



PUBLIC NOTICE

Federal Communications Commission
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DA 01-1541
June 28, 2001

**EXELON COMMUNICATIONS HOLDINGS,LLC SEEKS COMMISSION
DETERMINATION OF "EXEMPT TELECOMMUNICATIONS
COMPANY" STATUS UNDER THE PUBLIC UTILITY HOLDING
COMPANY ACT**

NSD File No: ETC 01-14
Pleading Cycle Established

Comments Due: July 12, 2001

Reply Comments Due: July 19, 2001

On May 21, 2001, Exelon Communications Holdings, LLC (Exelon Holdings or Applicant), located at 401 City Line Avenue, Bala Cynwyd, PA 19004, pursuant to section 34(a)(1) of the Public Utility Holding Company Act of 1935 (PUHCA), 15 U.S.C. §§ 79 *et seq.*, as amended by section 103 of the Telecommunications Act of 1996 (the 1996 Act), Pub. L. No. 104-104, filed an application requesting a determination by the Federal Communications Commission (FCC or Commission) that it is an "exempt telecommunications company" (ETC).

Exelon Holdings states that it is a limited liability company organized on January 4, 2001, pursuant to the laws of the state of Delaware. The Application indicates that Exelon Holdings does not directly provide any communications, information or other services to the public. Exelon Holdings either directly or indirectly invests in communications companies, information services companies, companies providing other products or services subject to the Commission's jurisdiction, and/or companies providing products or services that are related or incidental to the foregoing.

Exelon Holdings explains that it is wholly owned by Exelon Enterprises Company, LLC (Exelon Enterprises), a Pennsylvania limited liability corporation with its principal business location at 2301 Market Street, Philadelphia, PA 19103. Exelon Enterprises is a wholly owned subsidiary of Exelon Corporation (Exelon Corp.), a registered holding company under PUHCA. Pursuant to the terms of the Securities and Exchange Commission's (SEC) order approving the merger of PECO and Unicom Corporation (to form Exelon Corp.), certain of Exelon Holdings' subsidiaries must qualify as ETCs, or Exelon Corp. may be required to divest its interests in these entities.

Exelon Holdings explains that it is the parent company of Exelon Communications Company, LLC (Exelon Communications) and PHT Holdings, LLC (PHT Holdings). According

to the application, Exelon Communications is a Pennsylvania limited liability company organized on November 21, 2000, and located at 401 City Line Avenue, Bala Cynwyd, PA 19004. Applicant states that Exelon Communications presently leases fiber optic capacity to other competitive local exchange carriers (CLECs), and has applied to become a CLEC in Pennsylvania. If approved, Exelon Communications plans to resell phone service in multi-tenant buildings. Applicant states that PHT Holdings owns a general partnership interest in PECO Hyperion Telecommunications (Hyperion). Hyperion is a general partnership organized on October 9, 1995, pursuant to the laws of the state of Pennsylvania, and its principal business location is 401 City Line Avenue, Bala Cynwyd, PA 19004. Applicant states that Hyperion is a CLEC that provides telecommunications services such as local dial tone, long distance, Internet service, and point-to-point (voice and data) communications for businesses and institutions in eastern Pennsylvania. Hyperion holds a certificate of public convenience and necessity (CCN) from the Pennsylvania Public Utilities Commission, and has applied for a CCN from the New Jersey Board of Public Utilities.

In addition, Exelon Holdings explains that it owns a forty-nine percent (49%) interest in AT&T Wireless PCS of Philadelphia, LLC (AT&T Wireless). The Application states AT&T Wireless is a limited liability company organized on March 5, 1996, pursuant to the laws of the state of Delaware, and its principal place of business is 3220 Tillman Drive, Suite 500, Bensalem, PA 19020. Applicant indicates that AT&T Wireless is an FCC license holder that provides personal communications services in the Philadelphia major trading area.

The Application states that in addition to the investments described above, Exelon Holdings may invest, either directly or indirectly, in companies providing other types of telecommunications services, information services, or other products or services that are permissible under Section 34(a)(1) of PUHCA in a manner consistent with PUHCA, as amended, and other applicable laws and regulations. In accordance with the Commission's regulations implementing Section 34 of PUHCA, Exelon Holdings states that it will inform the Commission of any subsequent investment involving a "material change in facts" that may affect Exelon Holdings' eligibility for ETC Status. The Application indicates Exelon Holdings is and will be engaged either directly or indirectly through one or more "affiliates," as defined in Section 2(a)(11)(B) of PUHCA, and exclusively in the business of providing telecommunications services, information services, other services or products subject to the jurisdiction of the Commission, and/or products or services that are related or incidental to the provision of such products or services within the meaning of Section 34(a)(1) of PUHCA.

In accordance with section 1.5004 of the Commission's rules, if the Commission does not issue an order denying an ETC application within 60 days of receipt of an application, in this case **July 24, 2001**, the application will be deemed granted as a matter of law. 47 C.F.R § 1.5004. In accordance with section 1.5003, a person applying in good faith for a Commission determination of ETC status is deemed to be an ETC from the date of receipt of the application, in this case **May 21, 2001**, until the date of Commission action pursuant to section 1.5004. 47 C.F.R § 1.5003. In accordance with section 1.5005, the Secretary of the Commission is now notifying the SEC that the Applicant is deemed to be an Exempt Telecommunications Company. 47 C.F.R. § 1.5005. In the event that the Commission issues an order denying the application within 60 days of its receipt, the Secretary will so notify the SEC. Otherwise, the Commission will take no further action to grant this application.

This proceeding is considered a "permit but disclose" proceeding for purposes of the Commission's *ex parte* rules. *See generally* 47 C.F.R. §§ 1.1200 - 1.1206. Persons wishing to file comments regarding the adequacy or accuracy of Exelon Communications Holdings, LLC's application requesting status as an ETC must do so no later than **July 12, 2001**. Reply comments must be filed no later than **July 19, 2001**. All filings concerning any of the matters referenced in this Public Notice should refer to NSD file number **ETC 01-14**. All comments should also be served on the Applicant.

Interested parties should file an original and four copies of their comments with the Office of the Secretary, Federal Communications Commission, 445 12th St., SW, Room TW-A325, Washington, D.C. 20554. In addition, parties should send one copy to International Transcription Service, Inc. (ITS), at 1231 20th Street, NW, Washington, D.C. 20036 and two copies to Carmell Weathers, Common Carrier Bureau, Network Services Division, FCC, 445 12th Street, SW, Room 6-A207, Washington, D.C. 20554.

The application will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. The application may also be purchased from the Commission's copy contractor, ITS, 1231 20th Street, NW, Washington, DC 20036, telephone (202) 857-3800, facsimile (202) 857-3805, TTY (202) 293-8810.

For further information, contact Carmell Weathers, (202) 418-2325 (voice), cweather@fcc.gov or Jon Minkoff, (202) 418-2353 (voice), jminkoff@fcc.gov, of the Network Services Division, Common Carrier Bureau. The TTY number is (202) 418-0484. You may also find more information about Exempt Telecommunications Companies at the Network Services Division website: <http://www.fcc.gov/ccb/nsd/documents/ETC.html>.

-FEDERAL COMMUNICATIONS COMMISSION-