

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Request for Approval)
of Rates of Missouri Network Alliance,)
d/b/a Bluebird Network)

File No. TR-2019-0348

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff), through the undersigned counsel, and hereby respectfully submits this Staff Recommendation.

1. On May 10, 2019, the above-referenced Missouri Network Alliance, L.L.C. d/b/a Bluebird Network (Bluebird or Company) filed notice that it was working with healthcare providers (HCP) to provide telecommunications services to them through the Rural Health Care Telecommunications Program of the Federal Communications Commission (FCC). The Company seeks Commission approval of its proposed rates for these telecommunications services through a provision of 47 C.F.R. 54.607.

2. Rule 4 CSR 240-28.011(2) provides that any company with a certificate or registration that changes its name shall provide advance notice to the Commission of the name change and lays out the methods and requirements for such notice. The Commission has no documentation or notice of the name change of Missouri Network Alliance, L.L.C. to Missouri Network Alliance, L.L.C. d/b/a Bluebird Network prior to the Company's filing to open this docket. Therefore, Staff asks that the Commission order the Company to comply with the requirements of Rule 4 CSR 240-28.011(2) by opening a separate docket and filing the requisite information.

3. 47 C.F.R. 54.607 falls under subpart "G" of the federal Universal Service rules regarding universal service support for HCP. The rule states that a company wishing to provide telecommunications services to HCPs may use an average of the rates being

charged to commercial customers other than HCPs for identical or similar services provided in the same rural area in which the HCP is located. It further permits that in situations in which the telecommunications company is not offering identical or similar services in that area the company may use an average of the tariffed and/or publicly available rates for identical or similar services in that area. Finally, if there are no tariffed/publicly available rates for consideration in that area or if a company determines that the FCC's proposed methods are unfair, then the company may submit a request for state commission approval of a cost based rate for intrastate rates only.

4. Bluebird provided what it believes to be justification for its cost based rates in its filing and asks this Commission for approval of the proposed rate. However, Section 392.611, RSMo, exempted telecommunications providers from all statutory and regulatory obligations except those specifically delineated in that statute. The statute eliminated the requirement for telecommunications providers to get approval of proposed rates and declared that broadband and internet protocol-enabled services were not subject to regulation under either of the telecommunications statutory chapters excepting interconnected voice over internet protocol (IVoIP) services.

5. Staff's initial review of Bluebird's justification for its proposed cost-based rates appeared to show that the Company intends to provide only broadband services to the HCPs, which are directly exempt from Commission authority under Section 392.611.2. Further due to the provisions of Section 392.611.1, even if the Company does intend to provide some type of non-broadband, telecommunications services, Staff would argue that the Commission no longer has authority to approve the

proposed rates for such a scenario. Even in spite of the federal law cited in this matter, the Commission generally does not oversee universal service matters for HCPs.

WHEREFORE, Staff recommends that the Commission; order Missouri Network Alliance, L.L.C. d/b/a Bluebird Network to comply with the provisions of 4 CSR 240-28.011.2 in a separate docket to update its registered name with the Commission; deny Missouri Network Alliance, L.L.C. d/b/a Bluebird Network's request for approval of proposed rates under 47 C.F.R. 54.607 as outside of the Commission's jurisdiction pursuant to Section 392.611, RSMo; and grant such other and further relief as is just in the circumstances.

Respectfully submitted,

/s/ Whitney Payne

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 16th day of June, 2019, to all counsel of record.

/s/ Whitney Payne