



PUBLIC NOTICE

Federal Communications Commission
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DA 01-1800
July 27, 2001

**EEI TELECOM HOLDINGS, LLC SEEKS COMMISSION
DETERMINATION OF “EXEMPT TELECOMMUNICATIONS
COMPANY” STATUS UNDER THE PUBLIC UTILITY HOLDING
COMPANY ACT**

NSD File No: ETC 01-15
Pleading Cycle Established

Comments Due: August 9, 2001

Reply Comments Due: August 15, 2001

On June 22, 2001, EEI Telecom Holdings, LLC (EEI or Applicant), located at 46 Par-la-ville Road, Hamilton HM II, Bermuda, 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).

The application indicates EEI is a limited liability company organized on June 5, 2001, pursuant to the laws of Delaware. Applicant is indirectly owned by Exelon Capital Partners, Inc. (Exelon Capital), located at 2301 Market Street, S8-4, P.O. Box 8699, Philadelphia, PA 19101-8699, a corporation also organized and existing under the laws of Delaware. Applicant explains further that Exelon Capital is a wholly owned indirect subsidiary of Exelon Corporation (Exelon), a registered holding company under PUHCA. The application states that pursuant to the terms of the Securities and Exchange Commission’s (SEC) order approving the merger of PECO and Unicom Corporation (to form Exelon), certain of EEI’s subsidiaries must qualify as ETCs, or Exelon may be required to divest its interests in these entities.

EEI states that it does not directly provide any communications, information or other services to the public. Applicant explains that it holds direct or indirect investment interests in communications companies, information services companies, companies that provide other products or services subject to the Commission’s jurisdiction, and companies that provide products or services that are related or incidental thereto. As such, EEI states that it will be engaged directly or indirectly through one or more “affiliates,” as defined by Section 2(a)(11)(B) of PUHCA, and exclusively in the business of providing telecommunications services, information services and 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.

The application states that EEI holds, directly or indirectly, interests in the following two (2) entities:

- a. Corvis Corporation, located at 7015 Albert Einstein Drive, Columbia, MD 21046, and organized pursuant to the laws of Delaware. Applicant states that Corvis designs, manufactures and markets products that enable the transmission, switching and management of communications traffic entirely in the optical domain; and
- b. Automated Power Exchange Inc. (APX), a California corporation located at 5201 Great America Parkway, Suite 522, Santa Clara, CA 95054. Applicant states that APX provides e-commerce services to companies in the electricity industry which operate Internet-based exchanges, voice brokerages, and clearinghouses for the buying and selling of electricity, green power, and related products. Applicant explains that APX also provides market and scheduling technologies required to support the administration of power systems.

Applicant indicates that in addition to these investments, it may invest, either directly or indirectly, in companies providing other types of telecommunications services, information services, or other types of permissible products or services. In accordance with the Commission's regulations implementing Section 34 of PUHCA, EEI states that it will inform the Commission of any subsequent investment involving a "material change in facts" that may affect EEI's eligibility for ETC status.

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 **August 21, 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 **June 22, 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 **EEI Telecom Holdings, LLC's** application requesting status as an ETC must do so no later than **August 9, 2001**. All comments should also be served on Applicant. Reply comments must be filed no later than **August 15, 2001**.

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. All filings concerning any of the matters referenced in this Public Notice should refer to NSD file number **ETC 01-15**.

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>.

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