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ORIGINAL

July 14, 2000

BY HAND DELIVERY

Ms. Blanca Bayó, Director
Division of Records and Reporting
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

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RECORDS AND REPORTING

Re: FPSC Docket No. 000366-TX

Dear Ms. Bayó:

Enclosed for filing on behalf of Actel Integrated Communications, Inc. are an original and fifteen copies of Actel's Protest of Proposed Agency Action in the above-referenced docket.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,

Norman H. Horton, Jr.
Norman H. Horton, Jr.

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Application for alternative)
local exchange telecommunications)
services Deland Actel, Inc.)
_____)

Docket No. 000366-TX
Filed: July 14, 2000

PROTEST OF PROPOSED AGENCY ACTION

Actel Integrated Communications, Inc. (Actel), pursuant to Rules 25-22.029, 28-106.111 and 28-106.201, Florida Administrative Code, and Order No. PSC-00-1145-PAA-TX, hereby protests the issuance of the Proposed Agency Action Order Granting Certificate to Provide Alternative Local Exchange Telecommunications Services to Deland Actel, Inc. In support of its Notice of Protest , Actel states as follows:

1. Actel Integrated Communications, Inc. ("Actel") whose address is 1509 Government Street, Suite 300, Mobile, AL 36604-2016, is a competitive local exchange carrier, interexchange carrier, and integrated communications provider in Florida and other states in the Southeast United States. Actel was issued certificates 7087 and 7086 by this Commission authorizing the provision of local services and IXC, respectively. Since issuance of authority by this Commission, Actel has been providing local exchange telecommunications services to consumers. In addition to Florida, Actel holds Certificates of Authority to operate as a local telecommunications service provider in the states of Texas, Louisiana, Mississippi, Alabama, and Arkansas, and is authorized to do business as a foreign corporation in over 30 states throughout the United States.

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08545 JUL 14 8
FPSC-RECORDS/REPORTING

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2. Copies of correspondence, pleadings and notices should be served on:

Norman H. Horton, Jr.
Messer, Caparello & Self, P.A.
215 S. Monroe St., Suite 701
P.O. Box 1876
Tallahassee, FL 32302-1876
E-Mail: nhorton@lawfla.com
(850) 222-0720

Paul F. Guarisco
Actel Integrated Communication, Inc.
450 Laurel Street
Bank One Centre, North Tower, Suite 2101
Baton Rouge, Louisiana 70801
(225)383-0775

3. Since receipt of the authority from the Florida Public Service Commission (“the Commission”), Actel has marketed its local exchange telecommunications services to consumers in Florida and has invested capital in these efforts. Actel continues to market its local services to customers and intends to remain a local service provider in Florida.

4. By Order No. PSC-00-1145-PAA-TX issued June 23, 2000, the Commission gave notice of its preliminary intent to grant certificates to several applicants authorizing the provision of ALEC services. Among the applicants receiving preliminary approval was Deland Actel, Inc. (“Deland”) in Docket No. 0000366-TX. Unlike Actel, Deland Actel is not now providing local service but intends to enter that market.

5. Actel Integrated Communications, Inc. and Deland Actel, Inc. are not affiliated with or related to each other in any manner, despite the similarity in names. Because of the similarity in names, Actel objects to and protests the proposed granting of a certificate to Deland Actel because approval of such activity is contrary to the public interest, it unlawfully discriminates against Actel and would result in Florida consumers being misled, confused and/or deceived.

6. Actel is currently providing local service in Florida pursuant to the certificates granted by the PSC and intends to remain in the Florida market. Actel received its authorization to

provide local service approximately one year ago and several months prior to the application filed by Deland. Not only was Actel providing local service prior to Deland but Actel was registered with the Florida Secretary of State prior to Deland Actel and filed its application for registration of the ACTEL mark with the United States Patent and Servicemark Office (“USPTO”) on November 2, 1998. The USPTO has issued a Notice of Allowance of the registration of the ACTEL mark in Class IC 0381. Deland Actel’s (“Deland Actel”) application to be certified in Florida as an ALEC is evidence that Deland is now using or intends to use the ACTEL mark to offer local exchange telecommunications services and/or products in the State of Florida.

7. Actel is aware that the Commission generally considers such corporate issues as the name to be an issue for the Division of Corporations or courts to resolve but in this instance the names are so similar that there is a likelihood for confusion among LEC consumers and under the circumstances it would be appropriate for the Commission to act. When a consumer places a call to Deland Actel’s phone number, the greeting on Deland’s answering machine states “Actel Communications.” Deland Actel’s current use of the ACTEL mark to provide telecommunications services or products in Florida will unquestionably result in consumer confusion. Purchasers and consumers of local telecommunications services in Florida will likely believe that Actel is providing the services sold by Deland Actel. Additionally, given the identical names of Actel and Deland Actel, consumers are likely to order local exchange service from Deland Actel mistakenly under the belief that such services are provided by Actel.

8. The use of confusingly similar marks in the local exchange market raises important consumer issues of interest to this Commission. Not only is it likely that a consumer may sign up

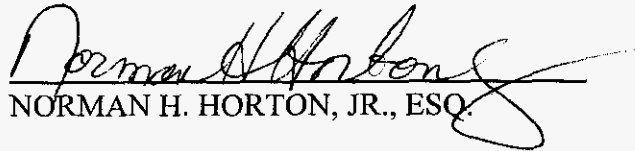
for service from one thinking it was the other local service provider but it is likely that there will be confusion within the Commission as to the correct identity of the provider. Inquiries from consumers will require more time to resolve and it is probable that there will be inquiries simply because of the similarity in names. Such similarity will also create confusion for ILECs when a customer requests to switch service to Actel — which Actel is the intended provider of local service?

9. Approving Deland Actel's Certificate or allowing Deland Actel to become certified as an ALEC in Florida under any name that includes the word "Actel", would unquestionably cause consumers, given the identical name, to be confused as to whose services they are in fact receiving when they purchase Actel services. Accordingly, approving the Certificate is contrary to the public interest, and would result in discrimination against Actel. Due to the obvious problems associated with the "slamming" that may arise out of Deland Actel's unauthorized use of the ACTEL mark in Florida, Actel is requesting that the Florida PSC not approve Deland Actel to operate in the State of Florida using the name Actel. Allowing Deland Actel to operate in Florida using the mark ACTEL is contrary to the public interest. Actel therefore requests that the Commission not grant a certificate to Deland Actel until it has modified its name sufficiently to insure that the public interest is protected.

WHEREFORE, Actel Integrated Communications, Inc. respectfully requests that the Commission not finalize its preliminary action and deny the application of Deland Actel, and direct that Deland Actel modify its name and application to protect the public interest, and not allow it to become effective as filed herein.

Respectfully submitted,

MESSER, CAPARELLO & SELF, P.A.
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NORMAN H. HORTON, JR., ESQ.

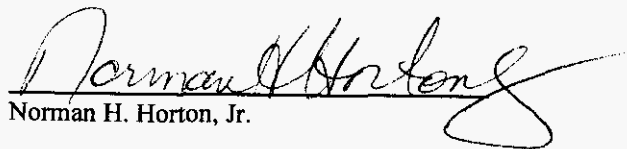
Attorneys for Actel Integrated Communications, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served upon the following parties by Hand Delivery (*) and/or U. S. Mail this 14th day of July, 2000.

Beth Keating, Esq. *
Division of Legal Services, Room 370
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Mr. Thomas E. Allen
Deland Actel, Inc.
1027 North Woodland Blvd.
Deland, FL 32720-0057


Norman H. Horton, Jr.