

CABLE TELEVISION DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of)
)
SPECTRUM OCEANIC, LLC) **DECISION AND ORDER NO. 379**
)
Franchise Fees Paid by the Cable Operator.)
_____)

DECISION AND ORDER NO. 379

I. INTRODUCTION

Pursuant to Decision and Order (“**D&O**”) Nos. 174, 241, 291, 346, 366, and 368, and other applicable orders and directives, Spectrum Oceanic, LLC (“**Spectrum**”)¹ 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 (“**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 Fees² to the DCCA to administer Hawai‘i Revised Statutes (“**HRS**”) chapter 440G and for any other purposes determined by the Director of DCCA (“**Director**”).

Pursuant to D&O No. 375 the Annual Fee was reduced, 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%).³

¹By 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.

² 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.

³ D&O No. 376, issued on January 6, 2020, regarding franchise fees, reflects the directives outlined in D&O No. 375.

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

Consistent with the prior D&Os, letter orders, and directives, by this D&O, DCCA directs Spectrum to pay four percent (4%) of the annual gross revenues of its Cable Systems as set forth below.

III. ORDER

Based on the foregoing, DCCA hereby orders that:

- A. Spectrum shall pay four percent (4%) of its annual gross revenues for each of its Cable Systems in the State as franchise fees, until further order of the Director.
- B. On or about January 31, 2022, Spectrum shall make the following franchise fee payments and allocations:
 1. One percent (1%) of its annual gross revenues to HPTF;
 2. Annual AOF from its Kauai and Maui County Cable Systems in the amount of three percent (3%) of Spectrum's annual gross revenues to the Kauai and Maui County PEG access organizations, respectively;
 3. Subject to further order of the Director, one and a half percent (1.5%) of Spectrum's annual gross revenues from its Hawaii island Cable System to the Hawaii island PEG access organization as AOF;
 4. The remaining one and a half percent (1.5%) of its annual gross revenues from its Hawaii island Cable System shall be set aside and maintained by Spectrum in an interest bearing account in a federally insured financial institution authorized in the State of Hawaii; provided that:
 - a. The funds in this account shall be distributed at a later date at the sole discretion and direction of the Director; and

- b. Spectrum can recover reasonable costs associated with opening and administering the bank account, including the tax impact of any interest earned from the account;
 5. Subject to further order of the Director, after calculation of the cap plus an inflationary differential of the three percent (3%) of Spectrum's annual gross revenues from its Oahu Cable System, the first fifty percent (50%) to the Oahu PEG access organization as AOF; provided that THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$300,000.00) from this amount shall be set aside and maintained by Spectrum in an interest bearing account in a federally insured financial institution authorized in the State of Hawaii. With respect to this account:
 - a. The funds in this account shall be dispersed solely at the discretion and direction of the Director;
 - b. If requested by the Director, Spectrum shall disperse the funds to an entity designated by the Director; and
 - c. Spectrum can recover reasonable costs associated with opening and administering the bank account, including the tax impact of any interest earned from the account;
 6. The remaining fifty percent (50%) of the amount calculated in Section III.B.5. shall be set aside and maintained by Spectrum in an interest bearing account in a federally insured financial institution authorized in the State of Hawaii; provided that:
 - a. The funds in this account shall be distributed at a later date at the sole discretion and direction of the Director; and
 - b. Spectrum can recover reasonable costs associated with opening and administering the bank account, including the tax impact of any interest earned from the account.
- C. Unless otherwise directed, on or about January 31, 2023, and every January 31st 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 access organization'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.
- D. Except as otherwise provided in this D&O, the remaining provisions of D&O Nos. 174, 241, 291, 346, 366, and 368 shall continue to remain in full force and effect.

Dated: Honolulu, Hawai'i, December 29, 2021.



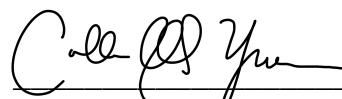
CATHERINE P. AWAKUNI COLÓN
Director of Commerce and
Consumer Affairs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **DECISION AND ORDER NO. 379** was served upon the following person at the address shown below by mail, postage prepaid, on this 29th day of December, 2021.

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