



# PUBLIC NOTICE

Federal Communications Commission  
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**DA 04-3666**  
**Released: November 19, 2004**

## **DOMESTIC SECTION 214 APPLICATION FILED FOR TRANSFER OF CONTROL OF ADVANCED TELCOM INC. AND SHARED COMMUNICATIONS SERVICES, INC. TO ESCHELON TELECOM, INC.**

### **STREAMLINED PLEADING CYCLE ESTABLISHED**

**WC Docket No. 04-414**

**Comments Due: December 3, 2004**  
**Reply Comments Due: December 10, 2004**

On November 5, 2004, Advanced TelCom Group, Inc. (ATGI) and Eschelon Telecom, Inc. (ETI) (collectively, "Applicants") filed an application, pursuant to sections 63.03 and 63.04 of the Commission's rules,<sup>1</sup> requesting consent to transfer ultimate control of ATGI's subsidiaries, Advanced TelCom, Inc. (ATI) and Shared Communications Services, Inc. (SCS), from ATGI to ETI.<sup>2</sup>

Applicants assert that this transaction is entitled to presumptive streamlined treatment pursuant to section 63.03(b)(2)(i) of the Commission's rules because the proposed transaction would result in the transferee having a market share in the interstate, interexchange market of less than 10 percent; the transferee would provide competitive telephone exchange services or exchange access services exclusively in geographic areas served by a dominant local exchange carrier that is not a party to the transaction; and neither of the applicants is dominant with respect to any service.<sup>3</sup>

ATGI, a holding company, is a direct, wholly owned subsidiary of VFS Financing Inc. ATI, a Delaware corporation, is a direct, wholly owned subsidiary of ATGI. SCS, an Oregon corporation, is a direct, wholly owned subsidiary of ATI. The ultimate parent company of all these entities is General Electric Company. ATI currently provides facilities-based and resold interexchange and local exchange telecommunications services to customers primarily in California, Nevada, Oregon, and Washington.

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<sup>1</sup> 47 C.F.R. §§ 63.03, 63.04; *see* 47 U.S.C. § 214.

<sup>2</sup> Applicants have also filed an application for consent to transfer authorization for international services. Any action on this domestic section 214 application is without prejudice to Commission action on other related pending applications.

<sup>3</sup> 47 C.F.R. § 63.03(b)(2)(i); *see* 47 C.F.R. § 63.03(b)(3) ("For purposes of (b)(1) and (2) of this paragraph, the terms 'applicant,' 'carrier,' 'party,' and 'transferee' (and their plural forms) include any affiliates of such entities within the meaning of section 3(1) of the Communications Act of 1934, as amended.").

ATI also provides interexchange services to a small number of customers in several other states. Specifically, ATI provides voice and data services, Internet access, primary rate interface and basic rate interface services, voice mail, web hosting, and domain name services. SCS currently provides resold local exchange and interexchange telecommunications services to customers in Nevada, Oregon, and Washington. SCS also provides resold interexchange telecommunications services to business customers in approximately 20 other states. Specifically, SCS provides voice and data services, Internet access, voice mail, web hosting, and domain name services.

ETI, a Delaware corporation, is authorized to provide telecommunications services in California, Idaho, New Mexico, and New York.<sup>4</sup> ETI's direct, wholly owned subsidiary is Eschelon Operating Company (OPCO), a Minnesota corporation that functions as a holding company. OPCO has several direct, wholly owned subsidiaries that offer telecommunications services in various states.<sup>5</sup> In these states, the subsidiaries provide resold and facilities-based local, resold long distance, Internet and data services to small and medium-sized businesses. There are no other affiliates of ETI that offer domestic telecommunications services.

On October 13, 2004, ETI and ATGI signed a Stock Purchase Agreement providing for ETI's acquisition of all of the issued and outstanding shares of common stock of ATI from ATGI. Immediately after closing under the agreement, ETI will transfer the shares to its subsidiary, OPCO. Thus, following completion of the transaction, SCS will continue to be wholly owned by ATI, which will be wholly owned by OPCO, which will continue to be wholly owned by ETI. Because the transaction is a stock transaction, the transfer of control of ATGI's operating subsidiaries will not result in a change of carrier for any of the ATI and SCS customers. Applicants state that the transaction is not expected to result in any discontinuance of service for ATI and SCS customers.

Applicants assert that the proposed transaction will serve the public interest. The Applicants state that the transaction will enable Eschelon to expand its operations in a cost-effective manner, thereby enhancing its competitive position and ability to provide high-quality services at more competitive rates to customers. The Applicants state that the proposed transaction will also enhance the companies' ability to invest additional resources in expanding the scope of their services, the range of their operations and additional operational stability. The Applicants contend that ATI/SCS and ETI together will result in a larger and more financially secure competitive alternative to the incumbents. By permitting ETI to strengthen its competitive position and accelerate its entry into additional markets, the Applicants argue that the proposed transaction will expand competitive choices for U.S. telecommunications customers. Moreover, the Applicants state that the proposed transaction involves no change in the entities providing service to customers, the facilities used to provide such service, or the services, rates, terms and conditions of such service. Finally, the Applicants state that the transfer of control will be generally transparent to customers and will not have any adverse impact on them. According to the Applicants, the only change will be in the ultimate ownership of ATI and SCS.

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<sup>4</sup> The following entities own 10% or more of the equity of ETI: (1) Bain Capital Fund VI, L.P.; (2) Wind Point Partners; and (3) Stolberg Equity Partners.

<sup>5</sup> OPCO's direct, wholly owned subsidiaries are Eschelon Telecom of Minnesota, Inc.; Eschelon Telecom of Washington, Inc.; Eschelon Telecom of Colorado, Inc.; Eschelon Telecom of Nevada, Inc.; Eschelon Telecom of Arizona, Inc.; Eschelon Telecom of Utah, Inc.; and Eschelon Telecom of Oregon, Inc.

## **GENERAL INFORMATION**

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file **comments on or before December 3, 2004** and **reply comments on or before December 10, 2004**.<sup>6</sup> Unless otherwise notified by the Commission, Applicants are permitted to transfer assets on the 31<sup>st</sup> day after the date of this notice.<sup>7</sup> Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the subject line "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

### **In addition, one copy of each pleading must be sent to each of the following:**

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, [www.bcpiweb.com](http://www.bcpiweb.com); phone: (202) 488-5300; fax: (202) 488-5563;
- (2) Tracey Wilson-Parker, Competition Policy Division, Wireline Competition Bureau, 445 12<sup>th</sup> Street, SW, Room 5-C212, Washington, D.C. 20554; e-mail: [tracey.wilson-parker@fcc.gov](mailto:tracey.wilson-parker@fcc.gov);

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<sup>6</sup> See 47 C.F.R. § 63.03(a).

<sup>7</sup> Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

- (3) Christi Shewman, Competition Policy Division, Wireline Competition Bureau, 445 12<sup>th</sup> Street, SW, Room 5-C163, Washington, D.C. 20554; e-mail: [christi.shewman@fcc.gov](mailto:christi.shewman@fcc.gov);
- (4) Terri Natoli, Competition Policy Division, Wireline Competition Bureau, 445 12<sup>th</sup> Street, SW, Room 5-C234, Washington, D.C. 20554; e-mail: [terri.natoli@fcc.gov](mailto:terri.natoli@fcc.gov);
- (5) Susan O'Connell, Policy Division, International Bureau, 445 12<sup>th</sup> Street, SW, Room 7-B544, Washington, D.C. 20554; email: [susan.o'connell@fcc.gov](mailto:susan.o'connell@fcc.gov); and
- (6) James Bird, Office of General Counsel, 445 12<sup>th</sup> Street, SW, Room 8-C824, Washington, D.C. 20554; e-mail: [james.bird@fcc.gov](mailto:james.bird@fcc.gov).

Filings and comments are also 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, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail at [www.bcpweb.com](http://www.bcpweb.com).

For further information, please contact Tracey Wilson-Parker at (202) 418-1394 or Christi Shewman at (202) 418-1686.

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