

Dorothy Menasco

From: Rhonda Dulgar [rdulgar@yvlaw.net]
Sent: Wednesday, January 24, 2007 5:05 PM
To: Filings@psc.state.fl.us
Subject: Fwd: Electronic Filing - Docket 060763-TL
Attachments: Treviso Prehearing Statement.Jan24.doc

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>>> Rhonda Dulgar 01/24/07 4:08 PM >>>

a. Person responsible for this electronic filing:

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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 6 pages.

e. The document attached for electronic filing is Treviso Bay Development, LLC's Prehearing Statement.

(see attached file: Treviso Prehearing Statement.Jan24.doc)

Thank you for your attention and assistance in this matter.

Rhonda Dulgar
Secretary to Schef Wright
Phone: 850-222-7206
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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: January 24, 2007
by Embarq Florida, Inc.)	
_____)	

TREVISO BAY DEVELOPMENT, LLC'S PREHEARING STATEMENT

Treviso Bay Development, LLC ("Treviso Bay"), pursuant to the procedural orders and case schedule in this docket, and by and through its undersigned counsel, hereby files its prehearing statement.

A. APPEARANCES:

ROBERT SCHEFFEL WRIGHT, Young van Assenderp, P.A., 225 South Adams Street, Suite 200, Tallahassee, Florida 32301, and

JOHN T. LAVIA, III, Young van Assenderp, P.A., 225 South Adams Street, Suite 200, Tallahassee, Florida 32301.

On Behalf of Treviso Bay Development, LLC.

B. WITNESSES:

Don J. Wood All Issues

C. EXHIBITS:

Exhibit DJW-1	Vita of Don J. Wood
Exhibit DJW-2	Sprint/Embarq letters to Treviso Bay committing to provide telephone service to Treviso Bay and subdivisions
Exhibit DJW-3	Embarq Press Release
Exhibit DJW-4	*CONFIDENTIAL* Embarq financial analyses with alternative assumptions

DOCUMENT NUMBER-DATE

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Treviso Bay reserves its rights to introduce other exhibits through cross-examination.

D. STATEMENT OF BASIC POSITION:

Embarq is an Incumbent Local Exchange Carrier ("ILEC") with carrier-of-last-resort ("COLR") obligations. Treviso Bay is a developer that has requested voice communications service from Embarq for its own needs and to serve the needs of the residents of the Treviso Bay development. Treviso Bay and the residents of its development expect to receive, and are entitled to receive, voice communications service from Embarq. Embarq's efforts to escape its COLR obligations and responsibilities because it would allegedly be "uneconomic" for Embarq to do so are misplaced. If Embarq does not provide the requested service, then the residents of Treviso Bay will not have access to voice communications service by a provider who is required by law to provide the requested service. For these and other reasons, the Commission should deny Embarq's petition to escape its COLR obligations and responsibilities.

E. STATEMENT OF ISSUES AND POSITIONS

Issue 1: Will voice service from other providers be available to customers of Treviso Bay? If so, when and under what conditions?

Treviso Bay Position: At this time, Treviso Bay believes that wireless voice service is available to the Treviso Bay area.

Issue 2: Has Treviso Bay entered into any agreements, or done anything else, that would restrict or limit Embarq's ability to provide the requested communications service?

Treviso Bay Position: No.

Issue 3: Do Treviso Bay's existing agreements make it uneconomic for Embarq to provide the requested communications service to the customers of Treviso Bay?

Treviso Bay Position: No. Although Treviso Bay believes that it is irrelevant whether it is economic or uneconomic for an ILEC to provide basic telecommunications service pursuant to COLR obligations, Treviso Bay believes that under many reasonable and plausible scenarios, it is highly likely that it will be economic for Embarq to provide the requested basic telecommunications service to Treviso Bay.

Issue 4: Has Embarq, formerly known as Sprint-Florida, Incorporated, taken any action that would preclude Embarq from obtaining a waiver of its carrier of last resort obligation in Treviso Bay?

Treviso Bay Position: Yes. Embarq has specifically stated in writing its willingness to provide service to Treviso Bay and to specific subdivisions within the Treviso Bay development pursuant to its tariffs, and accordingly, Embarq cannot now renege on those commitments. Moreover, Embarq has taken advantage of its ILEC and carrier-of-last-resort status to seek and obtain the Commission's approval for Embarq to recover storm restoration costs, and accordingly, Embarq cannot now abdicate its COLR responsibilities.

Issue 4A: Is Embarq obligated to provide service to Treviso Bay by its tariff or by holding itself out as willing and able to provide service?

Treviso Bay Position: Yes.

Issue 5: Has Embarq demonstrated "good cause" under section 364.025(6)(d) for a waiver of its carrier-of-last-resort obligation in Treviso Bay?

Treviso Bay Position: No.

F. STIPULATED ISSUES

There are no stipulated issues at this time.

G. PENDING MOTIONS

Treviso Bay's Petition to Intervene was filed on December 19, 2006. Embarq did not oppose the Petition. However, it has not been granted by an order at the time of filing this prehearing statement.

H. PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY

Treviso Bay filed a Request for Confidential Treatment of certain of its responses to the Commission Staff's data requests on January 3, 2007. No response opposing Treviso Bay's request has been filed. However, no action has been taken on the request as of the filing of this prehearing statement.

I. NOTICE OF INTENT TO USE CONFIDENTIAL INFORMATION

As of the filing of this Prehearing Statement, Treviso Bay intends to use the following confidential document at hearing:

Exhibit DJW-3 to the testimony of Don J. Wood, which exhibit includes a replication of Embarq financial analyses with alternative assumptions.

Treviso Bay may also use certain confidential documents produced by Embarq in its cross-examination of Embarq's witnesses. Treviso Bay will fully comply with the requirements of the Commission's rules and procedural orders relating to the use of confidential documents at hearing.

J. OBJECTIONS TO QUALIFICATIONS OF WITNESSES

As of the time of filing its prehearing statement, Treviso Bay does not expect to challenge the qualifications of any witness.

K. REQUIREMENTS OF THE ORDERS ESTABLISHING PROCEDURE

Treviso Bay can comply with all requirements of the orders establishing procedure.

Respectfully submitted this 24th day of January, 2007.

S/Robert Scheffel Wright
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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 24th day of January, 2007, to the following:

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