

PRESENTATION OF THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
TO THE SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION,
AND AFFORDABLE HOUSING
SUPPLEMENTAL BUDGET REQUEST FOR FISCAL YEAR 2009

TWENTY-FOURTH STATE LEGISLATURE
REGULAR SESSION

JANUARY 18, 2008

TO THE HONORABLE RUSSELL S. KOKUBUN, CHAIR
AND MEMBERS OF THE COMMITTEE

Program Structure Number: 10 01 03 01

Program ID: CCA-102

Program Title: Cable Television

Page References in the Multi-Year Program and Financial Plan:

1. Introduction:

a. Summary of program objectives.

To foster the development of responsive and reliable cable television communications services for the people of Hawaii, by promoting the public interest in cable television franchises; regulate basic cable television rates and service to ensure compliance with applicable State and Federal law; expand the Statewide Institutional Network (INET); and continue the availability of Public, Education and Government (PEG) cable access.

Statutory reference: Chapter 440G, HRS.

b. Description of program objectives.

Present your summary of objectives and activities as discussed in the Multi-Year Program and Financial Plan.

The program establishes policies and standards for cable television communication services. It reviews applications submitted by cable television companies and conducts inspections, tests, and compliance reviews as applicable. It develops and coordinates with other State agencies the implementation of the INET. It monitors contractual requirements relating to PEG access on the cable television companies' cable systems. It receives and monitors the resolution of complaints and answers inquiries or provides information relating to cable communications.

c. Explain how your program intends to meet its objectives in the upcoming fiscal biennium.

The program intends to meet its objectives by: (1) contracting with financial consultants to conduct reviews of the cable operators and PEG access entities; (2) having the consultant update the franchise fee reviews for the cable operators; (3) in cooperation with the State Procurement Office (SPO) the Department is currently in the process of

conducting a Request for Proposals (RFP) for the management of PEG access services in all Counties; and (4) continue regularly scheduled meetings of the Cable Advisory Committee (CAC). Although the staff has achieved the program's objectives, the program continues to monitor and assess staffing requirements based on changes in workload.

2. Program Performance Results:

a. Discuss the performance results achieved by the program in FY07.

Cable regulation is dynamic as structural changes to the regulatory framework continue to evolve from Congress and the Federal Communications Commission (FCC). The program's compliance activities have ensured that cable operators' systems are reliable under applicable federal and state standards, and that subscriber complaints are resolved as quickly as possible. The program's rate regulation activities have ensured that basic service cable programming rates and related equipment and installation charges are in compliance with applicable federal laws and regulations. The CAC continues to provide input on cable matters at the request of the Director and cable operators. The program coordinated substantial benefits to subscribers for PEG access, to the State's INET, and plans for the continuation and expansion of these services.

b. Explain how these results relate to the program's objectives and department's mission.

The program helps to promote and protect the interests of Hawaii's consumers, making sure there is fairness in the marketplace. By monitoring the reliability of the cable operators' systems, the program fosters the development of reliable cable television communications services for the people of Hawaii. By reviewing the cable operators' rate filings, the program regulates basic service rates and ensures compliance with applicable state and federal law. The program's efforts to obtain INET connections to public facilities have resulted in expansion of the INET now throughout the whole state. The program continues to support PEG programming.

c. Explain how the effectiveness of the program is measured (i.e.: outcomes, measures of effectiveness, benchmarks, etc.) and discuss the performance results achieved during the past two years.

The program is measured by the following measures of effectiveness in the variance report:

- * Percent of homes for which cable television is available in the state.
- * Percent of compliance by cable television communications systems with State statutory and regulatory reporting requirements.
- * Percent of complaints addressed within 30 days.

In addition to measures of effectiveness, the program also tracks issues including, but not limited to, the following:

- * Timely response to subscriber complaints.
- * Timely completion of franchise issuance, transfers and renewals.
- * Timely response to INET requests.

d. Discuss actions taken by the program to improve its performance results.

Examples include:

- * Implemented and continues to develop the statewide PEG access plan.
- * Convenes regularly scheduled CAC meetings to advise the Director on cable matters at the Director's request.
- * Completed the financial reviews of the franchise fee process for Oceanic Time Warner Cable of Hawaii.
- * Completed an independent third party review of the four PEG access organizations serving each county.
- * Currently conducting a RFP process for contracts between the Department of Commerce and Consumer Affairs (DCCA) and each PEG organization.
- * Continued the expansion and upgrade of the statewide INET, including the submarine interconnections between the major islands of Hawaii, Maui, Oahu and Kauai.

e. Identify all modifications to your program's performance measures and discuss the rationale for these modifications.

None

3. Problems and Issues:

a. Discussion of problems and issues encountered, if any.

i. Rate Regulation.

While the State continues to regulate the rates for basic service, rates for other services were "deregulated" by the FCC in 1999. The FCC continues to address regulatory issues such as franchising of local telephone companies that are seeking to enter the video marketplace. The FCC's findings on issues such as this may affect local regulation.

ii. Changing Technology.

Technology and competition are changing the way traditional telephone and cable television services are provided. Telephone companies are designing and building "advanced telecommunication systems" that look and operate much like a cable system, while cable companies are installing and testing cable systems that can handle telephone and data services. In addition, Direct Broadcast Satellite (DBS) providers are also becoming more accessible to Hawaii consumers, resulting in additional competition for existing service providers.

iii. Changing Nationwide Policies.

Congress and the FCC have created an environment for competition between the telephone and cable industries. Competition between the telephone and cable industries is promoted by relaxation of past policies, such as allowing the

telephone industry to provide video services and cable television companies to provide advanced services such as internet access and other interactive services. With the growing presence of DBS providers such as Dishnetwork (Echostar) and DirecTV, consumers will have a choice of providers offering similar services who are regulated by different statutes and entities, both locally and nationally. The Department has actively advocated on behalf of the state for DBS service. Such an operator or competitor would provide video services that are indistinguishable from those provided by traditional cable operators, but that would be exempt from State regulation.

iv. Changing Local Policies.

The Hawaii Public Utilities Commission (PUC) approved an application from Time Warner Cable Information Services (TWCIS) LLC to provide Voice over Internet Protocol (VoIP) service. TWCIS continues to market their VoIP service and is gradually increasing their subscriber base for this service.

With the recent purchase of Verizon Hawaii by Hawaiian Telcom, the State anticipated an increase in competition between their cable and telephone companies. Hawaiian Telcom submitted an application for a cable television franchise that was accepted by the State in June 2006. Hawaiian Telcom continues to request extensions to their application, with the current application expiration date of January 31, 2008. This current expiration date is the result of Hawaiian Telcom's 15th request. Competition on the mainland between cable and telephone companies include offerings in voice, high-speed broadband, wireless/cellular, and video services.

v. State's INET.

The program continues to develop the State's institutional network in coordination with other governmental agencies and entities. The submarine, inter-island fiber connectivity along with on-island terrestrial fiber networks provides the State, Counties, University of Hawaii (UH), and the Department of Education (DOE) with significant financial and operational benefits. The program along with the UH, the DOE, the Information and Communication Services Division (ICSD) of the Department of Accounting and General Services (DAGS), and county governments continue to work collaboratively to enhance and upgrade the capabilities of the INET.

vi. PEG Access.

The program is concerned about the PEG entities' operational as well as facilities and equipment needs, particularly with respect to the future, as increased competition and Federal mandates may adversely affect the cable companies' revenues. If the cable companies' revenues decrease, so will the level of funding for the PEG entities. The statewide PEG access plan implemented by the Department addresses this as well as other issues affecting PEG access programming in Hawaii.

b. Program change recommendations to remedy problems.

i. Changing Nationwide Policies

The program continues to encourage other competitors of cable companies, such as DBS providers (e.g., Dishnetwork and DirectTV), to enter into the Hawaii market. The program also works to monitor the entry of other non-regulated competitors.

The program continues to monitor and engage in actions at the FCC and in Congress. Although new federal telecommunications legislation that was anticipated for 2005 and subsequently 2006 has not yet materialized, the program continues to follow this issue very closely.

ii. Changing Local Policies

The program continues to monitor the roll-out of the VoIP service by TWCIS, LLC. Since customers will receive one bill for cable television services and VoIP, the program will be developing a process to screen out which complaints to refer to the cable operators, as opposed to referral of the VoIP to other agencies.

iii. State's INET.

The program will continue to coordinate the inter-connection of sites to the INET.

iv. PEG Access.

The program would like to see the PEG access entities more reflective of community needs, continue to be open and transparent in their operations, and more timely in their responses to complaints. The program is requiring that the PEGs assess their self-sufficiency plans in light of the concern that franchise fees may diminish.

c. Identify any program issues or problems that have affected or will affect the implementation of the program, and the corrective measures or remedies established or planned.

As mentioned above, the greatest uncertainty for cable television regulation in the State lies in the changing technologies that are capable of delivering advanced services to our residents. Traditional wireline telephone companies, Direct Broadcast Satellite (DBS) providers such as DirecTV and Dishnetwork, as well as our current cable television companies all have the expertise and capability to deliver similar competitive products and services. Examples of these competitive services include video programming, high speed internet service, and the much anticipated Voice-over-IP (VoIP) service. Some of these services are regulated at the local level while some are regulated at the federal level or not at all.

As Congress, the FCC, and the courts deliberate this complex issue of regulation of advanced telecommunications services, the DCCA will continue to actively monitor and anticipate impacts to local regulation. The DCCA utilizes organizations such as the National Association of Telecommunications Officers and Advisors (NATOA) as well as consultants to keep abreast of the many technical and legal issues.

4. Expenditures for FY09:
Provide the appropriation data, transfers, restrictions, available resources, and the estimated expenditures for FY09. For new Program I.D.'s, please present the data as best as can be determined.

	FY 08 Apprn (Act 213/07)	Collective Bargaining	Transfers	Restrictions	Ceiling Increase	Estimated Total Expenditure
(Position Count)	(4.00)	-	-	-	-	(4.00)
Personal Services	375,972	13,935	-	-	-	389,907
Other Current	3,256,362	-	-	-	-	3,256,362
Equipment	-	-	-	-	-	-
Leases	-	-	-	-	-	-
Motor Vehicles	-	-	-	-	-	-
TOTAL	3,632,334	13,935	-	-	-	3,646,269
(Position Count)	-	-	-	-	-	-
General Funds	-	-	-	-	-	-
(Position Count)	(4.00)	-	-	-	-	(4.00)
Special Funds	3,632,334	13,935	-	-	-	3,646,269
(Position Count)	-	-	-	-	-	-
Trust Funds	-	-	-	-	-	-
(Position Count)	-	-	-	-	-	-
Other Funds	-	-	-	-	-	-

a. Explain all transfers within the program I.D. and the impact on the program.

None.

b. Explain all transfers between program I.D.'s and the impact on the program.

None.

c. Explain all restrictions and the impact on the program.

As applicable, provide a description of the impact of the transfers that have occurred within the program I.D. between the various cost elements, transfers occurring between different program I.D.'s, and restrictions imposed.

None.

**5. Supplemental Budget requests for FY09:
Provide the total position counts and funds requested.**

	MOF	FY09 Apprn (Act 213/07)	Supplemental Request	Total FY09 Exec Supp Budget
(Position Count)	B	(4.00)	-	(4.00)
				-
Personal Services	B	375,972		375,972
Other Current	B	856,362	-	856,362
Equipment	B	-	-	-
Leases	B	-	-	-
Motor Vehicles	B	-	-	-
TOTAL	B	1,232,334	-	1,232,334

a. Workload or program request:

For each program package or item requested within the Program I.D., provide the following (if no request is being made, indicate “none”):

None.

b. For all position count reductions, please specify whether the positions were filled or vacant.

None.

6. Program restrictions:

Identify restrictions carried over from FY08 as well as additional reductions due to the Department of Budget & Finance budget ceilings for FY09. If no reduction is being proposed, please indicate “none”.

None.

7. Capital Improvement Program (CIP) requests for FY09:

CIP data for all projects within the agency being heard shall be combined into a single appendix in the department’s testimony (if no request is being made, please indicate “none”).

None.

8. Proposed lapses of CIP projects:

Any CIP project identified for lapse shall include the following (if no lapses are being proposed, please indicate “none”):

None.