



LIFE OF THE LAND

76 North King Street, Suite 203

Honolulu, Hawai`i 96817

Phone: 533-3454; E: henry.lifeoftheland@gmail.com

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Cable Television Division
Department of Commerce and Consumer Affairs
P.O. Box 541
Honolulu, HI 96809
cabletv@dcca.hawaii.gov

‘Olelo Community Television
1122 Mapunapuna Street
Honolulu, HI 96819
info@olelo.org

Aloha,

My name is Henry Curtis and I am the Executive Director of Life of the Land, Hawai`i's own energy, environmental and community action group advocating for the people and `aina for almost four decades. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

This letter supplements our oral testimony at the DCCA Public Hearing held on September 15, 2009.

Oceanic Time Warner Cable ("Applicant") is currently in the process of applying for a renewal of their current Cable Franchise. In their application, Oceanic states "Applicant will continue to introduce new and improved technology to address the changing market...", however, in that same application, Oceanic is proposing that no changes be made in the existing channels or connections that service Public, Educational, and Governmental Access. Currently, there are no connections to 'Olelo's Community Media Centers ("CMC"), with the exception of the Māpunapuna CMC, and only four high schools are wired into the network.

The Public Utilities Commission posts a copy of all Applicant submittals on the PUC Data Management System website. The documents are posted in a searchable format which the public can copy and paste into their own filings. The Department of Commerce and Consumer Affairs should require cable companies to file similar electronic filings, rather than the photocopy format currently used.

The Applicant's web site states: "About Us: Time Warner Cable Inc. is the second-largest cable operator in the U.S. and an industry leader in developing and launching innovative video, data and voice services. We deliver our services to customers over technologically-advanced, well-clustered cable systems that pass approximately 26 million homes. We were the first or among the first cable operators to offer high speed data service, IP-based telephony service and a range of advanced digital video services, such as VOD, high definition television and set-top boxes equipped with DVRs." (http://www.oceanic.com/about_us). This technical know-how would certainly support community-friendly electronic filings at the DCCA.

The Department of Commerce and Consumer Affairs (Decision and Order 135, dated 1988) states: "The grant of a cable franchise gives Oceanic a right to use and occupy public places, highways and easements which are of limited and scarce nature. Substantial economic benefit will flow to Oceanic from such privilege. In exchange, Oceanic should be required to provide the widest possible diversity of information sources and services to the public. This order ties the length of the term of the franchise to the degree to which Oceanic is willing to be responsive to the needs and interests of the community." This is just as true today. The Applicant's cable penetration level and the Applicant's share of the local cable market have increased since the original franchise was signed in 1988. Since the original franchise was awarded, the number of stations offered by the Applicant has skyrocketed. The number of PEG channels should be a percentage of the number of Applicant channels and so they should skyrocket also. But the Applicant is seeking to sharply limit the number. That is their right to advocate, as a private entity. The DCCA, safeguarding the public interest, has a moral and legal right to ignore corporate self-interest and to insist that there is reasonable compensation given for use of the public trust resources. 'Ōlelo should have a minimum of 20 channels.

At the public hearing it was noted the number of viewers on 'Ōlelo channels is low, thus more channels are not needed. This analysis excluded those who watch the PEG channels on their computers. We watch PEG channels on computers. It excludes those who go to 'Ōlelonet to watch live webstreaming as well as electronically stored programs for later viewing. Obviously the number of 'Ōlelo viewers are going to be less than those watching the handful of highly watched sport events and major sitcoms. One valid comparison might be the total number of 'Ōlelo viewers viewing PEG channels by either computer or TV compared to the total number of cable viewers viewing local educational shows on non PEG channels.

PEG consists of Public, Educational and Governmental programming. The P component survives only on cable fees, the E & G components can receive generous support outside of the cable fee process. If DCCA either gives E&G a greater share of the total cable fee, or spins them off into a separate system, then the P component will face a tougher financial future. At a time when viewership is shifting away from print media and towards TV and the internet, profits at the cable company will rise and some of that should go to support 'Ōlelo. The E&G components should not have greater technological opportunities than the P component. There should be a level playing field, where inter-island video conferencing, live cablecasting from multiple islands, sophisticated inter-island connectivity that supports statewide dialog, and dedicated broadband circuits all need to be part of the community benefits package.

It should be recognized that 'Ōlelo does more than just produce local programming. They are also developing young minds on video camera techniques, editing, directing, producing and

working together in a field that will play an increasing role in society. The 21st century will be a technological era. It is important that Hawai'i's residents are part of that, as opposed to couch potatoes watching the changes go by. 'Ōlelo should be judged by the number of people they have trained over the years and will train in the future. This training and technological sophistication is in the public interest.

Currently, 'Ōlelo has community media centers in Kahuku (Kahuku High & Intermediate); Palolo (Jarrett Middle School); Wahiawā (Leilehua High School); Wai'anae (Waianae High School); Waipahu (Waipahu Intermediate School); and Windward O`ahu (King Intermediate School, Kaneohe); and wants to open additional community media centers. This is key to advancing all communities, instead of requiring people to migrate to one central headquarters. Dispersing the media centers around the islands, and especially into areas less economically well-off, is a great way of advancing all areas of OUR community.

At a minimum, please

1. Increase funding to expand the number of community media centers.
2. Provide sufficient funding so that 'Ōlelo can migrate to High Definition Television.
3. Require that the Applicant upgrade 'Ōlelo's current fiber connection to support Advanced Television Systems Committee (ATSC) standards which include captioning and metadata streams.
4. Require that the Applicant upgrade 'Ōlelo's community media centers to support ATSC.
5. Require that 10% of the channels be dedicated as PEG channels.
6. Require that 10% of the total services offered by Oceanic are available for public access use.
7. Require that Access Channels should be accessible in the same manner as the local network affiliate channels.
8. Require that the picture quality of Access Channels should be at least equal to that of the local network affiliate's channels.
9. Require that two Statewide channels be made available for Access programming.
10. Require that PEG channels are located in the lower number range.

Mahalo,

Henry Curtis
Executive Director