

AVALON DEVELOPMENT, LLC
4315 Pablo Oaks Ct.
Jacksonville, FL 32224

June 25, 2007

Ms. Ann Cole
Office of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

ORIGINAL

RECEIVED-FPSC
07 JUN 28 AM 9:07
COMMISSION
CLERK
07 JUN 28 AM 7:48
DISTRIBUTION CENTER

Re: Docket No. 070126-TL: Petition for relief from carrier-of-last-resort ("COLR") obligations pursuant to Section 364.025(6)(d), Florida Statutes, for Villages of Avalon, Phase II, in Hernando County, by BellSouth Telecommunications, Inc. d/b/a AT&T Florida

Dear Ms. Cole:

On or about June 7, 2007, AT&T Florida ("AT&T") filed the attached letter with exhibits (Exhibit "A") with the Florida Public Service Commission ("Commission"), claiming Avalon Development, LLC ("Developer") had failed to respond to AT&T's demands for Developer to pay AT&T approximately \$171,606. for AT&T to extend its facilities to provide communications services to Phase II of the Villages of Avalon development in Hernando County. Please find attached a letter sent by Developer (Exhibit "B") responding to AT&T's demands for payment.

As explained in Developer's letter to AT&T, Developer believes that AT&T must serve Phase II of the Villages of Avalon under its COLR obligations under Section 364.025, Florida Statutes, as AT&T currently does for Phase I of this same development. AT&T's shirking of its statutory COLR obligations to serve Phase II masked under the guise of an unreasonable and excessive demand for payment of a line extension fee by Developer should not be condoned or permitted by the Commission.

AT&T has provided Developer with no reasonable justification or support for requiring this fee now for Phase II. AT&T did not require any such payment by Developer for the contiguous and previously constructed AT&T communications network facilities serving Phase I of the residential development at issue.

As a result, Avalon will not pay AT&T's requested fee for the deployment of AT&T's facilities to provide communications services to Phase II of the development, and Developer renews its request to the Commission to deny AT&T's Petition for Relief in the above-referenced docket.

We hereby certify that we sent copies of this letter to the persons listed in the copy lines below, by certified First Class U.S. Mail and facsimile.

This response to AT&T's June 7, 2007, filing with the Commission is submitted by Developer, on behalf of itself and its affiliate Stokes & Griffith Properties, LLC.

Sincerely,

A handwritten signature in black ink, appearing to read "Mallory Gayle Holm". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Mallory Gayle Holm
General Counsel

cc: James Meza III
Sharon R. Liebman
Manuel A. Gurdian
E. Earl Edenfield, Jr.
c/o Nancy H. Sims
AT&T Florida
150 South Monroe Street, Suite 400
Tallahassee, Florida 32301

Manuel A. Gurdian
Attorney

AT&T Florida
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5561

June 7, 2007

Ms. Ann Cole
Office of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

**Re: Docket No. 070126-TL: Petition of AT&T Florida for Relief from
Carrier-of-Last-Resort Obligations Pursuant to Florida Statutes
§ 364.025(6)(d) (Avalon)**

Dear Ms. Cole:

On or about May 8, 2007, AT&T Florida requested that the Florida Public Service Commission ("Commission") defer its consideration of AT&T Florida's Petition in the above-referenced docket until the July 10, 2007 agenda conference. AT&T Florida requested this deferral in order to allow it and the developer of Avalon, Phase II ("the developer") an opportunity to discuss special construction charges for the subject property. The purpose of this letter is to advise the Commission on the status of those negotiations.

As background and as explained in AT&T Florida's Petition, upon information and belief, the developer has entered into a non-exclusive agreement with Connexion Technologies f/k/a Capitol Infrastructure ("Connexion") who in turn contracted with "Smart Resorts a/k/a Beyond Communications ("Beyond") for the provision of voice service at Avalon, Phase II. Moreover, upon information and belief, the developer has entered into an agreement with Connexion who in turn entered into a bulk agreement with Beyond for video and data services to all homes within the development. The developer has thus offered AT&T Florida a "voice-only" easement that would allow AT&T Florida to provide voice service only. AT&T Florida has been informed that the same arrangements with other providers exist in Phase I of the development.

Subsequent to the requested deferral, on or about May 15, 2007, AT&T Florida forwarded correspondence to the developer outlining the estimated costs for the extension/construction of facilities, the projected five times annual exchange revenue at the development, and the amount that AT&T Florida requested that the developer pay prior to AT&T Florida extending its lines to

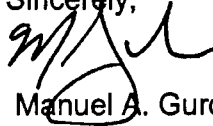
serve the development at the developer's request. A copy of AT&T Florida's May 15, 2007 correspondence to the developer is attached hereto as Exhibit "A".

As indicated in the attached letter, AT&T Florida, in accordance with Commission Rule 25-4.067(3) and its Tariffs, estimates that the cost for the extension/construction for facilities to serve Avalon, Phase II is approximately \$326,819, which includes anticipated labor and material costs as well as overhead cost. The projected five times annual exchange revenue at Avalon, Phase II, using a 20% take rate¹, is approximately \$155,213. The above total estimated cost less the five times annual exchange revenue is \$171,606. Accordingly, pursuant to Commission Rule 25-4.067(3) and its Tariffs, AT&T Florida requested payment of this amount prior to extending its lines to serve Avalon, Phase II at the developer's request.

In follow-up to its May 15, 2007 correspondence, AT&T Florida contacted the developer on May 22, 2007 in order to schedule a meeting to discuss its request for payment. On May 27, 2007, the developer advised that someone from the company would be contacting AT&T Florida to discuss the matter. On May 29, 2007, AT&T Florida contacted the developer and advised that it had not been contacted. On May 31, 2007, AT&T Florida contacted the developer and again advised that it had not been contacted. A copy of the above-referenced May 22, 27, 29 and 31, 2007 emails are attached hereto as Exhibit "B".

To date, AT&T Florida has not received a response from the developer with regard to AT&T Florida's request for payment to deploy facilities to provide voice services only.

Sincerely,



Manuel A. Gurdian

cc: All parties of record
Jerry Hendrix
James Meza III
E. Earl Edenfield, Jr.

¹ AT&T Florida anticipates little or no service orders from residents for telecommunications service in Avalon, Phase II in light of the arrangements the developer has entered into, directly and indirectly, with other providers. This expectation is supported by the fact that only 15.5% of built and occupied residences in Avalon, Phase I (according to the addresses designated as such in the developer's response to Commission Data Request No. VA-1) have ordered service from AT&T Florida.

CERTIFICATE OF SERVICE
Docket No. 070126-TL

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

(*) Electronic Mail and First Class U. S. Mail this 7th day of June, 2007 to the following:

Patrick Wiggins (*)
Rick Mann (*)
Adam Teitzman (*)
Theresa Tan (*)
Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
pwiggins@psc.state.fl.us
rmann@psc.state.fl.us
ateitzma@psc.state.fl.us
ltan@psc.state.fl.us

Avalon Development, LLC
Attn: Stokes & Griffith Properties, LLC
Registered Agent
John C. Kunkel
4315 Pablo Oaks Court
Suite 1
Jacksonville, FL 32224-9667

Stokes & Griffith Properties, LLC
Attn: Chester E. Stokes, Jr.
Registered Agent
Chester E. Stokes, Jr.
4315 Pablo Oaks Court
Suite 1
Jacksonville, FL 32224-9667

Richmond American Homes of FL, LP
Attn: RAH of Florida, Inc.
4350 South Monaco Street
Suite 500
Denver, Colorado 80237

Registered Agent
Richmond American Homes of FL, LP
c/o CT Corporation System
1200 South Pine Island Road
Plantation, Florida 33324

Lindhorst Construction, Inc.
Attn: Dale A. Lindhorst
5119 Commercial Way
Spring Hill, Florida 34606

Registered Agent
Dale Lindhorst
4393 Mallard Lake Drive
Brooksville, FL 34609

Lexington Homes, Inc.
Attn: Craig S. Gallagher
6115 Guilford Drive
New Port Richey, FL 34655

Registered Agent
Craig J. Fiebe
5623 US Highway 19
Suite 201
New Port Richey, FL 34652

William Ryan Homes Florida, Inc.
Attn: Martin M. Ryan
3925 Coconut Palm Avenue
Suite 117
Tampa, FL 33619

Registered Agent
William Ryan Homes Florida, Inc.
c/o CT Corporation System
1200 South Pine Island Road
Plantation, FL 33324

Walt Steimel (*)
Greenberg Traurig
800 Connecticut Avenue, N.W.
Suite 500
Washington, D.C. 20006
Tel. No. (202) 452-4893
steimelw@gtlaw.com

Mallory Gayle Holm
Vice President
Avalon Development, LLC
4315 Pablo Oaks Court
Jacksonville, FL 32224

A handwritten signature in black ink, appearing to read 'M. A. Gurdian', written over a horizontal line.

Manuel A. Gurdian



John Stanley
Area Manager
Network Engineering

AT&T Florida
6026 NW 1st Place
Gainesville, FL 32606

T: 352.336.5533
F: 352.373.6459
John.Stanley@att.com
www.att.com

May 15, 2007

VIA U.S. MAIL AND FACSIMILE
(813) 929-4020

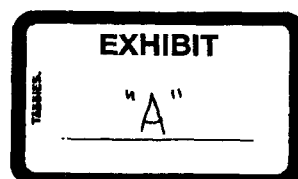
Seth Boots, PE
Project Manager
Stokes Land Group
10329 Cross Creek Blvd
Suite M
Tampa, FL 33647

Re: Avalon, Phase II

Dear Mr. Boots:

This letter is in follow-up to various communications between you and representatives of BellSouth Telecommunications, Inc. d/b/a AT&T Florida regarding the above development, under construction in Hernando County, Florida. Since you have been the primary contact for AT&T Florida's Network Department regarding the development, we are sending this letter to you. We are also copying Ms. Holm with Avalon Development, LLC, since she is the person that submitted a March 9, 2007 letter with the Florida Public Service Commission on behalf of Avalon Development, LLC in the pending Docket No. 070126-TL, Petition of AT&T Florida for Relief from Carrier-of-Last-Resort Obligations Pursuant to Section 364.025(6)(d), Florida Statutes (the "Petition"). The letter from Ms. Holm objects to the petition and thus essentially asks AT&T Florida to place facilities to provide service to residents at the development.

As explained in the Petition, upon information and belief, the developer has entered into a non-exclusive agreement with Connexion Technologies f/k/a Capitol Infrastructure ("Connexion") who in turn contracted with "Smart Resorts a/k/a Beyond Communications" ("Beyond Communications") for the provision of voice service at Avalon Phase II. Moreover, upon information and belief, the developer has entered into an agreement with Connexion who in turn entered into a bulk agreement with Beyond Communications for video and data services to all homes within the development. The developer has thus offered AT&T Florida a





"voice only" easement that would allow AT&T Florida to provide voice service only. AT&T Florida has been informed that the same arrangements with other providers exist in Phase I of the development.

We understand that Phase II will have 476 residences and that the buildout will take place in phases - Phase 2B, 216 lots (first residents expected in September/October 2007); Phase 2A, 28 lots (first expected residents in 2008); and Phase 3, 232 lots (first expected residents in 2008). For the reasons described below, charges will apply to the developer for the placement of those facilities.

Florida Public Service Commission Rule 25-4.067(3), Florida Administrative Code provides that AT&T Florida may recover the costs for extensions of its lines to provide service that exceed five times annual exchange revenue pursuant to its tariffs. See Part A.5.2.1.B of AT&T Florida's General Subscriber Services Tariff.

AT&T Florida anticipates little or no service orders from residents for telecommunications service in Phase II in light of the arrangements the developer has entered into, directly and indirectly, with other providers. This expectation is supported by the fact that only 15.5% percent of built and occupied residences (according to the addresses designated as such in the developer's response to Commission Data Request No. VA-1 in the Petition proceeding) have ordered service from AT&T Florida. Accordingly, using a 20% take rate for AT&T Florida services for Phase II, AT&T Florida has calculated the anticipated five times annual exchange revenue at Phase II to be approximately \$155,213.

The extension/construction cost for facilities to serve Phase II is approximately \$326,819, which includes anticipated labor and material costs as well as overhead cost.

The above total cost amount less the five times annual exchange revenue is \$171,606. Accordingly, pursuant to the Commission Rule, AT&T Florida is requesting payment of this amount prior to extending its lines to serve Phase II.



AT&T Florida is available to discuss the above sum with you at your convenience. We would like to schedule a meeting with you for this purpose. Please contact Tracey Cheston at 352.331.9199.

Sincerely,

A handwritten signature in black ink, appearing to read "John Stanley".

John Stanley

**Cc: Avalon Development, LLC - Attention: Mallory Gayle Holm, VP,
4315 Pablo Oaks Court, Jacksonville, FL 32224**

From: Cheston, Tracey D
Sent: Thursday, May 31, 2007 3:27 PM
To: 'ssbsag@tampabay.rr.com'
Subject: FW: Avalon
Importance: High

Seth,
I hate to bother you again, but I have still not heard anything from anyone at your company regarding the future phases at Avalon. We need to work in a timely manner to get all matters on the table and resolved or I fear we may be putting your service needs at Avalon in jeopardy. If you are not the correct party to address this, can you please provide me with a contact person?

Regards,
Tracey Cheston
Project Manager, AT&T Florida
Tracey.Cheston@att.com
352.331.9199

From: Cheston, Tracey D
Sent: Tuesday, May 29, 2007 8:28 AM
To: 'Seth S. Boots, P.E.'
Cc: Liebman, Sharon
Subject: RE: Avalon

Seth,
Thanks for your response. I have not been contacted by anyone as of yet. Would it be possible for you to pass along to me the correct party who can address this?

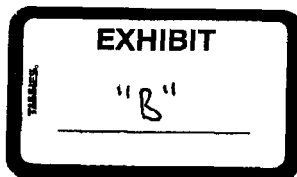
Thanks,
Tracey Cheston

From: Seth S. Boots, P.E. [mailto:ssbsag@tampabay.rr.com]
Sent: Sunday, May 27, 2007 7:08 PM
To: Cheston, Tracey D
Subject: RE: Avalon

Tracey,
I am not the most appropriate person to handle this matter so someone else from my company will be contacting you shortly if they haven't already done so. Thanks.

Seth Boots, P.E.
Project Manager

5/31/2007



The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential, proprietary, and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from all computers. GA621

Thank-you,
Tracey Cheston

Mr. Boots,
I am trying to confirm receipt of the letter I sent to you date May 15, 2007 regarding BellSouth d/b/a AT&T Florida serving Avalon Phase 2 and the remaining phases of this development. I would like to schedule a call with you to discuss. Please contact me at your earliest convenience either by email (Tracey.Cheston@att.com) or at my office (352.331.9199).

From: Cheston, Tracey D [mailto:tc0882@att.com]
Sent: Tuesday, May 22, 2007 3:05 PM
To: ssbsag@tampabay.rr.com
Subject: Avalon

Stokes Land Group
10329 Cross Creek Blvd.
Suite M
Tampa, FL 33647
C: (813) 767-1239
P: (813) 973-7210
F: (813) 929-4020
ssbsag@tampabay.rr.com

AVALON DEVELOPMENT, LLC
4315 Pablo Oaks Ct.
Jacksonville, FL 32224

June 25, 2007

VIA U.S. MAIL AND FACSIMILE

Mr. John Stanley
AT&T Florida
6026 NW 1st Place
Gainesville, FL 32606

Re: Avalon, Phase II

Dear Mr. Stanley:

This letter responds to your letter dated May 15, 2007, to Mr. Seth Boots of the Stokes Land Group requesting a line extension fee payment of \$171,606.00 to AT&T Florida ("AT&T") from Avalon Development, LLC ("Avalon" or "Developer") for AT&T to extend its facilities to provide communications services to Phase II of the Villages of Avalon development in Hernando County. This letter will also serve as a response to subsequent e-mails to Mr. Boots from AT&T's Tracey Cheston.

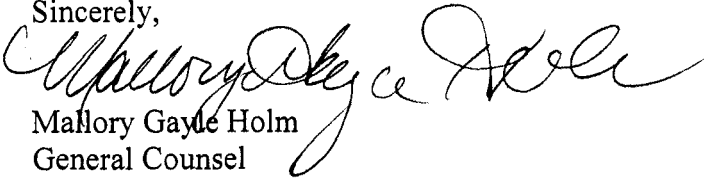
Developer maintains that AT&T must serve the Phase II of the Villages of Avalon under its COLR obligations under Section 364.025, Florida Statutes, as AT&T currently does for Phase I of this same development. AT&T cannot fail to fulfill its statutory COLR obligations to serve Phase II by charging Developer an unreasonable and excessive line extension fee.

AT&T has provided Developer with no reasonable justification or support for requiring this fee now for Phase II. As you know, AT&T did not require any such payment by Developer for the contiguous and previously constructed AT&T communications network facilities serving Phase I of the residential development at issue.

As a result, Avalon will not pay AT&T's requested fee for the deployment of AT&T's facilities to provide communications services to Phase II of the development. Developer demands that AT&T fulfill its COLR obligations and provide voice service to Phase II of like kind to that currently provided by AT&T to Phase I of the development at issue.

Please contact me at (904) 482-1144 if you would like to discuss this matter further. Thank you for your attention.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mallory Gayle Holm".

Mallory Gayle Holm
General Counsel

cc: Manuel A. Gurdian
c/o Nancy H. Sims
AT&T Florida
150 South Monroe Street, Suite 400
Tallahassee, Florida 32301