FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

March 13, 2007

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.

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

Recommendation: Yes. Voice service from other providers using Voice over Internet Protocol technology and wireless cellular technology will be available on an individual customer basis at retail prices to the residents living within the Treviso Bay development at the time of each resident's occupancy.

APPROVED

COMMISSIONERS ASSIGNED: Edgar, Carter, McMurrian

COMMISSIONERS' SIGNATURES

MAJORITY	DISSENTING
Katrina J. McMurrian (signature)	

REMARKS/DISSENTING COMMENTS:

PSC/CCA033-C (Rev 12/01)

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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?
Recommendation: No. Treviso Bay has not entered into any agreements, or taken any action, that restricts or limits Embarq's ability to provide basic local voice telecommunications service to the residents at the Treviso Bay development.

APPROVED

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?
Recommendation: No. The negative net present value (NPV) analysis at the foundation of Embarq's case relies on an assumption regarding market penetration that lacks supporting evidence. In addition, the analysis uses per-household revenue calculations based on unweighted averages for customers in the Naples market. These assumptions, critical to Embarq's conclusion on this issue, are easily manipulated to produce a positive NPV result using evidence in the record. The fragile assumptions underlying the negative NPV analysis yield conclusions that fail to make a substantive case that entry into Treviso Bay will be inherently uneconomic. For these reasons, staff does not believe Embarq has met its burden of proof on this issue.

APPROVED

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?
Recommendation: No. The actions by Embarq should not preclude Embarq from seeking and obtaining a waiver under the requirements of Section 364.025~~(4)~~(d), Florida Statutes.

(b)

APPROVED   with noted correction.

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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?
Recommendation: Embarq is required to provide service in accordance with its tariff and applicable law, unless the conditions set forth in either Section 364.025~~(4)~~(b) or (d), Florida Statutes, have been met.

(b)

APPROVED   *with noted correction.*

Issue 5: Has Embarq demonstrated "good cause" under Section 364.025(6)(d), Florida Statutes, for a waiver of its carrier-of-last-resort obligation in Treviso Bay?
Recommendation: No. Embarq has not demonstrated "good cause" under Section 364.025(6)(d), Florida Statutes for a waiver of its carrier-of-last-resort obligation in Treviso Bay, thus staff recommends that the Commission deny Embarq's petition for a waiver of its carrier-of-last-resort obligation in Treviso Bay.

APPROVED

Issue 6: Should this docket be closed?
Recommendation: Yes. This docket should be closed upon issuance of the final order.

APPROVED