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October 1, 1998

VIA HAND DELIVERY

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oaks Boulevard
Tallahassee, FL 32399-0850

Re: Access by Telecommunications Companies to Customers
in Multi-tenant Environments; Docket No. 980000B-SP

Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of
Proposed Definitions submitted by the Florida Apartment Association.

Thank you for your assistance in this matter.

Sincerely,

BROAD AND CASSEL



Jodi L. Chase

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Enclosure

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER - DATE

10851 OCT -28

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Undocked Special Project
Access by Telecommunications
Companies to Customers in
Multi-Tenant Environments

Docket No. 980000B-SP
Filed October 2, 1998

Definitions proposed by Florida Apartment Association

The Florida Apartment Association ("FAA") hereby submits the following proposed definitions in response to the request made by staff at the public hearing held on September 15, 1998.

1. The FAA represents owners and managers of apartment communities located throughout Florida. FAA members serve tens of thousands of renters. Turnover in non-owner apartment units averages 60 percent per year in Florida.
2. Each apartment community is different. Communities serve different segments of the market. Renters are from various economic backgrounds and have varied needs for services.
3. Each tenant resides in his or her unit under the terms of a lease. The lease gives both the renter and the owner certain property rights, among which is the right to quiet enjoyment of the property during the tenancy of the lease.
4. Testimony was presented at the September 15, 1998 hearing that not all telecommunications providers could provide service by entering into agreements with existing providers. Some would need the ability to physically enter the property. Mandated forced access in non-owner apartment units will result in physical disturbances to individual units, as well as the property as a whole, in order to serve the ever-changing needs of neighboring units. This will deprive both renters and owners of certain valuable property rights.

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5. Because of logistic difficulties associated with high turnover rates, and the physical characteristics unique to apartment communities, the definition of "Multi-tenant environments" should only include tenancies of more than one year.

6. The Legislature has already exhibited a willingness to apply forced access solely to tenancies of more than one year. The House Utilities and Communications Committee adopted an amendment to PCB UCO 98-01 which expressly states that "*No tenant having a tenancy of one year or more...shall be unreasonably denied access to telecommunications services...*" FAA believes any definition of "Multi-tenant environments" must provide a similar exemption in order to avoid the massive disruptions that forced access to units leased for shorter tenancies will bring.

7. Several apartment communities have entered into contractual agreements with various telecommunications providers. The Contracts Clause of the United States Constitution protects existing contracts. Thus, in order to preserve the constitutionality of any new legislation, existing contractual agreements must not be impaired. Any definitions of "Access in multi-tenant environments" must grandfather existing agreements in their entirety.

8. No evidence that competition in multi-tenant environments is suffering was ever presented at any of the public hearings. In fact, the only theme repeated by providers and property owners alike is that the market provides competition if left to operate. There was substantial support for allowing agreements to be negotiated between willing parties. Thus, forced access should not be mandated. Telecommunications providers should be forced to compete for the right to serve entire properties.

Dated this 2nd day of October, 1998.

Respectfully submitted,



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