

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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 Filed: December 13, 2006
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RESPONSE TO TREVISO BAY'S OPPOSITION TO EMBARQ'S REQUEST FOR CONFIDENTIAL TREATMENT

Pursuant to Rule 25-22.006, Florida Administrative Code, Embarq Florida, Inc. ("Embarq") hereby files its Response to Treviso Bay's Opposition to Embarq's Request for Confidential Treatment and its Motion for an Expedited Hearing on Embarq's Petition for Waiver. In support thereof, Embarq states as follows:

1. On November 20, 2006, Embarq filed its petition for waiver of its carrier of last resort obligations in the Treviso Bay subdivision in Collier County, under section 364.025(6)(d), Florida Statutes. In accordance with the statute, Embarq served a copy of the petition on that same day on the developers of Treviso Bay at the addresses listed on the Division of Corporations website.

2. In its Petition and affidavits supporting the petition, Embarq set forth several facts and circumstances involving the Treviso Bay development that Embarq believes establish "good cause" for the Commission to grant Embarq a waiver of its carrier of last resort obligations, as envisioned by the statute. Embarq's Petition and the supporting affidavits include certain proprietary and confidential business information as that term is defined in section 364.183(1), Florida Statutes. In accordance with that statute and with Commission Rule 25-22.006, F.A.C., Embarq filed the information subject to a Request for Confidential Classification.

3. On December 4, 2006, Embarq was served with a response from Treviso Bay LLC objecting to Embarq's service of a redacted copy of the Petition on Treviso Bay and

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requesting copies of the confidential information.¹ Rule 25-22.006(7), F.A.C., sets forth the procedure for filing a petition to inspect and examine confidential materials. Treviso Bay's objections do not appear to be filed in contemplation of or in accordance with that rule. In addition, Treviso Bay does not attempt to argue in any fashion that the information for which Embarq has requested confidential classification does not meet the criteria for "proprietary confidential business information" set forth in section 364.183(1), F.S.

4. In accordance with standard Commission practice and procedure, as soon as Embarq received notice that Treviso Bay wished to receive copies of Embarq's confidential information, Embarq forwarded to Treviso Bay's counsel a standard "Protective Agreement" generally used in Commission proceedings to protect confidential information shared between the parties. The undersigned counsel and counsel for Treviso Bay have exchanged several e-mails regarding a protective agreement, but have not yet reached consensus on the terms. However, Embarq believes that agreement may be reached through further discussion with Treviso Bay's counsel.

5. As stated in Embarq's "Request for Confidential Classification" filed in accordance with Rule 25-22.006, F.A.C., the information for which Embarq seeks confidentiality includes information concerning the location and type of Embarq's facilities, information concerning Embarq's projected penetration rates for its voice services in a competitive environment and information concerning Embarq's costs and revenues for these services, or information from which this information could be derived.

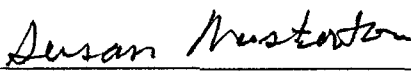
This information is data relating to Embarq's competitive interests, the disclosure of

¹ Specifically, Treviso Bay served its response electronically after 5 p.m. on December 1, 2006 and by federal express on December 4, 2006.

which would impair Embarq's competitive business (see, section 364.183(3)(e), Florida Statutes). This information relates to Embarq's security interests. (Section 364.183(3)(c), F.S.).

6. For the reasons set forth above, to the extent Treviso Bay's assertion that Embarq should be required to make the information public or, in the alternative, that Embarq's petition should be dismissed is construed as a petition to inspect or examine the confidential information under Rule 25-22.006, F.A.C., the Commission should deny Treviso Bay's request. Instead, the Commission should grant the relief requested in Embarq's Request for Confidential Classification. In addition, Treviso Bay should be instructed to execute an appropriate protective agreement if it wishes to receive copies of Embarq's proprietary confidential business information.

Respectfully submitted this 13th day of December 2006.


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