



PUBLIC NOTICE

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

News media information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
Internet: <http://www.fcc.gov>
TTY 202 / 418-2555

DA 01-1918
August 10, 2001

**AFN FINANCE COMPANY NO.3, LLC SEEKS COMMISSION
DETERMINATION OF "EXEMPT TELECOMMUNICATIONS
COMPANY" STATUS UNDER THE PUBLIC UTILITY HOLDING
COMPANY ACT**

NSD File No: ETC 01-17
Pleading Cycle Established

Comments Due: August 27, 2001

Reply Comments Due: September 3, 2001

On July 25, 2001, AFN Finance Company No.3, LLC (AFN Finance or Applicant), located at 76 South Main Street, Akron, OH 44308-1890, 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 AFN Finance is a Delaware limited liability company, and that it is a second-tier subsidiary of FirstEnergy Corp. (FirstEnergy). Applicant states that FirstEnergy is a public utility holding company headquartered in Akron, Ohio, and formed as the result of the merger between Ohio Edison Company and Centerior Energy Corporation. Applicant explains that FirstEnergy's principal business is the holding, directly or indirectly, of all the outstanding common stock of its four principal electric utility operating subsidiaries: Ohio Edison Company, The Cleveland Electric illuminating Company, Pennsylvania Power Company, and The Toledo Edison Company.

Applicant further states that AFN Finance was created for the exclusive purpose of seeking financing on behalf of its affiliate, AFN, LLC (AFN). According to applicant, AFN is an exempt telecommunications company under PUHCA that utilizes its proprietary fiber optic telecommunications networks to provide service to other carriers. The application indicates that AFN was formed by the following entities: AEP Communications, a subsidiary of American Electric Power; GPU Telecom, a subsidiary of GPU, Inc.; Allegheny Communications Connect, a subsidiary of Allegheny Energy, Inc.; FirstEnergy Telecom (now Advanced Technologies Development Corp.), a subsidiary of FirstEnergy Corp; CFW Communications; and R&B

Communications.

The application states that AFN Finance intends to do the following: (a) borrow money from one or more financial institutions and then loan such money to AFN and/its wholly owned subsidiaries; (b) obtain letters of credit for the benefit of AFN and/or its wholly owned subsidiaries; and (c) be engaged, directly or indirectly, through one or more "affiliates" 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 PUHCA Section 34(a)(1).

AFN Finance states that it requests ETC status because it will, directly or indirectly be engaged in the provision of telecommunications services, information services, and products as permitted under Section 34(a) of the PUHCA. AFN Finance assures the FCC that such activities will be conducted in a manner consistent with the Communications Act, applicable FCC rules and policies, and other applicable legal requirements.

In accordance with section 1.5004 of the Commission's rules, if the Commission does not issue an order denying an ETC application within sixty (60) days of receipt of an application, in this case **September 23, 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 25, 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 sixty (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 **AFN Finance Company No. 3, LLC's** application requesting status as an ETC must do so no later than **August 27, 2001**. All comments should also be served on the Applicant. Reply comments must be filed no later than **September 3, 2001**.

Interested parties should file an original and four (4) 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 (1) copy to International Transcription Service, Inc. (ITS), at 1231 20th Street, NW, Washington, D.C. 20036 and two (2) 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 01-17**.

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. A copy of 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**](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**](http://www.fcc.gov/ccb/nsd/documents/ETC.html).

-FEDERAL COMMUNICATIONS COMMISSION-