

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for waiver of carrier of last resort obligations for multitenant property in Collier County known as Treviso Bay, by Embarq Florida, Inc.

DOCKET NO. 060763-TL
ORDER NO. PSC-07-0403-CFO-TL
ISSUED: May 9, 2007

ORDER GRANTING EMBARQ FLORIDA, INC.'S REQUEST
FOR SPECIFIED CONFIDENTIAL CLASSIFICATION OF
DOCUMENTS NOS. 01513-07 AND 01516-07

On March 6, 2007, Embarq Florida, Inc. (Embarq) pursuant to Section 364.183, Florida Statutes, submitted its request for confidential classification of the information contained in the following documents:

- 1) CD containing Treviso Bay NPV analysis (Document No. 11881-06 - Claim of Confidentiality filed 12/29/06) included in Hearing Exhibit No. 4.
- 2) Highlighted information in Embarq's Response to Staffs Data Request No. E-1 (Document No. 00149-07 - Claim of Confidentiality filed 1/5/07) included in Hearing Exhibit No. 4.
- 3) Market Share Study Provided in Response to Staff Data Request No. E-1 (Document No. 00184-07 - Claim of Confidentiality filed 1/8/07) included in Hearing Exhibit No. 4.
- 4) Embarq's Response to Staff POD Nos. 1-7 (Document No. 00492-07 - Claim of Confidentiality filed 1/17/07) included in Hearing Exhibit No. 4.
- 5) Embarq's Response to Treviso Bay's Interrogatory No. S and POD Nos. 4, 5, and 7 (Document No. 00582-07 - Claim of Confidentiality filed on 1/22/07) included in Hearing Exhibit No. 11.
- 6) Embarq's Response to Treviso Bay's POD No. 2 (Document No. 00621-07 - Claim of Confidentiality filed 1/23/07) included in Hearing Exhibit No. 11.
- 7) Embarq's Response to Staffs Interrogatory Nos. 20, 21 and 22 and Request for Admissions No. 4 (Document No. 00932-07 - Claim of Confidentiality filed 1/29/07) included in Hearing Exhibit No. 4.

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- 8) Embarq's Response to Staffs Interrogatory Nos. 29 and 30 and POD No. 8 (Document No. 01201-07 - Claim of Confidentiality filed 2/5/07) included in Hearing Exhibit No. 4.
- 9) Highlighted information on pages 8 and 9 of Kent W. Dickerson's Surrebuttal Testimony (Document No. 01228-07 - Claim of Confidentiality filed 2/6/07).

The documents and excerpts from documents that are the subject of Embarq's request were previously filed under a Claim of Confidentiality. These documents were subsequently entered into the record during a Hearing held on February 14, 2007 as Surrebuttal Testimony [DN 01228-07], and as Exhibit 4 [DN 01513-07] and Exhibit 11, [DN 01516-07]. The Surrebuttal Testimony and the Exhibits and the subject documents each includes are reflected in the table below.

Document No.	Type of Evidence Entered Into Record	Includes/xref
DN 01228-07	Surrebuttal Testimony	N/A
DN 01513-07	Documentary – Exhibit 4	DN 11881-06 DN 00149-07 DN 00184-07 DN 00492-07 DN 00932-07 DN 01201-07
DN 01516-07	Documentary – Exhibit 11	DN 00582-07 DN 00621-07

After the Hearing, Embarq submitted its request for Confidential Classification or all the above pursuant to Rule 25-22.006, F.A.C.

Embarq claims that the information pertains to Embarq's projected costs to provide service, expected penetration rates for Embarq's services and Embarq's projected revenues for these services. The documents also contain information concerning the types, costs, and prices for Embarq's facilities and services, and Embarq's anticipated market share for various services. Embarq claims the information has not been disclosed publicly and relates to Embarq's competitive interests, the disclosure of which would impair Embarq's competitive business (see, section 364.1 83(3)(e), Florida Statutes). In addition, the documents contain information regarding Embarq's wholesale customers which Embarq is required to keep confidential under its interconnection agreements. The documents also contain information for which Treviso Bay (another party in the docket) has been granted confidential treatment by the Commission in this proceeding.

Florida law presumes that documents submitted to governmental agencies are public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the “sunshine.” Rule 25-22.006 (4)(c), Florida Administrative Code, provides that it is the Company’s burden to demonstrate that the documents fall into one of the statutory examples set out in Section 364.183, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

Section 364.183 (3), Florida Statutes, in pertinent part, provides:

The term “proprietary confidential business information” means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person’s or company’s business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public.

Based on the definition of proprietary confidential business information in Section 364.183 (3), Florida Statutes, it appears that the material described herein is proprietary business information in accordance with Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Disclosure of this information could harm Embarq’s and Treviso Bay’s competitive interests. As such, Embarq’s Request for Confidential Classification of Document for the above identified documents is hereby granted.

Based on the foregoing, it is

ORDERED by Commissioner Matthew M. Carter II, as Prehearing Officer, that Embarq of the South, Inc. Request for Confidential Classification is hereby granted for the following eleven documents, which are more fully described above.

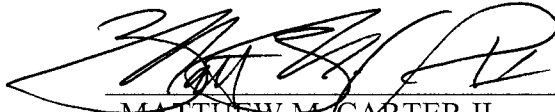
DN 11881-06	DN 00932-07
DN 00149-07	DN 01201-07
DN 00184-07	DN 01228-07
DN 00492-07	DN 01513-07
DN 00582-07	DN 01516-07
DN 00621-07	

It is further,

ORDERED that pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 364.183. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Matthew M. Carter II, as Prehearing Officer, this 9th day of May, 2007.


MATTHEW M. CARTER II
Commissioner and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by- Case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case

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of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.