

Matilda Sanders

From: Rhonda Dulgar [rdulgar@yvlaw.net]
Sent: Wednesday, December 20, 2006 4:27 PM
To: Filings@psc.state.fl.us
Cc: Susan Masterton; Beth Salak; Patrick Wiggins; Rick Moses
Subject: Electronic Filing - Docket 060763-TL
Attachments: ResponseinOpposition.Dec20.doc

ORIGINAL

a. Person responsible for this electronic filing:

Robert Scheffel Wright
 Young van Assenderp, P.A.
 225 South Adams Street, Suite 200
 Tallahassee, FL 32301
 (850) 222-7206
swright@yvlaw.net

b. Docket No. 060763-TL

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

c. Document being filed on behalf of Treviso Bay Development, LLC.

d. There are a total of 4 pages.

e. The document attached for electronic filing is Treviso Bay Development, LLC's Response in Opposition to Embarq's Motion for Expedited Hearing.

(see attached file: ResponseinOpposition.Dec20.doc)

Thank you for your attention and assistance in this matter.

Rhonda Dulgar
 Secretary to Schef Wright
 Phone: 850-222-7206
 FAX: 850-561-6834

CMP _____
 COM _____
 CTR _____
 ECR _____
 GCL _____
 OPC _____
 RCA _____
 SCR _____
 SGA _____
 SEC 1
 OTH _____
 12/20/2006

DOCUMENT NUMBER-DATE
 11640 DEC 20 06
 FPSC-COMMISSION CLERK

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

| | |
|-----------------------------------|--------------------------|
| Petition for waiver of carrier) | |
| of last resort obligations for) | Docket No. 060763-TL |
| multitenant property in Collier) | |
| County known as Treviso Bay,) | Filed: December 20, 2006 |
| by Embarq Florida, Inc.) | |
| _____) | |

TREVISO BAY DEVELOPMENT, LLC'S RESPONSE IN OPPOSITION TO
EMBARQ'S MOTION FOR EXPEDITED HEARING

Treviso Bay Development, LLC ("Treviso Bay"), pursuant to Rule 28-106.204(1), Florida Administrative Code ("F.A.C."), subject to its Petition to Intervene filed on this date, and through its undersigned counsel, hereby files this brief response in opposition to Embarq Florida, Inc.'s ("Embarq") motion for expedited hearing filed on December 13, 2006 in the above-styled docket. In summary, the applicable statutory provisions already mandate expedited processing of Embarq's petition, and further expediting that already speedy process, as sought by Embarq, would severely prejudice Treviso Bay's ability to protect its interests in this docket.

This proceeding was initiated by Embarq's Petition for Waiver filed on November 20, 2006. That petition was subsequently amended on December 13, 2006. On the latter date, Embarq also moved for an expedited hearing on its Amended Petition for Waiver. Embarq has brought this action under Section 364.025(6)(d), Florida Statutes. In addition to setting forth the "good cause" provision that is at issue in this case,

DOCUMENT NUMBER-DATE

Section 364.025(6) (d) provides specifically that the Commission shall have 90 days to act on waiver petitions pursuant to that section. Embarq even goes so far as to try to persuade the Commission to issue a final agency action order within the 90-day period set forth in the statute.

The Commission has approved a Time Schedule (CASR) that would produce a Proposed Agency Action order on February 10, 2007, following a Commission vote at its January 23, 2007 agenda conference. Treviso Bay understands this schedule to then provide an opportunity for either party - Embarq or Treviso Bay - to protest the PAA Order, with hearing dates and other procedural milestones to be scheduled thereafter in an Order Establishing Procedure.

Expediting the hearing as requested by Embarq would severely prejudice Treviso Bay's ability to protect its interests. Treviso Bay only learned of Embarq's intent to file a petition for waiver of its COLR obligations when Embarq served Treviso Bay with the original petition that was filed on November 20. Moreover, Treviso Bay has not yet been able to serve discovery on Embarq's Amended Petition for Waiver, which was filed 6 days ago. Further, significant portions of the materials that Embarq submitted in support of its Amended Petition are redacted, and Embarq and Treviso Bay have not yet been able to agree on a confidentiality agreement for the exchange of confidential information through discovery. At a

minimum, Treviso Bay requires a reasonable time to conduct discovery and, if there is to be a hearing, to prepare its testimony and otherwise prepare its case. Accordingly, Treviso Bay would support the statutory interpretation that the Commission's issuance of a PAA Order within the 90-day period satisfies the statutory requirements, and Treviso Bay will work in good faith with Embarq and the Commission Staff to establish a reasonable - speedy in the legal sense, but not at breakneck pace - schedule for a hearing, if there is to be one, and final disposition of Embarq's Amended Petition for Waiver.

WHEREFORE, Treviso Bay Development, LLC respectfully requests that the Florida Public Service Commission DENY Embarq's motion for expedited hearing and that the Commission proceed with its Proposed Agency Action process on a reasonable - speedy, timely, and efficient - schedule.

Respectfully submitted this 20th day of December, 2006.

S/John T. LaVia, III for
Robert Scheffel Wright
Florida Bar No. 966721
Young van Assenderp, P.A.
225 South Adams Street, Suite 200
Tallahassee, Florida 32301
(850) 222-7206 Telephone
(850) 561-6834 Facsimile
swright@yvlaw.net

Attorneys for Treviso Bay
Development, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail and U.S. Mail on this 20th day of December, 2006, to the following:

Beth Salak
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
bsalak@psc.state.fl.us

Patrick K. Wiggins, Esquire
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
pwiggins@psc.state.fl.us

Rick Moses
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
rmoses@psc.state.fl.us

Susan S. Masterton, Esquire
Embarq
1313 Blair Stone Road
Tallahassee, Florida 32301
susan.masterton@embarq.com

John T. LaVia, III
Attorney