

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of Missouri Network Alliance, LLC
File No.: EB-IHD-19-00029224
Acct. No.: 202032080020
FRN: 0015540669

ORDER

Adopted: March 30, 2020

Released: March 30, 2020

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) has entered into a Consent Decree to resolve its investigation into whether Missouri Network Alliance, LLC (MNA) violated the Commission's rules related to the sale of its assets to Bluebird Media, LLC (Bluebird) prior to receiving approval from the Commission's Wireline Competition Bureau. Sections 63.03 and 63.04 of the Commission's rules require prior approval to enable the Commission to apply a public interest standard in evaluating possible risks to competition and consumers that could result from transfers of control of entities holding federally granted authorizations pursuant to section 214 of the Act. To settle this matter, MNA admits that it failed to obtain the Commission's approval prior to the sale of assets to Bluebird, and will implement a compliance plan and pay an \$8,000 civil penalty.

2. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the referenced investigation regarding MNA's compliance with the Commission's rules requiring prior Commission approval for the sale of assets as set forth in section 214 of the Communications Act of 1934, as amended (Act)1, and the relevant Commission rules.2 In the absence of material new evidence relating to this matter, we do not set for hearing the question of MNA's basic qualifications to hold or obtain any Commission license or authorization.3

3. Accordingly, IT IS ORDERED that, pursuant to section 4(i) of the Act4 and the authority delegated by sections 0.111 and 0.311 of the Commission's rules,5 the attached Consent Decree IS ADOPTED and its terms incorporated by reference.

4. IT IS FURTHER ORDERED that the above-captioned matter IS TERMINATED.

1 47 USC § 214.

2 47 CFR §§ 63.03, 63.04.

3 See 47 CFR § 1.93(b).

4 47 U.S.C. § 154(i).

5 47 CFR §§ 0.111, 0.311.

5. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be served via e-mail to Bennett Ross, counsel for Missouri Network Alliance, LLC, at [bross@wiley.law](mailto:bross@wiley.law).

FEDERAL COMMUNICATIONS COMMISSION

Rosemary C. Harold  
Chief  
Enforcement Bureau

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of )
Missouri Network Alliance, LLC )
File No.: EB-IHD-19-00029224
Acct. No.: 202032080020
FRN: 0015540669

CONSENT DECREE

1. The Enforcement Bureau of the Federal Communications Commission and Missouri Network Alliance, LLC (MNA), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s Investigation, as defined below, into whether MNA violated section 214 of the Communications Act of 1934, as amended,1 and sections 63.03 and 63.04 of the Commission’s rules,2 related to the sale of assets to Bluebird Media, LLC (Bluebird) prior to receiving approval from the Commission’s Wireline Competition Bureau. This action will send a message to the industry that the Commission takes its role in reviewing regulatee transactions seriously and remains vigilant of transactions that do not comply with these rules.

I. DEFINITIONS

- 2. For the purposes of this Consent Decree, the following definitions shall apply:
(a) “Act” means the Communications Act of 1934, as amended.3
(b) “Adopting Order” means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
(c) “Bluebird” means Bluebird Media, LLC and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
(d) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
(e) “Commission” and “FCC” mean the Federal Communications Commission and all its bureaus and offices.
(f) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which MNA is subject by virtue of its business activities, including but not limited to the Section 214 Rules.
(g) “Company” or “MNA” means Missouri Network Alliance, LLC and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.

1 47 U.S.C. § 214.
2 47 CFR §§ 63.03, 63.04.
3 47 U.S.C. § 151 et seq.

- (h) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 16.
- (i) “Covered Employees” means all employees and agents of MNA who perform, supervise, oversee, or manage the performance of duties that relate to MNA’s responsibilities under the Communications Laws, including the Section 214 Rules.
- (j) “Effective Date” means the date by which both the Bureau and MNA have signed the Consent Decree.
- (k) “Investigation” means the investigation commenced by the Bureau in EB-IHD-19-00029224 regarding whether MNA violated the Section 214 Rules.
- (l) “LOI” means the Letter of Inquiry issued by the Bureau to Bluebird on June 4, 2019, investigating potential violations of the Section 214 Rules related to the transfer of control of MNA’s authorizations to provide domestic and international service, prior to receiving approval from the Commission’s Wireline Competition Bureau.
- (m) “MNA Holdings” means MNA Holdings, LLC and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
- (n) “Operating Procedures” means the standard internal operating procedures and compliance policies established by MNA to implement the Compliance Plan.
- (o) “Parties” means MNA and the Bureau, each of which is a “Party.”
- (p) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (q) “Section 214 Rules” means section 214 of the Act and other provisions of the Act, the Rules, and Commission orders related to the construction, acquisition, operation, or transmission of lines of communication, including any Rules implementing section 214 and any related Commission orders.

## II. BACKGROUND

3. Section 214(a) of the Act requires telecommunications carriers to obtain a certificate of public convenience and necessity from the Commission before constructing, acquiring, operating, or engaging in the transmission of common carrier communications services over communications lines, and before discontinuing, reducing, or impairing service to a community.<sup>4</sup> The Commission granted all domestic carriers blanket entry certification under section 214 to provide domestic interstate services and to construct, acquire, and operate any domestic transmission line.<sup>5</sup> Section 63.03 of the Rules, however, still requires that any domestic carrier seeking to transfer control of lines or its authorization to operate under section 214 of the Act (due to an acquisition of corporate control) must obtain prior approval from the Commission.<sup>6</sup> The Commission has determined that transactions involving the sale of a

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<sup>4</sup> See 47 U.S.C. § 214(a).

<sup>5</sup> 47 CFR § 63.01; See *Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996; Petition for Forbearance of the Independent Telephone & Telecommunications Alliance*, Report and Order and Second Memorandum Opinion and Order, 14 FCC Rcd 11364 (1999) (*1999 Streamlining Order*).

<sup>6</sup> 47 CFR § 63.03; See *Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, Report and Order, 17 FCC Rcd 5517, 5521, para. 5 (2002) (*2002 Streamlining Order*). See also 47 CFR § 63.03(d)(1) (excluding all *pro forma* transactions, which do not result in a change in the carrier’s ultimate ownership or control, from the domestic Section 214 application and approval requirements), § 63.04(d)(2)

telecommunications provider's customer base should be treated as transfers of control requiring Commission approval.<sup>7</sup> Section 63.04 sets forth the required contents of domestic transfer of control applications.<sup>8</sup> The Commission employs a public interest standard under section 214(a) of the Act that involves the examination of the public interest impact of a proposed transaction.<sup>9</sup>

4. MNA is a Missouri Limited Liability Company providing transport and Internet services to enterprise customers in Missouri, Iowa, Oklahoma, Kansas, and Nebraska, along with tandem switching and transport services for interexchange carriers in Missouri.<sup>10</sup> MNA is authorized to provide these domestic telecommunications services pursuant to section 214 of the Act.<sup>11</sup>

5. Before January 28, 2011, 15 Missouri-based independent communications companies owned MNA.<sup>12</sup> MNA then conducted a *pro forma* transfer of control whereby each of the 15 Missouri-based independent companies holding a membership interest in MNA created and contributed their membership interests to MNA Holdings, which obtained 100% of MNA on January 28, 2011.<sup>13</sup>

6. Bluebird is a Missouri Limited Liability Company formed on July 29, 2009.<sup>14</sup> Bluebird was awarded funds by the National Telecommunications Information Administration (NTIA) in 2010 to provide broadband in underserved regions of Missouri.<sup>15</sup> At the time Bluebird was awarded funding, Richard Otto Maly was the majority owner; Christopher Martin, Tatum Martin, and Greg N. Johnson, collectively, held the remaining minority interest.<sup>16</sup>

7. On March 23, 2011, Bluebird consummated a joint venture (Transaction) with MNA.<sup>17</sup> Through this Transaction, Bluebird acquired a 51% ownership interest in MNA from MNA Holdings, which retained a 49% interest.<sup>18</sup> Bluebird and MNA Holdings exercise their authority over MNA through a joint subsidiary created during the Transaction: Bluebird Network, LLC.<sup>19</sup> This Transaction resulted in the transfer of control of the domestic section 214 authorization held by MNA, and was completed without prior Commission consent.<sup>20</sup> Bluebird admits that neither Bluebird nor MNA Holdings sought

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(requiring that a post-transaction notice be filed with the Commission within 30 days of a *pro forma* transfer of a domestic section 214 authorization to a trustee, a debtor-in-possession, or any other party pursuant to any applicable chapter of the Bankruptcy Code).

<sup>7</sup> See 47 CFR §§ 63.01, 63.03, 63.04, 63.18 and 63.24; see also *2002 Streamlining Order*, 17 FCC Red at 5547-49, paras. 59-64 (modifying 47 CFR § 63.01 to reflect that asset purchases will no longer be subject to blanket authority, but rather will be treated as transfers of control).

<sup>8</sup> See 47 CFR § 63.04.

<sup>9</sup> See 47 U.S.C. § 214(a).

<sup>10</sup> See Joint Application for Consent to Transfer Control, WC Docket No. 19-50 (filed Mar. 4, 2019) (MIP IV MW Application).

<sup>11</sup> See Joint Application at 2.

<sup>12</sup> See *id.*

<sup>13</sup> See Joint Application at 2. See also 47 CFR § 63.03(d)(1) (explaining that a “common carrier under section 214 ... is authorized to undertake any corporate restructuring... that does not result in a change of ultimate ownership or control.” Such a restructuring is considered a *pro forma* transfer of control and no Commission approval is generally required.).

<sup>14</sup> See Joint Application at 5.

<sup>15</sup> See Joint Application at 2.

<sup>16</sup> See Letter from Jeffrey J. Gee, Chief, Investigations & Hearings Division, FCC Enforcement Bureau, to R. Otto Maly, Manager, Bluebird Media, LLC (June 4, 2019) (on file in EB-IHD-19-00029224) (Bluebird LOI).

prior Commission approval for this transfer.<sup>21</sup>

8. On March 11, 2019, Bluebird and MNA Holdings belatedly filed a joint transfer of control application, pursuant to section 214 of the Act and sections 63.03 and 63.04 of the Commission's rules.<sup>22</sup> Shortly thereafter, Bluebird and MNA Holdings filed a request for Special Temporary Authority (STA) with the Wireline Competition Bureau (WCB) on March 26, 2019.<sup>23</sup> WCB granted the applicants' request for STA on April 8, 2019, to allow MNA to operate while the proposed domestic section 214 transfer of control application was under review.<sup>24</sup> The underlying application for approval of the transfer of control was granted by WCB on May 9, 2019, without prejudice to any enforcement action.<sup>25</sup>

9. On June 4, 2019, the Bureau issued an LOI regarding the matters referenced above.<sup>26</sup> On July 8, 2019, Bluebird filed its response to the LOI.<sup>27</sup> The Parties negotiated the terms and conditions of settlement and hereby enter into this Consent Decree as provided below.

### III. TERMS OF AGREEMENT

10. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

11. **Jurisdiction.** MNA agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has authority to enter into and adopt this Consent Decree.

12. **Effective Date.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

13. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, MNA agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against MNA concerning the matters that were the subject

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<sup>17</sup> See Joint Application at 2-3.

<sup>18</sup> See *id.*

<sup>19</sup> See *id.*

<sup>20</sup> See Joint Application at 3-4.

<sup>21</sup> Joint Application at 4 (“The Applicants realize that they should have filed an application for prior approval of the transfer of control of MNA’s domestic Section 214 authorization.”).

<sup>22</sup> See generally Joint Application; 47 U.S.C. § 214; 47 CFR §§ 63.03-04.

<sup>23</sup> See Letter from Bennett L. Ross, counsel for Bluebird Media, LLC, and MNA Holdings, LLC, to Marlene H. Dortch, Secretary, Office of the Secretary, FCC (Mar. 26, 2019) (requesting special temporary authority for MNA to stay operative during the Section 214 approval phase) (STA Request).

<sup>24</sup> See Grant of Bluebird Medial, LLC and MNA Holdings, LLC Joint Request for Approval of the Transfer of Control of Missouri Network Alliance, LLC, WC Docket No. 19-68 (Apr. 8, 2019).

<sup>25</sup> *Notice of Domestic Section 214 Authorization Granted*, Public Notice, DA 19-398 (WCB May 9, 2019).

<sup>26</sup> See Bluebird LOI.

<sup>27</sup> See generally Letter from Bennett L. Ross, Counsel for Bluebird Media, LLC, to Jeffrey J. Gee, Chief, Investigations & Hearings Division, FCC Enforcement Bureau (July 8, 2019) (LOI Response).

of the Investigation. The Bureau also agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or to set for hearing the question of MNA's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations.<sup>28</sup>

14. **Admission of Liability.** MNA admits for the purpose of this Consent Decree and for Commission's civil enforcement purposes, and in express reliance on the provisions of paragraph 13 herein, that its actions described in paragraph 7, herein, violated the Section 214 Rules.

15. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, MNA shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as a Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that MNA complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Section 214 Rules prior to assuming his/her duties.

16. **Compliance Plan.** For purposes of settling the matters set forth herein, MNA agrees that it shall, within thirty (30) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the Section 214 Rules, MNA will implement, at a minimum, the following procedures:

- (a) **Operating Procedures.** Within thirty (30) calendar days after the Effective Date, MNA shall establish Operating Procedures that all Covered Employees must follow to help ensure MNA's compliance with the Section 214 Rules. In addition to implementing the required policies and procedures in the Section 214 Rules, MNA's Operating Procedures shall include internal procedures and policies specifically designed to ensure that MNA complies with the Section 214 Rules. MNA shall also develop a Compliance Checklist that describes the steps a Covered Employee must follow to ensure compliance with the Section 214 Rules.
- (b) **Compliance Manual.** Within thirty (30) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain Section 214 Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure MNA's compliance with the Section 214 Rules. MNA shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. MNA shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** MNA shall establish and implement a Compliance Training Program on compliance with the Section 214 Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of MNA's obligation to report any noncompliance with the Section 214 Rules under paragraph 17 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within thirty (30) calendar days after the Effective Date, except that any person who becomes a Covered Employee at

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<sup>28</sup> See 47 CFR 1.93(b).

any time after the initial Compliance Training Program shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. MNA shall repeat compliance training on an annual basis and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

17. **Reporting Noncompliance.** MNA shall report any noncompliance with the Section 214 Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that MNA has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that MNA has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW Room 4-C224, Washington, DC 20554, with a copy submitted electronically to [Jeffrey.Gee@fcc.gov](mailto:Jeffrey.Gee@fcc.gov), [Kalun.Lee@fcc.gov](mailto:Kalun.Lee@fcc.gov), and to [Ryan.McDonald@fcc.gov](mailto:Ryan.McDonald@fcc.gov).

18. **Compliance Reports.** MNA shall file compliance reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date; twenty-four (24) months after the Effective Date; and thirty-six months (36) after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of MNA's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Section 214 Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of MNA, stating that the Compliance Officer has personal knowledge that MNA: (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 17 of this Consent Decree.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with Section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.<sup>29</sup>
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of MNA, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) the steps that MNA has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that MNA has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW Room 4-C224, Washington, DC 20554, with a copy submitted electronically to [Jeffrey.Gee@fcc.gov](mailto:Jeffrey.Gee@fcc.gov), [Kalun.Lee@fcc.gov](mailto:Kalun.Lee@fcc.gov), and to [Ryan.McDonald@fcc.gov](mailto:Ryan.McDonald@fcc.gov).

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<sup>29</sup> 47 CFR § 1.16.

19. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 15 through 18 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

20. **Settlement Amount.** MNA will make a settlement payment to the United States Treasury in the amount of eight thousand dollars (\$8,000) within thirty (30) calendar days of the Effective Date. MNA shall send electronic notification of payment to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW Room 4-C224, Washington, DC 20554, with a copy submitted electronically to [Jeffrey.Gee@fcc.gov](mailto:Jeffrey.Gee@fcc.gov), [Kalun.Lee@fcc.gov](mailto:Kalun.Lee@fcc.gov), and to [Ryan.McDonald@fcc.gov](mailto:Ryan.McDonald@fcc.gov) on the date said payment is made. Payment of the Civil Penalty must be made by credit card, ACH (Automated Clearing House) debit from a bank account using the Commission's Fee Filer (the Commission's online payment system),<sup>30</sup> or by wire transfer. The Commission no longer accepts Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:<sup>31</sup>

- (a) Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to [RROGWireFaxes@fcc.gov](mailto:RROGWireFaxes@fcc.gov) on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).<sup>32</sup> For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- (b) Payment by credit card must be made by using the Commission's Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by credit card, log-in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Pay bills" on the Fee Filer Menu, and select the bill number associated with the CD Acct. No. – the bill number is the CD Acct. No. with the first two digits excluded – and then choose the "Pay by Credit Card" option. IMPORTANT NOTE: there is a \$24,999.99 limit on credit card transactions.
- (c) Payment by ACH must be made by using the Commission's Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Pay bills" on the Fee Filer Menu and then select the bill number associated with the CD Acct. No. – the bill number is the CD Acct. No. with the first two digits excluded (e.g., NAL 1912345678 = FCC bill Number 12345678) – and choose the "Pay from Bank Account" option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

<sup>30</sup> Payments made using the Commission's Fee Filer system do not require the submission of an FCC Form 159.

<sup>31</sup> For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

<sup>32</sup> Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

21. **Event of Default.** MNA agrees that an Event of Default shall occur upon the failure by MNA to pay the full amount of the settlement payment on or before the due date specified in this Consent Decree.

22. **Interest, Charges for Collection, and Acceleration of Maturity Date.** After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the civil penalty shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75 percent, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the civil penalty, together with interest, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charges, plus the costs of collection, litigation, and attorneys' fees, shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by MNA.

23. **Waivers.** As of the Effective Date, MNA waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. MNA shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or the Adopting Order, neither MNA nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and MNA shall waive any statutory right to a trial *de novo*. MNA hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act<sup>33</sup> relating to the matters addressed in this Consent Decree.

24. **Severability.** The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

25. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

26. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which MNA does not expressly consent) that provision will be superseded by such Rule or Order.

27. **Successors and Assigns.** MNA agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

28. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

29. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

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<sup>33</sup> See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

30. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

31. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

32. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

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Rosemary C. Harold  
Chief  
Enforcement Bureau

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Date

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Michael Morey  
President and CEO  
Missouri Network Alliance, LLC

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Date