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EMBARQ™

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January 24, 2007

Ms. Blanca Bayó, Director
Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RE: Docket No. 060763-TP, Embarq's Prehearing Statement

- CMP _____ Dear Ms. Bayó:
- COM 3 _____ Enclosed for filing are the original and fifteen (15) copies of Embarq's Prehearing
- CTR _____ Statement.
- ECR _____ Copies are being served on the parties in this docket pursuant to the attached certificate of
- GCL _____ service.
- OPC _____ If you have any questions, please do not hesitate to call me at 850/599-1560.
- RCA _____
- SCR _____ Sincerely,
- SGA _____ *Susan S. Masterton*
- SEC 1 _____ Susan S. Masterton
- OTH _____

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R.V.N.

REGISTRY BUREAU OF RECORDS

DOCUMENT NUMBER - DATE

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Susan S. Masterton
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COMMISSION CLERK

**CERTIFICATE OF SERVICE
DOCKET NO. 060763-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic, Hand Delivery (+) and US Mail (*) this 24th day of January, 2007 to the following:

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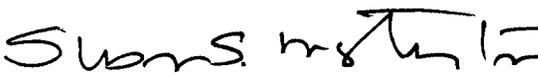
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Susan S. Masterton

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: January 24, 2007
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EMBARQ FLORIDA, INC.'S PREHEARING STATEMENT

Embarq Florida, Inc. ("Embarq"), pursuant to Order No. PSC-06-1076-PCO-TL and Order No. PSC-07-0047-PCO-TL, submits the following Prehearing Statement:

A. WITNESSES: Embarq has prefiled the testimony of the following witnesses:

Michael J. DeChellis (Direct) Issues 1, 2, and 5

Kent W. Dickerson (Direct) Issues 3 and 5

Embarq reserves the right to call additional witnesses to respond to Florida Public Service Commission ("Commission") inquiries and issues raised by Treviso Bay or staff in their testimonies (which have not yet been filed) and are not addressed in Embarq's Direct Testimony. In addition, Embarq reserves the right to call witnesses as necessary to address issues not presently designated that may be designated by the Prehearing Officer at the prehearing conference to be held on February 7, 2007. Accordingly, Embarq reserves the right to supplement and revise this list as appropriate.

B. EXHIBITS: Embarq has prefiled the following exhibits:

MJD-1 Treviso Bay E-Mails

MJD-2 Embarq Letter to Treviso Bay

MJD-3 Comcast Triple Play Web Application

MJD-4 Comcast Triple Play Web Address Match

MJD-5 Comcast Triple Play Web Address Match Response

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MJD-6 Comcast Triple Play Web Service Information

KWD-1 Treviso Bay Voice Network Construction

KWD-2 Treviso Bay Cash Flow Analysis

Embarq expressly reserves the right to file exhibits to any testimony that may be filed under the circumstances identified in Section “A” above. Embarq also reserves the right to utilize any exhibit introduced by any other party or Staff and the right to introduce exhibits for cross-examination, impeachment, or any other purpose authorized by the applicable Florida Rules of Evidence and Rules of this Commission.

C. BASIC POSITION: Given the bulk agreement with an alternative provider for the provision of data and video services to Treviso Bay residents billed through homeowners’ association dues, and the likelihood that a significant number of Treviso Bay residents will choose a provider other than Embarq for their voice services, Embarq will be prevented from recovering its costs for placing facilities to serve the development as the carrier of last resort. The existence of the exclusive data and video arrangements and the availability of an alternative voice product from the exclusive data and video provider, which preclude Embarq from obtaining a sufficient number of voice customers to recoup the investment costs that it would incur to place the facilities necessary to serve Treviso Bay, constitute “good cause” to relieve Embarq of its carrier of last resort obligations for the development under section 364.025(6)(d).

D. ISSUES AND POSITIONS¹:

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

Embarq's Position: Comcast will have the ability to offer voice service to the residents of Treviso Bay using the same facilities used to provide video and data services. Comcast is actively marketing its "Triple Play" of digital cable video, high-speed Internet and digital voice services throughout Collier County, where Treviso Bay is located. Not only will the residents have a triple-play opportunity from Comcast, but they will also have the option to use other voice service providers such as Vonage, Skype and more.

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?

Embarq's Position: Yes. Treviso Bay has entered into an agreement for providing data and video services to Treviso Bay residents, billed through each resident's homeowner's association dues (i.e., a "bulk" agreement) with Comcast. With Comcast assured of 100% penetration of its video and data services to Treviso Bay residents, combined with Comcast's ability to offer voice telephone service as an add-on, Embarq's ability to obtain customers for its voice service will be severely limited. Due to the existence of the bulk agreement with Comcast, Embarq's ability to obtain customers for its data services will be effectively nil. Because of these limitations, Embarq's voice telephone service revenues will be limited to those derived from a small percentage of customers who might choose not to subscribe to the voice services offered by Comcast as an add-on to their video and data services.

¹ Neither Treviso Bay's Rebuttal Testimony, nor Staff's Testimony have been filed as of the time of filing of Embarq's Prehearing Statement. Accordingly, Embarq reserves the right to amend the positions stated herein as may be necessary based subsequent filings.

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?

Embarq's Position: Yes. The effect of the bulk data and video agreement Treviso Bay has entered into with Comcast on Embarq's ability to obtain customers of its voice services is that the revenue generated from Embarq's expected customer penetration in the Treviso Bay development is grossly insufficient for Embarq to recover its capital costs and incremental operating expenses associated with serving the development. Instead, the expected revenues yield negative net present value (NPV) cash flow for each year, for 20 years into the future.

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?

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?

Embarq's Position: No. Embarq has not taken any actions that preclude it from establishing "good cause" for and obtaining a waiver of its carrier of last resort obligations under section 364.025(6)(d), F.S., nor do the provisions of Embarq's tariffs preclude Embarq from obtaining relief under this statute.

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?

Embarq's Position: Yes. The bulk agreement Treviso Bay has entered into with an alternative provider for the provision of data and video services to Treviso Bay residents; billed through homeowners' association dues, effectively precludes Embarq from marketing its data services and makes it likely that a significant number of Treviso Bay residents will choose a provider other than Embarq for their voice services, which will

prevent Embarq from realizing sufficient revenues to recover its costs for placing facilities to serve the development as the carrier of last resort. Embarq's inability to recover its costs due to the actions of the developer in entering into the bulk agreements, as well as the availability of voice services from the bulk provider and others, constitute "good cause" for the Commission to relieve Embarq of its COLR obligations under section 364.025(6)(d), F.S.

E. STIPULATIONS: There are no pending stipulations that Embarq is aware of at this time.

F. PENDING MOTIONS: There are no pending motions that Embarq is aware of at this time.

G. PENDING CONFIDENTIALITY REQUESTS: Embarq has the following Claims of Confidentiality² pending:

Claim of Confidentiality for Document No. 00149-07, filed on 1/5/07.

Claim of Confidentiality for Document No. 00184-07 filed on 1/8/07.

Claim of Confidentiality for Document No. 00492-07 filed on 1/17/07.

Claim of Confidentiality for Document No. 00582-07 filed on 1/22/07.

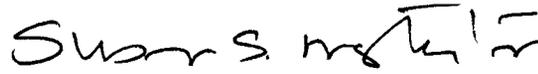
Claim of Confidentiality for Document No. 00621-07 filed on 1/23/07.

H. OBJECTIONS WITNESSES QUALIFICATIONS: Embarq is unable to address witness qualifications at this time, since no testimony has yet been filed for Treviso Bay or staff.

² Embarq understands that in accordance with Rule 25-22.006, F.A.C., to the extent this discovery information is entered into the record of the proceeding, Embarq must file a Request for Confidential Classification within 21 days after the hearing.

I. COMPLIANCE WITH ORDER ON PREHEARING PROCEDURE: Embarq does not know of any requirement of the Order on Prehearing Procedure with which it cannot comply.

Respectfully submitted this 24th day of January 2007.



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