

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

**MINUTES OF MEETING**

Date: August 10, 2006  
Time: 10:00 a.m. – 12:00 p.m.  
Place: Queen Liliuokalani Conference Room  
Department of Commerce & Consumer Affairs  
335 Merchant Street, 1<sup>st</sup> Floor  
Honolulu, Hawaii 96813

**CAC MEMBERS** Present: Sam Aiona, David DeLeon and Keith Rollman.  
Excused: Jenny Fujita  
Resigned: Director Recktenwald announced that Gay Porter had recently resigned.

**OTHERS:** Mark Recktenwald, Director; Clyde Sonobe, CATV Administrator; Glen Chock and Patti Kodama, CATV Staff.

**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 10:07 a.m.
- II. MINUTES OF March 9, 2006 CAC MEETING – Minutes of the March 9, 2006 meeting were duly posted. There were no questions about the minutes, which were then accepted.
- III. Update on Pending Matters
  - A. PEG Contracts: DCCA's Request for Exemption from Procurement Code. Mr. Sonobe reported that the State Procurement Office had approved a one year exemption, during which time DCCA was to initiate a competitive procurement process. Mr. Sonobe reported on the historical events which led to the Department pursuing a Request for Proposal (RFP) for PEG services. He informed the CAC members of the Cable Division's plans to meet with interested persons and groups, such as the PEGs and key legislators. Mr. Sonobe stated that public comment meetings will be held throughout the State sometime in September or October to afford interested persons the opportunity to voice their concerns or comments about the process and the scope of services for the PEG contracts. Mr. Sonobe referred to a July 12, 2006 letter that the Director sent to each PEG requesting a list of its assets and also a list of services that it presently provides to the public. These lists will be used to draft the scope

of services which will be available to the public for comment at the public meetings. The target date to select a new vendor is May 1, 2007 in order for the new vendor to be operational by the June 30, 2007 deadline.

Director Recktenwald stated that the public needs to understand what the current provider is doing now and that interested persons should voice their comments on what should be included in the RFP. There are also some fundamental structure issues which the public may comment on, specifically whether to keep the P, E and G together, or unbundled (each as separate entities), and the pros and cons if the services were unbundled. The public will be provided the opportunity to express views, concerns and comments on these and other issues related to the RFP.

Mr. Rollman asked if only non-profit companies may bid on this RFP, and Director Recktenwald responded that this issue has not been decided upon and that the Department would like to receive more input and comments regarding this issue. Mr. Aiona commented that a company's financial and management history should be included in the RFP. He inquired as to the deadline to send out the RFP. Mr. Sonobe responded that the scope of services would be available by the time the public comment meetings are held, and that it is anticipated that the RFP should be available by the end of the year. Both Mr. Rollman and Mr. Aiona commented that should there be a bid protest to the RFP process, the overall process and timeframe objectives would be delayed.

With regard to the Procurement Policy Board hearing on the petition that Akaku filed, Mr. Sonobe informed the members that the Procurement Board did not make a decision on this issue. Mr. Recktenwald further clarified that this petition to the Policy board was an initiative for a rule making change regarding exempting the PEGs from the state procurement law. Mr. DeLeon raised the point that there could be a situation in which both the Cable Division and the Procurement Office would be going to the public for its input on opposite proposals: DCCA would be asking what the RFP should include and the Procurement Office may simultaneously be asking if the PEG system be exempt from an RFP.

- B. Akaku's lawsuit filed against the Director and Department -- State's motion for summary judgment granted; Final judgment entered in favor of TWE and State against Akaku.

Mr. Sonobe reported a brief historical summary of this issue, specifically Akaku's concern that the Department only authorized 50% payment of the PEG access fees. The lawsuit claimed that this action was illegal. In April 2006, the Circuit Court on Maui found in favor of the Department and the

lawsuit was dismissed. Subsequently, the remaining 50% payment was paid to the PEGs.

Mr. Rollman asked if Akaku paid their legal fees for this lawsuit with their PEG access operating funds, i.e. from public funds. Mr. Sonobe confirmed that it had done so.

#### IV. New Business

##### A. Hawaiian Telcom Services Company, Inc. Application for Cable Franchise (Island of Oahu)

Mr. Sonobe informed the CAC members that Hawaiian Telcom Services Inc. (HTSC) filed an application for a cable franchise on May 5, 2006. The filing was accepted on June 21, 2006, and on July 19, 2006, a public hearing was held to provide the public an opportunity to state comments regarding this application. Approximately 35 persons spoke at the public hearing, and most expressed favorable comments. The Department has 120 days from June 21, 2006 to make a final decision on whether to grant or deny the cable franchise application.

Mr. Lester Chu, Hawaiian Telcom's Manager of Strategy and Business Development, summarized their company's reasons and proposals in seeking this cable franchise. He specifically wanted the CAC members to know two important differences between the incumbent cable company (TWE) and HTSC. First, TWE already has 94% penetration/coverage of the total households on Oahu and that HTSC must make a significant financial investment to implement its proposed video service, and second, that there are technological differences between the two. He stated that HTSC is looking forward to this competitive environment.

Director Recktenwald pointed out that HTSC video services will only be offered to Oahu subscribers at this time. Mr. Rollman stated that HTSC will voluntarily contribute to the PEGs and offer the same channel capacity; therefore he did not have any further comments.

Director Recktenwald posed a question to Mr. Chu regarding HTSC financial commitments. Mr. Chu responded that HTSC is committed to PEG and its other financial obligations. Director Recktenwald asked him to comment on the issue of customer service problems. Mr. Chu stated that on the telephone side, they are under strict requirements from the PUC. He assured the group that the video service would not be released until HTSC is ready to handle it. He further mentioned that a subscriber would not have to subscribe to their DSL service in order to receive their video service. Director Recktenwald asked how much of the island of Oahu will

be able to access HTSC's video service. Mr. Chu responded that HTSC will go as far as possible and that the customers will drive the services and timeline. Director Recktenwald asked what HTSC's proposal for the INET is. Mr. Chu responded that HTSC will use existing **ROWS** and proposes to fund the INET with 1% of gross revenues.

The other CAC members did not have any further questions or comments. There were no objections by the CAC members present on the granting of the Application.

B. DCCA's Request for Sole Source Approval by State Procurement Office for contract with Hawaii Public Television Foundation (PBS Hawaii)

Mr. Sonobe briefed the members on the background on this issue. While reviewing other contracts, the Department asked the State Procurement Office (SPO) if the contract with Hawaii Public Television Foundation (HPTF, aka PBS Hawaii) was also subject to the state procurement law. The Department was informed that this contract was subject to the procurement code. The Department then requested a sole source exemption for the contract with HPTF, which was approved by SPO. The HPTF contract will expire in two years.

V. Public Comment

A. None.

VI. Announcements :

The next CAC meeting will be held before the end of the year. Mr. Aiona requested to have a meeting after all the public comment meetings on the RFP were held. This request will be considered.

VII. Adjournment --The meeting was adjourned at 11:01 a.m.

Taken and recorded by:



Glen Chock

Dated: 9-8-06