

HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 131

HAWAII CABLE COMMUNICATIONS SYSTEMS

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Historical Note: Chapter 131 of Title 16, Administrative Rules, is based substantially upon Chapter 2 of Title VIII, the Cable Television Division, Department of Regulatory Agencies, entitled, "Rules and Regulations Governing Service and Operations of Companies Providing Cable Television Services Within the State of Hawaii." [Eff 11/15/71; R 6/22/81]

SUBCHAPTER 1

GENERAL PROVISIONS

§16-131-1 Definitions. As used in this chapter:

"Cable franchise" means a nonexclusive initial authorization or renewal thereof issued pursuant to chapter 440G, Hawaii Revised Statutes, whether the authorization is designated as a franchise, permit, order, contract, agreement, or otherwise, which authorizes the construction or operation of a cable system.

"Cable operator" means any person or group of persons:

- (1) Who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in the cable system; or
- (2) Who otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.

"Cable or wire" means cable, wire, fiber optics, microwave, or other facilities utilized in extending wide spectrum cable services.

"Cable service" means:

- (1) The one-way transmission to subscribers of video programming or other programming service; and
- (2) Subscriber-cable system interaction required for the selection of video programming or other programming service.

"Cable system" means any facility within the State consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designated to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but does not include:

- (1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;

- (2) A facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless that facility or facilities uses any public right-of-way; or
- (3) A facility of a public utility subject in whole or in part to the provisions of chapter 269, HRS except to the extent that those facilities provide video programming directly to subscribers.

"Capital contribution by a cable operator" means contributions made by the cable operator to finance construction of line extensions.

"Date of presentation" means the date upon which a bill or notice is mailed, properly addressed to the subscriber, or if not mailed, the date upon which that bill or notice is delivered to the subscriber.

"Department" means the department of commerce and consumer affairs.

"Director" means the director of commerce and consumer affairs of the State of Hawaii or the director's representative.

"Facility" includes all real property, and antenna, poles, supporting structures, wires, cables, conduits, amplifiers, instruments, appliances, fixtures, and other personal property used by a cable operator in providing service to its subscribers.

"Feeder cable" means any coaxial cable that transfers signals from the trunk line to the service area. The subscriber taps are attached to the feeder cable.

"Headend" means the control center of the cable system, where incoming signals are amplified, converted, processed, and combined into a common cable for transmission to subscribers. The headend includes antennas, preamplifiers, frequency converters, demodulators, modulators, processors, and other related equipment.

"Headend facilities" means all equipment and property used by a cable operator to receive, process, originate, or retransmit signals into its cable distribution network.

"Installation charge" means a nonrecurring charge for the installation of cable facilities.

"Line extension" means any extension of a trunk or feeder cable over public rights-of way.

"Major systems fault" means an interruption of cable communications services to fifty or more individual subscribers.

"Minor systems fault" means an interruption of cable communications services due to failure of the distribution system of one or more broadcast or satellite channels to less than fifty individual subscribers.

"Move and change charges" means nonrecurring charges made in connection with changes in location or type of facilities on a subscriber's premises at the request of the subscriber, where there is no interruption of service, other than

that incident to the work involved, and where the changes are not required for the proper maintenance of the equipment or service.

"Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental agency.

"Reconnection charge" means a nonrecurring charge made to cover expenses incident to the re-establishment and re-connection of service with the cable system when cable or wire facilities, or both, are in place on the subscriber's premises.

"Service area" means the geographic area for which a cable operator has been issued a cable franchise.

"Service drop" means any cable from the subscriber tap to each subscriber terminal that extends over private property.

"Special service facility" means all nonstandard installations on private property performed by the cable operator at the request of the subscriber. These shall include but not be limited to trenching and the installation of ducts or molding not normally required by state or federal law.

"Subscriber" means the person to whom service is furnished as evidenced by the signature on the application or contract for that service, or in the absence of a signed instrument, by the receipt and payment of bills regularly issued in the subscriber's name regardless of identity of the actual user of the service.

"Subscriber contribution-in-aid-of-construction" means amounts paid by subscribers to the cable operators to pay for construction of line extensions or service drops.

"Subscriber terminal" means the point of interfacing the cable system's facilities with the subscriber's equipment.

"Tariffs" mean the entire body of effective rates, charges, classifications, and rules which has been adopted by the cable operator and approved by the director.

"Termination agreement" means an agreement between the cable operator and a subscriber to guarantee recovery of the cable operator's nonrecurring costs for specialized installation over a specified period.

"Trenching costs" includes costs of excavating, backfilling, compaction, breaking and repair of pavement and, if necessary, the restoration of landscaping which exceed the established cost to provide a service connection through aerial installation.

"Trunk" means the main distribution lines leading from the headend of the cable system to the feeder cable. [Eff 6/22/81; am and comp 7/28/88; am and comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

SUBCHAPTER 2

APPLICATION FOR SERVICE

§16-131-2 Application or service order. Any service order is a request for service but does not bind the cable operator to furnish the service except as set forth in the tariffs; nor does it bind the applicant to take service. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-3 Cancellation of application by applicant. Service orders cancelled by the applicant or by the cable operator prior to the establishment of the applied for service are subject to the following conditions:

- (1) If cancellation by the applicant is prior to the start of installation of the cable operator's facilities on the applicant's premises, no charge applies. However, if the cable operator has incurred an expense, the applicant may be charged an amount equal to the costs incurred in the installation prior to the date of cancellation, less estimated net salvage; or
- (2) If cancellation by the applicant is subsequent to the start of the installation of the cable operator's facilities on the applicant's premises but before the facilities are connected for service, the applicant may then be billed for all charges for facilities actually installed prior to the date of cancellation, less estimated salvage. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-4 Cancellation of application by the cable operator. If the applicant refuses to comply with the requirements set forth in the company's tariffs prior to the establishment of service, the cable operator may cancel the application.

In such a case, the cable operator shall send a notice to the applicant setting forth the basis for cancellation, together with a refund of all amounts collected from the applicant. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-5

§16-131-5 Credit. Cable operators, in the extension of credit for service, shall:

- (1) Make all credit determinations on the basis of the applicant's individual credit record. The cable operator shall not make any determination based on arbitrary classifications unrelated to credit reliability such as socio-economic and place of residence distinctions;
- (2) Inform all applicants for service who shall be required to place a deposit with the cable operator of the basis for the requirement;
- (3) Afford applicants for service and subscribers the right to examine their credit records and all other documents utilized in evaluating the applicant's credit reliability and make corrections of misinformation utilized or contained therein;
- (4) Protect the confidentiality of applications and credit records of subscribers and applicants for service;
- (5) Require as a credit deposit no more than a sum equivalent to a month's charge for cable communications service; and
- (6) Refund all of a subscriber's deposit for basic cable services within one year of the date of deposit, provided that the subscriber has demonstrated a satisfactory payment record. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

SUBCHAPTER 3

SERVICE CONNECTION FACILITIES AND SPECIAL SERVICE FACILITIES

§16-131-6 General. Except as otherwise provided in this chapter, the cable operator shall provide cable facilities necessary to serve applicants or subscribers in accordance with its rates, rules, and current construction standards. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-7 Service drops. (a) The cable operator shall provide two hundred feet of service drop over private property without any additional charge beyond the normal installation charge shown in the cable operator's filed tariff.

(b) If the applicant requests a service drop longer than two hundred feet, it may be treated as a special service facility and handled under section 16-131-9. [Eff 6/22/81; am and comp 7/28/88; am and comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-8 [R 12/23/91]

§16-131-9 Special services facilities. (a) The terms for special service facilities may be negotiated between the cable operator and the applicant or applicants requesting such facilities. In the event the parties are unable to agree, the matter may be brought to the director for resolution.

(b) The cable operator may not charge an amount in excess of actual cost. [Eff 6/22/81; am and comp 7/28/88; am and comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-10 Interior wiring. All interior wiring in a single-family dwelling and multiple-dwelling buildings necessary to provide cable service, including all cable outlets, shall be installed and maintained by the operator, except as allowed in section 16-131-12 and applicable tariffs. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-11 Ownership of subscriber contributed facilities. In all cases where the subscriber has, through installation and other charges, underwritten the cost of materials and supplies necessary for the connection of subscriber equipment to the distribution lines of the cable system, these materials, supplies, and connections shall be deemed to be owned by the subscriber. The cable operator, as a service included within the monthly service charge, shall be responsible for the maintenance of the subscriber-owned facilities. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-12 Connection with certain subscriber-owned facilities. Cable or wire facilities owned by the subscriber and meeting all federal and state cable technical standards, in particular radiation and system isolation, may be connected

§16-131-12

with the facilities of the cable operator when otherwise provided for in this chapter or in the cable operator's tariffs on file with the director.

The facilities of the subscriber shall be so constructed, maintained, and operated as to be capable of functioning as a part of the system without adversely affecting service provided to other subscribers. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

SUBCHAPTER 4

SYSTEM FAULTS - INTERRUPTIONS

§16-131-13 Reporting signal failure. Any signal failure resulting in diminution in signal quality shall be reported to the cable operator. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-14 Minor system faults. Minor system faults shall be corrected within eight hours from the time first reported to the cable operator. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-15 Major system faults. In the case of major system faults, corrective action shall be taken to restore service immediately. Major system faults shall be reported to the director. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-16 Credit for service interruptions. In the event the subscriber's service is interrupted other than by the negligence or willful act of the subscriber and remains out of order for twenty-four hours or longer after being reported to be out of order, appropriate adjustments or refunds shall be made to the subscriber. In the event the subscriber's service is interrupted by natural or other disaster beyond the control of the cable operator adjustments or refunds shall be made to subscribers affected, if service is not restored within seventy-two hours. The amount of adjustment or refund shall be determined on the basis of the known

period of interruption, generally beginning from the time the service interruption is first reported. The refund to the subscriber shall be the pro rata part of the month's charge for the period of days that service was interrupted. The refund may be accomplished by a credit on a subsequent bill for cable services. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

SUBCHAPTER 5

DISCONTINUANCE OF SERVICE

§16-131-17 Non-payment of bills. Service to a subscriber may be discontinued for the non-payment of a bill if the bill has not been paid within thirty days after presentation, provided that the cable operator thereafter gives the subscriber at least ten days actual notice. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-18 Non-payment of bills at different location. Service furnished a subscriber may be refused or discontinued by the cable operator for non-payment of a bill for cable services furnished to the same subscriber at another location. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-19 Noncompliance with rules or conditions. Except as otherwise set forth in this chapter, the services of a subscriber may be discontinued for noncompliance with any rule or condition under which the service is furnished, provided ten days actual notice is given advising the subscriber of the particular rule or condition which has been violated and with respect to which, service may be discontinued if the violation is not corrected. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-20 False or misleading information. The cable operator has the right to refuse service and to discontinue service if the cable operator finds that an applicant or subscriber has furnished false or misleading information in obtaining

§16-131-20

service or credit. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-21 Protection of service. The cable operator has the right to refuse service or to discontinue service when the intended or actual use of the service will adversely affect other subscribers. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

SUBCHAPTER 6

BILLS AND PAYMENT FOR SERVICE

§16-131-22 Billing period. Bills for service shall be rendered at one month intervals. Bills may be rendered at other intervals with the approval of the director. [Eff 6/22/81; comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-23 Prorating of charges. Service charges for less than a billing month shall be a proration of the regular monthly rate. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-24 Dispute between cable operator and subscriber. In the event of a dispute between a subscriber and the cable operator respecting any bill, charge, or service, the cable operator shall immediately make an investigation and report the result thereof to the subscriber. In the event the matter cannot be satisfactorily adjusted, the subscriber may request an investigation and determination from the director. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

SUBCHAPTER 7

TARIFFS

§16-131-25 Tariff filings. (a) Tariff filings shall be in accordance with the following:

- (1) All rules and rate schedules shall be filed in loose leaf form on size 8-1/2 x 11 inch sheets. Each sheet shall be plainly typewritten, printed, or otherwise reproduced by a durable process on paper of good quality. No written alteration or erasure shall be made in any rule or rate schedule;
- (2) Each sheet shall be individually identified, by the schedule number, as required in section 16-131-27, page numbered, and shall state the effective date in the upper right-hand corner; and
- (3) An original of all rules and rate schedules shall be filed with the director.

(b) The tariff shall be amended and filed with the director when the cable operator informs the director of changes made by the cable operator.

(c) When the cable operator is unable to provide the director with the changes at the time it informs the director of changes, the cable operator shall state the circumstances for the delay and when the information will be forthcoming. [Eff 6/22/81; am and comp 7/28/88; am and comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-26 Availability of tariffs to subscribers and the public. The cable operator shall maintain on file at each of its offices, all of the cable operator's rules and rate schedules applicable to the service area. All rules and rate schedules shall be available for public inspection at all reasonable times. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-27 Tariff format. All tariffs filed with the director shall utilize the following format:

	Schedule No.
TABLE OF CONTENTS	A
PRELIMINARY STATEMENT	B
CONDITIONS OF SERVICE	C

RATES AND CHARGES	D
LINE EXTENSION POLICY	E
AREAS SERVED	F

(b) The preliminary statement section shall include a description of the cable operator, a general description of the services offered, and the definition of terms or symbols used in the tariff.

(c) The conditions of service section shall describe the terms and conditions under which cable service is provided to subscribers, including policies which affect subscriber service, including:

- (1) The information provided to subscribers described in section 16-131-61;
- (2) The policies and procedures of service:
 - (A) Office hours, telephone numbers, mailing and street addresses;
 - (B) Installation and disconnection of service;
 - (C) Maintenance and repairs; and
 - (D) Other policies and procedures affecting subscribers.

(d) The rates and charges section shall include a list of all rates and charges for all cable services provided including all tiers of service, and premium and pay services, reconnection of service, transfer of service, relocation of outlet or outlets, change of service, and a list of all programming service channels.

(e) The director may require a cable operator to file its tariff upon request and in a different form. [Eff 6/22/81; am and comp 7/28/88; am and comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §§440G-11, 440G-12)

§16-131-28 Maximum rates and charges. The rates, charges, and terms of service submitted and approved by the director to the extent permissible under law, shall be maximum rates and terms which may be charged for cable communications service. The cable operators may offer nondiscriminatory lower rates. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

SUBCHAPTER 8

§16-131-29 [R 12/23/91]

SUBCHAPTER 9

CHANNEL CAPACITY

§16-131-30 Minimum channel capacity. Each cable operator shall have at least 120 MHz of usable bandwidth (the equivalent of twenty television broadcast channels) available for immediate use for the totality of cable services to be offered.

[Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-31 Two-way communications. Each cable operator shall maintain a plant having technical capacity to retrofit for nonvoice return communications.

[Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-32 Public access channel. Each cable operator shall maintain at least one specially designated, noncommercial public access channel available on a first-come, nondiscriminatory basis. The cable operator shall maintain and have available for public use at least the minimal equipment and facilities necessary for the production of programming for such a channel. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-33 Education access channel. Each cable operator shall maintain at least one specially designated channel for use by state and local educational authorities and institutions. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-34 Government access channel. Each cable operator shall maintain at least one specially designated channel for government use. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-35 Leased access channels. Each cable operator shall offer unused portions of its bandwidth for leased access services to the extent permitted

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under federal law. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-36 Expansion of access channel capacity. Whenever any of the channels described in sections 16-131-32 to 16-131-34 are in use four out of five days (Monday-Friday) for eighty per cent of the time during a consecutive three-hour period for six consecutive weeks, the cable operator shall have six months in which to make a new channel available for any or all of the purposes described in sections 16-131-32 to 16-131-34. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-37 Program content control. No cable operator shall exercise control over program content on any of the channels described in sections 16-131-32 to 16-131-36. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

SUBCHAPTER 10

PLANT

§16-131-38 Headend location. The headend facility may be physically located outside the cable operator's service area, however, a cable operator shall provide service to the public (i.e. hook-up subscribers) only within its service area. Upon receiving approval of the director, one or more cable operators may be permitted to utilize the same headend facilities. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-39 Cable routing. Cable facilities of a cable operator may be routed through areas not within that cable operator's service area if the purpose of the routing is to bring into the cable operator's service area the signals from a headend located outside the cable operator's service area; or to furnish cable service to two non-contiguous service areas being served by the same cable operator. The routing shall be approved by the director. [Eff 6/22/81; am and

comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-39.4 Compliance with rules. Each cable operator shall comply with applicable utility practices, Public Utility Commission Orders, pole line agreements, state statutes and rules, franchises, city and county ordinances, and such other rules as may be applicable for the proper construction, operation, and maintenance of said cable system. [Eff and comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §§440G-8.2, 440G-12)

SUBCHAPTER 11

TECHNICAL STANDARDS

§16-131-40 General. The following performance standards shall be adhered to by all cable systems:

- (1) The frequency of the visual carrier shall be maintained at 1.25 MHz \pm 25 KHz above the lower boundary of the cable television channel, except that, in those systems that supply subscribers with a converter in order to facilitate delivery of cable television channels, the frequency of the visual carrier at the output of each converter shall be maintained at 1.25 MHz \pm 250 KHz above the lower frequency boundary of the cable television channel;
- (2) The frequency of the aural carrier shall be 4.5 MHz \pm 1 KHz above the frequency of the visual carrier;
- (3) The visual signal level at the picture frequency for each desired television channel shall be at least 0 dBmv (1,000 microvolts referred to 75 ohms), except when overload occurs at which time attenuation may be used to provide acceptable picture quality, and shall be maintained within:
 - (A) 3 dB of the visual signal on either adjacent cable television channel (except for secured channels); and
 - (B) 10 dB of the visual signal level on any other cable television channel (except for secured channels);
- (4) The voltage of the aural signal shall be maintained between 14 and 18 dB below its associated visual signal level;

- (5) The peak-to-peak variation in visual signal level caused by undesired low frequency disturbances (hum or repetitive transients) generated within the system, or by inadequate low frequency response, shall not exceed five per cent of the visual signal level;
- (6) The frequency response for any single channel shall be within a range of ± 2 dB (except for secured channels);
- (7) The ratio of visual signal level to system noise shall not be less than 40 dB;
- (8) The cross modulation ratio on any channel shall not be less than +46 dB nor shall there be any visible cross modulation products produced on any channel carried by the cable system;
- (9) The terminal isolation between 50 MHz and 300 MHz provided for each subscriber shall not be less than 25 dB except that the isolation between separate television and FM broadcast terminals for the same subscriber shall not be less than 15 dB. In the case of multiple sets operating from a single drop, the isolation factor shall be 18 dB;
- (10) The spurious electromagnetic radiation shall fall within the limits prescribed by the Federal Communications Commission in 47 C.F.R. section 76.605(11) (1989) which is made a part of this chapter;
- (11) The system shall be designed for continuous operation;
- (12) The system shall be designed to operate within performance standards though the supply voltage may range from 105 to 130 volts;
- (13) The system shall be designed to transmit National Television Systems Committee monochrome and color signals over the system operating frequencies; and
- (14) The system shall be designed to have system level maintenance in both headend equipment and in main trunk or trunks. [Eff 6/22/81; am and comp 7/28/88; am and comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

SUBCHAPTER 12

SYSTEM TESTS

§16-131-41 Request tests. If a subscriber is unable to obtain satisfaction from the cable operator with respect to the quality of the cable signal, the director may require the cable operator to send a technician to accompany a representative from the department to the subscriber's dwelling where a test shall be made at the subscriber's cable terminal to measure the quality of cable signal at that point. In the case of multiple dwelling units such as apartments where the signal is distributed on a bulk basis utilizing a distribution system which does not belong to the cable operator, the test shall be made at the input point where the cable signal interfaces with the distribution system in the building or buildings. If the distribution system within the building or buildings is furnished by the cable operator, then the test shall be made at the subscriber's terminal just the same as in the case of single-family dwellings. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-42 Test records. A record of all cable equipment tests and adjustments and data sufficient to allow checking of the results shall be recorded and shall include: the identifying number of the cable equipment, its type, the date and kind of test, and the results as found at each test. The record of tests of each cable equipment shall be maintained for at least two years. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

SUBCHAPTER 13

CABLE OPERATOR REPORTS

§16-131-43 Report on ownership. Annually, on or before January 31, each cable operator shall file with the director a list of all shareholders and undisclosed principals holding one or more per cent of the corporation's shares, noting the kind of shares held and the amounts held thereof. The cable operator shall also list its interest and the amount thereof in any other corporation, partnership, or business. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-44

§16-131-44 Report on financial condition. Each cable operator, within one hundred twenty days after the close of its fiscal year, shall submit to the director financial review or audited financial statements for the preceding fiscal year. Financial statements, whether audited or in the form of financial review, shall include at minimum a balance sheet, a statement of income and equity, and a statement of changes in financial position and further, each such statement shall contain appropriate notes. Audited statements shall be required:

- (1) During the first three years of operation following the initial issuance or transfer of a cable franchise;
- (2) If there have been any material changes in the financial condition, operations, or control and management of the operator;
- (3) If the director determines that continued quality cable operations may be in jeopardy; or
- (4) In connection with an application for transfer, renewal, or modification of a cable franchise. [Eff 6/22/81; am 12/7/87; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-45 Report on construction. Each cable operator, on or before the fifteenth day of each month, shall submit a status report to the director on its current construction and shall submit annually, on or before March 31, a report of construction undertaken by it, its agents, or contractors for the preceding calendar year. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-46 Report on complaints. Annually, on or before March 31, each cable operator shall file with the director a report compiling categorized complaints from subscribers, potential subscribers, and the public, together with a report on the resolution and the means for prevention of similar complaints. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-47 Report on testing. Annually, on or before March 31, each cable operator shall file with the director a proof of performance test, an annual compilation of monthly reports of service, quality, and testing programs, together with remedies for deficiencies. [Eff 6/22/81; am and comp 7/28/88; comp

12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-48 Report on production and programming activities. Annually, on or before January 31, each cable operator shall file with the director a report on:

- (1) All production and programming activities undertaken by it during the preceding calendar year;
- (2) Production and programming activities contemplated for the year beginning January 1;
- (3) All access channel utilization for the preceding year; and
- (4) Anticipated use of access channels for the year beginning on January 1. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-49 Report on interruptions. On or before the fifteenth day of each month, each cable operator shall submit a report to the director on all major system faults of the previous month, including the nature of the faults, length of interruptions, and corrective actions taken, if any. [Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-50 Quarterly report. Reports for the quarters ending March 31, June 30, September 30, and December 31 shall be due on or before the last day of the month subsequent to the ending of the quarter. Each cable operator shall file with the director, on forms provided by the director, a report of the preceding quarterly period on the following subjects:

- (1) Subscriber activity;
- (2) Revenues, expenses, assets, liabilities, and equity accounts;
- (3) Cable operator personnel;
- (4) Services/programming provided by the cable operator;
- (5) Quality of service of the cable system;
- (6) Report of service interruptions;
- (7) System testing; and
- (8) Construction activity.

[Eff 6/22/81; am and comp 7/28/88; comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

SUBCHAPTER 14

SUBSCRIBER SERVICE STANDARDS

§16-131-56 to §16-131-58 (Reserved)

§16-131-59 Repairs and maintenance. (a) The cable operator shall schedule or acknowledge subscriber requests for repair or maintenance service within twenty-four hours (excluding weekends and holidays).

(b) The cable operator shall verify and complete the repair or maintenance service within forty-eight hours (excluding weekends and holidays) after a subscriber request for repair or maintenance has been acknowledged or scheduled.

(c) If the cable operator anticipates taking longer than forty-eight hours to complete the repair or maintenance service due to a system problem, the cable operator shall submit a written notice to the director stating the circumstance of the problem and when the cable operator expects the service in subsection (b) will be restored. [Eff and comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-60 Appointments. (a) When a service call to the subscriber's premises is required, the cable operator shall upon the subscriber's request, schedule a four-hour block of time (either a.m. or p.m.) for the appointment and make a reasonable effort to pinpoint a more exact time.

(b) If for any reason the cable operator cannot make a scheduled appointment, the cable operator shall make a reasonable effort to notify the subscriber in a timely manner. [Eff and comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-61 Information to subscribers. (a) At the time of initial installation the cable operator shall provide to the subscriber the information in (b)(1) through (3) and (c)(1) through (6).

(b) Each billing statement or invoice shall include:

- (1) The address and telephone number of the cable operator's local business office to which subscriber complaints or inquiries may be reported;
 - (2) The procedure for resolving billing problems or complaints; and
 - (3) The address and telephone number of the State cable television division with a notice stating that the division is the State agency to call regarding unresolved complaints between subscriber and cable operator.
- (c) At least once a year thereafter, the cable operator shall provide notice to each subscriber that the following information is available upon request:
- (1) The fees, charges, deposits, billing practices, and other associated terms and conditions related to cable services;
 - (2) The description and cost of equipment or facilities available or being distributed in the service area that the subscriber may elect to receive or use;
 - (3) The procedures by which the subscriber will be notified of changes in fees, charges, deposits, billing practices, programming, or in other associated areas and conditions related to cable service;
 - (4) A clear, simple statement of billing rights and appeal procedures available to a subscriber;
 - (5) The cable operator's procedures for the receipt and resolution of subscriber complaints or inquiries; and
 - (6) Any other information the director deems necessary. [Eff and comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

§16-131-62 Notice to subscribers. (a) The cable operator shall give the director and subscribers thirty days notice before:

- (1) Commencing any work on the cable system that will result in an interruption in cable service when the timing of the work is within the control of the cable operator and will allow such notice;
 - (2) Increasing the fees and charges, or changing billing practices; or
 - (3) Changing the program offerings when the suppliers of cable programming provide adequate notice to the cable operator.
- (b) When the thirty-day notice of interruption in cable services or changes in program offerings cannot be given, the cable operator shall provide as much prior notice as the circumstances will allow. [Eff and comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

SUBCHAPTER 15

PENALTIES

§16-131-68 Penalties. (a) If the director determines, after a hearing in accordance with chapter 91, HRS, that any cable operator has violated section 440G-9(b)(1) through (8) as amended, HRS, the director may fine the cable operator an amount not less than \$50 nor more than \$25,000 for each separate violation.

(b) If the director has provided a cable operator with written notice of a potential violation, each day's continuance of an apparent violation may be deemed a separate violation. Nothing in this subsection shall limit the aggregate amount of the fine imposed on any cable operator as a result of any violation that continues subsequent to notice of a potential violation.

(c) A violation that concurrently affects more than one subscriber of a cable system shall be deemed an event which constitutes a single violation. Subsection (b) shall apply to violations under this subsection.

(d) Written notice of a potential violation shall be provided to a cable operator by hand delivery or by registered mail, return receipt requested. [Eff and comp 12/23/91; comp 12/3/08] (Auth: HRS §§440G-9, 440G-12) (Imp: HRS §440G-9)

SUBCHAPTER 16

ACCESS ORGANIZATIONS

§16-131-70 Designation and selection of access organizations. (a) For purposes of this section, "PEG" means public, educational, and governmental.

(b) The director shall comply with the applicable provisions of chapter 103D, HRS, when designating and selecting an access organization to oversee the development, operation, supervision, management, production, or broadcasting of programs on PEG channels obtained under chapter 440G, HRS.

(c) When designating and selecting an access organization, the director shall, at a minimum, consider the following factors or criteria:

- (1) The management and technical experience of the organization, and its existing or proposed staff;
- (2) The broadcast or cablecast media and telecommunications experience of the organization and its existing or proposed staff;

- (3) The ability of the organization, and its existing or proposed staff, to provide the PEG access services requested by the director;
- (4) The organization's short-term and long-term plans for PEG access services for a designated franchise area;
- (5) The financial capability of the organization;
- (6) The amount of funding required by the organization to provide the PEG access services requested by the director;
- (7) The ability of the organization to provide reports, audits, and other information to the director;
- (8) Whether the organization agrees to expand the marketplace of ideas, and is committed to allowing members of the public to express their First Amendment free speech rights;
- (9) The organization's prior dealings and relationships with the State, if any;
- (10) The organization's references;
- (11) Other additional services, if any, the organization proposes to provide to the State and the public, and
- (12) Other factors or criteria deemed applicable or necessary by the director.

(d) The relative weights of the factors or criteria considered by the director under subsection (c) shall be specified in any applicable request for proposals or invitation for bids issued under chapter 103D, HRS. [Eff 12/3/08] (Auth: HRS §§440G-3, 440G-12) (Imp: HRS §§440G-3, 440G-12)

SUBCHAPTER 17

SEVERABILITY

§16-131-73 Severability. If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. [Eff and comp 12/23/91; comp 12/3/08] (Auth: HRS §440G-12) (Imp: HRS §440G-12)

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendments to and compilation of chapter 16-131, Hawaii Administrative Rules, on the Summary page dated November 10, 2008, were adopted on November 10, 2008, following public hearings held on September 30, 2008, October 1, 2008, October 2, 2008, October 6, 2008, October 7, 2008, and October 8, 2008, after public notices were given in the Honolulu Star-Bulletin, The Garden Island, Hawaii Tribune-Herald, West Hawaii Today, and The Maui News on August 29, 2008.

These amendments shall take effect ten days after filing with the Office of the Lieutenant Governor.

/s/ Lawrence M. Reifurth
LAWRENCE M. REIFURTH
Director of Commerce and Consumer Affairs

APPROVED AS TO FORM: Date 11/12/08

/s/ Rodney J. Tam
Deputy Attorney General

APPROVED: Date 11/24/08

/s/ Linda Lingle
LINDA LINGLE
Governor
State of Hawaii

November 24, 2008
Filed

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendment and Compilation of Chapter 16-131
Hawaii Administrative Rules

November 10, 2008

Summary

1. Subchapter 16 (§16-131-73) is renumbered to subchapter 17.
2. A new subchapter 16 (§16-131-70) is added.
3. Chapter 131 is compiled.

This material can be made available for individuals with special needs in braille, large print or audio tape.
Please submit your request to the Cable Television Division, DCCA, at (808) 586-2620.

Effective 1208