

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

M E M O R A N D U M

APRIL 18, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (WILLIAMS) 25
DIVISION OF AUDITING & FINANCIAL ANALYSIS (JONES)
DIVISION OF LEGAL SERVICES (BARONE) ALM

RE: DOCKET NO. 960284-TS - APPLICATION FOR CERTIFICATE TO
PROVIDE SHARED TENANT SERVICE BY ACTIVETEL L.D., INC.

AGENDA: 04/30/96 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\CMU\WP\960284TS.RCM

CASE BACKGROUND

Pursuant to Section 364.339(1)(a)(b), Florida Statutes
(effective July 1, 1995):

(1) The Commission shall have exclusive jurisdiction to
authorize the provision of any shared tenant services
which:

(a) Duplicates or competes with local service
provided by an existing local exchange
telecommunications company; and

(b) Effective January 1, 1996, is furnished through
a common switching or billing arrangement to tenants by
an entity other than an existing local exchange
telecommunications company.

DOCUMENT NUMBER-DATE
04432 APR 18 1996
FPSC-RECORDS/REPORTING

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STAFF DISCUSSION

ISSUE 1: Should the Commission grant ACTIVETEL L.D., INC. (ACTIVETEL) a certificate to provide statewide shared tenant service within the State of Florida as provided by Section 364.339 (2), Florida Statutes?

RECOMMENDATION: Yes, ACTIVETEL should be granted:

Florida Public Service Commission Certificate #4456

STAFF ANALYSIS: ACTIVETEL filed an application with this Commission on March 5, 1996, to offer telecommunications service as a shared tenant service provider in Florida. Pursuant to Chapter 364.339 (2), Florida Statutes:

(2) No person shall provide shared tenant service without first obtaining from the commission a certificate of public convenience and necessity to provide such service. The commission shall grant certificates to telecommunication companies upon showing that the applicants have sufficient technical, financial, and managerial capabilities to provide shared tenant services. The commission may require such services to be offered and priced differently to residential and commercial tenants if deemed to be in the public interest.

Further, the offering of shared tenant service shall not interfere with or preclude a tenant's right to obtain direct access to the lines and services of the serving local exchange telecommunications company or the right of the serving local telecommunications company to serve the tenant directly under the terms and conditions of commission approved tariffs.

ACTIVETEL's exhibit of managerial qualifications reflects satisfactory records in telecommunications sales, marketing and service (pages 4-5). In regard to technical capability, ACTIVETEL's exhibit (page 6) indicates that ACTIVETEL will have the expertise to ensure that a high quality of service is maintained at their facilities. The Division of Auditing and Financial Analysis reviewed ACTIVETEL's financial statements to determine the company's financial viability (page 7). Based on the information provided by ACTIVETEL, the financial capability of the company appears minimal.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if no person whose substantial interests are affected by the Commission's Proposed Agency Action files a protest within 21 days of the issuance date of the order.

STAFF ANALYSIS: This docket should be closed if no person whose substantial interests are affected by the Commission's Proposed Agency Action files a protest within 21 days of the issuance date of the order.

ACTIVETEL'S MANAGERIAL QUALIFICATIONS

Jerry H. Hogan

Mr. Jerry Hogan serves as Chief Executive Officer and Chairman of the Board of ActiveTel L.D., Inc. Mr. Hogan came to ActiveTel L.D. from MCI, bringing 10 years of telecommunications experience in operations, engineering, and construction. Prior to MCI, Mr. Hogan was Vice President of Satellite Business Systems ("SBS"), a partnership of IBM, Aetna Life Insurance, and Comsat. SBS was in the business of providing satellite telecommunications services to large private networks, such as IBM, and common user telephone service to residential and small business communities. Mr. Hogan earned his Bachelors of Science in General Engineering from the University of Illinois, where he was awarded with the Gamma Epsilon Distinguished Alumni Award. He received his Masters of Science in Systems Engineering from the University of Arizona and his Masters in Business Administration in Finance from George Washington University. Mr. Hogan is a member of the Developmental Board of the Engineering Advisory Board of the University of Texas at Dallas, as well as a member of the Engineering Advisory Board at the University of Illinois.

Reginald F. Chesson, Jr.

Mr. Chesson serves as Chief Financial Officer, Vice President, and Controller of ActiveTel L.D., Inc. He graduated from the University of South Carolina with a Bachelor of Science degree in Accounting. Mr. Chesson also graduated from the University of Texas at Dallas with a Masters of Business Administration. Prior to joining ActiveTel L.D., Inc., Mr. Chesson was with MCI Telecommunications, Inc., where he served as Director of Finance following his position as Director of Richardson Financial Services (MCI's corporate group). Prior to MCI, Mr. Chesson served as Controller for the Southern Division of Telecom USA. Prior to that, he served as Controller of J.H. Management Company, a hotel developer and management group. Previously, Mr. Chesson served as Senior Accountant for Deloitte, Haskins & Sells. Mr. Chesson is a member of the American Institute for Certified Public Accountants ("AICPA") and the South Carolina Association of Certified Public Accountants.

James M. Eggerichs

Mr. Eggerichs is Vice President of Engineering & Implementation for ActiveTel, L.D., Inc. Mr. Eggerichs has over twenty years of success in managing the full spectrum of telecommunications systems, including operations, network, administration, program management, transmission systems, network control, planning, and training. Mr. Eggerichs joined ActiveTel, L.D. from MCI, where he served as Senior Manager of Network Construction. In that capacity, he managed the upgrade and restoration of MCI's nationwide telecommunications transmission systems. Prior to MCI, Mr. Eggerichs served in a variety of telecommunications management positions for the U.S. Army. Mr. Eggerichs obtained his Bachelor of Science in Physical Education from the University of Illinois. He is also a graduate of the University of Washington, where he received a Masters of Science in higher education.

Lynn Darrow Carson

Ms. Lynn Darrow Carson serves as Executive Vice-President, Secretary and General Counsel of ActiveTel L.D., Inc. Ms. Carson came to ActiveTel L.D. with 15 years of legal experience, most recently as a Senior Attorney at MCI where she specialized in Real Estate and Corporate Law. Ms. Carson received her Honours Bachelor of Arts from the University of Toronto and obtained her Juris Doctor with Honors from Southern Methodist University. Ms. Carson is a member of the Order of the Coif, the American Bar Association, the Texas Bar Association, and the State Bar of Texas.

Robert W. Taylor

Mr. Robert Taylor serves as the Director of Regulatory Affairs of ActiveTel L.D., Inc. Mr. Taylor came to ActiveTel from MCI, where he served as in house counsel for MCImetro Access Transmission Services, Inc. Prior to joining MCI, Mr. Taylor was in private practice, concentrating his practice on telecommunications litigation. Mr. Taylor is a graduate of Duke University, where he received a Bachelor of Arts in Economics and Political Science. At Duke, the faculty selected him for participation in the Honors Program in Economics and awarded him the honor of Graduation with Distinction in Economics. Mr. Taylor obtained his Doctor of Jurisprudence from Southern Methodist University. He is a member of the State Bar of Texas. Mr. Taylor is a member of the Federal Communications Bar Association and serves as Chairman of its Texas Chapter. In addition, he is an interim board member of the Independent Cable and Telephone Association.

K. Randolph Peak, III

Mr. Peak serves as Assistant Secretary and Corporate Counsel of ActiveTel L.D., Inc. Mr. Peak received his Bachelor of Arts in Government from the University of Texas at Austin. Mr. Peak is also a graduate of the University of Texas at Dallas, where he obtained his Bachelor of Arts in Economics and Finance. He also received his Doctor of Jurisprudence from Pepperdine University. Mr. Peak joined ActiveTel from MCI, where he was an attorney in the Land Use and Environmental Law Division of the Office of the General Counsel. Mr. Peak is a member of the State Bar of Texas



-M-E-M-O-R-A-N-D-U-M-

DATE: April 3, 1996
TO: Tom Williams, Division of Communications
FROM: Sonja Jones, Division of Auditing and Financial Analysis *ALM*
RE: Docket No. 960284-TS, ActiveTel L.D., Inc., Financial Analysis for Certificate Application for Shared Tenant Service *[Signature]*

Section 364.339 (2), Florida Statutes, requires the following:

The commission shall grant certificates to telecommunications companies upon showings that the applicants have sufficient technical, financial, and managerial capabilities to provide shared tenant services.

Also Section 364.01 (3) and (4) states that:

(3) The Legislature finds that the competitive provision of telecommunications service, including local exchange telecommunications service, is in the public interest.

and

(4)(d) The Commission shall exercise its exclusive jurisdiction in order to: (d) Promote competition by encouraging new entrants into telecommunications markets

Regarding the showing of financial capability, the Finance staff has analyzed the unaudited financial statements of ActiveTel L.D., Inc. (ACTV) for the period ending January 31, 1996. An audit could change one's opinion of the company's financial condition. The company has requested confidential treatment of its financial statements, which were filed under a separate docket (951564-TI). Based on our review, ACTV has marginal liquidity, minimal ownership equity, and reports negative net income.

In this matter, ACTV is asking for a certificate to provide Shared Tenant service. Staff notes the limited nature of the application and that no customer provided funds appear to be at risk. For purposes of granting a certificate based on the financial information provided, the financial capability of the company appears minimal.

cc: Division of Legal Services
Division of Records and Reporting