

Texas broadcaster pulls its stations off cable in pay dispute

[The Associated Press by David Koenig]

On a recent Sunday night, Elaine Leiter of Abilene settled in to watch her favorite NBC television shows, but instead of getting “American Dreams” and “Crossing Jordan,” a Harry Potter film blazed across her screen.

“I was irritated,” Leiter said. “I don’t watch much TV, but I’m really interested in the shows I do watch.”

Leiter’s TV screen and those of tens of thousands of other viewers in West Texas and Missouri are the battleground in a fight between a Texas-based broadcaster and two big cable operators, Cox Communications Inc. and Cable One Inc.

Cable systems pay to carry programming such as Walt Disney Co.’s ESPN, but have resisted paying for local over-the-air stations for decades. Analysts say cable has paid indirectly to carry stations owned by broadcast giants News Corp. and Viacom Inc. as part of bigger deals to get cable channels such as Viacom’s MTV and Nickelodeon, but independent broadcasters don’t have that leverage.

That’s what’s surprising about the confrontational and risky approach of independent Nexstar Broadcasting Group Inc. of Irving, Texas.

Nexstar ordered Cox to stop carrying its station KRBC, an NBC affiliate, on its Abilene cable system starting on Jan. 1, and KLST, a CBS station in San Angelo, after Cox balked at Nexstar’s demand that it be paid for their use. Since then, cable subscribers have needed an antenna to get the stations. The same situation exists for Cable One viewers of Nexstar’s KTAL, an NBC affiliate in Texarkana, and its ABC and NBC affiliates in Joplin, Mo. Cox also plans to drop the Joplin stations at the end of this month.

Atlanta-based Cox, the nation’s third-largest cable operator with 6.3 million cable subscribers, replaced the stations with HBO Family, which is how Leiter, a secretary who once worked at a TV station, stumbled across Harry Potter.

Nexstar operates 27 television stations, mostly in medium-sized cities from Texas to Indiana. It has grown rapidly through acquisitions, but has lost more than \$180 million since the beginning of 2001 and is trying to pay down \$600 million in debt, more than its revenue over the past four years for which it has reported complete results.

Duane Lammers, Nexstar’s chief operating officer, said the company is in solid financial health but faces costs such as meeting a future requirement to convert to digital and must be paid for its signals.

“We just happen to be the first company that had this drop in our lap, but it’s going to become an all-out war or our industry is going to go out of business,” he said.

While disputes over payments have led cable systems to drop some cable channels for a few days, skirmishes with broadcasters are less common and most end with the TV station backing down.

“If they withhold their signal from cable, their ad revenue falls by 75 percent or so” because the audience shrinks to those with antennas or satellite, said Craig Moffett, an analyst with Sanford Bernstein. Advertisers pressure the broadcasters to back down, he

said.

There have been no negotiations since the Nexstar stations went off cable at the start of the year. Both sides predict the outcome could have far-reaching implications when hundreds of local stations around the country negotiate new 3-year agreements with cable operators this fall.

“If the outcome of this is that Nexstar gets paid, we may see more broadcasters going this way,” said Tom Basinger, a vice president of Phoenix-based Cable One, which is owned by the Washington Post Co. and has more than 700,000 customers in 19 states.

To Lammers, the Nexstar executive, it’s simple: If cable companies take his stations’ signals and resell them to viewers, “It’s only fair we get a piece of that.”

Nexstar wants the cable companies to pay 30 cents per month per subscriber to carry each station for the next three years. “That isn’t anywhere near gouging,” Lammers said. He said that’s about what satellite systems pay Nexstar for so-called “carriage.”

Connie Wharton, West Texas general manager for Cox cable, said Nexstar’s demand would cost her company \$1.7 million a year and force it to raise rates, which already average around \$50 a month. She said broadcasters shouldn’t charge cable systems for a signal they give away on the public airwaves.

“The government designates this as a free over-the-air signal,” she said. “Non-cable



customers don't pay for it, and our customers shouldn't either."

Broadcasters around the country are watching the dispute and rooting for Nexstar.

"It's a fairly brave action by Nexstar," said Barry Faber, general counsel of Baltimore-based Sinclair Broadcast Group Inc. "I don't understand why the cable companies pay to distribute cable programming like HGTV or Animal Planet and they won't pay us."

Under rules in place since 1992, local TV stations can demand that cable carry their signal for free or require cable operators to get their consent for retransmission, which is the approach that Nexstar took.

John M. Higgins, business editor of Broadcasting & Cable magazine, predicted that Cox and Cable One will prevail because they can endure unhappy customers longer than Nexstar's stations can tolerate car dealers and other big advertisers who are angry about losing part of their audience.

Still, regulatory changes could help broadcasters. A few years ago, most viewers with satellite dishes couldn't get local channels, which was a powerful incentive to call the cable company. Since 1999, however, News Corp.'s DirecTV, EchoStar Communication Corp.'s Dish Network and other satellite providers have been allowed to offer local channels. They typically pay stations 15 cents to 20 cents per subscriber each month to carry their signals.

Since almost a quarter of households that buy TV services get them from satellite, local broadcasters may feel they can be more aggressive in negotiation payments from cable operators.

But in the case of Nexstar, there are signs that the dispute is hurting both sides. Lammers acknowledged that Nexstar stations have lost a handful of advertisers because

they play to smaller audiences without cable. And local satellite-TV dealers in Abilene, where Cox is the only cable provider, and Joplin say they have seen an uptick in dish business since the dispute started.

Nexstar has run advertisements on its stations and in newspapers, urging viewers to switch from cable to satellite TV. Cox and Cable One have fired back with their own ads blasting the local stations.

Larry Bradshaw, who teaches radio and TV broadcasting at Abilene Christian University, said the local stations are valuable to cable but that cable provides a better picture than using rabbit-ear antennas. He wrote a letter to the editor of the Abilene newspaper, proposing that Cox pay Nexstar and both agree not to raise rates to each other or the public for three years.

He hasn't heard back.