

# ORIGINAL

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition by Embarq Florida, Inc. under section 364.025(6)(d), Florida Statutes, for relief from its carrier of last resort obligations	Docket No. <u>060763-TL</u> Filed: November 20, 2006
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### Embarq Florida, Inc.'s Request for Confidential Classification Under Section 364.183(1), Florida Statutes

Embarq Florida, Inc. (hereinafter, "Embarq") hereby requests that the Florida Public Service Commission ("Commission") classify certain documents identified herein as confidential and exempt from public disclosure under chapter 119, Florida Statutes, and issue any appropriate protective order reflecting such a decision.

1. The information that is the subject of this request is confidential and proprietary as described in paragraph 3. The following documents or excerpts from documents are the subject of this request:

- |              |   |
|--------------|---|
| CMP <u>1</u> | a) <b>Highlighted information on page 5 of Attachment No. 1, Affidavit of Michael J. DeChellis</b>  |
| COM _____    |   |
| CTR _____    | b) <b>Highlighted information on pages 3, 4 and 5 of Attachment No. 2, Affidavit of Kent W. Dickerson</b>   |
| ECR _____    |   |
| GCL <u>1</u> | c) <b>Entire Exhibit KWD-1, attached to the Affidavit of Kent W. Dickerson</b>  |
| OPC _____    |   |
| RCA _____    | d) <b>Highlighted information on lines 1-12 of column 2 and lines 13-23, of columns 2-21 of Exhibit KWD-2, attached to the Affidavit of Kent W. Dickerson</b> |
| SCR _____    |   |
| SGA _____    |   |

SEC 1 2. Two redacted copies of the information are attached to this request. One  
OTH 1 conf records unredacted copy of the confidential information is being filed under seal on this same day with the Division of Records and Reporting. The confidential information is highlighted in yellow.

DOCUMENT NUMBER-DATE

10657 NOV 20 06

FPSC-COMMISSION CLERK

3. The information for which the Request is submitted includes information concerning the location and type of Embarq's facilities, information concerning Embarq's projected penetration rates and information concerning Embarq's costs and revenues, or information from which this information could be derived. This information is information relating to Embarq's competitive interests, the disclosure of which would impair Embarq's competitive business (see, section 364.183(3)(e), Florida Statutes). In addition, protection of the location and type of Embarq's facilities is necessary to protect Embarq's security interests. (Section 364.183(3)(c), F.S.). Detailed justification for the request is set forth in Attachment A.

4. Section 364.183(3), F.S., provides:

(3) 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. The term includes, but is not limited to:

(a) Trade secrets.

(b) Internal auditing controls and reports of internal auditors.

(c) Security measures, systems, or procedures.

(d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company or its affiliates to contract for goods or services on favorable terms.

(e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.

(f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

5. The subject information has not been publicly released by Embarq.

Based on the foregoing, Embarq respectfully requests that the Commission grant Embarq's Request for Confidential Classification, exempt the information from disclosure under chapter 119, Florida Statutes, and issue any appropriate protective order, protecting the information from disclosure while it is maintained at the Commission.

Respectfully submitted this 20th day of November 2006.

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**ATTACHMENT A**

Document page and line numbers	Justification for Confidential Treatment
Highlighted information on page 5 of Attachment No. 1, Affidavit of Michael J. DeChellis	This information includes Embarq's projected penetration rates at the Treviso Bay Development. This information is information relating to Embarq's competitive interests, the disclosure of which would impair the competitive business of Embarq. (s. 364.183(3)(e), F.S.)
Highlighted information on pages 3, 4 and 5 of Attachment No. 2, Affidavit of Kenton W. Dickerson	This information includes the location of Embarq's facilities, Embarq's projected penetration rate and Embarq's projected costs and revenues associated with serving the Treviso Bay Development. This is information relating to Embarq's competitive interests, the disclosure of which would impair the competitive business of Embarq. (s. 364.183(3)(e), F.S.) Protection of the location and type of Embarq's facilities is necessary to protect Embarq's security interests. (s. 364.183(3)(c), F.S.)
Entire Exhibit KWD-1, attached to Affidavit of Kenton W. Dickerson	This is a map that depicts the location and type of Embarq's facilities. is information relating to Embarq's competitive interests, the disclosure of which would impair the competitive business of Embarq. In addition, protection of the location and type of Embarq's facilities is necessary to protect Embarq's security interests. (s. 364.183(3)(c) and (e), F.S.)
Highlighted information on lines 1-12 of column 2 and lines 13-23, of columns 2-21 of Exhibit KWD-2, attached to the Affidavit of Kent W. Dickerson	This information includes Embarq's projected penetration rate and projected costs and revenues associated with serving the Treviso Bay Development. This is information relating to Embarq's competitive interests, the disclosure of which would impair the competitive business of Embarq. (s. 364.183(3)(e), F.S.)



**Impacts on Embarq from Developer's Agreement with Comcast**

With a 100 percent penetration of its video and data services to residents of Treviso Bay via its bulk agreement with the developer, and its ability to offer voice telephone services as an add-on, Comcast is in a strong position to garner a vast majority of the Treviso Bay residents' voice telephone services as well. Based on this scenario, if Embarq were required to place its facilities to provide service to this development, its potential revenues would be limited to only voice telephone services since Comcast has 100 percent penetration of video and data services through its bulk billing of these services, ultimately paid by the residents through their homeowners' dues. Embarq's voice telephone revenues would be further limited to those derived from a small percentage of customers who might choose not to subscribe to the voice services offered by Comcast as an add-on to their video and data services.

Based on these factors, Embarq expects at most only ■ percent of the residents of Treviso Bay would choose to subscribe to services from Embarq if it were required to place facilities to serve this development. Further, Embarq's revenues from this group of customers would be limited to only voice services. The affidavit of Kent Dickerson of Embarq utilizes these assumptions, and others related to costs and investments, to estimate the negative financial consequences to Embarq if it were required to place facilities to serve the Treviso Bay development.

KWD-1) attached to this affidavit and will reference it in my description. Under the COLR obligations, Embarq would be required to place enough facilities within Treviso Bay to provide service to every subscriber regardless of what the realistic expected penetration rates are for Embarq's services. Were Embarq to be required to construct facilities to offer voice service within the Treviso Bay development the Central Office switch used would be Embarq's existing central office 5ESS switch located at [REDACTED] (CLLI NPLSFLXCDS0). As depicted by the yellow line on the aerial map exhibit, individual fibers within an existing fiber cable, which routes 12,000 feet from the central office switch to the entrance of Treviso Bay, would be used. From this point, Embarq would have to construct a new fiber cable for approximately an additional 6,000 feet in order to complete a fiber cable connection between the switch and a newly placed Digital Loop Carrier device.

As just mentioned a new Digital Loop Carrier device would be required in accordance with the 12,000 feet Carrier Serving Area industry engineering standards. Embarq would then need to construct copper cable connections from the centrally located DLC device to each of the distribution areas indicated on the aerial map. Finally, Embarq would be required to construct drop wire and NIDs at each customer location and connect the drop to a pair of copper distribution cable wires to complete a voice path between the central office switch and each customer location.

**Construction of Voice Telephone plant within Treviso Bay is wholly uneconomic**

In order to understand the financial viability of being required to construct the necessary voice telephone network just described, I have prepared the attached exhibit KWD-2. This exhibit provides a standard financial analysis of the Net Present Value (NPV) of cash flows over a 20-year period, thereby demonstrating the grossly unworkable finances (i.e. negative cumulative cash flows of \$██████████) were the Commission to deny the relief requested by Embarq. The NPV of cash flow analysis reflects incremental capital construction of \$██████████ over the first 6 years reflective of the developer's plans to construct 1200 customer locations during this same period. Additionally, the analysis reflects the consumption of \$██████ existing capital in the form of existing fiber cable, switch termination equipment and interoffice transport network bandwidth consumption for carrying voice traffic. Key to the analysis is the expected ██████% voice service penetration discussed in the Affidavit of Mr. DeChellis. The revenue assumed in my analysis is likely optimistic at best in that it assumes this ██████% of customers who purchase Embarq's services will purchase higher end bundles of voice services at the average Embarq penetration experience for the overall Naples market. Similarly, both the revenue per customer buying stand alone residential service and an average amount of a la carte features, as well as the revenue per customer purchasing a bundle, were set based on the actual average experience for each from the Naples market. The retail costs of serving these customers was set based on Embarq Florida specific experience and data, as was the maintenance

costs of the telephone plant. Despite these generous assumptions, the revenue generated from the expected █% customer penetration is, predictably, grossly insufficient for Embarq to recover its capital costs and incremental operating expenses and instead yields negative NPV cash flows for each year, twenty years into the future.

I would note the analysis does not include additional, predictable negative cash flow impacts from such realities as customer churn and future price declines in voice services. Thus, given the ease and magnitude with which these unworkable negative financial results (i.e. negative NPV of cumulative cash flows of \$█K), are conservatively demonstrated, it is inconceivable that Embarq will ever realize the financial paybacks necessary to justify the incremental invested capital of \$█ and associated operating expenses.

# Treviso Bay - Voice Network Construction

Exhibit KWD-1

**REDACTED**

Embarq - Florida  
Treviso Bay NPV Cash Flow Analysis

Key Assumptions:	
1	New Capital (shown Yrs 1-6)
2	Consumed Capital (shown Yr 1)
3	Total Capital
1	Reinvested Capital (new DLC Yr 11)
5	Penetration
3	Subscribers
7	Revenue - Ala Carte Sub
3	Revenue - Bundle Sub
3	Percent Buying Bundle
3	Revenue Per Sub - Avg
1	Maintenance
2	Capital Cost

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20
3 Demand Units - Year End																				
4 Demand Units - Mid-Year																				
5 Capital Expenditures																				
6 Revenue																				
7 Cash Expenses																				
8 Income Tax																				
9 Cash Flow - In(Out)																				
0 Cumulative Cash Flow - In(Out)																				
1 Discount Rate @ 8.12%																				
2 NPV By Year																				
3 Cumulative NPV																				