



# PUBLIC NOTICE

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

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**DA 01-570**  
**March 5, 2001**

**FELHC, Inc., Seeks Commission Determination of "Exempt Telecommunications Company" Status Under the Public Utility Holding Company Act**

**NSD File No: ETC 01-04**  
**Pleading Cycle Established**

**Comments Due: March 9, 2001      Reply Comments Due: March 16, 2001**

On January 18, 2001, FELHC, Inc. ("FELHC"), pursuant to section 34(a)(1) of the Public Utility Holding Company Act of 1935 ("PUHCA"), as added by section 103 of the Telecommunications Act of 1996, Pub. L. No. 104-104, filed an application requesting a Commission determination that it is an exempt telecommunications company ("ETC").

The application states that FELHC, an Ohio corporation, is a first-tier subsidiary of FirstEnergy Corp. (FirstEnergy), a public utility holding company exempt from regulation by the Securities and Exchange Commission under section 3 of PUHCA. FirstEnergy, a diversified energy services holding company headquartered in Akron, Ohio, was formed in November 1997 as the result of the merger of Ohio Edison Company and Centerior Energy Corporation. FirstEnergy's principal business is the holding, directly or indirectly of all of the outstanding 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.

The application states that FELHC was created for the exclusive purpose of holding licenses granted by the Commission for the provision of radio communication. FirstEnergy created FELHC in response to a Consent Decree entered into with the Commission's Enforcement Bureau by FirstEnergy and its wholly-owned subsidiaries and affiliates, which were licensees of mobile, microwave, marine coastal, and ship radio stations, to comply with section 310(d) of the Communications Act of 1934. Under the Consent Decree, the licensees were required to implement a program to ensure their future compliance with the Act and Commission rules and policies, including creation of a first-tier wholly-owned subsidiary to hold FCC licenses. FELHC thus now holds all such licenses and is directly or indirectly involved in the provision of radio communications capabilities and services to all FirstEnergy business units.

The application represents that FELHC will be engaged, directly or indirectly, wherever located, through one or more "affiliates" as defined by section 2(a)(11)(B) of PUHCA,

exclusively in the business of providing: (i) telecommunications services; (ii) information services; (iii) other services or products subject to the jurisdiction of the Federal Communications Commission, or (iv) products or services that are related or incidental to the provision of a product or service described in (i), (ii) or (iii) above, within the meaning of Section 34(a)(1) of PUHCA. The application states more specifically that, in addition to serving as a company holding private radio licenses, FELHC may in the future be engaged in other activities related to the provision of telecommunications services. Specifically, radio communications made possible through licenses held by FELHC may be utilized to offer products or services related or incidental to the provision of mobile or fixed radio communications services to FirstEnergy's joint venture parties and affiliates, public utility customers, and non-affiliated third parties. The provision of such services and products, directly or indirectly, by FELHC to such parties would constitute the provision of telecommunications services as permitted under Section 34(a)(1) of PUHCA.

In accordance with 47 C.F.R. section 1.5004, if the Commission does not issue an order denying an ETC application within 60 days of receipt of the application, in this case by March 19, 2001, the application will be deemed granted as a matter of law. In accordance with 47 C.F.R. 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 from January 18, 2001, until the date of Commission action pursuant to 47 C.F.R. section 1.5004. In accord with 47 C.F.R 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. In the event that the Commission issues an order within 60 days of receipt of the application denying the application, 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. sections 1.1200 - 1.1206. Persons wishing to file comments, regarding the adequacy or accuracy of the Applicant's application requesting status, as an ETC must do so no later than **March 9, 2001**. All comments should also be served on the Applicants. Reply comments must be filed no later than **March 16, 2001**.

Interested parties should file an original and four copies of their comments with the Office of the Secretary, Federal Communications Commission, 445 Twelfth St., SW, Room TW-A325, Washington, D.C. 20554. Parties should also send one copy to 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 matters referenced in this Public Notice should refer to NSD file number **ETC 01-04**.

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. The application may also be purchased from the Commission's copy contractor, International Transcription Service, Inc. (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 Marty Schwimmer, (202) 418-2320 (voice), [mschwimm@fcc.gov](mailto:mschwimm@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 NSD web site:

<http://www.fcc.gov/ceb/nsd/documents/ETC.html>.

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