

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

In the Matter of	)	
	)	
HAWAIIAN TELCOM SERVICES	)	<b>DECISION AND ORDER NO. 389</b>
COMPANY, INC.	)	
	)	Date Issued: February 13, 2025
Public, Educational, or Governmental	)	
Access Capital Fund Payment Schedule for	)	
the Period January 1, 2025 to June 24, 2026.	)	
_____	)	

**DECISION AND ORDER NO. 389**

By this Decision and Order, the Cable Television Division of the Department of Commerce and Consumer Affairs (the “**Department**” or “**DCCA**”) of the State of Hawai‘i approves the capital fund payment schedule for the period January 1, 2025 to June 24, 2026, as set forth in the agreement dated January 31, 2025, by and between ‘Ōlelo Community Media (“**Ōlelo**”), as the current O‘ahu public, educational, or governmental (“**PEG**”) access organization, and Hawaiian Telcom Services Company, Inc. (“**HTSC**”) and attached hereto as Exhibit “A”. However, the Department will be examining the methodology in calculating the capital fund payment and its impact on subscribers and may make adjustments as the Department deems appropriate.

**I. INTRODUCTION**

On June 24, 2011, the Department issued Decision and Order (“**D&O**”) No. 352 granting a non-exclusive franchise to HTSC to provide digital cable service to all areas on the island of O‘ahu, subject to the terms, conditions, and requirements set forth in D&O No. 352.

Section IV.J.2 of D&O No. 352, required HTSC to meet with the O‘ahu PEG access organization(s) to develop a schedule for capital fund payments for the PEG

access facilities and equipment for the years 2015 to 2019<sup>1</sup>, the years 2020 to 2024<sup>2</sup>, and then for the period covering the remainder of the franchise term.<sup>3</sup>

On February 6, 2025, HTSC submitted its agreement with ‘Ōlelo dated January 31, 2025, which memorializes the Parties agreed-upon capital fund payment schedule for the period of January 1, 2025 to June 24, 2026 (“**Agreement**”). The Agreement is attached as Exhibit “A”, and is hereby incorporated into and made a part of this D&O.

## II. **DISCUSSION**

Under the Agreement, HTSC agrees to pay ‘Ōlelo, the Director’s PEG designee for O’ahu, capital fund payments for PEG access facilities and equipment, as follows:

<u>Due Date</u>	<u>Amount</u>
February 28, 2025	\$1,041,849 multiplied by the ratio of HTSC's basic service tier Subscribers on O’ahu to the total number of basic service tier Subscribers on O’ahu served by HTSC, Oceanic Time Warner Cable ("OTWC") and any other franchised cable operator on O’ahu combined as of December 31 of 2024, multiplied by the percentage change of the United States Department of Labor seasonally adjusted Consumer Price Index for all Urban Consumers Honolulu for all items (1982-1984=100) from the then-most current period available and the comparable preceding year's CPI but not less than the \$1,041,849 total from HTSC, OTWC and any other franchised cable operator on O’ahu combined. <sup>4</sup>
February 28, 2026	Forty eight percent (48%) of \$1,041,849 multiplied by the ratio of HTSC's basic service tier Subscribers on O’ahu to the total number of basic

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<sup>1</sup> On April 30, 2014, HTSC submitted to the Department its agreement with ‘Ōlelo memorializing HTSC’s and ‘Ōlelo’s (collectively, the “**Parties**”) agreed-upon capital fund payment schedule for the years 2015 to 2019, which was approved by the Director of DCCA (“**Director**”) in D&O No. 361 issued on May 15, 2014.

<sup>2</sup> On April 26, 2019, HTSC submitted to the Department its agreement with ‘Ōlelo memorializing the Parties agreed-upon capital fund payment schedule for the years 2020 to 2024, which was approved by the Director in D&O No. 374 issued on May 9, 2019.

<sup>3</sup> See D&O No. 352 at 36-37.

<sup>4</sup> See Agreement at 1 (footnote omitted).

service tier Subscribers on O‘ahu served by HTSC, OTWC and any other franchised cable operator on O‘ahu combined as of December 31 of 2025, multiplied by the percentage change of the United States Department of Labor seasonally adjusted Consumer Price Index for all Urban Consumers Honolulu for all items (1982-1984=100) from the then-most current period available and the comparable preceding year’s CPI. The prorated percentage of 48% is based on HTSC’s franchise period of January 1, 2026 to June 24, 2026.<sup>5</sup>

In addition, the Parties agree: (1) that the Director has the authority to adjust the capital funds payments agreed to by the Parties, as set forth in the Agreement, subject to HTSC’s franchise order (i.e., D&O No. 352); and (2) on certain conditions when they may petition the Director to adjust the capital fund payment amounts. Specifically, the Parties agree to the following conditions:

- (1) Based upon the number of all basic service tier Subscribers in all O‘ahu franchises as of December 31, 2024, if the number of basic tier Subscribers on O‘ahu increases or decreases at least five percent (5%), either ‘Ōlelo or HTSC may petition the Director for an increase or decrease in the capital fund payments; provided that either party may submit such petition only once per calendar year.
- (2) The Director shall have the sole authority to grant or deny the petition, and before changing the amount of the capital fund payments, the Director shall require the petitioning party to provide substantial justification for its request.
- (3) If an increase or decrease is granted, the O‘ahu Subscriber number base shall be adjusted accordingly.
- (4) ‘Ōlelo may request in writing to DCCA that DCCA confirm whether the minimum increase or decrease in Subscriber numbers has been met; provided that DCCA shall not be required to disclose the confidential Subscriber information to ‘Ōlelo, and ‘Ōlelo may request this confirmation from DCCA only once per calendar year.<sup>6</sup>

Upon review, DCCA determines that the capital fund payment schedule agreed to by the Parties, as memorialized in the Agreement, is consistent with D&O No. 352.

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<sup>5</sup> See id. (footnote omitted).

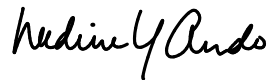
<sup>6</sup> See id. at 2.

### III. ORDER

Now, therefore, the Director hereby orders that:

- A. In accordance with D&O No. 352, the Director approves the Agreement, described herein and attached hereto as Exhibit "A", between HTSC and 'Ōlelo for HTSC's O'ahu franchise area. Accordingly, HTSC shall pay 'Ōlelo capital fund payments for the period of January 1, 2025 to June 24, 2026 as set forth in the Agreement.
- B. Pursuant to D&O No. 352, the Director has the discretion to adjust the capital funds payments agreed to by the Parties.
- C. Except as otherwise provided in this Decision and Order, the remaining provisions of D&O No. 352 (to the extent not otherwise amended), shall remain in full force and effect.

Dated: Honolulu, Hawai'i, February 13, 2025.



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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. 389** was served upon the following at the address shown below by mail the same, postage prepaid, on this 13<sup>th</sup> day of February, 2025.

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



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Colleen M.S. Yuen  
Administrative Assistant