



November 21, 2023

CABLE TV DIVISION
DEPT OF COMMERCE AND
CONSUMER AFFAIRS

2023 NOV 21 P 2: 59

VIA HAND AND ELECTRONIC DELIVERY

Nadine Y. Ando, Director
Department of Commerce and Consumer Affairs
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

Attn: Randy M. Leong, Cable Television Administrator

Re: Application of Hawaiian Telcom Services Company, Inc. for issuance of a Cable Franchise for the Island of Kaua'i

Dear Mr. Leong:

Hawaiian Telcom Services Company, Inc. ("HTSC" or "Applicant") hereby submits an original and three (3) copies of its Responses to the Department of Commerce and Consumer Affairs First Set Of Information Requests received on November 8, 2023 for the application for a cable television franchise for the island of Kaua'i.

The information contained in the Confidential Responses listed below contain information Applicant considers to be confidential, proprietary, and/or highly competitive, and should not be disclosed to third parties without Applicant's prior written consent.

- | | |
|-------------------------------------|-------------------------------------|
| 1. Confidential Response DCCA-IR-6 | 5. Confidential Response DCCA-IR-17 |
| 2. Confidential Response DCCA-IR-7 | 6. Confidential Response DCCA-IR-19 |
| 3. Confidential Response DCCA-IR-8 | 7. Confidential Response DCCA-IR-23 |
| 4. Confidential Response DCCA-IR-12 | |

If you have any questions, please contact me at steven.golden@hawaiiantel.com or 808-546-3877.

Sincerely,

/s/ Steven P. Golden
Steven P. Golden
Vice President, External Affairs

SPG:rc
Enclosures

DCCA-IR-1

1. Applicant has conveyed a willingness to discuss a plan for Public, Educational, and Governmental ("PEG") channel access.
 - (a) On page 13, Section III.H.3.b., Applicant states it will provide the number of "FCC required PEG channels for Kaua'i." Provide more details on this statement and the number of channels this would include.
 - (b) Given the importance of PEG programming access to the local community and the prior construction of the fiber network that HTSC will use, does HTSC agree to provide the same number of linear and on-demand PEG access channels on Kaua'i that are provided by the incumbent cable operate in Kaua'i?
 - (c) Given the importance of PEG programming, does HTSC agree to provide an annual PEG capital contribution that is equal on a "per vide subscriber basis" to the annual PEG capital contribution that is provided by the incumbent cable operate in Kaua'i?

Response:

(a) See response to (b) below.

(b) Yes, HTSC will provide two linear channels and two on demand channels.

(c) Yes, provided the capital funding contribution is used for capital expenditures and not operating costs for facilities and equipment for the use of public, education, or governmental access channel capacity.

DCCA-IR-2

HTSC conveyed a willingness to discuss the provision of a cable drop to schools and institutions of higher learning. We recognize that HTSC's video service requires the receipt of HTSC's Internet access service to receive the video service. Accordingly, would HTSC be willing to provide, free of charge, its video service to every school and institution of higher learning that otherwise receives Internet access services from HTSC.

Response:

Yes, Applicant is willing to provide one video service drop and basic video service to each school or institution of higher education that requests such connection and is within the company's fiber enabled footprint at the time of the request but in compliance with the FCC's Third Report and Order "costs attributable to franchise terms that require a cable operator to provide free or discounted cable service to public buildings, including buildings leased by or under control of the franchise authority, are cable-related, in-kind contributions that fall within the five percent cap on franchise fees."¹.

¹ *In the Matter of Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992, Third Report and Order, 34 FCC Rcd 6844 at 6873, Par. 26 (2019) ("Third Report and Order").*

DCCA-IR-3

On page 9, Section III.E, ¶2, the application states that “services provided by HTSC are charged at a lower of fair market value (FMV) or the fully distributed cost (FDC), whereas the services provided to HTSC are charged at the higher of FMV or FDC.” Please provide an explanation how this payment structure where HTSC pays the higher of FMV or FDC for services received and charges the lesser for services rendered constitutes proper cross-subsidy relationship. Also provide further explanation on how this payment structure does not impact the rates or prices HTSC will charge for its proposed video services.

Response:

The payment structure described in Section III.E complies with 47 C.F.R. Subpart-B, Section 32.27(c), which states:

“For all other services sold by or transferred from a carrier to its affiliate, the services shall be recorded at no less than the higher of fair market value and fully distributed cost. For all other services sold by or transferred to a carrier from its affiliate, the services shall be recorded at no more than the lower of fair market value and fully distributed cost.”

Compliance with this regulation ensures that each entity is transacting affiliate services at fair rates that will not cross-subsidize or unfairly advantage the other entity’s business operations.

The video service rates charged by HTSC reflect the market value of video services that subscribers are willing to pay. If the prices for video services are excessively high, video subscribers will obtain services from another service provider. HTSC’s video service rates or prices are based on the consumer’s value of the services provided and market competition.

Application for Issuance of a Cable Franchise
Name Of Applicant: Hawaiian Telcom Services Company, Inc.
Responses to DCCA First information Request for Clarification/Supplemental Information
DCCA-IR-4
November 21, 2023

DCCA-IR-4

Confidential Exhibit III.E is missing Exhibit A-1, please provide this document.

Response:

Confidential Exhibit III.E, Exhibit A-1 is not missing because this exhibit was not included in the final executed Affiliate Services Agreement because there were no services identified to be transacted between HOLDCO and Parent, Asset Company and/or Hawaiian Telcom.

DCCA-IR-5

On page 10, Section III.E., the application states that the IPTV system will offer "Intuitive TV recommendations based on viewing habits." Please provide an explanation on the information the IPTV system is collecting from viewers to produce these recommendations and whether viewers have the option to "opt- out" of such process.

Response:

Intuitive collection is a recommendation based on a subscriber's viewing habits related to frequently watched channels and program names on a viewing device. Applicant would like to clarify that no identifying customer proprietary network information (CPNI) is collected from subscribers.

Subscriber data collected is related to channels and programs frequently watched on a device and are presented to the customer as recommendations upon turning on the device or pressing the main menu button so the customer can view the channels, airtimes times and apps for quicker selection.

Aggregated Viewership data is provided to content providers and TiVo as the platform provider, such as the total number of hours viewed on a channel, number of subscribers at any given time, and apps and games that are used.

Within six months of launching video services on Kaua'i, Hawaiian Telcom is required by TiVo to allow video subscribers to "Opt-Out" of any Clickstream data collection through their HT My Account.

CONFIDENTIAL

Application for Issuance of a Cable Franchise

Name Of Applicant: Hawaiian Telcom Services Company, Inc.

Responses to DCCA First information Request for Clarification/Supplemental Information

CONFIDENTIAL RESPONSE- DCCA-IR-6

November 21, 2023

DCCA-IR-6

Provide the estimated time frame for recovery of the anticipated start-up costs for the proposed video service. See Application, page 32, Section V.D.2.

CONFIDENTIAL Response:

DUE TO CONFIDENTIAL, PROPRIETARY, AND/OR COMPETITIVELY SENSITIVE INFORMATION CONTAINED WITHIN, THE MATERIAL IS BEING PROVIDED UNDER SEPARATE COVER AND MAY NOT BE DISCLOSED TO THIRD PARTIES OUTSIDE THE CABLE TELEVISION DIVISION, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, WITHOUT THE PRIOR WRITTEN CONSENT OF HAWAIIAN TELCOM SERVICES COMPANY, INC.

CONFIDENTIAL

Application for Issuance of a Cable Franchise

Name Of Applicant: Hawaiian Telcom Services Company, Inc.

Responses to DCCA First information Request for Clarification/Supplemental Information

CONFIDENTIAL RESPONSE - DCCA-IR-7

November 21, 2023

DCCA-IR-7

On page 40, Section VI.C.2 of your application, Applicant responded that there is no other projected growth of other services other than basic and pay video service. With the expansion of its fiber footprint and Fioptic technology does applicant not expect any projected growth in areas such as internet or phone services?

CONFIDENTIAL Response:

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Application for Issuance of a Cable Franchise
Name Of Applicant: Hawaiian Telcom Services Company, Inc.
Responses to DCCA First information Request for Clarification/Supplemental Information
CONFIDENTIAL RESPONSE - DCCA-IR-8
November 21, 2023

DCCA-IR-8

On page 58 of your application, Applicant indicates its intent to provide video services to all "fiber enabled households" on Kauai. Applicant also indicates that its extension of the geographic coverage of its video service will be based on "consumer demand for the service." Please detail the plans of the company and its affiliates to extend its fiber network throughout Kaua'i, including details on homes passed and the dates for achieving these thresholds. Please also quantify the market penetration thresholds that Applicant requires for its video service to extend the geographic area of its video service and the planned extent of such expansions.

CONFIDENTIAL Response:

DUE TO CONFIDENTIAL, PROPRIETARY, AND/OR COMPETITIVELY SENSITIVE INFORMATION CONTAINED WITHIN, THE MATERIAL IS BEING PROVIDED UNDER SEPARATE COVER AND MAY NOT BE DISCLOSED TO THIRD PARTIES OUTSIDE THE CABLE TELEVISION DIVISION, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, WITHOUT THE PRIOR WRITTEN CONSENT OF HAWAIIAN TELCOM SERVICES COMPANY, INC.

DCCA-IR-9

On page 60, Section VIII.L., Applicant states that all facilities outside of the headend to be used for this cable television franchise are provided by HTI. How does the use of HTI's facilities relate to the issue raised in IR#4?

Response:

See responses to IR-3 and IR-4. HTSC's use of HTI's facilities is not related to the issues raised in IR-3 or IR-4.

DCCA-IR-10

On page 64, Section B.1.b. of your application, the term “substantial useful life” is used to describe the new MPLS network. Provide more information on what this

Response:

Substantial useful life refers to the ability to maintain and upgrade the components listed. The components of the MPLS network are still supported by Hawaiian Telcom and its vendors. Components are replaced when they are found to be defective or when network capacity upgrades are needed to support subscriber growth.

DCCA-IR-11

Indicate whether the earth stations are protected by FCC license. See
Application, page 66, Section IX.D.2.

Response:

Hawaiian Telcom's earth stations are protected by FCC licenses. Detailed information on the FCC licenses can be viewed publicly at the following URLs on the FCC website.

FCC License file numbers are:

1. SES-REG-20181017-05249
<https://fcc.report/company/Cincinnati-Bell-Extended-Territories-LLC>
2. SES-REG-20181017-07056
<https://fcc.report/company/Hawaiian-Telcom-Inc>

CONFIDENTIAL

Application for Issuance of a Cable Franchise

Name Of Applicant: Hawaiian Telcom Services Company, Inc.

Responses to DCCA First information Request for Clarification/Supplemental Information

CONFIDENTIAL RESPONSE - DCCA-IR-12

November 21, 2023

DCCA-IR-12

On page 69, Section IX.G.1.a. of your application states that no physical subscriber service location is planned during the initial start-up, but Applicant will continue to evaluate the need based on the number of video subscribers and service demands. Provide a proposed subscriber number, percentage of video market penetration, or other proposed measurement that would prompt the establishment of a physical location.

CONFIDENTIAL Response:

DUE TO CONFIDENTIAL, PROPRIETARY, AND/OR COMPETITIVELY SENSITIVE INFORMATION CONTAINED WITHIN, THE MATERIAL IS BEING PROVIDED UNDER SEPARATE COVER AND MAY NOT BE DISCLOSED TO THIRD PARTIES OUTSIDE THE CABLE TELEVISION DIVISION, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, WITHOUT THE PRIOR WRITTEN CONSENT OF HAWAIIAN TELCOM SERVICES COMPANY, INC.

Application for Issuance of a Cable Franchise
Name Of Applicant: Hawaiian Telcom Services Company, Inc.
Responses to DCCA First information Request for Clarification/Supplemental Information
DCCA-IR-13
November 21, 2023

DCCA-IR-13

Provide information on any fees or charges subscribers may incur for using the customer/subscriber service resources described in the application (e.g., fee for paying bills over the phone, etc.). See Application, page 69, Section IX.G.1.e.

Response:

There are no service fees or charges for subscribers for using the following Hawaiian Telcom resources and self-service options:

- Via phone or email to the Customer Service and Billing Inquiry Center
- Via phone or email for technical support
- Chat with an Agent Support (On-line with an Agent)
- Online support through articles/videos
- Self-Service feature with option to make changes and/or submit a service ticket

Hawaiian Telcom's bill payment methods and fees are published on page two of its invoice (see below).

Service fees for one-time bill payments are:

- Online - \$1.95 Residential customers, \$3.95 Business customers
- By phone - \$1.95 Residential customers, \$3.95 Business customers
- By phone, agent assisted, there is an additional \$5.00 fee (this is not on page 2 since this is optional)
- Pay-in-Person at First Hawaiian Bank branches; the bank charges a processing fee of \$1.00 per transaction.

For returned payments, Hawaiian Telcom may charge a \$20.00 returned item fee.

How To Pay Your Bill

AutoPay: Offers convenient monthly payments using a bank or credit card account. Sign up online at hawaiiintel.com.

Mail: Send a check or money order using the enclosed return envelope. Include your remittance slip and 15-digit account number on your check or money order to ensure proper credit to your account. Mail to: Hawaiian Telcom, P.O. Box 30770, Honolulu, HI 96820.

Bill Pay Service (set up with your bank): Refer to your bank as fees may apply. Set up Hawaiian Telcom as a payee with the address "P.O. Box 30770, Honolulu, HI 96820" and reference your 15-digit account number.

Online: Visit hawaiiintel.com/myaccount to make one-time payments from a credit card or checking account. A service fee will apply; \$1.95 residential, \$3.95 business.

By Phone: Call (855) 844-1222, enter your 15-digit account number and 5-digit billing zip code. A service fee will apply; \$1.95 residential, \$3.95 business.

Pay in Person at any First Hawaiian Bank Branch. Bring your remittance slip and pay by cash or check. A \$1.00 service fee will apply.

Previous Payments

If a payment was made, but is not reflected on your current statement, please deduct the amount and pay the difference.

Returned Payments

A fee of \$20.00 may be charged for each payment that cannot be processed. If your check payment is returned by your bank, Hawaiian Telcom may resubmit your payment electronically to your bank for processing.

Late Payment Fees

A late payment fee of \$15.95 or 1.5% per month, whichever is higher (provided the late payment fee will not exceed the maximum amount permitted by law) will be applied to any outstanding balance more than 60 days past the invoice date. Overdue balances of less than \$10.00 will have the late payment fee waived. Late payment fees will not be assessed on taxes or unpaid late fees.

Service Suspended for Non-Payment

New Charges must be paid by the Bill Due Date. If not, based on the state regulatory and notice requirements, once your account has a Past Due/Balance Forward amount, some or all of your service may be suspended. Charges may apply to suspend and reconnect service. A deposit to re-establish your service may also be required.

Equipment Return/Charges

Equipment must be returned to Hawaiian Telcom. Failure to do so will result in unreturned equipment charges. Visit hawaiiintel.com/return for complete details.

DCCA-IR-14

Application, page 70, Section IX.G.1.f.

- (a) Under Applicant's "Drop Ship" process, clarify if the mailed equipment to subscribers will be within three (3) or five (5) business days.
- (b) Clarify if the above timeframe is when subscribers will receive the equipment from the date the service is requested or if this is the timeframe in which Applicant will process a request and put the equipment in the mail.
- (c) Describe when the billing cycle for a subscriber will begin after the service is requested.

Response:

- (a) The equipment will be processed by Applicant and mailed within five (5) business days.
- (b) See response to (a) above.
- (c) For new Hawaiian Telcom customers, the bill cycle date is assigned as close as possible to the new install/activation date. For existing Hawaiian Telcom customers, their billing cycle does not change and billing for video service will begin when the video service is installed/activated.

DCCA-IR-15

On page 78 of your application, Applicant conveyed a willingness to work with DCCA to develop an appropriate INET program. Given the importance of INET and the prior construction of the fiber network that HTSC will use, does HTSC agree to provide INET links that are comparable in number, length, and capacity to the INET links currently provided by the incumbent cable operate in Kaua'i when considered annually based on the number of subscribers for each company's respective video service? In determining the value of the INET links that would be provided to the State, does HTSC agree that any such value should be calculated based on the actual cost of providing such links to the State, recognizing that the fiber network that would be used has already been constructed?

Response:

Applicant is willing to work with the DCCA to develop an appropriate INET program. Applicant notes that recent FCC decisions (see discussion below), require that "any costs associated with the construction, maintenance, and service of an I-Net fall within the five percent cap on franchise fees¹."

The FCC's Third Report and Order does not differentiate between identifying the cost of construction of new or existing fiber used for INET purposes. Thus, the entire cost of constructing the relevant fibers as well as operating and maintaining them would offset the amount of franchise fees paid. It is important to keep in mind that the purpose of the 5% franchise fee cap is to protect consumers, not HTSC, as franchise fees are passed through to cable service subscribers.

¹ In the Matter of Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992, Third Report and Order, 34 FCC Rcd 6844 at 6873, Par. 55 (2019) ("Third Report and Order"):

Application for Issuance of a Cable Franchise
Name Of Applicant: Hawaiian Telcom Services Company, Inc.
Responses to DCCA First information Request for Clarification/Supplemental Information
DCCA-IR-16
November 21, 2023

DCCA-IR-16

On page 79, Section IX.R.1. of your application, under HAR §16-131-47, system testing reporting is required for cable franchises. Describe what format and information this report would provide under the proposed system. Would this report differ than the System Testing report HTSC submits for its Oahu franchise? If so, describe the differences

Response:

The report will not differ from the current Excel spreadsheet System Testing report HTSC submits for its Oahu franchise. See example below of Exhibit 7 from HTSC's Quarterly System Testing report for Oahu:

Exhibit 7: System Testing

System: Headend		Report Date: 4-19-2022	
Availability: Percentage of time with measured stream presence			
Quality: Percentage of time with no measured packet loss			
Jitter: Percentage of time with no measured timing errors			
Availability:		99.94%	
Quality:		99.97%	
Jitter:		99.91%	
<u>Channel</u>	<u>Availability</u>	<u>Quality</u>	<u>Jitter</u>
	(%)	(%)	(%)
1	100.00	100.00	100.00
2	99.97	100.00	100.00
3	99.97	100.00	100.00
4	99.97	100.00	100.00
5	99.97	100.00	100.00
6	100.00	100.00	100.00
7	99.98	100.00	100.00
8	100.00	100.00	100.00
9	99.96	100.00	100.00
10	99.88	100.00	100.00

CONFIDENTIAL

Application for Issuance of a Cable Franchise

Name Of Applicant: Hawaiian Telcom Services Company, Inc.

Responses to DCCA First information Request for Clarification/Supplemental Information

CONFIDENTIAL RESPONSE - DCCA-IR-17

November 21, 2023

DCCA-IR-17

Applicant's Hawai'i-based presence is appreciated by subscribers and impacts local communities.

- (a) Describe how the proposed franchise, if approved and effectuated, will impact HTSC's overall workforce?
- (b) Will new jobs be created on Kaua'i?
- (c) How many new jobs are projected to be created on Kaua'i?
- (d) What types of jobs will be created on Kaua'i?

CONFIDENTIAL Response:

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DCCA-IR-18

Provide the location(s) and address(es) on Kaua'i where Applicant will maintain a physical copy of the application for public viewing.

Response:

A physical copy of the application is available for public viewing Monday-Friday from 7:45 AM to 4:30 PM at:

Regulated Industries Complaints Office
Department of Commerce and Consumer Affairs
3060 Eiwa St. Suite 204
Lihue, HI 96766

CONFIDENTIAL

Application for Issuance of a Cable Franchise

Name Of Applicant: Hawaiian Telcom Services Company, Inc.

Responses to DCCA First information Request for Clarification/Supplemental Information

CONFIDENTIAL RESPONSE - DCCA-IR-19

November 21, 2023

DCCA-IR-19

HTSC's cable system is projected to be present in each of the census tract areas on Kaua'i, has HTSC identified any specific neighborhoods or locations that will be difficult to serve and if so, explain why?

CONFIDENTIAL Response:

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DCCA-IR-20

Summarize and describe any plans for future capital spending to expand and upgrade the cable system and communications infrastructure currently controlled by HTSC's parent company in Kaua'i.

Response:

See Confidential Response to DCCA-IR-8.

Application for Issuance of a Cable Franchise
Name Of Applicant: Hawaiian Telcom Services Company, Inc.
Responses to DCCA First information Request for Clarification/Supplemental Information
DCCA-IR-21
November 21, 2023

DCCA-IR-21

Please provide a copy of the Public Interest Statement related to this matter filed with the Federal Communications Commission.

Response:

A Public Interest Statement is not required to be filed with the Federal Communications Commission for the Kaua'i video franchise.

DCCA-IR-22

Summarize, how this proposed transaction is in the interest of the public and how it will directly serve and benefit HTSC's customers.

Response:

Today, Hawaiian Telcom customers on Kaua'i can only subscribe to voice and Internet services. Issuing a video franchise will directly benefit HTSC customers by allowing them the choice to also purchase video service and to bundle this service with voice or Internet service or both. The residents of Kaua'i will no longer be limited to subscribing to video service from only the incumbent cable provider.

Competition in the market is expected to bring consumer benefits in terms of content, value, customer service, more advanced Internet Protocol TV ("IPTV") technology and innovative products and services. HTSC will provide its competitive video service to the residents of Kaua'i, by introducing its new Fioptics+ powered by TiVo Android based IPTV video service application platform. Fioptics+ video platform expands the customer's viewing experience by incorporating traditional video services with the power of Android TV. This platform provides customers a best-in-class entertainment experience by combining linear TV with direct-to-consumer apps such as Max, Netflix, Disney Plus, as well as universal search capabilities and cloud services.

Hawaiian Telcom's substantial investments to expand its fiber network demonstrates its commitment to provide its alternative video service to the HTSC's customers and other residents of the island of Kaua'i.

CONFIDENTIAL

Application for Issuance of a Cable Franchise

Name Of Applicant: Hawaiian Telcom Services Company, Inc.

Responses to DCCA First information Request for Clarification/Supplemental Information

CONFIDENTIAL RESPONSE - DCCA-IR-23

November 21, 2023

DCCA-IR-23

On page 91, Section XI.A. of your application, the staff level of service representatives will depend on subscriber penetration/order rates and received support calls. Please elaborate how an increase of staff levels will be determined, i.e., an increase of 10% of subscriber penetration will equate to a 1% increase of staff.

CONFIDENTIAL Response:

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