

**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
<p>Term "Lawful Unbundled" or "Unbundled" throughout appendix</p> <p>In light of USTA, TRRO and the FCC's most recent orders, is it appropriate to utilize the term Lawful in this ICA?</p> <p>Term "Lawful UNE" or UNE throughout the appendix.</p> <p>In light of USTA, TRRO and the FCC's most recent orders, is it appropriate to utilize the term Lawful in this ICA?</p>	1	All	<u>Unbundled</u> <u>UNE</u>	Pager believes that inclusion of "lawful" before all references to UNEs is misleading, as it allows SBC to unilaterally amend the ICA, without reference to the ICA's amendment provisions, through reference to the shifting holdings of the FCC, the courts, and this Commission. Using the phrase as a defined term in the ICA also creates a misleading situation; the fact that SBC asserts that use of the term creates convenience should not overcome the deleterious impact created by ignoring the need to amend the ICA by mutual agreement of the parties.	<b>Lawful Unbundled</b> <b>Lawful UNE</b>	<p>Essentially, there are two issues pertaining to the use of "Lawful UNE" and Lawful Unbundled. The first is substantive: SBC Missouri believes its obligation to unbundled has been determined by the FCC (as reviewed by various judicial decisions). Those determinations are incorporated in the term "Lawful UNE". SBC Missouri's obligations to unbundled are to be limited to these clearly established standards; hence, the term "Lawful UNE".</p> <p>The second issue pertaining to the use of "Lawful UNE" is one of draftsmanship: SBC Missouri has used the term as a defined term throughout its comprehensive agreement proposal and submits it should be adopted as a convenient moniker to incorporate the idea that only those UNEs identified by the FCC (as reviewed by appropriate judicial decisions), should be incorporated into the agreement.</p>
Term "End User" or "Customers" throughout the	2	All	<u>customers</u>	SBC's phrasing of the issue creates a misleading impression that the ICA should forbid all	<b>End Users</b>	This issue pertains to those customers that CLEC may serve under this agreement. It is SBC Missouri's position that CLEC may only

Key: **Bold represents language proposed by SBC and opposed by CLECs.**  
Underline language represents language proposed by CLEC and opposed by SBC

**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
appendix.  Should the CLEC be able to avoid its legal obligations by objecting to <u>all</u> uses of the term "End User" even though under the Act, it may only provide service to end users?				wholesale services or use of the services by the CLEC itself. The Kansas arbitrator recently rejected SBC's argument of this point and adopted the CLEC position that "customer" is the word which should used, instead of "end user."		serve "customers" that are actually "end users" of telecommunications services. This interconnection agreement is not to extend services provided by CLEC to other telecommunications carriers or to the CLEC itself. This is consistent with the Act, various FCC orders, and judicial review of such orders. Moreover, this is consistent with the Texas Commission's most recent Track 1 order, wherein it stated:" The Commission finds that the ICA should include a definition of "End User" or "End User Customer." This is consistent with the Commission's decisions in Docket No. 25188 in which the Commission declined to globally replace the term "end user" with the term "customer" in an ICA. The Revised Award in Docket No. 25 188 stated that "the term 'customer' cannot be substituted for 'end user.'" Subsequently, the Texas Commission affirmed that "[the Revised Award appropriately determined that the term 'customer' cannot be substituted for the term 'end user,' particularly with respect to UNE loops, network interface devices (NID) and enhanced extended loops (EEL)." The Commission found that the term "end user" is essential in defining the network element <b>known</b> as the local loop (or loop) defined by <b>47 C.F.R. 9 51.3 19(a)(1)</b> as "the transmission facility between a distribution frame (or its

Key: **Bold represents language proposed by SBC and opposed by CLECs.**  
Underline language represents language proposed by CLEC and opposed by SBC

**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
						equivalent) in an incumbent LEC central office and the loop demarcation point, at an end user premises, including inside wire owned by the incumbent LEC." The use of the term "end user" is critical for distinguishing UNE loops from other UNEs and other network elements that provide transmission paths between end points not associated with end users, such as interoffice transport. In addition, the FCC's <b><i>Supplemental Order Clarification</i></b> specifically used the term "end user" in defining the local use requirements for obtaining EELs.'~~ However, nothing prohibits an IXC, CAP or CMRS provider or other carrier from being an end-user to the extent that such carrier is the ultimate retail consumer of the service (e.g., a CLEC provides local exchange service to an IXC at its administrative offices). In other words, a carrier is an end user when actually consuming the retail service, as opposed to using the service as an input to another communications service." (Footnotes omitted). In SBC Missouri's view, the term "End User" is necessary to clarify that the agreement is not to be used for the purpose of CLEC using the agreement to offer wholesale services to other telecommunications providers or merely to use as an input to offer other telecommunications services.

Key: **Bold** represents language proposed by SBC and opposed by CLECs.  
Underline language represents language proposed by CLEC and opposed by SBC

**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
With the instability of the current telecommunications industry, is it reasonable for SBC MISSOURI to require a deposit from parties with a proven history of late payments?	3	3.2.1, 3.2.2	<p>3.2.1 at the Effective Date CLEC had not already established satisfactory credit by having made at least twelve (12) consecutive months of timely payments to <u>the SBC-owned ILEC in each state where the Parties are doing business</u> for charges incurred as a CLEC; or where CLEC is doing or has done business as a local service provider,</p> <p>3.2.2 Intentionally Omitted</p>	The proposed language in 3.2.2 is so vague that it would allow SBC to declare the need for a deposit in almost any circumstance. The source of the information concerning the CLEC's financial problems could be entirely unreliable.	<p>3.2.1 at the Effective Date CLEC had not already established satisfactory credit by having made a least twelve (12) consecutive months of timely payments to SBC <b>MISSOURI</b> for charges incurred as a CLEC; or where CLEC is doing or has done business as a local service provider,</p> <p><b>3.2.2 in SBC MISSOURI's reasonable judgment, at the Effective Date or at any time thereafter, there has been an impairment of the established credit, financial health, or credit worthiness of CLEC. Such impairment will be determined from information available from financial sources, including but not limited to Moody's, Standard and Poor's, and the Wall Street Journal. Financial information about CLEC that may be considered includes, but is not limited to, investor warning briefs, rating downgrades, and articles discussing pending credit problems; or</b></p>	SBC believes that a deposit requirement is a standard business operating practice for companies when extending credit and thus should be determined by reasonable measures developed by SBC to reduce its risk of loss from nonpayment of undisputed bills. Additionally, the CLEC proposes language that states SBC should also consider CLECs "good payment history of one year or more with SBC MISSOURI or another ILEC" is unreasonable. The business relationship is between SBC and the CLEC. SBC has no way of determining the CLEC or any other CLECs payment history with another ILEC.
<p>1) Should SBC be allowed to require Adequate Assurance of Payment?</p> <p>2) If SBC is allowed to require Adequate Assurance of</p>	4	3.3, 3.4, 3.5	<p><b>3.3</b> Unless otherwise agreed by the Parties, the assurance of payment <u>may consist</u> of:</p> <p>3.4 The Cash Deposit or Letter of Credit must be in an amount equal to <u>two</u> (2) months anticipated charges (including, but not limited to, recurring, non-</p>	SBC should not have to option of unilaterally decided the form of deposit. The CLEC's language would specify this issue more clearly, to give the parties consistent guidance. Also, the need for three months' deposit is not justified, and would tie up significant amounts of the CLEC's funds.	<p><b>3.3 Unless otherwise agreed by the Parties, the assurance of payment will, at SBC MISSOURI's option,</b></p> <p>3.4 The Cash Deposit or Letter of Credit must be in an amount equal to <b>three</b> (3) months anticipated charges (including, but not limited to, recurring, non-recurring and usage sensitive charges, termination charges and advance</p>	<p>SBC MISSOURI is offering deposit language that allows SBC MISSOURI to assess a reasonable deposit in the event that a CLEC customer is or becomes credit impaired. Therefore, SBC MISSOURI proposes that the deposit be in an amount equal to three (3) months anticipated charges.</p> <p>SBC believes that a deposit requirement is a</p>

**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
Payment, what form and amount is appropriate?			<p>recurring and usage sensitive charges, termination charges and advance payments), as reasonably determined by SBC MISSOURI, for the Interconnection, Resale Services, <u>Unbundled</u> Network Elements, Collocation or any other functions, facilities, products or services to be furnished by SBC MISSOURI under this Agreement</p> <p>3.5 To the extent <u>CLEC elects to provide</u> a Cash Deposit, the Parties intend that the provision of such Cash Deposit shall constitute the grant of a security interest in the Cash Deposit pursuant to Article 9 of the Uniform Commercial Code in effect in any relevant jurisdiction.</p>		<p>payments), as reasonably determined by SBC MISSOURI, for the Interconnection, Resale Services, <b>Lawful Unbundled</b> Network Elements, Collocation or any other functions, facilities, products or services to be furnished by SBC MISSOURI under this Agreement</p> <p>3.5 To the extent that <b>SBC MISSOURI elects to require</b> a Cash Deposit, the Parties intend that the provision of such Cash Deposit shall constitute the grant of a security interest in the Cash Deposit pursuant to Article 9 of the Uniform Commercial Code in effect in any relevant jurisdiction.</p>	<p>standard business operating practice for companies when extending credit and thus should be determined by reasonable measures developed by SBC to reduce its risk of loss from nonpayment of undisputed bills.</p> <p>SBC offering deposit language that allows SBC to assess a reasonable deposit in the event that a CLEC customer is or becomes credit impaired. Therefore, SBC proposes that the deposit be in an amount equal to three (3) months anticipated charges.</p> <p>SBC's proposed language is objective and reasonable for both Parties. It balances the need of SBC to protect itself and also protect those good paying CLECs from the requirement to pay a deposit.</p> <p>SBC believes that deposits that are retained should be applied at the holder's discretion.</p>
<p>Given the changes in the Telecom Industry, how long should the Term of the Agreement be?</p> <p>Should SBC be allowed to require</p>	5	4.2	<p>4.2 The term of this Agreement shall commence upon the Effective Date of this Agreement and shall expire on <u>the date which is three (3) years following the Effective Date</u></p>	<p>The term of three years will give the CLEC a greater ability to plan for future contingencies.</p>	<p>4.2 The term of this Agreement shall commence upon the Effective Date of this Agreement and shall expire on <b>date = 2yr plus 90 days provided; however, should CLEC implement (i.e. provided assurance of payment, ordered facilities, and submitted ASRs for trunking) this Agreement within six (6) months of the Effective Date, then this</b></p>	<p>SBC agrees that many CLECs do have a longstanding billing and payment history with us. However, in some circumstances, CLECs' billing and payment history have not complied with contractual obligations. As a result, CLECs should be required to make a security deposit not only when they are establishing a new relationship, but also</p>

**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
assurances of payment as a condition of setting the term of the agreement?					<b>Agreement will automatically renew for one additional year and expire on date = 1 yr (the "Term").</b>	when they have not previously demonstrated a good credit history with SBC. SBC does take CLECs' payment history with other SBC owned ILECs into account in determining whether a CLEC has demonstrated a good payment history, however, the determining factor has ultimately be the CLEC's payment history with SBC.
Should the CLEC be allowed to assign or transfer this agreement to an affiliate with whom SBC already has an interconnection agreement?	6	5.1.1.2	5.1.1.2 CLEC may assign or transfer this Agreement and all rights and obligations hereunder, whether by operation of law or otherwise, to its Affiliate by providing sixty (60) calendar days' advance written notice of such assignment or transfer to SBC MISSOURI; provided that such assignment or transfer is not inconsistent with Applicable Law (including the Affiliate's obligation to obtain and maintain proper Commission certification and approvals) or the terms and conditions of this Agreement.	The proposed prohibition on assignments to Affiliates is unrealistic, as it does not consider the fact that companies may opt into the ICAs of other companies under the law. The CLEC's proposed language simply recognizes the efficiency of assignment over MFN selection.	5.1.1.2 CLEC may assign or transfer this Agreement and all rights and obligations hereunder, whether by operation of law or otherwise, to its Affiliate by providing sixty (60) calendar days' advance written notice of such assignment or transfer to SBC MISSOURI; provided that such assignment or transfer is not inconsistent with Applicable Law (including the Affiliate's obligation to obtain and maintain proper Commission certification and approvals) or the terms and conditions of this Agreement. <b>Notwithstanding the foregoing, CLEC may not assign or transfer this Agreement, or any rights or obligations hereunder, to its Affiliate if that Affiliate is a party to a separate agreement with SBC MISSOURI under Sections 251 and 252 of the Act. Any attempted assignment or transfer that is not permitted is void <i>ab initio</i>.</b>	SBC would object to an assignment of the CLEC's agreement to an Affiliate who has an existing executed agreement with SBC in that particular state. Notice of this assignment is needed because SBC administrative systems and billing systems and tables are not able to handle more than one agreement per entity in a state with the same name and/or OCN/AECN number. The OCN is used as the CLEC identifier in these systems. SBC also needs to remain in compliance with the agreement.  Additionally, this language keeps CLECs and their Affiliates from picking and choosing between their Agreements the most favorable terms and conditions to implement and from more importantly re-arbitrating issues and getting different outcomes. Without this language, some CLECs and their Affiliates would have a greater advantage over other CLECs and this could

**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
						be considered anti-competitive.
Should CLECs have 45 days to pay invoices/ bills?	7	9.0, 9.1, 9.4	<p>9.0 <u>Payment of Rates and Charges</u></p> <p>9.1 Except as otherwise specifically provided elsewhere in this Agreement, the Parties will pay all rates and charges due and owing under this Agreement within <u>forty-five (45)</u> days from the date of the invoice. For purposes of this Agreement, the "Bill Due Date" shall be defined to mean <u>forty-five (45)</u> calendar days from the date of the invoice.</p>	The CLEC position was recently adopted by the Kansas arbitrator. Given the difficulty the CLEC has had with auditing and paying SBC bills within the time period specified -- thirty days -- a modest increase of time is justified.	<p>9.0 <u>Payment of Rates and Charges</u></p> <p>9.1 Except as otherwise specifically provided elsewhere in this Agreement, the Parties will pay all rates and charges due and owing under this Agreement within <b>thirty (30)</b> days from the date of the invoice. For purposes of this Agreement, the "Bill Due Date" shall be defined to mean <b>thirty (30)</b> calendar days from the date of the invoice.</p>	SBC believes that having a payment due date thirty days from the invoice date is sufficient time for a CLEC to validate and pay their bills. SBC believes that having a standard due date 30 days from the invoice date is the best for both parties since it is measurable and consistent. In the event that a bill was not received within 10 days from invoice, the due date would be extended to 20 days from the receipt of the invoice provided that the CLEC notified SBC of the delay.
Is it appropriate to require CLEC to escrow disputed amounts?	8	9.5	9.5 As for disputed amounts, <u>if Non-Paying Party's total outstanding unpaid charges exceed 5% of the then current monthly billing under this Agreement, then the Non-Paying Party must pay the disputed amounts into an interest bearing escrow account with a Third Party escrow agent mutually agreed upon by the Parties.</u>	The CLEC language recognizes that escrows should be required only for substantial disputes. SBC can point to no history with this CLEC to indicate that SBC is at risk for loss of revenues due to bankruptcy or inability to pay.	9.5 As for disputed amounts, <b>those disputed amounts shall be paid into escrow pursuant to this Section, which must be deposited into</b> an interest bearing escrow account with a Third Party escrow agent mutually agreed upon by the Parties.	<p>SBC has experienced large financial losses from CLECs who have either gone bankrupt or otherwise exited the business. Many of these CLECs filed frivolous or inflated disputes in order to avoid collection action. This ultimately resulted in larger losses for SBC.</p> <p>The escrow of disputed amounts pending resolution of the dispute is a commercially reasonable practice and one that has been incorporated into several agreements approved by the commission. It serves as a deterrent to the raising of frivolous billing</p>

**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
						disputes as well.
Should the agreement contain specific procedures for back-billing?	9	10.1	10.1 Notwithstanding anything to the contrary in this Agreement, a Party shall be entitled to back-bill for or claim credit for any charges for services provided pursuant to this Agreement that are found to be unbilled, under-billed or over-billed, but only when such charges appeared or should have appeared on a bill dated within the twelve (12) months immediately preceding the date on which the Billing Party provided written notice to the Billed Party of the amount of the back-billing or the Billed Party provided written notice to the Billing Party of the claimed credit amount. The Parties agree that the twelve (12) month limitation on back-billing and credit claims set forth in the preceding sentence shall be applied prospectively only after the Effective Date of this Agreement, meaning that the twelve month period for any back-billing or credit claims may only include billing periods that	The Kansas arbitrator recently found the CLEC proposal concerning identifying back-billed charges to be reasonable. Where SBC can, it is commercially reasonable for it to inform the CLEC as to the nature of back-billed charges, and provide as much supporting detail as it can. This will minimize disputes. SBC should be able to provide the financial information in a spreadsheet format, which will facilitate resolution of the dispute.	10.1 Notwithstanding anything to the contrary in this Agreement, a Party shall be entitled to back-bill for or claim credit for any charges for services provided pursuant to this Agreement that are found to be unbilled, under-billed or over-billed, but only when such charges appeared or should have appeared on a bill dated within the twelve (12) months immediately preceding the date on which the Billing Party provided written notice to the Billed Party of the amount of the back-billing or the Billed Party provided written notice to the Billing Party of the claimed credit amount. The Parties agree that the twelve (12) month limitation on back-billing and credit claims set forth in the preceding sentence shall be applied prospectively only after the Effective Date of this Agreement, meaning that the twelve month period for any back-billing or credit claims may only include billing periods that fall entirely after the Effective Date of this Agreement and will not include any portion of any billing period that began prior to the Effective Date of this Agreement.	Yes. Although the Parties endeavor to provide the most accurate bill possible, it is only commercially reasonable to expect an occasional back-billing or credit claim to arise. One need for back-billing or back-crediting arises from commission orders that have a retroactive effect on rates. It is only appropriate that the Billing Party should be able to take advantage of any increases in rates determined in such a proceeding for the same period of time that the Billed Party is entitled to receive the advantage of any reduction in rates ordered in such a proceeding. SBC Missouri believes that a twelve month limitation on back-billing and credit claims should apply. This is a reasonable period of time for any error that occurred to be discovered by either Party and brought to the attention of the other Party, or the application of any retroactive change in rates ordered by the Commission.

Key: **Bold** represents language proposed by SBC and opposed by CLECs.  
Underline language represents language proposed by CLEC and opposed by SBC



**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
			fall entirely after the Effective Date of this Agreement and will not include any portion of any billing period that began prior to the Effective Date of this Agreement. <u>Moreover, SBC shall separately identify "back-billed" charges on an invoice, where able to do so. Upon request from CLEC, SBC shall provide to CLEC a spreadsheet detailing all back-billings.</u>			
Under what circumstances may SBC disconnect services for nonpayment?	10	14.0, 14.1, 14.2, 14.4	<p>14.0 Non-payment and Procedures for Disconnection</p> <p>14.1 Failure to pay all or any portion of any amount required to be paid may be grounds for disconnection of Resale Services, <u>Unbundled</u> Network Elements under this Agreement. If a Party fails to pay any charges billed to it under this Agreement, including but not limited to any Late Payment Charges or miscellaneous charges ("Unpaid Charges"), and any portion of such Unpaid Charges remain unpaid after the Bill Due Date, the Billing Party will notify</p>	The addition of a specified time period before service can be disconnected allows both parties to plan their actions. SBC should have to give notice well in advance of service disconnection; fifteen days is a reasonable period to allow the parties to confer and determine whether the dispute can be resolved.	<p>14.0 Non-payment and Procedures for Disconnection</p> <p>14.1 Failure to pay all or any portion of any amount required to be paid may be grounds for disconnection of Resale Services, <b>Lawful Unbundled</b> Network Elements under this Agreement. If a Party fails to pay any charges billed to it under this Agreement, including but not limited to any Late Payment Charges or miscellaneous charges ("Unpaid Charges"), and any portion of such Unpaid Charges remain unpaid after the Bill Due Date, the Billing Party will notify the Non-Paying Party in writing that in order to avoid disruption or disconnection of the Resale Services, <b>Lawful Unbundled</b> Network Elements furnished under this Agreement, the Non-Paying Party must remit all Unpaid Charges</p>	SBC's language is necessary in light of the current financial climate. SBC's language allows SBC, after due notice and a reasonable amount of time, to disconnect any and all services if CLEC fails to pay or dispute amounts due. SBC's language contemplates a three-step process: notification of overdue amounts, suspension of new orders if such amounts remain unpaid and finally, disconnection if, after two notices, such amounts remain both unpaid and undisputed. It is important to recognize that this issue concerns amounts that CLEC <u>does not dispute</u> are due and owing to SBC; SBC does not propose disconnection for amounts that are subject to a billing dispute. CLEC proposes that SBC should be limited to disconnection of only those services for which CLEC has not paid. This approach is

**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
			<p>the Non-Paying Party in writing <u>fifteen (15) business days following the Bill Due Date</u> that in order to avoid disruption or disconnection of the Resale Services, <u>Unbundled</u> Network Elements furnished under this Agreement, the Non-Paying Party must remit all Unpaid Charges to the Billing Party within <u>fifteen</u> (15) Business Days following receipt of the Billing Party's notice of Unpaid Charges.</p> <p>14.2 If the Non-Paying Party desires to dispute any portion of the Unpaid Charges, the Non-Paying Party must complete all of the following actions not later than <u>fifteen</u> (15) Business Days following receipt of the Billing Party's notice of Unpaid Charges:</p> <p>14.4 After expiration of the written notice furnished pursuant to Section 14.1 hereof, if CLEC continues to fail to comply with Section 14.2.1 through 14.2.4, inclusive, or make payment(s) in accordance with the terms of any mutually agreed payment arrangement,</p>		<p>to the Billing Party within <b>ten (10) Business Days</b> following receipt of the Billing Party's notice of Unpaid Charges.</p> <p>14.2 If the Non-Paying Party desires to dispute any portion of the Unpaid Charges, the Non-Paying Party must complete all of the following actions not later than <b>ten (10) Business Days</b> following receipt of the Billing Party's notice of Unpaid Charges:</p> <p>14.4 After expiration of the written notice furnished pursuant to Section 14.1 hereof, if CLEC continues to fail to comply with Section 14.2.1 through 14.2.4, inclusive, or make payment(s) in accordance with the terms of any mutually agreed payment arrangement, SBC MISSOURI may, in addition to exercising any other rights or remedies it may have under Applicable Law, <b>furnish a second written demand to CLEC for payment within five (5) Business Days of any of the obligations enumerated in Section 14.1. On the day that SBC MISSOURI provides such written demand to CLEC, SBC MISSOURI may also</b> exercise any or all of the following options:</p>	<p>problematic because it permits a CLEC to avoid disconnection by moving, for example, UNE lines that are not paid for to resale. A CLEC could potentially game the system and avoid payment and disconnection in perpetuity. If an amount is not disputed, there is no reason why a CLEC cannot pay such amount within 20 days. The protections sought by SBC are necessary in the current financial climate. SBC must be allowed to protect itself. If CLEC refuses to pay an undisputed amount, SBC should have the right to disconnect service.</p>

Key: **Bold** represents language proposed by SBC and opposed by CLECs.  
Underline language represents language proposed by CLEC and opposed by SBC

**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
			SBC MISSOURI may, in addition to exercising any other rights or remedies it may have under Applicable Law, exercise any or all of the following options:			
Should SBC's Force Majeure language be included in the Agreement?	11	17.0	<b>17.0 <u>Force Majeure</u></b>  Except as otherwise specifically provided in this Agreement, neither Party will be liable for any delay or failure in performance of any part of this Agreement caused by a Force Majeure condition, including acts of the United States of America or any state, territory, or political subdivision thereof, acts of God or a public enemy, fires, floods, labor disputes such as strikes and lockouts, freight embargoes, earthquakes, volcanic actions, wars, civil disturbances, cable cuts, or other causes beyond the reasonable control of the Party claiming excusable delay or other failure to perform. If a Force Majeure Event shall occur, the Party affected shall give prompt notice to the other	The Kansas arbitrator recently adopted the CLEC proposal, which would delete the exclusion of payment obligations from the suspension of performance during force majeure circumstances. SBC should not be able to penalize a CLEC for failing to make payments during a situation beyond the CLEC's control which makes payments impossible.	<b>17.0 <u>Force Majeure</u></b>  Except as otherwise specifically provided in this Agreement, neither Party will be liable for any delay or failure in performance of any part of this Agreement ( <b>other than an obligation to make money payments</b> ) caused by a Force Majeure condition, including acts of the United States of America or any state, territory, or political subdivision thereof, acts of God or a public enemy, fires, floods, labor disputes such as strikes and lockouts, freight embargoes, earthquakes, volcanic actions, wars, civil disturbances, cable cuts, or other causes beyond the reasonable control of the Party claiming excusable delay or other failure to perform. If a Force Majeure Event shall occur, the Party affected shall give prompt notice to the other Party of such Force Majeure Event specifying the nature, date of inception and expected duration of such Force Majeure Event, whereupon such obligation or performance shall be suspended to the extent such Party is affected by such Force Majeure Event during the continuance thereof or excused from such performance depending on	The obligations for payment for services rendered is independent of Force Majeure events. The remainder of SBC's proposed language is simply a reasonable notice procedure and simply states the legal requirements of the affected party.  Yes. SBC MISSOURI merely seeks the inclusion of one additional sentence which provides that if one party's performance is excused by a force majeure even, the other party's performance of such obligations relate to the interfered-with-performance of the first party. This reciprocity clause is important to protect both parties upon the occurrence of a force majeure event. It seems fairly obvious and non-controversial that if one party is not providing something due to a force majeure event, the other party should not have to perform its contractual obligations with respect to the item that it is not provided.  <b>However, in an effort to RESOLVE this issue, SBC offers the following language</b>

**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
			Party of such Force Majeure Event specifying the nature, date of inception and expected duration of such Force Majeure Event, whereupon such obligation or performance shall be suspended to the extent such Party is affected by such Force Majeure Event during the continuance thereof or excused from such performance depending on the nature, severity and duration of such Force Majeure Event (and the other Party shall likewise be excused from performance of its obligations to the extent such Party's obligations relate to the performance so interfered with). The affected Party shall use its reasonable efforts to avoid or remove the cause of nonperformance and the Parties shall give like notice and proceed to perform with dispatch once the causes are removed or cease.		the nature, severity and duration of such Force Majeure Event (and the other Party shall likewise be excused from performance of its obligations to the extent such Party's obligations relate to the performance so interfered with). The affected Party shall use its reasonable efforts to avoid or remove the cause of nonperformance and the Parties shall give like notice and proceed to perform with dispatch once the causes are removed or cease.	<b>to the Pager Company:</b> Except as otherwise specifically provided in this Agreement, neither Party will be liable for any delay or failure in performance of any part of this Agreement caused by a Force Majeure condition, including acts of the United States of America or any state, territory, or political subdivision thereof, acts of God or a public enemy, fires, floods, labor disputes such as strikes and lockouts, freight embargoes, earthquakes, volcanic actions, wars, civil disturbances, cable cuts, or other causes beyond the reasonable control of the Party claiming excusable delay or other failure to perform. Provided, Force Majeure will not include acts of any Governmental Authority relating to environmental, health, or safety conditions at work locations. If any Force Majeure condition occurs the Party whose performance fails or is delayed because of such Force Majeure conditions will give prompt notice to the other Party, whereupon such Party's obligation or performance shall be suspended to the extent that the Party is affected by such Force Majeure Event. The other Party shall likewise be excused from performance of its obligations to the extent such Party's obligations relate to the performance so interfered with. Upon cessation of such Force Majeure condition, the Party whose performance fails or is delayed because of

Key: **Bold** represents language proposed by SBC and opposed by CLECs.  
Underline language represents language proposed by CLEC and opposed by SBC

**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
						such Force Majeure conditions will give like notice and commence performance hereunder as promptly as reasonably practicable.
<p>(a) Must either Party obtain end user authorization prior to requesting a change in the end user's provider of local exchange service?</p> <p>(b) Is SBC entitled to reclaim facilities abandoned by CLECs customer when a disconnection has not yet occurred?</p>	12		<p>21.3 When a <u>customer</u> changes or withdraws authorization, each Party will release customer specific facilities belonging to the ILEC in accordance with the <u>customer's</u> –directions, or the directions of the <u>customer's</u> agent. Further, when <u>customer</u> abandons the premise, (that is, its place of business or domicile), SBC_MISSOURI <u>may not</u> reclaim the <u>Unbundled</u> Network Elements for use by another <u>customer</u> <u>without the prior written consent of the "abandoning" customer.</u></p>	<p>The CLEC believes that it is important for customers to be clear in their selection of provider. SBC should have to make a reasonable effort to contact and obtain from the customer a written consent to reclaim UNEs; it should not be assumed. Further, SBC must define what it means by abandoned premises. The Kansas arbitrator recently adopted the CLEC position.</p>	<p>21.3 When a <b>End User</b> changes or withdraws authorization, each Party will release customer specific facilities belonging to the ILEC in accordance with the <b>End User</b> directions, or the directions of the <b>End User</b> agent. Further, when <b>an EndUser</b> abandons the premise, (that is, its place of business or domicile), SBC MISSOURI <b>is free to</b> reclaim the <b>Lawful Unbundled</b> Network Elements for use by another <b>End User and is free to issue service orders required to reclaim such Lawful Unbundled Network Elements</b></p>	<p>SBC is not seeking to unilaterally determine when a premises is abandoned. Rather, SBC's language seeks to allow SBC, when a Pager Company residential end user abandons its home and does not disconnect its phone service, to be able to reuse the facility when someone else moves in and wants to establish phone service. Reclamation of facilities is critical to the efficient operation of SBC's network, and is particularly critical given SBC's carrier of last resort obligations and its provision of facilities for use of CLECs in the competitive marketplace.</p> <p><b>However, SBC offers the following language to resolve Section 21.3:</b>  When an end user authorizes a change in his selection of local service provider or discontinues service, each party shall release the customer specific facilities. SBC shall be free to connect the end user to any local service provider based upon the local service provider's request and assurance that proper end user authorization has been obtained. Further, when an end user abandons a premise (i.e., vacates a</p>

Key: **Bold represents language proposed by SBC and opposed by CLECs.**  
Underline language represents language proposed by CLEC and opposed by SBC

**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
						premise without disconnecting service), SBC is free to reclaim the facilities for use by another customer and is free to issue service orders required to reclaim such facilities per the local service provider's request. When an CLEC resale end user has abandoned a premise (i.e. vacates a premise without disconnecting service, CLEC will cooperate with the new local service provider to confirm that the premise is abandoned by providing a timely response to the new local service provider.
When purchasing from the tariffs, should SBC be allowed to charge the CLEC the most current tariff rate? Should notification to CLEC of filing be required?	13	37.0, 37.1	<p>37.0 Tariff References</p> <p>37.1 <u>SBC MISSOURI will provide CLEC with direct notice of any tariff or filing which concerns the subject matter of this Agreement in the same manner and for the same term as set forth in Section 35 for the subjects listed therein.</u></p> <p>37.3 <u>SBC MISSOURI will not, of its own volition, file a tariff or make another similar filing which supercedes this Agreement in whole or in part. SBC MISSOURI will make no</u></p>	It is crucial for CLEC planning to be informed of SBC tariff changes. To the extent SBC files tariffs which change rates and obligations under the ICA, SBC should inform the CLEC. Otherwise, SBC could effectively change the terms of the parties' obligations without informing the other contracting party.	<p>37.0 Tariff References</p> <p><b>37.1 To the extent a tariff provision or rate is incorporated or otherwise applies between the Parties due to the provisions of this Agreement, it is understood that any changes to said tariff provision or rate are also automatically incorporated herein or otherwise hereunder, effective hereunder on the date any such change is effective.</b></p> <p>37.3 None</p> <p>37.4 None</p> <p>37.5 None</p> <p>37.6 None</p>	Yes. SBC's language is needed because it ensures that SBC can charge the most current tariff rates available when the CLEC orders from that tariff. For example if the CLEC is buying product X from the resale tariff at \$10.00, and the resale tariff rate goes up to \$15.00 SBC wants to give the CLEC the discount off the most recent \$15.00 price.

Key: **Bold represents language proposed by SBC and opposed by CLECs.**  
Underline language represents language proposed by CLEC and opposed by SBC

**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
			<p><u>filings which are inconsistent with this commitment. This Section is not intended to apply to any SBC MISSOURI tariffs or filings which do not affect CLEC's rights or SBC MISSOURI's obligations to CLEC under this Agreement. This Section does not impair SBC MISSOURI's right to file tariffs nor does it impair SBC MISSOURI's right to file tariffs proposing new products and services and changes in the prices, terms and conditions of existing products and services, including discontinuance or grandfathering of existing features or services, of any telecommunications services that SBC MISSOURI provides or hereafter provides to CLEC under this Agreement pursuant to the provision of Attachment 1: Resale, nor does it impair CLEC's right to contest such tariffs before the appropriate Commission.</u></p> <p><u>37.4 SWBT will provide thirty (30) days advance notice before the tariff filing date of</u></p>			

Key: **Bold** represents language proposed by SBC and opposed by CLECs.  
Underline language represents language proposed by CLEC and opposed by SBC

**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
			<p><u>new products and services and changes to existing products and services, including the discontinuance of existing features or services, that are available for resale. SWBT will provide a minimum of thirty (30) days notice before the tariff filing date of pricing changes for services that are available for resale.</u></p> <p><u>37.5 In the event that SWBT is required by any governmental authority to file a tariff or make another similar filing in connection with the performance of any action that would otherwise be governed by this Agreement, SWBT will provide CLEC notice of the same as set forth in Section 37.3 above.</u></p> <p><u>37.6 If any tariff referred to in Section 37.4 becomes ineffective by operation of law, through deregulation or otherwise, the terms and conditions of such tariffs, as of the date on which the tariffs became ineffective, will be deemed incorporated if not</u></p>			

Key: **Bold** represents language proposed by SBC and opposed by CLECs.  
Underline language represents language proposed by CLEC and opposed by SBC



**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
			<u>inconsistent with this Agreement.</u>			
Which parties language should be included in the Agreement.	14		<p>49.0 Referenced Documents</p> <p>49.1 Whenever any provision of this Agreement refers to a technical reference, technical publication, CLEC Practice, SBC MISSOURI Practice, any publication of telecommunications industry administrative or technical standards, or any other document specifically incorporated into this Agreement (<u>"SBC MISSOURI Guides"</u>), it will be deemed to be a reference to the most recent version or edition (including any amendments, supplements, addenda, or successors) of each document that is in effect, and will include the most recent version or edition (including any amendments, supplements, addenda, or successors) of each document incorporated by reference in such a technical reference, technical publication, CLEC Practice, SBC MISSOURI Practice, or publication of</p>	It is important that the ICA specify the order of governance where SBC documents conflict with the ICA. As the ICA is the negotiated agreement, the ICA should be the controlling document. Further, as specified with respect to other provisions of the ICA, SBC should not be allowed to change the rights and obligations of the parties through unilaterally-written and promulgated documents, such as the SBC Missouri guide.	<p>49.0 Referenced Documents</p> <p>49.1 Whenever any provision of this Agreement refers to a technical reference, technical publication, SBC MISSOURI Practice, any publication of telecommunications industry administrative or technical standards, or any other document specifically incorporated into this Agreement it will be deemed to be a reference to the most recent version or edition (including any amendments, supplements, addenda, or successors) of each document that is in effect, and will include the most recent version or edition (including any amendments, supplements, addenda, or successors) of each document incorporated by reference in such a technical reference, technical publication, CLEC Practice, SBC MISSOURI Practice, or publication of industry standards.</p>	SBC's language is necessary because it clarifies that whenever any of the documents listed in this section is referred to in any provision in this Agreement, then that document to which the Agreement refers is the most current version of that document. As things change and or processes improve, documents are updated to incorporate the most current practices.

Key: **Bold** represents language proposed by SBC and opposed by CLECs.  
Underline language represents language proposed by CLEC and opposed by SBC

**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
			industry standards. <u>The Parties agree to adhere to the SBC MISSOURI Guides, and similar documents, incorporated by reference in this Agreement, provided however, that the provisions thereof are reasonable and nondiscriminatory and that nothing required in the Guides shall limit or override CLEC's rights or SBC MISSOURI's obligations under this Agreement or the Act. To the extent SBC MISSOURI modifies a SBC MISSOURI Guide to enhance its position in a dispute between the parties, such modification will be null and void with respect to CLEC. To the extent that there is a conflict between a provision of a SBC MISSOURI Guide and this Agreement, the terms of this Agreement shall prevail. Any subsequent amendment, supplement, addenda or successor to a SBC MISSOURI Guide, or any other document specifically incorporated into this Agreement which results in a significant change in SBC</u>			

Key: **Bold** represents language proposed by SBC and opposed by CLECs.  
Underline language represents language proposed by CLEC and opposed by SBC

**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
			<u>MISSOURI's provision of service to CLEC shall not be effective against CLEC without its express written consent.</u>			
Should the agreement specify that SBC Missouri is allowed to provide services directly to End Users at the request of said End Users?	15	57.4	57.4 CLEC acknowledges that SBC MISSOURI may, upon <u>customer</u> request, provide services directly to such <u>customer</u> similar to those offered to CLEC under this Agreement <u>pursuant to the rates set forth in its retail tariffs.</u>	CLEC is concerned that SBC will offer wholesale services directly to customers at wholesale rates. This proposal ensures that such services will be priced at tariffed, retail rates.	57.4 CLEC acknowledges that SBC MISSOURI may, upon <b>End User</b> request, provide services directly to such <b>End User</b> similar to those offered to CLEC under this Agreement	No. While most of SBC's retail services are tariffed, they may not all be. Not all of SBC's services are offered in the retail tariff. CLEC's language is too restrictive.
Should the ICA include a provision addressing the respective roles in trouble-shooting a customer service outage?	<u>16</u>	<u>19.7</u>	<u>19.7 Where a Customer of CLEC is experiencing trouble with an access line to the Customer's premise, the Parties agree to utilize a standardized form of testing to determine the source of the trouble, including, but not limited to, whether the trouble is attributable to failure on the SBC MISSOURI side of the premise demarcation or the Customer side of the demarcation. The Parties agree that within six (6) months of the effective date of this Agreement, they will develop the standardized form of testing to be utilized to investigate such</u>	The CLEC has had difficulty with SBC not taking responsibility for service problems. This provision would outline a procedure for the parties to handle such issues on a going-forward basis. SBC and the CLEC agreed to this language for inclusion in the Kansas ICA.	19.7 None.	

Key: **Bold represents language proposed by SBC and opposed by CLECs.**  
Underline language represents language proposed by CLEC and opposed by SBC

**CASE NO. TO-2005-0336**  
**MASTER LIST OF ISSUES BETWEEN SBC MISSOURI AND THE PAGER COMPANY**  
**000 GT&C**

Issue Statement	Issue No.	Attachment and Section(s)	CLEC Language	CLEC Preliminary Position	SBC MISSOURI Language	SBC MISSOURI Preliminary Position
			<u>Customer trouble reports.</u>			

Key: **Bold** represents language proposed by SBC and opposed by CLECs.  
Underline language represents language proposed by CLEC and opposed by SBC