

**CABLE ADVISORY COMMITTEE (“CAC”)  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII**

**MINUTES OF MEETING**

Date: October 6, 2015  
Time: 10:00 a.m. – 12 noon  
Place: Queen Liliuokalani Conference Room  
Department of Commerce & Consumer Affairs  
335 Merchant Street, 1<sup>st</sup> Floor  
Honolulu, HI 96813

**CAC MEMBERS:** Gerry Silva, Tim Bryan, and Austin Vali

**OTHERS:** Catherine Awakuni Colón, Director; Ji Sook Kim, CATV Administrator; Glen Chock, CATV Staff; and Kyle Kagihara, CATV Staff Attorney

**AGENDA:** The agenda for this meeting was filed with the Office of the Lieutenant Governor.

- I. Call to Order – The meeting was called to order at 10:01 a.m.
- II. Reappointment of Timothy Bryan to New Term – Mr. Bryan is the Hawai`i Island representative and his new term will expire on June 30, 2019.
- III. Introduction of New CATV Staff – Ji Sook “Lisa” Kim, CATV Administrator; and Kyle Kagihara, CATV Staff Attorney.
- IV. Minutes of August 21, 2014 Meeting – There were no questions about the minutes, which were then accepted by the CAC.
- V. Update on Pending Matters
  - A. Update of OTWC’s Franchise Renewals
    1. OTWC’s Renewal of East Hawai`i and West Hawai`i Cable Television Franchises – Extended to October 30, 2015

Director Awakuni Colón stated that the Cable Television Division (“CATV”) of the Department of Commerce and Consumer Affairs (“DCCA”)

extended the renewals of Oceanic Time Warner Cable LLC's ("OTWC") East Hawai'i and West Hawai'i Cable Television Franchises until October 30, 2015. DCCA is hopeful that the Decision and Order ("D&O") will be finalized by the end of October. Mr. Bryan asked if DCCA's questions were answered to DCCA's satisfaction. Director Awakuni Colón responded that OTWC has reviewed DCCA's proposed changes to provisions, some of the changes were accepted, others not; and that OTWC has been asked to refine the provisions before the D&O is finalized.

2. OTWC's Renewal of Maui County (excluding Lahaina) and Lahaina Cable Television Franchises – Extended to December 15, 2015

Director Awakuni Colón stated that DCCA has extended the Maui County (excluding Lahaina) and Lahaina Cable Television Franchise Renewals until December 15, 2015. DCCA anticipates that an additional extension will be needed to allow for the completion of the East Hawai'i and West Hawai'i Cable Television Franchise Renewals because the Maui County (excluding Lahaina) and Lahaina Cable Television Franchise Renewals will follow the same form.

3. OTWC's Renewal Kauai Cable Television Franchise – Current franchise expires on Dec. 31, 2016

Director Awakuni Colón stated that the Kauai Cable Television Franchise Agreement expires on December 31, 2016. OTWC sought renewal of its Kauai Cable Television Franchise via a letter submitted in April 2014. In August 2015, DCCA conducted community meetings in Waimea and Lihue, and met with Kauai County's Mayor's Office, State Legislators, and Ho'ike, the public, educational, and governmental ("PEG") organization on Kauai. Director Awakuni Colón also stated that our consultant has helped with the review and the renewal process.

Gerry Silva asked for an update regarding the PEG designations. In response, Director Awakuni Colón stated that the process is still continuing. She stated that staff have met with and sought the advice of the State Procurement Office regarding certain provisions of the contract and that the current draft of contract is under review by the Department of the Attorney General. Director Awakuni Colón noted that DCCA's objective is to create more uniformity and specificity in the designated PEG contracts along with performance metrics and stated that DCCA is working to contract initially with Ho'ike on Kauai since it is the smallest.

B. Update of the Comcast/Time Warner Cable Merger Transaction

Director Awakuni Colón summarized the Comcast/Time Warner Cable (“TWC”) Merger, which began with the joint filing of the Federal Communications Commission (“FCC”) Form 394 with DCCA on April 11, 2014, for approval to transfer control of OTWC’s cable television franchises statewide. DCCA acted upon the proposed transaction and issued numerous information request, held public hearings in each of the franchise areas, held a CAC meeting, and had discussions with the applicants. DCCA issued D&O No. 362 conditionally approving the proposed transaction between OTWC and Comcast. On April 24, 2015, Comcast terminated its merger agreement with TWC and withdrew its pending application with the FCC. On April 29, 2015, the FCC issued an order dismissing the merger application. Thereafter, DCCA acknowledged termination of the transaction and closed the proceeding. Given the circumstances, under the provisions of D&O No. 362, the D&O was rescinded automatically, and deemed null and void. All prior D&Os issued to OTWC and its predecessors-in-interest continue to remain in full force and effect.

VI. New Business

A. Charter/Time Warner Cable Merger Transaction

1. Presentation by Charter/TWC on its Application and additional information submitted to DCCA

Gary Underwood, Charter Communications, Inc.’s (“Charter”) Regional Senior Director, summarized Charter’s recent activities in the State related to the proposed transaction. According to Mr. Underwood, Charter representatives have attended public hearings in each of the franchise areas and conducted meetings with interested parties in order to get a sense of how to build a better system in Hawai’i. Mr. Underwood summarized the services and benefits of the proposed transaction, which included the following: no modem fees, quality service, competitive pricing, and an all-digital format. In regard to internet services, Charter states that it intends to provide a faster base level of service, no data caps, no early termination fees, internet access program for qualified low-income customers, improved WiFi access, and uniform fees, where feasible. In addition, Mr. Underwood mentioned that Charter intends to maintain its support for PEG access.

Following Charter’s presentation, CAC members had questions for Mr. Underwood. Austin Vali asked about the qualifying threshold for Charter’s

low-income internet program. Mr. Underwood responded that the parameters are not set, but the program will be modeled after Bright House Network's low-income internet program. Mr. Vali also asked about the status of call centers in Hawai'i if the merger is completed. Mr. Underwood responded that Charter has not decided on the details, but noted that overseas call centers will return to the U.S. Mr. Silva asked about the services provided to Hana. In response, Mr. Underwood shared that OTWC installed an improved microwave system and that Charter intends to build upon those improvements; however, with respect to the one million line extensions pledged, Charter is not sure where they will be situated. Mr. Bryan mentioned that Hawaiian Telcom ("HT") submitted comments on the proposed merger, which raised issues of marketplace competition and access to program streams, including sports programming. Mr. Underwood responded by stating that competition is beneficial for consumers and that Charter will look into HT's proposed conditions and that he would get back to him later on this matter.

Director Awakuni Colón followed-up by stating that conditions will be placed on the applicants should the merger go through. Director Awakuni Colón made it clear that the process was still ongoing and it was too early to determine if the merger would be approved. Mr. Bryan asked Director Awakuni Colón about the interaction between the merger and the Hawai'i Island franchise renewals. Director Awakuni Colón stated that DCCA is working with OTWC to renew the franchises, and DCCA is hopeful that a renewed franchise agreement will be signed prior to the end of the 120-day merger period. Mr. Bryan then asked about Charter's influence on the franchise renewals. Director Awakuni Colón responded that Charter would have limited influence due to anti-trust laws and DCCA will only work with OTWC until all approvals regarding the proposed transaction are met. Mr. Silva asked if Charter would step in to work on the Kauai franchise renewal if the proposed transaction is completed. CATV Administrator Kim clarified that the OTWC Kauai franchise renewal is already set in motion and if the proposed transaction goes through, then Charter will step into the shoes of OTWC. Administrator Kim also informed CAC members that DCCA expects to receive the Kauai franchise renewal application during the first quarter of 2016 and that the renewal process will move forward from there.

Mr. Vali and Mr. Bryan asked if State approval is a formality if the proposed transaction receives Federal approval. Director Awakuni Colón responded by saying that both State and Federal approvals are necessary for the proposed transaction to be recognized in Hawai'i, but State denial would not invalidate the national transfer. Mr. Vali raised concerns about the duration of the franchise agreement especially since OTWC may no

longer be the cable provider. Director Awakuni Colón responded by stating that DCCA has been investigating Charter and will continue to research Charter's history. Mr. Silva asked when DCCA will enter into active franchise renewal negotiations. Director Awakuni Colón responded that DCCA is close to finishing the Hawai'i Island renewals, then DCCA will move toward finalizing Maui County. Mr. Silva raised another question about who will be the cable provider when the franchise renewals are signed. Director Awakuni Colón clarified that the cable provider will depend on the timing of the proposed transaction and the signing of the franchise renewals. Mr. Bryan asked if the Hawai'i County franchise renewal would set the tone for the other renewals, which Director Awakuni Colón confirmed and added that the process would address uniformity. Mr. Bryan asked if DCCA could discuss any issues that had come up during the review of the proposed transaction, but Director Awakuni Colón responded that DCCA could not disclose that information at this time while the review was still taking place.

2. Results of Public Hearings held in each Hawaii Franchise area

Director Awakuni Colón summarized the Charter/TWC Public Hearings by stating that DCCA held a total of nine (9) public hearings from Tuesday, September 8, 2015, through Thursday, September 17, 2015. On September 8, 2015, in Lahaina, fifteen (15) individuals attended the public hearing, with nine (9) giving oral testimony. On September 9, 2015, in Hilo, twelve (12) individuals attended the public hearing, with two (2) giving oral testimony. Also on September 9, 2015, in Honolulu, eleven (11) persons attended the public hearing, with two (2) giving oral testimony. On September 10, 2015, in Kona, nine (9) individuals attended the public hearing, with two (2) giving oral testimony. On September 11, 2015, in Wailuku, forty-two (42) persons attended the public hearing, with twenty-six (26) giving oral testimony. Also on September 11, 2015, in Lihue, four (4) individuals attended the public hearing, with zero (0) providing oral testimony. On September 15, 2015, in Lanai City, seven (7) individuals attended the public hearing, with three (3) providing oral testimony. On September 16, 2015, in Hana, eighteen (18) persons attended the public hearing, with ten (10) giving oral testimony. Finally, on September 17, 2015, in Kaunakakai, thirteen (13) individuals attended the public hearing and seven (7) of them provided oral testimony.

Director Awakuni Colón shared the following issues and concerns that were brought up during the course of the public hearings with CAC members: (1) improved customer service; (2) enforceable service level agreements; (3) fully fund the PEG access organizations; (4) better broadband speeds and capacity; (5) provide free Wi-Fi services; (6)

include a most favored nation clause; (7) need for Hawai'i (i.e., franchise) specific benefits; (8) need improved services, and services to unserved areas; (9) need for low-income broadband service for the community; (10) need for financial and rate transparency and better billing practices; (11) concerns with Charter's record on discrimination and various lawsuits filed against Charter; (12) providing and improving broadband services to Hawai'i schools; and (13) need for better technology and signal quality, and concerned that certain neighbor island communities may be left behind.

VII. Public Comment

- A. Jay April - Akakū - Maui Community Television ("Akakū"). Jay April, Akakū President and Chief Executive Officer ("CEO"), thanked DCCA for its diligence and efforts during the merger process. Mr. April went on to say that the future of cable is changing, and any agreements must consider future issues because the current platform of delivering cable television is fading away. Mr. April suggested that DCCA charge cable companies rent to use rights-of-way because over-the-top content/service does not generate fees. Mr. April raised concern that Charter will not provide public benefits; and suggested that DCCA put conditions on Charter, like upfront PEG payments or requiring Charter to place designated franchise fees for the length of the franchise in a bank for the PEGs. Mr. April encouraged DCCA to incorporate the regulation of broadband into the cable franchise to generate more funding for PEGs. He also highlighted Charter's poor record regarding PEG access as another concern, and specifically mentioned the issues of PEG access in Capitola, California as an example. Finally, Mr. April stated that iron clad conditions need to be set forth during the proposed merger in order to protect the State.
- B. Angela Angel - `Ōlelo Community Media ("Ōlelo"). Angela Angel, `Ōlelo interim President and CEO, stated that `Ōlelo takes no position regarding the proposed transaction, but is concerned that changes to the franchisee might affect PEGs. Ms. Angel also stated that she was initially concerned that D&O No. 346 would be changed if the proposed transaction is completed; however, she met with a Charter representative who gave her assurances that D&O No. 346 will not be altered. Furthermore, Ms. Angel reiterated that DCCA must protect PEG access. Ms. Angel stated that Charter's commitment to diversity resonates with `Ōlelo, and it will work collaboratively with Charter if the proposed transaction is completed. Finally, Ms. Angel offered `Ōlelo's assistance to help with creating uniformity in the PEG designation process.

- C. Austin Vali – CAC Member. Mr. Vali gave comments regarding the dramatic changes that cable television has undergone over the years, which led Mr. Vali to express his reservations about providing a fifteen year franchise to a provider. Mr. Vali asked DCCA to think about giving less time to the franchise due to changing technologies.
  - D. Gerry Silva – CAC Member. Mr. Silva informed DCCA that D&O No. 346 calls for “adequate and reliable service”, which is needed in Hana. Mr. Silva also asked that Charter interface with the local county emergency management systems.
  - E. Timothy Bryan – CAC Member. Mr. Bryan brought up the issue of network security. In particular, Mr. Bryan asked Charter to look into the physical security of its network with the thought that its network could be compromised in the event of a terrorist attack.
  - F. Gary Underwood – Charter. Mr. Underwood spoke to address a statement made by Mr. April regarding Charter’s poor record with PEG access. Mr. Underwood clarified that the particular example that Mr. April used was misleading because PEGs in California do not directly receive fees; rather the cities receive the fees and then they determine what percentage PEGs should receive.
- VIII. Announcements – None.
- IX. Adjournment – The meeting was adjourned at 11:17 a.m.

Taken and recorded by:

\_\_\_\_\_  
Kyle Kagihara

Date: \_\_\_\_\_