

APPENDIX UNBUNDLED NETWORK ELEMENTS

TABLE OF CONTENTS

| | |
|--|-----|
| 1. INTRODUCTION | 358 |
| 2. GENERAL TERMS AND CONDITIONS (COMPLETELY UPDATED)..... | 358 |
| 3. NETWORK INTERFACE DEVICE..... | 374 |
| 4. LAWFUL UNE LOCAL LOOP | 375 |
| 5. LAWFUL UNE SUBLOOP..... | 378 |
| 6. ENGINEERING CONTROLLED SPLICE (ECS) | 385 |
| 7. DARK FIBER DEDICATED TRANSPORT | 386 |
| 8. RESERVED | 389 |
| 9. RESERVED | 389 |
| 10. DS1 AND DS3 DEDICATED TRANSPORT | 389 |
| 11. CROSS-CONNECTS | 393 |
| 12. ADDITIONAL REQUIREMENTS APPLICABLE TO LAWFUL UNBUNDLED NETWORK ELEMENTS..... | 393 |
| 13. PRICING | 394 |
| 14. LAWFUL UNBUNDLED NETWORK ELEMENTS COMBINATIONS | 394 |

APPENDIX UNBUNDLED NETWORK ELEMENTS

1. INTRODUCTION

This Appendix Lawful Access to Unbundled Network Elements (Lawful UNEs) to the Agreement sets forth the unbundled Network Elements that SBC MISSOURI agrees to offer to CLEC for the provision of a Telecommunication Service ((Act, Section 251(c)(3)). The specific terms and conditions that apply to the unbundled Network Elements are described below. The price for each Network Element is set forth in Appendix Pricing - Unbundled Network Elements, attached hereto.

2. GENERAL TERMS AND CONDITIONS (COMPLETELY UPDATED)

- 2.1 Lawful UNEs and Declassification. This Agreement sets forth the terms and conditions pursuant to which SBC MISSOURI will provide CLEC with access to unbundled network elements under Section 251(c)(3) of the Act in SBC MISSOURI's incumbent local exchange areas for the provision of Telecommunications Services by CLEC; provided, however, that notwithstanding any other provision of the Agreement, SBC MISSOURI shall be obligated to provide UNEs only to the extent required by Section 251(c)(3) of the Act, as determined by lawful and effective FCC rules and associated lawful and effective FCC and judicial orders, and may decline to provide UNEs to the extent that provision of the UNE(s) is not required by Section 251(c)(3) of the Act, as determined by lawful and effective FCC rules and associated lawful and effective FCC and judicial orders. UNEs that SBC MISSOURI is required to provide pursuant to Section 251(c)(3) of the Act, as determined by lawful and effective FCC rules and associated lawful and effective FCC and judicial orders shall be referred to in this Agreement as "Lawful UNEs."
- 2.1.1 A network element, including a network element referred to as a Lawful UNE under this Agreement, will cease to be a Lawful UNE under this Agreement if it is no longer required by Section 251(c)(3) of the Act, as determined by lawful and effective FCC rules and associated lawful and effective FCC and judicial orders. Without limitation, a Lawful UNE that has ceased to be a Lawful UNE may also be referred to as "Declassified."
- 2.1.2 Without limitation, a network element, including a network element referred to as a Lawful UNE under this Agreement is Declassified upon or by (a) the issuance of a legally effective finding by a court or regulatory agency acting within its lawful authority that requesting Telecommunications Carriers are not impaired without access to a particular network element on an unbundled basis; or (b) the issuance of any valid law, order or rule by the Congress, FCC or a judicial body stating that an incumbent LEC is not required, or is no longer required, to provide a network element on an unbundled basis pursuant to Section 251(c)(3) of the Act; or (c) the absence, by vacatur or otherwise, of a legally effective FCC rule requiring the provision of the network element on an unbundled basis under Section 251(c)(3). By way of example only, a network element can cease to be a Lawful UNE or be Declassified generally, or on an element-specific, route-specific or geographically-specific basis or on a class of elements basis. Under any scenario, Section 2.5 "Transition Procedure" shall apply.
- 2.1.3 It is the Parties' intent that only Lawful UNEs shall be available under this Agreement; accordingly, if this Agreement requires or appears to require Lawful UNE(s) or unbundling without specifically noting that the UNE(s) or unbundling must be "Lawful," the reference shall be deemed to be a reference to Lawful UNE(s) or Lawful unbundling, as defined in this Section 2.1. If an element is not required to be provided under this Appendix Lawful UNE and/or not described in this Appendix Lawful UNE, it is the Parties' intent that the element is not available under this Agreement, notwithstanding any reference to the element elsewhere in the Agreement, including in any other Appendix, Schedule or in the Pricing Appendix.
- 2.1.4 By way of example only, if terms and conditions of this Agreement state that SBC MISSOURI is required to provide a Lawful UNE or Lawful UNE combination, and that Lawful UNE or the involved Lawful UNE (if a combination) is Declassified or otherwise no longer constitutes a Lawful UNE, then

SBC MISSOURI shall not be obligated to provide the item under this Agreement as an unbundled network element, whether alone or in combination with or as part of any other arrangement under the Agreement.

- 2.2 Nothing contained in the Agreement shall be deemed to constitute consent by SBC MISSOURI that any item identified in this Agreement as a UNE, network element or Lawful UNE is a network element or UNE under Section 251(c)(3) of the Act, as determined by lawful and effective FCC rules and associated lawful and effective FCC and judicial orders, that SBC MISSOURI is required to provide to CLEC alone, or in combination with other network elements or UNEs (Lawful or otherwise), or commingled with other network elements, UNEs (Lawful or otherwise) or other services or facilities.
- 2.3 The preceding includes without limitation that SBC MISSOURI shall not be obligated to provide combinations (whether considered new, pre-existing or existing) or other arrangements (including, where applicable, Commingled Arrangements) involving SBC MISSOURI network elements that do not constitute Lawful UNEs, or where Lawful UNEs are not requested for permissible purposes.
- 2.4 Notwithstanding any other provision of this Agreement or any Amendment to this Agreement, including but not limited to intervening law, change in law or other substantively similar provision in the Agreement or any Amendment, if an element described as an unbundled network element or Lawful UNE in this Agreement is Declassified or is otherwise no longer a Lawful UNE, then the Transition Procedure defined in Section 2.5, below, shall govern.
- 2.5 Transition Procedure for Elements that are Declassified during the Term of the Agreement.
 - 2.5.1 The procedure set forth in Section 2.5.2 does not apply to the Declassification events described in Sections 8.3.4.4.1 (DS1 Loop “Caps”), 8.3.5.4.1 (DS3 Loop “Caps”), 8.4.1 (Declassification Procedure – DS1 Loops), 8.4.2 (Declassification Procedure – DS3 Loops), 13.3.5 (DS3 Transport “Caps”), 13.3.6 (DS1 Transport “Caps”), 13.5.2 (DS1 Transport Declassification) and 13.5.3 (DS3 Transport Declassification), which set forth the consequences for Declassification of DS1 and DS3 Loops, DS1 and DS3 Transport and Dark Fiber Transport, where applicable “caps” are met, or where Declassification occurs because wire centers/routes meet the criteria set forth in the FCC’s TRO Remand Order.
 - 2.5.2 SBC MISSOURI shall only be obligated to provide Lawful UNEs under this Agreement. To the extent an element described as a Lawful UNE or an unbundled network element in this Agreement is Declassified or is otherwise no longer a Lawful UNE, such element is no longer required to be provided under this Agreement and CLEC shall cease ordering such element(s) under this Agreement, whether previously provided alone or in combination with or as part of any other arrangement with other Lawful UNEs or other elements or services. Accordingly, in the event one or more elements described as Lawful UNEs or as unbundled network elements in this Agreement is Declassified or is otherwise no longer a Lawful UNE, SBC MISSOURI will provide written notice to CLEC of the Declassification of the element(s) and/or the combination or other arrangement in which the element(s) has been previously provided. During a transitional period of thirty (30) days from the date of such notice, SBC MISSOURI agrees to continue providing such element(s) under the terms of this Agreement. Upon receipt of such written notice, CLEC will cease ordering new elements that are identified as Declassified or as otherwise no longer being a Lawful UNE in the SBC MISSOURI notice letter referenced in this Section 2.5. SBC MISSOURI reserves the right to audit the CLEC orders transmitted to SBC MISSOURI and to the extent that the CLEC has processed orders and such orders are provisioned after this 30-day transitional period, such elements are still subject to this Section 2.5, including the options set forth in (a) and (b) below, and SBC MISSOURI’s rights of discontinuance or conversion in the event the options are not accomplished. During such 30-day transitional period, the following options are available to CLEC with regard to the element(s) identified in the SBC MISSOURI notice, including the combination or other arrangement in which the element(s) were previously provided:

- (a) CLEC may issue an LSR or ASR, as applicable, to seek disconnection or other discontinuance of the element(s) and/or the combination or other arrangement in which the element(s) were previously provided; or
- (b) SBC MISSOURI and CLEC may agree upon another service arrangement or element (e.g. via a separate agreement at market-based rates or resale), or may agree that an analogous access product or service may be substituted, if available.

Notwithstanding anything to the contrary in this Agreement, including any amendments to this Agreement, at the end of that thirty (30) day transitional period, unless CLEC has submitted a disconnect/discontinuance LSR or ASR, as applicable, under (a) above, and if CLEC and SBC MISSOURI have failed to reach agreement, under (b) above, as to a substitute service arrangement or element, then SBC MISSOURI may, at its sole option, disconnect the element(s), whether previously provided alone or in combination with or as part of any other arrangement, or convert the subject element(s), whether alone or in combination with or as part of any other arrangement to an analogous resale or access service, if available.

2.5.3 The provisions set forth in this Section 2.5 “Transition Period” are self-effectuating, and the Parties understand and agree that no amendment shall be required to this Agreement in order for the provisions of this Section 2.5 “Transition Period” to be implemented or effective as provided above. Further, Section 2.5 “Transition Period” governs the situation where an unbundled network element or Lawful UNE under this Agreement is Declassified or is otherwise no longer a Lawful UNE, even where the Agreement may already include an intervening law, change in law or other substantively similar provision. The rights and obligations set forth in Section 2.5, above, apply in addition to any other rights and obligations that may be created by such intervening law, change in law or other substantively similar provision.

2.5.4 Notwithstanding anything in this Agreement or in any Amendment, SBC MISSOURI shall have no obligation to provide, and CLEC is not entitled to obtain (or continue with) access to any network element on an unbundled basis at rates set under Section 252(d)(1), whether provided alone, or in combination with other UNEs or otherwise, once such network element has been or is Declassified or is otherwise no longer a Lawful UNE. The preceding includes without limitation that SBC MISSOURI shall not be obligated to provide combinations (whether considered new, pre-existing or existing) involving SBC MISSOURI network elements that do not constitute Lawful UNEs, or where Lawful UNEs are not requested for permissible purposes.

2.6 Intentionally Left Blank

2.7 CLEC may use one or more Lawful Unbundled Network Elements to provide any technically feasible feature, function, or capability that such Lawful Unbundled Network Element(s) may provide, within the technical parameters of the Lawful Unbundled Network Elements.

2.7.1 If CLEC orders Lawful unbundled Network Elements in combination pursuant to this Appendix, and identifies to SBC MISSOURI the type of telecommunications service it intends to deliver to its end user customer through that combination (e.g., POTS, ISDN), SBC MISSOURI will provide the requested elements with all the functionality, and with at least the same quality of performance and operations systems support (ordering, provisioning, maintenance, billing and recording), that SBC MISSOURI provides through its own network to its local exchange service customers receiving equivalent service, unless CLEC requests a lesser or greater quality of performance through the Bona Fide-process (BFR). Lawful Unbundled Network element combinations provided to CLEC by SBC MISSOURI will meet all performance criteria and measurements that SBC MISSOURI achieves when providing equivalent end user service to its local exchange service customers (e.g., POTS, ISDN).

2.8 Conditions for Access to Lawful UNEs

- 2.8.1 In order to access and use Lawful UNEs, CLEC must be a Telecommunications Carrier (Section 251(c)(3), and must use the Lawful UNE(s) for the provision of a Telecommunications Service (Section 251(c)(3)) as permitted by the FCC. Together, these conditions are the “Statutory Conditions” for access to Lawful UNEs. Accordingly, CLEC hereby represents and warrants that it is a Telecommunications Carrier and that it will notify SBC MISSOURI immediately in writing if it ceases to be a Telecommunications Carrier. Failure to so notify SBC MISSOURI shall constitute material breach of this Agreement.
- 2.8.1.1 By way of example, use of a Lawful UNE (whether on a stand-alone basis, in combination with other UNEs (Lawful or otherwise), with a network element possessed by CLEC, or otherwise) to provide service to CLEC or for other administrative purpose(s) does not constitute using a Lawful UNE pursuant to the Statutory Conditions.
- 2.8.1.2 By way of further example, CLEC may not access Lawful UNEs for the exclusive provision of mobile wireless services, or long distance services or interexchange services (telecommunications service between different stations in different exchange areas).
- 2.8.2 Other conditions to accessing and using any Lawful UNE (whether on a stand-alone basis or in combination with other Lawful UNEs, with a network element possessed by CLEC or otherwise) may be applicable under lawful and effective FCC rules and associated lawful and effective FCC and judicial orders will also apply.
- 2.9 New Combinations Involving Lawful UNEs
- 2.9.1 Subject to the provisions hereof and upon CLEC request, SBC MISSOURI shall meet its combining obligations involving Lawful UNEs as and to the extent required by FCC rules and orders, and *Verizon Comm. Inc. v. FCC*, 535 U.S. 467(May 13, 2002) (“*Verizon Comm. Inc.*”) and, to the extent not inconsistent therewith, the rules and orders of relevant state Commission and any other Applicable Law.
- 2.9.2 Any combining obligation is limited solely to combining of Lawful UNEs; accordingly, no other facilities, services or functionalities are subject to combining, including but not limited to facilities, services or functionalities that SBC might offer pursuant to Section 271 of the Act.
- 2.9.3 In the event that SBC MISSOURI denies a request to perform the functions necessary to combine Lawful UNEs or to perform the functions necessary to combine Lawful UNEs with elements possessed by CLEC, SBC MISSOURI shall provide written notice to CLEC of such denial and the basis thereof. Any dispute over such denial shall be addressed using the dispute resolution procedures applicable to this Agreement. In any dispute resolution proceeding, SBC MISSOURI shall have the burden to prove that such denial meets one or more applicable standards for denial, including without limitation those under the FCC rules and orders, *Verizon Comm. Inc.* and the Agreement, including Section 2.6 of this Appendix.
- 2.9.4 In accordance with and subject to the provisions of this Section 2.6, including Section 2.6.3.2 and 2.6.5, the new Lawful UNE combinations set forth in the Schedule(s) – Lawful UNE Combinations attached and incorporated into this Appendix shall be made available to CLEC as specified in the specific Schedule for a particular State.
- 2.9.4.1 The Parties acknowledge that the United States Supreme Court in *Verizon Comm. Inc.* relied on the distinction between an incumbent local exchange carrier such as SBC MISSOURI being required to perform the functions necessary to combine Lawful UNEs and to combine Lawful UNEs with elements possessed by a requesting Telecommunications Carrier, as compared to an incumbent LEC being required to complete the actual combination. As of the time this Appendix was agreed-to by the Parties, there has been no further ruling or other guidance provided on that distinction and what functions constitute only those that are necessary to such combining. In light of that uncertainty, SBC MISSOURI is willing to perform the actions necessary to also complete

the actual physical combination for those new Lawful UNE combinations set forth in the Schedule(s) – Lawful UNE Combinations to this Appendix, subject to the following:

- 2.9.4.1.1 Section 2.6, including any acts taken pursuant thereto, shall not in any way prohibit, limit or otherwise affect, or act as a waiver by, SBC MISSOURI from pursuing any of its rights, remedies or arguments, including but not limited to those with respect to *Verizon Comm. Inc.*, the remand thereof, or any FCC or Commission or court proceeding, including its right to seek legal review or a stay of any decision regarding combinations involving UNEs. Such rights, remedies, and arguments are expressly reserved by SBC MISSOURI. Without affecting the foregoing, this Agreement does not in any way prohibit, limit, or otherwise affect SBC MISSOURI from taking any position with respect to combinations including Lawful UNEs or any issue or subject addressed or related thereto.
- 2.9.4.1.2 Upon the effective date of any regulatory, judicial, or legislative action setting forth, eliminating, or otherwise delineating or clarifying the extent of an incumbent LEC's combining obligations, SBC MISSOURI shall be immediately relieved of any obligation to perform any non-included combining functions or other actions under this Agreement or otherwise, and CLEC shall thereafter be solely responsible for any such non-included functions or other actions. This Section 2.6.3.1.2 shall apply in accordance with its terms, regardless of change in law, intervening law or other similarly purposed provision of the Agreement and, concomitantly, the first sentence of this Section 2.6.3.1.2 shall not affect the applicability of any such provisions in situations not covered by that first sentence.
- 2.9.4.1.3 Without affecting the application of Section 2.6.3.1.2 (which shall apply in accordance with its provisions), upon notice by SBC MISSOURI, the Parties shall engage in good faith negotiations to amend the Agreement to set forth and delineate those functions or other actions that go beyond the ILEC obligation to perform the functions necessary to combine Lawful UNEs and combine Lawful UNEs with elements possessed by a requesting Telecommunications Carrier, and to eliminate any SBC MISSOURI obligation to perform such functions or other actions. If those negotiations do not reach a mutually agreed-to amendment within sixty (60) days after the date of any such notice, the remaining disputes between the parties regarding those functions and other actions that go beyond those functions necessary to combine Lawful UNEs and combine Lawful UNEs with elements possessed by a requesting Telecommunications Carrier, shall be resolved pursuant to the dispute resolution process provided for in this Agreement. Such a notice can be given at any time, and from time to time.
- 2.9.4.2 A new Lawful UNE combination, if any, listed on a Schedule – Lawful UNE Combinations does not imply or otherwise indicate the availability of related support system capabilities, including without limitation, whether electronic ordering is available for any particular included new Lawful UNE combination in one or more States. Where electronic ordering is not available, manual ordering shall be used.
- 2.9.4.3 For a new Lawful UNE combination, if any, listed on a Schedule – Lawful UNE Combinations, CLEC shall issue appropriate service requests. These requests will be processed by SBC MISSOURI, and CLEC will be charged the applicable Lawful UNE service order charge(s), in addition to the recurring and nonrecurring charges for each individual Lawful UNE and cross connect ordered.
- 2.9.4.4 Upon notice by SBC MISSOURI, the Parties shall engage in good faith negotiations to amend the Agreement to include a fee(s) for any work performed by SBC MISSOURI in providing the new Lawful UNE combinations, if any, set forth in Schedule(s) – Lawful UNE

Combinations, which work is not covered by the charges applicable per Section 2.6.3.5. For any such work done by SBC MISSOURI under Section 2.6.1, any such fee(s) shall be a reasonable cost-based fee, and shall be calculated using the Time and Material charges as reflected in State-specific pricing. For any such work that is not so required to be done by SBC MISSOURI, any such fee(s) shall be at a market-based rate. If those negotiations do not reach a mutually agreed-to amendment within sixty (60) days after the date of any such notice, the remaining disputes between the parties concerning any such fee(s) shall be resolved pursuant to the dispute resolution process provided for in this Agreement. Such a notice can be given at any time, and from time to time.

- 2.9.5 In accordance with and subject to the provisions of this Section 2.6, any request not included in Section 2.6.3 in which CLEC wants SBC MISSOURI to perform the functions necessary to combine Lawful UNEs or to perform the functions necessary to combine Lawful UNEs with elements possessed by CLEC (as well as requests where CLEC also wants SBC MISSOURI to complete the actual combination), shall be made by CLEC in accordance with the bona fide request (BFR) process set forth in this Agreement.
 - 2.9.5.1 In any such BFR, CLEC must designate among other things the Lawful UNE(s) sought to be combined and the needed location(s), the order in which the Lawful UNEs and any CLEC elements are to be connected, and how each connection (e.g., cross-connected) is to be made between an SBC MISSOURI Lawful UNE and the lawful network element(s) possessed by CLEC.
 - 2.9.5.2 In addition to any other applicable charges, CLEC shall be charged a reasonable cost-based fee for any combining work done by SBC MISSOURI under Section 2.6.1. Such fee shall be calculated using the Time and Material charges as reflected in the State-specific Appendix Pricing. SBC MISSOURI's Preliminary Analysis to the BFR shall include an estimate of such fee for the specified combining. With respect to a BFR in which CLEC requests SBC MISSOURI to perform work not required by Section 2.6.1, CLEC shall be charged a market-based rate for any such work.
- 2.9.6 Without affecting the other provisions hereof, the Lawful UNE combining obligations referenced in this Section 2.6 apply only in situations where each of the following is met:
 - 2.9.6.1 it is technically feasible, including that network reliability and security would not be impaired;
 - 2.9.6.2 SBC MISSOURI's ability to retain responsibility for the management, control, and performance of its network would not be impaired;
 - 2.9.6.3 SBC MISSOURI would not be placed at a disadvantage in operating its own network;
 - 2.9.6.4 it would not undermine the ability of other Telecommunications Carriers to obtain access to Lawful UNEs or to Interconnect with SBC MISSOURI's network; and
 - 2.9.6.5 CLEC is
 - 2.9.6.5.1 unable to make the combination itself; or
 - 2.9.6.5.2a new entrant and is unaware that it needs to combine certain Lawful UNEs to provide a Telecommunications Service, but such obligation under this Section 2.6.5.5 ceases if SBC MISSOURI informs CLEC of such need to combine.
- 2.9.7 For purposes of Section 2.6.5.5 and without limiting other instances in which CLEC may be able to make a combination itself, CLEC is deemed able to make a combination itself when the Lawful UNE(s) sought to be combined are available to CLEC, including without limitation:
 - 2.9.7.1 at an SBC MISSOURI premises where CLEC is physically collocated or has an on-site adjacent collocation arrangement, or has established one of the UNE connection Methods described in Section 3;

2.9.8 Section 2.6.5.5 shall only begin to apply thirty (30) days after notice by SBC MISSOURI to CLEC. Thereafter, SBC MISSOURI may invoke Section 2.6.5.5 with respect to any request for a combination involving Lawful UNEs.

2.10 Conversion of Wholesale Services to Lawful UNEs

2.10.1 Upon request, SBC MISSOURI shall convert a wholesale service, or group of wholesale services, to the equivalent Lawful UNE, or combination of Lawful UNEs, that is available to CLEC under terms and conditions set forth in this Appendix, so long as the CLEC and the wholesale service, or group of wholesale services, meets the eligibility criteria that may be applicable for such conversion. (By way of example only, the statutory conditions would constitute one such eligibility criterion.)

2.10.2 Where processes for the conversion requested pursuant to this Appendix are not already in place, SBC MISSOURI will develop and implement processes, subject to any associated rates, terms and conditions. The Parties will comply with any applicable Change Management guidelines.

2.10.3 Except as agreed to by the Parties or otherwise provided hereunder, SBC MISSOURI shall not impose any untariffed termination charges, or any disconnect fees, re-connect fees, or charges associated with establishing a service for the first time, in connection with any conversion between a wholesale service or group of wholesale services and a UNE or combination of UNEs.

2.10.3.1 SBC MISSOURI may charge applicable service order charges and record change charges.

2.10.4 This Section 2.7 only applies to situations where the wholesale service, or group of wholesale services, is comprised solely of Lawful UNEs offered or otherwise provided for in this Appendix.

2.10.5 If CLEC does not meet the applicable eligibility criteria or, for any reason, stops meeting the eligibility criteria for a particular conversion of a wholesale service, or group of wholesale services, to the equivalent Lawful UNE, or combination of Lawful UNEs, CLEC shall not request such conversion or continue using such the Lawful UNE or Lawful UNEs that result from such conversion. To the extent CLEC fails to meet (including ceases to meet) the eligibility criteria applicable to a Lawful UNE or combination of Lawful UNEs, or Commingled Arrangement (as defined herein), SBC MISSOURI may convert the Lawful UNE or Lawful UNE combination, or Commingled Arrangement, to the equivalent wholesale service, or group of wholesale services, upon written notice to CLEC.

2.10.5.1 This Section 2.10.5 applies to any Lawful UNE or combination of Lawful UNEs, including whether or not such Lawful UNE or combination of Lawful UNEs had been previously converted from an SBC MISSOURI service.

2.10.5.2 SBC MISSOURI may exercise its rights provided for hereunder and those allowed by law in auditing compliance with any applicable eligibility criteria.

2.10.6 In requesting a conversion of an SBC MISSOURI service, CLEC must follow the guidelines and ordering requirements provided by SBC MISSOURI that are applicable to converting the particular SBC MISSOURI service sought to be converted.

2.10.7 Nothing contained in this Appendix or Agreement provides CLEC with an opportunity to supersede or dissolve existing contractual arrangements, or otherwise affects SBC MISSOURI's ability to enforce any tariff, contractual, or other provision(s), including those providing for early termination liability or similar charges.

2.11 Commingling

2.11.1 "Commingling" means the connecting, attaching, or otherwise linking of a Lawful UNE, or a combination of Lawful UNEs, to one or more facilities or services that CLEC has obtained at

wholesale from SBC MISSOURI, or the combining of a Lawful UNE, or a combination of Lawful UNEs, with one or more such facilities or services. “Commingling” means the act of commingling.

2.11.1.1 “Commingled Arrangement” means the arrangement created by Commingling.

2.11.1.2 Neither Commingling nor a Commingled Arrangement shall include, involve, or otherwise encompass an SBC MISSOURI offering pursuant to 47 U.S.C. § 271 that is not a Lawful UNE under 47 U.S.C. § 251(c)(3).

2.11.1.3 Where processes for any Commingling requested pursuant to this Agreement (including, by way of example, for existing services sought to be converted to a Commingled Arrangement) are not already in place, SBC MISSOURI will develop and implement processes, subject to any associated rates, terms and conditions. The Parties will comply with any applicable Change Management guidelines.

2.11.1.4 Any commingling obligation is limited solely to commingling of one or more facilities or services that CLEC has obtained at wholesale from SBC MISSOURI with Lawful UNEs; accordingly, no other facilities, services or functionalities are subject to commingling, including but not limited to facilities, services or functionalities that SBC MISSOURI might offer pursuant to Section 271 of the Act.

2.11.2 Except as provided in Section 2 and, further, subject to the other provisions of this Agreement, SBC MISSOURI shall permit CLEC to Commingle a Lawful UNE or a combination of Lawful UNEs with facilities or services obtained at wholesale from SBC MISSOURI to the extent required by FCC rules and judicial orders.

2.11.3 Upon request, and subject to this Section 2, SBC MISSOURI shall perform the functions necessary to Commingle a Lawful UNE or a combination of Lawful UNEs with one or more facilities or services that CLEC has obtained at wholesale from SBC MISSOURI (as well as requests where CLEC also wants SBC MISSOURI to complete the actual Commingling), except that SBC MISSOURI shall have no obligation to perform the functions necessary to Commingle (or to complete the actual Commingling) if (i) the CLEC is able to perform those functions itself; or (ii) it is not technically feasible, including that network reliability and security would be impaired; or (iii) SBC MISSOURI’s ability to retain responsibility for the management, control, and performance of its network would be impaired.; or (iv) SBC MISSOURI would be placed at a disadvantage in operating its own network; or (v) it would undermine the ability of other Telecommunications Carriers to obtain access to Lawful UNEs or to Interconnect with SBC MISSOURI’s network. Where CLEC is a new entrant and is unaware that it needs to Commingle to provide a Telecommunications Service, but such obligation under this Section ceases if SBC MISSOURI informs CLEC of such need to Commingle.

2.11.3.1 For purposes of Section 2.8 and without limiting other instances in which CLEC may be able to Commingle for itself, CLEC is deemed able to Commingle for itself when the Lawful UNE(s), Lawful UNE combination, and facilities or services obtained at wholesale from SBC MISSOURI are available to CLEC, including without limitation:

2.11.3.1.1 at an SBC MISSOURI premises where CLEC is physically collocated or has an on-site adjacent collocation arrangement.

2.11.3.2 Section 2.8.3(i) shall only begin to apply thirty (30) days after notice by SBC MISSOURI to CLEC. Thereafter, SBC MISSOURI may invoke Section 2.8.3(i) with respect to any request for Commingling.

2.11.4 In accordance with and subject to the provisions of this Section 2.8, any request by CLEC for SBC MISSOURI to perform the functions necessary to Commingle (as well as requests where CLEC also wants SBC MISSOURI to complete the actual Commingling) not already identified, shall be made by CLEC in accordance with the bona fide request (BFR) process set forth in this Agreement.

2.11.4.1 SBC MISSOURI is developing a list of Commingled Arrangements that will be available for ordering, which list will be made available for ordering, which list will be made available in

the CLEC Handbook and posted on “CLEC Online.” Once that list is included in the CLEC Handbook or posted, whichever is earlier, CLEC will be able to submit orders for any Commingled Arrangement on that list. The list may be modified, from time to time.

2.11.4.2 Any CLEC request for a Commingled Arrangement not found on the then-existing list of orderable Commingled Arrangements must be submitted via the bona fide request (BFR) process. In any such BFR, CLEC must designate among other things the Lawful UNE(s), combination of Lawful UNEs, and the facilities or services that CLEC has obtained at wholesale from SBC MISSOURI sought to be Commingled and the needed location(s), the order in which such Lawful UNEs, such combinations of Lawful UNEs, and such facilities and services are to be Commingled, and how each connection (e.g., cross-connected) is to be made between them.

2.11.4.3 In addition to any other applicable charges, CLEC shall be charged a reasonable fee for any Commingling work done by SBC MISSOURI under this Section 2.8 (including performing the actual Commingling). Such fee shall be calculated using the Time and Material charges as reflected in the State-specific Appendix Pricing. SBC MISSOURI’s Preliminary Analysis to the BFR shall include an estimate of such fee for the specified Commingling. With respect to a BFR in which CLEC requests SBC MISSOURI to perform work not required by this Section 2.8.4, CLEC shall be charged a market-based rate for any such work.

2.11.5 SBC MISSOURI shall not be required to, and shall not, provide “ratcheting” as a result of Commingling or a Commingled Arrangement. As a general matter, “ratcheting” is a pricing mechanism that involves billing a single circuit at multiple rates to develop a single, blended rate. SBC MISSOURI shall charge the rates for Lawful UNEs (or Lawful UNE combinations) Commingled with facilities or services obtained at wholesale (including for example special access services) on an element-by-element basis, and such facilities and services on a facility-by-facility, service-by-service basis.

2.11.6 Nothing in this Agreement shall impose any obligation on SBC MISSOURI to allow or otherwise permit Commingling, a Commingled Arrangement, or to perform the functions necessary to Commingle, or to allow or otherwise permit CLEC to Commingle or to make a Commingled Arrangement, beyond those obligations imposed by the Act, as determined by lawful and effective FCC rules and associated lawful and effective FCC and judicial orders. The preceding includes without limitation that SBC MISSOURI shall not be obligated to Commingle network elements that do not constitute Lawful UNEs, or where Lawful UNEs are not requested for permissible purposes. If CLEC does not meet the applicable eligibility criteria, including Statutory Conditions, or, for any reason, stops meeting the eligibility criteria for a particular Lawful UNE involved or to be involved in a Commingled Arrangement, CLEC shall not request such Commingled Arrangement or continue using such Commingled Arrangement.

2.11.7 In the event that Commingling involves SBC MISSOURI performing the functions necessary to combine Lawful UNEs (e.g., make a new combination of Lawful UNEs), and including making the actual Lawful UNE combination, then Section 2.6 shall govern with respect to that Lawful UNE combining aspect of that particular Commingling and/or Commingled Arrangement.

2.11.8 Subject to this 2.11, SBC MISSOURI shall not deny access to a Lawful UNE or a combination of Lawful UNEs on the grounds that one or more of the Lawful UNEs is connected to, attached to, linked to, or combined with, a facility or service obtained at wholesale from SBC MISSOURI.

2.11.9 Commingling in its entirety (including its definition, the ability of CLEC to Commingle, SBC MISSOURI’s obligation to perform the functions necessary to Commingle, and Commingled Arrangements) shall not apply to or otherwise include, involve or encompass SBC MISSOURI offerings pursuant to 47 U.S.C. § 271 that are not Lawful UNEs under 47 U.S.C. § 251(c)(3).

2.12 Mandatory Eligibility Criteria for Access to Certain Lawful UNEs

2.12.1 Except as provided below in this Section 2.12 or elsewhere in the Agreement and subject to this Section and Section 2.10, Conversion of Wholesale Services to UNEs, of this Appendix, SBC MISSOURI shall provide access to UNEs and combinations of UNEs without regard to whether the CLEC seeks access to the UNEs to establish a new circuit or to convert an existing circuit from a service to UNEs.

2.12.1.1 “Enhanced Extended Link” or “EEL” means a UNE combination consisting of an unbundled loop(s) and Unbundled Dedicated Transport, together with any facilities, equipment, or functions necessary to combine those UNEs (including, for example, multiplexing capabilities). An DS1 or higher EEL is required to terminate in a collocation arrangement that meets the requirements of Section 2.12.3 of this Appendix (e.g., the end of the Unbundled Dedicated Transport that is opposite the end connected to the UNE local loop, must be accessed by CLEC at such a CLEC collocation arrangement via a cross-connect).

2.12.2 SBC MISSOURI is not obligated, and shall not, provide access to (1) an unbundled DS1 loop in combination, or Commingled, with a dedicated DS1 transport facility or service or a dedicated DS3 or higher transport facility or service, or an unbundled DS3 loop in combination, or Commingled, with a dedicated DS3 or higher transport facility or service, or (2) an unbundled dedicated DS1 transport facility in combination, or Commingled, with an unbundled DS1 loop or a DS1 channel termination service, or to an unbundled dedicated DS3 transport facility in combination, or Commingled, with an unbundled DS1 loop or a DS1 channel termination service, or to an unbundled DS3 loop or a DS3 or higher channel termination service (collectively, the “Included Arrangements”), unless CLEC certifies that all of the following conditions are met with respect to the arrangement being sought:

2.12.2.1 CLEC (directly and not via an Affiliate) has received state certification to provide local voice service in the area being served or, in the absence of a state certification requirement, has complied with registration, tariffing, filing fee, or other regulatory requirements applicable to the provision of local voice service in that area.

2.12.2.2 The following criteria are satisfied for each Included Arrangement, including without limitation each DS1 circuit, each DS3 circuit, each DS1 EEL and each DS1 equivalent circuit on a DS3 EEL:

2.12.2.2.1 Each circuit to be provided to each End User will be assigned a local telephone number (NPA-NXX-XXXX) that is associated with local service provided within an SBC MISSOURI local service area and within the LATA where the circuit is located (“Local Telephone Number”), prior to the provision of service over that circuit (and for each circuit, CLEC will provide the corresponding Local Telephone Number(s) as part of the required certification); and

2.12.2.2.2 Each DS1-equivalent circuit on a DS3 EEL or on any other Included Arrangement, must have its own Local Telephone Number assignment, so that each DS3 must have at least 28 Local voice Telephone Numbers assigned to it; and

2.12.2.2.3 Each circuit to be provided to each End User will have 911 or E911 capability prior to the provision of service over that circuit; and

2.12.2.2.4 Each circuit to be provided to each End User will terminate in a collocation arrangement that meets the requirements of Section 2.12.3 of this Appendix Lawful UNE; and

2.12.2.2.5 Each circuit to be provided to each End User will be served by an interconnection trunk that meets the requirements of Section 2.12.4 of this Appendix Lawful UNE; and

2.12.2.2.6 For each 24 DS1 EELs, or other facilities having equivalent capacity, CLEC will have at least one active DS1 local service interconnection trunk that meets the requirements of Section 2.12.4 of this Appendix; and

2.12.2.2.7 Each circuit to be provided to each End User will be served by a switch capable of providing local voice traffic.

By way of example only, the application of the foregoing conditions means that a wholesale or retail DS1 or higher service/circuit (whether intrastate or interstate in nature or jurisdiction) comprised, in whole or in part, of a UNE local loop-Unbundled Dedicated Transport(s)-UNE local loop (with or without multiplexing) cannot qualify for at least the reason that the UNE local loop-Unbundled Dedicated Transport combination included within that service/circuit does not terminate to a collocation arrangement. Accordingly, SBC MISSOURI shall not be required to provide, and shall not provide, any UNE combination of a UNE local loop and Unbundled Dedicated Transport at DS1 or higher (whether as a UNE combination by themselves, with a network element possessed by CLEC, or pursuant to Commingling, or whether as a new arrangement or from a conversion of an existing service/circuit) that does not terminate to a collocation arrangement that meets the requirements of Section 2.12.3 of this Appendix Lawful UNE. Section 2.12.2 shall apply in any arrangement that includes more than one of the UNEs, facilities, or services set forth in that Section, including, without limitation, to any arrangement where one or more UNEs, facilities, or services not set forth in Section 2.12.2 is also included or otherwise used in that arrangement (whether as part of a UNE combination, Commingled Arrangement, or otherwise), and irrespective of the placement or sequence of them.

2.12.3 A collocation arrangement meets the requirements of Section 2.12 of this Appendix Lawful UNE if it is:

2.12.3.1 Established pursuant to Section 251(c)(6) of the Act and located at SBC MISSOURI's premises within the same LATA as the End User's premises, when SBC MISSOURI is not the collocater; or

2.12.3.2 Located at a third party's premises within the same LATA as the End User's premises, when SBC MISSOURI is the collocater.

2.12.4 An interconnection trunk meets the requirements of Sections 2.12.2.2.5 and 2.12.2.2.6 of this Appendix Lawful UNE if CLEC will transmit the calling party's Local Telephone Number in connection with calls exchanged over the trunk, and the trunk is located in the same LATA as the End User premises served by the Included Arrangement.

2.12.5 For a new circuit to which Section 2.12.2 applies, CLEC may initiate the ordering process if CLEC certifies that it will not begin to provide any service over that circuit until a Local Telephone Number is assigned and 911/E911 capability is provided, as required by Section 2.12.2.2.1 and Section 2.12.2.2.3, respectively. In such case, CLEC shall satisfy Section 2.12.2.2.1 and/or Section 2.12.2.2.3 if it assigns the required Local Telephone Number(s), and implements 911/E911 capability, within 30 days after SBC MISSOURI provisions such new circuit. CLEC must provide SBC MISSOURI with sufficient proof that such assignment and/or implementation has occurred by the end of such 30th day.

2.12.5.1 Section 2.12.5 does not apply to existing circuits to which Section 2.12.2 applies, including conversions or migrations (e.g., CLEC shall not be excused from meeting the Section 2.12.2.2.1 and Section 2.12.2.2.3 requirements for existing circuits at the time it initiates the ordering process).

2.12.6 CLEC must provide the certification required by Section 2.12 on a form provided by SBC MISSOURI, on a circuit-by-circuit/service-by-service/Included Arrangement-by-Included Arrangement basis.

2.12.6.1 If the information previously provided in a certification is inaccurate (or ceases to be accurate), CLEC shall update such certification promptly with SBC MISSOURI.

2.12.7 In addition to any other audit rights provided for this Agreement and those allowed by law, SBC MISSOURI may obtain and pay for an independent auditor to audit CLEC, on an annual basis, applied on a State-by-State basis, for compliance with this Section 2.12. For purposes of calculating and applying an “annual basis”, it means for a State a consecutive 12-month period, beginning upon SBC MISSOURI’s written notice that an audit will be performed for that State, subject to Section 2.12.7.4 of this Section.

2.12.7.1 Unless otherwise agreed by the Parties (including at the time of the audit), the independent auditor shall perform its evaluation in accordance with the standards established by the American Institute for Certified Public Accountants (AICPA), which will require the auditor to perform an “examination engagement” and issue an opinion regarding CLEC’s compliance with the qualifying service eligibility criteria.

2.12.7.2 The independent auditor’s report will conclude whether CLEC complied in all material respects with this Section 2.12.

2.12.7.3 Consistent with standard auditing practices, such audits require compliance testing designed by the independent auditor, which typically include an examination of a sample selected in accordance with the independent auditor’s judgment.

2.12.7.4 To the extent the independent auditor’s report concludes that CLEC failed to comply with this Section 2.12, CLEC must true-up any difference in payments beginning from the date that the non-compliant circuit was established as a UNE/UNE combination, in whole or in part (notwithstanding any other provision hereof), CLEC must convert the UNE or UNE combination, or Commingled Arrangement, to an equivalent or substantially similar wholesale service, or group of wholesale services, (and SBC MISSOURI may initiate and affect such a conversion on its own without any further consent by CLEC), and CLEC shall timely make the correct payments on a going-forward basis, and all applicable remedies for failure to make such payments shall be available to SBC MISSOURI. In no event shall rates set under Section 252(d)(1) of the Act apply for the use of any UNE for any period in which CLEC does not meet the conditions set forth in this Section 2.12 for that UNE, arrangement, or circuit, as the case may be. Also, the “annual basis” calculation and application shall be immediately reset, e.g., SBC MISSOURI shall not have to wait the remaining part of the consecutive 12-month period before it is permitted to audit again in that State.

2.12.7.4.1 To the extent that the independent auditor’s report concludes that CLEC failed to comply in all material respects with this Section 2.12, CLEC must reimburse SBC MISSOURI for the cost of the independent auditor and for SBC MISSOURI’s costs in the same manner and using the same methodology and rates that SBC MISSOURI is required to pay CLEC’s costs under Section 2.12.7.4.2.

2.12.7.4.2 To the extent the independent auditor’s report concludes that the CLEC complied in all material respects with this Section 2.12, SBC MISSOURI must reimburse CLEC for its reasonable staff time and other reasonable costs associated in responding to the audit (e.g., collecting data in response to the auditor’s inquiries, meeting for interviews, etc.).

- 2.12.7.5 CLEC will maintain the appropriate documentation to support its eligibility certifications, including without limitation call detail records, Local Telephone Number assignment documentation, and switch assignment documentation.
- 2.12.8 Without affecting the application or interpretation of any other provisions regarding waiver, estoppel, laches, or similar concepts in other situations, CLEC shall fully comply with this Section 2.12 in all cases and, further, the failure of SBC MISSOURI to require such compliance, including if SBC MISSOURI provides a circuit(s), an EEL(s), or a Commingled circuit, that does not meet any eligibility criteria, including those in this Section 2.12, shall not act as a waiver of any part of this Section, and estoppel, laches, or other similar concepts shall not act to affect any rights or requirements hereunder.
- 2.13 Where processes for any Lawful UNE requested pursuant to this Agreement, whether alone or in conjunction with any other UNE(s) or service(s), are not already in place, SBC MISSOURI will develop and implement processes, subject to any associated rates, terms and conditions. The Parties will comply with any applicable Change Management guidelines.
- 2.14 SBC MISSOURI will combine Lawful UNEs, combine Lawful UNE(s) with network elements possessed by CLEC, and/or Commingled only as set forth in this Appendix UNE.
- 2.15 The Parties intend that this Appendix Lawful UNEs contains the sole and exclusive terms and conditions by which CLEC will obtain Lawful UNEs from SBC MISSOURI. Accordingly, except as may be specifically permitted by this Appendix Lawful UNEs, and then only to the extent permitted, CLEC and its affiliated entities hereby fully and irrevocably waive any right or ability any of them might have to lease any unbundled network element (whether on a stand-alone basis, in combination with other UNEs (Lawful or otherwise), with a network element possessed by CLEC, or pursuant to Commingling or otherwise) directly from any SBC MISSOURI tariff, and agree not to so lease or attempt to so lease from any such tariff. Without affecting the application or interpretation of any other provisions regarding waiver, estoppel, laches, or similar concepts in other situations, the failure of SBC MISSOURI to enforce the foregoing (including if SBC MISSOURI fails to reject or otherwise block orders for, or provides or continues to provide, unbundled network elements, Lawful or otherwise, under tariff) shall not act as a waiver of any part of this Section, and estoppel, laches, or other similar concepts shall not act to affect any rights or requirements hereunder. At its option, SBC MISSOURI may either reject any such order submitted under tariff, or without the need for any further contact with or consent from CLEC, SBC MISSOURI may process any such order as being submitted under this Appendix UNE and, further, may convert any element provided under tariff, to this Appendix UNE, effective as of the later in time of the (i) Effective Date of this Agreement/Amendment, or (ii) the submission of the order by CLEC.
- 2.16 Various subsections below list the Lawful Unbundled Network Elements that SBC MISSOURI has agreed, subject to the other terms and conditions in this Agreement, to make available to CLEC for the provision by CLEC of a telecommunications service. SBC MISSOURI will make additional Lawful Unbundled Network Elements available pursuant to the terms of Section 2.22 of this Appendix.
- 2.17 Subject to the terms herein, SBC MISSOURI is responsible only for the installation, operation and maintenance of the Lawful Unbundled Network Elements it provides. SBC MISSOURI is not otherwise responsible for the telecommunications services provided by CLEC through the use of those elements.
- 2.18 Except upon request, SBC MISSOURI will not separate requested Lawful Unbundled network elements that SBC MISSOURI currently combines.
- 2.19 Where Lawful unbundled Network elements provided to CLEC are dedicated to a single end user, if such elements are for any reason disconnected they will be made available to SBC MISSOURI for future provisioning needs, unless such element is disconnected in error. The CLEC agrees to relinquish control of any such Lawful UNE concurrent with the disconnection of a CLEC's end user customer's Service.
- 2.20 Each Party is solely responsible for the services it provides to its end users and to other Telecommunications Carriers.

- 2.21 SBC MISSOURI will provide CLEC notification
- 2.22 The Lawful UNEs provided pursuant to this Agreement will be available to SBC MISSOURI at times mutually agreed upon in order to permit SBC MISSOURI to make tests and adjustments appropriate for maintaining the services in satisfactory operating condition. No credit will be allowed for any interruptions involved during such tests and adjustments.
- 2.23 CLEC's use of any SBC MISSOURI Lawful Unbundled network element, or of its own equipment or facilities in conjunction with any SBC MISSOURI Lawful_Unbundled network element, will not materially interfere with or impair service over any facilities of SBC MISSOURI, its affiliated companies or its connecting and concurring carriers involved in its services, cause damage to their plant, impair the privacy of any communications carried over their facilities or create hazards to the employees of any of them or the public. Upon reasonable written notice and opportunity to cure, SBC MISSOURI may discontinue or refuse service if CLEC violates this provision, provided that such termination of service will be limited to CLEC's use of the Lawful Unbundled Network element(s) causing the violation.
- 2.24 SBC MISSOURI and CLEC will negotiate to develop network contingency plans in order to maintain maximum network capability following natural or man-made disasters and catastrophic network failures (e.g., interoffice cable cuts and central office power failure) which affect their telecommunications services. These plans will provide for restoration and disaster recovery for CLEC customers at least equal to what SBC MISSOURI provides for its customers and will allow CLEC to establish restoration priority among CLEC customers consistent with applicable law.
- 2.25 Performance of Lawful Unbundled Network Elements
- 2.25.1 Each Lawful Unbundled Network Element provided by SBC MISSOURI to CLEC will meet applicable regulatory performance standards and be at least equal in quality and performance as that which SBC MISSOURI provides to itself. Each Lawful Unbundled Network Element will be provided in accordance with SBC MISSOURI Technical Publications or other written descriptions. Such publications will be shared with CLEC. CLEC may request, and SBC MISSOURI may provide, to the extent technically feasible, Lawful Unbundled Network Elements that are superior or lesser in quality than SBC MISSOURI provides to itself and such service will be requested pursuant to the BFR process.
- 2.25.2 SBC MISSOURI will provide a SBC MISSOURI Technical Publication or other written description for each Lawful Unbundled Network Element offered under this Agreement. The Technical Publication or other description for an Lawful Unbundled Element will describe the features, functions, and capabilities provided by the Lawful Unbundled Element as of the time the document is provided to CLEC.
- 2.25.3 Nothing in this Agreement will limit either Party's ability to modify its network through the incorporation of new equipment, new software or otherwise. Each Party will provide the other Party written notice of any such upgrades in its network which will materially impact the other Party's service consistent with the timelines established by the 47 CFR FCC §§ 51.325-335. CLEC will be solely responsible, at its own expense, for the overall design of its telecommunications services and for any redesigning or rearrangement of its telecommunications services which may be required because of changes in facilities, operations or procedure of SBC MISSOURI, minimum network protection criteria, or operating or maintenance characteristics of the facilities.
- 2.25.4 Where SBC MISSOURI will provide notification of network changes in accordance with 47 CFR §§ 51.325-335.
- 2.25.5 For Lawful Unbundled elements leased through the BFR Process, SBC MISSOURI, in its discretion, will determine whether it can offer the applicability of the preceding paragraph on a case by case basis.

- 2.25.6 For each Lawful Unbundled Network Element provided for in this Appendix, SBC MISSOURI Technical Publications or other written descriptions meeting the requirements of this section will be made available to CLEC not later than thirty (30) days after the Effective Date of this Agreement.
- 2.25.7 SBC MISSOURI will provide performance measurements as outlined in Appendix Operator Services under this Agreement. SBC MISSOURI will not levy a separate charge for providing this information.
- 2.26 If one or more of the requirements set forth in this Appendix are in conflict, the Parties will jointly elect which requirement will apply.
- 2.27 When CLEC leases Lawful unbundled Network Elements to provide interexchange services or exchange access services for intraLATA traffic originated by or terminating to CLEC local service customers, SBC MISSOURI will not collect access charges from CLEC or other IXCs except for charges for exchange access transport services that an IXC elects to lease from SBC MISSOURI.
- 2.28 CLEC will connect equipment and facilities that are compatible with the SBC MISSOURI Lawful Unbundled Network Elements and will use Network Elements in accordance with the applicable regulatory standards and requirements referenced in Section 2.17.
- 2.29 Fide Request (BFR)
- The sections below identify Lawful unbundled Network Elements and provide terms and conditions on which SBC MISSOURI will offer them to CLEC. Any request by CLEC for an additional new Lawful unbundled Network Element, combinations of Lawful Unbundled Network Element, or commingling of Lawful UNEs will be considered under the procedures set forth below. Where facilities and equipment are not available, CLEC may request and, to the extent required by law and as SBC MISSOURI may otherwise agree, SBC MISSOURI will provide Lawful Unbundled Network Elements through the Bona Fide Request (BFR) process.
- 2.29.1 SBC MISSOURI will promptly consider and analyze access to new unbundled Network Element with the submission of a Lawful Unbundled Network Element BFR hereunder. The Lawful Unbundled Network Element BFR process set forth herein does not apply to those services requested pursuant to FCC Report & Order and Notice of Proposed Rulemaking 91-141 (rel. Oct. 19, 1992) paragraph 259 and n. 603 and subsequent rulings.
- 2.29.2 CLEC may submit a Lawful Unbundled Network Element BFR in writing utilizing the Lawful Unbundled Network Element BFR Application Form, which -will include a technical description of each requested Lawful Unbundled Network Element, drawings when needed, locations where needed and the projected quantity of interconnection points ordered along with a three (3) year demand forecast.
- 2.29.3 CLEC may cancel, at no charge, its Lawful Unbundled Network Element BFR by providing written BFR Cancellation Notice to SBC MISSOURI after receiving the Preliminary analysis so long as SBC MISSOURI has not began working on CLEC's written request for the BFR Final Quote. However, in the event SBC MISSOURI receives a written BFR cancellation Notice from CLEC subsequent to SBC MISSOURI beginning work in response to CLECs written request for a BFR Final Quote then cancellation charges will apply. Cancellation charges will include time, labor, materials, and other actual costs incurred by SBC MISSOURI in connection with developing the BFR Final Quote.
- 2.29.4 Within ten (10) business days of receiving CLEC's Lawful Unbundled Network Element BFR Application Form SBC MISSOURI will acknowledge its receipt. In such written acknowledgement, SBC MISSOURI shall advise CLEC of any further information needed for the Lawful Unbundled Network Element BFR Application Form to be accurate and complete. CLEC acknowledges that the time intervals applicable to the BFR process as set forth hereafter in this section, begin to apply once SBC MISSOURI has received a complete and accurate Lawful Unbundled Network Element BFR Application Form.

- 2.29.5 Except under extraordinary circumstances, within thirty (30) days of its receipt of an accurate and complete Lawful Unbundled Network Element BFR Application Form, SBC MISSOURI will respond by providing CLEC with a written Preliminary Analysis of such Lawful Unbundled Network Element. Lawful Unbundled Network Element BFR, SBC MISSOURI will provide to CLEC a preliminary analysis of such Lawful Unbundled Network Element BFR. The preliminary analysis will confirm that SBC MISSOURI will offer access to the Lawful Unbundled Network Element or will provide a detailed explanation that access to the Lawful Unbundled Network Element is not technically feasible and/or that the request does not qualify as a Lawful Unbundled Network Element that is required to be provided under the Act. If the receiving party does not accept the request within thirty (30) days, the issue may be presented to the Commission in accordance with the Arbitration Order dated December 11, 1996, in Case No. TO-97-40, as follows: the requesting party has twenty (20) days in which to file a petition with the Commission, seeking a determination that the receiving party be required to provide the unbundled element. The receiving party must respond within 20 days of the filing of the petition and demonstrate why it is technically infeasible to provide the UNE or why such provision violates network integrity.
- 2.29.6 Following receipt of the Preliminary Analysis CLEC may, at its discretion, provide written authorization to SBC MISSOURI to develop the Lawful Unbundled Network Element BFR Final Quote. CLEC must provide such written authorization within thirty (30) calendar days of receipt of the preliminary analysis. If written authorization is not provided to SBC MISSOURI within thirty (30) calendar days, the Lawful Unbundled Network Element BFR will be deemed cancelled, and CLEC will be required to submit a new Lawful Unbundled Network Element BFR thereafter should CLEC desire pursuit of a similar Lawful Unbundled Network Element.
- 2.29.7 As soon as feasible, but not more than ninety (90) calendar days after its receipt of written authorization to proceed with developing the Lawful Unbundled Network Element BFR Final Quote, SBC MISSOURI shall provide to CLEC an Lawful Unbundled Network Element BFR Final Quote that will include, at a minimum, a description of each Network Element, the availability, the applicable rates to include recurring and non-recurring costs, the installation intervals, Lawful Unbundled Network Element BFR development and processing costs and terms and conditions for amending the Agreement to order and provision the Lawful Unbundled Network Element BFR.
- 2.29.8 Within thirty (30) calendar days of its receipt of the Lawful Unbundled Network Element BFR Final quote, the requesting Party must either (1) confirm or cancel its Lawful Unbundled Network Element BFR pursuant to the terms and conditions of the Lawful Unbundled Network Element BFR Final quote or (2) submit any disputed issues with the Lawful Unbundled Network Element BFR Final Quote for Dispute Resolution as provided for in the General Terms and Conditions of this Agreement.
- 2.29.9 If a Party to an Lawful Unbundled Network Element BFR believes that the other Party is not requesting, negotiating or processing the Unbundled Network Element BFR in good faith, or disputes a determination, or price or cost quote, such Party may submit the matter for Dispute Resolution as provided for in the General Terms and Conditions of this Agreement. Regardless of Dispute Resolution status CLEC remains responsible for new Lawful Unbundled Network Element BFR Final Quote development costs up to an including when written cancellation requests is received by SBC MISSOURI until such time as Dispute Resolution to BFR is complete.
- 2.29.10 Whenever CLEC requests to lease a particular SBC MISSOURI Lawful Unbundled Network Element that is developed and operational at the time of the Lawful Unbundled Network Element BFR, but for which no Lawful unbundled Network Element price has been established or agreed by the Parties, CLEC's request will be considered as follows: SBC MISSOURI will provide a price quote for the Lawful Unbundled Element BFR, consistent with the Act, within –ten (10) business days following SBC MISSOURI's receipt of CLEC's request. If the Parties have not agreed on a price for the Lawful Unbundled Element within ten (10) days following CLEC's

receipt of the price quote, either Party may submit the matter for Dispute Resolution as provided for in the General Terms and Conditions of this Agreement.

2.29.11 After the Parties to an Lawful Unbundled Network Element BFR have reached agreement on terms, conditions and rates for the Lawful Unbundled Network Element BFR, they shall jointly cooperate in preparing and filing an amendment to this Agreement for the ordering, provisioning, and pricing of the Lawful Unbundled Network Element BFR. Parties agree that ordering of the New Lawful Unbundled Network Element BFR will not occur until Product has been developed, and an Amendment to the Parties' interconnection agreement reflecting the appropriate rates, terms, and conditions, have been filed and approved by Commission.

2.29.11 CLEC shall not order and SBC MISSOURI shall not provision the Lawful Unbundled Network Element which is the subject of the BFR until: (1) the Interconnection Agreement Amendment is approved; and (2) full payment for Final Quote costs has been received.

3. NETWORK INTERFACE DEVICE

3.1 Consistent with Section 2.1 of this Appendix Lawful UNE, SBC MISSOURI shall provide Lawful UNE Network Interface Device under the following terms and conditions in this subsection.

3.2 The Lawful UNE Network Interface Device (Lawful NID) is a cross-connect used to connect loop facilities to inside wiring. The fundamental function of the Lawful NID is to establish the official network demarcation point between a carrier and its end user customer. The Lawful NID contains the appropriate and accessible connection points or posts to which the service provider and the end user customer each make its connections. The Lawful UNE Network Interface Device (NID) is defined as any means of interconnection of End User premises wiring to SBC MISSOURI' distribution loop facilities, such as a cross connect device used for that purpose. Fundamentally, the Lawful UNE NID establishes the final (and official) network demarcation point between the loop and the End User's inside wire. Maintenance and control of the End User's inside wiring (on the End User's side of the Lawful NID) is under the control of the End User. Conflicts between telephone service providers for access to the End User's inside wire must be resolved by the End User. Pursuant to applicable FCC rules, SBC MISSOURI offers nondiscriminatory access to the Lawful NID on an unbundled basis to CLEC for the provision of a Telecommunications Service. CLEC access to the Lawful NID is offered as specified below.

3.3 CLEC personnel may connect to the End User's premise wiring at the SBC MISSOURI Lawful NID, as is, at no charge. Should CLEC request SBC MISSOURI to disconnect its loop from the customer's inside wire, SBC MISSOURI will charge CLEC a non recurring charge as reflected on Appendix Pricing Lawful UNE - Schedule of Prices labeled as "Disconnect Loop from Inside Wiring per Lawful NID". Any repairs, upgrades and rearrangements (other than loop disconnection addressed in the preceding sentence) required by CLEC will be performed by SBC MISSOURI based on Time and Materials charges as reflected on Appendix Pricing Lawful UNE - Schedule of Prices labeled "Time and Materials Charges".

3.4 To the extent a SBC MISSOURI Lawful NID exists, it will be the interface to customers' premises wiring unless CLEC and the customer agree to an interface that bypasses the SBC MISSOURI Lawful NID.

3.5 CLEC will provide its own Lawful NID and will interface to the customer's premises wiring through connections in the customer chamber, if available, of the SBC MISSOURI Lawful NID, unless CLEC and the customer agree to an alternate interface as provided for in Section 3.3.

3.6 With respect to multiple dwelling units or multiple-unit business premises, CLEC will provide its own Lawful NID, will connect directly with the customer's inside wire and will not require any connection to the SBC MISSOURI Lawful NID, unless such premises are served by "single subscriber" type Lawful NIDs.

3.7 The SBC MISSOURI Lawful NIDs that CLEC uses under this Appendix will be those installed by SBC MISSOURI to serve its customers.

3.8 CLEC will not attach to or disconnect SBC MISSOURI's ground. CLEC will not cut or disconnect SBC MISSOURI's loop from its protector. CLEC will not cut any other leads in the Lawful NID. CLEC will

protect all disconnected leads with plastic sleeves and will store them within the Lawful NID enclosure. CLEC will tighten all screws or lugs loosened by CLEC in the Lawful NID's enclosure and replace all protective covers.

- 3.9 If CLEC requests a different type of Lawful NID not included with the loop, SBC MISSOURI will consider the requested type of Lawful NID to be facilitated via the Bona Fide Request (BFR) Process.

4. LAWFUL UNE LOCAL LOOP

- 4.1 Consistent with Section 2.1 of this Appendix Lawful UNE, SBC-MISSOURI shall provide Lawful UNE Local Loop under the following terms and conditions in this subsection.

- 4.2 Pursuant to applicable FCC rules, a local loop network element is a transmission facility between a distribution frame (or its equivalent) in an SBC-MISSOURI Central Office and the loop demarcation point at an End User customer premises. Therefore, consistent with the applicable FCC rules, SBC-MISSOURI will make available the Lawful UNE local loops set forth herein below between a distribution frame (or its equivalent) in an SBC-MISSOURI Central Office and the loop demarcation point at an End User customer premises. The Parties acknowledge and agree that SBC-MISSOURI shall not be obligated to provision any of the Lawful UNE local loops provided for herein to cellular sites or to any other location that does not constitute an End User premises. Where applicable, the Lawful UNE local loop includes all wire within multiple dwelling and tenant buildings and campuses that provides access to End User premises wiring, provided such wire is owned and controlled by SBC-MISSOURI. The Lawful UNE local loop includes all features, functions and capabilities of the transmission facility, including attached electronics (except those electronics used for the provision of advanced services, such as Digital Subscriber Line Access Multiplexers), and CLEC requested line conditioning (subject to applicable charges in Appendix Pricing). The Lawful UNE Local Loop includes, but is not limited to are copper loops (two-wire and four-wire analog voice-grade copper loops, digital copper loops [e.g. DS0s and integrated services digital network lines]), as well as two-wire and four-wire copper loops conditioned, at CLEC request and subject to charges, to transmit the digital signals needed to provide digital subscriber line services), Lawful UNE DS1 Digital Loops (where they have not been Declassified and subject to caps set forth in 4.3.4.4.1 and Lawful UNE DS3 Digital Loops (where they have not been Declassified and subject to caps set forth in Section 4.3.5.4.1), where such loops are deployed and available in SBC MISSOURI wire centers. CLEC agrees to operate each Lawful UNE local loop type within the technical descriptions and parameters accepted within the industry.

- 4.2.1 When a Lawful UNE local loop is ordered to a high voltage area, the Parties understand and agree that the Lawful UNE local loop will require a High Voltage Protective Equipment (HVPE) (e.g., a positron), to ensure the safety and integrity of the network, the Parties' employees and/or representatives, and the CLEC's end-user customer. Therefore, any request by CLEC for a Lawful UNE local loop to a high voltage area will be submitted by CLEC to SBC-MISSOURI via the BFR process and CLEC shall be required to pay SBC-MISSOURI for any HVPE that is provisioned by SBC-MISSOURI to CLEC in connection with the CLEC's Lawful UNE local loop order to the high voltage area.

- 4.3 SBC MISSOURI will provide at the rates, terms, and conditions set out in Appendix Pricing Lawful UNE - Schedule of Prices the types of unbundled loops. When CLEC orders an lawful unbundled loop, CLEC will be provided a termination on whatever Lawful NID, if any, connects the loop to the customer premises, without additional charge.

- 4.3.1 The 2-Wire analog loop supports analog voice frequency, voice band services with loop start signaling within the frequency spectrum of approximately 300 Hz and 3000 Hz.

- 4.3.1.1 SBC MISSOURI will offer 5 dB conditioning on a 2-wire analog loop as the standard conditioning option available.

- 4.3.1.2 If CLEC requests one or more Lawful UNE loops serviced by Integrated Digital Loop Carrier (IDLC) SBC MISSOURI will, where available, move the requested loop(s) to a

spare, existing all-copper or universal digital loop carrier Lawful UNE loop at no additional charge to CLEC. If however, no spare Lawful UNE loop is available, as defined above, SBC MISSOURI will within two (2) business days of CLEC's request, notify CLEC of the lack of available facilities.

4.3.2 The 4-Wire analog loop provides a non-signaling voice band frequency spectrum of approximately 300 Hz to 3000 Hz. The 4-Wire analog loop provides separate transmit and receive paths.

4.3.3 The 2-Wire digital loop 160 Kbps supports Basic Rate ISDN (BRI) digital exchange services. The 2-Wire digital loop 160 Kbps supports usable bandwidth up to 160 Kbps.

4.3.4 DS1 Digital Loop

4.3.4.1 The 4-Wire digital loop (DS1) is a transmission facility (1.544 Mbps) that will support DS1 service including Primary Rate ISDN (PRI). The 4-wire digital loop 1.544 Mbps supports usable bandwidth up to 1.544 Mbps.

4.3.4.2 DS1 Lawful UNE Digital Loops will be offered and/or provided only where such Loops have not been Declassified.

4.3.4.3 The procedures set forth in 4.4, below will apply in the event DS1 Digital Loops (DS1) are or have been Declassified.

4.3.4.4 DS1 Loop "Caps"

4.3.4.4.1 SBC MISSOURI is not obligated to provide to CLEC more than ten (10) DS1 Lawful UNE loops per requesting carrier to any single building in which DS1 Loops have not been otherwise Declassified; accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering unbundled DS1 Loops once CLEC has already obtained ten DS1 Lawful UNE Loops at the same building. If, notwithstanding this Section, CLEC submits such an order, at SBC MISSOURI's option it may accept the order, but convert any requested DS1 Lawful UNE Loop(s) in excess of the cap to Special Access, and applicable Special Access charges will apply to CLEC for such DS1 Loop(s) as of the date of provisioning.

4.3.5 DS3 Digital Loops

4.3.5.1 The DS3 loop provides a digital, 45 Mbps transmission facility from the SBC MISSOURI Central Office to the end user premises.

4.3.5.2 DS3 Lawful UNE loops will be offered and/or provided only where such Loops have not been Declassified.

4.3.5.3 The procedures set forth in Section 4.4, below will apply in the event DS3 Digital Loops are or have been Declassified.

4.3.5.4 DS3 Loop "Caps"

4.3.5.4.1 SBC MISSOURI is not obligated to provide to CLEC more than one (1) DS3 Lawful UNE loop per requesting carrier to any single building in which DS3 Loops have not been otherwise Declassified; accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering unbundled DS3 Loops once CLEC has already obtained one DS3 Lawful UNE loop to the same building. If, notwithstanding this Section, CLEC submits such an order, at SBC MISSOURI's option it may accept the order, but convert any requested DS3 Lawful UNE Loop(s) in excess of the cap to Special Access, and applicable Special Access charges will apply to CLEC for such DS3 Loop(s) as of the date of provisioning.

4.4 Declassification Procedure

- 4.4.1 DS1. Subject to the cap described in Section 8.3.4.4.1, SBC MISSOURI shall provide CLEC with access to a DS1 Lawful UNE Digital Loop, where available, to any building *not* served by a wire center with 60,000 or more business lines and four or more (4) fiber-based collocators. Once a wire center exceeds these thresholds, no future DS1 Digital Loop unbundling will be required in that wire center, or any buildings served by that wire center, and DS1 Digital Loops in that wire center, or any buildings served by that wire center, shall be Declassified and no longer available as Lawful UNEs under this Agreement. Accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering DS1 Lawful UNE Digital Loops in such wire center(s), or any buildings served by such wire center(s).
- 4.4.2 DS3. Subject to the cap described in Section 8.3.5.4.1, SBC MISSOURI shall provide CLEC with access to a DS3 Lawful UNE Digital Loop, where available, to any building *not* served by a wire center with at least 38,000 business lines and at least four (4) fiber-based collocators. Once a wire center exceeds these thresholds, no future DS3 Digital Loop unbundling will be required in that wire center, or any buildings served by that wire center, and DS3 Digital Loops in that wire center, or any buildings served by that wire center, shall be Declassified, and no longer available as Lawful UNEs under this Agreement. Accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering DS3 Lawful UNE Digital Loops in such wire center(s), or any buildings served by such wire center(s).
- 4.4.3 Effect on Embedded Base. Upon Declassification of DS1 Digital Loops or DS3 Digital Loops already purchased by CLEC as Lawful UNEs under this Agreement, SBC MISSOURI will provide written notice to CLEC of such Declassification, and proceed in accordance with Section 2.5 “Notice and Transition Procedure.”
- 4.4.3.1 Products provided by SBC MISSOURI in conjunction with such Loops (e.g. Cross-Connects) shall also be subject to re-pricing under this Section and Section 2.5 “Notice and Transition Procedure” where such Loops are Declassified.
- 4.5.2 A routine network modification is an activity that SBC MISSOURI regularly undertakes for its own customers. Routine network modifications include rearranging or splicing of existing cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; and attaching electronic and other equipment that the incumbent LEC ordinarily attaches to activate such loops for its own retail customers under the same conditions and in the same manner that SBC MISSOURI does for its own customers. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. SBC MISSOURI will place drops in the same manner as it does for its own customers.
- 4.5.3 Routine network modifications do not include constructing new Lawful UNE loops; installing new cable; securing permits, rights-of-way; constructing and/or placing new manholes or conduits; installing new terminals; removing or reconfiguring packetized transmission facility. SBC MISSOURI is not obligated to perform those activities for a requesting telecommunications carrier.
- 4.5.3.1 SBC MISSOURI shall determine whether and how to perform routine network modifications using the same network or outside plant engineering principles that would be applied in providing service to SBC MISSOURI’s retail customers.
- 4.5.3.2 This Agreement does not require SBC MISSOURI to deploy time division multiplexing-based features, functions and capabilities with any copper or fiber packetized transmission facility to the extent SBC MISSOURI has not already done so; remove or reconfigure packet switching equipment or equipment used to provision a packetized transmission path; reconfigure a copper or fiber packetized transmission facility to provide time division multiplexing-based features, functions and capabilities; to deploy TDM voice grade transmission capacity into new or existing networks that never had TDM capability; nor does this Agreement prohibit SBC MISSOURI from upgrading a customer from a TDM-

based service to a packet switched or packet transmission service, or removing copper loops or subloops from the network, provided SBC MISSOURI complies with the copper loop or subloop retirement rules in 47 C.F.R. 51.319(a)(3)(iii).

- 4.5.3.3 Notwithstanding anything to the contrary herein, SBC MISSOURI's obligations with respect to routine network modifications apply only where the loop transmission facilities are subject to unbundling and, as to access to the TDM capabilities of SBC MISSOURI's hybrid loops, only with respect to any existing capabilities of SBC MISSOURI's hybrid loops. SBC MISSOURI has no obligation to perform routine network modifications in connection with FTTH loops or FTTC loops.
- 4.5.4 SBC MISSOURI shall provide routine network modifications at the rates, terms and conditions set out in this Appendix and in Appendix Pricing. A rate for any routine network modification shown as "ICB" in Appendix Pricing indicates that the Parties have not negotiated, and/or that the State Commission has not reviewed or approved, a specific rate for that routine network modification. The ICB rate shall be determined on an individual case basis and shall reflect an engineering estimate of the actual costs of time and materials required to perform the routine network modification; provided, however, that the ICB rate shall not include any costs already recovered through existing, applicable recurring and non-recurring charges. The resulting ICB rates shall continue to apply to such routine network modifications unless and until the Parties negotiate specific rates for such routine network modifications or specific rates are otherwise established for such routine network modifications.
- 4.6 Lawful UNE DS1 and DS3 Loops may not be employed in combination with transport facilities to replace Special Access services or facilities, except consistently with the other terms and conditions of this Agreement, including but not limited to, Section 2.10 of this Appendix.
- 4.7 xDSL Subloop is as defined in the xDSL and Line Splitting Appendix, if any, and will be available to CLEC in the SBC MISSOURI states in those instances where CLEC has an approved and effective xDSL and Line Splitting Appendix as a part of this Agreement. In addition to the provisions set forth in the xDSL and Line Splitting Appendix, the xDSL Subloop is subject to the subloop terms and conditions set forth in this Section 9, the collocation provisions set forth elsewhere in this Agreement and the rates set forth in the Appendix Pricing. If there is any conflict between the provisions set forth in the xDSL and Line Splitting Appendix as to the xDSL Subloop and the subloop provisions set forth in this Section 5, the subloop provisions set forth in Section 5 shall control.

5. LAWFUL UNE SUBLOOP

- 5.1 SBC MISSOURI will provide Lawful UNE Subloops under the following terms and conditions in this subsection.
- 5.2 A Lawful UNE subloop is a smaller included segment of SBC MISSOURI's Lawful UNE local loop plant, i.e., a portion of the Lawful UNE loop from some technically accessible terminal beyond SBC MISSOURI's central office and the network demarcation point, including that portion of the Lawful UNE loop, if any, which SBC MISSOURI owns and controls inside the End User premises.
- 5.3 Definitions pertaining to the Lawful UNE Subloop:
 - 5.3.1 Accessible terminals contain cables and their respective wire pairs that terminate on screw posts. This allows technicians to affix cross connects between binding posts of terminals collocated at the same point. Terminals differ from splice cases, which are inaccessible because the case must be breached to reach the wires within.
 - 5.3.2 "Dead Count" refers to those binding posts which have cable spliced to them but which cable is not currently terminated to any terminal to provide service.

- 5.3.3 “Demarcation Point” is defined as the point on the loop where the ILEC’s control of the wire ceases and the subscriber’s control (or on the case of some multiunit premises, the landlord’s control) of the wire begins.
- 5.3.4 “Digital Lawful UNE Subloop” may be deployed on non-loaded copper cable pairs, channels of a digital loop carrier system, channels of a fiber optic transport system or other technologies suitable for the purpose of providing 160 Kbps Lawful UNE subloop transport.
- 5.3.5 “Distribution Cable” is defined as the cable from the SAI/FDI to the terminals from which an end user can be connected to the ILEC’s network.
- 5.3.6 “MTE” for the purpose of Term To NID Lawful UNE subloop. “MTE” is a Multi Tenant Environment for buildings with exterior or interior mounted terminals.
- 5.3.7 “Network Terminating Wire (NTW)” is the service wire that connects the ILEC’s distribution cable to the NID at the demarcation point.
- 5.3.8 “SAI/FDI-to-Term Lawful UNE Subloop” is that portion of the Lawful UNE Loop from the SAI/FDI to an accessible terminal.
- 5.3.9 “SAI/FDI-to-NID Lawful UNE Subloop” is that portion of the Lawful UNE Loop from the SAI/FDI to the Network Interface Device (NID), which is located on an end user’s premise.
- 5.3.10 “SPOI” is defined as a Single Point of Interconnection. SBC MISSOURI will construct a SPOI at CLEC expense only to those multiunit premises where SBC MISSOURI has distribution facilities to the premises and SBC MISSOURI either owns, controls, or leases the inside wire, if an, at such premises. If SBC MISSOURI has no facilities which it owns, controls or leases at a multiunit premises through which it serves, or can serve, customers at such premises, it is not obligated to construct a SPOI. SBC MISSOURI’s obligation to build a SPOI for multiunit premises only arises when CLEC indicates that it will place an order for an Lawful UNE subloop network element via a SPOI.
- 5.3.11 “SAI/FDI” is defined as the point in the ILEC’s network where feeder cable is cross connected to the distribution cable. “SAI” is Serving Area Interface. “FDI” is Feeder Distribution Interface. The terms are interchangeable.
- 5.3.12 “Term-to-NID Lawful UNE Subloop” is that portion of the loop from an accessible terminal to the NID, which is located at an end user’s premise. Term-to-NID includes use of the Network Terminating Wire (NTW).
- 5.4 SBC MISSOURI will offer the following Lawful UNE subloop types:
 - 5.4.1 2-Wire Analog Lawful UNE Subloop provides a 2-wire (one twisted pair cable or equivalent) capable of transporting analog signals in the frequency range of approximately 300 to 3000 hertz (voiceband).
 - 5.4.2 4-Wire Analog Lawful UNE Subloop provides a 4-wire (two twisted pair cables or equivalent, with separate transmit and receive paths) capable of transporting analog signals in the frequency range of approximately 300 to 3000 hertz (voiceband).
 - 5.4.3 Lawful UNE xDSL Subloop is as defined in the xDSL and Line Splitting Appendix and will be available to CLEC in the SBC MISSOURI states in those instances where CLEC has an approved and effective xDSL and Line Splitting Appendix as a part of this Agreement. In addition to the provisions set forth in the xDSL and Line Splitting Appendix, the Lawful UNE xDSL Subloop is subject to the Lawful UNE subloop terms and conditions set forth in this Appendix, the collocation provisions set forth elsewhere in this Agreement and the rates set forth in the Appendix Pricing. If there is any conflict between the provisions set forth in the xDSL and Line Splitting Appendix as to the Lawful UNE xDSL Subloop and the Lawful UNE subloop provisions set forth in this Appendix, the Lawful UNE subloop provisions set forth in this Appendix shall control.

5.4.4 As no other type of Subloop constitutes a Lawful UNE subloop, SBC MISSOURI is not obligated under this Section 251/252 Agreement to provide any other type of subloop. CLEC shall not request such subloops under this Agreement, whether alone, in combination or Commingled. Accordingly, if CLEC requests and SBC MISSOURI provides a subloop(s) that is not described or provided for in this Agreement, SBC MISSOURI may, at any time, even after the subloop(s) has been provided to CLEC, discontinue providing such subloop(s) (including any combination(s) including that subloop) upon 30 days' advance written notice to CLEC. Without affecting the application or interpretation of any other provisions regarding waiver, estoppel, laches, or similar concepts in other situations, the failure of SBC MISSOURI to refuse to provide, including if SBC MISSOURI provides or continues to provide, access to such subloop(s) (whether on a stand-alone basis, in combination with UNEs (Lawful or otherwise), with a network element possessed by CLEC, or otherwise), shall not act as a waiver of any part of this Agreement, and estoppel, laches, or other similar concepts shall not act to affect any rights or requirements hereunder.

5.5 Lawful UNE Subloops are provided “as is” unless CLEC requests loop conditioning on xDSL Lawful UNE Subloops for the purpose of offering advanced services. xDSL Lawful UNE subloop conditioning will be provided at the rates, terms, and conditions set out in the Appendix Pricing.

5.6 If a Term to NID Lawful UNE Subloop has been disconnected and thus an end-user is no longer receiving service via that Lawful UNE Subloop, and such Lawful UNE Subloop has been determined to be a non-defective pair, then that Lawful UNE Subloop would be considered an existing spare portion of the loop, based on a first come first served basis.

5.7 Twisted-pair Copper Lawful UNE Subloops:

5.7.1 Access to terminals for twisted-pair copper Lawful UNE subloops is defined to include:

- any technically feasible point near the customer premises accessible by a cross-connect (such as the pole or pedestal, the NID, or the minimum point of entry (MPOE) to the customer premises),
- the Feeder Distribution Interface (FDI) or Serving Area Interface (SAI), where the “feeder” leading back to the central office and the “distribution” plant branching out to the subscribers meet,
- the Terminal (underground or aerial).

5.8 CLEC may request access to the following twisted-pair copper Lawful UNE subloop segments:

| FROM: | TO: |
|--|--------------------------|
| 1. Serving Area Interface or Feeder Distribution Interface | Terminal |
| 2. Serving Area Interface or Feeder Distribution Interface | Network Interface Device |
| 3. Terminal | Network Interface Device |
| 4. NID | Stand Alone |
| 5. SPOI (Single Point of Interface) | Terminal |
| 6. SPOI (Single Point of Interface) | Network Interface Device |

5.9 Provisioning:

5.9.1 Connecting Facility Arrangement (CFA) assignments must be in-place prior to ordering and assigning specific Lawful UNE subloop circuit(s).

5.9.2 Spare Lawful UNE subloop(s) will be assigned to CLEC only when an LSR/ASR is processed. LSR/ASRs will be processed on a “first come first serve” basis.

5.10 Maintenance:

- 5.10.1 The Parties acknowledge that by separating switching, feeder plant and distribution plant, the ability to perform mechanized testing and monitoring of the Lawful UNE subloop from the SBC MISSOURI switch/testing equipment will be lost.
- 5.10.2 CLEC shall isolate trouble to the SBC MISSOURI Lawful UNE Subloop portion of the CLEC's service before reporting trouble to SBC MISSOURI.
- 5.10.3 SBC MISSOURI shall charge the CLEC a Maintenance of Service Charge (MSC) when CLEC dispatches SBC MISSOURI on a trouble report and the fault is determined to be in the CLEC's portion of the loop. Such charges may be found in the individual state pricing appendices or tariffs.
- 5.10.4 Once all Lawful UNE subloop access arrangements have been completed and balance of payment due SBC MISSOURI is received, the CLEC may place a LSR for Lawful UNE subloops at this location. Prices at which SBC MISSOURI agrees to provide CLEC with Lawful Unbundled Network Elements (Lawful UNE) are contained in the Appendix Pricing.
- 5.10.5 In the event of Catastrophic Damage to the RT, SAI/FDI, Terminal, or NID where CLEC has a SAA, SBC MISSOURI repair forces will restore service in a non-discriminatory manner which will allow the greatest number of all customers to be restored in the least amount of time. Should the CLEC cabling require replacement, SBC MISSOURI will provide prompt notification to CLEC for CLEC to provide the replacement cable to be terminated as necessary.
- 5.11 Lawful UNE Subloop Access Arrangements:
 - 5.11.1 Prior to ordering Lawful UNE subloop facilities, CLEC will establish Collocation using the Collocation process as set forth in the Collocation Appendix, or will establish a Lawful UNE Subloop Access Arrangement utilizing the Special Construction Arrangement (SCA), either of which are necessary to interconnect to the SBC MISSOURI Lawful UNE subloop network.
 - 5.11.2 The space available for collocating or obtaining various Lawful UNE Subloop Access Arrangements will vary depending on the existing plant at a particular location. The CLEC will initiate an SCA by submitting a Lawful UNE Sub-loop Access Arrangement Application.
 - 5.11.3 Upon receipt of a complete and correct application, SBC MISSOURI will provide to CLEC within 30 days a written estimate for the actual construction, labor, materials, and related provisioning costs incurred to fulfill the SCA on a Time and Materials basis. When CLEC submits a request to provide a written estimate for Lawful UNE sub-loop(s) access, appropriate rates for the engineering and other associated costs performed will be charged.
 - 5.11.4 The assignment of Lawful UNE subloop facilities will incorporate reasonable practices used to administer outside plant loop facilities. For example, where SAI/FDI interfaces are currently administered in 25 pair cable complements, this will continue to be the practice in assigning and administering Lawful UNE subloop facilities.
 - 5.11.5 Lawful UNE Subloop inquiries do not serve to reserve Lawful UNE subloop(s).
 - 5.11.6 Several options exist for Collocation or Lawful UNE Subloop Access Arrangements at technically feasible points. Sound engineering judgment will be utilized to ensure network security and integrity. Each situation will be analyzed on a case-by-case basis.
 - 5.11.7 CLEC will be responsible for obtaining rights of way from owners of property where SBC MISSOURI has placed the equipment necessary for the SAA prior to submitting the request for SCA.
 - 5.11.8 Prior to submitting the Lawful UNE Sub-loop Access Arrangement Application for SCA, the CLEC should have the "Collocation" and "Poles, Conduit, and Row" appendices in the Agreement to provide the guidelines for both CLEC and ILEC to successfully implement Lawful UNE subloops, should collocation, access to poles/conduits or rights of way be required.

- 5.11.9 Except as set forth below in this Section 5.11.9, construction of the Lawful UNE Subloop Access Arrangement shall be completed within 90 days of CLEC submitting to SBC MISSOURI written approval and payment of not less than 50% of the total estimated construction costs and related provisioning costs after an estimate has been accepted by the carrier and before construction begins, with the balance payable upon completion. SBC MISSOURI will not begin any construction under the SCA until the CLEC has provided proof that it has obtained necessary rights of way as defined in Section 5.11.7. In the event CLEC disputes the estimate for an SAA in accordance with the dispute resolution procedures set forth in the General Terms and Conditions, Section 10, of this Agreement, SBC MISSOURI will proceed with construction of the SAA upon receipt from CLEC of notice of the dispute and not less than fifty percent (50%) of the total estimated costs, with the balance payable by CLEC upon completion of the SAA. Such payments may be subject to any “true-up”, if applicable, upon resolution of the dispute in accordance with the Dispute Resolution procedures.
- 5.11.10 Upon completion of the construction activity, the CLEC will be allowed to test the installation with a SBC MISSOURI technician. If the CLEC desires test access to the SAA, the CLEC should place its own test point in its cable prior to cable entry into SBC MISSOURI’ interconnection point.
- 5.11.11 A non-binding CLEC forecast shall be required as a part of the request for SAA, identifying the Lawful UNE subloops arrangements to each subtending SAI. This will allow SBC MISSOURI to properly engineer access to each SAI and to ensure SBC MISSOURI does not provide more available terminations than the CLEC expects to use.
- 5.11.12 In order to maximize the availability of terminations for all CLECs, the CLEC shall provide CFA for their Lawful UNE subloop pairs utilizing the same 25-pair binder group. The CLEC would begin utilizing the second 25-pair binder group once the first 25-pair binder group reached its capacity.
- 5.11.13 Unused CLEC terminations (in normal splicing increments such as 25-pair at a SAI/FDI) which remain unused for a period of one year after the completion of construction shall be subject to removal at CLEC expense.
- 5.11.14 In the event a CLEC elects to discontinue use of an existing SAA, or abandons such arrangement, CLEC shall pay SBC MISSOURI for removal of their facilities from the SAA.
- 5.12 Lawful UNE Subloop Access Arrangement (SAA) Access Points:
 - 5.12.1 SAI/FDI or Terminal
 - 5.12.1.1 CLEC cable to be terminated in an SBC MISSOURI SAI/FDI, or Terminal, shall consist of 22 or 24-gauge copper twisted pair cable bonded and grounded to the power company Multi Grounded Neutral (MGN). Cable may be filled if buried or buried to aerial riser cable. CLEC’s Aerial cables should be aircore.
 - 5.12.1.2 The CLEC may elect to place their cable to within 3 feet of the SAA site and coil up an amount of cable, defined by the engineer in the design phase, that SBC MISSOURI will terminate on available binding posts in the SAI/FDI or Terminal.
 - 5.12.1.3 The CLEC may “stub” up a cable at a prearranged meet point, defined during the engineering site visit, and SBC MISSOURI will stub out a cable from the SAI/FDI or Terminal, which SBC MISSOURI will splice to the CLEC cable at the meet point.
 - 5.12.1.4 Dead counts will be offered as long as they have not been placed for expansion purposes planned within the 12-month period beginning on the date of the inquiry LSR.
- 5.13 Relocation of Existing ILEC/CLEC Facilities involved in a SAA at a RT, SAI/FDI, Terminal or NID:
 - 5.13.1 SBC MISSOURI shall notify CLEC of pending relocation as soon as SBC MISSOURI receives such notice.

- 5.13.2 CLEC shall notify SBC MISSOURI of its intentions to remain, or not, in the SAA by way of a new Lawful UNE Subloop Access Arrangement Application for a new SCA.
- 5.13.3 SBC MISSOURI shall then provide the CLEC an estimate to terminate their facilities as part of the relocation of the site including the applicable SAA. This process may require a site visit with the CLEC and SBC MISSOURI engineer.
- 5.13.4 CLEC shall notify SBC MISSOURI of acceptance or rejection of the new SCA within 10 business days of its receipt of SBC MISSOURI's estimate.
- 5.13.5 Upon acceptance of the SBC MISSOURI estimate, CLEC shall pay at least 50% of the relocation costs at the same time as they notify SBC MISSOURI of their acceptance of estimate costs.
- 5.13.6 Should CLEC decide not to continue the SAA, CLEC will notify SBC MISSOURI as to the date that SBC MISSOURI may remove CLEC's facilities from that SAA. CLEC will pay SBC MISSOURI for all costs associated with the removal of the CLEC's SAA.
- 5.13.7 In the event that CLEC does not respond to SBC MISSOURI in time to have their facilities relocated, SBC MISSOURI shall move CLEC facilities and submit a bill for payment to the CLEC for the costs associated with the relocation. Should CLEC elect not pay this bill, then CLEC facilities will be removed from the site upon 30 days notice to the CLEC.
- 5.14 The CLEC may "stub" up a cable at a prearranged meet point, defined during the engineering site visit, and SBC MISSOURI will stub out a cable from the RT, which SBC MISSOURI will splice to the CLEC cable at the meet point.
- 5.15 Establishment of Intermediary Box for CLEC Access to Term to NID MTE Lawful UNE Subloop Segment
 - 5.15.1 As an alternative to the establishment of a Lawful UNE Subloop Access Arrangement in those instances where CLEC wishes to access/lease SBC MISSOURI Term to NID Lawful UNE subloop segments in order to serve its end-user customers at MTEs in SBC MISSOURI ("Term to NID MTE Lawful UNE Subloop Segments"), CLEC may place, own and manage, for its own use, an intermediary box, which would provide CLEC with access to a Term to NID MTE Lawful UNE Subloop Segment cross-connect leased from SBC MISSOURI within the intermediary box (in order to obtain access to SBC MISSOURI Term to NID MTE Lawful UNE Subloop Segments). In the event CLEC wishes to access SBC MISSOURI Term to NID MTE Lawful UNE Subloop Segments via the establishment of an intermediary box, the following rates, terms and conditions shall apply:
 - 5.15.1.1 CLEC would manage the process for placing its own intermediary box, including, without limitation, coordination with the property owner and/or management. CLEC may, at its discretion, choose to retain ownership in whole or to share ownership of the intermediary box with other CLECs. Intermediary box shall be placed no more than two feet from the SBC terminal.
 - 5.15.1.2 The intermediary box shall contain blocks that meet SBC MISSOURI's published industry standards for the placement of services and facilities and should be labeled with CLEC's ACNA to enable the SBC MISSOURI technician the ability to run jumper/cross connect from SBC MISSOURI terminal to the intermediary box.
 - 5.15.1.3 CLEC agrees that the SBC MISSOURI technician shall run the jumper/cross-connect from SBC MISSOURI's serving terminal to CLEC's intermediary box, in order for CLEC to access SBC MISSOURI Term to NID MTE Lawful UNE Subloop Segments in SBC MISSOURI. For security and safety, SBC will incase the cross connect in conduit, a protective covered common path, between the SBC terminal and the CLEC's intermediary box.

- 5.15.1.4 CLEC must have in place Connecting Facility Arrangement (CFA) assignments prior to ordering and assigning specific Term to NID MTE Lawful UNE Subloop Segments from SBC MISSOURI.
- 5.15.1.5 Following CLEC's provisioning, placement, and completion of Connecting Facility Arrangement Assignments ("CFA") data submission to SBC MISSOURI associated with the intermediary box, CLEC would place orders and schedule activities related to access to the Term to NID MTE Lawful UNE Subloop Segment including, without limitation: transferring the end-user customer's service from SBC MISSOURI to CLEC, providing SBC MISSOURI with CFA prior to ordering and the assigning of a specific Term to NID MTE Lawful UNE Subloop Segment(s).
- 5.15.1.6 The ordering procedures for the Term to NID MTE Lawful UNE Subloop Segment will be the same as those that apply to Lawful UNE subloops today and shall be submitted to SBC MISSOURI by CLEC via a Local Service Request ("LSR").
- 5.15.1.7 SBC MISSOURI will upon receipt of the LSR from CLEC for a Term to NID MTE Lawful UNE Subloop Segment, process the order and place the jumper/cross connect to the CFA provided by the CLEC on the LSR, from the SBC MISSOURI terminal to the CLEC intermediary box. SBC MISSOURI must have access to the intermediary box for completion of the order.
- 5.15.2 In connection with the MTE intermediary box for CLEC access to Term to NID MTE Lawful UNE Subloop Segments in 12 State only, CLEC may elect to lease from SBC MISSOURI Term to NID MTE Lawful UNE Subloop Segments which do not include traditional testing and the associated labor, at the recurring and non-recurring rates set forth in Appendix Pricing for the "Term to NID MTE Lawful UNE Subloop Segment" In the event CLEC wishes to lease the Term to NID MTE Lawful UNE Subloop Segment from SBC MISSOURI in lieu of SBC MISSOURI's standard Term to NID Lawful UNE subloop segment addressed in this Section 5.15.2, CLEC understands and agrees no performance measures and/or remedies shall apply to the Term to NID MTE Lawful UNE Subloop Segment as a result of the elimination of associated testing and reduction in functionality associated with the Term to NID MTE Lawful UNE Subloop Segment.
- 5.15.3 Establishment of Term to NID MTE Lawful UNE Subloop Segment When no Intermediary Box is installed
 - 5.15.3.1 In those instances where CLEC elects not to install an intermediary box or to have SBC MISSOURI install an intermediary box pursuant to the SAA process outlined herein above, the CLEC may still lease from SBC MISSOURI Term to NID MTE Lawful UNE Subloop Segments which do not include traditional testing and the associated labor, at the recurring and non-recurring rates set forth in Appendix Pricing for the "Term to NID MTE Lawful UNE Subloop Segment". In the event CLEC wishes to lease the Term to NID MTE Lawful UNE Subloop Segment from SBC MISSOURI in lieu of SBC-MISSOURI's standard Term to NID Lawful UNE subloop segment addressed in Section 5.15.2.2 above, CLEC understands and agrees no performance measures and/or remedies shall apply to the Term to NID MTE Lawful UNE Subloop Segment as a result of the elimination of associated testing and reduction in functionality associated with the Term to NID MTE Lawful UNE Subloop Segment. In such cases, SBC-MISSOURI will provide CLEC with access to the Term To NID MTE Lawful UNE subloop via a cross connect. The SBC technician will tag appropriately and will leave up to one foot of exposed wire at SBC 12STATE terminal. The cross connect would then be terminated by the CLEC technician in the CLEC terminal, at a time of CLEC's own choosing. For security and safety, SBC will incase the cross connect in conduit, a protective covered common path, between the SBC terminal and the CLEC's terminal.
 - 5.15.3.2 If CLEC elects this option to obtain access to the Term To NID Lawful UNE subloop in an MTE Environment, neither the SBC MISSOURI SAA process nor the intermediary

box option would be required. Because the CLEC would have full responsibility for terminating the SBC MISSOURI cross-connect, SBC MISSOURI could not require any CFA information from CLEC.

6. ENGINEERING CONTROLLED SPLICE (ECS)

- 6.1 SBC MISSOURI will make available an Engineering Controlled Splice (ECS), which will be owned by SBC MISSOURI, for CLECs to gain access to Lawful UNE subloops at or near remote terminals.
- 6.2 The ECS shall be made available for Lawful UNE Subloop Access Arrangements (SAA) utilizing the Special Construction Arrangement (SCA).
 - 6.2.1 CLEC requesting such a SCA shall pay all of the actual construction, labor, materials and related provisioning costs incurred to fulfill its SCA on a Time and Materials basis, provided that SBC MISSOURI will construct any Lawful UNE Subloop Access Arrangement requested by a telecommunications carrier in a cost-effective and efficient manner. If SBC MISSOURI elects to incur additional costs for its own operating efficiencies and that are not necessary to satisfy an SCA in a cost-effective and efficient manner, the requesting telecommunications carrier will not be liable for such extra costs.
 - 6.2.2 CLEC shall be liable only for costs associated with cable pairs that it orders to be presented at an engineering controlled splice (regardless of whether the requesting carrier actually utilizes all such pairs), even if SBC MISSOURI places more pairs at the splice.
 - 6.2.3 Although SBC MISSOURI will construct the engineering controlled splice, the ECS maybe owned by SBC MISSOURI or the CLEC (depending on the specific arrangement) at the option of SBC MISSOURI.
 - 6.2.4 If more than one requesting telecommunications carrier obtains space in expanded remote terminals or adjacent structures and obtains an SAA with the new copper interface point at the ECS, the initial telecommunications carrier which incurred the costs of construction of the engineering controlled splice and/or additional copper shall be reimbursed those costs in equal proportion to the space or lines used by the requesting carriers.
 - 6.2.5 SBC MISSOURI may require a separate SCA for each remote terminal site.
 - 6.2.6 Except as set forth below in this Section 6.2.6, written acceptance and at least 50% of payment for the SCA must be submitted at least 90 days before access to the copper Lawful UNE subloop is to be provisioned by SBC MISSOURI. If an augment of cabling is required between the ECS and the SAI, the interval for completion of the SCA will be determined on an individual case basis. SBC MISSOURI will not begin any construction of the ECS until the CLEC has provided proof that it has obtained the necessary rights of way. In the event CLEC disputes the estimate for the ECS in accordance with the dispute resolution procedures set forth in this Agreement, SBC MISSOURI will proceed with construction of the ECS upon receipt from CLEC of notice of the dispute and not less than fifty percent (50%) of the total estimated costs, with the balance payable by CLEC upon completion of the ECS. Such payments may be subject to any “true-up”, if applicable, upon resolution of the dispute in accordance with the Dispute Resolution procedures.
- 6.3 CLECs will have two (2) options for implementing the ECS: a “Dedicated Facility Option” (DFO) and a “Cross-connected Facility Option” (CFO).
 - 6.3.1 Dedicated Facility Option (DFO)
 - 6.3.1.1 CLEC may request SBC MISSOURI splice the existing cabling between the ECS and the SAI to the CLEC’s SAA facility. This facility will be “dedicated” to the CLEC for subsequent Lawful UNE subloop orders.
 - 6.3.1.2 CLEC must designate the quantity of Lawful UNE subloops they desire to access via this spliced, dedicated facility, specified by subtending SAI.

- 6.3.1.3 CLECs will compensate SBC MISSOURI for each of the dedicated Lawful UNE subloop facilities, based on recurring Lawful UNE subloop charges, for the quantity of Lawful UNE subloops dedicated to the CLEC between the ECS and the SAI.
- 6.3.2 Cross-connected Facility Option (CFO)
 - 6.3.2.1 CLEC may request SBC MISSOURI build an ECS cross-connect junction on which to terminate CLEC's SAA facility.
 - 6.3.2.2 The SCA associated with this option will include the charges associated with constructing the cross-connect device, including the termination of SBC MISSOURI cabling between the ECS and the RT and/or SAI, and the inventorying of that SBC MISSOURI cabling.
 - 6.3.2.3 CLEC must designate the quantity of Lawful UNE subloops they desire to access via this cross-connectable, dedicated facility, specified by subtending SAI.
 - 6.3.2.4 CLECs will compensate SBC MISSOURI for the charges incurred by SBC MISSOURI derived from the CLEC's request for the SCA.
- 6.4 The introduction of an ECS creates the following additional copper Lawful UNE Subloop segments:

| FROM: | TO: |
|--------|---|
| 1) ECS | Serving Area Interface or Feeder Distribution Interface |
| 2) ECS | Terminal |
| 3) ECS | NID |

7. DARK FIBER DEDICATED TRANSPORT

- 7.1 Subject to Section 2 of this Appendix Lawful UNEs, SBC MISSOURI shall provide Lawful UNE Dedicated Transport Dark Fiber under the following terms and conditions in this subsection. SBC MISSOURI is not required to provide Loop Dark Fiber on an unbundled basis. (For definitional purposes only, Loop Dark fiber is fiber within an existing fiber optic cable that has not yet been activated through optronics to render it capable of carrying communications service.)
- 7.2 In SBC MISSOURI, Dedicated Transport Dark Fiber is deployed, unlit optical fiber within SBC MISSOURI's network. Dedicated Transport Dark Fiber consists of unactivated optical interoffice transmission facilities.
- 7.3 Lawful UNE Dedicated Transport Dark Fiber
 - 7.3.1 At dedicated transport dark fiber segments in routes that have not been Declassified, SBC MISSOURI will provide a Lawful UNE Dedicated Transport Dark Fiber segment that is considered "spare" as defined in Sections 14.6 and 14.7 below. Lawful UNE Dedicated Transport Dark Fiber is defined as SBC MISSOURI dark fiber interoffice transmission facilities dedicated to a particular CLEC that are within SBC MISSOURI's network, connecting SBC MISSOURI switches or wire centers within a LATA. SBC MISSOURI is not obligated to provide CLEC with unbundled access to Dedicated Transport that does not connect a pair of SBC MISSOURI wire centers. SBC MISSOURI will offer Lawful UNE Dedicated Transport Dark Fiber to CLEC when CLEC has collocation space in each SBC MISSOURI CO where the requested Lawful UNE Dedicated Transport Dark Fiber(s) terminate.
- 7.4 A "route" is defined as a transmission path between one of SBC MISSOURI's wire centers or switches and another of SBC MISSOURI's wire centers or switches. A route between two points (e.g., wire center of switch "A" and wire center or switch "Z") may pass through one or more intermediate wire centers or switches (e.g. wire center or switch "X"). Transmission paths between identical end points (e.g., wire center or switch "A" and wire center or switch "Z") are the same "route," irrespective of whether they pass through the same intermediate wire centers or switches, if any.
- 7.5 Spare Fiber Inventory Availability and Condition

7.5.1 All available spare Lawful UNE Dedicated Transport Dark Fiber will be provided as is. No conditioning will be offered. Spare dedicated transport dark fiber is fiber that can be spliced in all segments, point to point but not assigned, and spare dedicated transport dark fiber does not include maintenance spares, fibers set aside and documented for SBC MISSOURI's forecasted growth, defective fibers, or fibers subscribed to by other Telecommunications Carriers. CLEC will not obtain any more than 25% of the spare Lawful UNE Dedicated Transport Dark Fiber contained in the requested segment during any two-year period.

7.6 Determining Spare Fibers

7.6.1 SBC MISSOURI will inventory dedicated transport dark fiber. Spare dedicated transport dark fiber does not include the following:

7.6.1.1 Maintenance spares. Maintenance spares shall be kept in inventory like a working fiber. Spare maintenance fibers are assigned as follows:

7.6.1.1.1 Cables with 24 fibers and less: two maintenance spare fibers

7.6.1.1.2 Cables with 36 and 48 fibers: four maintenance spare fibers

7.6.1.1.3 Cables with 72 and 96 fibers: eight maintenance spare fibers

7.6.1.1.4 Cables with 144 fibers: twelve maintenance spare fibers

7.6.1.1.5 Cables with 216 fibers: 18 maintenance spares

7.6.1.1.6 Cables with 288 fibers: 24 maintenance spares

7.6.1.1.7 Cables with 432 fibers: 36 maintenance spares

7.6.1.1.8 Cables with 864 fibers: 72 maintenance spares.

7.6.1.2 Defective fibers. Defective fibers, if any, will be deducted from the total number of spare dedicated transport dark fiber that would otherwise be available.

7.6.1.3 SBC MISSOURI growth fibers. Fibers documented as reserved by SBC MISSOURI for utilization for growth within the 12 month-period following the carrier's request.

7.6.2 The appropriate SBC MISSOURI engineering organization will maintain records on each fiber optic cable for which CLECs request Lawful UNE Dedicated Transport Dark Fiber.

7.7 Quantities and Time Frames for ordering Lawful UNE Dedicated Transport Dark Fiber

7.7.1 The minimum number of Lawful UNE Dedicated Transport Dark Fiber strands that CLEC can order is one, and such strands must be ordered on a strand-by-strand basis. The maximum number of such strands that CLEC can order is no greater than 25% of the spare dedicated transport dark fiber in the segment requested. Should spare dedicated transport dark fiber fall below 8 strands in a given location, SBC MISSOURI will provide no more than a quantity of 2 strands. (See definition of spare set forth in Section 7.6 above.)

7.7.2 If CLEC wishes to request Lawful UNE Dedicated Transport Dark Fiber, it must submit a dark fiber facility inquiry, providing CLEC's specific point to point (A to Z) dark fiber requirements. When CLEC submits a dark fiber facility inquiry appropriate rates for the inquiry will be charged as outlined in state specific Appendix Pricing.

7.7.2.1 If spare Lawful UNE Dedicated Transport Dark Fiber is available, as determined under this Agreement, SBC MISSOURI will notify CLEC and CLEC may place an Access Service Request (ASR) for such fiber.

7.7.3 Lawful UNE Dedicated Transport Dark Fiber will be assigned to CLEC only when an ASR is processed. ASRs will be processed on a first-come-first-served basis. Inquiry facility checks do not serve to reserve Lawful UNE Dedicated Transport Dark Fiber. When CLEC submits the ASR,

the ASR will be processed and the Lawful UNE Dedicated Transport Dark Fiber facilities will be assigned. The charges which will be established as set forth in Appendix Pricing will be applied.

- 7.8 Right of Revocation of Access to Lawful UNE Dedicated Transport Dark Fiber
 - 7.8.1 Right of revocation of access to Lawful UNE Dedicated Transport Dark Fiber is distinguishable from Declassification as defined in Section 2 of this Appendix. For clarification purposes, SBC MISSOURI's right of revocation of access under this Section 7.9 applies even when the affected dedicated transport dark fiber remains a Lawful UNE, subject to unbundling obligations under Section 251(c)(3) of the Act, in which case CLEC's rights to the affected network element may be revoked as provided in this Section 7.8.
 - 7.8.2 Should CLEC not utilize the fiber strand(s) subscribed to within the 12-month period following the date SBC MISSOURI provided the fiber(s), SBC MISSOURI may revoke CLEC's access to the Lawful UNE Dedicated Transport Dark Fiber and recover those fiber facilities and return them to SBC MISSOURI inventory.
 - 7.8.3 SBC MISSOURI may reclaim from the CLEC the right to use Lawful UNE Dedicated Transport Dark Fiber, whether or not such fiber is being utilized by CLEC, upon twelve (12) months written notice to the CLEC. If the reclaimed Lawful UNE Dedicated Transport Dark Fiber is not otherwise Declassified during the notice period, SBC MISSOURI will provide an alternative facility for the CLEC with the same bandwidth the CLEC was using prior to reclaiming the facility. SBC MISSOURI must also demonstrate to the CLEC that the reclaimed dedicated transport dark fiber will be needed to meet SBC MISSOURI's bandwidth requirements within the 12 months following the revocation.
- 7.9 Access Methods specific to Lawful UNE Dedicated Transport Dark Fiber
 - 7.9.1 The demarcation point for Lawful UNE Dedicated Transport Dark Fiber at Central Offices and End User premises will be in an SBC MISSOURI approved splitter shelf. This arrangement allows for non-intrusive testing.
 - 7.9.2 At CO's, Lawful UNE Dedicated Transport Dark Fiber terminates on a fiber distribution frame, or equivalent in the CO. CLEC access is provided via collocation.
- 7.10 Installation and Maintenance for Lawful UNE Dedicated Transport Dark Fiber
 - 7.10.1 SBC MISSOURI will install demarcations and place the fiber jumpers from the fiber optic terminals to the demarcation point. CLEC will run its fiber jumpers from the demarcation point (1x2, 90-10 optical splitter) to the CLEC or End User equipment.
- 7.11 Dark Fiber Transport Declassification
 - 7.11.1 SBC MISSOURI shall provide CLEC with access to Lawful UNE Dedicated Transport Dark Fiber, except on routes where both wire centers defining the route are either Tier 1 or Tier 2 Wire Centers. As such SBC MISSOURI must provide Lawful UNE Dedicated Transport Dark Fiber under this Agreement only if a wire center on either end of the requested route is a Tier 3 Wire Center. If both wire centers defining a requested route are either Tier 1 or Tier 2 Wire Centers, then Dedicated Transport Dark Fiber circuits on such routes are Declassified and no longer available as Lawful UNEs under this Agreement. Accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering Lawful UNE Dedicated Transport Dark Fiber on such route(s).
 - 7.11.2 Effect on Embedded Base. Upon Declassification of Dedicated Transport Dark Fiber already purchased by CLEC as Lawful UNEs under this Agreement, SBC MISSOURI will provide written notice to CLEC of such Declassification, and proceed in accordance with Section 2.5 "Notice and Transition Procedure," and at the end of the 30-day notice period under that Section, provision of the affected dedicated transport dark fiber to CLEC will be terminated without further obligation of SBC MISSOURI.

7.11.3 Products provided by SBC MISSOURI in conjunction with Lawful UNE Dedicated Transport Dark Fiber , if any, shall also be subject to termination under this Section 7.11 where such fiber is Declassified.

7.11.4 The Parties agree that activity by SBC MISSOURI under this Section 7.11 shall not be subject to the Network Disclosure Rules.

7.12 Routine Network Modifications

7.12.1 SBC MISSOURI shall make routine network modifications to Lawful UNE Dedicated Transport Dark Fiber used by requesting Telecommunications Carriers for the provision of Telecommunication Services where the requested Lawful UNE Dedicated Transport Dark Fiber facilities have already been constructed. SBC MISSOURI shall perform routine network modifications to Lawful UNE Dedicated Transport Dark Fiber in a nondiscriminatory fashion, without regard to whether such fiber being accessed was constructed on behalf, or in accordance with the specifications, of any Telecommunications Carrier.

7.12.2 A routine network modification is an activity that SBC MISSOURI regularly undertakes for its own customers. Routine network modifications do not include the installation of fiber for a requesting Telecommunications Carrier, nor do routine network modifications include the provision of electronics for the purpose of lighting dark fiber (i.e., optronics), and SBC MISSOURI is not obligated to perform those activities for a requesting Telecommunications Carrier.

7.12.3 Routine network modifications do not include constructing new Lawful UNE Dedicated Transport Dark Fiber; installing new cable; securing permits or rights-of-way; constructing and/or placing new manholes or conduits; or installing new terminals. SBC MISSOURI is not obligated to perform those activities for a requesting telecommunications carrier.

7.12.4 SBC MISSOURI shall determine whether and how to perform routine network modifications using the same network or outside plant engineering principles that would be applied in providing service to SBC MISSOURI's retail customers.

7.12.5 Notwithstanding anything to the contrary herein, SBC MISSOURI's obligations with respect to routine network modifications apply only where the dark fiber transport transmission facilities are subject to unbundling.

7.12.6 SBC MISSOURI shall provide routine network modifications at the rates, terms and conditions set out in this Appendix, and in the Appendix Pricing. A rate for any routine network modification shown as "ICB" in Appendix Pricing or the applicable tariff indicates that the Parties have not negotiated, and/or that the State Commission has not reviewed and approved, a specific rate for that routine network modification. The ICB rate shall be determined on an individual case basis and shall reflect an engineering estimate of the actual costs of time and materials required to perform the routine network modification; provided, however, that the ICB rate shall not include any costs already recovered through existing, applicable recurring and non-recurring charges. The resulting ICB rates shall continue to apply to such routine network modifications unless and until the Parties negotiate specific rates for such routine network modifications or specific rates are otherwise established for such routine network modifications.

8. RESERVED

9. RESERVED

10. DS1 AND DS3 DEDICATED TRANSPORT

10.1 Subject to Section 2 of this Appendix Lawful UNEs, SBC MISSOURI shall provide Lawful UNE DS1/DS3 Dedicated Transport under the following terms and conditions in this subsection.

10.2 For purposes of this Agreement, the following definitions apply:

- 10.2.1 “Dedicated Transport” is defined as SBC MISSOURI interoffice transmission facilities between wire centers or switches owned by SBC MISSOURI, or between wire centers or switches owned by SBC MISSOURI and switches owned by requesting telecommunications carriers, dedicated to a particular customer or carrier.
- 10.2.1.1 SBC MISSOURI is not obligated to provide CLEC with unbundled access to Dedicated Transport that does not connect a pair of SBC MISSOURI wire centers.
- 10.2.2 A “route” is defined as a transmission path between one of SBC MISSOURI’s wire centers or switches and another of SBC MISSOURI’s wire centers or switches. A route between two points (e.g., wire center of switch “A” and wire center or switch “Z”) may pass through one or more intermediate wire centers or switches (e.g. wire center or switch “X”). Transmission paths between identical end points (e.g., wire center or switch “A” and wire center or switch “Z”) are the same “route,” irrespective of whether they pass through the same intermediate wire centers or switches, if any.
- 10.3 SBC MISSOURI will be responsible for the engineering, provisioning, maintenance of the underlying equipment and facilities that are used to provide Lawful UNE DS1/DS3 Dedicated Transport.
- 10.3.1 Subject to the caps set forth in Sections 10.3.4 and 10.3.5, Lawful UNE DS1/DS3 Dedicated Transport will be provided only where such facilities exist at the time of CLEC request, and only over routes that are not or have not been Declassified.
- 10.3.2 SBC MISSOURI will provide Lawful UNE DS1 and DS3 Transport to a requesting CLEC only at the following speeds: DS1 (1.544 Mbps) and DS3 (44.736 Mbps).
- 10.3.3 Lawful UNE DS1 and DS3 Transport includes, as follows:
- 10.3.3.1 Multiplexing – an option ordered in conjunction with Lawful UNE DS1 or DS3 Dedicated Transport which converts a circuit from higher to lower bandwidth, or from digital to voice grade. Multiplexing is only available when ordered at the same time as Lawful UNE DS1 or DS3 Dedicated Transport.
- 10.3.3.2 Other Optional features are outlined in Appendix Pricing.
- 10.3.4 DS3 Transport “Caps”
- 10.3.4.1 SBC MISSOURI is not obligated to provide to CLEC more than twelve(12) DS3 Lawful UNE Dedicated Transport circuits on each route on which DS3 Dedicated Transport has not been otherwise Declassified; accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering unbundled DS3 Dedicated Transport once CLEC has already obtained twelve DS3 Lawful UNE Dedicated Transport circuits on the same route. If, notwithstanding this Section, CLEC submits such an order, at SBC MISSOURI’s option it may accept the order, but convert any requested DS3 Lawful UNE Dedicated Transport in excess of the cap to Special Access, and applicable Special Access charges will apply to CLEC for such DS3 Dedicated Transport circuits as of the date of provisioning.
- 10.3.5 DS1 Transport “Caps”
- 10.3.5.1 SBC MISSOURI is not obligated to provide to CLEC more than ten (10) DS1 Lawful UNE Dedicated Transport circuits on each route on which DS1 Dedicated Transport has not been otherwise Declassified; accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering unbundled DS1 Dedicated Transport once CLEC has already obtained ten DS1 Lawful UNE Dedicated Transport circuits on the same route. If, notwithstanding this Section, CLEC submits such an order, at SBC MISSOURI’s option it may accept the order, but convert any requested DS1 Lawful UNE Dedicated Transport in excess of the cap to Special Access, and applicable Special Access charges will apply to CLEC for such DS1 Dedicated Transport circuits as of the date of provisioning

10.4 Diversity

10.4.1 When requested by CLEC, and subject to all applicable terms, conditions, and applicable charges, and only where such interoffice facilities exist at the time of CLEC request, Physical diversity shall be provided for Lawful UNE Dedicated Transport. Physical diversity means that two circuits are provisioned in such a way that no single failure of facilities or equipment will cause a failure on both circuits.

10.4.2 SBC MISSOURI shall provide the Physical separation between intra-office and inter-office transmission paths when technically and economically feasible. Physical diversity requested by the CLEC shall be subject to additional charges. When additional costs are incurred by SBC MISSOURI for CLEC specific diversity. SBC MISSOURI will advise CLEC of the applicable additional charges. SBC MISSOURI will not process the request for diversity until CLEC accepts such charges. Any applicable performance measures will be abated from the time diversity is requested until CLEC accepts the additional charges.

10.5 Declassification Procedure

10.5.1 Wire Center "Tiers" -- For purposes of this Section 13.5 (and Section 14 related to Dark Fiber), wire centers are classified into three "tiers," as follows:

- (i) Tier 1 Wire Centers are those ILEC wire centers that contain at least four fiber-based collocators, at least 38,000 business lines, or both. Tier 1 Wire Centers also are those ILEC tandem switching locations that have no line-side switching facilities, but nevertheless serve as a point of traffic aggregation accessible by CLECs. Once a wire center is determined to be a Tier 1 Wire Center, that wire center is not subject to later reclassification as a Tier 2 or Tier 3 Wire Center.
- (ii) Tier 2 Wire Centers are those ILEC wire centers that are not Tier 1 Wire Centers, but contain at least 3 fiber-based collocators, at least 24,000 business lines, or both. Once a wire center is determined to be a Tier 2 Wire Center, that Wire Center is not subject to later reclassification as a Tier 3 Wire Center.
- (iii) Tier 3 Wire Centers are those ILEC wire centers that do not meet the criteria for Tier 1 or Tier 2 Wire Centers.

10.5.2 DS1 Transport Declassification

10.5.2.1 Subject to the cap described in Section 13.3.6, SBC MISSOURI shall provide CLEC with access to Lawful UNE DS1 Dedicated Transport on routes, except routes where both wire centers defining the route are Tier 1 Wire Centers. As such SBC MISSOURI must provide Lawful UNE DS1 Dedicated Transport under this Agreement only if a wire center at either end of a requested route is not a Tier 1 Wire Center, or if neither is a Tier 1 Wire Center. DS1 Dedicated Transport circuits on routes between Tier 1 Wire Centers are Declassified and no longer available as Lawful UNEs under this Agreement. Accordingly, CLEC may not order or otherwise obtain, and CLEC will cease ordering DS1 Lawful UNE Dedicated Transport on such route(s).

10.5.2 DS3 Transport Declassification

10.5.3.1 Subject to the cap described in Section 10.3.4, SBC MISSOURI shall provide CLEC with access to Lawful UNE DS3 Dedicated Transport, except on routes where both wire centers defining the route are either Tier 1 or Tier 2 Wire Centers. As such SBC MISSOURI must provide Lawful UNE DS3 Dedicated Transport under this Agreement only if a wire center on either end of the requested route is a Tier 3 Wire Center. If both wire centers defining a requested route are either Tier 1 or Tier 2 Wire Centers, then DS3 Dedicated Transport circuits on such routes are Declassified and no longer available as Lawful UNEs under this Agreement. Accordingly, CLEC may not order or

otherwise obtain, and CLEC will cease ordering DS3 Lawful UNE Dedicated Transport on such route(s).

- 10.5.4 Effect on Embedded Base. Upon Declassification of DS1 Dedicated Transport or DS3 Dedicated Transport already purchased by CLEC as Lawful UNEs under this Agreement, SBC MISSOURI will provide written notice to CLEC of such Declassification, and proceed in accordance with Section 2.5 “Notice and Transition Procedure.”
- 10.5.5 Products provided by SBC MISSOURI in conjunction with Lawful UNE DS1 or DS3 Dedicated Transport (e.g. Cross-Connects) shall also be subject to re-pricing under this Section and Section 2.5 “Notice and Transition Procedure” where such Transport is Declassified.
- 10.6 The Parties agree that activity by SBC MISSOURI under this Section 13.5 shall not be subject to the Network Disclosure Rules.
- 10.7 Routine Network Modifications – Lawful UNE Dedicated Transport
 - 10.7.1 SBC MISSOURI shall make routine network modifications to Lawful UNE Dedicated Transport facilities used by requesting telecommunications carriers where the requested Lawful UNE Dedicated Transport facilities have already been constructed. SBC MISSOURI shall perform routine network modifications to Lawful UNE Dedicated Transport facilities in a nondiscriminatory fashion, without regard to whether the Lawful UNE Dedicated Transport facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier.
 - 10.7.2 A routine network modification is an activity that SBC MISSOURI regularly undertakes for its own customers. Routine network modifications include rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the installation of new aerial or buried cable for a requesting telecommunications carrier, and SBC MISSOURI is not obligated to perform those activities for a requesting telecommunications carrier.
 - 10.7.3 Routine network modifications do not include constructing new Lawful UNE Dedicated Transport; installing new cable; securing permits or rights-of-way; constructing and/or placing new manholes or conduits; or installing new terminals. SBC MISSOURI is not obligated to perform those activities for a requesting telecommunications carrier.
 - 10.7.4 SBC MISSOURI shall determine whether and how to perform routine network modifications using the same network or outside plant engineering principles that would be applied in providing service to SBC MISSOURI’s retail customers.
 - 10.7.5 Notwithstanding anything to the contrary herein, SBC MISSOURI’s obligations with respect to routine network modifications apply only where the dedicated transport transmission facilities are subject to unbundling.
 - 10.7.6 SBC MISSOURI shall provide routine network modifications at the rates, terms and conditions set out in this Appendix and in the Appendix Pricing. A rate for any routine network modification shown as “ICB” in Appendix Pricing or the applicable tariff indicates that the Parties have not negotiated, and/or that the State Commission has not reviewed and approved, a specific rate for that routine network modification. The ICB rate shall be determined on an individual case basis and shall reflect an engineering estimate of the actual costs of time and materials required to perform the routine network modification; provided, however, that the ICB rate shall not include any costs already recovered through existing, applicable recurring and non-recurring charges. The resulting ICB rates shall continue to apply to such routine network modifications unless and until the Parties negotiate specific rates for such routine network modifications or specific rates are otherwise established for such routine network modifications.

10.8 Digital Cross-Connect System (DCS)

10.8.1 Dedicated transport is no longer available under this Agreement, however, SBC MISSOURI offers DCS as NRS (Network Reconfiguration Service) through the Federal Tariff F.C.C. No. 73, Section 18, Network Management Services, and CLEC may request NRS pursuant to the terms and conditions of that tariff.

10.9 911 or E911 Database

10.9.1 Access to the SBC MISSOURI 911 or E911 call related databases will be provided as described in the Lawful 911 and E911 Appendix.

10.10 Operations Support Systems Functions

10.10.1 Definition: Operations Support Systems Functions consist of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by SBC MISSOURI's databases and information. SBC MISSOURI will provide CLEC access to its Operations Support Systems Functions as outlined in Appendix OSS.

11. CROSS-CONNECTS

11.1 The cross connect is the media between the SBC MISSOURI distribution frame and an CLEC designated collocated space, Lawful UNE Access Method, Lawful UNE Subloop Access Method, or other SBC MISSOURI lawful unbundled network elements leased by CLEC.

11.2 SBC MISSOURI offers a choice of loop cross connects with each unbundled loop type detailed in Appendix Pricing. SBC MISSOURI will charge CLEC the appropriate rate as shown on Appendix Pricing Lawful UNE - Schedule of Prices labeled "Loop Cross Connects with Testing" and "Loop Cross Connects without Testing".

11.3 Cross connects to the collocation associated with Lawful UNE local loops are available with or without automated testing and monitoring capability.

11.4 SBC MISSOURI offers the choice of three types of cross connects with subloop elements as detailed in Appendix pricing. SBC MISSOURI will charge CLEC the appropriate rate as shown on Appendix Pricing Lawful UNE - Schedule of Prices labeled "Lawful UNE Subloop Cross Connect".

12. ADDITIONAL REQUIREMENTS APPLICABLE TO LAWFUL UNBUNDLED NETWORK ELEMENTS

This Section 12 sets forth additional requirements for Lawful unbundled Network Elements which SBC MISSOURI agrees to offer to CLEC under this Agreement.

12.1 SBC MISSOURI will offer Lawful UNE local loops with and without automated testing and monitoring services, where technically feasible. If an LSP uses its own testing and monitoring services, SBC MISSOURI still must treat the test reports as its own for purposes of procedures and time intervals for clearing trouble reports.

12.2 Synchronization

12.2.1 Definition

Synchronization is the function which keeps all digital equipment in a communications network operating at the same average frequency. With respect to digital transmission, information is coded into discrete pulses. When these pulses are transmitted through a digital communications network, all synchronous Network Elements are traceable to a stable and accurate timing source. Network synchronization is accomplished by timing all synchronous Network Elements in the network to a stratum 1 source so that transmission from these network points have the same average line rate.

12.2.2 Technical Requirements

SBC MISSOURI will provide synchronization to equipment that is owned by SBC MISSOURI and is used to provide a network element to CLEC in the same manner that SBC MISSOURI provides synchronization to itself.

12.3 Co-operative Testing

12.3.1 Upon request, at Time and Materials charges as shown on Appendix Pricing Lawful UNE - Schedule of Prices, SBC MISSOURI will provide to CLEC cooperative testing to test any network element provided by SBC MISSOURI and to test the overall functionality of network elements provided by SBC MISSOURI that are connected to one another or to equipment or facilities provided or leased by CLEC, to the extent SBC MISSOURI has the ability to perform such tests. The cooperative testing provided for in this paragraph is exclusive of any maintenance service and related testing that SBC MISSOURI is required to provide for unbundled Network Elements under this Appendix.

13. PRICING

13.1 Price Schedules

Attached hereto as Appendix Pricing – Lawful UNE is a schedule which reflects the prices at which SBC MISSOURI agrees to furnish Lawful unbundled Network Elements to CLEC.

14. LAWFUL UNBUNDLED NETWORK ELEMENTS COMBINATIONS

14.1 Notwithstanding anything in this Agreement to the contrary (including but not limited to this Appendix, Appendix Pricing-Lawful UNE, and Appendix Pricing-Lawful UNE Schedule of Prices):

14.1.1 Except as modified below, SBC MISSOURI agrees to make the following list of Lawful unbundled network elements (Lawful UNEs) available to CLEC for the term of this Agreement, on the terms and at the prices provided in this Agreement.