

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 060763-TL

In the Matter of:

PETITION FOR WAIVER OF CARRIER OF LAST
RESORT OBLIGATIONS FOR MULTITENANT
PROPERTY IN COLLIER COUNTY KNOWN AS
TREVISO BAY, BY EMBARQ FLORIDA, INC.



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PROCEEDINGS: AGENDA CONFERENCE
 ITEM NO. 18

BEFORE: CHAIRMAN LISA POLAK EDGAR
 COMMISSIONER MATTHEW M. CARTER, II
 COMMISSIONER KATRINA J. MCMURRIAN

DATE: Tuesday, March 13, 2007

PLACE: Betty Easley Conference Center
 Room 148
 4075 Esplanade Way
 Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
 Official FPSC Reporter
 (850) 413-6732

1 PARTICIPATING:

2 PAT WIGGINS, ESQUIRE, DALE BUYS, DAVID DOWDS and
3 KEVIN BLOOM, representing the Florida Public Service Commission
4 Staff.

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P R O C E E D I N G S

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2 CHAIRMAN EDGAR: Okay. We are on Item 18. This is
3 post-hearing, so it's just discussion for Commissioners and
4 staff.

5 And who would like to start us off?

6 MR. BUYS: Commissioners, Item 18 is staff's
7 post-hearing recommendation in Docket Number 060763, regarding
8 Embarq's petition for relief of its COLR obligation for
9 telecommunications service to the Treviso Bay development
10 located in Naples. The discussion, as you said, is limited to
11 staff and Commissioners.

12 Madam Chairman, there are seven issues that require a
13 vote, I believe. The first five issues are subjugates of Issue
14 6, which ultimately asks if Embarq has shown good cause under
15 Section 364.025(6)(d), Florida Statutes, in which to be
16 relieved of its COLR obligations. If you like, we can take up
17 each issue in order and conclude with Issue 6, followed by
18 Issue 7. It's at your discretion.

19 CHAIRMAN EDGAR: Commissioners?

20 COMMISSIONER CARTER: One at a time.

21 CHAIRMAN EDGAR: Okay. One at a time.

22 MR. BUYS: Commissioners, Issue 1 addresses the
23 question whether voice service from other providers will be
24 available to the residents of Treviso Bay; and if so, when and
25 under what conditions. Staff's recommendation is yes, voice

1 service from Comcast will be a Voice over Internet Protocol and
2 various providers will be available on an individual customer
3 basis at the time each resident moves in.

4 CHAIRMAN EDGAR: Questions, discussion? Let's go
5 ahead and -- questions? No. Okay. Let's go ahead and move
6 through each of them, and then we will have discussion when we
7 get to Issue 5.

8 MR. BUYS: Okay. Issue 2 addresses whether Treviso
9 Bay entered into any agreements or done anything else that will
10 restrict or limit Embarq's ability to provide voice service in
11 the development. And the answer, again, staff's recommendation
12 in this case is no, Treviso Bay has not entered into any
13 agreements or taken any action that restricts or limits
14 Embarq's ability to provide basic local voice
15 telecommunications service to the residents at the Treviso Bay
16 development.

17 MR. BLOOM: Issue 3 has to do with the net present
18 value analysis provided by Embarq. Staff's position is that,
19 in summary, that the evidence that was presented by Embarq
20 doesn't really overcome the hurdles that I think they have set
21 for themselves. In other words, the assumptions that they rely
22 on are too easily reversed.

23 MR. WIGGINS: Issue 4 is whether Embarq has taken any
24 action that would preclude it from obtaining the waiver of the
25 carrier of last resort from Treviso Bay. This is essentially a

1 legal or equitable issue that because Embarq held itself out to
2 serve under its tariff and existing rules, and that was
3 accepted by Treviso Bay, that that precluded Embarq from taking
4 advantage of this waiver.

5 And the staff recommendation is although we are not
6 unaware of the importance of those kind of reliances that
7 Treviso Bay is talking about, and we are not necessarily
8 ecstatic about the communication path, that, in fact, the
9 Legislature created this exemption for -- created an option for
10 the COLR to trigger this exemption, and we think that
11 legislative intent overrides the problems Treviso Bay has. In
12 other words, no. Sorry.

13 CHAIRMAN EDGAR: Commissioners, questions or
14 discussion?

15 Commissioner McMurrrian.

16 COMMISSIONER McMURRIAN: Thank you, Chairman.

17 First, with respect to Issue 2, I had a question
18 about the homeowner fees, and I guess the correct way to frame
19 the question is to say does the record have any evidence that
20 homeowner's fees would include voice if Comcast DVS product
21 were ultimately chosen by the customer?

22 MR. BUYS: Repeat the question. please. I don't know
23 if I quite understand it.

24 COMMISSIONER McMURRIAN: Does the record address
25 whether, in the case where a customer would choose Comcast DVS

1 product, which is the VoIP product that Comcast provides, as I
2 understand it, does the record address whether the homeowner's
3 fees would include that Comcast DVS service if that service
4 were chosen? Because I realize that in this case the
5 homeowner's fees include the broadband and the video product,
6 and they really don't have a choice as I understand it, that is
7 just part of their homeowner's fees.

8 MR. BUYS: The homeowner's fees do not include the
9 Comcast DVS product. They would have to purchase that on their
10 own by contacting Comcast and, thus, subscribing to that
11 service separately, and I believe they also have to pay for
12 that service separately.

13 COMMISSIONER McMURRIAN: And if customers chose that
14 service, it is not somehow added to their homeowner's fees.

15 MR. BUYS: That's correct, that's what the record
16 showed.

17 COMMISSIONER McMURRIAN: Okay. I had some questions
18 about -- Chairman, I'm sorry -- about the security systems, and
19 I think I mentioned that a little bit earlier. Is that in the
20 same -- that is also in Issue 2. And I went back and looked at
21 Exhibit 5, and I know you all remember, that was the security
22 services arrangement or agreement, at least a blank one. And
23 there was a provision in the middle that talked about --
24 basically, it seemed to suggest that the security system
25 wouldn't guarantee, the way the services worked, if you were

1 using -- at least it has been alleged a VoIP product, but that
2 is the sense of my question or what I'm trying to get at.

3 In this sentence, and it is under A, wireless
4 communication that says, the subscriber acknowledges that
5 wireless communications, whether through cellular, radio, or
6 VoIP technology, may be unpredictable and that Devcon may be
7 unaware of the occurrence of any interruption.

8 My question is whether that really speaks to VoIP. I
9 know that it specifically says VoIP in there, but, to me, the
10 way the sentence is arranged, and it says, the subscriber
11 acknowledges that wireless, whether through cellular, radio, or
12 VoIP, may be unpredictable. And my question is it seemed to me
13 in reading staff's recommendation that we were sort of going
14 beyond strictly what that exhibit said and going into VoIP as
15 sort of a stand-alone, that we're saying that VoIP doesn't
16 measure up itself. And to me it was more about wireless, and
17 even the title on that provision was wireless communication.
18 Can you all help me with your thinking on that?

19 MR. BUYS: That was brought up in the hearing. I
20 believe both witness -- Embarq Witness DeChellis discussed
21 that, and he had indicated that once he read the rider, if he
22 was a prudent customer, that he may -- he may -- that may cause
23 him some concern regarding the functionality of an alarm system
24 should it be installed in the homes where the security system
25 monitoring company had advised that we are not going to be

1 liable for responding if you use these certain types of
2 connections to our monitoring station. And they recommended
3 that you use a wireline service as a backup. And that was only
4 the -- only in reference to whether or not the customer would
5 sign the waiver or not. Did I answer your question?

6 COMMISSIONER McMURRIAN: Well, I guess that I am
7 going a step further. And I realize that Witness DeChellis had
8 made that statement in response to a cross question. I guess
9 my concern is that the statements in this agreement that we
10 seem to be relying on are aimed at the concerns that wireless
11 may not be doing the trick, not so much VoIP itself, maybe
12 wireless through the use of VoIP somehow. And believe me, I'm
13 not up to speed on exactly how that technology works, but I
14 guess what I'm concerned about is I am hanging my hat on
15 something that I'm not sure that is what it says.

16 To me, again, the paragraph says wireless
17 communication, and it talks about wireless whether through
18 cellular, radio, or VoIP. I don't see in there, and maybe you
19 can point me to it if I am missing it, that it is saying that
20 if you have an alarm system that somehow uses -- well, I guess
21 it would be the call number -- the call back number, for
22 instance, would be provided over a VoIP phone, that that
23 service in itself is lacking. I just don't see that it says
24 that, and I think that in staff's recommendation around Pages
25 14 and 15, I think that -- I think that we are sort of relying

1 on that.

2 MR. BUYS: I don't think we are relying, in fact, on
3 the monitoring agreement itself. I think what our point is we
4 are trying to bring out is the fact that the customer having
5 already -- will be paying for their monitoring agreement
6 through their homeowner's dues. And a prudent customer may
7 review that contract, or that rider of that contract, and
8 choose to have a wireline in addition to the wireless service,
9 so that they are assured that they would have a response from
10 the monitoring company. And that was just one of the -- one of
11 the small parts of the analysis that we looked at that might
12 suggest that more customers will take Embarq's service than
13 which they first predict.

14 MR. WIGGINS: May I? That evidence supports the
15 proposition that a prudent customer may choose to get an
16 additional wireline. That's the proposition that supports it.
17 It does not support the proposition that VoIP is necessarily
18 frail or faulty or unreliable. Now, you may infer that, but
19 the direct proposition it is supporting is that that language
20 might drive demand for wireline.

21 COMMISSIONER McMURRIAN: I appreciate that
22 clarification. I mean, I realize it's going to -- the validity
23 of the numbers that Embarq is providing here.

24 MR. WIGGINS: A very important point.

25 COMMISSIONER McMURRIAN: And whether or not we have

1 to look into their investment number, and we have to look into
2 what the projections are for how they would recoup that
3 investment. And I realize that staff's recommendation is
4 saying they just haven't met the burden to prove to us that
5 those assumptions are valid which get them to the confidential
6 take rate. I understand that. But to me, when I read it, I
7 guess it concerned me, and, frankly, it concerned me during the
8 hearing that we were in some way making the argument that VoIP
9 wasn't as good as wireline, and I agree that it is. But
10 because of this issue and this exhibit -- and I really -- in my
11 personal opinion this exhibit does not support that. And I
12 believe during the hearing that that was the point that was
13 trying to be made through use of that exhibit. Again,
14 that's -- but I appreciate the clarification.

15 I did have other questions, but I have to sort
16 through here. Under Issue 3, and I think this is a follow-up
17 to some of the other discussion. This is where we are really
18 talking about whether it is uneconomic for Embarq, and staff
19 has done an analysis, and they feel like the assumptions fall
20 flat or at least fall short. Can you elaborate somewhat on
21 that for me, you know, which of the numbers you felt like were
22 valid, which assumptions fell short? I realize there is the
23 1.3 million investment, and there is also the assumptions that
24 get you to that confidential take rate. Can you explain for me
25 what was lacking?

1 MR. DOWDS: The economic analysis is based upon a
2 20-year cash flow analysis. So, the assumption is that Embargo
3 will incur certain investments which typically occur in the
4 early years, but the revenue streams to recover those do not
5 match until at least later years. It's the nature of
6 long-lived utility plant. I believe the figure of the total
7 investment over the 20-year period is approximately 1.3 million
8 of which the lion's share is incurred in the first two years,
9 which is not a surprise.

10 There are two key assumptions that drive any analysis
11 like this. One is the assumed demand and when it occurs, and
12 the other key driver is the assumed, what I will call, revenue
13 per household. Putting aside what sources. Essentially, what
14 they are arguing is that the revenue sources available to them
15 are insufficient to generate NPV positive cash flows over the
16 20-year period.

17 When we looked at the analysis, we did some
18 sensitivity analyses to determine varying certain of their
19 assumptions but holding everything else constant, how easy is
20 it to reverse the analysis? They are assuming a very low
21 penetration rate for their bundle of -- and I'm am using that
22 term loosely, I mean, bundled their voice service offerings --
23 a very low penetration rate significantly below the data that
24 they provided to staff in response to our discovery as to their
25 penetration rates in complexes where they were offering --

1 where they were in competition with Comcast voice, I believe,
2 or VoIP offering. It renders the evidentiary basis of the take
3 rate iffy, at best, in our opinion.

4 Second, the other key driver is how much money are
5 they going to get per household served? And the
6 characteristics that they used to derive their input were based
7 upon a sample of residential bills in the overall, in the
8 Naples area October -- November? November. Thank you.
9 November of last year.

10 The problem here is, as indicated on the top of Page
11 21, these are not average consumers. These are multi-million
12 dollar homes. It is arguably disingenuous to think that
13 subscribers that reside in these homes would have low end,
14 plain vanilla voice service. But implicitly that is what is
15 being assumed arguably in the Embarq analysis.

16 As I indicated earlier, we did certain sensitivity
17 analyses varying the penetration rate, varying the assumed
18 average revenue per household. For instance, they are
19 assuming, I can't give you the exact numbers, but that a
20 portion of the residents of Treviso would buy what they call
21 ala carte services. They buy a 1-FR and then they would buy
22 selectively certain little piece parts. An example might be
23 call forwarding, but they are not -- they are assuming that a
24 certain percentage of the Treviso residents would order call
25 forwarding. On the other hand, they also assume that a portion

1 of the residents will buy a bundled offering plus toll and
2 access.

3 The revenue amount from the first is significantly
4 less than the revenue amount from the latter. And in a
5 computer-weighted average -- and I can't give you the ratio,
6 but suffice, they end up with a number which we think is
7 defensible based upon the billing records, the summarized
8 billing records they provided us. But we question whether it
9 would be representative of the demographics of the consumers in
10 this community.

11 And we subsequently, and I believe Mr. Bloom -- as is
12 on Page 20, we sent out some requests for admissions to Embarq
13 wherein we asked them to affirm or deny that if we change
14 certain assumptions, holding everything constant, your NPV
15 analysis turns positive. And they said -- they denied them,
16 but acknowledged that the math worked. Of course, they dispute
17 the reasonableness of the changes we made. But the changes
18 were fairly minor in nature, which in our mind casts doubt on
19 the propriety of the analysis.

20 COMMISSIONER McMURRIAN: Along those lines, I noticed
21 in the staff rec that the Confidential Exhibits 4A and 10A that
22 were submitted by Witness Wood were discussed. And, basically,
23 it was more data to support Treviso Bay's position on this, but
24 that they were looking at other developments in which Embarq
25 provided service with competition.

1 Did your result rely on those exhibits or was it more
2 on your own analysis of the Embarq numbers that were provided?

3 MR. DOWDS: It was primarily on our analysis. We did
4 several sets of discovery on all the discreet inputs to their
5 analysis trying to elicit support for why you are using the
6 numbers that you are using, what's the basis, what's the detail
7 underlying your investment inputs, which we basically had very
8 few problems with that. It was just the key drivers were too
9 sensitive to variations to make an unequivocal finding of case
10 made. I guess that is probably the best way of putting it.

11 COMMISSIONER McMURRIAN: Just a couple of other --
12 this may be a nit or it may be important, I don't know. In
13 Issue 4 in the recommendation statement it refers to Section
14 364.025(4)(d), and I didn't find a (4)(d), so I wanted to make
15 sure that we were on the same page and maybe I'm just mistaken.
16 But I did want to ask the question because I think it, perhaps,
17 is important. Should that be (6)(d)? Okay. And that's the
18 provision that refers to the good cause?

19 MR. DOWDS: Yes.

20 COMMISSIONER McMURRIAN: Okay. And I had a similar
21 question with respect to Issue 4A, where it refers to (4)(b) or
22 (d). And that is the recommendation statement, again, under 4A
23 on Page 24. And I'm really not trying to be annoying, I just
24 think it needs to be right in the record.

25 CHAIRMAN EDGAR: Was that a question?

1 COMMISSIONER McMURRIAN: It was a question.

2 CHAIRMAN EDGAR: Okay.

3 COMMISSIONER McMURRIAN: I assume they are trying to
4 clarify it.

5 MR. WIGGINS: (Inaudible. Microphone off.)

6 CHAIRMAN EDGAR: Excuse me?

7 MR. WIGGINS: (6)(d).

8 CHAIRMAN EDGAR: (6)(d). Okay. In 4 and in 4A.

9 COMMISSIONER McMURRIAN: In 4A.

10 CHAIRMAN EDGAR: In the recommendation for Issue 4
11 it's (6)(d) instead of Subsection (4)(d). But then in the
12 recommendation for Issue 4A where it says Subsection (4)(b) or
13 (d), it would be Subsection (6)(b) or (d), correct?

14 MR. WIGGINS: That's correct.

15 CHAIRMAN EDGAR: Okay.

16 COMMISSIONER McMURRIAN: Thank you. I'm sorry.

17 CHAIRMAN EDGAR: That's all right.

18 COMMISSIONER McMURRIAN: I thought we were checking
19 to see the answer.

20 CHAIRMAN EDGAR: I was.

21 COMMISSIONER McMURRIAN: I believe that's all the
22 questions I have. I have similar concerns here that I had in
23 the prior recommendation about good cause and how that is
24 established. But with that said, I guess those are all of my
25 questions.

1 CHAIRMAN EDGAR: Commissioner Carter, questions or
2 discussion?

3 COMMISSIONER CARTER: Discussion, Madam Chairman.
4 Just briefly. This was far more extensive and different than
5 the preceding case in that you have a lot more to go on. You
6 don't have the perspective in terms of the perceived lack of
7 competition.

8 The other thing is that staff had far more economic
9 information to make their analysis on. I was going to keep
10 quiet because that exhibit that Commissioner McMurrian
11 mentioned, we had extensive discussions on it. I could
12 probably see it in my sleep. They mentioned one witness that
13 discussed it, but I think we asked everybody that, particularly
14 as it relates to whether or not a person -- a prudent person
15 buying a house of this magnitude cost value with that proviso
16 language on that certificate would give you cause in terms of
17 whether or not in the incidents of service for emergency that
18 you would want to have some less reliable service. I think we
19 went on ad nauseam about that, that issue.

20 And you just mentioned one of the witnesses in here,
21 but I had some questions about it, too. And we asked different
22 questions about what would a prudent person do given the
23 circumstances where the security company would say, you know,
24 you can get whatever mechanism you want, but if you want to
25 ensure safety that we will guarantee, you would have to have

1 you a line, you know, a wireline into your home.

2 The other thing is that in the context of the
3 analysis that staff has done, by changing -- taking the
4 information given to them by Embarq and just changing a few of
5 the variables to test those, the numbers didn't hold up. And I
6 think this is far more comprehensive. And I think it is a good
7 recommendation based upon the facts that were presented here in
8 this case.

9 And I asked the question, not necessarily rhetorical
10 before in the other case, but I will ask again about, you know,
11 is it going to be a situation where all of the ILECs are going
12 to come to the Commission saying -- I'm using my -- this is
13 my word -- these are my words. These are my words. Do we even
14 need a COLR? That is just some FYI, just for whatever it --
15 you know, you can ascribe any or no value to it. It wouldn't
16 hurt my feelings. But it seems to say that if -- certainly if
17 we are going to waive or ignore a requirement in law, we
18 certainly should have something more to go on.

19 And I think this is a fairly comprehensive
20 perspective, Madam Chairman, and I'm really impressed with
21 the -- you know, we went on that exhibit and those witnesses,
22 and I think it was a very extensive case, and I think the staff
23 has done a good job in this recommendation. Thank you.

24 CHAIRMAN EDGAR: Thank you. And, of course, in 2009
25 or beyond we may find out, but not yet.

1 Commission McMurrin, do you have further comments or
2 discussion?

3 COMMISSIONER McMURRIAN: I guess I have one more
4 question for staff. And I had reviewed Embarq's brief, and
5 they laid out, basically, four factors that they felt that they
6 had demonstrated that they met -- at least assuming that is
7 their criteria for good cause, that they felt like they had
8 laid that out in the case. And the fourth one was their
9 construction of facilities to provide duplicate voice service
10 will be unnecessary and uneconomic. And I think what staff is
11 saying here in this case, you don't believe Embarq has met the
12 burden to show that it is uneconomic because of the
13 assumptions.

14 Are you saying that even testing those assumptions
15 and getting a different outcome that you still felt like that
16 penetration rate, I guess, that would result from that would
17 still not measure up to par in order to satisfy the fourth
18 criteria in there, I assume you would call it, that it is
19 uneconomic.

20 MR. DOWDS: Candidly, I kind of struggled with that
21 fourth criterion, because it seems to be more a position
22 statement than a criterion. By definition we have
23 facilities-based competition in Florida for the provision of
24 telecommunications service. If that isn't duplicate
25 facilities, I don't know what is. So I didn't really see -- in

1 all candor, I didn't really see the relevance.

2 In my mind, the key points that Embarq was making is
3 that due to the bulk services agreement, that they were
4 essentially precluded from offering certain services and, thus,
5 their potential revenue streams, which is what I focused on,
6 not the services, per se, were lower than they would otherwise
7 be. So the question is could they generate -- on an average
8 household basis, is there a likelihood that they could generate
9 sufficient revenue streams, even assuming something close to
10 the penetration rate that they were assuming where the analysis
11 was a break even? And the runs we did with minor modifications
12 said the answer was yes.

13 COMMISSIONER McMURRIAN: Yes, that --

14 MR. DOWDS: Yes, that it would turn the analysis to
15 an NPV positive analysis, just making minor alterations to
16 assumed revenue per household and the penetration rate.

17 COMMISSIONER McMURRIAN: Thank you. And I should
18 just add that I wasn't suggesting that Embarq's four ideas
19 there were criterion. I think that Embarq, of course, is
20 saying that we think that in this case these four, and it is
21 essentially the bulk agreement for provision of data and video.
22 The second one is that the provider, the cable provider would
23 be able to provide voice or voice replacement service. The
24 third was that voice replacement service will be available to
25 residents from an alternative provider. I'm assuming and

1 believe I remember reading evidence that suggested there were
2 cellular providers. And then I think their fourth would be
3 that they had to demonstrate that construction of facilities to
4 provide that voice service would be uneconomic.

5 And the reason I asked the question is because I
6 think that -- I think that the first three are certainly laid
7 out in the evidence in this case. The fourth one, I think, is
8 where I have more concern because of the analysis you did on
9 their penetration rate that was proposed in the case. And I'm
10 just trying to get it straight in my mind as I try to get
11 straight what I think should be the criteria for determining
12 good cause. So that's it. That's all.

13 CHAIRMAN EDGAR: Further discussion?

14 Commissioner Carter.

15 COMMISSIONER CARTER: I'll move staff's
16 recommendation on Item 18.

17 CHAIRMAN EDGAR: Commissioner McMurrin?

18 COMMISSIONER McMURRIAN: Is there any chance we could
19 go issue-by-issue just for my -- just to remember what we are
20 voting on in each one?

21 CHAIRMAN EDGAR: We can go issue-by-issue.

22 Commissioner Carter, can you revise your motion to
23 address only Issue 1?

24 COMMISSIONER CARTER: Madam Chair, I would move --
25 give me a moment to get the pages together here.

1 CHAIRMAN EDGAR: Sure.

2 COMMISSIONER CARTER: On Issue 1, I will move staff's
3 recommendation.

4 COMMISSIONER McMURRIAN: Second.

5 CHAIRMAN EDGAR: All in favor say aye.

6 (Unanimous affirmative vote.)

7 CHAIRMAN EDGAR: Show it adopted.

8 Issue 2.

9 COMMISSIONER CARTER: On Issue 2, Madam Chairman, I
10 will move staff's recommendation.

11 COMMISSIONER McMURRIAN: I need a little time to
12 review.

13 CHAIRMAN EDGAR: I tell you what, it is 12:00
14 o'clock. Let's take a lunch break. Does that work? Does that
15 work? I'm hungry.

16 Okay. We will come back at -- oops, excuse me.
17 Commissioners, does 2:00 o'clock work for each of you? Does
18 2:00 o'clock work for you?

19 Okay. We are on lunch break. We will return and
20 take up our business at 2:00 o'clock.

21 (Lunch recess.)

22 CHAIRMAN EDGAR: Welcome back. We will go back on
23 the record after our lunch break. When we went to lunch we
24 were on Item 18. We had just voted on Issue 1 and we were
25 going to take up Issue 2. And, Commissioner McMurrian, I think

1 you had a question.

2 COMMISSIONER McMURRIAN: I do. Thank you, Chairman.

3 With respect to Issue 2, and this is for staff, my
4 difficulty was before we left for the break, actually, when I
5 read this question, has Treviso Bay entered into any agreements
6 or done anything else that would restrict or limit Embarq's
7 ability to provide the requested communications service. When
8 we use the term -- and maybe this is just how the issue was
9 framed and perhaps in the future it could be framed better,
10 but, when we say that would restrict or limit Embarq's ability
11 to provide the requested service, do we mean physically or
12 economically?

13 MR. BUYS: We interpreted Issue 2 to lean more
14 towards the physical parameters in this case because the
15 economic parameter was apparently covered in Issue 3.

16 COMMISSIONER McMURRIAN: Okay. Good. That was the
17 answer I was looking for, because I think that possibly we got
18 a different answer depending on if it is one or the other or
19 even both. And I had one other clarification question that I
20 am not really sure this goes to an issue, but I think this is
21 the last of my questions, which everyone is happy to hear.

22 With respect to the homeowners fees, and I don't
23 remember if it is in the record exactly how much those are for
24 the video and data service, if a customer also chose VoIP from
25 Comcast, or whoever the VoIP provider would be, would they pay

1 for the voice service as if it were a standalone VoIP service,
2 or would they pay for it as if it were part of a bundle and it
3 would be somewhat, I guess, in a sense, discounted? Like, for
4 instance, if it were \$55 for stand-alone voice and you didn't
5 have the broadband and the video, is it 30 because you also
6 have the broadband and the video? And I'm just throwing
7 numbers out. I don't remember what the prices were in the
8 record or if that is in the record.

9 MR. BUYS: From my recollection, the record indicated
10 that the homeowners would pay for the basic video services from
11 Comcast and also the broadband. And if they wanted anything in
12 addition to that, whether it be video or voice, they would have
13 to contact Comcast and pay for that in addition to what was
14 paid for on the homeowner's fees.

15 COMMISSIONER McMURRIAN: Okay. One more. So would
16 it be -- I think the price of that VoIP service depends or at
17 least in some situations it seems like it probably depends on
18 whether or not you have those other two, the broadband and the
19 video services. So there might be, and maybe I'm even mixing
20 records somehow, but it seems like I recall that stand-alone
21 VoIP, if you were only getting VoIP, for instance, might be
22 higher than if you got the VoIP in addition to the other two.
23 So I guess what I'm trying to figure out, did we have evidence
24 in this record that suggested whether it was somewhere closer
25 to the true stand-alone price if you got the VoIP product only

1 or if you got the consideration because you had a bundle?

2 MR. BUYS: No, there is nothing in the record
3 regarding the bundles; however, there was something in the
4 Nocatee. I think that is where you might have seen it.

5 COMMISSIONER McMURRIAN: Thanks for that
6 clarification. That's all.

7 CHAIRMAN EDGAR: Commissioner Carter, any questions?

8 COMMISSIONER CARTER: If Commissioner McMurrian
9 doesn't have any further questions, I will renew my motion to
10 accept staff on Issue 2.

11 COMMISSIONER McMURRIAN: I can second with the
12 understanding that staff interprets that as physically
13 restricting or limiting, so I can second.

14 CHAIRMAN EDGAR: Okay. All in favor of the motion
15 say aye.

16 (Unanimous affirmative vote.)

17 CHAIRMAN EDGAR: Opposed? Show it adopted.

18 We are on Issue 3.

19 COMMISSIONER CARTER: Issue 3, Madam Chairman, to get
20 us in a position for discussion, I would move staff
21 recommendation on Issue 3.

22 CHAIRMAN EDGAR: Thank you. Commissioner McMurrian,
23 can you second or do you have questions?

24 COMMISSIONER McMURRIAN: Second.

25 CHAIRMAN EDGAR: All in favor of the motion on Issue

1 3 say aye.

2 (Unanimous affirmative vote.)

3 CHAIRMAN EDGAR: Opposed? Show Issue 3 adopted.

4 Issue 4.

5 COMMISSIONER CARTER: Madam Chairman, on Issue 4, I
6 would move the staff recommendation on Issue 4 with the
7 corrections. I think Commissioner McMurrrian recognized
8 364.025 should be (6)(d), and I think it is in that one as well
9 as in Issue 4A. So that would be my motion.

10 CHAIRMAN EDGAR: Okay. I have a motion in favor of
11 the staff recommendation on Issue 4 and Issue 4A?

12 COMMISSIONER CARTER: Yes, ma'am.

13 CHAIRMAN EDGAR: With the correction to the statutory
14 cite.

15 Commissioner McMurrrian.

16 COMMISSIONER McMURRIAN: Second.

17 CHAIRMAN EDGAR: All in favor say aye.

18 (Unanimous affirmative vote.)

19 CHAIRMAN EDGAR: Opposed? Show it adopted. That was
20 4 and 4A.

21 And that brings us to Issue 5.

22 COMMISSIONER CARTER: Madam Chairman, I would move
23 staff recommendation on Issue 5.

24 COMMISSIONER McMURRIAN: I can second.

25 CHAIRMAN EDGAR: All in favor of the motion say aye.

1 (Unanimous affirmative vote.)

2 CHAIRMAN EDGAR: Opposed? Show Issue 5 adopted.

3 And that leaves us with Issue 6, close the docket.

4 COMMISSIONER CARTER: I would move staff on Issue 6.

5 COMMISSIONER McMURRIAN: As much fun as it has been,
6 I second.

7 CHAIRMAN EDGAR: All in favor say aye.

8 (Unanimous affirmative vote.)

9 CHAIRMAN EDGAR: Okay. And that concludes the issues
10 on Item 18.

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STATE OF FLORIDA)

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CERTIFICATE OF REPORTER

COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk and Administrative Services, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 19th day of March, 2007.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732