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December 9, 2004

## Via ELECTRONIC FILING

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20036

Re: **Ex Parte Written Presentation**  
**Annual Assessment of the Status of Competition in the Market for the Delivery of Video**  
**Programming**  
**MB Docket No. 04-227**

Dear Ms. Dortch,

EchoStar Satellite L.L.C. (“EchoStar”) hereby supplements its reply comments<sup>1</sup> and responds to the *ex parte* presentation made by Comcast Corporation (“Comcast”) in this proceeding on November 22, 2004.<sup>2</sup>

As explained further below, Comcast’s claim that cable operators lack market power is simply divorced from marketplace reality, as illustrated by Comcast’s recent announcements that it will once

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<sup>1</sup> Reply Comments of EchoStar Satellite L.L.C., *filed in Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 04-227 (filed Aug. 25, 2004) (“*EchoStar Reply*”).

<sup>2</sup> Letter from Ryan Wallach, Wilkie, Farr & Gallagher, to Marlene H. Dortch, Federal Communications Commission, *filed in Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 04-227 (filed Nov. 23, 2004) (“*Comcast Ex Parte*”).

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again increase its already high prices starting in January 2005 (see Attachment A). Because cable operators continue to possess significant market power, there is no basis for easing the pro-competitive regulations whose goal is precisely an attempt to constrain the exercise of such power. In fact, as EchoStar has submitted in its *Reply Comments*, the Commission should more vigorously enforce those rules to curb cable's continued dominance in the multichannel video programming distributor ("MVPD") market.

#### **I. COMCAST'S CLAIM THAT CABLE OPERATORS LACK MARKET POWER IS DIVORCED FROM MARKETPLACE REALITY**

The evidence is clear – cable operators continue to possess market power in their local franchise areas. In the antitrust context, "market power" is the ability of a seller to raise prices above competitive levels for a significant period of time.<sup>3</sup> Clearly, this has been true in the case of cable. Despite the entry and growth of multichannel alternatives to cable (including DBS providers), and notwithstanding that the baseline of non-regulated cable rates has consistently been higher than rates for comparable DBS offerings, cable has been able to raise prices year after year. Comcast itself has announced it will once again raise essentially all of its prices (including its basic cable, digital cable, premium services, and equipment and installation prices) starting in January 2005 (see Attachment A).<sup>4</sup>

The demonstrated ability of Comcast and other cable companies to continually raise prices is also consistent with other indicia of market power, such as market share. Nationally, the cable industry enjoys a 73.30% share of MVPD subscribers (as of April 2004).<sup>5</sup> This is well within the range of market shares in which courts typically find the presence market power.<sup>6</sup> In particular local markets,

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<sup>3</sup> U.S. DEP'T OF JUSTICE AND FEDERAL TRADE COMMISSION, HORIZONTAL MERGER GUIDELINES 2 (1997) ("*Horizontal Merger Guidelines*").

<sup>4</sup> EchoStar has on occasion also had to increase prices, largely because of rising programming costs. EchoStar is in less of a position to control these costs than Comcast, which has substantial content holdings. Nevertheless, DBS price increases have generally been less steep, and starting from a lower base price, than the cable price hikes for the unregulated expanded basic tier.

<sup>5</sup> *EchoStar Reply* at 2.

<sup>6</sup> See *United States v. Aluminum Co. of America*, 148 F.2d 416, 424 (2nd. Cir. 1945) (per Learned Hand, J.: "[ninety percent market share] is enough to constitute a monopoly; it is doubtful whether sixty or sixty-four percent would be enough; and certainly thirty-three percent is not."); *Colorado Interstate Gas Co. v. Natural Gas Pipeline Co.*, 885 F.2d 683, 694 n.18 (10th Cir. 1989) (dictum) (While the Supreme Court has refused to specify a minimum market share necessary to indicate a defendant has market power, lower courts generally require a minimum market share of between 70% and 80%), *cert. denied*, 498 U.S. 972 (1990); *Hiland Dairy, Inc. v. Kroger Co.*, 402 F.2d 968, 974 (8th Cir. 1968) (noting that of nine cases condemning monopolies under Sherman Act § 2, "the percentage market share ranges

(Continued...)

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cable's market share may be even higher, especially where the cable operator can offer exclusive regional sports programming (e.g., Comcast in Philadelphia and Cox in San Diego). Moreover, cable has leveraged its dominant market share in MVPD markets into a leading position in residential broadband markets (a reported 58.3% share of "high-speed lines," and 75.3% of "advanced services"),<sup>7</sup> and is now using its ability to bundle multichannel video and broadband to protect its market position in each market. In contrast, DBS providers still do not have a viable broadband solution without partnering with Bell Operating Companies or other terrestrial providers.

Comcast attempts to rebut this damning evidence by claiming that "DBS providers do not only compete for 'high-end' cable customers" but also "bottom-end" subscribers.<sup>8</sup> However, this is no more than saying that DBS has progressed beyond 1995 when it appealed primarily to high-end customers and was viewed more as a complement to cable than as a substitute for it. EchoStar does try to compete against cable in the MVPD market across the board of the MVPD subscriber base, and has always done so since 1996. However, cable continues to enjoy certain competitive advantages over DBS in its video offerings. Due to technical and economic barriers, DBS still does not offer local service in about 70 markets (on average as between EchoStar and DIRECTV). In addition, cable has been able to roll out numerous channels of high definition television in many markets, while DBS has yet to acquire the technology or bandwidth to make a comparable offering feasible. For these and other reasons, the cable operators' market share remains at alarmingly high levels. Comcast is trying to portray the past seven years as bleaker than they in fact were (i.e., by implying that satellite could not compete at all for "bottom-end" subscribers during that period) to make the present appear brighter by comparison.

Moreover, Comcast's claim is a misleading characterization of the *Multichannel News* article upon which it is based.<sup>9</sup> That article indicates that "most" of the subscribers that cable has been losing to DBS "are older ones who spent little on cable, often subscribing to basic-only."<sup>10</sup> This implies that cable has been able to retain most of its "high-end" customers – that is, those who spend the most money on video programming and that are most valuable to cable operators and advertisers. Indeed, it appears

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from 70% . . . to 100%"), cert. denied, 395 U.S. 961 (1969); *Broadway Delivery Corp. v. United Parcel Serv. Of Am., Inc.*, 651 F.2d 122, 129 (2nd. Cir. 1981) ("Sometimes, but not inevitably, it will be useful to suggest that a market share below 50% is rarely evidence of monopoly power, a share between 50% and 70% can occasionally show monopoly power, and a share above 70% is usually strong evidence of monopoly power."), cert. denied, 454 U.S. 968 (1981).

<sup>7</sup> *EchoStar Reply* at 6.

<sup>8</sup> *Comcast Ex Parte* at 1.

<sup>9</sup> *Id.* at Attachment 3.

<sup>10</sup> *Id.*

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that cable's digital subscriber base is growing. This is consistent with the context of the article, which appears to be a report of cable's attempt to placate the advertising industry by showing that subscriber defections do not affect the viability of cable as an advertising platform because cable has kept most of the "high-end" customers. If anything, the article shows that DBS competes mostly for cable low-value subscribers and not for the "high-end" subscribers.

Also, Comcast points to the emergence of new video technologies and services as potential sources of competition. However, there is no evidence that these new technologies and services currently do compete with cable and it is too early to tell if they ever will in the future. In fact, the evidence suggests that these new technologies are not considered a competitive threat by the cable companies themselves. For example, Comcast refers to the Bell Operating Companies and the joint venture between TiVo, Inc. and Netflix Inc. to offer movies to TiVo users as sources of potential competition. Yet, in the *Multichannel News* article that Comcast cites, a Cox representative is reported to have "brushed aside" the threat of these services, by saying "The RBOCs [regional Bell operating companies] have mastered the press release, and now, TiVo/Netflix have mastered the press release." Judging by this statement, the plans of the Bell Operating Companies or joint ventures like TiVo/Netflix would not appear to be exerting any sort of competitive pressure on cable companies today. If these plans do mature into real competitive threats, the Commission will have full opportunity to observe their emergence in future reports.

For all of the reasons, Comcast's claim that cable operators lack market power should be rejected as being inconsistent with the evidence.

## **II. BECAUSE CABLE CONTINUES TO ENJOY MARKET POWER, THERE IS NO BASIS FOR EASING THE PRO-COMPETITIVE LAWS THAT REGULATE CABLE**

Comcast's argument that the program access and exclusivity rules should be relaxed with respect to cable operators is based entirely on its claim that cable no longer has market power. As shown above, this claim is plainly wrong – the evidence is clear that cable continues to possess market power in MVPD markets.

To further illustrate this, consider Comcast's proposal for a presumption of "effective competition" in any local market where DBS penetration reaches 15%. This means that in such a local market, there is one entity with an 85% market share, with the remaining 15% split between two other providers. This yields a Herfindahl-Hirschman Index (HHI) value in excess of 7200, which is well above the standard at which the antitrust authorities begin to presume the presence of market power.<sup>11</sup> In such circumstances, it would be perverse and unwise to establish an opposite presumption as to the

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<sup>11</sup> *Horizontal Merger Guidelines* at 16 ¶ 1.51(c) ("Where the post-merger HHI exceeds 1800, it will be presumed that mergers that produce an increase in HHI of more than 100 points are likely to create or enhance market power or facilitate its exercise.").

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existence “effective competition” for cable, especially when the result of such a presumption would be the relaxation of cable rate regulation at a time when cable rates have been rising faster than inflation.

Rolling back the program exclusivity rules would also be disastrous for cable’s competitors. As the Commission has noted,<sup>12</sup> where cable operators have exclusive carriage of popular regional sports programming (as Comcast does in the Philadelphia market by resorting to the “terrestrial” loophole), DBS penetration of those markets have been significantly below the national average. The Commission should not permit a generalization of that problem by allowing exclusivity prohibition to sunset.

### **III. THE COMMISSION SHOULD STRENGTHEN ITS ENFORCEMENT OF THE PROGRAM ACCESS AND EXCLUSIVITY RULES**

The Commission’s exclusivity rules are premised on cable’s continuing dominance of the market for the distribution of video programming. As the Commission explained in 2002, “[with] 78 percent of all MVPD subscribers, cable operators continue to decisively dominate the market for the distribution of programming” despite the emergence of DBS as a competitor to cable.<sup>13</sup> Accordingly, the Commission declined to sunset the exclusivity provisions.<sup>14</sup> Not much has changed since then. There is no basis, therefore, for eliminating those rules today.

Indeed, as EchoStar has urged in its comments in this proceeding,<sup>15</sup> the continuing dominance of cable operators in the MVPD market necessitates more vigorous enforcement of the Commission’s program access and exclusivity rules, not less. The Commission has not granted a single program access complaint for years, even though the Commission acknowledged as recently as 2002 that these problems persist. EchoStar believes that in the absence of vigorous enforcement by the Commission of these rules, there will continue to be wide discrepancies in the terms and conditions under which cable-affiliated programmers will make programming available to EchoStar and to cable operators –

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<sup>12</sup> *Implementation of the Cable Television Consumer Protection and Competition Act of 1992 – Development of Competition and Diversity in Video Programming Distribution: Section 628(c)(5) of the Communications Act: Sunset of Exclusive Contract Prohibition*, 17 FCC Rcd. 12124, 12139, n.107 (2002).

<sup>13</sup> *Id.* at 12154 ¶ 65.

<sup>14</sup> *Id.* at 12154-55 ¶ 65 (“Given these findings, we conclude that, were the prohibition on exclusive contracts permitted to sunset in the current market conditions, competition and diversity in the distribution of video programming would not be preserved and protected.”).

<sup>15</sup> Comments of EchoStar Satellite LLC, filed in *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 04-227, at 12-13 (July 23, 2004).

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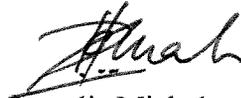
discrepancies not justified by legitimate competitive factors. Such conduct will continue, to the detriment of consumers, until such time as the Commission shows a greater willingness to act.

#### IV. CONCLUSION

For all of the above reasons, Comcast's claim that cable lacks market power is without merit and should be rejected. Accordingly, there is no basis for easing the program access and exclusivity rules, and in fact, the Commission should strengthen its enforcement of these rules to ensure that cable does not abuse its market power.

Please contact the undersigned if you have any questions about this filing.

Respectfully submitted,



Pantelis Michalopoulos  
Chung Hsiang Mah  
*Counsel for EchoStar Satellite L.L.C.*

Attachment A

Cc: (by electronic mail)

Jon Cody, Legal Advisor to Chairman Powell  
Stacy Robinson Fuller, Legal Advisor to Commissioner Abernathy  
Jordan Goldstein, Senior Legal Advisor to Commissioner Copps  
Catherine Crutcher Bohigian, Legal Advisor to Commissioner Martin  
Johanna Mikes Shelton, Legal Advisor to Commissioner Adelstein  
Kenneth Ferree, Media Bureau  
Barbara Esbin, Media Bureau  
Marcia Glauberman, Media Bureau  
Anne Levine, Media Bureau  
Linda Senecal, Media Bureau  
Best Copy and Printing, Inc.

**ATTACHMENT A**



November 1, 2004

Dear Valued Comcast Customer:

Throughout this year, we have been working hard to give you the choice and exceptional value that you expect.

Occasionally, however, we must adjust prices to compensate for increasing operating expenses and other investments we're making to bring you the best that technology has to offer. As a result, the following prices will change effective with your January 2005 billing statement:

<b>BASIC SERVICE LEVELS</b>	<b>Current Monthly Charge</b>	<b>New Monthly Charge</b>
Limited Basic Service	\$13.99	\$14.25
Expanded Basic (cannot be sold separately)	\$30.41	\$33.66
Preferred Basic (combined Limited & Expanded)	\$44.40	\$47.91

<b>DIGITAL PACKAGING</b>	<b>Current Monthly Charge</b>	<b>New Monthly Charge</b>
Comcast Digital	\$63.12	\$66.36
Silver w/HBO	\$77.95	\$80.95
Silver Non HBO	\$75.95	\$79.95
Gold	\$87.95	\$90.95
Platinum	\$97.95	\$99.95

<b>PREMIUM SERVICES*</b>	<b>Current Monthly Charge</b>	<b>New Monthly Charge</b>
HBO	\$16.95	\$16.95
Cinemax (Digital Service Only)	\$12.95	\$13.95
Showtime	\$12.95	\$13.95
The Movie Channel (Digital Service Only)	\$12.95	\$13.95
Starz! (Digital Service Only)	\$12.95	\$13.95

<b>EQUIPMENT</b>	<b>Current Monthly Charge</b>	<b>New Monthly Charge</b>
Addressable Converter	\$3.77	\$3.50
Digital Converter	\$3.77	\$3.50

<b>INSTALLATION SERVICES</b>	<b>Current Charge</b>	<b>New Charge</b>
Unwired Home Installation	\$42.48	\$44.95
Pre-wired Home Installation	\$31.40	\$28.54
Hourly Service Charge	\$31.02	\$31.97
A/O Installation (separate trip)	\$25.31	\$22.99

With the introduction of services like Comcast ON DEMAND, Digital Video Recorders (DVR), and High Definition Television (HDTV), we have given you more control over your television viewing than ever before. Comcast High Speed Internet allows you to enjoy the internet at blazing speeds. You're always connected because there are no phone lines or busy signals.

We continue our commitment to provide you with excellent customer service, improved system reliability, and quality entertainment. Our priority is to provide you with greater choice in the channels that you watch.

We recognize that you have a choice in service providers, and thank you for choosing Comcast. We value your business and will continue to bring you the best products and services that connect you to what's important in your life.

\*Rates do not include taxes and franchise fees. A converter box is required to receive premium channels and/or Pay-Per View movies, and events.

**703-823-3000**

Digital Alexandria Letter

## **Comcast raising cable rates**

***In effort to equalize prices, all customers in area to pay more***

BY GREG EDWARDS

The Richmond TIMES-DISPATCH STAFF WRITER

12/7/04

On Jan. 1, Comcast cable television customers in the Richmond area will see rate increases for standard cable and other services, including premium movie channels.

Monthly rates for full standard analog service will increase by 5.9 percent in Chesterfield County and by 9.9 percent in the city of Richmond, Henrico County and other Comcast territory north of the James River.

The company is attempting to equalize rates between Chesterfield County and the rest of its Richmond-area network. For example, the monthly rate for HBO will remain the same \$17.99 in Chesterfield while it will increase by 11 percent to \$17.99 in Richmond and other parts of Comcast's network.

Rates for other premium and digital packages of channels will also go higher as will the charge for some non-programming services. For instance, the charge for relocating a cable outlet will go from \$18.99 to \$23.60.

Comcast also will shuffle its channel line-up between now and Jan. 5.

For instance, in the non-Chesterfield part of its network, Comcast will move the Women's Entertainment Network (Channel 44) and ESPN Classic (Channel 32) from its full standard analog package to digital cable, for which there is an additional charge. During the past year, Comcast has added TV1 and Turner Classic Movies to its channel line-up in Richmond and Henrico, General Manager Kirby Brooks noted.

In Chesterfield, Comcast will add the Travel and Oxygen channels to standard analog cable and Women's Entertainment to its digital packages. The company also plans to add the Fuse music channel to its full-time digital offerings throughout its service area. Additions to analog will be made on Dec. 15 and to digital on Jan. 5 both north and south of the river.

Comcast, which has 230,000 customers in the Richmond area, last raised rates the first of this year, when average bills went up 5 percent. Brooks said the increase for average customers - whose service goes beyond standard cable - will be another 5 percent Jan. 1.

Brooks attributed the rise to increases in the costs Comcast pays for cable programming and to improvements in the company's network. Comcast also has improved its customer service, including its response and installation times, he said.

Comcast, which has just begun renegotiating its franchise agreement with the city of Richmond, is meeting all its customer-service standards, Brooks said. It also is fulfilling its commitment to provide community access channels, he said.

In a study released this year, the Government Accountability Office found that in the few communities where cable companies have competition from a wire-based competitor, cable rates are 15 percent cheaper than in markets without competition.

### **Going up**

On Jan. 1, Comcast will increase rates for its service in both the northern (Richmond, Henrico County, etc.) and southern (Chesterfield County) parts of its territory. A rate notice is included in this month's cable bill. Following is a sampling of increases:

**NORTH OF RIVER**

**Limited Basic:** From \$8.31 to \$9.50

**Full Standard:** From \$40.89 to \$44.94

**HBO (a la carte):** From \$15.99 to \$17.99

**Digital, one premium:** From \$75.95 to \$79.95

**Hourly service:** From \$26.03 to \$35.17

**SOUTH OF RIVER**

**Limited Basic:** From \$8.76 to \$9.50

**Full Standard:** From \$44.70 to \$47.34

**HBO (a la carte):** Stays at \$17.99

**Digital, one premium:** From \$75.95 to \$79.95

**Hourly service:** From \$26.03 to \$35.17

The percentage of U.S. homes with cable has grown from 14 percent in 1975 to 67 percent today, the GAO said.

## **Comcast raises its rates but adds more channels**

*The Albuquerque Journal*  
11/3/04

Comcast Corp., in the wake of its latest rate increase, has added six more TV channels to its Albuquerque-area lineup, including the Travel Channel, College Sports Television, Discovery HD and three channels from Mexico.

**The largest cable provider in New Mexico recently bumped its monthly cost for expanded basic service more than \$3 from \$40.55 to \$43.60.** The expanded basic is by far the most popular programming package among its customers.

Comcast's last increase was in October 2003 when the cost of expanded basic service rose from \$38.29 to \$40.55.

This week, the company announced new channels.

The Travel Channel is available at no extra charge to subscribers of Comcast's most popular expanded basic service.

College Sports or CSTV is available with the Comcast sports package, which costs an additional \$5 per month. The channel shows live coverage of men's and women's games including football, basketball, lacrosse, soccer, volleyball, baseball and hockey.

The company said it is possible that some University of New Mexico sports will be included in the future.

Discovery HD is available to customers with a high-definition TV receiver, Comcast Digital Plus service and an HD converter box.

The new Mexican channels are now part of Comcast's Cable Latino package, which has 32 channels of Hispanic programming. Comcast Digital customers can subscribe to Cable Latino for an additional \$13.99 per month.

# Comcast will raise cable rates in January

By Peter J. Howe, Globe Staff | November 24, 2004

In what has become as much of a Thanksgiving tradition as stuffed turkey and football, Comcast Corp. moved yesterday to raise New England cable television rates by an average 5.9 percent starting in January.

Actual increases vary among towns, however, and in Boston consumers will see the smallest rate increase in 15 years, city officials said. Comcast, which now controls cable systems formerly operated by a half-dozen different operators, is moving toward standardizing rates in the more than 350 New England communities where it provides cable TV.

In Massachusetts, the average monthly price for standard cable service will rise to \$45.95 from \$43.39, excluding whatever franchise fee the local government charges, according to Comcast spokeswoman Jennifer L. Khoury.

Digital cable packages will increase by an average of \$1, offset by a 45-cent-per-month reduction in the cable set-top box rental fee in about 95 percent of Bay State communities serviced by Comcast. The company has over 1.5 million customers in Massachusetts.

Into the early 2000s, cable companies regularly blamed rate increases chiefly on the soaring cost of programming, in particular the cost of paying Walt Disney Co.'s ESPN unit for sports programming.

But in explaining the latest round of price increases, which are not subject to local or state regulation, Khoury said: "Price changes reflect the increased value of the service, new product developments, and a more than \$530 million investment to improve customer service, enhance the reliability and quality of our network, and introduce new technology that gives customers more choice and control."

In the last year Comcast has doubled the amount of video-on-demand and high-definition television content available to subscribers on digital plans.

Over the last four years, the average price increase imposed by Comcast or key predecessor companies has steadily dropped, from 8.5 percent in 2002, to 7.8 percent in 2003, and to 6.5 percent last January.

However, the seemingly relentless upward march of cable television prices, well ahead of inflation, continues to rankle consumer advocates.

"Cable rate increases, death, and taxes are the certainties of human existence," said Paul Trane, principal of Telecommunications Insight Group in Somerville, which advises municipal governments on cable franchise negotiations.

"People are frustrated," said Paul J. Schlaver, chairman of the Massachusetts Consumers Coalition and executive director of the Cambridge Consumers Council. "Consumers will be disappointed when they hear it's nearly 6 percent. It sounds like it's just too much."

However, Michael Lynch, director of Boston's cable television regulatory office, said, "What was unexpected is the modest increase of about 50 cents per month across the board, which is an increase of less than 1.5 percent for 90 percent of their subscribers in Boston. This is the lowest rate of increase in the last 15 years."

A small minority of Boston cable subscribers who get so-called Metro cable service, which dates to the 1980s, will see rates soar 14.4 percent to \$42.55, Lynch said.

But the price for the most popular service, standard cable, will rise 1.4 percent to \$47.50.

Comcast is required to give 30 days' notice before raising rates, which means the company typically files increases in the week before Thanksgiving to take effect in January.

Comcast is not changing rates for high-speed Internet or phone service, Khoury said.

## **Comcast to raise prices by 6 percent Jan. 1;**

Cable company increasing local rates for third time in 2 years; consumer advocates complain about its near-monopoly status

### ***The San Francisco Chronicle***

*Carolyn Said*

*11/25/04*

Comcast Corp., the dominant cable television provider in the Bay Area, will raise its rates by about 6 percent next year, the Philadelphia company said Wednesday. It is Comcast's third local rate increase in 24 months.

Standard cable video service will increase to \$44.77 per month, up from \$42.36, the company said. Digital packages will increase between 90 cents and \$2.70 per month.

The new prices will take effect Jan. 1 everywhere in the Bay Area except Oakland, where the rate increase will start Feb. 1.

Comcast, the nation's largest cable carrier, has 1.6 million Bay Area customers in 128 municipalities. It vaulted to local dominance after its \$50 billion acquisition of AT&T Broadband at the end of 2002.

Comcast said it has invested more than \$600 million on its Bay Area cable infrastructure in the past two years, including laying thousands of miles of new cable and opening three new call centers.

"Comcast's Bay Area prices reflect the value of the service, including availability of more programming choices, improvements in customer service and investments in technical upgrades that improve the reliability and quality of the company's cable television service," Andrew Johnson, vice president of communications, said in a statement.

Still, the rate increases rankled consumer advocates -- particularly coming on the heels of two previous increases of 5.9 percent in November 2003 and 6.5 percent in January 2003.

"The reason Comcast can get away with what it is doing is because it has no fear of competitors because there are none," said Michael Shames, executive director of the Utility Consumers Action Network in San Diego.

Locally, Comcast's rivals are two satellite TV providers, Hughes Electronics' DirecTV and **EchoStar** Communications' Dish Network, which have roughly 17 percent of Bay Area households as subscribers.

However, Shames said that because satellite is a higher-end service, it's not an even playing field.

"Many people question whether satellite is a true competitor to cable. Satellite is primarily for higher-end customers who like to watch a lot of movies," he said. "Only in a market where there's no competition can a company get away with these kinds of discretionary rate increases that are not being driven by the price of oil or inflation."

In Shames' opinion, Comcast is "the worst of all animals out there in the economic markets -- it's an unregulated monopoly."

The Federal Communications Commission oversees cable operators in such areas as content and mergers but has no authority over rate-setting. Cable rates were deregulated by the 1996 Telecommunications Act.

Since 1996, cable rates around the nation have increased 56 percent, almost three times more than the rate of inflation, said Susanna Montezemolo, policy analyst at Consumers Union in Washington.

Montezemolo said she had fielded press calls about Comcast rate increases from several states in the past week.

"This is happening all over the country," she said. "It's not surprising, because Comcast, in most markets, is a monopoly. Consumers in those markets have one choice for cable providers, and that is Comcast."

Given that the current political climate is not promising for increased regulation, her group is pushing for cable companies to voluntarily offer a la carte pricing. That would let consumers pick and pay for selected channels among those now available only as part of bundled packages.

"We want to expand options, not contract them," she said, noting that Sen. John McCain, R-Ariz., chair of the Senate Commerce Committee, has held hearings on cable competition. E-mail Carolyn Said at [csaid@sfchronicle.com](mailto:csaid@sfchronicle.com).

Sacramento Bee

**November** 25, 2004, Thursday METRO FINAL EDITION

**SECTION:** MAIN NEWS; Pg. A1

Comcast is raising cable rates

Dale Kasler Bee Staff Writer

Comcast Corp. is raising cable television rates in the Sacramento region, arguing that the increase is justified by the millions of dollars the company has spent on upgrading technology, adding new services and developing the new sports channel featuring the Kings.

The Sacramento area's largest cable company said Wednesday the price for its most popular package of channels, the 71-channel standard service, will increase an average of \$2.76 a month, to \$48.12, in its franchises in the region.

Sacramento County customers will see a \$2.51 increase for standard service, to \$48.25. That includes rental of the cable converter box used by most subscribers. Sixty percent of Sacramento's Comcast customers buy the standard service.

The new rates take effect in January.

The increases come at a time when satellite dishes and other technologies continue to make inroads on cable operators. But while another round of rate hikes might prompt some of Comcast's 350,000 Sacramento-area consumers to switch to a dish, industry analyst Jimmy Schaeffler said cable firms can placate many by pointing to improvements in programming and service.

"It's not just a case of greed, greed, greed anymore," said Schaeffler, chairman of The Carmel Group consulting firm in Monterey. "The churn, or loss of subscribers, is going to be less."

Comcast said there will be rate increases of \$1 to \$3 for some of its other services as well, including some digital and Spanish-language packages. It also will charge more for installation and other customer-service chores.

Some products won't change in price, however, including premium channels for nondigital customers. Comcast said its 27-channel limited-basic service - the only service still subject to price regulation - will stay at \$12.01 a month.

The price for Comcast's high-speed broadband Internet service won't change, either, said company spokeswoman Susan Gonzales.

Schaeffler said satellite is a better buy in most markets, when it comes to the price paid for pure TV programming. But cable has some advantages. Its technology allows it to offer interactive services like "video on demand," which lets viewers watch movies and other programs whenever they want, he said.

Gonzales said the rate hikes reflect \$60 million spent by Comcast in the past year to upgrade technology and customer service and to increase the availability of high-definition programming and video on demand.

The money also has gone for new programming like Comcast SportsNet West, the new sports channel built largely around Kings broadcasts. In all, the regional channel, which began Nov. 2, will broadcast 52 regular-season Kings games. It also will show the games of the Kings' sister team, the Monarchs. Financial terms between the Kings and Comcast have not been disclosed, nor have Comcast's deals with other cable TV systems or with the satellite TV networks Dish Network and **DirectTV**.

Gonzales compared the rate increases to the cost of a kid's meal at a fast-food restaurant. "The customer still gets a great value," she said.

It remains to be seen how much higher rates can go before customers rebel. The standard service has roughly doubled in price in the past decade, although Comcast officials say programming has been enhanced during that time.

Schaeffler said cable still has the lion's share of the U.S. households that subscribe to a multichannel TV service, but satellite has grabbed some 25 percent of the market.

And more rivals are on the way; the phone company is getting into the TV business.

SBC Corp. announced a \$4 billion plan Nov. 11 to offer TV and broadband Internet service to its telephone customers starting next year. It expects to make its service available to about half its 36 million telephone customers by 2007. It's not clear how soon SBC's service would start in Sacramento.

SBC would join a growing group of rivals for Comcast that includes Roseville-based SureWest Communications.

Rich Esposto, executive director of the Sacramento Metropolitan Cable Television Commission, said Sacramento may be on the verge of having enough TV providers to see price wars. "I'm anxious for the day when there's true rate competition," he said.

\* \* \*

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Sacramento Bee / Nathaniel Levine Cable rates The price of Comcast Corp.'s 71-channel standard service in Sacramento County will climb 5 percent in January.

1994: \$22.70\* 2005: \$48.25\*

\* Includes cable converter box

Source: Sacramento Metropolitan Cable Television Commission

The Telegraph, Nashua, N.H.

**November** 25, 2004, Thursday

Nashua, N.H., **Comcast** subscribers to pay \$ 3 more for cable next year

By Karen Spiller

NASHUA, N.H. -- **Comcast** customers will see their cable bills go up by \$ 3 a month starting in January, the company announced this week.

**Comcast** Corp. is planning to raise cable television rates in New England by as much as 5.9 percent starting Jan. 1. Increases will vary by town. Nashua customers will see an average 3.5 percent increase.

The price for **Comcast** high-speed Internet will not go up.

In Nashua, the average monthly price for standard cable service will increase to \$ 46, up \$ 3 from \$ 43, according to Marc Goodman, public relations specialist at **Comcast**.

**Comcast** customers in Massachusetts will see their standard cable bill rise from \$ 43.39 to \$ 45.95, or \$ 2.56 a month.

Digital cable packages will increase by an average of \$ 1, offset by a 45-cent-per-month reduction in the cable set-top box rental fee.

Price changes reflect the increased value of the service, new product developments and an investment of more than \$ 530 million to improve customer service, enhance the reliability and quality of the network and introduce new technology that gives customers more choice and control, the company said in a prepared statement issued Tuesday.

In the past year, **Comcast** has hired nearly 500 call center and field service employees, expanded its six New England call centers, enhanced online support and achieved a 90 percent satisfaction rating from its customers, the company said.

Goodman said the opening of a call center in Manchester in January enabled **Comcast** to make sure that all cable-TV-related calls are answered by a local company representative.

**Comcast** also doubled the number of cable networks on its HDTV lineup and its video on demand service, as well as launching digital video recorders, he said.

"Over the past year, the value has dramatically increased," Goodman said. "Unlike our competitors, we offer everything from a basic package to a complete home entertainment package with more than 250 digital cable channels, more than 2,000 on demand programs and digital video recorders."

## Local cable prices on way up

Comcast plans increases in 8% range in January

By Jenni Glenn

The Journal Gazette (Fort Wayne, IN)

Comcast Corp. announced Wednesday it will increase cable television prices beginning in January, less than a year after the company's last price increase took effect.

The local cable TV provider, based in Philadelphia, is raising monthly prices \$2.32, or 8 percent, for the company's expanded service package, which includes ESPN, MTV and CNN.

About half of Comcast customers subscribe to the expanded service, said Mark Apple, Comcast's Indianapolis-based regional vice president of public relations.

Those customers will pay a new total monthly price of \$40.26, including the required subscription to limited basic service with local broadcast and cable access channels.

The cost of limited basic service also will increase 68 cents – or 7 percent – to \$9.95 for customers in Allen, Whitley and Wells counties.

Comcast also is raising the price of its digital service between \$4 and \$5, depending on the package. Comcast's high-speed Internet rates will stay the same.

Comcast does not expect to increase monthly prices in 2005, Apple said.

Customers will receive notification of the changes in their December bills. Rates will not increase in Wabash and other areas where Comcast started managing Insight Communications' cable operation in August.

Satellite television companies that compete with Comcast have not announced any plans to raise prices. Dish Network spokesman Steve Caulk said the company is not raising its rates. The company charges \$29.99 a month for its America's Top 60 channels package, including local channels.

DirecTV has not decided whether to raise its prices, spokeswoman Jade Ekstedt said. The company charges \$39.99 for its Total Choice package with more than 130 channels, including local stations.

Comcast last raised prices in March, when the cost of expanded service rose 8 percent. The cost of basic service did not change at that time.

The latest increase caught Fort Wayne resident Norma C. Sims by surprise.

Sims, 44, pays between \$70 and \$75 a month for her digital cable, including HBO, so her family can save on trips to the movies. With a \$4 increase taking effect in January, Sims is considering dropping HBO for a less expensive cable package.

"I don't like how (the price increase) sounds at all because we pay a pretty good buck for our services already," she said.

The price increase will cover the costs of improving customer service and adding services in the Fort Wayne area, Comcast's Apple said. The company hired 15 customer service representatives so local employees could answer phone calls until 10 p.m. Comcast also added Sunday service appointments to make it more convenient for customers to have cable installed, Apple said.

Comcast also plans to introduce two new services in the market in the next six months, Apple said. Comcast on Demand, expanding on the company's pay-per-view movies, will give digital cable customers, who will pay a minimum of \$74.99 a month, the ability to watch a library of programs from A&E, Nickelodeon and other channels at any time for no additional charge. Apple said customers will be able to fast forward, pause or rewind the programs. Movie channel subscribers also will have free access to programming from channels such as HBO and Showtime.

The service will be introduced in Fort Wayne by late December or early January, said Damon Miiller, vice president and general manager of Comcast Cable in Fort Wayne.

## **COMCAST PLANS TO RAISE CABLE TV RATES**

BASIC, DIGITAL SERVICE SUBSCRIBERS WILL SEE INCREASE IN JANUARY

### ***The Seattle Post Intelligencer***

JOHN COOK P-I reporter

11/24/04

**Comcast** cable TV subscribers should get ready for another rate increase next year.

The state's largest cable company announced yesterday that it was jacking up rates for most of its 1.1 million customers here.

The company's basic cable service, which includes channels such as ESPN and CNN, will increase an average of \$2.81 a month beginning in January. That means customers now paying \$39.48 a month for basic cable will pay \$42.29.

Prices also will increase for digital cable subscribers, though the company did not say by how much. Limited basic cable, which includes the broadcast networks and government channels, will increase an average of 19 cents for some customers.

"**Comcast's** Washington market prices reflect the increased value of the service, including availability of more programming choices, improvements in customer service and investments in technical upgrades," **Comcast** spokesman Steve Kipp said. He declined to comment beyond the statement.

**Comcast** has rolled out new services in recent months, including a video on-demand service that allows digital cable customers to choose from more than 2,000 hours of programming.

Earlier this month, it launched new digital video recorders that have the ability to record television programs.

Still, the increase comes only two months after Chief Executive Officer Brian Roberts indicated that prices would not go up. At the Greater Seattle Chamber of Commerce Luncheon in September, Roberts was asked if a bigger **Comcast** would increase consumers' cable bills. "I hope not," said Roberts.

**Comcast's** last rate increase occurred in January.

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