC Local Telephone and Competition and Broadband Reporting Form 477[,with the modifications detailed in this subchapter]. The carrier shall submit the form to the Board annually, within five days after the carrier files the form with the FCC.

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

(g) The submittal to the Board shall include all proprietary data required and provided to the FCC [with respect to Wireline and Fixed Wireless Local Telephone service].

(h) (No change.)

(i) If a carrier is unable to obtain detailed actual data in order to fully comply with this section, or if compiling the required data would place an undue burden on the carrier, the carrier may instead submit detailed, statistically valid estimates of the required data, together with a request for an exemption from the actual data requirements for future filings. A request for an exemption shall contain a detailed description of the methodology used to estimate the data, and a comprehensive explanation of why actual data is not currently available, and why future collection of actual data would result in an undue burden to the carrier. If the actual data becomes available the carrier must notify the Board that estimated data is no longer required for future filings.

(j) If a carrier obtains an exemption under (i) above, and then revises its estimation methodology in a later filing, Board staff may, if necessary require the carrier to restate all previously estimated data using the revised estimation methodology in order to provide a valid comparison.]

### SUBCHAPTER 5. COMPETITIVE TELECOMMUNICATIONS SERVICES

#### 14:10-5.1 Scope

(a) (No change.)

(b) This subchapter applies to the following:

1. Local exchange carriers and intrastate interexchange carriers offering competitive services; **and**
2. Competitive services offered by CLECs, IXCs, and ILECs; and],
- [3. Non-competitive services offered by CLECs under N.J.A.C. 14:10-5.7.]

[(c) The subchapter also applies to tariff revisions, for existing non-competitive services offered by CLECs, which do not increase rates.]

**(c) Revisions to non-competitive telecommunications service tariffs are governed by the Board’s rules for all utilities at N.J.A.C. 14:3.**

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

**Local exchange telecommunications companies and interexchange telecommunications carriers shall make available terms and conditions of any retail competitive services for public inspection on their website and a printed copy of those terms and conditions must be provided upon request of a customer. A local exchange telecommunications company or interexchange telecommunications carrier providing such services, may, in their discretion, file tariffs**

**with the Board. A link to said local exchange telecommunications company and interexchange carrier websites must be provided to the Board for inclusion on the Board’s website.**

#### 14:10-5.4 Tariff revisions that do not increase charges

(a) Tariff revisions to existing competitive telecommunications services[, or to any CLEC or IXC tariff, which] **that do not increase charges to any customer[.] shall become effective one day after [the filing of revised tariff pages with the Board,] notice of the proposed revision as described in N.J.A.C. 14:10-5.3(b)**, without the requirement of prior Board approval; except that a tariff revision for withdrawal of a service offering shall be governed by N.J.A.C. 14:10-[5.8]5.7.

(b) (No change.)

[(c) Revisions to non-competitive telecommunications service tariffs are governed by the Board’s rules for all utilities at N.J.A.C. 14:3.]

#### 14:10-[5.6]5.5 Initial CLEC or IXC tariff

(a) Initial tariffs [filed by] **for** CLECs [for local exchange and exchange access services, or by] **and** IXCs [for interchange services,] shall be effective [as filed] 30 days following submittal to the Board, without the requirement of prior Board approval, except for a tariff covered under (b) below. **The tariffs must be posted on the CLEC or IXC’s website as required under N.J.A.C. 14:10-5.2.**

(b) (No change.)

(c) All initial tariffs [filings made by] **of** a CLEC or IXC shall be certified to be accurate, and in compliance with existing law, by an officer of the CLEC or IXC.

(d) Should an initial tariff [filing] be inconsistent with existing laws, Board staff shall forward a letter of deficiency to the submitting CLEC or IXC. The deficiency letter shall:

1.-4. (No change.)

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

#### 14:10-[5.7]5.6 Board monitoring of competitiveness

(a) In monitoring the competitiveness of [rate regulated and competitive] telecommunications services and/or providers of those services, the Board may request any information necessary from a carrier. In addition, the Board may use information collected pursuant to N.J.A.C. 14:10-4 to conduct an analysis as to whether individual services and/or the markets for telecommunications services are becoming more or less competitive.

(b)-(c) (No change)

#### 14:10-[5.8]5.7 (No change in text.)

#### 14:10-[5.9]5.8 Discontinuance of a competitive service offering

[(a)] A carrier may discontinue offering a competitive service after providing one day notice of the discontinuance to all customers and the Board. [New customers will not have the option to subscribe to the service. However, existing subscribers shall continue to receive the service.

(b) Notwithstanding (a) above, if a competitive service is offered solely by a single carrier, the carrier shall not discontinue the service offering if Board staff notifies the carrier that the discontinuance requires prior Board review and approval.]

### SUBCHAPTER 6. OPERATOR SERVICE PROVIDERS

#### 14:10-6.1 Scope

(a) (No change.)

(b) In addition to this subchapter, those aggregators who are also public pay telephone service (PPTS) providers are subject to N.J.A.C. 14:10-[9]9.1 and 9.2.

(c) **An alternate operator service provider shall notify a caller, before inception of billing that the alternate operator service provider is handling the operator-assisted call by verbal identification by the alternate operator service provider and by a form of signage on the telephone equipment or controlled by the aggregator or by the alternate operator service provider if the alternate operator service provider owns or provides the telephones.**

(d) An alternate operator service provider shall provide:

1. Instructions that detail its dialing procedures;

**2. Dialing instructions for access to the LEC operator;**

**3. To the caller prior to connecting any intrastate, 0+ call, instructions on how the caller can obtain the actual, or maximum possible, total cost of the call, including any aggregator surcharge, and/or location specific charges; and**

**4. The address of the operator service provider and a complaint telephone number.**

(e) Every contract between an alternate operator service provider and aggregator shall include a provision that provides a caller using a telephone owned or controlled by the aggregator or alternate operator service provider with the means to access, where technically possible, any other operator service provider operating in the relevant geographic area, through the access method chosen by the other operator service provider, or to access a local exchange operator or to access the emergency telephone number that serves the jurisdiction where the telephone is located. Such access must be provided free of charge.

(f) No alternate operator service provider shall transfer a call to another operator service provider unless that transfer is accomplished at, and billed from, the point of origination of the call. If such transfer is not technically possible, the alternate operator service provider shall inform the caller that the call cannot be transferred as requested and that the caller should hang up and attempt to reach another operator service provider through the means provided by that other operator service provider.

(g) All "0-" calls, which are calls originated by dialing "0" and no other digits within four seconds, shall be sent promptly and directly to the incumbent LEC operator serving the geographic area where the instrument is located.

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

**SUBCHAPTER 6. OPERATOR SERVICE PROVIDERS**

**14:10-[6.4]6.2 AOS rates for intrastate operator-assisted calls**

(a) An alternate operator service provider may charge the following maximum rates:

1.-3. (No change.)

4. For a call described at (a)1-3 above, that is greater than five minutes, an additional per minute rate may be charged, in addition to the charges under (a)1-3 above. The per minute rate shall equal the applicable per minute rate in the AT&T tariff [on file with the Board at the time of the call. The AT&T rate is posted on the Board's webpage at [http://www.bpu.state.nj.us/bpu/pdf/telecopdfs/njac\\_rates.pdf](http://www.bpu.state.nj.us/bpu/pdf/telecopdfs/njac_rates.pdf)] **contained on its website;** and

5. Notwithstanding (a)4 above, an AOS's rate for a call described in [(a)2] (a)1, 2, or 3 above shall be capped at \$5.25 (\$4.25 plus \$1.00). The AOS shall not charge more than \$5.25 without prior Board approval. A request for Board approval of a higher rate shall conform to the requirements for petitions at N.J.A.C. 14:1-5.12.

(b) Surcharges associated with non-pay telephones, which are not part of the actual telephone bill or imposed by an OSP, but are add-on charges imposed by hotels, motels, hospitals, universities, and/or other CPPTS providers, are not prohibited by [these rules] **this chapter**. However, notice of any surcharge shall be displayed by the aggregator in accordance with N.J.A.C. 14:10-[6.3(b)2]6.1(d).

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

**14:10-[6.7]6.3 Penalties for violations**

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

(d) The penalty amounts for violations of this subchapter are set forth in Table A below:

TABLE A

Penalties for Violations

<u>Violation</u>	<u>Penalty</u>
Exceeding maximum rates authorized under N.J.A.C. 14:10-[6.4(a)]6.2(a)	\$5,000

Noncompliance with emergency call procedures set forth at N.J.A.C. 14:10-[6.6]6.1(g) \$5,000

Slamming, in violation of N.J.A.C. 14:10-11 \$3,000

Noncompliance with the free access requirements at N.J.A.C. 14:10-[6.5]6.1 \$2,500

Noncompliance with [branding,] rate quote [and reporting] requirements at N.J.A.C. 14:10-[6.3(b) and (c), and 6.8]6.1 \$2,000

[Splashing] or billing for uncompleted calls, in violation of N.J.A.C. 14:10-[6.5(d)]6.2(c) [and 6.4(e)] [\$2,000]

Recodify existing N.J.A.C. 14:10-6.8 and 6.9 as **14:10-6.4 and 6.5** (No change in text.)

**SUBCHAPTER 9. PUBLIC PAY TELEPHONE SERVICE**

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

(a) (No change.)

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

1.-2. (No change.)

[3. Calls using access codes necessary to enable the caller to obtain access to the consumer's desired provider of operator services;

4. Completion of collect, third party billed, and carrier calling card calls;]

Recodify existing 5. and 6. as **3. and 4.** (No change in text.)

[(c) The keypad of each PPTS instrument shall feature both numbers and letters in the standard arrangement typically provided on telephone sets.

(d) PPTS providers shall prominently display the following information directly on each telephone instrument, in plain view of consumers:

1. All of the information required under N.J.A.C. 14:10-6.3(a);

2. The rate for a direct-dialed, coin-generated local call;

3. Notice of the inability to accept incoming calls where PPTS providers prevent such call completion;

4. The telephone number of the PPTS instrument unless the notice requirement contained in (d)3 above is present;

5. Notice of the inability to complete international calls where PPTS providers block such calls; and

6. Instructions on how to access the emergency enhanced 9-1-1 system.]

**SUBCHAPTER 10. INTRALATA TOLL COMPETITION**

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

(a) (No change.)

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

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

1. LECs are to process intraLATA PIC change orders within the same time frame as interLATA PIC change orders are processed; **and**

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

[3.] **2.** (No change in text.)

**14:10-10.2 Imputation standard**

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

[(b) Notwithstanding (a) above, and subject to the condition set forth in (d) below, for a customer which has entered a customer-specific pricing arrangement with the LEC, the LEC may substitute its FCC tariff rates for special access (using the term discount rate that corresponds to the term of the customer specific pricing arrangement) including applicable non-recurring special access rate elements leveled over the

term of the contract, for either originating switched access for WATS and toll services or terminating switched access for dedicated 800 services.

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

(d) If an LEC provides a service under a customer-specific pricing arrangement in accordance with (b) above, the LEC's revenues from all customers of that service shall, in the aggregate, satisfy the requirements in this section.

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

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

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

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

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

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

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

14:10-12.1 Definitions

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

...  
 ["Cutover coordinator" means a person designated by the acquiring, or alternative, TSP, who is responsible for the line-by-line transfer of accounts from the departing TSP to the acquiring or alternative TSP. The cutover coordinator works under the direction of the project manager, as defined in this section.

"Cut-off date" means the date by which end users must select an alternative TSP or else be automatically transferred to the acquiring TSP, if there is one.]

...  
 "Migration manager" or "migration coordinator" means a person designated by the departing and/or acquiring TSP to coordinate end user migrations between the departing TSP and the acquiring TSP or the alternative TSP. The migration manager [may be the project manager, as defined in this section, for the departing TSP] **would also be the point of contact with Board staff.**

...  
 ["Program manager" means the person responsible for coordinating a mass migration, monitoring compliance with this subchapter, and ensuring communication between the participants in the mass migration. The acquiring TSP shall designate the program manager. The program manager shall be selected from one of the TSPs involved in the migration, and may or may not be an employee of the acquiring TSP.

"Project manager" means a person assigned by each TSP involved in a mass migration:

1. To ensure that the TSP complies with this subchapter; and
2. To be the official point of contact assigned to represent each participant in the mass migration process.]

...

14:10-12.2 Purpose and scope

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

**(d) Board staff may, upon request and with good cause shown, waive provisions of this subchapter.**

14:10-12.3 Application to depart a service territory

(a) (No change.)

(b) At least [90] **60** days prior to its planned departure date, a departing TSP shall file an application with the Secretary of the Board that includes all of the following:

1. (No change.)
2. An exit plan that explains the steps the TSP will take to help facilitate the transfer of its end users to a new TSP. The exit plan shall include the following:
  - i. (No change.)
  - ii. A sample [of an initial] letter to be sent to the departing TSP's end users in accordance with N.J.A.C. 14:10-12.5(a), informing them of the departure of the TSP and the end users' option to choose another TSP. The departing TSP's letter shall contain all the information set forth in the sample letter in Appendix A to this subchapter, incorporated herein by reference;
    - [iii. A plan for a second notice to end users in accordance with N.J.A.C. 14:10-12.5(d);]
    - [iv.] **iii.** A proposed final departure date, on which the departing TSP must disconnect, or request that the underlying service provider disconnect, all end user accounts[. The final departure date shall be at least one day after the deadline contained in the second notice to end users];
    - [v. A cut-off date determined in accordance with N.J.A.C. 14:10-12.6(i) and (j);]
    - [vi.] **iv.** The names, e-mail addresses, and telephone numbers of the [cutover coordinator and project manager, as defined at N.J.A.C. 14:10-12.1] **migration manager for both the departing and acquiring TSP;** Recodify existing vii., viii., and ix. as **v., vi., and vii.** (No change in text.)
    - [x. A list of end users or groups of end users for whom the departing TSP is the only provider of facilities;]
    - [xi.] **viii.** (No change in text.)
    - [xii. A summary of the end user service records in the possession of the departing TSP, including:
      - (1) A statement of the data elements the end user service records contain;
      - (2) A statement about how the departing TSP will make the end user service records available to other TSPs; and
      - (3) A statement that indicates the format in which these records are kept;]
 Recodify existing xiii., xiv., and xv. as **ix., x., and xi.** (No change in text.)

(c) (No change.)

(d) If the departing TSP believes that [90] **60** days is not feasible for submittal of its application, it may request a modification of the timeline by making a request to Board staff. However, in all cases, the application shall be submitted early enough to provide sufficient time to migrate the departing TSP's end users to other TSPs.

## 14:10-12.4 Board notice to other TSPs

(a) The Board will maintain a TSP service list on its website. The service list will include all of the full facilities-based TSPs operating within New Jersey **and either have a tariff on file with the Board or have it posted on the TSP's website.** Each TSP is responsible for providing the Board with up to date information for the service list.

[(b) Within seven business days after receiving an application to exit a service territory complying with N.J.A.C. 14:10-12.3, the Board shall:

1. Post a notice on the Board's website; and
2. Send a notice to the TSPs on the service list, informing them of the TSP's planned date of departure from the service territory under N.J.A.C. 14:10-12.3(b)2iv and the cut-off date under N.J.A.C. 14:10-12.3(b)2v.]

[(c)] **(b)** (No change in text.)

## 14:10-12.5 Notice to end users

(a) A departing TSP shall provide notice of its departure to its end users at least [60] **30** days prior to its planned departure date, through a letter that complies with this section.

(b) (No change.)

(c) The departing TSP shall send a copy of the letter required under (a) above, [via certified U.S. Mail, to the Board Secretary] **electronically to Board staff** and each ILEC and network service provider that provides service in the area served by the departing TSP, at the same time as the letter is sent to the departing TSP's end-users. In addition, the **electronic** copy of the letter that is sent to the Board and each ILEC and NSP shall be accompanied by an attestation by an officer of the departing TSP that such notice has been mailed to all end users.

[(d) The departing TSP shall also send a second letter to its remaining end users, at least 30 days prior to its planned departure, that will notify the end users of their status and that they have the option to select an alternative TSP within 10 days.

(e) The departing TSP shall send a copy, via certified U.S. Mail, of the letter required under (d) above to the Board Secretary and each ILEC and NSP that provides service in the area served by the departing TSP at the same time as the letter is sent to the departing TSP's end-users. In addition, the copy of the letter that is sent to the Board and each ILEC and NSP shall be accompanied by an attestation by an officer of the departing TSP that such notice has been mailed to all end users.]

[(f)] **(d)** An end user notification letter used to comply with this section shall do the following, at a minimum:

1.-2. (No change.)

3. Provide clear instructions to the end user as to how to choose an alternative TSP, **which would include the Board's website for a complete list of licensed CLECs and or other sources of information that would give the end user an impartial choice for selection purposes;**

4.-8. (No change.)

[(g)] **(e)** Subchapter Appendix A contains [four] **two** sample end user notification letters that may be used to provide notice to end users. Letter #1 is a sample letter, which includes the information that the departing TSP must send to its end users when there is an acquiring TSP [at least 60] **30** days prior to the planned departure date. Letter #2 is a sample letter, which includes the information that the departing TSP must send to its end users when there is no acquiring TSP [at least 60] **30** days prior to the planned departure date. [Letter #3 is a sample letter which includes the information that the departing TSP must send to its end user when there is an acquiring TSP at least 30 days prior to the planned departure date. Letter #4 is a sample letter which includes the information the departing TSP must send its end users when there is no acquiring TSP at least 30 days prior to the planned departure date.] The departing TSP may use these letters or may modify them, provided that the information required in this section is included in the letters.

[(h)] **(f)** In the event a departing TSP fails to provide the notice to the Board required under N.J.A.C. 14:10-12.3 or to provide the notice to its end users required under this section, and there is no acquiring TSP, each ILEC that serves the departing TSP's end users shall, upon becoming aware that the departing TSP has failed to provide the notice to its end users of the mass migration as required under N.J.A.C. 14:10-12.5, provide notice of the departing TSP's pending departure to the departing TSP's end users, if these end users are known. The ILEC shall:

1. Notify the departing TSP's end users of the TSP's pending departure twice, using a letter, such as that contained in Subchapter Appendix A. The letters shall be sent [55 days and] 30 days prior to the planned departure date or, if the acquiring TSP or ILEC did not become aware of their obligation until after those dates, as soon as possible; and

2. (No change.)

(i) (No change.)

## 14:10-12.6 Mass migration process

(a) The departing **and acquiring** TSP shall designate a migration manager **(or migration coordinator)**, who will be responsible for coordinating end user migrations between the departing TSP and the acquiring TSP.

[(b) The acquiring TSP shall appoint a program manager for each mass migration. The program manager shall be selected from one of the TSPs involved in the migration, and shall be responsible for coordinating the migration, monitoring compliance with this subchapter, and ensuring communication between the participants in the mass migration.

(c) In addition to the migration manager and the appointed program manager, each of the TSPs and if applicable the NSP involved in the migration shall appoint a project manager who will ensure that the TSP complies with this subchapter.

(d) The departing TSP shall provide the following network information to the acquiring TSP, the alternative TSP(s), the network service providers for the departing TSP, and the ILEC(s) providing service in the area served by the departing TSP, and the Board, at least 60 days prior to the planned departure date:

1. For a mass migration in which the departing TSP is a UNE-L or a full facilities-based TSP, the departing TSP shall provide the applicable circuit IDs and associated telephone numbers, as well as billing names, addresses and location addresses of all end users;

2. For a mass migration in which the departing TSP is a UNE-P or a reseller the departing TSP shall provide a billing name for each end user, and an address and telephone number with the associated working telephone number(s); and

3. For all mass migrations, any other information necessary to enable the acquiring TSP(s) or the alternative TSP(s) to migrate the departing TSP's end users seamlessly.

(e) In the event that the Board posts information on its website concerning mass migration processing issues, as mentioned under N.J.A.C. 14:10-12.4, a TSP, when notified of a mass migration shall:

1. Review the information set forth on the Board's website at [www.bpu.state.nj.us](http://www.bpu.state.nj.us) concerning issues arising out of the mass migration; and

2. If the Board has not posted information on the Board's website, contact the departing TSP's project manager for the information needed to complete the migration order(s).]

[(f)] **(b)** In accordance with Federal Communications Commission rules, on Preferred Carrier Freezes at 47 CFR [§]64.1190, incorporated herein by reference, as amended and supplemented, the departing TSP shall lift any existing preferred TSP freezes on a line involved in a mass migration, before the [first] notification letter required under N.J.A.C. 14:10-12.5 is mailed to the departing TSP's end users. Therefore, an end user who wishes to have a preferred TSP freeze after a mass migration must contact their LEC to arrange a new freeze.

[(g)] **(c)** (No change in text.)

[(h) Whenever there is an acquiring TSP involved in a mass migration, the acquiring TSP shall designate a cut-off date in accordance with (i) and (j) below.

(i) The acquiring TSP shall designate and announce the cut-off date early enough to ensure that:

1. The end user has sufficient time to choose an alternative TSP; and

2. The acquiring TSP has time to meet the requirements in this subchapter for communicating with the departing TSP's end users concerning the planned migration.

(j) If the departing TSP's end users are notified at least 60 days before the planned departure date by the departing TSP in accordance with N.J.A.C. 14:10:12.5(a) and (b), the cut-off date shall be at least 20 days before the planned departure date.

(k) If the departing TSP's end users are not notified at least 60 days before the departure date, the TSPs involved in the migration shall contact Board staff to determine the cut-off date. Board staff shall set the cut-off date depending upon the size of the migration and the notification timelines.

(l) If the departing TSP's end users do not select an alternative TSP:

1. End users who have not selected an alternative TSP by the departure date shall be transferred to the acquiring TSP by the acquiring TSP;

2. Whether or not there is an acquiring TSP, the departing TSP may disconnect all of the departing TSP's remaining end users on the day after the departure date, however, in no event is an ILEC to disconnect an end user without first providing notice of disconnection in accordance with the requirements of this subchapter; and

3. The ILEC shall disconnect any remaining end users of the departing TSP on the day after the departure date.]

[(m)] (d) (No change in text.)

14:10-12.7 End user lists to be supplied by departing TSP

(a) At least [60] **45** days prior to the projected departure date, the departing TSP shall submit an end user list to the Board. Board staff may waive this requirement at the departing TSP's request[, if the mass migration is a simple resale serving arrangement with relatively few end users, and staff determines that it will not need the end user list for these or any other purposes] **due to competitive reasons.**

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

14:10-12.8 Progress reports

(a) The departing TSP shall file a progress report[s] with the Board [at the milestone intervals set forth in (c) below, to inform the Board as to whether the requirements of this subchapter have been met.] **on the departure date, which would include the following:**

[(b) Each progress report required by this section shall include all of the following information, as of the date the report is submitted:]

1. (No change.)

[2. The name(s) of the TSP(s) to which the departing TSP's end users have transferred, if known to the departing TSP;]

Recodify existing 3., 4., and 5. as **2., 3. and 4.** (No change in text.)

[(c) The departing TSP shall file the first progress report required under this section 60 days prior to the planned departure date. The departing TSP shall file additional progress reports 30 and 10 days prior to the planned departure date, and shall file a final progress report on the departure date.]

14:10-12.10 E-911 Number unlocking

(a) A TSP that departs a service territory shall unlock all of its telephone numbers in the E-911 database, in accordance with the National Emergency Numbering Association (**NENA**) standards, so as to provide the acquiring TSP or alternative TSP with access to the departing TSP's end users' E-911 records.

(b) In unlocking its E-911 numbers, the departing TSP shall comply with [the National Emergency Numbering Association's (NENA)] standards for local number portability, contained in NENA Recommended Data Standards For Local Exchange Carriers, ALI Service Providers & 9-1-1 Jurisdictions - NENA 02-011, which is incorporated herein by reference, as amended and supplemented, and may be obtained at [www.nena.org](http://www.nena.org).

(c) (No change.)

14:10-12.11 Local service request

[(a)] The acquiring TSP shall send a valid LSR, as defined at N.J.A.C. 14:10-12.1, to the ILEC, NSP, and/or the departing TSP at least 15 days prior to the planned departure date.

[(b) In a migration in which the departing TSP is a UNE-P-based TSP or a reseller, the network service provider shall, upon receipt of a valid LSR, provide a FOC to the acquiring TSP or alternative TSP.

(c) In a migration in which the departing TSP is a UNE-L-based TSP or full facilities-based TSP, the departing TSP shall, upon receipt of a valid LSR, provide a FOC to the acquiring or alternative TSP.

(d) Alternative TSPs shall submit all local service requests to ILEC for processing at least 15 days prior to the departure date.]

14:10-[12.13]**12.12** (No change in text.)

APPENDIX A

Sample Notice Letters

[Letter #1: Sample End User Notification Letter (with Acquiring TSP)

Date (60 days prior to planned departure date)

End user Name

Address

City, NJ zip

Re: Your Service will be Transferred to (Name of Acquiring TSP) Unless You Choose A New Local Telephone Service Provider By (20 days prior to planned departure date)

Dear Telephone Service Customer:

We regret to inform you that as of (planned departure date), XYZ Company will no longer provide local telephone service in (their city). (Explanation of specific company circumstances).

You have two options:

OPTION 1: You can select a different local telephone service provider on or before (20 days prior to planned departure date). If you do this, XYZ company will allow your service to be transferred to your selected provider immediately, and you will assume responsibility for any charges associated with the transfer of your account from XYZ Company to your selected local telephone provider.

OPTION 2: You can do nothing, and let (name of acquiring TSP) automatically become your local telephone service provider. If you do this, XYZ company will transfer your service to (name of acquiring TSP) on (date).

*If you do not want service from (name of acquiring TSP), your action is required! You must choose option 1 and select a new local telephone provider as quickly as possible, AND no later than (20 days prior to planned departure date.)*

IF YOU CHOOSE OPTION 1:

If you choose OPTION 1 and select a new local telephone service provider, you should also contact your local toll provider and your long-distance provider. Tell them to ensure that neither your current local toll plan nor your long-distance calling plan is changed as the result of your change in local service. If you do not contact these providers, they may charge you different rates than before for local toll and long distance calls. You should also request that your new local telephone provider place any requested freezes on your account. However, if you choose OPTION 1 and select another provider of your choice, you will incur additional charges. If you choose to transfer your service to a telephone service provider other than (name of acquiring TSP), every effort will also be made to keep your telephone number and services the same as they are with (name of departing TSP).

IF YOU CHOOSE OPTION 2:

If you choose OPTION 2, you will not be charged for the change to (name of acquiring TSP).

Even if you choose OPTION 2, you will still keep the option to select another local telephone service provider in the future, but if you do select another provider in the future, there will be a delay in transferring your service to your selected provider until after the change to (name of acquiring TSP).

XYZ company will make every effort to transfer your telephone service to (name of acquiring TSP) in a way that will keep your local telephone number the same, and your existing local service and calling features will be transferred to (name of acquiring TSP).

If you have any questions regarding the discontinuance of XYZ Company's local telephone service, please call (toll free number). Questions regarding (acquiring TSP) should be directed to (toll free number of acquiring TSP). XYZ Company regrets any inconvenience this change may cause you.

Sincerely,

LETTER # 2: Sample End User Notification Letter (without Acquiring TSP)

Date (60 days prior to planned departure date)

End user Name  
Address  
City, NJ zip

Re: You Must Choose a New Local Telephone Service Provider by (20 days prior to departure date)

Dear Telephone Service Customer:

We regret to inform you that as of (planned departure date) XYZ Company will no longer provide local telephone service in New Jersey (or their city). (Explanation of specific company circumstances).

*Your action is required! You must select a new local telephone service provider as quickly as possible, AND no later than (20 days prior to planned departure date) or you may lose your local telephone service.*

You can usually find a list of local telephone service providers in your local telephone directory or on the Board's website at [www.bpu.state.nj.us](http://www.bpu.state.nj.us). If you require assistance, please contact XYZ Company (current company) at (toll free number).

After selecting a different local telephone provider, you should also contact your current local toll provider and your long distance provider to ensure that neither your current local toll calling plan nor your long distance calling plan is changed as the result of your change in local service. If you do not contact these providers to ensure that your current calling plans remain in place after you transfer your local service, you may be charged basic rates (non-calling plan rates) for local toll and long distance calls. If you wish to have any freezes placed on your account, you must also request any freezes from your local telephone service provider.

XYZ Company regrets any inconvenience this change may cause you.

Sincerely,]

Letter # [3] 1: Sample End user Notification Letter (with acquiring TSP)

Date (30 Days prior to planned departure date)

End user Name  
Address  
City, NJ zip

Re: Your Service will be Transferred to (Name of Acquiring TSP) Unless You Choose A New Local Telephone Service Provider By [(20 days prior to planned departure)] (date)

Dear Telephone Service Customer:

We regret to inform you that as of (planned departure date), XYZ Company will no longer provide local telephone service in (their city). (Explanation of specific company circumstances).

You have two options:

OPTION 1: You can select a different local telephone service provider on or before (date) [(20 days prior to planned departure date)]. If you do this, XYZ company will allow your service to be transferred to your selected provider immediately, and you will assume responsibility for any charges associated with the transfer of your account from XYZ Company to your selected local telephone provider.

OPTION 2: You can do nothing, and let (name of acquiring TSP) automatically become your local telephone service provider. If you do this, XYZ company will transfer your service to (name of acquiring TSP) on (date).

*If you do not want service from (name of acquiring TSP), your action is required! You must choose option 1 and select a new local telephone provider as quickly as possible, AND no later than [(20 days prior to planned departure)] (date.)*

IF YOU CHOOSE OPTION 1:

If you choose OPTION 1 and select a new local telephone service provider, you should also contact your local toll provider and your long-distance provider. Tell them to ensure that neither your current local toll plan nor your long distance calling plan is changed as the result of your change in local service. If you do not contact these providers, they may charge you different rates than before for local toll and long distance calls. You should also request that your new local telephone provider place any requested freezes on your account. However, if you choose OPTION 1 and select another provider of your choice, you will incur additional charges. If you choose to transfer your service to a telephone service provider other than (name of acquiring TSP), every effort will also be made to keep your telephone number and services the same as they are with (name of departing TSP).

IF YOU CHOOSE OPTION 2:

If you choose OPTION 2, you will not be charged for the change to (name of acquiring TSP).

Even if you choose OPTION 2, you will still keep the option to select another local telephone service provider in the future, but if you do select another provider in the future, there will be a delay in transferring your service to your selected provider until after the change to (name of acquiring TSP).

XYZ company will make every effort to transfer your telephone service to (name of acquiring TSP) in a way that will keep your local telephone number the same, and your existing local service and calling features will be transferred to (name of acquiring TSP).

If you have any questions regarding the discontinuance of XYZ Company's local telephone service, please call (toll free number). Questions regarding (acquiring TSP) should be directed to (toll free number of acquiring TSP). XYZ Company regrets any inconvenience this change may cause you.

Sincerely,

Letter #[4] 2: Sample End user Notification Letter (without Acquiring TSP)

Date (30 Days prior to the planned departure date)

End user Name  
Address  
City, NJ zip

Re: You Must Choose a New Local Telephone Service Provider by [(20 days prior to planned departure)] (date)

Dear Telephone Service Customer:

We regret to inform you that as of (departure date), XYZ Company will no longer provide local telephone service in New Jersey (or their city). (Explanation of specific company circumstances).

*Your action is required! You must select a new local telephone service provider as quickly as possible, AND no later than [(20 days prior to planned departure)] (date) or you may lose your local telephone service.*

You can usually find a list of local telephone service providers in your local telephone directory or on the Board's website at [www.bpu.state.nj.us](http://www.bpu.state.nj.us). If you require assistance, please contact XYZ Company (current company) at (toll free number).

After selecting a new local telephone provider, you should also contact your current local toll provider and your long distance provider to ensure that neither your current intraLATA toll calling plan nor your long distance calling plan is changed as the result of your change in local service. If you do not contact these providers to ensure that your current calling plans remain in place after you transfer your local service, you may be charged basic rates (non-calling plan rates) for local toll and long distance calls.

XYZ Company regrets any inconvenience this change may cause you.

Sincerely,