



PUBLIC NOTICE

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

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DA 03-3185
October 14, 2003

**CINERGY BROADBAND, LLC SEEKS COMMISSION
DETERMINATION OF "EXEMPT TELECOMMUNICATIONS
COMPANY" STATUS UNDER THE PUBLIC UTILITY HOLDING
COMPANY ACT**

Comp. Pol. File No. ETC 03-01
Pleading Cycle Established

Comments Due: October 29, 2003

Reply Comments Due: November 5, 2003

On September 25, 2003, **Cinergy Broadband, LLC** (Cinergy or Applicant), located at **139 East Fourth Street, Cincinnati, Ohio 45202**, filed 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 (the Act), Pub. L. No. 104-104, and section 1.5002 of the Commission's rules, 47 C.F.R. § 1.5002.

The application indicates that Cinergy has been formed for the purpose of holding an interest in entities that provide broadband communications services, enhanced power distribution services and other data detection and transmission services. Cinergy 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.

The application states that Cinergy 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).

In accordance with section 1.5004 of the Commission's rules, 47 C.F.R. § 1.5004, if the Commission does not issue an order denying an ETC application within sixty (60) days of receipt of an application, in this case **November 24, 2003**, the application will be deemed granted as a matter of law. 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 **September 25, 2003**, until the date of Commission action

pursuant to section 1.5004. In accordance with section 1.5005, 47 C.F.R. § 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 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, 47 C.F.R. §§ 1.200-1.1216. Pursuant to section 1.5007 of the Commission's rules, 47 C.F.R. § 1.5007, interested parties may file comments on or before **October 29, 2003** and reply comments are due on or before **November 5, 2003**. 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 03-01**. 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 at 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), rodney.mcdonald@fcc.gov, of the Competition Policy Division, Wireline Competition Bureau.

The TTY number is (202) 418-0484.

-FEDERAL COMMUNICATIONS COMMISSION-