CABLE ADVISORY COMMITTEE (CAC)
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

MINUTES OF MEETING

Date: Time: Place:	December 12, 2011 2:00 p.m. Queen Liliuokalani Conference Room King Kalakaua Building, 1st Floor 335 Merchant Street Honolulu, Hawaii 96813
CAC Members Present:	Gerry Silva, Beth Tokioka (interim) and Austin Vali (interim) Excused: Mahina Martin
Others present:	Keali`i Lopez, Director; Everett Kaneshige, Deputy Director; Donn Yabusaki, CATV Administrator; CATV Staff - Glen Chock, Laureen Wong, and Cathy Takase
Agenda:	The agenda for this meeting was filed with the Office of the Lieutenant Governor.

I. Call to Order – The meeting was called to order at 2:02 p.m.

II. Minutes of the June 7, 2011 meeting – There were no questions about the minutes of last meeting, which were then accepted.

III. Update on Pending Matters

A. Hawaiian Telcom Services Company, Inc. (HTSC) Cable Franchise for Oahu – issued June 24, 2011:

CATV Administrator Yabusaki reported that HTSC was granted a 15-year cable franchise for Oahu in Decision & Order No. 352. The franchise has terms similar to Oceanic Time Warner Cable's Oahu franchise. Mr. Yabusaki mentioned that HTSC is obligated to pay PEG funds, provide INET connections and franchise required channels, and cablecast 1800 public service announcements. Mr. Yabusaki also noted that there has been a recent significant change in HTSC's existing Fiber to the Premise (FTTP) intentions. HTSC will run fiber to each subscriber's premises for new installations that involve a group of dwellings such as a new subdivision. This will allow higher bandwidth to homes. Director Lopez asked HTSC representatives present if they had any updated information on HTSC's franchise. They did not.

CAC member Gerry Silva stated that a franchise grant is a privilege but to require identical requirements for each provider may be redundant. Mr. Silva stated that he is not supportive of lengthy franchise terms because of changing technology. He indicated that channels are irrelevant and that bandwidth is what counts because more and more content is being streamed over the internet, and cable providers must make sure that the infrastructure stays up-to-date and is maintained.

Interim CAC member Austin Vali expressed his concerns with the length of franchise terms because of changes in technology. He stated that cable operators may move to the internet to provide services.

Director Lopez acknowledged that changes in technology are happening fast. However, she noted that as a new franchise, HTSC's Oahu franchise has a term of 15 years, which is set by law. She further noted that, Oceanic's 20-year Oahu franchise does require Oceanic to report on new developments in cable technology and to provide a technology upgrade plan every 5 years. Director Lopez requested that Mr. Yabusaki provide to CAC members the timeframe for Oceanic's next technology plan.

Mr. Silva inquired about the status of HTSC's franchise. Director Lopez stated that HTSC would be requested to report on its Oahu franchise at a future CAC meeting.

B. Oceanic Time Warner Cable's Renewal of East Hawai`i and West Hawai`i Cable Franchises

CATV Administrator Yabusaki provided an overview of Oceanic Time Warner's application to renew the East and West Hawaii franchises, which expire at the end of this month. Mr. Yabusaki reported that DCCA held public hearings in Hilo and Kona, and public attendance was poor. Subsequently, DCCA received testimony and comment from the Hawaii County Council which were addressed in the negotiations between DCCA and Oceanic. Mr. Yabusaki stated that both DCCA and Oceanic agreed to hold off on further discussions until the arbitration hearings on a related matter are completed.

Mr. Bob Barlow, President of Oceanic Time Warner Cable, reported on Oceanic's application for renewal of its Big Island franchises, which were submitted in July 2011 and accepted for filing on August 4, 2011. Oceanic first acquired its first Hawaii Island franchise in 1995, which then had only 40 cable channels. Presently, the Hawaii Island franchises now cover 77,000 homes and have 300 channels. Mr. Barlow stated that Oceanic plans to upgrade services such as expanding high definition transmission and increasing internet speeds to 10 megabits. Oceanic would also like to launch upgraded services on the neighbor islands at the same time it launches services on Oahu to be consistent, but this depends upon Oceanic reclaiming bandwidth.

Mr. Vali asked about the consolidation of the East and West Hawaii franchises, and whether DCCA looked at the specific needs of each side of the island. Mr. Barlow indicated that the East and West Hawaii franchises are currently operated as one franchise. For example, all subscribers get the same services so no one suffers. Mr. Barlow stated that while there are some differences among the various islands, Oceanic views the whole state as one system and provides the exact same service throughout the state although local general managers are allowed to address local needs.

Mr. Silva commented that there were lots of places on the Big Island where there was no internet and this should be recognized. There was also a merging of communication platforms.

Mr. Barlow stated that there are build-out requirements in a franchise, and it is also a matter of economics to build out. If Oceanic can get universal service funds, it would help to build out infrastructure on the Big Island. At the moment, cable television penetration is not as robust as it used to be. DISH penetration is 20% on the Big Island and 22% of Hawaii residents have cut the cable cord and have no video connection. This is 50% higher than on the mainland.

Mr. Barlow reported that Oceanic is working with the University of Hawaii (UH) and the Hawaii Educational Network Consortium (HENC) to move the UH channel from analog to digital format with a free set top box to viewers who wish to view these channels after the migration. The Department of Education (DOE) channel will also be moved shortly. Oceanic will also make available another statewide video-on-demand education channel that will provide one week's worth of video-on-demand programming. Oceanic is also working with Maui Community College to address its programming and distance learning needs.

Director Lopez provided background information on the Education channels transition from analog to digital format. She noted that some PEG access organizations have expressed concerns because they had not been consulted prior to being notified by Oceanic of the digital migration of the Education channels. On Oahu, Oceanic may deal directly with educational institutions because of its franchise agreement, but on the neighbor islands, the franchise agreements are different. Oceanic followed the terms of its Oahu franchise agreement, which led to some confusion on the neighbor islands. DCCA's primary concern is that subscribers are able to view the migrated channels after the transition, and Oceanic is providing free set top boxes to customers upon request.

CAC member Tokioka asked Mr. Barlow to comment on the optimum length of a contract in light of anticipated technological changes. Mr. Barlow stated that Oceanic needed time to recoup its investment and expenses to update its system. Mr. Barlow indicated that Oceanic invests $100 million a year in capital improvements in order to serve its customers and to keep up with the state concerns.

Mr. Silva stated that it was inevitable for a cable operator to move its channels from analog to digital format. He noted that there is the need to look at quality issues for PEGs and PBS Hawaii.

IV. New Business

A. ʻŌlelo Application for Designation of PEG access organization on Oahu

Mr. Yabusaki stated that Act 19 (SLH 2011) authorized the DCCA Director to designate PEG access organizations without going through the Request for Proposal process. Under DCCA's guidelines for the designation process issued on 9/2/2011, an access organization submits an application to DCCA, and then after review and evaluation, DCCA accepts the application. DCCA will then hold a public hearing and take comments from the public and interveners. DCCA is also conducting management audits of the incumbent PEG access organizations. DCCA may then negotiate contract terms with an applicant and CAC members will be asked for their input on the application. Mr. Yabusaki reported that because DCCA is in the process of reviewing ʻŌlelo's application, it has not yet been formally accepted. Director Lopez stated that Deputy Director Kaneshige, with the assistance of CATV project specialist Glen Chock, have been assigned to carry out the designation process for the ʻŌlelo application to avoid any potential conflict issues that could arise given her and Mr. Yabusaki's prior employment with ʻŌlelo. A CAC meeting will be called at a later date to allow a more formal review of ʻŌlelo's application.

Roy Amemiya, President and CEO of ʻŌlelo, stated that there are 10 short term priorities and 4 long term priorities in ʻŌlelo's application. For example, ʻŌlelo would like to expand services to all sectors (P, E, and G), to modernize its equipment and upgrade its technology, to focus on outreach, to insert closed captioning for programs, to serve East Honolulu and to have the cap on operating funds removed. He noted that ʻŌlelo had received information requests from DCCA and is reviewing the questions and will provide timely responses.

Director Lopez indicated that the designation process was modeled after the cable franchise process. Because this is a new process being developed, DCCA asked ʻŌlelo to submit its application first to allow DCCA the opportunity to refine procedures. DCCA will solicit CAC feedback after the public hearing on ʻŌlelo's application. Ms. Tokioka inquired as to the role of the management audits in the designation process. The management audit shows the financial soundness and strength of the organization. Director Lopez noted that ʻŌlelo's management audit had already taken place. DCCA's financial consultant spent 1 week at ʻŌlelo and recently issued its preliminary report, which should be finalized soon.

Mr. Silva asked if the PEG contracts were non-exclusive. Director Lopez stated that this issue had not come up yet and that DCCA would need to look at it if it did. Staff Attorney Wong stated that no other applications have been received for Oahu, but that because Act 19 does not specify that PEG designations are exclusive for one franchise area, it is conceivable that more than one PEG access organization could be designated in a franchise area. Director Lopez indicated that DCCA would try to schedule the CAC meeting as soon as possible after the public hearing on ʻŌlelo's application. Ms. Wong stated that there were notice and time requirements that needed to be followed. Director Lopez stated that DCCA wanted to complete one designation as soon as possible, either in advance of the legislative session or at least early in 2012.

B. Proposed Legislation for 2012 – Bill to create new communications division within DCCA to regulate telecommunications and cable television services; to promote the development of broadband infrastructure; and to advance the provision of broadband, telecommunications, and video programming services.

Deputy Director Kaneshige stated that there were 2 reasons for proposed legislation: technologies converging and 2 state entities regulating. The Public

Utilities Commission (PUC) was amenable to transferring telecom regulation to DCCA. DCCA engaged service providers and legislators on the proposed legislation. There are 2 significant aspects of the legislation: 1) transfer from the PUC to DCCA of the oversight of telecom, and 2) position DCCA to accomplish broadband goals set by the Governor's Hawaii Broadband Initiative (HBI). The bill if passed will require a major reorganization of CATV to create a telecommunications division with responsibilities for cable, telecom, and broadband, and will require DCCA to partner with stakeholders to achieve many of the goals of the HBI. DCCA will be discussing the proposed legislation with Broadband Assistance Advisory Council (BAAC) members this week and then copies of the proposed bill will be made available to stakeholders.

Director Lopez indicated that the proposed legislation was similar to one proposed by DCCA in 2008. She noted that part of the impetus for the transfer of telecom from the PUC to DCCA was to give the PUC more time and staff resources to work on other major initiatives assigned to the PUC, such as the Alternative Energy Initiative.

Ms. Tokioka asked if the DCCA had requested more staff to handle the new responsibilities. Director Lopez answered affirmatively.

V. Public Comment

A. J Robertson introduced Donna Dunham, who will be the new Na Leo General Manager upon the retirement of Juergen Denecke at the end of this year. Mr. Robertson stated that it was a misnomer to call the DOE channel a DOE channel since it is a PEG channel. He noted that viewership numbers should not determine the existence of a PEG channel, but it is important to have the ability to produce programming. He supported 'Ōlelo's request to remove the cap in its funding. Regarding digital migration, he reserved his comment until later.

B. Jay April thanked the DCCA for its open communication. He stated that D&O 241 and the Cable Act did not allow the digital migration of Education channels by Oceanic. He stated that 2 analog channels for 2 digital channels was not a fair trade. For Oceanic's Maui franchise which expires in 2013, he expressed concern that Oceanic should take into consideration local needs. He agreed with J Robertson that Oceanic should have negotiated the digital migration of Education channels with PEGs as it did with the Education partners. He indicated that digital migration was inevitable, but it should be negotiated and that more than students should get boxes. He asked about the timetable for the applications for designation of the neighbor island PEGs.

VI.	Announcement:	There were no announcements.
VII.	Adjournment:	The meeting was adjourned at 3:25 p.m.