

CABLE TELEVISION DIVISION  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAI'I

In the Matter of )  
 )  
SPECTRUM OCEANIC, LLC ) **DECISION AND ORDER NO. 376**  
 )  
Franchise Fees Paid by the Cable Operator. )  
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**DECISION AND ORDER NO. 376**

**I. INTRODUCTION**

Pursuant to Decision and Order (“**D&O**”) Nos. 261, 291, 346, 364, 366, 367, 369, 371 and 373; and the January 21, 2014 Letter Order, Spectrum Oceanic, LLC (“**Spectrum**”)<sup>1</sup> was required to pay franchise fees in an amount equal to five percent (5%) of Spectrum’s annual gross revenues for its Cable Systems throughout the State of Hawai’i (“**State**”) to the following: (1) three percent (3%) as annual Access Operating Fees (“**AOF**”) to the various public, educational, and governmental access organizations (“**PEG Access Organizations**”) in the State; (2) one percent (1%) to the Hawai’i Public Television Foundation, dba PBS Hawai’i (“**HPTF**”); and (3) one percent (1%) in Annual Fees<sup>2</sup> to the DCCA to administer Hawai’i Revised Statutes (“**HRS**”) chapter 440G and for any other purposes determined by the Director of DCCA (“**Director**”).

**II. DISCUSSION**

Under federal law, a franchising authority (i.e., DCCA) is authorized to assess franchise fees from cable operator(s) up to a maximum of five percent (5%) of a Cable System’s annual gross revenues. See, 47 United States Code § 542(b).

On May 9, 2019, D&O No. 375 was issued reducing the Annual Fee, until further order by the Director, from one percent (1%) to zero percent (0%) beginning on July 1, 2019, effectively reducing the franchise fees from the maximum five percent (5%) to four percent (4%).

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<sup>1</sup>By letter dated June 21, 2019, the Department of Commerce and Consumer Affairs (“**DCCA**”) was notified that on June 6, 2019, Oceanic Time Warner Cable LLC was renamed as Spectrum Oceanic, LLC.

<sup>2</sup> Under Hawai’i Administrative Rules (“**HAR**”) § 16-132-2(d), “income received from subscribers for cable services” means revenues derived from the supplying of regular subscriber service and includes installation fees, disconnect and reconnect fees, and fees for regular cable benefits.” The term does not include per-program or per-channel charges, leased channel revenues, advertising revenues and other income derived from the Cable System.

Consistent with the prior D&Os and directives, by this D&O, DCCA directs Spectrum to pay the gross revenues of its cable systems as set forth below.

### III. ORDER

Based on the foregoing, DCCA hereby orders that:

- A. Subject to the franchise fees adjustments set forth in the letter from the Cable Television Division dated December 19, 2019, and unless otherwise directed, on or about January 31, 2020, Spectrum shall make the following franchise fee payments:
1. Annual AOF in the amount of three percent (3%) of its annual gross revenues to the various PEG Access Organizations (with the exception that the Oahu PEG designee's AOF are subject to a cap plus an inflationary differential each year) in the State or to DCCA's designee(s), subject to further order of the Director;
  2. One percent (1%) of its annual gross revenues to HPTF; and
  3. Any funds collected in 2019 as Annual Fees as shall be paid as follows:
    - a. ONE HUNDRED TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$125,000.00) shall be paid to the 'Ulu`ulu: Henry Ku`ualoha Giugni Moving Image Archive of Hawai'i ("**HKG Archive**")<sup>3</sup> in 2020; provided that:
      1. Spectrum shall make the payment to the University of Hawai'i for the HKG Archive Special Fund established by HRS § 304A-2180;
      2. The payment shall be apportioned among each of Spectrum's cable systems in the State in proportion to the total Gross Revenue of all of Spectrum's cable systems statewide; and

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<sup>3</sup> In 2012, the HKG Archive was designated as the official State archive for moving images. See, Act 90, Session Laws of Hawai'i 2012 and HRS § 304A-1864.

The HKG Archive, located at the University of Hawai'i, West Oahu, is a unique digital and material archive intended to perpetuate and share the special history and culture of Native Hawaiians and the people of Hawai'i. It is dedicated to the care of film, videotape, and audiovisual materials, as well as the preservation of Hawai'i's moving images. The HKG Archive converts videotapes and film footage to digital files kept on servers that are accessible to the public through a website portal.

DCCA has determined that the funds described in this D&O shall help to preserve and maintain the State archive for moving images, and thereby, support the State's interest in educating current and future generations about the history and culture of Hawai'i.

3. Any future payments to the HKG Archive shall be based on subsequent D&Os or Letter Orders issued by DCCA.
    - b. The remaining amount (which includes the one percent (1%) of the income received from Subscribers for Cable Services rendered from January 1, 2019 to June 30, 2019 as required under HAR §16-132-2 and adjusted in HAR §16-132-2(c)) shall be held by Spectrum in a separate interest bearing account and distributed based on a D&O or Letter Order issued by DCCA at a future date.
  4. Spectrum shall provide copies of the payment checks and any supporting documents related to the above-mentioned payments to DCCA as soon as reasonably practicable.
- B. Unless otherwise directed, on or about January 31, 2021, and every January 31<sup>st</sup> thereafter, Spectrum shall pay the maximum amount of its annual gross revenues for each of its Cable Systems in the State allowed under federal law, as adjusted or modified by applicable D&Os and/or letter orders, as franchise fees and make the following payments:
1. Annual AOF in the amount of three percent (3%) of its annual gross revenues to the various PEG Access Organizations (with the exception that the Oahu PEG designee's AOF are subject to a cap plus an inflationary differential each year) in the State or to DCCA's designee(s);
  2. One percent (1%) of its annual gross revenues to HPTF; and
  3. If reinstated for collection by order of the Director, the remaining one percent (1%) of the funds shall be paid based on a D&O or Letter Order to be issued by DCCA at a future date.
- C. Except as otherwise provided in this D&O, the remaining provisions of D&O Nos. 261, 291, 346, 364, 366, 367, 369, 371 and 373; and the January 21, 2014 Letter Order shall continue to remain in full force and effect.

Dated: Honolulu, Hawai'i, January 6, 2020.



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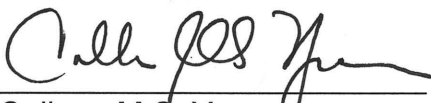
CATHERINE P. AWAKUNI COLÓN  
Director of Commerce and  
Consumer Affairs

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **DECISION AND ORDER NO. 376** was served upon the following person at the address shown below by mail, postage prepaid, on this 6th day of January, 2020.

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Colleen M.S. Yuen  
Secretary