



# PUBLIC NOTICE

**Federal Communications Commission**  
**445 12th St., S.W.**  
**Washington, D.C. 20554**

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**DA 01-1880**  
**August 7, 2001**

**ENERGY EAST CORPORATION SEEKS COMMISSION  
DETERMINATION OF "EXEMPT TELECOMMUNICATIONS  
COMPANY" STATUS UNDER THE PUBLIC UTILITY HOLDING  
COMPANY ACT FOR ITS AFFILIATE, NEON COMMUNICATIONS,  
INC.**

**NSD File No: ETC 01-16**  
**Pleading Cycle Established**

**Comments Due: August 22, 2001**

**Reply Comments Due: August 29, 2001**

On July 11, 2001, Energy East Corporation ("Energy East"), 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 on behalf of its affiliate, NEON Communications, Inc. (Neon or Applicant), located at 2200 West Park Drive, Westboro, Massachusetts 01581, requesting a determination by the Federal Communications Commission (FCC or Commission) that it is an "exempt telecommunications company" (ETC).

Energy East states that it is a Delaware corporation and a public utility holding company. Applicant explains that Neon is also a Delaware corporation. The application indicates that through intermediary subsidiaries, Energy East owns approximately twenty percent (20%) of Neon.

Applicant asserts that Neon is engaged exclusively in the business of providing telecommunications services or products subject to the jurisdiction of the FCC and/or products or services that are related or incidental to the provision of such products or services within the meaning of PUHCA Section 34(a)(1). Energy East explains that NEON owns or operates fiber optic communications networks comprising approximately one thousand nine hundred (1,900) route miles, with over eighty-one thousand (81,000) fiber miles. This communications network is located throughout the eleven (11) states that comprise the Northeast and Mid-Atlantic markets. Using this network and over one hundred (100) local points of presence, Neon serves as a wholesale provider of high bandwidth capacity and comprehensive end-to-end communications solutions to customers on an inter-city, regional and metro-network basis. The application states that in the future, Neon may engage in activities that fall within the permissible categories as provided in Section 34(a)(1)(A)-(D) 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 **September 9, 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 **July 11, 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 Securities and Exchange Commission (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 **NEON Communications, Inc.'s** application requesting status as an ETC must do so no later than **August 22, 2001**. All comments should also be served on the Applicant. Reply comments must be filed no later than **August 29, 2001**.

Interested parties should file an original and four copies of their comments with the Office of the Secretary, Federal Communications Commission, 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, D.C. 20554. In addition, parties should send one copy to International Transcription Service, Inc. (ITS), at 1231 20<sup>th</sup> Street, NW, Washington, D.C. 20036 and two copies to Carmell Weathers, Common Carrier Bureau, Network Services Division, FCC, 445 12<sup>th</sup> 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 01-16**.

The application will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12<sup>th</sup> Street, SW, Room CY-A257, Washington, DC 20554. A copy of the application may also be purchased from the Commission's copy contractor, ITS, 1231 20<sup>th</sup> 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](mailto:cweather@fcc.gov) or Jon Minkoff, (202) 418-2353 (voice), [jminkoff@fcc.gov](mailto: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-**