

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

MINUTES OF MEETING

Date: October 20, 2009
Time: 9:30 a.m. -- 12:00 p.m.
Place: Queen Liliuokalani Conference Room
King Kalakaua Building, 1st Floor
335 Merchant Street
Honolulu, Hawaii 96813

CAC Members: Present: Keith Rollman, Clayton Yugawa, John Gibo and Mahina Martin
Excused: Jenny Fujita

Others: Lawrence Reifurth, Director; Clyde Sonobe, CATV Administrator; Laureen Wong, Staff Attorney CATV, and Glen Chock, Program Specialist.

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 9:31 a.m.
- II. Introduction of new CAC member -- Mahina Martin was nominated by Maui Mayor Charmaine Tavares, confirmed by the Senate and appointed by Governor Lingle to a term to expire on June 30, 2013. Ms. Martin is Maui County's Community Relations and Communications Director and is the Chair of Akaku's Board of Directors.
- III. Minutes of the October 28, 2008 meeting – There were no questions about the minutes of last meeting, which were then accepted.
- IV. Update on Pending Matters
 - A. Oceanic Time Warner Renewal of Oahu Cable Franchise – Renewal process has been ongoing for close to 3 years during which DCCA held public meetings on community needs and renewal application. Oceanic is seeking a 20 year franchise. Director Reifurth stated that he viewed the 3½ hour DVD of the public hearing on the application and reviewed the written comments/testimonies submitted. Director Reifurth encouraged CAC members to view the public hearing and testimonies posted online, and if they have questions to contact him outside of the CAC meeting. Director Reifurth indicated that there were 2 issues although not featured

in the application for renewal itself, received many comments. These issues were: more funding for Olelo and separating out educational access from P-E-G. CAC members did not have any comments on TWE's application for renewal at this time. Ms. Martin suggested that there be another CAC meeting prior to a final decision on the franchise.

- B.** PEG Access Contracts and RFP – Mr. Sonobe stated that the attorney General ("**AG**") and State Procurement Office ("**SPO**") have determined that PEG access services contracts must comply with the State Public Procurement Code ("**Code**"). SPO is assisting DCCA logistically with the Request for Proposal ("RFP") for PEG access contracts. Delays have occurred because of protests and lawsuits filed. SPO is planning to cancel the original RFP and re-issue another, but SPO is still considering how to proceed. Mr. Rollman asked if the next RFP would have significant changes. Mr. Sonobe stated that SPO is looking at the protests and would address the arguments raised in them in the next RFP. Mr. Yugawa asked about the H.C.R. No. 358 Task Force recommendations. Mr. Sonobe stated that relevant issues discussed in the Task Force report would also be addressed. Director Reifurth reported that the Procurement Policy Board ("**PPB**") is considering an exemption for PEG access organizations based upon the definition of utilities. Mr. Sonobe stated that DCCA had not been briefed on the result of PPB's consideration at this time. The current PEG access contracts have an exemption from the Code until 12/31/2009 and that DCCA would be applying for another exemption. If no exemption is granted by SPO, then the State would in violation of the law for the existing PEG access contracts.
- C.** Hawaiian Telcom Services Company, Inc. Application for Cable Franchise (island of Oahu) – Mr. Sonobe reported that Hawaiian TelCom ("**HTC**") requested and received numerous extensions to the deadline to complete the application process. After HTC emerges from bankruptcy, Mr. Sonobe expects that the new company will have to refile another application for a new franchise.
- D.** Oceanic Time Warner's Renewal of East and West Hawaii Franchises – Mr. Sonobe stated that the 2 Big Island franchises expire in 2011, and Oceanic has sent DCCA its intent to renew both franchises. DCCA will be conducting a community needs assessment and public comment meetings next year. Mr. Sonobe stated that Oceanic is seeking to combine the 2 Big Island franchises and DCCA will be holding meetings on both sides of the island. Mr. Yugawa expressed that a combined franchise may be best since there would be benefits to both franchises and the channel lineup is the same.

V. New Business

- A.** Broadband Legislation for Upcoming Legislative Session 2010 – Mr. Sonobe stated that H.B. 984 is still active from last session although the bill did not come out of conference committee. Director Reifurth stated that H.B. 984 needs to be revised to take out the sections that dealt with telcom deregulation which was passed under a separate bill. Other than that, DCCA supports H.B. 984. Director Reifurth was uncertain as to how much support H.B. 984 would have in the upcoming legislative session.
- B.** ARRA (American Recovery and Reinvestment Act) Broadband Updates – Mr. Sonobe stated that DCCA submitted an application for broadband mapping to assist the State in gathering broadband data. DCCA is awaiting review and approval of its application by the Department of Commerce. DCCA would be looking for availability of service, measurement of signal coverage, services for citizens at their address, and broadband speeds. Ms. Martin asked that once underserved areas are identified, would they be extended service? Mr. Sonobe indicated that providers would be applying for service grants and that they were 4 providers with Hawaii ties applying (one of whom was Akaku). Ms. Martin stated that Maui County received requests for better service as in Hana. Mr. Sonobe stated that the federal government defines broadband as 768 Mhz and that there are few areas within the State that do not get this speed. Ms. Martin stated that there are some outlying areas outside of Hana that may not be able to get this speed. Mr. Sonobe stated that the telephone company provides DSL service which may be helpful to residents in outlying areas.

VI. Public Comment

- A.** Kealii Lopez – distributed a handout with materials on the renewal. Ms. Lopez stated that TWE's application is broad and leaves open a lot for direct negotiation with DCCA. The application did not contain much of the information in the needs ascertainment report. Ms. Lopez stated that TWE operates as a monopoly in the State and should provide significant benefits to the State for renewal of the franchise. When Olelo was created 20 years ago, State chose to keep P-E-G together so to combine limited resources and E should not be separated out. Olelo works closely with teachers and students and CMCs are located at schools. If E were separated out from P and G, then once high definition comes in, it would cost more to upgrade 3 headends as opposed to one headend. Olelo supports funding going to HENC. Olelo objects to the cap on its access operating fees, but as long as the cap formula is used, Olelo wants the CPIU for Honolulu used as opposed to the CPIU for the West Coast. Olelo is seeing more viewers access its content via the internet by way of OleloNet and it expects to see more of a migration over time to internet viewing but right now people still watch more TV. Ms. Lopez agreed to

provide Nielson report on TV watching vs. internet viewing. At the present time the main way viewers find PEG programming on Olelo is by channel surfing whereas internet viewing is specific and intentional.

- B. Jay April -- Mr. April stated that TWE's application afforded less protection to local communities than what had been offered at the last franchise renewal more than 20 years ago. There will be a radical change in new technology and federal legislation which may pre-empt State decisions and orders. Mr. April stated that TWE's fast broadband speeds are slower than that of Moldavia. PEGs are losing funding and PEG channels are diminishing. Mr. April criticized the renewal process and hoped to work with DCCA on new legislation to exempt PEGs. Mr. April stated that E should not be separated out due to economies of scale and lack of accountability and audit by educational institutions. If E and G were separated out from P, Akaku would be unable to operate. Because of the ownership change of TWE, it was required to have statewide meetings before a franchise renewal is granted. Regarding the Broadband bill, Mr. April was looking forward to working with DCCA on net neutrality, and public/private partnership in rural areas.

- C. J Robertson -- In California, after the new cable state law ("**DIVCA**") was adopted, 60 access centers closed down across the State. If E is pulled out on Kauai and took with it 25% of Hoike's funding, Hoike would be crippled. Mr. Yugawa asked how each state handled PEG funding. Mr. Robertson stated that PEG access funds are given differently in each franchise area. For example, in Colorado, each city takes all the franchise fees and then allocates monies back to PEG access organizations. In Denver, this has resulted in the access organization losing access funding completely.

Mr. April stated that there are now 28 statewide franchise laws and it appears that this is the trend and the local municipal model may be going away.

- I. Announcements – Director Reifurth agreed to hold another CAC meeting at the end of November based upon a request by CAC member Martin.

VII. Adjournment --The meeting was adjourned at 11:12 a.m.