

**ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDERS  
TO AID PUBLIC COMMENT  
In the Matter of Itron, Inc. and Schlumberger Electricity, Inc., File No. 031-0201**

**I. Introduction**

The Federal Trade Commission has accepted, subject to final approval, an Agreement Containing Consent Orders (“Consent Agreement”) from Itron, Inc. and Schlumberger Electricity, Inc. The purpose of the Consent Agreement is to remedy the anticompetitive effects of Itron’s acquisition of Schlumberger Electricity. Under the terms of the Consent Agreement, Itron is required to grant a royalty-free, perpetual and irrevocable license to Hunt Technologies, Inc. for Itron’s mobile radio frequency (“RF”) automatic meter reading (“AMR”) technology for electric utilities, as well as components of Schlumberger Electricity’s mobile RF AMR technology for electric utilities.

The proposed Consent Agreement has been placed on the public record for thirty days to solicit comments from interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will again review the proposed Consent Agreement and the comments received, and will decide whether it should withdraw from the proposed Consent Agreement or make it final.

Pursuant to a stock and asset purchase agreement dated July 16, 2003, Itron agreed to acquire Schlumberger Electricity and 51 percent of the shares of Walsin Schlumberger Electricity Measurement Corporation (a Taiwan corporation), and certain foreign assets of Schlumberger Canada Limited, Schlumberger Distribucion S.A. de C.V., Schlumberger Servicios S.A. de C.V., and Axalto S.A. (formerly Schlumberger Systemes S.A.), all owned indirectly by Schlumberger Limited, in a cash transaction for approximately \$255 million (“Proposed Acquisition”). The Commission’s Complaint alleges that the Proposed Acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, by substantially lessening competition in the United States market for the research, development, manufacture, and sale of mobile RF AMR systems for electric utilities.

**II. The Parties**

Headquartered in Spokane, Washington, Itron is the leading supplier of mobile RF AMR systems to electric utilities in the United States. Itron’s mobile RF AMR system is based upon encoder-receiver-transmitter (“ERT”) technology and related communication protocols. The Itron ERT is electronic circuitry that gathers consumption information from an electricity meter and then broadcasts the data via radio frequency, using a specific communication protocol, known as the ERT protocol. To gather this data stream, Itron supplies handheld and vehicle-transportable receivers, also known as drive-by data collectors. The ERT is sold as either a retrofit for existing electromechanical electricity meters, or is integrated into newly manufactured electromechanical and solid state meters. Itron also supplies mobile RF AMR

systems to water and natural gas utilities. In each of these areas, Itron is a leading mobile RF AMR systems supplier. Itron is also active in other lines of business serving the utility sector, including handheld computers for manual meter reading, as well as specialized software systems for billing systems, route management, and line design.

Schlumberger Electricity is a wholly owned subsidiary of Schlumberger Limited, a leading provider of oilfield services. With its headquarters in Oconee, South Carolina, Schlumberger Electricity is the leading supplier of residential electricity meters in the United States, and the second largest supplier of mobile RF AMR systems in the United States. Presently, Schlumberger Electricity's mobile RF AMR is based on the R300, which is integrated into Schlumberger Electricity's meters. Schlumberger Electricity also sells handheld and drive-by data collectors through a partnership with Neptune Technology Group, Inc.. The Neptune/Schlumberger mobile RF AMR receivers are capable of gathering data from the Itron ERT and the Schlumberger R300.

As the result of a license arrangement, Itron's and Schlumberger Electricity's mobile RF AMR systems utilize the same technology and proprietary communication protocols. Hence, products produced by Itron and Schlumberger are fully interoperable. Electric utilities, therefore, can utilize a combination of Itron and Schlumberger mobile RF AMR components, i.e., endpoints and receiving devices, within the same system. No other company manufactures a mobile RF AMR system that is interoperable with the mobile RF AMR systems manufactured by Itron or Schlumberger.

### **III. Mobile RF AMR Systems**

Electric utilities utilize mobile RF AMR systems to automatically and remotely gather consumption data from residential electricity meters and certain electricity meters used by smaller commercial enterprises. A mobile RF AMR system consists of two principle components: (1) an endpoint, which is electronic circuitry integrated into an electricity meter that records and broadcasts consumption data, and (2) a mobile receiving device, which can be handheld or vehicle-transportable, to gather the data signal.

Mobile RF AMR systems allow consumption data from electricity meters to be read automatically and remotely, eliminating the need for a utility to send a meter reader to manually inspect each individual meter. Manual meter reading is labor-intensive and time-consuming, requiring the meter reader to physically access and visually inspect each electricity meter. Further, many meters are hard to access. Consequently, manual meter reading requires the effort of a substantial workforce of meter readers. By deploying a mobile RF AMR system, an electric utility can reduce its labor costs significantly. Additional cost savings are obtained by eliminating other problems endemic to manual meter reading, such as transcription errors, unread meters, and theft of service. As a result of these benefits, electric utilities are unlikely to alter their mobile RF AMR purchases relative to manual meter reading even if the price of mobile RF AMR systems increased by five to ten percent. Likewise, in response to a small but significant increase in mobile RF AMR prices, customers are unlikely to utilize other, non-

mobile AMR technologies as they entail different technical requirements and are substantially more expensive.

The United States is the appropriate geographic market for mobile RF AMR systems in which to analyze the competitive effects of the Proposed Acquisition. There are not now, nor have there ever been, any imports of mobile RF AMR systems. Companies cannot compete from abroad for two primary reasons. First, electric utilities will not purchase mobile RF AMR systems from companies that do not have a substantial presence and track record in the United States. This is due to the importance of timely and effective service and support, as well as a strong “buy American” sentiment. Second, there are no significant foreign companies that produce mobile RF AMR systems.

The United States market for mobile RF AMR systems is highly concentrated. Itron and Schlumberger Electricity are the two largest suppliers of mobile RF AMR systems to electric utilities in the United States, and combined would account for over 99 percent of the market. There are three other firms in the market that together have a market share of less than one-half of one percent. Additionally, because Itron and Schlumberger Electricity are the only two mobile RF AMR suppliers with access to the proprietary ERT technology, the industry standard, they are especially close competitors, and the direct competition between Itron and Schlumberger Electricity has benefitted consumers significantly in the form of lower prices, improved service and greater innovation. Absent Commission action, Itron’s acquisition of Schlumberger Electricity raises serious antitrust concerns.

Finally, sufficient new entry into the United States mobile RF AMR market is unlikely to occur in a timely manner as there are significant impediments to entry and expansion. A new entrant would need to devote significant time and expense to researching and developing a product. Second, a new entrant must undertake the lengthy and costly process of establishing a track record of performance and reliability for its product, which is critical to utility customers because they rely on the quality and accuracy of AMR systems in order to properly bill their customers. Further, a new entrant would not have access to the intellectual property necessary to sell a mobile RF AMR system that is compatible with the substantial installed base of systems produced by Itron and Schlumberger Electricity, which would significantly limit the available sales opportunities.

#### **IV. The Consent Agreement**

The Consent Agreement effectively remedies the Proposed Acquisition’s anticompetitive effects in the U.S. market for the research, development, manufacture, and sale of mobile RF AMR systems by requiring Itron to grant a royalty-free license to its mobile RF AMR technology. Pursuant to the Consent Agreement, a package of assets referred to in the Consent Agreement as the RF AMR Assets, will be licensed to Hunt. The RF AMR Assets provide Hunt with all the technology and rights necessary to manufacture and sell a mobile RF AMR system, including endpoints and receivers, that is entirely interoperable with Itron’s mobile RF AMR system. Should Itron fail to accomplish the divestiture within the time and in the manner

required by the Consent Agreement, the Commission may appoint a trustee to divest the RF AMR Assets subject to Commission approval. The trustee will have the exclusive power and authority to accomplish the divestiture within twelve (12) months of being appointed, subject to any necessary extensions by the Commission.

The Commission is satisfied that Hunt is a well-qualified acquirer of the divested assets. Hunt is a private corporation headquartered in Pequot Lakes, Minnesota, that researches, develops, manufactures, and sells powerline carrier (“PLC”) systems to electric utilities. PLC systems are a type of AMR technology used primarily for rural service areas. PLC systems are therefore complementary to mobile RF AMR systems, which are utilized primarily in areas of low population concentration. Therefore, Hunt does not pose separate competitive issues as the acquirer of the license to the RF AMR assets. Due to its involvement in the electric utility industry, Hunt has the resources, related expertise and capabilities to ensure that it will become an effective competitor in the market for mobile RF AMR systems for electric utilities.

Until Hunt has made the necessary manufacturing arrangements, Hunt will procure Electric RF Endpoints from Itron at terms that will allow Hunt to aggressively compete with Itron immediately upon the closing of the transaction. Under a separate supply agreement, Hunt may also procure mobile RF AMR receivers from Itron under terms that would enable Hunt to compete effectively with Itron. To provide mobile RF AMR receivers, however, Hunt may choose to partner with Neptune, as did Schlumberger Electricity. To ensure that Hunt retains the ability to partner with Neptune for mobile RF AMR receiving devices and to allow Neptune to continue to make sales for its own account, the proposed consent agreement requires Itron to assign all of Schlumberger Electricity’s mobile RF AMR receiving device rights to Neptune.

The Consent Agreement contains several further provisions designed to help ensure that the divestiture of the mobile RF AMR Assets is successful. First, to assist Hunt in the manufacture and sale of the Hunt mobile RF AMR system, Itron will provide technical assistance to Hunt, including 200 hours of technical assistance at no cost to Hunt. Second, Itron must provide Hunt with any updates to ERT technology for a period of three years. Finally, the Decision and Order allows the Commission to appoint an Interim Monitor, if necessary, to ensure that Itron complies with all of its obligations and performs all of its responsibilities as required by the Consent Agreement.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and is not intended to constitute an official interpretation of the proposed Decision and Order or the Order to Maintain Assets, or to modify their terms in any way.