

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

In the Matter of	)	
	)	
HAWAII CABLE OPERATORS	)	<b>DECISION AND ORDER NO. 380</b>
	)	
Reinstatement of Annual Fee Paid by Cable	)	
Operators to the Department of Commerce	)	
and Consumer Affairs.	)	
_____	)	

**DECISION AND ORDER NO. 380**

**I. INTRODUCTION**

Spectrum Oceanic, LLC, formerly known as Oceanic Time Warner Cable LLC (“**Spectrum**”), and Hawaiian Telcom Services Company, Inc. (“**HTSC**”) (collectively, “**Cable Operators**”) hold cable television franchises in the State of Hawai‘i (“**State**”) issued by the Department of Commerce and Consumer Affairs (“**DCCA**” or “**Department**”). HTSC holds a cable franchise for the island of Oahu<sup>1</sup> and Spectrum holds separate cable franchises for Oahu, Hawai‘i Island, Kauai, Maui County (excluding Lahaina), and Lahaina.<sup>2</sup>

DCCA, as the cable franchising authority in the State, 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.<sup>3</sup> As part of this five percent (5%), under Hawaii Revised Statutes (“**HRS**”) § 440G-15(a), each cable operator is required to pay an annual fee to the Department (“**Annual Fee**”) to administer Hawai‘i Revised Statutes (“**HRS**”) chapter 440G and for any other purposes determined by the Director of DCCA (“**Director**”).<sup>4</sup> The Director has the authority to adjust the Annual Fee pursuant to the rules adopted in accordance with HRS chapter 91.

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<sup>1</sup> See Decision and Order (“**D&O**”) No. 352 issued on June 24, 2011.

<sup>2</sup> See D&O No. 346 issued on January 14, 2010; D&O No. 368 issued on March 15, 2016; D&O No. 291 issued on July 12, 2002; D&O No. 241 issued on May 10, 1999; D&O No. 174 issued on October 2, 1995.

<sup>3</sup> See 47 U.S.C. § 542(b).

<sup>4</sup> In addition to the Annual Fee, the remaining portion of the franchise fees assessed to Cable Operators’ for their respective Cable Systems throughout the State is allocated as follows:

## II. DISCUSSION

Hawai'i Administrative Rules ("HAR") § 16-132-2 provides that the Annual Fee for each cable operator shall be one percent (1%) of the income received from subscribers for cable services rendered during the preceding calendar year.<sup>5</sup> The Annual Fee assessed to the Cable Operators is passed along to their cable television subscribers and is included in the franchise fee amount listed on the monthly bills for cable television subscribers. HAR § 16-132-2(c) allows the Director to increase or decrease the amount of the Annual Fee if the Director determines that the existing Annual Fee is insufficient or exceeds the amount necessary to cover the costs of administering HRS chapter 440G. On May 9, 2019, D&O No. 375 was issued reducing the Annual Fee from one percent (1%) to zero percent (0%), beginning July 1, 2019, as the one percent (1%) Annual Fee collected over time from the Cable Operators had resulted in DCCA accumulating more funds than it required to cover the costs of administering HRS chapter 440G. This reduction in franchise fees was passed on to the Cable Operators' subscribers.

During the period of the reduction of the Annual Fee to zero per cent (0%), the Department utilized a significant amount of its reserves to fund the costs of administering HRS chapter 440G and the Department is now in need of funds to support the continuing costs of administering HRS chapter 440G.

## III. ORDER

Based on the foregoing, DCCA hereby orders that:

- A. Commencing February 1, 2023, the Annual Fee for each cable operator paid to the Department shall be reinstated to one percent (1%), subject to further order by the Director.
- B. Concurrently, Spectrum and HTSC may pass through to their cable television subscribers, the increase in the amount of franchise fees paid to the Department to reflect the reinstated Annual Fee.

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three percent (3%) of its annual gross revenues as annual Access Operating Fees to the various public, educational, and governmental access organizations in the State; and one percent (1%) of its annual gross revenues to the Hawai'i Public Television Foundation, dba PBS Hawai'i.

<sup>5</sup> Under 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.

- C. Notwithstanding any decision and order to the contrary, the Director may reconsider, in the Director's sole discretion, the amount of the Annual Fee payments at any time.
- D. Except as otherwise provided herein, all other provisions of the respective D&Os, Letter Orders, and directives issued by DCCA shall continue to remain in full force and effect.

Dated: Honolulu, Hawai'i, December 29, 2022.

*Nadine Y. Ando*

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NADINE Y. ANDO  
Director of Commerce and  
Consumer Affairs

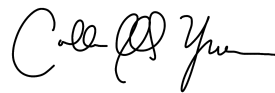
**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **DECISION AND ORDER NO. 380** was served upon the following person at the address shown below by mail, postage prepaid, on this 29th day of December, 2022.

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Colleen M.S. Yuen  
Secretary