

June 26, 2004

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VIA FACSIMILE [586-2625] (ORIGINAL BY MAIL)

Mr. Clyde S. Sonobe
Administrator
Cable Television Division
Department of Commerce & Consumer Affairs
State of Hawaii
P.O. Box 541
Honolulu, Hawaii 96809

Re: 6th Access Channel for Oahu Cable Franchise Area

Dear Mr. Sonobe:

Thank you for your letter dated May 10, 2007 transmitting `Olelo's updated report and client survey results with respect to the 6th access channel and soliciting comments from Oceanic Time Warner Cable pursuant to Decision & Order No. 320 as amended by Decision & Order No. 326.

As an initial matter, Oceanic notes that `Olelo requests that the DCCA "remove viewership as a criterion for assessing the importance and impact of `Olelo programming." As the DCCA has already concluded in D&O 320, however, "data on viewership of Olelo's Access channels, although not conclusive in and of itself, is a factor that merits consideration in the determination to grant Olelo's Request to utilize valuable channel capacity." See D&O 320 at 8. The foregoing is also consistent with the DCCA's Plan For Public, Education, and Government ("PEG") Access dated January, 2004, which provides that one of the relevant factors in determining whether an additional PEG channel may be justified is "channel demand".

As Oceanic has noted previously, regardless of whether programming is commercial or non-commercial in nature, Oceanic believes that it makes little sense to utilize valuable channel capacity if there is limited subscriber demand for such programming. Accordingly, the DCCA should evaluate and consider viewership in connection with `Olelo's request to continue the 6th access channel.

As illustrated in the enclosed graphs, Oceanic's analysis of the daily average number of digital boxes tuned to `Olelo's channels from January, 2006 to the present indicates extremely limited viewership of the 6th access channel. The graphs

represent data from over 210,000 digital boxes, which constitutes approximately one-half of Oceanic's viewing base. Oceanic believes that doubling (or even tripling) the digital box viewership statistics, however, does not support the continuation of the 6th access channel.

Although the 6th access channel was activated for 'Olelo's use in February, 2006, the daily average was not statistically significant until October, 2006, when the peak daily average was less than 25 digital boxes tuned to the 6th access channel for that month. In comparison, the peak combined daily average number of digital boxes tuned to *all* of 'Olelo's channels in October, 2006 was slightly under 175 boxes.

Although the peak daily average for the 6th access channel increased until April, 2007 (reaching a peak daily average of just under 50 digital boxes for that month), the daily average has steadily *declined* since April, 2007. By May, 2007, for example, the peak daily average for digital boxes tuned to the 6th access channel declined to just under 25 digital boxes. Moreover, and perhaps more significantly, it appears that the addition of the 6th access channel has caused the *combined* viewership of *all* of 'Olelo's channels to actually *decline* over time. The peak combined daily average number of digital boxes tuned to all of 'Olelo's channels (the aqua-blue line on the graphs) in November, 2006, for example, was slightly over 200 digital boxes. By May, 2007, in contrast, the peak combined daily average for all of 'Olelo's channels was just under 114 digital boxes.

The digital box data also indicates that the peak daily average for the 6th access channel occurs at approximately 7:30 a.m. This trend has been consistent since October, 2006. A review of 'Olelo's programming schedule indicates that 'Olelo has been broadcasting traffic camera video on the 6th access channel each weekday during the hours of 5:00 a.m. to 8:00 a.m. Accordingly, the digital box data suggests that the 6th access channel attracts the most viewers when 'Olelo is broadcasting traffic video during the morning rush hour, versus broadcasting client/producer or government programming.

Given the foregoing, Oceanic believes that the viewership data does not support the continuation of the 6th access channel.

In addition, Oceanic submits that the quantitative data submitted by 'Olelo to the DCCA does not support the continuation of the 6th access channel. In its November, 2006 report (which has a margin of error of 5.7 percent), for example, 'Olelo reported that half of clients surveyed (49 percent) noticed improvements as a result of adding the 6th access channel. *Over half* (51 percent) of the clients, however, reported that there was either no improvement at all or did not know (or refused to respond). Clearly, there is no clear consensus, even among 'Olelo's clients, on whether the 6th access channel has improved 'Olelo's programming or operations.

'Olelo also reported that 77 percent of its clients indicated that the number of preemptions in 2006 either remained the same, occurred more often (or they

did not know), thus indicating that the 6th access channel did not alleviate preemption concerns among 'Olelo's clients. Although 'Olelo reported that – of the 59 percent of clients who reported that preemptions remained the same – 68 percent reported that they were never preempted in 2006, this appears to indicate that preemption was not a significant problem to 'Olelo's clients prior to the activation of the 6th access channel.

Similarly, although 'Olelo reported that 42 percent of its clients saw somewhat or great improvements in prime time airings in 2006 overall, a sizeable majority of 'Olelo's clients (58 percent) reported either no improvement at all or did not know if there was any improvement. With respect to the change in speed of premiering non-series submissions, again a sizeable majority (67 percent) reported that the speed was slower, the same, or did not know if the speed had changed. Of the 67 percent, nearly half of the respondents (49 percent) reported that the speed was the same as before.

Given the foregoing, many of 'Olelo's clients did not see improvements (or did not know if there were any improvements) in several key areas identified by 'Olelo even with the addition of the 6th access channel. It is unclear whether some of the client concerns could have been addressed through an analysis and possible revision of 'Olelo's repeat programming policy. As recognized by the DCCA in D&O 326, for example, “. . . the Department notes that the scheduling of prime time hours may still pose a problem for Olelo so long as it continues its present policy of repeat programming during prime time hours, and that this is an issue which Olelo should address.” Accordingly, D&O 326 required 'Olelo, as part of its report to the DCCA, to specifically indicate ‘whether changes in [‘Olelo's repeat programming policies] are appropriate . . .”

'Olelo noted in its report to the DCCA that its survey indicated that 72 percent of the respondents valued more choices in opportunities when viewing programs on PEG access channels. While 'Olelo then perfunctorily concluded that its “repeat programming procedures are in line with viewing habits [of viewers and clients],” 'Olelo did not provide any analysis or indication as to whether changes in its repeat programming policies are appropriate and would address the key areas noted above. Thus Oceanic cannot respond – and more importantly, the DCCA cannot decide – whether revisions in 'Olelo's repeat programming policy (particularly in light

Mr. Clyde Sonobe
June 26, 2004
Page 4

of the viewership statistics and technological support offered previously by Oceanic) would obviate the 'Olelo's perceived need for the 6th access channel. Thus, Oceanic submits that in light of the viewership statistics and the key issues raised by 'Olelo's own client survey, providing the 6th access channel to 'Olelo without a detailed evaluation and analysis of 'Olelo's repeat programming policy would not serve the public interest.

Given the foregoing, Oceanic believes that the return of the 6th access channel to the analog lineup would better serve the needs of the community, and 'Olelo's request for the permanent award of the channel should be denied. Thank you for the opportunity to comment on this matter. if you have any questions or need additional information, please do not hesitate to contact us.

Very truly yours,

WATANABE ING & KOMEIJI LLP

JOHN T. KOMEIJI

Enclosures

cc: Ms. Kealii Lopez (via facsimile and mail) (w/ Enclosures)
Oceanic Time Warner Cable (via facsimile and mail) (w/o Enclosures)

388397.2

July 3, 2007

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VIA HAND DELIVERY

Mr. Clyde S. Sonobe
Administrator
Cable Television Division
Department of Commerce & Consumer Affairs
State of Hawaii
P.O. Box 541
Honolulu, Hawaii 96809

Re: 6th Access Channel for Oahu Cable Franchise Area

Dear Mr. Sonobe:

The following is to clarify an aspect of our letter regarding the above-referenced matter sent to the DCCA on June 26, 2007. We recently learned that the vendor that provides digital viewership information to Oceanic was not set up to track the 6th access channel until October, 2006. Accordingly, the graphs provided in our prior correspondence only reflects data for the 6th access channel as of October, 2006. The vendor indicated that it is not able to obtain data on the 6th access channel prior to that time.

Please contact us should you have any questions regarding the foregoing.

Very truly yours,

WATANABE ING & KOMEIJI LLP

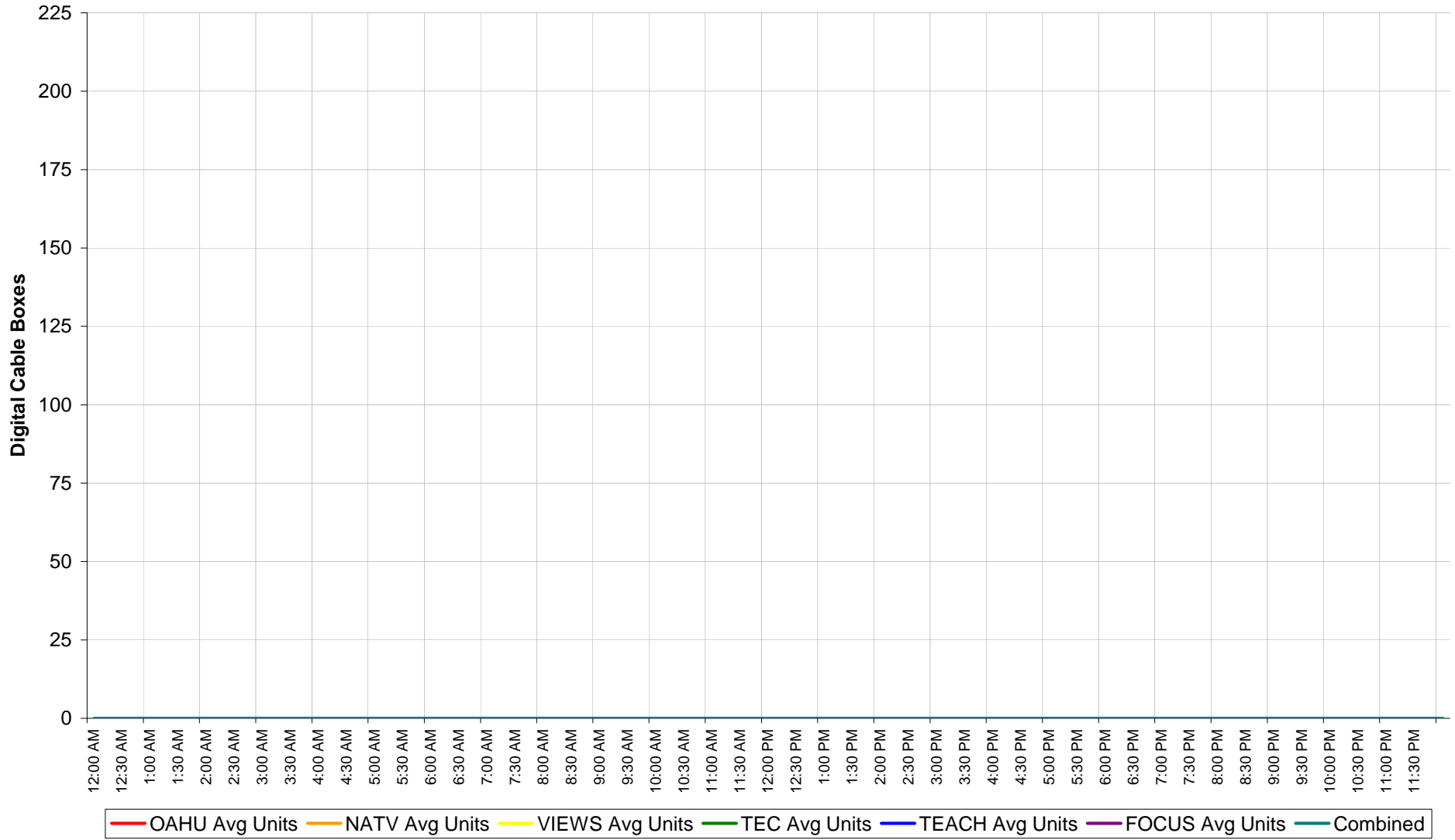
JOHN T. KOMEIJI

cc: Ms. Kealii Lopez (via facsimile and mail)
Oceanic Time Warner Cable (via facsimile and mail)

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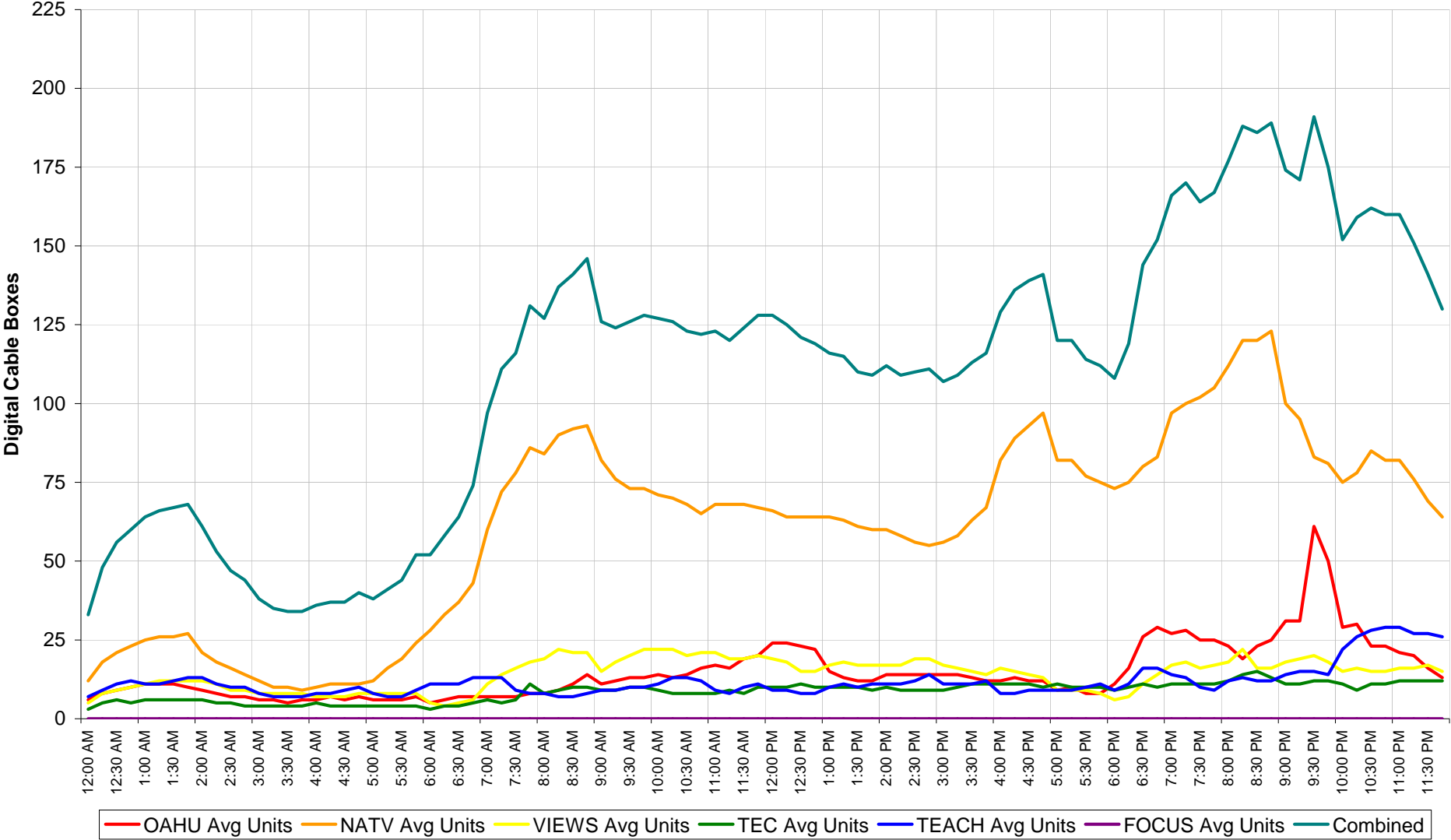
Number of Boxes Tuned to O'lelo

Daily Average, January 2006 to June 2007



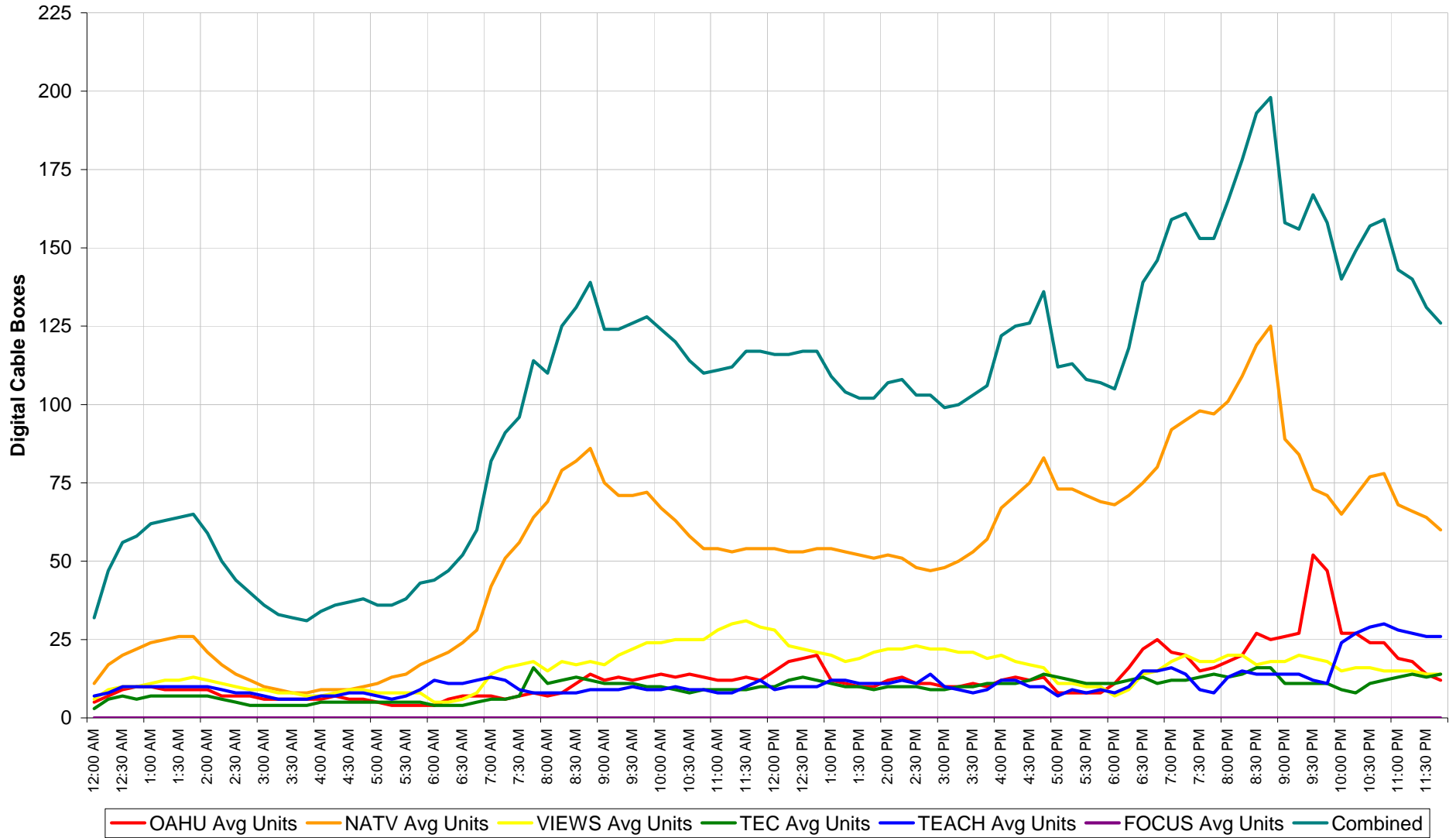
Number of Boxes Tuned to O'lelo

Daily Average, January 2006



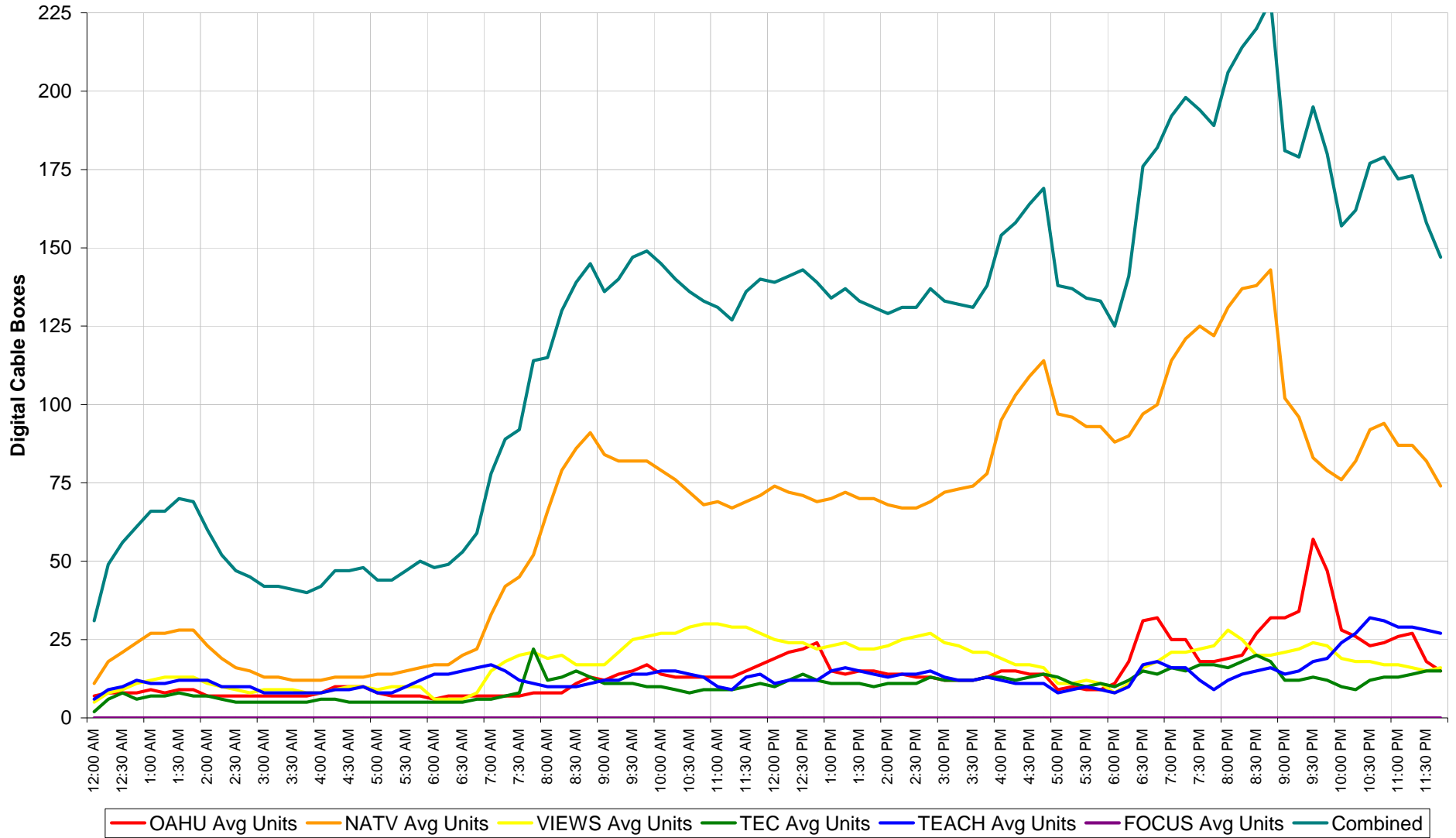
Number of Boxes Tuned to O'lelo

Daily Average, February 2006



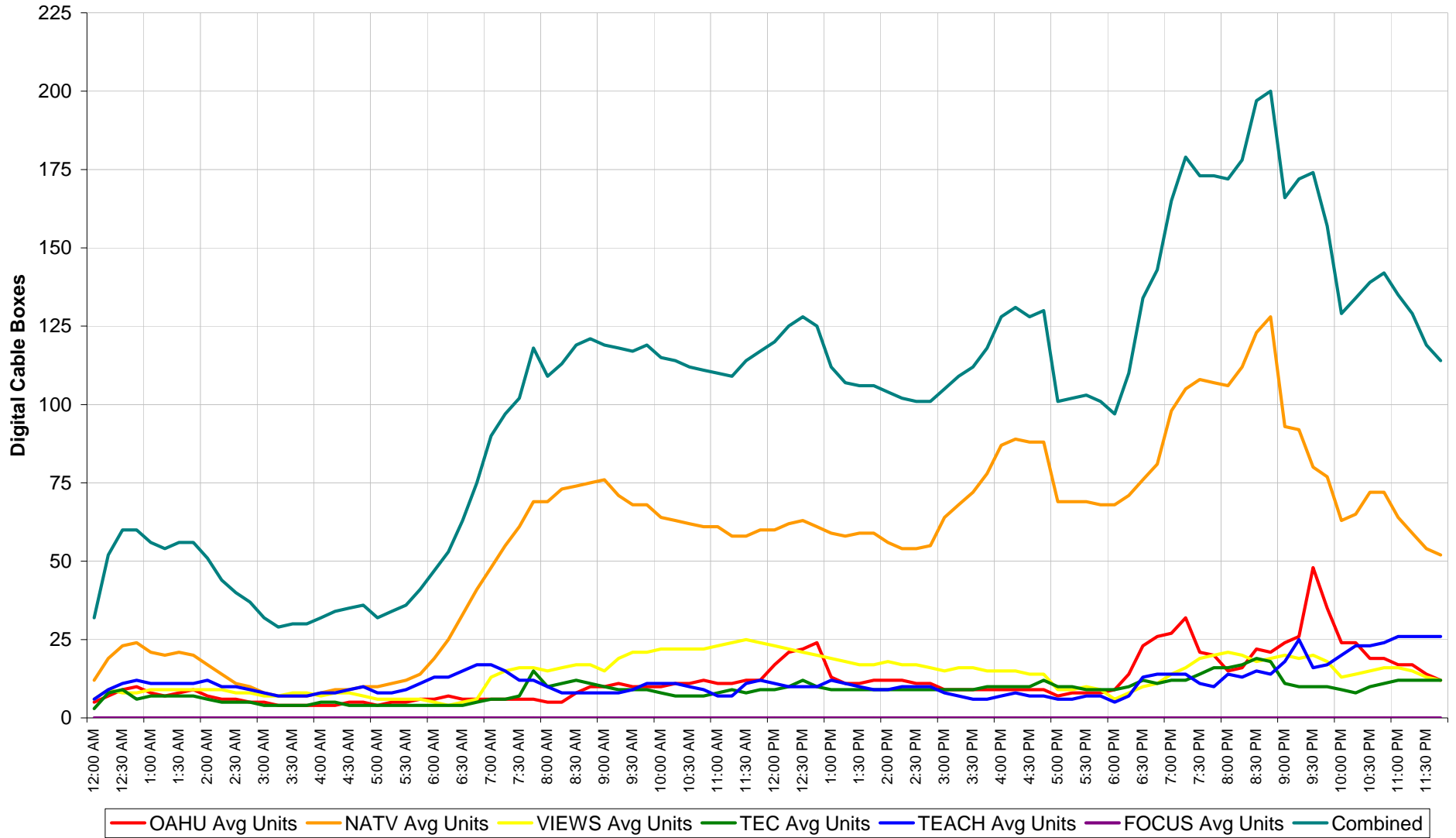
Number of Boxes Tuned to O'lelo

Daily Average, March 2006



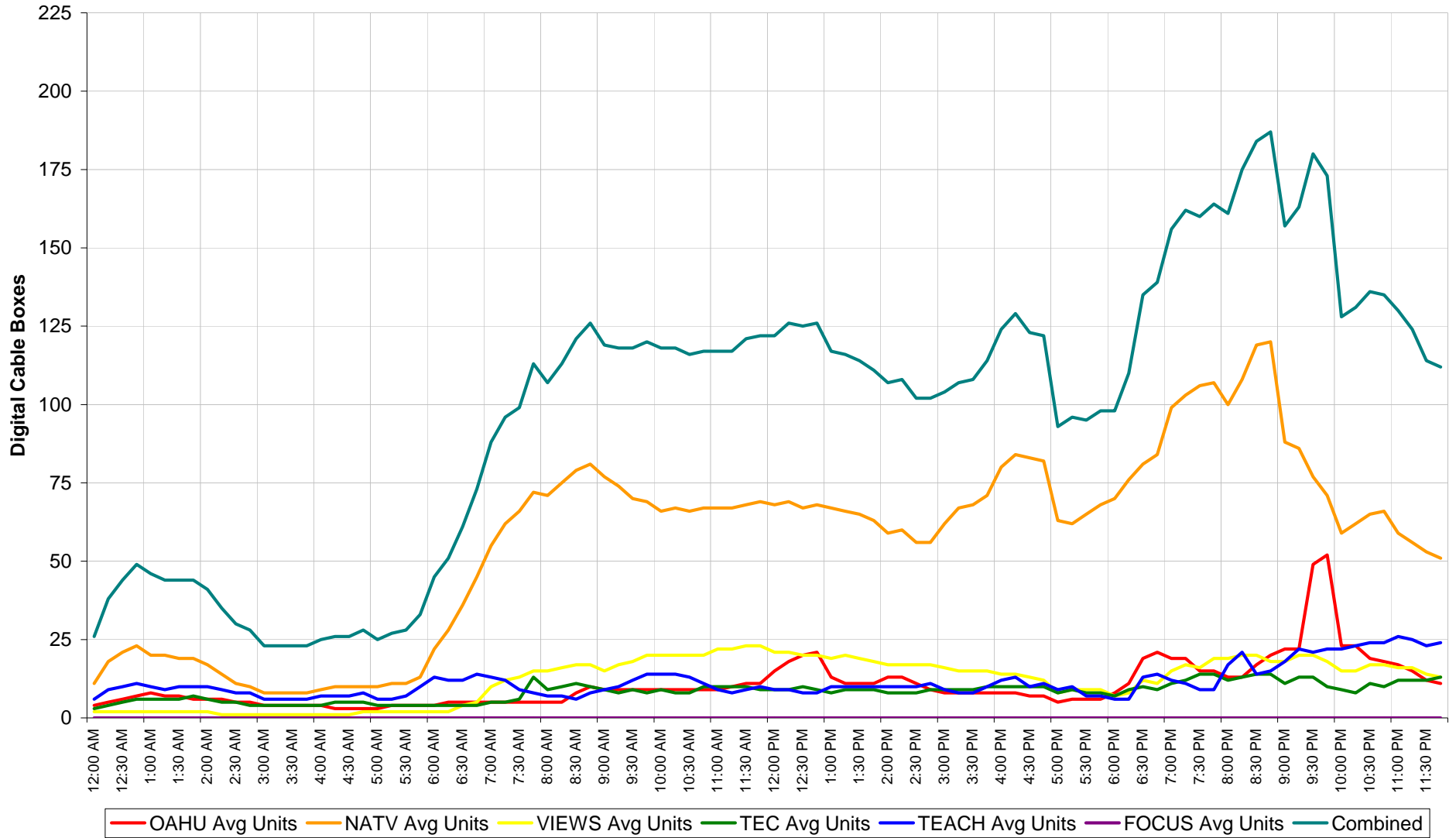
Number of Boxes Tuned to O'lelo

Daily Average, April 2006



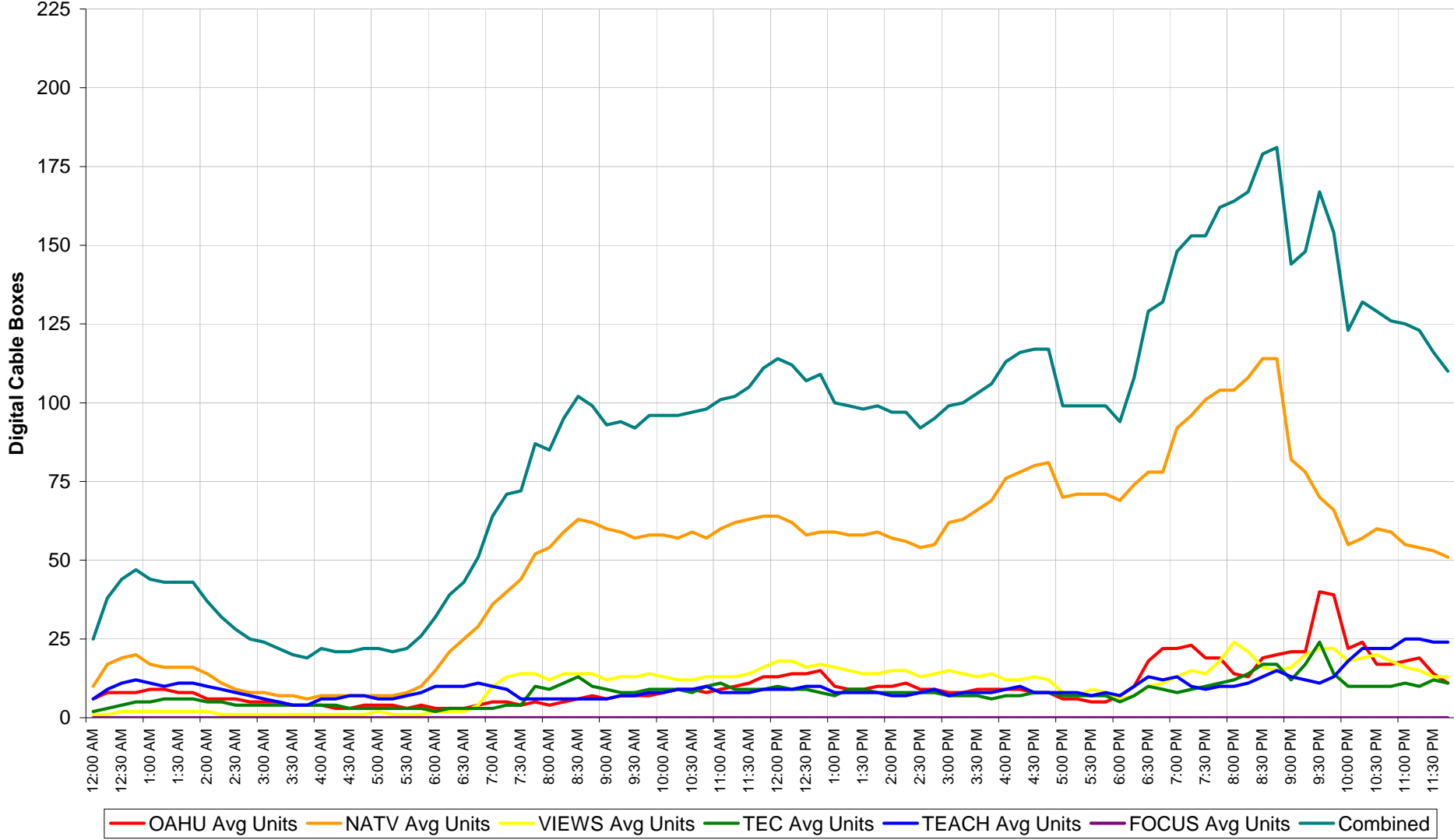
Number of Boxes Tuned to O'lelo

Daily Average, May 2006



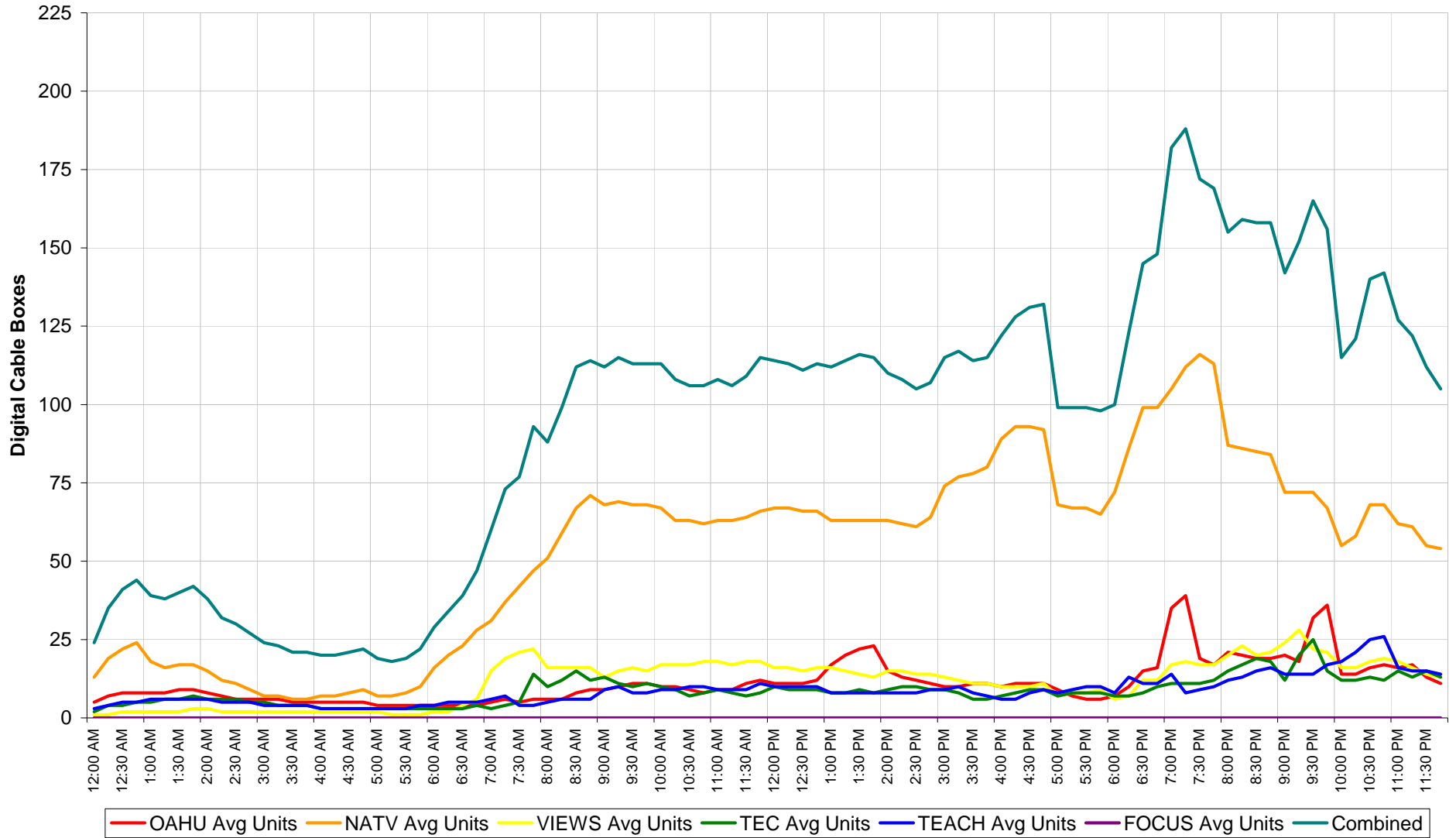
Number of Boxes Tuned to O'lelo

Daily Average, June 2006



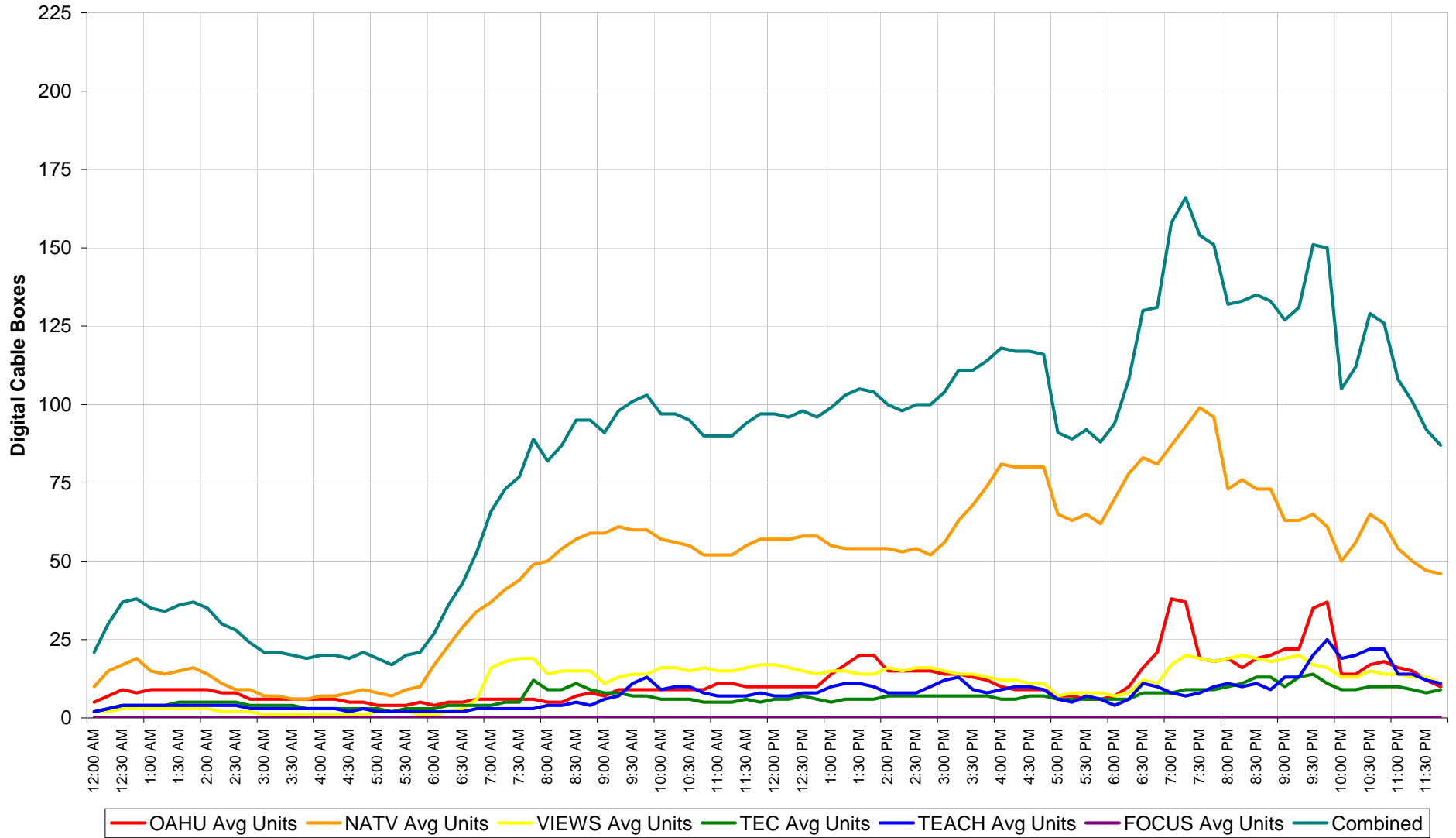
Number of Boxes Tuned to O'lelo

Daily Average, July 2006



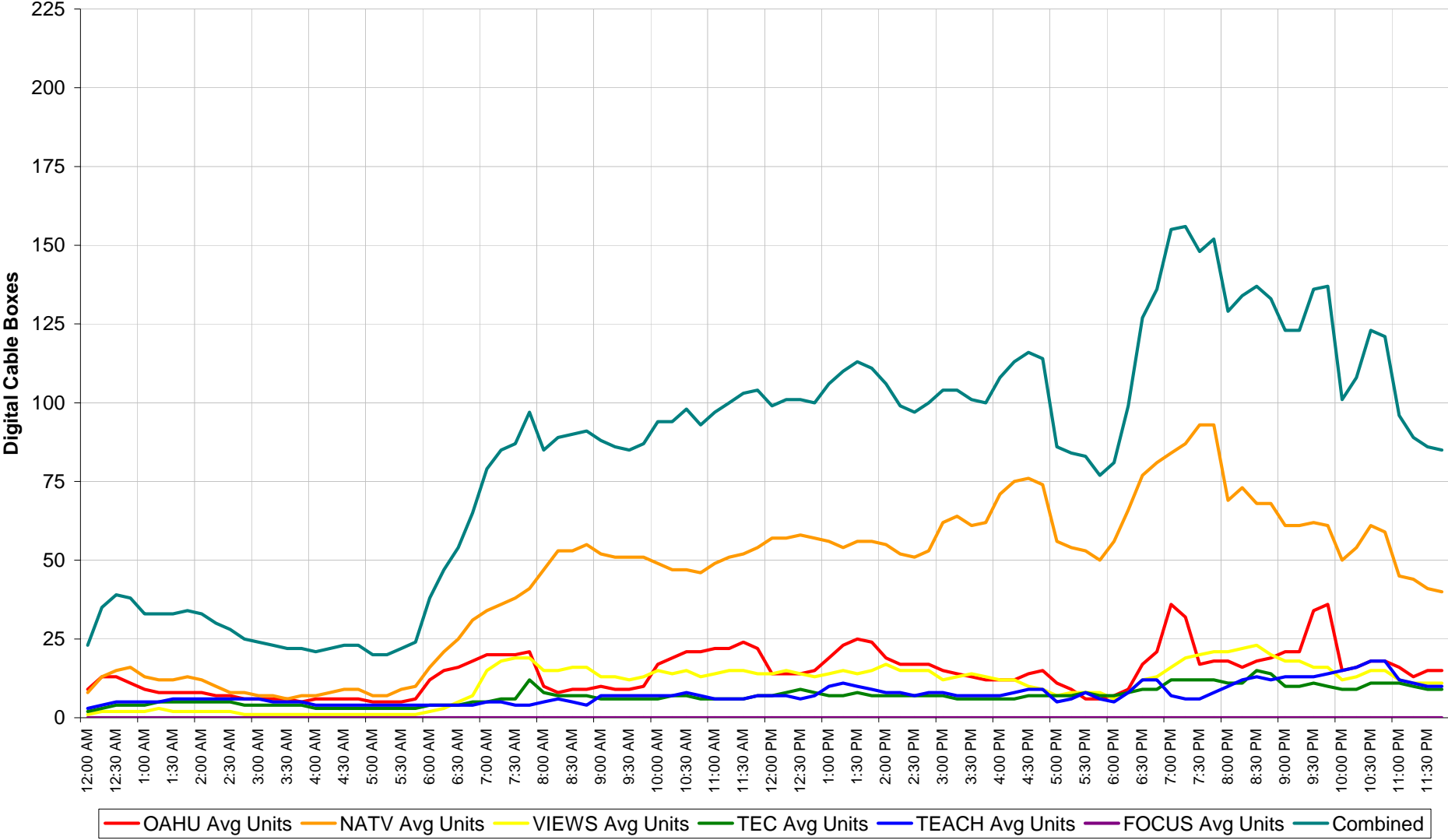
Number of Boxes Tuned to O'lelo

Daily Average, August 2006



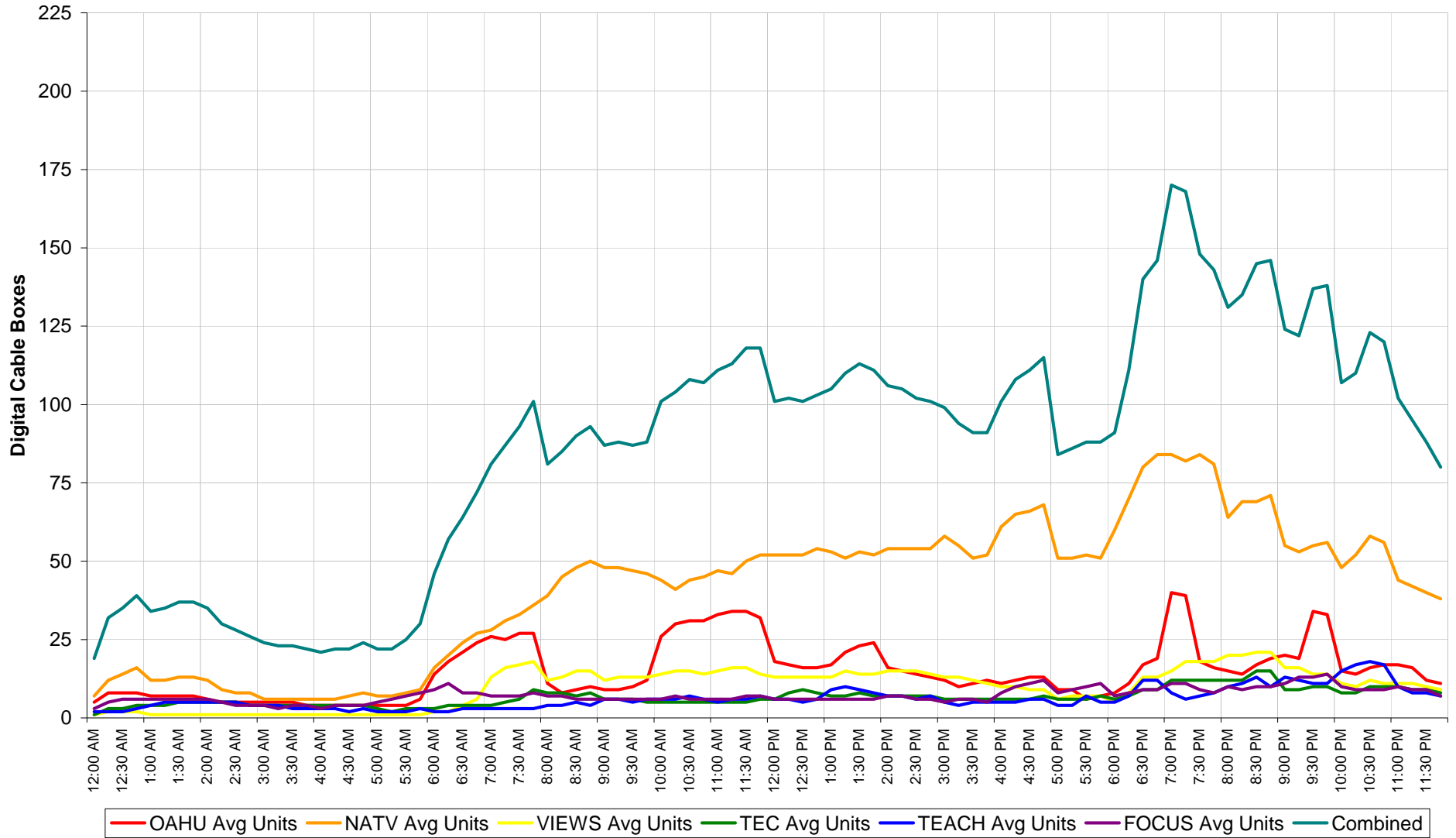
Number of Boxes Tuned to O'lelo

Daily Average, September 2006



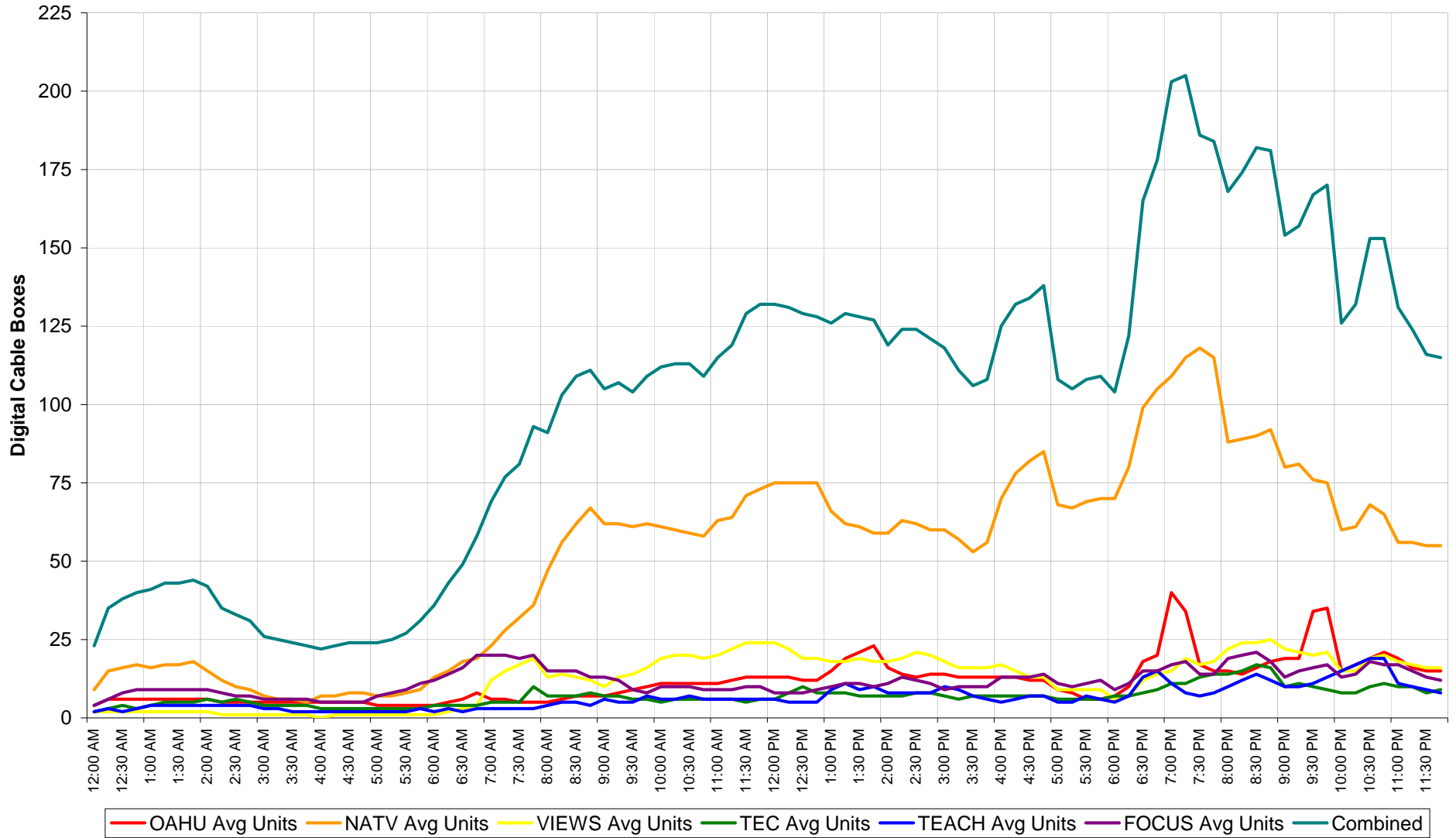
Number of Boxes Tuned to O'lelo

Daily Average, October 2006



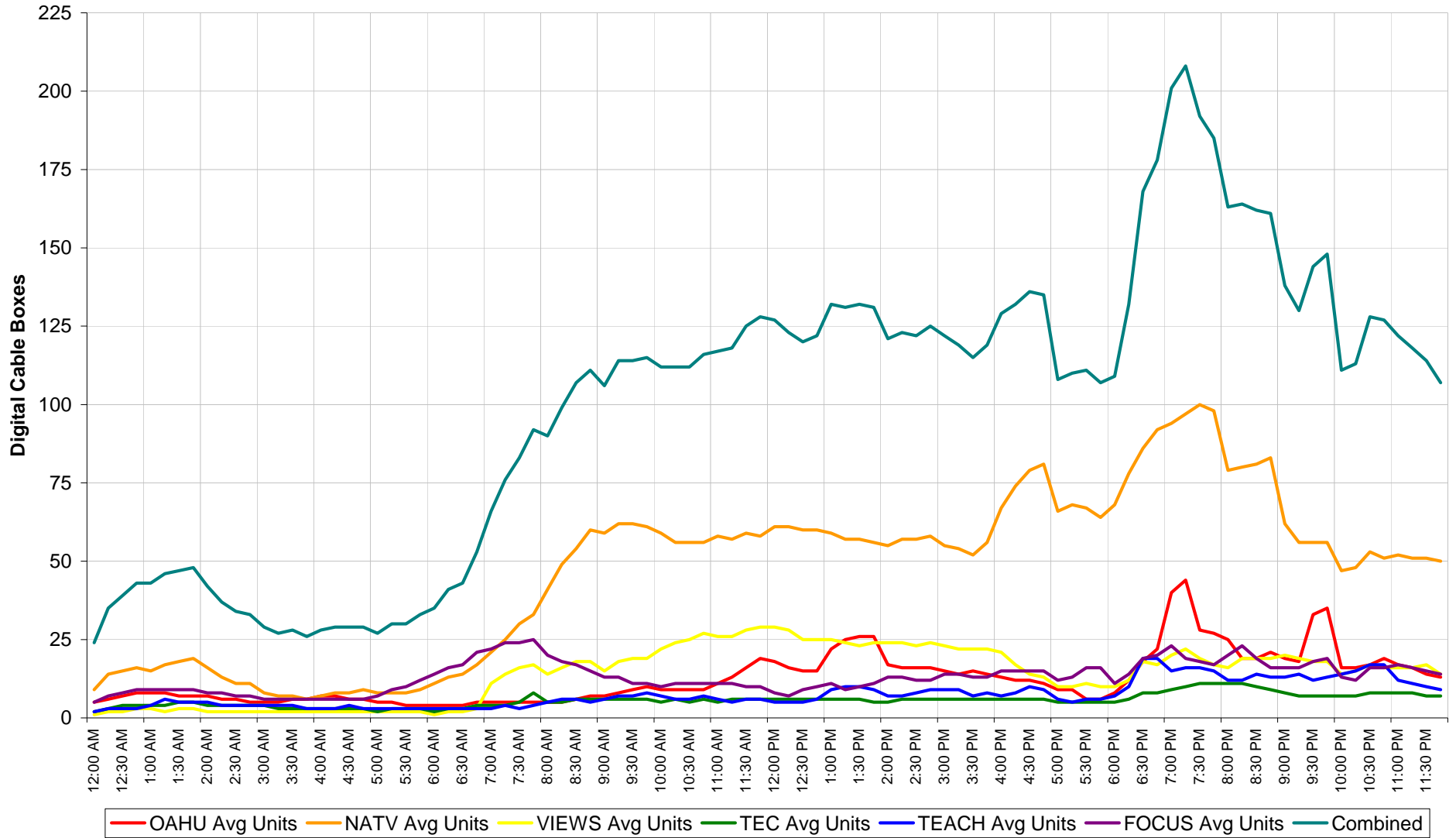
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Daily Average, November 2006



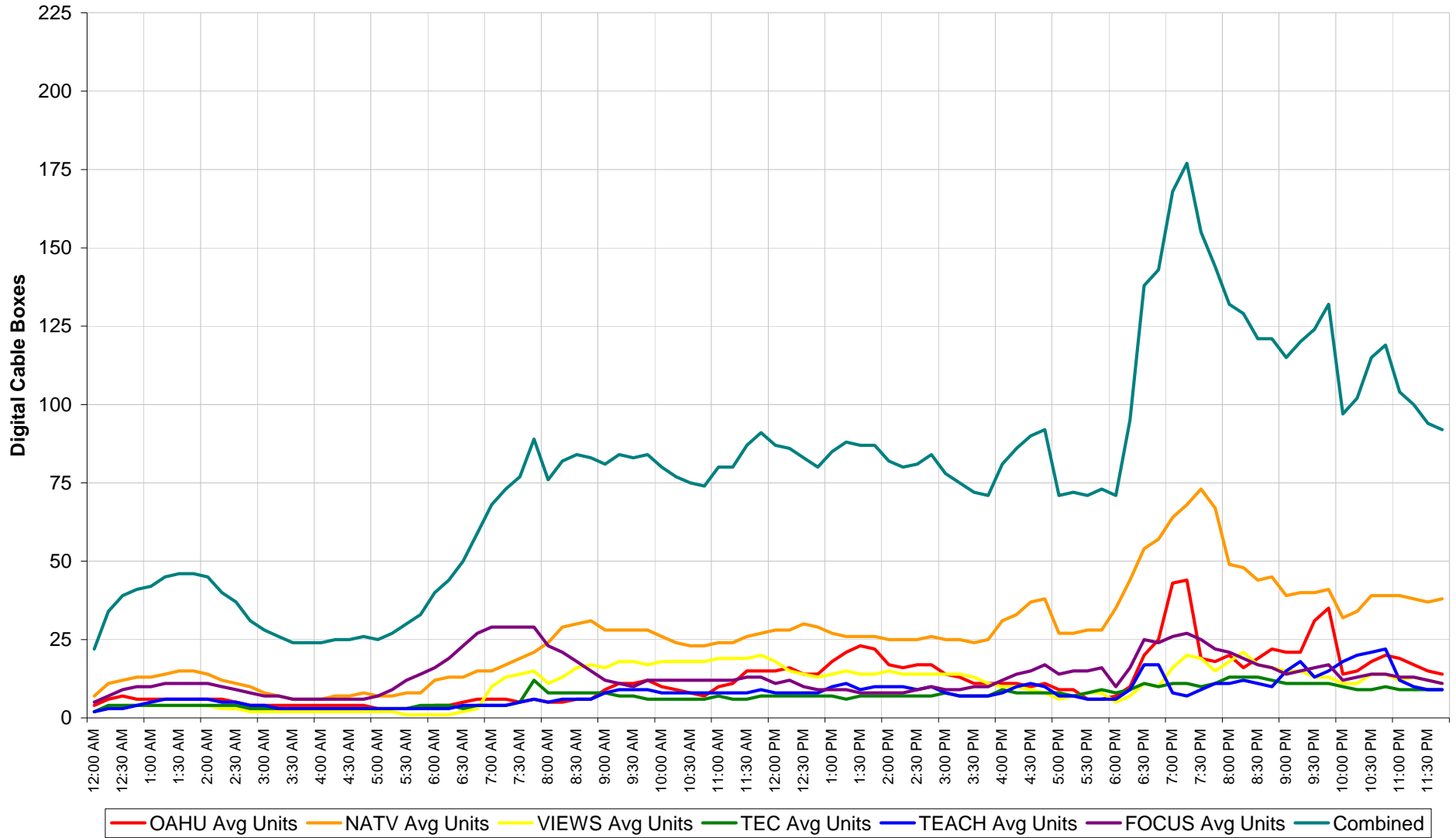
Number of Boxes Tuned to O'lelo

Daily Average, December 2006



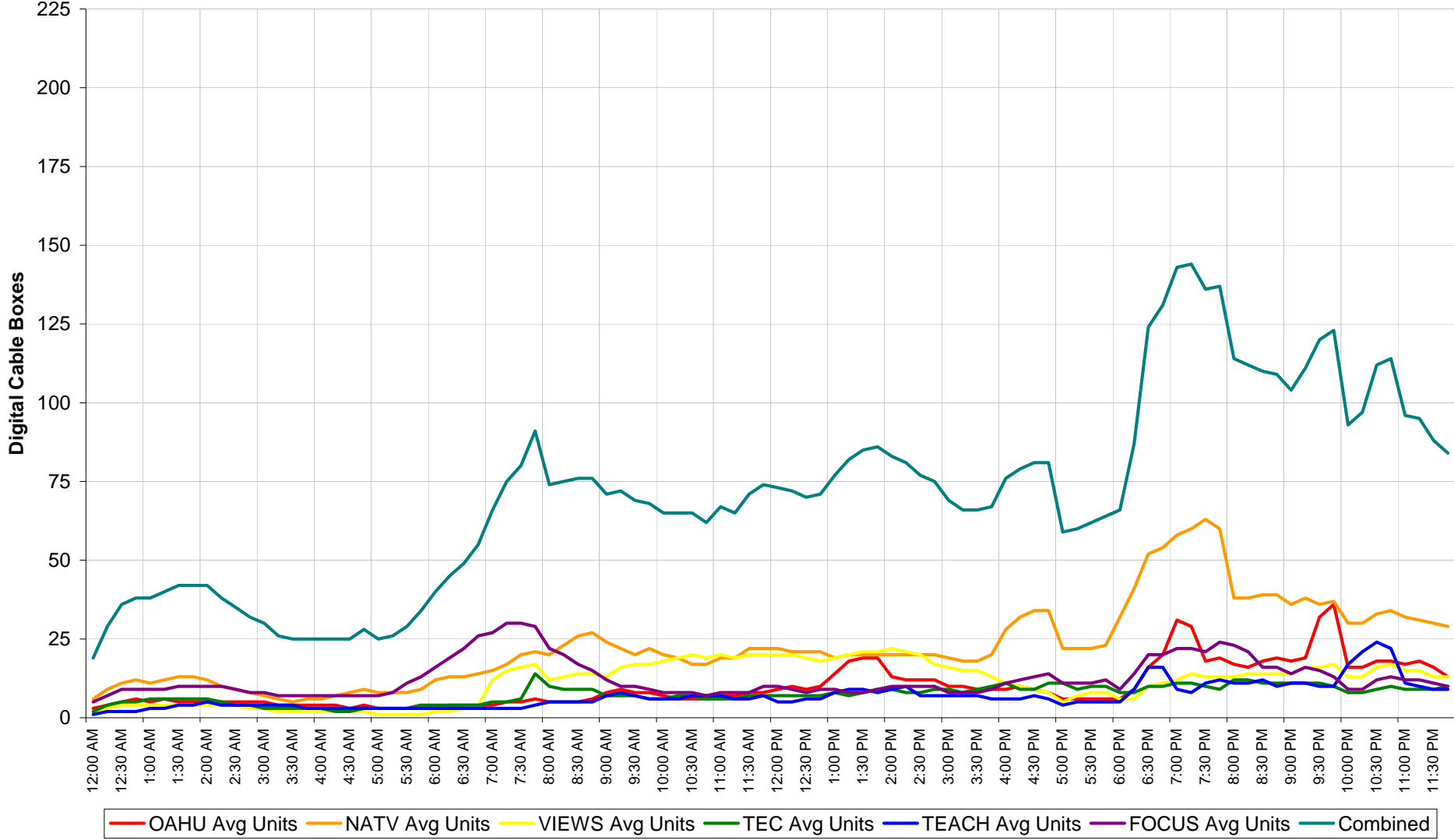
Number of Boxes Tuned to O'lelo

Daily Average, January 2007



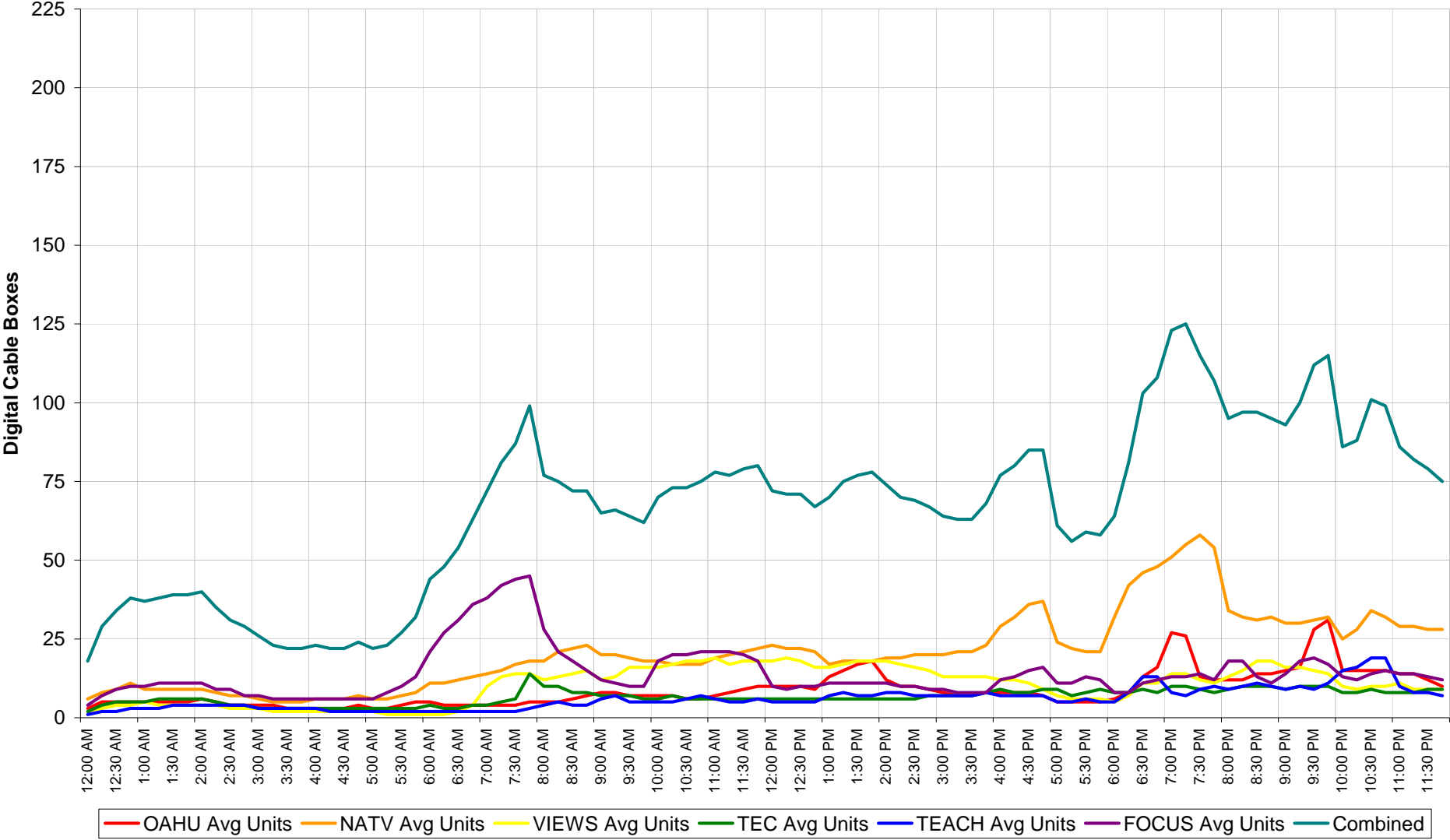
Number of Boxes Tuned to O'lelo

Daily Average, February 2007



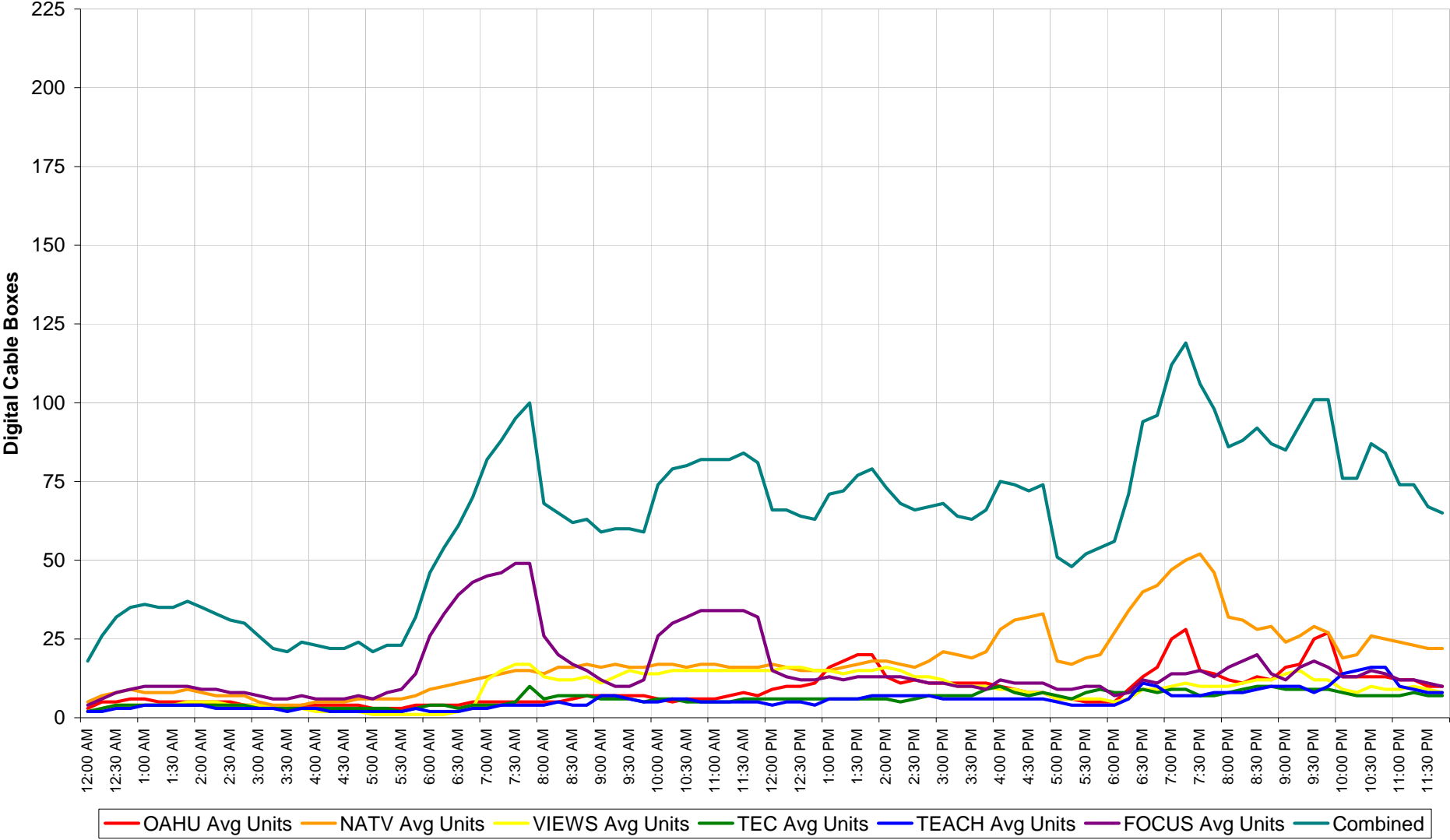
Number of Boxes Tuned to O'lelo

Daily Average, March 2007



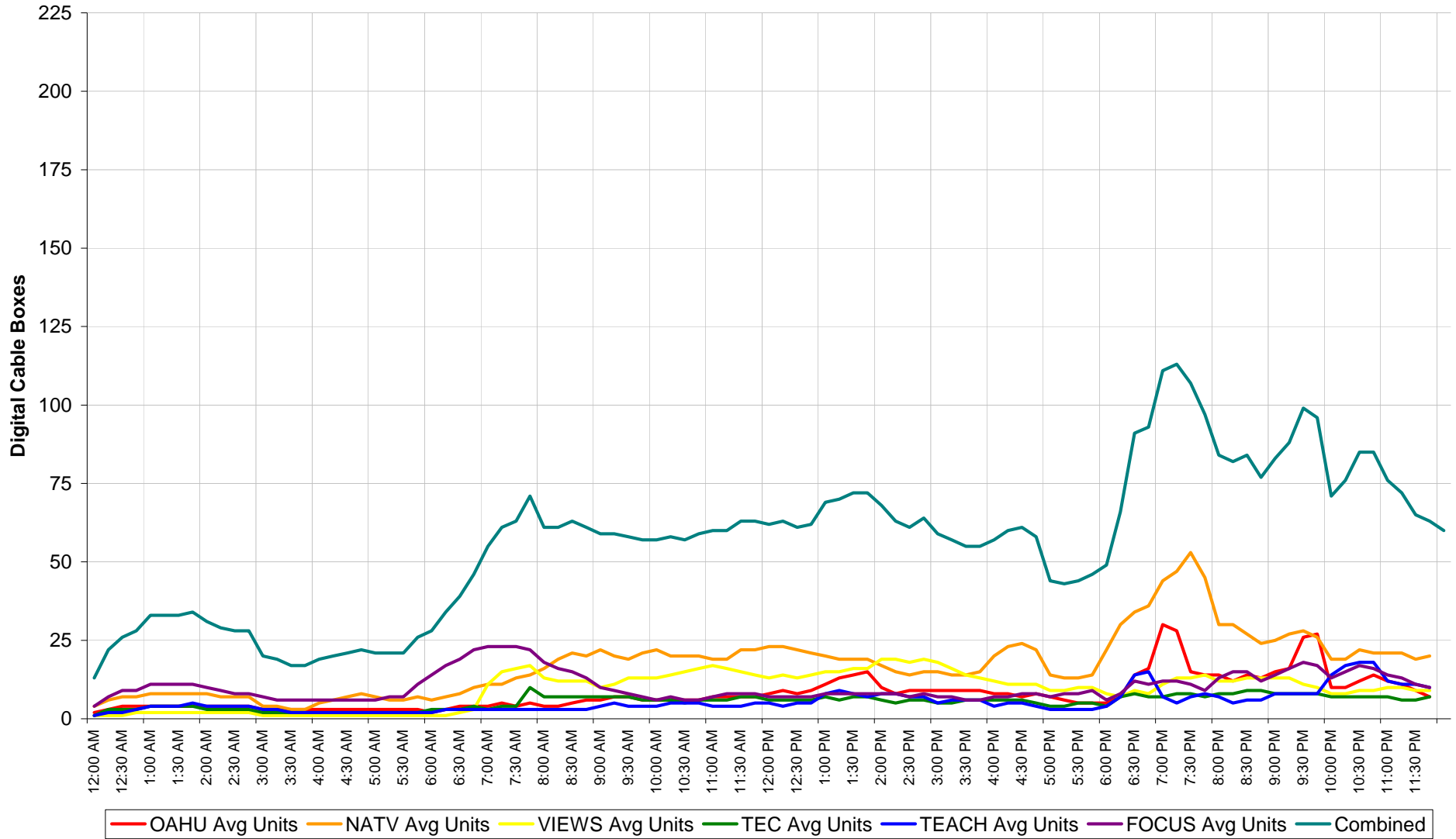
Number of Boxes Tuned to O'lelo

Daily Average, April 2007



Number of Boxes Tuned to O'lelo

Daily Average, May 2007



Number of Boxes Tuned to O'lelo

Daily Average, June 2007

