



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 04-45
January 9, 2004

**XHD CORPORATION SEEKS COMMISSION DETERMINATION OF
"EXEMPT TELECOMMUNICATIONS COMPANY" STATUS UNDER
THE PUBLIC UTILITY HOLDING COMPANY ACT**

Comp. Pol. File No. ETC 04-01
Pleading Cycle Established

Comments Due: January 26, 2004

Reply Comments Due: February 2, 2004

On November 13, 2003, **XHD Corporation** (XHD or Applicant), located at **21 Westminster Avenue, S-209, Venice, California 90291**, submitted an application requesting a determination by the Federal Communications Commission (FCC or Commission) that it is an "exempt telecommunications company" (ETC), 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, Pub. L. No. 104-104, and section 1.5002 of the Commission's rules, 47 C.F.R. § 1.5002. By an amendment dated January 7, 2004, XHD corrected certain deficiencies in its initial application. Accordingly, XHD's application is deemed complete and officially filed with the Commission on January 7, 2004.

The application indicates that XHD is a privately-held Delaware corporation that will be engaged directly, or indirectly through one or more affiliates exclusively in the business of providing: (a) telecommunications services; (b) information services; (c) other services or products subject to the jurisdiction of the Commission; and/or (d) products or services that are related or incidental to the provision of the products or services described in (a), (b), or (c).

Specifically, XHD states that it "intends to offer dual purpose 'Faster Than Realtime DTV Video/Data Encryption', 3G MMS multimedia interactive transport, Hot Spot DTV wireless, IP Datacast entertainment and Safe Harbor V-Chip encoded broadcast services." XHD indicates that it will "bundle MPEG encoders and other IP conditioned access information programs through affiliate and non-affiliated DTV television and internet broadcasting companies." XHD further states that it "will establish, develop, operate, and maintain a research and development facility in the Los Angeles area providing 4th Generation cellular wireless VBIS Video Broadcast Information Services." XHD states that in addition to, or in lieu of, these activities, it may engage in the future in such other business activities as are consistent with the definition of an ETC set forth in section 34(a)(1) of the PUHCA.

In accordance with section 1.5003, 47 C.F.R § 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 **January 7, 2004**, until the date of Commission action pursuant to section 1.5004. In accordance with section 1.5004 of the Commission's rules, 47 C.F.R. § 1.5004, if the Commission does not take action by issuing an order denying an ETC application within sixty (60) days of receipt of an application, in this case **March 7, 2004**, the application will be deemed granted as a matter of law. In accordance with section 1.5005, 47 C.F.R. § 1.5005, the Secretary of the Commission will notify the Securities and Exchange Commission (SEC) if the Applicant is determined to be an Exempt Telecommunications Company.

This proceeding is considered a "permit but disclose" proceeding for purposes of the Commission's *ex parte* rules, 47 C.F.R. §§ 1.1200 - 1.1216. Pursuant to section 1.5007 of the Commission's rules, 47 C.F.R. § 1.5007, interested parties may file comments on or before **January 26, 2004** and reply comments are due on or before **February 2, 2004**. Comments in this proceeding may not be filed using the Commission's Electronic Comment Filing System (ECFS). All filings concerning any of the matters referenced in this Public Notice should refer to file number **Comp. Pol. File No. ETC 04-01**. All comments should also be served on the Applicant at the address listed above.

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., S.W., Room TW-A325, Washington, D.C. 20554. In addition, parties should send one (1) copy to Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C., 20554, telephone (202)863-2893, facsimile (202)863-2898, or via e-mail qualexint@aol.com, and two (2) copies to Carmell Weathers, Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 6-A423, Washington, D.C. 20554. Commenters are also requested to fax their comments to the FCC at (202) 418-2345, Attention: Carmell Weathers.

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, N.E., 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, S.W., Washington, D.C. 20554.

The application will be available for review and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554, telephone (202) 418-0270. A copy of the application may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone (202)863-2893, facsimile (202)863-2898, or via e-mail at qualexint@aol.com.

For further information, contact Carmell Weathers, (202) 418-2325 (voice), carmell.weathers@fcc.gov, or Rodney McDonald, (202) 418-7513 (voice), rodnev.mcdonald@fcc.gov, of the Competition Policy Division, Wireline Competition Bureau. The TTY number is (202) 418-0484.

-FEDERAL COMMUNICATIONS COMMISSION-