

13-STATE STRUCTURE ACCESS AGREEMENT
TO POLES, CONDUITS, AND RIGHTS-OF-WAY

This Agreement dated _____, 2005, is made by and between the "Parties," identified as Southwestern Bell Telephone, L.P. d/b/a SBC Missouri, hereinafter referred to as "SBC MISSOURI," and TCG Kansas City (TCG-KC), a Missouri Corporation, hereinafter referred to as "Attaching Party".

This Agreement shall apply to the state of: Missouri

1.0 INTRODUCTION

- 1.1 This Appendix sets forth the terms and conditions for Rights of Way (ROW), Conduits and Poles provided by Southwestern Bell Telephone, L.P. d/b/a SBC Missouri, (SBC MISSOURI) and TCG-KC.
- 1.2 As used herein, SBC MISSOURI means Missouri. SBC MISSOURI will be used throughout this document in lieu of SBC-13STATE.

2.0 DEFINITIONS

- 2.1 Definitions in general. As used in this Agreement, the terms defined in this article shall have the meanings set forth below in Sections 2.1 to 2.14 except as the context otherwise requires.
- 2.2 Conduit. The term "conduit" refers to tubes or structures, usually underground or on bridges, containing one or more ducts used to enclose cables, wires, and associated transmission equipment. As used in this Agreement, the term "conduit" refers only to conduit structures (including ducts, manholes and handholes) and space within those structures and does not include (a) cables and other telecommunications equipment located within conduit structures or (b) central office vaults, controlled environment vaults, or other SBC MISSOURI structures (such as huts and cabinets) which branch off from or are connected to SBC MISSOURI's conduit
- 2.3 Conduit system. The term "conduit system" refers to any combination of ducts, conduits, manholes, and handholes joined to form an integrated whole. As used in this Agreement, the term "conduit system" does not include (a) cables and other telecommunications equipment located within conduit structures or (b) central office vaults, controlled environment vaults, or other SBC MISSOURI structures (such as huts and cabinets) which branch off from or are connected to SBC MISSOURI's conduit.
- 2.4 Duct. The term "duct" refers to a single enclosed tube, pipe, or channel for enclosing and carrying cables, wires, and other equipment. As used in this Agreement, the term "duct" includes "inner ducts" created by subdividing a duct into smaller channels, but does not include cables and other telecommunications equipment located within such ducts.

- 2.5 Handhole. The term “handhole” refers to a structure similar in function to a manhole, but which is too small for personnel to enter. As used in this Agreement, the term “handhole” refers only to handholes which are part of SBC MISSOURI’s conduit system and does not refer to handholes which provide access to buried cables not housed within SBC MISSOURI ducts or conduits. As used in this Agreement, the term “handhole” refers only to handhole structures owned or controlled by SBC MISSOURI and does not include cables and other telecommunications equipment located within handhole structures.
- 2.6 Occupancy Permit. The term “occupancy permit” refers to a written instrument confirming that SBC MISSOURI has granted the structure access request of Attaching Party or a third party for access to pole, duct, conduit, or right-of-way space.
- 2.7 Maintenance Duct. The term “maintenance duct” generally refers to a full-sized duct (typically three inches in diameter or larger) for use, on a short-term basis, for maintenance, repair, or emergency restoration activities. The term “maintenance duct” does not include ducts and conduits extending from an SBC MISSOURI manhole to customer premises. When only one usable full-sized duct remains in a conduit section, that duct shall be deemed to be the maintenance duct.
- 2.8 Make-ready work. The term “make-ready work” refers to all work performed or to be performed to prepare SBC MISSOURI’s poles, ducts, conduits, rights-of-way, and related facilities for the requested occupancy or attachment of Attaching Party’s facilities.
- 2.9 Manhole. The term “manhole” refers to an enclosure, usually below ground level and entered through a hole on the surface, which personnel may enter and use for the purpose of installing, operating, and maintaining facilities in ducts or conduits which are parts of SBC MISSOURI’s conduit system. As used in this Agreement, the term “manhole” does not include cables and other telecommunications equipment located within manhole structures.
- 2.10 Other User. The term “Other User” refers to entities, other than the Attaching Party, with facilities on an SBC MISSOURI pole, duct, conduit or right-of-way to which the Attaching Party has obtained access. Other Users may include SBC MISSOURI, other attaching parties, municipalities or other governmental entities, and electric utilities (which may own interests in SBC MISSOURI’s poles, ducts, conduits or rights-of-ways).
- 2.11 Overlashing. The term “Overlashing” refers to the practice of placing an additional cable by lashing such cable with spinning wire over an existing cable and strand.
- 2.12 Pole. The term “pole” refers to poles (and associated anchors) which are owned or controlled by SBC MISSOURI and does not include cables and other telecommunications equipment attached to pole structures.
- 2.13 Rights-of-way. The term “rights-of-way” refers to legal rights owned or controlled by SBC MISSOURI legal rights to pass over or through property of another party and used by SBC

MISSOURI for its telecommunications distribution system. For purposes of this Agreement, "rights-of-way" includes property owned by SBC MISSOURI and used by SBC MISSOURI for its telecommunications distribution facilities. Rights-of-way does not include:

- 2.13.1 cables and other telecommunications equipment buried or located on such rights-of-way,
- 2.13.2 public rights of way (which are owned by and subject to the control of governmental entities), or
- 2.13.3 any space which is owned and controlled by a third-party property owner and occupied by SBC MISSOURI with permission from such owner rather than as a matter of legal right pursuant to a binding legal instrument.

2.14 Structure. The term "Structure" refers collectively to poles, ducts, conduits and rights-of-way.

3.0 SCOPE OF AGREEMENT

3.1 This Agreement establishes the rates, terms, conditions, and procedures by which SBC MISSOURI shall provide non-discriminatory access to SBC MISSOURI's Structure. Separate tariffs, appendix, or agreements shall govern Attaching Party's access, if any, to the following facilities which require special security, technical, and construction arrangements outside the scope of this Agreement:

- 3.1.1 SBC MISSOURI's central office vaults and ducts and conduits which serve no purpose other than to provide a means of entry to and exit from SBC MISSOURI's central offices;
- 3.1.2 controlled environment vaults (CEVs), huts, cabinets, and other similar outside plant structures and ducts and conduits which serve no purpose other than to provide a means of entry to and exit from such vaults, huts, cabinets, and structures;
- 3.1.3 ducts and conduits located within buildings owned by SBC MISSOURI; and
- 3.1.4 ducts, conduits, equipment rooms, and similar spaces located in space leased by SBC MISSOURI from third-party property owners for purposes other than to house cables and other equipment in active service as part of SBC MISSOURI's network distribution operations.

3.2 No Transfer of Property Rights to Attaching Party. Nothing contained in this Agreement, or any occupancy permit subject to this Agreement, shall create or vest (or be construed as creating or vesting) in either party any right, title, or interest in or to any real or personal property owned by the other.

3.3 No Effect on SBC MISSOURI's Right to Abandon, Convey or Transfer Structure Nothing contained in this Agreement, or any occupancy permit subject to this Agreement, shall in any way

affect SBC MISSOURI's right to abandon, convey, or transfer to any other person or entity SBC MISSOURI'S interest in any of SBC MISSOURI'S Structure. SBC MISSOURI shall give Attaching Party at least 60 days written notice prior to abandoning, conveying, or transferring any Structure to which Attaching Party has already attached its facilities, or any Structure on which Attaching Party has already been assigned space. The notice shall identify the transferee, if any, to whom any such pole, duct, conduit, or right-of-way is to be conveyed or transferred.

4.0 EFFECTIVE DATE, TERM, AND ELECTIVE TERMINATION

- 4.1 Effective Date. This Agreement shall be effective as of the _____ day of _____, 2005, or, if this Agreement has been entered into as an appendix, attachment, or exhibit to an interconnection agreement between the parties, the date of approval by the State Commission of the interconnection agreement, whichever date first occurs.
- 4.2 Initial Term. Unless sooner terminated as herein provided, the initial term of this Agreement shall run from the effective date until the end of the calendar year which includes the effective date. In the event this Agreement is entered into as a part of an Interconnection Agreement, this Agreement shall terminate upon the termination of the Interconnection Agreement of which this is apart.
- 4.3 Automatic Renewal. Unless sooner terminated as herein provided, this Agreement shall be automatically renewed for successive one-year terms beginning on the first day of each calendar year after the effective date, or in the same fashion as the Interconnection Agreement renews, if a part of the Interconnection Agreement.
- 4.4 Elective Termination. Either party may terminate this Agreement by giving the other party at least six months prior written notice as provided in this section. The notice of termination shall state the effective date of termination, which date shall be no earlier than the last to occur of the following dates: the last day of the current term of this Agreement or six months after the date the notice is given. In the event this Agreement is entered into as a part of an Interconnection Agreement, the terms surrounding elective termination of the Interconnection Agreement of which this appendix is a part shall apply.
- 4.4 Elective Termination by SBC MISSOURI. Attaching Party shall, within 60 days after the effective date of the elective termination by SBC MISSOURI, either initiate negotiations for continued access to SBC MISSOURI's poles, ducts, conduits, and rights-of-way or remove its facilities in accordance with the provisions of Section 28 of this Agreement.
- 4.5 Effect of Elective Termination. Elective termination of this Agreement by Attaching Party, as permitted under Section 4 of this Agreement, shall not affect Attaching Party's liabilities and obligations incurred under this Agreement prior to the effective date of termination and shall not entitle Attaching Party to the refund of any advance payment made to SBC MISSOURI under this Agreement. Elective termination of this Agreement by SBC MISSOURI shall not affect SBC MISSOURI's obligations to afford access to SBC MISSOURI's poles, ducts, conduits, and rights-

of-way owned or controlled by SBC MISSOURI as required by the Pole Attachment Act, the Telecommunications Act of 1996, and other applicable laws, regulations, and commission orders.

5.0 GENERAL PROVISIONS

- 5.1 Entire Agreement. This Agreement, together with the interconnection agreement, if any, of which this Agreement is a part, and the Guidelines for Access to SBC MISSOURI Structure, attached hereto and incorporated herein by reference, sets forth the entire understanding and agreement of the parties.
- 5.2 Prior Agreements Superseded. This Agreement supersedes all prior agreements and understandings, whether written or oral, between Attaching Party and SBC MISSOURI relating to the placement and maintenance of Attaching Party's facilities on and within SBC MISSOURI's poles, ducts, and conduits within this State.
- 5.3 Amendments Shall Be in Writing. Except as otherwise specifically provided to the contrary by other provisions of this Agreement, the terms and conditions of this Agreement shall not be amended, changed or altered except in writing and with approval by authorized representatives of both parties.
- 5.4 Survival of Obligations. Any liabilities or obligations of either party for acts or omissions prior to the termination of this Agreement, any obligations of either party under provisions of this Agreement relating to confidential and proprietary information, indemnification, limitations of liability, and any other provisions of this Agreement which, by their terms, are contemplated to survive (or be performed after) termination of this Agreement, will survive the termination of this Agreement.
- 5.5 Multiple Counterparts. This Agreement may be executed in multiple counterparts.
- 5.6 Effect on Licenses or Occupancy Permits Issued Under Prior Agreements. All currently effective pole attachment and conduit occupancy permits granted to Attaching Party shall, on the effective date of this Agreement, be subject to the rates, terms, conditions, and procedures set forth in this Agreement.
- 5.7 Force Majeure. 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, disputes, 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, however, that 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 condition will give prompt notice to the other party, and, upon cessation of such Force Majeure condition, will give like notice and commence performance hereunder as promptly as reasonably practicable.

- 5.8 Severability. If any article, section, subsection, or other provision or portion of this Agreement is or becomes invalid under any applicable statute or rule of law, and such invalidity does not materially alter the essence of this Agreement as to either party, the invalidity of such provision shall not render this entire Agreement unenforceable and this Agreement shall be administered as if it did not contain the invalid provision.
- 5.9 Choice of Law. Except to the extent that federal law controls any aspect of this Agreement, the validity of this Agreement, the construction and enforcement of its terms, and the interpretation of the rights and duties of the parties will be governed by the laws of this State, applied without regard to the provisions of this State's laws relating to conflicts-of-laws.
- 5.10 Changes in the Law. The parties agree to negotiate in good faith changes to this Agreement to conform to changes applicable law pertaining to access to poles, ducts, conduits and rights-of-way, including the Pole Attachment Act.
- 5.11 The parties shall at all times observe and comply with, and the provisions of this Agreement are subject to, all applicable federal, state, and local laws, ordinances, and regulations which in any manner affect the rights and obligations of the parties.

6.0 DISCLAIMER OF WARRANTIES

SBC MISSOURI MAKES NO REPRESENTATIONS AND DISCLAIMS ANY WARRANTIES, EXPRESSED OR IMPLIED, THAT SBC MISSOURI'S POLES, DUCTS, CONDUITS AND WARRANTIES ARE SUITABLE FOR THE ATTACHING PARTY'S INTENDED USES OR ARE FREE FROM DEFECTS. THE ATTACHING PARTY SHALL IN EVERY INSTANCE BE RESPONSIBLE TO DETERMINE THE ADEQUACY OF SBC MISSOURI'S POLES, DUCTS, CONDUITS AND RIGHTS-OF-WAY FOR THE ATTACHING PARTY'S INTENDED USE.

7.0 DISPUTE RESOLUTION

In the event that this agreement is a part of an Interconnect Agreement between the parties, the dispute resolution provisions of the Interconnection Agreement shall apply to disputes under this agreement.

8.0 INDEMNIFICATION

- 8.1 Definitions. The term "Claims" as used in Section 8 shall mean any suit, claim, demand, loss, damage, liability, fee, fine, penalty, or expense, of every kind and character.
- 8.2 Indemnities Excluded. Except as otherwise specifically provided in this article, neither party (as an "indemnifying party") shall be required to indemnify or defend the other party (as an "indemnified party") against, or hold the indemnified party harmless from, any Claims arising out of:

- 8.2.1 any breach by the indemnified party of any provision of this Agreement or any breach by the indemnified party of the parties' interconnection agreement, if any;
- 8.2.2 the violation of any law by any employee of the indemnified party or other person acting on the indemnified party's behalf;
- 8.2.3 willful or intentional misconduct or gross negligence committed by any employee of the indemnified party or by any other person acting on the indemnified party's behalf; or
- 8.2.4 any negligent act or acts committed by any employee of the indemnified party or other person acting on the indemnified party's behalf, if such negligent act or acts are the sole producing cause of the injury, loss, or damage giving rise to the Claim for which indemnity is requested.
- 8.3 Workplace Injuries. Except as expressly provided in this Agreement to the contrary, each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with any injury, loss, or damage suffered by any person, which arises out of or in connection with the personal injury or death of any employee of the indemnifying party (or other person acting on the indemnifying party's behalf) if such injury or death results, in whole or in part, from any occurrence or condition on, within, or in the vicinity of SBC MISSOURI's Structure.
- 8.4 Other Claims Brought Against Either Party by Employees and Other Persons Acting on the Other Party's Behalf. Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims (other than workplace injury claims subject to Section 8.3 above) made, brought, or sought against the indemnified party by any employee, contractor, or subcontractor of the indemnifying party or by any other person acting on the indemnifying party's behalf.
- 8.5 THE INDEMNIFYING PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTIONS 8.3-8.4 SHALL ARISE EVEN IF THE INJURY, SICKNESS, DISEASE, OR DEATH WAS ATTRIBUTABLE IN PART TO NEGLIGENT ACTS OR OMISSIONS OF THE INDEMNIFIED PARTY.
- 8.6 Claims Brought Against Either Party by Vendors, Suppliers and Customers of the Other Party. Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims (other than workplace injury claims subject to Section 8.3, or other claims subject to Section 8.4) made, brought, or sought against the indemnified party by any vendor, supplier, or customer of the indemnifying party.
- 8.7 Injuries to Third Parties and Third party Property Owners Resulting from the Parties' Conduct. Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with the personal injury or death of any third party or physical damage to real or personal property owned by a third party, arising, in whole or in part, out of or in connection with the conduct of employees of the indemnifying party or other persons acting on the indemnifying party's behalf.

8.8 Indemnification for Environmental Claims.

8.8.1 Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with the violation or breach, by any employee of the indemnifying party or other person acting on the indemnifying party's behalf, of

8.8.1.1 any federal, state, or local environmental statute, rule, regulation, ordinance, or other law or

8.8.1.2 any provision or requirement of this Agreement dealing with hazardous substances or protection of the environment.

8.8.2 Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with the release or discharge, onto any public or private property, of any hazardous substances, regardless of the source of such hazardous substances, by any employee of the indemnifying party, or by any person acting on the indemnifying party's behalf, while present on, within, or in the vicinity of any SBC MISSOURI pole, duct, conduit, or right-of-way.

8.8.3 Each party shall indemnify, on request defend, and hold the other party harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with the removal or disposal of any hazardous substances by the indemnifying party or by any person acting on the indemnifying party's behalf, or arising out of or in connection with the subsequent storage, processing or other handling of such hazardous substances by any person or entity after they have been removed by the indemnifying party or persons acting on the indemnifying party's behalf from the site of any SBC MISSOURI pole, duct, conduit, or right-of-way.

8.8.4 Except as otherwise specifically provided in this section, neither party shall be required to indemnify or defend the other party against, or hold the other party harmless from any Claims for which the other party may be liable under any federal, state, or local environmental statute, rule, regulation, ordinance, or other law.

8.9 Miscellaneous Claims. Attaching Party shall indemnify, on request defend, and hold SBC MISSOURI harmless from any and all Claims, of every kind and character, made, brought, or sought against SBC MISSOURI by any person or entity, arising out of or in connection with the subject matter of this Agreement and based on either:

- 8.9.1 claims for taxes, municipal fees, franchise fees, right-to-use fees, and other special charges assessed on SBC MISSOURI due to the placement or presence of Attaching Party's facilities on or within SBC MISSOURI's poles, ducts, conduits, or rights-of-way; or
- 8.9.2 claims based on the violation by Attaching Party of any third party's intellectual property rights, including but not limited to claims for copyright infringement, patent infringement, or unauthorized use or transmission of television or radio broadcast programs or other program material.
- 8.10 Attaching Party's General Indemnity Obligations to SBC MISSOURI. This section applies only in those situations not expressly covered by Sections 8.3-8.10 and does not apply to any Claims resulting from Attaching Party's enforcement of its rights against SBC MISSOURI pursuant to this Agreement or other provisions in the parties' interconnection agreement, if any. Except as otherwise expressly provided in this Agreement to the contrary, and subject to the exclusions set forth in Section 8.2, Attaching Party shall indemnify, on request defend, and hold SBC MISSOURI harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with Attaching Party's access to or use of SBC MISSOURI's poles, ducts, conduits, or rights-of-way, Attaching Party's performance of any acts authorized under this Agreement, or the presence or activities of Attaching Party's employees or other personnel acting on Attaching Party's behalf on, within, or in the vicinity of SBC MISSOURI's poles, ducts, conduits, or rights-of-way.
- 8.11 SBC MISSOURI's General Indemnity Obligations to Attaching Party. This section applies only in those situations not expressly covered by Sections 8.3-8.9 and does not apply to any Claims resulting from SBC MISSOURI's enforcement of its rights against Attaching Party pursuant to this Agreement or other provisions in the parties' interconnection agreement, if any. Except as otherwise expressly provided in this Agreement to the contrary, SBC MISSOURI shall indemnify, on request defend, and hold Attaching Party harmless from any and all Claims, on account of or in connection with any death of person or injury, loss, or damage to any person or property, or to the environment, arising out of or in connection with SBC MISSOURI's access to or use of SBC MISSOURI's poles, ducts, conduits, or rights-of-way, SBC MISSOURI's performance of any acts authorized under this Agreement, or the presence or activities of SBC MISSOURI's employees or other personnel acting on SBC MISSOURI's behalf on, within, or in the vicinity of SBC MISSOURI's poles, ducts, conduits, or rights-of-way.
- 9.0 LIABILITIES AND LIMITATIONS OF LIABILITY**
- 9.1 EXCLUSION OF LIABILITY FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF ANTICIPATED PROFITS OR REVENUE OR OTHER ECONOMIC LOSS IN CONNECTION WITH OR ARISING FROM ANY ACT OR FAILURE TO ACT PURSUANT TO THIS AGREEMENT, EVEN IF THE OTHER PARTY HAS ADVISED SUCH PARTY OF THE

POSSIBILITY OF SUCH DAMAGES. THIS SECTION LIMITS EACH PARTY'S LIABILITY FOR INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH NEGLIGENT (INCLUDING GROSSLY NEGLIGENT) ACTS OR OMISSIONS OF SUCH PARTY BUT DOES NOT LIMIT EITHER PARTY'S LIABILITY FOR INTENTIONAL MISCONDUCT.

- 9.2 SBC MISSOURI Not Liable to Attaching Party for Acts of Third Parties or Acts of God. By affording Attaching Party access to SBC MISSOURI Structure SBC MISSOURI does not warrant, guarantee, or insure the uninterrupted use of such facilities by Attaching Party. Except as specifically provided in Section 9.5 of this Agreement, Attaching Party assumes all risks of injury, loss, or damage (and the consequences of any such injury, loss, or damage) to Attaching Party's facilities attached to SBC MISSOURI's poles or placed in SBC MISSOURI's Structure and SBC MISSOURI shall not be liable to Attaching Party for any damages to Attaching Party's facilities other than as provided in Section 9.5. In no event shall SBC MISSOURI be liable to Attaching Party under this Agreement for any death of person or injury, loss, or damage resulting from the acts or omissions of (1) any Other User or any person acting on behalf of an Other User, (2) any governmental body or governmental employee, (3) any third-party property owner or persons acting on behalf of such property owner, or (4) any permit, invitee, trespasser, or other person present at the site or in the vicinity of any SBC MISSOURI pole, duct, conduit, or right-of-way in any capacity other than as a SBC MISSOURI employee or person acting on SBC MISSOURI's behalf. In no event shall SBC MISSOURI be liable to Attaching Party under this Agreement for injuries, losses, or damages resulting from acts of God (including but not limited to storms, floods, fires, and earthquakes), wars, civil disturbances, espionage or other criminal acts committed by persons or entities not acting on SBC MISSOURI's behalf, cable cuts by persons other than SBC MISSOURI's employees or persons acting on SBC MISSOURI's behalf, or other causes beyond SBC MISSOURI's control which occur at sites subject to this Agreement.
- 9.3 Damage to Facilities. Each party shall exercise due care to avoid damaging the facilities of the other or of Other Users and hereby assumes all responsibility for any and all loss from damage caused by the party and persons acting on the party's behalf. A party shall make an immediate report to the other of the occurrence of any damage and hereby agrees to reimburse the other party, and/or Other Users for any property damaged caused by the party or persons acting on the party's behalf.
- 9.4 No Limitations of Liability in Contravention of Federal or State Law. Nothing contained in this article shall be construed as exempting either party from any liability, or limiting such party's liability, in contravention of federal law or in contravention of the laws of this State.

10.0 INSURANCE

- 10.1 At all times in which the Attaching Party has attachments to SBC MISSOURI poles, or is occupying SBC MISSOURI conduit or right-of-way, Attaching Party shall keep and maintain in force, at its own expense, the minimum insurance coverage and limits set for below. Such insurance and coverage shall not only cover the Attaching Party, but it must cover all contractors, subcontractors

and/or any other person acting on Attaching Party's behalf, that are providing services under this Agreement.

- 10.1.1 Workers' Compensation insurance with benefits afforded under the laws of each state covered by this Agreement and Employers Liability insurance with minimum limits of \$1,000,000 for Bodily Injury-each accident, \$500,000 for Bodily Injury by disease-policy limits and \$1,000,000 for Bodily Injury by disease-each employee.
- 10.1.2 Commercial General Liability insurance with minimum limits of: \$10,000,000 General Aggregate limit; \$5,000,000 each occurrence sub-limit for all bodily injury or property damage incurred in any one occurrence; \$1,000,000 each occurrence sub-limit for Personal Injury and Advertising; \$10,000,000 Products/Completed Operations Aggregate limit, with a \$5,000,000 each occurrence sub-limit for Products/Completed Operations.
- 10.1.3 Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits per occurrence for bodily injury and property damage, with coverage extending to all owned, hired and non-owned vehicles.
- 10.2 Attaching Party agrees to name SBC MISSOURI as an Additional Insured on the Commercial General Liability policy and Commercial Automobile Liability Policy.
- 10.3 SBC MISSOURI agrees to accept the Attaching Party's program of self-insurance in lieu of insurance coverage if certain requirements are met. These requirements are as follows:
 - 10.3.1 Workers' Compensation and Employers Liability: Attaching Party submit to SBC MISSOURI its Certificate of Authority to Self-Insure its Workers' Compensation obligations issued by each state covered by this Agreement or the employer's state of hire; and
 - 10.3.2 Automobile liability: Attaching Party shall submit to SBC MISSOURI a copy of the state-issued letter approving self-insurance for automobile liability issued by each state covered by this Agreement; and
 - 10.3.3 General liability: Attaching Party must provide evidence acceptable to SBC MISSOURI that it maintains at least an investment grade (e.g., B+ or higher) debt or credit rating as determined by a nationally recognized debt or credit rating agency such as Moody's, Standard and Poor's or Duff and Phelps.
- 10.4 All insurance required in accordance with this section must be in effect before SBC MISSOURI will issue pole attachment or conduit occupancy permits under this Agreement.
- 10.5 Attaching Party agrees to provide SBC MISSOURI with at least thirty (30) calendar days advance written notice of cancellation, material reduction or non-renewal of any of the insurance policies required herein.

11.0 ASSIGNMENT OF RIGHTS

11.1 Assignment Permitted. Neither party may assign or otherwise transfer its rights or obligations under this Agreement except as provided in this section.

11.1.1 SBC MISSOURI may assign its rights, delegate its benefits, and delegate its duties and obligations under this Agreement, without Attaching Party's consent, to any entity controlling, controlled by, or under common control with SBC MISSOURI or which acquires or succeeds to ownership of substantially all of SBC MISSOURI's assets.

11.1.2 Overlapping of Attaching Party's facilities on SBC MISSOURI poles by a third party will be allowed under the following conditions:

11.1.2.1 The Overlapping entity must enter into an agreement with SBC MISSOURI for access to SBC MISSOURI Structures and abide by the terms and conditions of such an Occupancy Permit.

11.1.2.2 The Overlapping entity must obtain written approval from the Attaching Party and provide a copy to SBC MISSOURI prior to submitting a request for access to structure.

11.1.2.3 The Overlapping party must submit a written request for access to structure, and indicate on the request that the request is for Overlapping of an existing attachment of the Attaching Party.

11.1.2.4 The Overlapping entity is responsible for paying the fees for Overlapping in APPENDIX I and/or APPENDIX PRICING which are separate and in addition to the fees paid by the Attaching Party.

11.1.3 Attaching Party may, ancillary to a bona fide loan transaction between Attaching Party and any lender, and without SBC MISSOURI's consent, grant security interests or make collateral assignments in substantially all of Attaching Party's assets, including Attaching Party's rights under this Agreement, subject to the express terms of this Agreement. In the event Attaching Party's lender, in the bona fide exercise of its rights as a secured lender, forecloses on its security interest or arranges for a third party to acquire Attaching Party's assets through public or private sale or through an Agreement with Attaching Party, Attaching Party's lender or the third party acquiring Attaching Party's rights under this Agreement shall assume all outstanding obligations of Attaching Party under the agreement and provide proof satisfactory to SBC MISSOURI that such lender or third party has complied or will comply with all requirements established under this Agreement. Notwithstanding any provisions of this Agreement to the contrary, such foreclosure by Attaching Party's lender or acquisition of assets by such third party shall not constitute a breach of this Agreement and, upon such foreclosure or acquisition, Attaching Party's

lender or such third party shall succeed to all rights and remedies of Attaching Party under this Agreement (other than those rights and remedies, if any, which have not been transferred and, if Attaching Party is a debtor under the Federal Bankruptcy Code, those rights, if any, which remain a part of the debtor's estate notwithstanding an attempted foreclosure or transfer) and to all duties and obligations of Attaching Party under the Agreement, including liability to SBC MISSOURI for any act, omission, default, or obligation that arose or occurred under the Agreement prior to the date on which such lender or third party succeeds to the rights of Attaching Party under the Agreement, as applicable.

- 11.1.4 No assignment or transfer by Attaching Party of rights under this Agreement, occupancy permit subject to this Agreement, or authorizations granted under this Agreement shall be effective until Attaching Party, its successors, and assigns have complied with the provisions of this article, secured SBC MISSOURI's prior written consent to the assignment or transfer, if necessary, and given SBC MISSOURI notice of the assignment or transfer pursuant to Section 11.3.
- 11.2 Incorporations, Mergers, Acquisitions, and Other Changes in Attaching Party's Legal Identity. When the legal identity or status of Attaching Party changes, whether by incorporation, reincorporation, merger, acquisition, or otherwise, such change shall be treated as an assignment subject to the provisions of this article.
- 11.3 Assignment Shall Not Relieve Attaching Party of Prior Obligations. Except as otherwise expressly agreed by SBC MISSOURI in writing, no assignment permitted by SBC MISSOURI under this Agreement shall relieve Attaching Party of any obligations arising under or in connection with this Agreement, including but not limited to indemnity obligations under Section 8 of this Agreement or the interconnection agreement, if any.
- 11.4 Satisfaction of Existing Obligations and Assumption of Contingent Liabilities. SBC MISSOURI may condition its approval of any requested assignment or transfer on the assignee's or successor's payment or satisfaction of all outstanding obligations of Attaching Party under this Agreement and the assignee's or successor's assumption of any liabilities, or contingent liabilities, of Attaching Party arising out of or in connection with this Agreement.
- 11.5 Sub-Permits Prohibited. Nothing contained in this Agreement shall be construed as granting Attaching Party the right to sublease, sublicense, or otherwise transfer any rights under this Agreement or occupancy permits subject to this Agreement to any third party. Except as otherwise expressly permitted in this Agreement, Attaching Party shall not allow third party to attach or place facilities to or in pole or conduit space occupied by or assigned to Attaching Party or to utilize such space.

12.0 TERMINATION OF AGREEMENT OR OCCUPANCY PERMITS; REMEDIES FOR BREACHES

- 12.1 Termination Due to Non-Use of Facilities or Loss of Required Authority. This Agreement and all occupancy permits subject to this Agreement shall terminate if Attaching Party ceases to have authority to do business or ceases to do business in this State, ceases to have authority to provide or ceases to provide cable television services in this State (if Attaching Party is cable television system having access to SBC MISSOURI's poles, ducts, conduits or rights-of-way solely to provide cable television service), ceases to have authority to provide or ceases to provide telecommunications services in this State (if Attaching Party is a telecommunications carrier which does not also have authority to provide cable television service in this State), or ceases to make active use of SBC MISSOURI's poles, ducts, conduits, and rights-of-way.
- 12.2 Individual occupancy permits subject to this Agreement shall terminate if (a) Attaching Party ceases to utilize the pole attachment or conduit or right of way space subject to such occupancy permit or (b) Attaching Party's permission to use or have access to particular poles, ducts, conduits, or rights-of-way has been revoked, denied, or terminated, or local governmental authority or third-party property owner having authority to revoke, deny, or terminate such use or access.
- 12.3 Limitation, Termination, or Refusal of Access for Certain Material Breaches. Attaching Party's access to SBC MISSOURI's Structure shall not materially interfere with or impair service over any facilities of SBC MISSOURI or any Other User, cause material damage to SBC MISSOURI's plant or the plant of any Other User, impair the privacy of communications carried over the facilities of SBC MISSOURI or any Other User, or create serious hazards to the health or safety of any persons working on, within, or in the vicinity of SBC MISSOURI's poles, ducts, rights-of-way or to the public. Upon reasonable notice and opportunity to cure, SBC MISSOURI may limit, terminate or refuse access if Attaching Party violates this provision.
- 12.4 Notice and Opportunity to Cure Breach. In the event of any claimed breach of this Agreement by either party, the aggrieved party may give written notice of such claimed breach.
- 12.5 The complaining party shall not be entitled to pursue any remedies available under this Agreement or relevant law unless such notice is given, and
- 12.5.1 the breaching party fails to cure the breach within 30 days of such notice, if the breach is one which can be cured within 30 days, or
- 12.5.2 the breaching party fails to commence promptly and pursue diligently a cure of the breach, if the required cure is such that more than 30 days will be required to effect such cure.
- 12.6 Remedies for Breach. Subject to the provisions of this article, either party may terminate this Agreement in the event of a material breach by the other party or exercise any other legal or equitable right which such party may have to enforce the provisions of this Agreement. In any action based on an alleged breach of this Agreement, the prevailing party shall be entitled to

recover all costs and expenses incurred by such party, including but not limited to reasonable attorneys' fees.

13.0 FAILURE TO ENFORCE

No Waiver. The failure by either party to take action to enforce compliance with any of the terms or conditions of this Agreement, to give notice of any breach, or to terminate this Agreement or any occupancy permit or authorization subject to this Agreement shall not constitute a waiver or relinquishment of any term or condition of this Agreement, a waiver or relinquishment of the right to give notice of breach, or waiver or relinquishment of any right to terminate this Agreement.

14.0 CONFIDENTIALITY OF INFORMATION

14.1 Information Provided by Attaching Party to SBC MISSOURI. Except as otherwise specifically provided in this Agreement, all company-specific and customer-specific information submitted by Attaching Party to SBC MISSOURI in connection with this Agreement (including but not limited to information submitted in connection with Attaching Party's applications for occupancy permit shall be deemed to be "confidential" or "proprietary" information of Attaching Party and shall be subject to the terms set forth in this article. Confidential or proprietary information specifically includes information or knowledge related to Attaching Party's review of records regarding a particular market area, or relating to assignment of space to Attaching Party in a particular market area, and further includes knowledge or information about the timing of Attaching Party's request for or review of records or its inquiry about SBC MISSOURI facilities. This article does not limit the use by SBC MISSOURI of aggregate information relating to the occupancy and use of SBC MISSOURI's Structure by firms other than SBC MISSOURI (that is, information submitted by Attaching Party and aggregated by SBC MISSOURI in a manner that does not directly or indirectly identify Attaching Party).

14.2 Access Limited to Persons with a Need to Know. Confidential or proprietary information provided by Attaching Party to SBC MISSOURI in connection with this Agreement shall not be disclosed to, shared with, or accessed by any person or persons other than those who have a need to know such information for the limited purposes set forth in Sections 14.3-14.6.

14.3 Permitted Uses of Attaching Party's Confidential Information. Notwithstanding the provisions of Sections 14.1 and 14.2 above, SBC MISSOURI and persons acting on SBC MISSOURI's behalf may utilize Attaching Party's confidential or proprietary information for the following purposes:

14.3.1 posting information, as necessary, to SBC MISSOURI's outside plant records;

14.3.2 placing, constructing, installing, operating, utilizing, maintaining, monitoring, inspecting, repairing, relocating, transferring, conveying, removing, or managing SBC MISSOURI's Structure and any SBC MISSOURI facilities located on, within, or in the vicinity of such Structure;

- 14.3.3 performing SBC MISSOURI's obligations under this Agreement and similar agreements with third parties;
 - 14.3.4 determining which of SBC MISSOURI's Structure are (or may in the future be) available for SBC MISSOURI's own use, and making planning, engineering, construction, and budgeting decisions relating to SBC MISSOURI's Structure;
 - 14.3.5 preparing cost studies;
 - 14.3.6 responding to regulatory requests for information;
 - 14.3.7 maintaining SBC MISSOURI's financial accounting records; and
 - 14.3.8 complying with other legal requirements relating to Structure.
- 14.4 Defense of Claims. In the event of a dispute between SBC MISSOURI and any person or entity, including Attaching Party, concerning SBC MISSOURI's performance of this Agreement, satisfaction of obligations under similar agreements with third parties, compliance with the Pole Attachment Act, compliance with the Telecommunications Act of 1996, or compliance with other federal, state, or local laws, regulations, commission orders, and the like, SBC MISSOURI may utilize confidential or proprietary information submitted by Attaching Party in connection with this Agreement as may be reasonable or necessary to demonstrate compliance, protect itself from allegations of wrongdoing, or comply with subpoenas, court orders, or reasonable discovery requests; provided, however, that SBC MISSOURI shall not disclose Attaching Party's proprietary or confidential information without first, at SBC MISSOURI's option:
- 14.4.1 obtaining an agreed protective order or nondisclosure agreement that preserves the confidential and proprietary nature of Attaching Party's information;
 - 14.4.2 seeking such a protective order as provided by law if no agreed protective order or nondisclosure agreement can be obtained; or
 - 14.4.3 providing Attaching Party notice of the subpoena, demand, or order and an opportunity to take affirmative steps of its own to protect such proprietary or confidential information.
- 14.5 Response to Subpoenas, Court Orders, and Agency Orders. Nothing contained in this article shall be construed as precluding SBC MISSOURI from complying with any subpoena, civil or criminal investigative demand, or other order issued or entered by a court or agency of competent jurisdiction; provided, however, that SBC MISSOURI shall not disclose Attaching Party's proprietary or confidential information without first, at SBC MISSOURI's option:
- 14.5.1 obtaining an agreed protective order or nondisclosure agreement that preserves the confidential and proprietary nature of Attaching Party's information;

- 14.5.2 seeking such a protective order as provided by law if no agreed protective order or nondisclosure agreement can be obtained; or
- 14.5.3 providing Attaching Party notice of the subpoena, demand, or order and an opportunity to take affirmative steps of its own to protect such proprietary or confidential information.

15.0 ACCESS TO RIGHTS-OF-WAY

- 15.1 To the extent SBC MISSOURI has the authority to do so, SBC MISSOURI grants Attaching Party a right to use any right-of-way for SBC MISSOURI poles, ducts, or conduits to which Attaching Party may attach its facilities for the purposes of constructing, operating and maintaining such Attaching Party's facilities on SBC MISSOURI's poles, ducts or conduits. Notwithstanding the foregoing, Attaching Party shall be responsible for determining the necessity of and obtaining from private and/or public authority any necessary consent, easement, right of way, license, permit, permission, certification or franchise to construct, operate and/or maintain its facilities on private and public property at the location of the SBC MISSOURI pole, duct or conduit to which Attaching Party seeks to attach its facilities. Attaching Party shall furnish proof of any such easement, right of way, license, permit, permission, certification, or franchise within thirty (30) days of request by SBC MISSOURI. SBC MISSOURI does not warrant the validity or apportionability of any rights it may hold to place facilities on private property.
- 15.2 Private Rights-of-Way Not Owned or Controlled by Either Party. Neither party shall restrict or interfere with the other party's access to or right to occupy property owned by third-parties which is not subject to the other party's control, including property as to which either party has access subject to non-exclusive rights-of-way. Each party shall make its own, independent legal assessment of its right to enter upon or use the property of third-party property owners and shall bear all expenses, including legal expenses, involved in making such determinations.
- 15.3 Access to Rights-of-Way Generally. At locations where SBC MISSOURI has access to third-party property pursuant to non-exclusive rights-of-way, SBC MISSOURI shall not interfere with Attaching Party's negotiations with third-party property owners for similar access or with Attaching Party's access to such property pursuant to easements or other rights-of-ways obtained by Attaching Party from the property owner. At locations where SBC MISSOURI has obtained exclusive rights-of-way from third-party property owners or otherwise controls the right-of-way, SBC MISSOURI shall, to the extent space is available, and subject to reasonable safety, reliability, and engineering conditions, provide access to Attaching Party on a nondiscriminatory basis, provided that the underlying agreement with the property owner permits SBC MISSOURI to provide such access, and provided further that SBC MISSOURI's charges for such access shall include Attaching Party's pro rata portion of the charges, if any, paid by SBC MISSOURI to obtain the right-of-way, plus any other documented legal, administrative, and engineering costs incurred by SBC MISSOURI in obtaining the right-of-way and processing Attaching Party's request for access SBC MISSOURI shall use reasonable efforts to obtain agreements with third parties relating to rights-of-way for the benefit of SBC MISSOURI so that the terms governing the use of such rights-of-way do not prohibit SBC MISSOURI from permitting TCG-KC to use such rights-of-way; provided,

however, that exercising reasonable efforts shall not be interpreted to require SBC MISSOURI to pursue imminent domain proceedings or to pay more than the fair market value for such rights-of-way.

16.0 SPECIFICATIONS

- 16.1 Compliance with Requirements, Specifications, and Standards. Attaching Party's facilities attached to SBC MISSOURI's poles or occupying space in SBC MISSOURI's ducts, conduits, and rights-of-way shall be attached, placed, constructed, maintained, repaired, and removed in full compliance with the requirements, specifications, and standards specified in this Agreement and the Administrative Guide.
- 16.2 Published Standards. Attaching Party's facilities shall be placed, constructed, maintained, repaired, and removed in accordance with current (as of the date when such work is performed) editions of the following publications:
- 16.2.1 the Blue Book Manual of Construction Procedures, Special Report SR-TAP-001421, published by Bell Communications Research, Inc. ("Bellcore"), and sometimes referred to as the "Blue Book";
 - 16.2.2 the National Electrical Safety Code ("NESC"), published by the Institute of Electrical and Electronic Engineers, Inc. ("IEEE");
 - 16.2.3 the National Electrical Code ("NEC"), published by the National Fire Protection Association ("NFPA");
 - 16.2.4 California Public Utility Commission's General Orders 95 and 128 for attachments to Pacific Bell Telephone Company poles, ducts, conduits and rights of way; and,
 - 16.2.5 the SBC MISSOURI Structure Access Guidelines
- 16.3 Opening of Manholes and Access to Conduit. The following requirements apply to the opening of SBC MISSOURI's manholes and access to SBC MISSOURI's conduit system.
- 16.3.1 Attaching Party will notify SBC MISSOURI not less than 5 business days in advance before entering SBC MISSOURI's conduit system to perform non-emergency work operations. Such operations shall be conducted during normal business hours except as otherwise agreed by the parties. The notice shall state the general nature of the work to be performed.
 - 16.3.2 An authorized employee or representative of SBC MISSOURI may be present any time when Attaching Party or personnel acting on Attaching Party's behalf enter or perform work within SBC MISSOURI's conduit system. Attaching Party shall reimburse SBC

MISSOURI for costs associated with the presence of SBC MISSOURI's authorized employee or representative.

16.3.3 Each party must obtain any necessary authorization from appropriate authorities to open manholes.

17.0 ACCESS TO RECORDS

17.1 SBC MISSOURI will, upon request and at the expense of the Attaching Party, provide Attaching Party access to and copies of posted ROW records including, but not limited to, redacted maps, records, drawings and additional information relating to the location, capacity and utilization of SBC MISSOURI's Structure as soon as reasonably practical given the scope of the request. Upon request, SBC MISSOURI will meet with the Attaching Party to clarify matters relating to maps, records or additional information. SBC MISSOURI does not warrant the accuracy or completeness of information on any maps or records.

17.1.1 In all instances, such access shall include the ability to take notes and make drawings with references to those records, maps, and drawings. TCG-KC's copies, notes, and drawings may include estimates regarding the physical characteristics (such as size and weight) of cables when necessary to make engineering determinations regarding the capacity, safety, reliability, or suitability of SBC MISSOURI's poles, ducts, conduits, and rights-of-way for TCG-KC's intended uses.

17.2 Maps, records or information are and remain the proprietary property of SBC MISSOURI, are provided to the Attaching Party solely for the pursue of enabling the Attaching Party to obtain access to SBC MISSOURI's Structure, and may not be resold, reproduced or disseminated by the Attaching Party.

17.3 SBC MISSOURI will provide information currently available on the SBC MISSOURI maps and/or records regarding:

17.3.1 the location of Structure and street addresses for manholes and poles as shown on SBC MISSOURI's maps;

17.3.2 the footage between manholes or lateral ducts lengths, as shown on SBC MISSOURI's maps;

17.3.3 the footage between poles, if shown on SBC MISSOURI's maps;

17.3.4 the total capacity of the Structure

17.3.5 the existing utilization of the Structure.

17.4 SBC MISSOURI will not acquire additional information or provide information in formats other than that in which it currently exists and is maintained by SBC MISSOURI.

17.5 SBC MISSOURI will expunge any confidential or proprietary information from its maps and records prior to providing access to the same to the Attaching Party.

18.0 APPLICATIONS AND PRE-OCCUPANCY PERMIT SURVEYS

18.1 Occupancy Permits Required. Attaching Party shall apply in writing for and receive an occupancy permit before attaching facilities to specified SBC MISSOURI poles or placing facilities within specified SBC MISSOURI ducts, conduits, or rights-of-way.

18.2 Structure Access Request Form. To apply for an occupancy permit under this Agreement, Attaching Party shall submit to SBC MISSOURI the appropriate SBC MISSOURI request forms. Attaching Party shall promptly withdraw or amend its request if, at any time prior to the 5th day, it has determined that it no longer seeks access to specific SBC MISSOURI Structure.

18.3 Make-Ready Survey. A Make-Ready survey must be completed by SBC MISSOURI or the Attaching Party before an occupancy permit is issued. The primary purposes of the make ready survey will be to enable SBC MISSOURI to

18.3.1 confirm or determine the modifications, capacity expansion, and make-ready work, if any, necessary to accommodate Attaching Party's attachment of facilities to SBC MISSOURI structures;

18.3.2 plan and engineer the facilities modification, capacity expansion, and make-ready work, if any, required to prepare SBC MISSOURI's poles, ducts, conduits, rights-of-way, and associated facilities for Attaching Party's proposed attachments or occupancy; and

18.3.3 estimate the costs associated with such facilities modification, capacity expansion, or make-ready work.

19.0 POLE, DUCT, AND CONDUIT SPACE ASSIGNMENTS

19.1 Selection of Space. SBC MISSOURI will select or approve the Attaching Party's selection of the space Applicant will occupy on SBC MISSOURI's poles or in SBC MISSOURI's conduit systems. Maintenance ducts shall not be considered available for Attaching Party's use except as specifically provided elsewhere in this Agreement. Where required by law or franchise agreement, ducts and attachment space on poles reserved for municipal use shall not be considered available for the Attaching Party's use. All other ducts, inner ducts, space on poles or space in rights-of-ways which are not assigned or occupied shall be deemed available for use by SBC MISSOURI, Attaching Party, and other parties entitled to access under applicable law.

19.2 Pole, Duct, and Conduit Space Assignments.

- 19.2.1 After Attaching Party's application for a pole attachment or conduit occupancy permit has been approved by SBC MISSOURI, the pole, duct, and conduit space selected and/or approved by SBC MISSOURI in such application will be assigned to Attaching Party for a pre-occupancy period not to exceed twelve (12) months.
- 19.2.2 SBC MISSOURI may assign space to itself by making appropriate entries in the same records used to log assignments to Attaching Party and third parties. If SBC MISSOURI assigns pole, duct, or conduit space to itself, such assignment will automatically lapse 12 months after the date the assignment has been entered into the appropriate SBC MISSOURI record if SBC MISSOURI has not occupied such assigned space within such 12 month period.
- 19.2.3 Notices and applications including assignment requests will be date-and time-stamped on receipt.

20.0 ISSUANCE OF OCCUPANCY PERMITS (INCLUDING MAKE-READY WORK)

- 20.1 Response Within 45 Days. Within 45 days of Attaching Party's submission of a request for access to SBC MISSOURI Structure, SBC MISSOURI shall provide a written response to the application. The response shall state whether the request is being granted or denied, and if the request is denied, provide the reasons why the request is being denied. If denial of access is proposed, SBC MISSOURI will meet with the Attaching Party and explore in good faith reasonable alternatives to accommodate the proposed attachment. The Attaching Party must request such meeting within ten (10) business days of receipt of a notice of denial. SBC MISSOURI will schedule the meeting within ten (10) business days of receipt of the Attaching Party's written request for a meeting.
- 20.2 If access is granted the response will further advise Attaching Party in writing of:
- 20.2.1 what modifications, capacity expansions, or make-ready work, if any, will be required to prepare SBC MISSOURI's Structure, and
- 20.2.2 an estimate of charges for such modifications, capacity expansions, or make-ready work.
- 20.3 Make-ready Work. If it is determined that make ready work will be necessary to accommodate Attaching Party's facilities, Attaching Party shall have 45 days (the "acceptance period") to either
- 20.3.1 submit payment for the estimate authorizing SBC MISSOURI or its contractor to complete the make-ready work; or
- 20.3.2 advise SBC MISSOURI of its willingness to perform the proposed make-ready work itself if permissible in the application area.

- 20.4 Make-ready work performed by Attaching Party, or by an authorized contractor selected by Attaching Party, shall be performed in accordance with SBC MISSOURI's specifications and in accordance with the same standards and practices which would be followed if such work were being performed by SBC MISSOURI or SBC MISSOURI's contractors. Neither Attaching Party nor authorized contractors selected by Attaching Party shall conduct such work in any manner which degrades the integrity of SBC MISSOURI's Structures or interferes with any existing use of SBC MISSOURI's facilities or the facilities of any Other User.
- 20.5 Payments to Others for Expenses Incurred in Transferring or Arranging Their Facilities. Attaching Party shall make arrangements with the Other Users with facilities attached to SBC MISSOURI's poles or occupying space in SBC MISSOURI's conduit system regarding reimbursement for any expenses incurred by the Other Users in transferring or rearranging the Other Users' facilities to accommodate the attachment or placement of Attaching Party's facilities to or in SBC MISSOURI's poles, ducts, conduits and rights of ways.
- 20.6 Reimbursement for the Creation or Use of Additional Capacity. If any additional capacity is created as a result of make-ready work performed to accommodate Attaching Party's facilities, Attaching Party shall not have a preferential right to utilize such additional capacity in the future and shall not be entitled to any fees subsequently paid to SBC MISSOURI for the use of such additional capacity. If SBC MISSOURI utilizes additional space or capacity created at Attaching Party's expense, SBC MISSOURI will reimburse Attaching Party on a pro-rata basis for SBC MISSOURI's share, if any, of Attaching Party's capacity expansion costs, to the extent reimbursement is required by applicable rules, regulations, and commission orders. SBC MISSOURI will notify the Attaching Party if any entity, including SBC MISSOURI, attaches facilities to additional capacity on SBC MISSOURI's Structure created at the Attaching Party's expense. SBC MISSOURI shall not be required to collect or remit any such amounts to Attaching Party, to resolve or adjudicate disputes over reimbursement between Attaching Party and Other Users.
- 20.7 If Attaching Party utilizes space or capacity on any SBC MISSOURI Structure created at SBC MISSOURI's expense after February of 1996, the Attaching Party will reimburse Attaching Party on a pro-rata basis for the Attaching Party's share, if any, of SBC MISSOURI's capacity creation costs.
- 20.8 Occupancy Permit and Attachment. After all required make-ready work is completed, SBC MISSOURI will issue an occupancy permit confirming that Attaching Party may attach specified facilities to SBC MISSOURI's Structure.
- 20.9 The Attaching Party must occupy the assigned space within a period not to exceed twelve (12) months from the issuance of the occupancy permit. If the Attaching Party does not occupy the assigned space within the twelve (12) month period, the Occupancy Permit will lapse and the space will considered available for use by SBC MISSOURI or Other User.

- 20.10 The Attaching Party's obligation to pay semiannual pole attachment or conduit occupancy fees will commence on the date the Occupancy Permit is provided by SBC MISSOURI to the Attaching Party.

21.0 CONSTRUCTION OF ATTACHING PARTY'S FACILITIES

- 21.1 Responsibility for Attaching and Placing Facilities. The Attaching Party shall be responsible for the actual attachment of its facilities to SBC MISSOURI's poles and the placement of such facilities in SBC MISSOURI's ducts, conduits, and rights-of-way and shall be solely responsible for all costs and expenses incurred by it or on its behalf in connection with such activities.
- 21.2 Construction Schedule. After the issuance of an occupancy permit, Attaching Party shall provide SBC MISSOURI with a construction schedule and thereafter keep SBC MISSOURI informed of anticipated changes in the construction schedule.

22.0 USE AND ROUTINE MAINTENANCE OF ATTACHING PARTY'S FACILITIES

- 22.1 Routine Maintenance of Attaching Party's Facilities. Each occupancy permit subject to this Agreement authorizes Attaching Party to engage in routine maintenance of facilities located on or within SBC MISSOURI's poles, ducts, and conduits. Routine maintenance does not include the replacement or modification of Attaching Party's facilities in any manner which results in Attaching Party's facilities differing substantially in size, weight, or physical characteristics from the facilities described in Attaching Party's occupancy permit.
- 22.2 Short-term Use of Maintenance Ducts for Repair and Maintenance Activities. Maintenance ducts shall be available, on a nondiscriminatory basis, for short-term (not to exceed 30 days) non-emergency maintenance or repair activities by any entity with facilities in the conduit section in which the maintenance duct is located; provided, however, that use of the maintenance duct for non-emergency maintenance and repair activities must be scheduled by SBC MISSOURI. A person or entity using the maintenance duct for non-emergency maintenance or repair activities shall immediately notify SBC MISSOURI of such use and must either vacate the maintenance duct within 30 days or, with SBC MISSOURI's consent, which consent shall not be unreasonably withheld, rearrange its facilities to ensure that at least one full-sized replacement maintenance duct (or, if the designated maintenance duct was an inner duct, a suitable replacement inner duct) is available for use by all occupants in the conduit section within 30 days after such person or entity occupies the maintenance duct. Cables temporarily placed in the maintenance duct on a non-emergency basis shall be subject to such accommodations as may be necessary to rectify emergencies which may occur while the maintenance duct is occupied.

23.0 MODIFICATION OF ATTACHING PARTY'S FACILITIES

- 23.1 Notification of Planned Modifications. Attaching Party shall notify SBC MISSOURI in writing at least 30 days before adding to, relocating, replacing or otherwise modifying its facilities already

attached to a SBC MISSOURI Structure. The notice shall contain sufficient information to enable SBC MISSOURI to determine whether the proposed addition, relocation, replacement, or modification is within the scope of Attaching Party's present occupancy permit or requires a new or amended occupancy permit.

- 23.2 Replacement of Facilities and Overlapping Additional Cables. Attaching Party may replace existing facilities with new facilities occupying the same SBC MISSOURI Structure, and may overlap additional cables to its own existing facilities; provided, however, that such activities shall not be considered to be routine maintenance and shall be subject to the requirements of this article.

24.0 REQUIRED REARRANGEMENTS OF ATTACHING PARTY'S FACILITIES

- 24.1 Required Rearrangement of Attaching Party's Facilities. Attaching Party agrees that Attaching Party will cooperate with SBC MISSOURI and other users in making rearrangements to SBC MISSOURI Structure as may be necessary, and that costs incurred by Attaching Party in making such rearrangements shall, in the absence of a specific agreement to the contrary, be borne by the parties in accordance with then applicable law.

- 24.2 Whenever feasible, SBC MISSOURI shall give Attaching Party not less than 60 days prior written notice of the need for Attaching Party to rearrange its facilities pursuant to this section. The notice shall state the date by which such rearrangements are to be completed. Attaching Party shall complete such rearrangements within the time prescribed in the notice. If Attaching Party does not rearrange facilities within noted time, SBC MISSOURI will rearrange at Attaching Party's expense.

25.0 EMERGENCY REPAIRS AND POLE REPLACEMENTS

- 25.1 Responsibility for Emergency Repairs; Access to Maintenance Duct. In general, each party shall be responsible for making emergency repairs to its own facilities and for formulating appropriate plans and practices enabling such party to make such repairs.

25.1.1 Nothing contained in this Agreement shall be construed as requiring either party to perform any repair or service restoration work of any kind with respect to the other party's facilities or the facilities of joint users.

25.1.2 Maintenance ducts shall be available, on a nondiscriminatory basis, for emergency repair activities by any entity with facilities in the conduit section in which the maintenance duct is located; provided, however, that an entity using the maintenance duct for emergency repair activities will notify SBC MISSOURI within 12 hours of the current business day (or first business day following a non-business day) that such entity is entering the SBC MISSOURI conduit system and using the maintenance duct for emergency restoral purposes. The notice will include a description of the emergency and non-emergency services involved and an estimate of the completion time. Maintenance ducts will be used to restore the highest priority services, as defined in Section 2.7, first. Existing spare

ducts may be used for restoration purposes providing the spare ducts are restored after restoration work is complete. Any spare ducts not returned will be included be assigned to the user of the duct and an occupancy permit issued.

- 25.1.3 The Attaching Party shall either vacate the maintenance duct within 30 days or, with SBC MISSOURI's consent, rearrange its facilities to ensure that at least one full-sized replacement maintenance duct (or, if the designated maintenance duct was an inner-duct, a suitable replacement inner-duct) is available for use by all occupants in the conduit section within 30 days after such person or entity occupies the maintenance ducts. Entities not vacating the maintenance duct must provide an immediate maintenance duct at the entity's cost.
- 25.2 Designation of Emergency Repair Coordinators and Other Information. For each SBC MISSOURI construction district, Attaching Party shall provide SBC MISSOURI with the emergency contact number of Attaching Party's designated point of contact for coordinating the handling of emergency repairs of Attaching Party's facilities and shall thereafter notify SBC MISSOURI of changes to such information.
- 25.3 Order of Precedence of Work Operations; Access to Maintenance Duct and Other Unoccupied Ducts in Emergency Situations. When notice and coordination are practicable, SBC MISSOURI, Attaching Party, and other affected parties shall coordinate repair and other work operations in emergency situations involving service disruptions. Disputes will be immediately resolved at the site by the affected parties present in accordance with the following principles.
- 25.3.1 Emergency service restoration work requirements shall take precedence over other work operations.
- 25.3.2 Except as otherwise agreed upon by the parties, restoration of lines for emergency services providers (e.g., 911, fire, police, national security and hospital lines) shall be given the highest priority and temporary occupancy of the maintenance duct (and, if necessary, other unoccupied ducts) shall be assigned in a manner consistent with this priority. Secondary priority shall be given to restoring services to the local service providers with the greatest numbers of local lines out of service due to the emergency being rectified. The parties shall exercise good faith in assigning priorities, shall base their decisions on the best information then available to them at the site in question, and may, by mutual agreement at the site, take other factors into consideration in assigning priorities and sequencing service restoration activities.
- 25.3.3 SBC MISSOURI shall determine the order of precedence of work operations and assignment of duct space in the maintenance duct (and other unoccupied ducts) only if the affected parties present are unable to reach prompt agreement; provided, however, that these decisions shall be made by SBC MISSOURI on a nondiscriminatory basis in accordance with the principles set forth in this section.

25.4 Emergency Pole Replacements.

25.4.1 When emergency pole replacements are required, SBC MISSOURI shall promptly make a good faith effort to contact Attaching Party to notify Attaching Party of the emergency and to determine whether Attaching Party will respond to the emergency in a timely manner.

25.4.2 If notified by SBC MISSOURI that an emergency exists which will require the replacement of a pole, Attaching Party shall transfer its facilities immediately, provided such transfer is necessary to rectify the emergency. If the transfer is to an SBC MISSOURI replacement pole, the transfer shall be in accordance with SBC MISSOURI's placement instructions.

25.4.3 If Attaching Party is unable to respond to the emergency situation immediately, Attaching Party shall so advise SBC MISSOURI and thereby authorize SBC MISSOURI (or any Other User sharing the pole with SBC MISSOURI) to perform such emergency-necessitated transfers (and associated facilities rearrangements) on Attaching Party's behalf.

25.5 Expenses Associated with Emergency Repairs. Each party shall bear all reasonable expenses arising out of or in connection with emergency repairs of its own facilities and transfers or rearrangements of such facilities associated with emergency pole replacements made in accordance with the provisions of this article.

25.5.1 Each party shall be solely responsible for paying all persons and entities who provide materials, labor, access to real or personal property, or other goods or services in connection with any such repair, transfer, or rearrangement of such party's facilities.

25.5.2 Attaching Party shall reimburse SBC MISSOURI for the costs incurred by SBC MISSOURI for work performed by SBC MISSOURI on Attaching Party's behalf in accordance with the provisions of this article.

26.0 INSPECTION BY SBC OF ATTACHING PARTY'S FACILITIES

26.1 Post-Construction Inspections. SBC MISSOURI will, at the Attaching Party's expense, conduct a post-construction inspection of the Attaching Party's attachment of facilities to SBC MISSOURI's Structures for the purpose of determining the conformance of the attachments to the occupancy permit. SBC MISSOURI will provide the Attaching Party advance written notice of proposed date and time of the post-construction inspection. The Attaching Party may accompany SBC MISSOURI on the post-construction inspection.

- 26.2 Right to Make Periodic or Spot Inspections. SBC MISSOURI shall have the right, but not the obligation, to make periodic or spot inspections of all facilities attached to SBC MISSOURI's Structure. These inspections will not be made more often than once every 2 years unless in SBC MISSOURI's judgement such inspections are required for reasons involving safety or because of an alleged violation of the terms of this Agreement.
- 26.3 If Attaching Party's facilities are in compliance with this Agreement, there will be no charges incurred by the Attaching Party for the periodic or spot inspection. If Attaching Party's facilities are not in compliance with this Agreement, SBC MISSOURI may charge Attaching Party for the inspection. The costs of Periodic Inspections will be paid by those Attaching Parties with 2% or greater of their attachments in violation. The amount paid by the Attaching Party shall be the percentage that their violations bear to the total violations of all Attaching Parties found during the inspection.
- 26.4 If the inspection reflects that Attaching Party's facilities are not in compliance with the terms of this Agreement, Attaching Party shall bring its facilities into compliance within 30 days after being notified of such noncompliance. If any make ready or modification work to SBC MISSOURI's Structures is required to bring Attaching Party's facilities into compliance, the Attaching Party shall provide notice to SBC MISSOURI and the make ready work or modification will be treated in the same fashion as make ready work or modifications for a new request for attachment.

27.0 TAGGING OF FACILITIES AND UNAUTHORIZED ATTACHMENTS

- 27.1 Facilities to Be Marked. Attaching Party shall tag or otherwise mark all of Attaching Party's facilities placed on or in SBC MISSOURI's Structure in a manner sufficient to identify the facilities as those belonging to the Attaching Party.
- 27.2 Removal of Untagged Facilities. SBC MISSOURI may, without notice to any person or entity, remove from SBC MISSOURI's poles or any part of SBC MISSOURI's conduit system the Attaching Party's facilities, if SBC MISSOURI determines that such facilities are not the subject of a current occupancy permit and are not otherwise lawfully present on SBC MISSOURI's poles or in SBC MISSOURI's conduit system.
- 27.3 Notice to Attaching Party. If any of Attaching Party's facilities for which no occupancy permit is presently in effect are found attached to SBC MISSOURI's poles or anchors or within any part of SBC MISSOURI's conduit system, SBC MISSOURI, without prejudice to other rights or remedies available to SBC MISSOURI under this Agreement, and without prejudice to any rights or remedies which may exist independent of this Agreement, shall send a written notice to Attaching Party advising Attaching Party that no occupancy permit is presently in effect with respect to the facilities and that Attaching Party must, within 30 days, respond to the notice as provided in Section 27.6 of this Agreement.
- 27.4 Attaching Party's Response. Within 60 days after receiving a notice under Section 27.5 of this Agreement, Attaching Party shall acknowledge receipt of the notice and submit to SBC

MISSOURI, in writing, an application for a new or amended occupancy permit with respect to such facilities.

- 27.5 Approval of Request and Retroactive Charges. If SBC MISSOURI approves Attaching Party's application for a new or amended occupancy permit, Attaching Party shall be liable to SBC MISSOURI for all fees and charges associated with the unauthorized attachments as specified in Section 27.7 of this Agreement. The issuance of a new or amended occupancy permit as provided by this article shall not operate retroactively or constitute a waiver by SBC MISSOURI of any of its rights or privileges under this Agreement or otherwise.
- 27.6 Attachment and occupancy fees and charges shall continue to accrue until the unauthorized facilities are removed from SBC MISSOURI's poles, conduit system or rights of way or until a new or amended occupancy permit is issued and shall include, but not be limited to, all fees and charges which would have been due and payable if Attaching Party and its predecessors had continuously complied with all applicable SBC MISSOURI licensing requirements. Such fees and charges shall be due and payable 30 days after the date of the bill or invoice stating such fees and charges. In addition, the Attaching Party shall be liable for an unauthorized attachment fee in the amount of 5 times the annual attachment and occupancy fees in effect on the date Attaching Party is notified by SBC MISSOURI of the unauthorized attachment or occupancy. Payment of such fees shall be deemed liquidated damages and not a penalty. In addition, Attaching Party shall rearrange or remove its unauthorized facilities at SBC MISSOURI's request to comply with applicable placement standards, shall remove its facilities from any space occupied by or assigned to SBC MISSOURI or another Other User, and shall pay SBC MISSOURI for all costs incurred by SBC MISSOURI in connection with any rearrangements, modifications, or replacements necessitated as a result of the presence of Attaching Party's unauthorized facilities.
- 27.7 Removal of Unauthorized Attachments. If Attaching Party does not obtain a new or amended occupancy permit with respect to unauthorized facilities within the specified period of time, SBC MISSOURI shall by written notice advise Attaching Party to remove its unauthorized facilities not less than 60 days from the date of notice and Attaching Party shall remove the facilities within the time specified in the notice. If the facilities have not been removed within the time specified in the notice, SBC MISSOURI may, at SBC MISSOURI's option, remove Attaching Party's facilities at Attaching Party's expense.
- 27.8 No Ratification of Unpermitted Attachments or Unauthorized Use of SBC MISSOURI's Facilities. No act or failure to act by SBC MISSOURI with regard to any unauthorized attachment or occupancy or unauthorized use of SBC MISSOURI's Structure shall be deemed to constitute a ratification by SBC MISSOURI of the unauthorized attachment or occupancy or use, nor shall the payment by Attaching Party of fees and charges for unauthorized pole attachments or conduit occupancy exonerate Attaching Party from liability for any trespass or other illegal or wrongful conduct in connection with the placement or use of such unauthorized facilities.

28.0 REMOVAL OF ATTACHING PARTY'S FACILITIES

- 28.1 When Applicant no longer intends to occupy space on a SBC MISSOURI pole or in a SBC MISSOURI duct or conduit, Applicant will provide written notification to SBC MISSOURI that it wishes to terminate the occupancy permit with respect to such space and will remove its facilities from the space described in the notice. Upon removal of Applicant's facilities, the occupancy permit shall terminate and the space shall be available for reassignment.
- 28.1.1 Attaching Party shall be responsible for and shall bear all expenses arising out of or in connection with the removal of its facilities from SBC MISSOURI's Structure.
- 28.1.2 Except as otherwise agreed upon in writing by the parties, Applicant must, after removing its facilities, plug all previously occupied ducts at the entrances to SBC MISSOURI's manholes.
- 28.1.3 Applicant shall be solely responsible for the removal of its own facilities from SBC MISSOURI's Structure.
- 28.2 At SBC MISSOURI's request, Attaching Party shall remove from SBC MISSOURI's Structure any of Attaching Party's facilities which are no longer in active use. Upon request, the Attaching Party will provide proof satisfactory to SBC MISSOURI that an Attaching Party's facility is in active service. Attaching Party shall not abandon any of its facilities by leaving such facilities on or in SBC MISSOURI's Structure.
- 28.3 Removal Following Termination of Occupancy permit. Attaching Party shall remove its facilities from SBC MISSOURI's poles, ducts, conduits, or rights-of-way within 60 days after termination of the occupancy permit.
- 28.4 Removal Following Replacement of Facilities. Attaching Party shall remove facilities no longer in service from SBC MISSOURI's Structures within 60 days after the date Attaching Party replaces existing facilities on a pole or in a conduit with substitute facilities on the same pole or in the same conduit.
- 28.5 Removal to Avoid Forfeiture. If the presence of Attaching Party's facilities on or in SBC MISSOURI's Structure would cause a forfeiture of the rights of SBC MISSOURI to occupy the property where such Structure is located, SBC MISSOURI will promptly notify Attaching Party in writing and Attaching Party shall not, without due cause and justification, refuse to remove its facilities within such time as may be required to prevent such forfeiture. SBC MISSOURI will give Attaching Party not less than 60 days from the date of notice to remove Attaching Party's facilities unless prior removal is required to prevent the forfeiture of SBC MISSOURI's rights. At Attaching Party's request, the parties will engage in good faith negotiations with each other, with Other Users, and with third-party property owners and cooperatively take such other steps as may be necessary to avoid the unnecessary removal of Attaching Party's facilities.

28.6 Removal of Facilities by SBC MISSOURI; Notice of Intent to Remove. If Attaching Party fails to remove its facilities from SBC MISSOURI's Structure in accordance with the provisions of Sections 28.1-28.6 of this Agreement, SBC MISSOURI may remove such facilities and store them at Attaching Party's expense in a public warehouse or elsewhere without being deemed guilty of trespass or conversion and without becoming liable to Attaching Party for any injury, loss, or damage resulting from such actions. SBC MISSOURI shall give Attaching Party not less than 60 days prior written notice of its intent to remove Attaching Party's facilities pursuant to this section.

28.7 Removal of Facilities by SBC MISSOURI. If SBC MISSOURI removes any of Attaching Party's facilities pursuant to this article, Attaching Party shall reimburse SBC MISSOURI for SBC MISSOURI's costs in connection with the removal, storage, delivery, or other disposition of the removed facilities.

29.0 RATES, FEES, CHARGES, AND BILLING

29.1 Rates, Charges and Fees Subject to Applicable Laws, Regulations, Rules, and Commission Orders. All rates, charges and fees outlined in this Agreement will be set forth in APPENDIX PRICING as part of the Interconnection Agreement. All rates, charges and fees shall be subject to all applicable federal and state laws, rules, regulations, and commission orders.

29.2 Changes to Rates, Charges and Fees. Subject to applicable federal and state laws, rules, regulations and orders, SBC MISSOURI shall have the right to change the rates, charges and fees outlined in this Agreement. SBC MISSOURI will provide the Attaching Party 60 days written notice, advising the Attaching Party of the specific changes being made and the effective date of the change. If the changes outlined in the notice are not acceptable to the Attaching Party, Attaching Party may either (1) seek renegotiation of this Agreement, (2) terminate this Agreement, or (3) seek relief through the dispute resolution process in the General Terms and Conditions of this Agreement.

30.0 PERFORMANCE AND PAYMENT BONDS

30.1 Bond May Be Required. SBC MISSOURI may require Attaching Party, authorized contractors, and other persons acting on Attaching Party's behalf to execute performance and payment bonds (or provide other forms of security) in amounts and on terms sufficient to guarantee the performance of the Attaching Party's obligations arising out of or in connection with this Agreement.

30.1.1 If a bond or similar form of assurance is required of Attaching Party, an authorized contractor, or other person acting on Attaching Party's behalf, Attaching Party shall promptly submit to SBC MISSOURI adequate proof that the bond remains in full force and effect and provide certification from the company issuing the bond that the bond will not be cancelled, changed or materially altered without first providing SBC MISSOURI 60 days written notice.

30.2 Payment and Performance Bonds in Favor of Contractors and Subcontractors. Attaching Party shall be responsible for paying all employees, contractors, subcontractors, mechanics, materialmen and other persons or entities performing work or providing materials in connection with Attaching Party's performance under this Agreement. In the event any lien, claim or demand is made on SBC MISSOURI by any such employee, contractor, subcontractor, mechanic, materialman, or other person or entity providing such materials or performing such work, SBC MISSOURI may require, in addition to any security provided under Section 30.1 of this Agreement, that Attaching Party execute payment or performance bonds, or provide such other security, as SBC MISSOURI may deem reasonable or necessary to protect SBC MISSOURI from any such lien, claim or demand.

31.0 NOTICES

31.1 Notices to Attaching Party. All written notices required to be given to a party shall be delivered or mailed to the party's duly authorized agent or attorney, as designated in this section.

31.1.1 Such notice may be delivered to the party's duly authorized agent or attorney in person or by agent or courier receipted delivery.

31.1.2 Such notice may be mailed to the party's duly authorized agent or attorney by registered or certified mail, return receipt requested. When notice is given by mail, such notice shall be complete upon deposit of the notice, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and control of the United States Postal Service and shall be deemed to have been given three days after the date of deposit.

31.1.3 Notices to a party shall be sent to the authorized agent or attorney designated below:

If to Attaching Party: (TCG Kansas City)

Name: William L. West
 Title: Regional Vice President, LSAM
 Firm: TCG-KC
 Address: 222 W. Adams Street/11th Floor
 City/State/Zip: Chicago, IL 60606-5307

If to SBC MISSOURI: CONTRACT ADMINISTRATION

ATTN: Notices Manager

Address: 311 S. Akard, 9th Floor

City/State/Zip: Dallas, TX 75202-5398

- 31.2 Changes in Notice Requirements. Either party may, from time to time, change notice addressees and addresses by giving written notice of such change to the other party. Such notice shall state, at a minimum, the name, title, firm, and full address of the new addressee.

THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

Southwestern Bell Telephone, L.P. d/b/a SBC Missouri

By: _____
Signature of SBC Missouri's Authorized Officer/Employee

Name of SBC Missouri's Authorized Officer/Employee (Printed or Typed)

Position/Title of SBC Missouri's Authorized Officer/Employee

Date

City and State of Execution by SBC Missouri

TCG Kansas City

Attaching Party's Name (Printed or Typed)

Signature of Attaching Party's Authorized Officer/Employee

Name of Authorized Officer/Employee (Printed or Typed)

Position/Title of Authorized Officer/Employee

Date

City and State by Attaching Party