

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Implementation of Section 3 of the Cable)
Television Consumer Protection and Competition) MM Docket No. 92-266
Act of 1992)
)
Statistical Report on Average Rates for Basic)
Service, Cable Programming Service and)
Equipment)

ORDER

Adopted: February 8, 2006

Released: February 13, 2006

Responses Due: March 31, 2006

By the Chief, Media Bureau:

I. INTRODUCTION

1. Section 623(k) of the Communications Act, as amended by the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"),¹ requires the Commission to publish annually a statistical report on average rates for basic cable service, cable programming service, and equipment.² The Act also requires the Commission to compare the average rates of cable operators found to be subject to effective competition with those of operators not subject to effective competition.³

¹ Section 623(k) was adopted as Section 3(k) of the 1992 Cable Act, Pub. L. No. 102-385, 106 Stat. 1460, codified at 47 U.S.C. § 543(k).

² 47 U.S.C. § 543(k). The 1992 Cable Act defines basic cable service as that tier of service that includes the retransmission of local television broadcast signals. See 47 U.S.C. § 543(b)(7). Cable programming service is defined as any video programming other than (A) video programming carried on the basic service tier, and (B) video programming offered on a per channel or per program basis. See 47 U.S.C. § 543(k)(1)(2). Equipment refers to a converter box, remote control, and other equipment necessary to access programming. See 47 U.S.C. § 543(b)(3).

³ Effective competition exists where the Commission has found that a multi-channel video programming distributor ("MVPD") meets one of four tests within its franchise area: (1) fewer than 30% of households subscribe to the service of the cable system (herein referred to as the "low penetration test"); (2) at least two MVPDs serve 50% or more of households and at least 15% of those households take service other than from the largest MVPD (the "overbuild test"); (3) a municipal MVPD offers service to at least 50% of households (the "municipal test"); (4) a local exchange carrier ("LEC") or its affiliate (or any MVPD using the facilities of the LEC or its affiliate) offers video programming service (other than direct broadcast satellite ("DBS") service) comparable to the service of an unaffiliated MVPD (the "LEC test"). See 47 U.S.C. § 543(1)(1)(A-D).

2. To implement the requirements of Section 623(k), the Commission is directing certain cable operators to respond to a price survey questionnaire designed to solicit information concerning rates for basic service and cable programming service and equipment used to receive such services. A copy of the questionnaire, along with instructions for completing and returning the questionnaire, is attached to this Order as Appendix B. The cable operators selected for our sample must complete and return the questionnaire(s) no later than March 31, 2006.

3. The survey asks questions about an operator's monthly charge for the basic service tier, cable programming service tier (also known as the "expanded basic tier"), and equipment. The survey requires cable operators to provide this information as of January 1, 2006, January 1, 2005, and January 1, 2004. In addition, the survey asks for information on such factors as number of subscribers and installation charges as well as information concerning system capacity, advanced services, and channel listings as of January 1, 2006.⁴

4. Our sample includes a random sample of cable operators serving communities where the Commission has granted a petition for effective competition, and a random sample of operators serving other communities nationwide. A completed questionnaire is required for each community selected for the survey. If more than one community is selected from any cable system, the cable operator should complete a separate questionnaire for each community unit identification ("CUID") number selected.

5. Data submitted in response to this survey will be made available to the public in aggregate form as averages representing segments of the industry. If individual respondents to the survey wish to request confidential treatment of any data provided in connection with this survey, in accordance with Sections 0.457 and 0.459 of the Commission's rules, they should request such confidentiality in writing and identify clearly the specific information they wish to protect. They also should provide, as required by the rules, a complete explanation of why such treatment is appropriate. This request for confidentiality should be submitted in the same manner as the completed questionnaire(s), as described in Appendix B. Whether or not any respondent requests confidentiality, no data from individual respondents, or data that can be used to identify individual respondents either directly or indirectly, will be released to the public.

6. Accordingly, IT IS ORDERED pursuant to Section 3 of the 1992 Cable Act (Section 623(k) of the Communications Act of 1934, as amended), 47 U.S.C. 543(k), and Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), that cable systems subject to the price survey requirement described herein shall complete and return the questionnaire set forth in the attached Appendix B no later than March 31, 2006.

FEDERAL COMMUNICATIONS COMMISSION

Donna C. Gregg
Chief, Media Bureau

⁴ We are mindful of the need to limit administrative burdens associated with this price survey. We anticipate that the burdens faced by responding cable operators should be limited, as the information requested is of the type that should be readily available to operators. Suggestions for reducing the burden may be sent to the Commission. For further information, see the notice contained in Appendix A of this Order regarding the Privacy Act and Paperwork Reduction Act.

APPENDIX A

2006 Cable Price Survey

**FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND
THE PAPERWORK REDUCTION ACT**

The solicitation of information in this form is authorized by Section 623(k) of the Communications Act, as amended. The Commission will use the information provided in this form to compare prices charged for basic cable service, expanded basic service, and equipment by cable operators that are found to be subject to effective competition with those not subject to effective competition. This form has been approved by the Office of Management and Budget, under OMB control number 3060-0647 (expiration date: February 28, 2009).

The public reporting burden for this information collection is estimated to average 7.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and entering the data needed, and completing and reviewing the questionnaire. Suggestions for reducing the burden may be included on the note page contained in the questionnaire. Alternatively, send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Division, Washington, D.C. 20554. (Do not send completed survey questionnaires to this address.)

The above notice is required by the Privacy Act of 1974, Pub. L. No. 93-579, 88 Stat. 1897, codified at 5 U.S.C. § 552a(e)(3), and the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 109 Stat. 163, codified at 44 U.S.C. § 3507.

APPENDIX B

2006 Cable Price Survey

INSTRUCTIONS FOR FCC ANNUAL CABLE INDUSTRY PRICE SURVEY

General Information: Complete the attached questionnaire to the best of your ability. Please read these instructions before completing the survey. In addition, refer to the questionnaire for guidance on answering specific questions. This is important because it is essential that all operators use the same definition for each question. Please complete a questionnaire for each CUID listed in the attachment to the letter accompanying this Order.

We request information on prices at the community/franchise level. We also request information on number of households, number of subscribers, and advanced services at the system level. Sections B and E of the questionnaire define system level for the purpose of this survey.

Background: The 1992 Cable Act requires that the Commission publish an annual statistical report on average rates for basic cable service, cable programming service (referred to in the survey as “expanded basic service”), and equipment. The report must compare the prices charged by cable operators found to be subject to effective competition with those that are not subject to effective competition. This survey is intended to collect the data needed to fulfill that statutory requirement.

The survey asks questions about an operator's monthly charge for the basic service tier and expanded basic tier, and the monthly charge for equipment as of January 1, 2006, January 1, 2005, and January 1, 2004. In addition, the survey asks for information on the number of subscribers, number of channels in each tier, and installation charges as well as information on system capacity, advanced services, and channel listings.

Tier Definitions: Basic Service Tier (BST) is the package of channels (or tier) that includes the retransmission of local broadcast stations; public, educational and governmental (PEG) channels; commercial leased access of local origination; and other local stations. It sometimes may include a few satellite or regional channels.

Expanded Basic Tier (also known as the “Cable Programming Service” Tier) is any package or tier of channels other than the BST or programming offered as pay-per-program or pay-per-channel. Section H of the questionnaire further defines the Basic and Expanded Basic Tiers for the purpose of this survey.

Responding Official: A company official who is familiar with the services offered and rates charged by the cable system should complete this survey.

How to download the survey from the Commission’s Internet web site: Download the questionnaire in computer spreadsheet format at <http://www.fcc.gov/mb/2006>, located on the Commission’s Internet site. The questionnaire is available as a Microsoft Excel workbook.

How to return the survey to the Commission: Responses must be received no later than March 31, 2006. Please return the completed questionnaire(s) as an attachment to an e-mail. Alternatively, we request that you messenger-deliver the questionnaires, or deliver them by commercial overnight carrier, to the addresses specified below. In selecting any of these options, please ensure that the electronic survey file you send is virus free using virus-detection software. If you are filing by e-mail, no paper copy of the

completed questionnaire need be sent. If you are using one of the other options listed below, please send one paper copy and one 3.5-inch diskette containing the completed questionnaire. Please do not send a diskette containing the completed questionnaire via regular mail because the mail screening techniques used by the Agency will render the diskette useless. You may send diskettes via commercial overnight delivery or via messenger. If you do not have access to a computer, two paper copies will be accepted in lieu of an electronic filing.

E-Mail: We encourage the use of e-mail to facilitate the return of completed questionnaires. Attach the completed questionnaire as an Excel attachment to an e-mail message sent to the following address, which was established uniquely for this purpose: cablesurvey@fcc.gov. Only FCC employees participating in the analysis of the survey will have access to this account. Responses will be protected to ensure that after being received by the FCC they are secure from unauthorized access. No paper copy of the survey need be sent.

Commercial overnight delivery: You may return completed questionnaires via a commercial overnight delivery service. Responses should be delivered to 9300 East Hampton Drive, Capitol Heights, MD 20743, between 8:00 a.m. and 5:30 p.m. Please address responses to Media Bureau, Federal Communications Commission, Attention: Cable Price Survey. Deliver one paper copy and one 3.5-inch diskette containing the completed questionnaire in Excel format.

Messenger delivery: The Commission's contractor, Natek, Inc., will receive messenger-delivered filings at 236 Massachusetts Avenue N.E., Suite 110, Washington, D.C. 20002, between 8:00 a.m. and 7:00 p.m. Envelopes must be disposed of before entering the building. Therefore, attach a cover page to one paper copy of the questionnaire, addressed to Media Bureau, Federal Communications Commission, Attention: Cable Price Survey. Fasten together that paper copy and a 3.5-inch diskette containing the completed questionnaire in Excel format, and deliver to the above address.

Confidentiality: If any individual respondent to the survey wishes to request confidential treatment of any data provided in connection with this survey, in accordance with Sections 0.457 or 0.459 of the Commission's rules, the respondent should request such confidentiality in writing and identify clearly the specific information to be protected. The respondent also should provide, as required by the rules, a complete explanation of why such treatment is appropriate. The request for confidentiality should accompany your completed questionnaire(s). If you are responding by e-mail, you should attach the request to the same e-mail as your completed questionnaire(s) and send it to cablesurvey@fcc.gov. If you are responding by commercial overnight delivery or messenger delivery, you should attach the request to your survey response and deliver it to the appropriate address given above.

If You Need Help: If you have any questions regarding the content of the questionnaire, the definitions to be used in answering specific questions, or the method of filing, please call John Scott of the Media Bureau at (202) 418-2330, Monday through Friday, between 9:00 a.m. and 5:30 p.m. (EST), for assistance.