CABLE TELEVISION DIVISION

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

STATE OF HAWAIʻI

In the Matter of HAWAIIAN TELCOM SERVICES COMPANY, INC. Franchise Fees Paid by the Cable Operator.	))))))	**DECISION AND ORDER NO. 388** Date Issued: January 24, 2025

DECISION AND ORDER NO. 388

I. INTRODUCTION

Pursuant to Decision and Order ("**D&O**") Nos. 352, 383, 384, 385 and other applicable orders and directives, Hawaiian Telcom Services Company, Inc. ("**HTSC**") is required to pay franchise fees in an amount equal to five percent (5%) of HT's annual gross revenues for its Cable Systems throughout the State of Hawai`i ("**State**").

II. DISCUSSION

Under federal law, a franchising authority (i.e., Department of Commerce and Consumer Affairs ("**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).[1]

Consistent with the prior D&Os, letter orders, and directives, by this D&O, DCCA directs HTSC to pay five percent (5%) of the annual gross revenues of its Cable Systems as set forth below.

III. ORDER

Based on the foregoing, DCCA hereby orders that:

A. HTSC shall pay five percent (5%) of its annual gross revenues for each of its Cable Systems in the State as franchise fees.

[1] The FCC issued a Third Report and Order in its Implementation of Section 621(a)(1) of the Cable Communications Policy Act, MB Docket No. 05-311, FCC 19-80, 84 Fed. Reg. 44725 (August 27, 2019) ("FCC Order"), in which the FCC determined that the costs of noncash cable-related exactions, in-kind contributions, that cable operators provide under a cable franchise must be offset against the franchise fees, thereby impacting the distribution and amounts of franchise fees.

B. By January 31, 2025, HTSC shall make the following franchise fee payments for the Oahu Cable System:

1. One percent (1%) of its annual gross revenues to Hawai’i Public Television Foundation, dba PBS Hawai’i (“**HPTF**”);

   a. The HPTF Fee shall be paid to HPTF on a monthly basis;

   b. HTSC's Gross Revenues from the Cable Service collected during one (1) month shall be used to calculate the monthly HPTF Fee and HTSC shall pay to HPTF the monthly HPTF Fee after a lag period of two (2) months; and

2. Annual Access Operating Fees (“**AOF**”) in the amount of three percent (3%) of its annual gross revenues to the public, educational, and governmental (“**PEG**”) access organization on Oahu;

   a. The AOF shall be paid to the Oahu PEG access organization on a monthly basis;

   b. HTSC’s Gross Revenues from its Cable Service collected during one (1) month shall be used to calculate the monthly AOF and HTSC shall pay to the designated Oahu PEG the monthly AOF after a lag period of two (2) months; and

3. One percent (1%) of its annual gross revenues to DCCA (which includes the one percent (1%) of the income received from Subscribers for Cable Services rendered during the preceding calendar year as required under HAR § 16-132-2 and adjusted in HAR §16-132-2(c)).

C. HTSC shall make the following franchise fee payments for the Maui County, Kauaʻi County, and Hawaiʻi island Cable Systems:

1. One percent (1%) of its annual gross revenues to HPTF;

   a. The HPTF Fee shall be paid to HPTF on a monthly basis;

   b. HTSC's Gross Revenues from the Cable Service collected during one (1) month shall be used to calculate the monthly HPTF Fee and HTSC shall pay to HPTF the monthly HPTF Fee after a lag period of two (2) months, except that the first HPTF payment shall be made by February 28, 2025 for amounts collected from subscribers in 2024; and

2. Annual Access Operating Fees ("**AOF**") in the amount of three percent (3%) of its annual gross revenues to the respective PEG access organizations for Maui County, Kauaʻi County, and Hawaiʻi island;

   a. The AOF shall be paid to the various PEG access organizations on a monthly basis;

   b. HTSC's Gross Revenues from its Cable Service collected during one (1) month shall be used to calculate the monthly AOF and HTSC shall pay to the designated PEG access organizations the monthly AOF after a lag period of two (2) months, except that the first AOF payment shall be made by February 28, 2025 for amounts collected from subscribers in 2024; and

3. On or before January 31, 2025, one percent (1%) of its annual gross revenues to DCCA (which includes the one percent (1%) of the income received from Subscribers for Cable Services rendered during the preceding calendar year as required under HAR § 16-132-2 and adjusted in HAR §16-132-2(c)).

D. HTSC shall submit to DCCA reporting on the above distributions as set forth in the applicable franchise D&Os and/or other DCCA directives.

E. Except as otherwise provided in this D&O, the remaining provisions of the respective D&Os, Letter Orders, and directives issued by DCCA shall continue to remain in full force and effect.

Dated: Honolulu, Hawaiʻi, January 24, 2025.

Nadine Y. Ando

Nadine Y. Ando
Director of Commerce and
Consumer Affairs

<u>CERTIFICATE OF SERVICE</u>

I hereby certify that a copy of the foregoing **DECISION AND ORDER NO. 388** was served upon the following person at the address shown below by mail, postage prepaid, on this 24th day of January, 2025.

Steven P. Golden
Vice President, External Affairs
Hawaiian Telcom Services Company, Inc.
1177 Bishop Street, Suite 17
Honolulu, Hawaiʻi 96813

Colleen M.S. Yuen
Administrative Assistant