

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)	
TEMPO TELECOM, LLC,)	
for designation as an eligible telecommunications)	Case No. U-17445
carrier in the state of Michigan for the limited purpose)	
of offering Lifeline service to qualified households.)	
_____)	

At the July 8, 2014 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John D. Quackenbush, Chairman
Hon. Greg R. White, Commissioner
Hon. Sally A. Talberg, Commissioner

ORDER

On July 24, 2013, Tempo Telecom, LLC (Tempo) filed an application, pursuant to Section 214(e)(2) of the federal Communications Act of 1934, 47 USC 214(e)(2), for designation as an eligible telecommunications carrier (ETC) for purposes of federal universal service fund (USF) support for wireless services. Tempo filed amendments to its application on September 13, 2013, and May 6, 2014.

Tempo requests that the Commission enter an order designating it as an ETC, for purposes of Lifeline, in the wire centers listed in Exhibit 7, filed on July 24, 2013 and revised on September 13, 2013, and May 6, 2014. Tempo currently offers wireless service through Sprint, whereby Sprint provides Tempo with the wireless network infrastructure and wireless transmission facilities needed to offer service as a Mobile Virtual Network Operator. Tempo will rely on Birch

Telecom of the Great Lakes, Inc., d/b/a Birch Communications (Birch) for all other facilities, network, back office, billing, and customer support functions necessary to provide both its Lifeline and non-Lifeline wireless services.

On February 6, 2012, the Federal Communications Commission (FCC) released a Report and Order and Further Notice of Proposed Rulemaking in WC Docket No. 11-42 (*Lifeline Reform Order*),¹ comprehensively reforming the Universal Service Fund's Lifeline program.

Lifeline/Link-up programs are intended to ensure that quality telecommunications services are available to low-income consumers at just, reasonable, and affordable rates. *See*, 47 CFR 54.405(a), 54.411(a); and MCL 484.2316.

On June 29, 2012, Birch filed a compliance plan with the FCC seeking forbearance from the “own facilities” requirement based on the *Lifeline Reform Order*. *See*, 47 USC 214(e)(1)(A). Birch filed an amended compliance plan on July 2, 2012, which was approved by the FCC on August 8, 2012. The compliance plan noted there was an outstanding question as to whether a separate legal entity should be established to provide prepaid wireless Lifeline service, or whether the service should be provided through one of the existing Birch entities. On December 18, 2012, Birch notified the FCC that its prepaid wireless Lifeline service would be provided by Now Communications, LLC (Now), and stated Now's intention to comply with Birch's compliance plan and to adopt the plan as its own. The FCC acknowledged this change in a public notice on

¹*In the Matter of Lifeline and Link Up Reform and Modernization* (WC Docket No.11-42), *Lifeline and Link Up* (WC Docket No. 03-109), *Federal-State Joint Board on Universal Service* (CC Docket No. 96-45), *Advancing Broadband Availability through Digital Literacy Training* (WC Docket No. 12-23), Report and Order and Further Notice of Proposed Rulemaking, Order No. FCC 12-11, *rel'd* February 6, 2012 (*Lifeline Reform Order*). In this order, directory assistance and operator services, among other things, were removed from the list of supported services under voice telephony. As a result, many Lifeline-only ETC's did not meet the facilities based requirement. Thus, the FCC found that a blanket forbearance was necessary for carriers seeking to provide Lifeline-only service.

December 20, 2012. Now has since changed its name to Tempo Telecom, LLC, and the FCC was notified of this change on May 13, 2013. The FCC-approved compliance plan is filed as Exhibits 4 and 5 in this docket.

According to Tempo's approved compliance plan, the FCC, among other things, required Tempo to implement the following measures: (1) provide voice grade access to the public telephone switched network (PTSN) through its provision of resold wireless services from Sprint; (2) offer a nationwide calling plan, and make no distinction between toll and non-toll calls; (3) offer the services supported by federal universal service throughout its Designated Service Area; (4) comply with the 911 requirements outlined in the *Lifeline Reform Order*; (5) provide its prepaid Lifeline subscribers with 911 and E911 access regardless of activation status and availability of minutes; (6) provide its Lifeline subscribers with E911-compliant handsets and replace, at no additional charge to the subscriber, any non-compliant handset; (7) rely on its contractual arrangement with Sprint to provide 911 and E911 services to consumers; (8) publicize the availability of its prepaid wireless Lifeline service offering in a manner reasonably designed to reach those likely to qualify for service; (9) comply with the service requirements applicable to the support that it receives; (10) demonstrate its ability to remain functional in emergency situations; (11) demonstrate that it will satisfy applicable consumer protection and service quality standards; (12) demonstrate it is financially and technically capable of providing Lifeline service in compliance with the FCC's rules; (13) offer two prepaid wireless Lifeline options at no charge to the customer (250 nationwide minutes or 750 texts per month, and 150 nationwide minutes or 450 texts per month); and (14) ensure Lifeline services are provided only to eligible customers, including using procedures for confirming consumer eligibility, enrolling eligible customers, re-certifying at regular intervals, and recordkeeping.

After reviewing the application and subsequent filings, the Commission finds that ETC designation, limited to Low Income Wireless Lifeline, should be conditionally granted to Tempo. The Commission is persuaded that ETC designation for Tempo promotes the availability of universal service and is in the public interest. This conditional approval is granted for the supported telecommunications services as defined in the Michigan Telecommunications Act and with the understanding that the following conditions shall also be met prior to Tempo's request for Low Income Lifeline reimbursement from the USF:

- By August 11, 2014, Tempo shall submit a certification letter to each county 911 coordinator in Michigan explaining the Lifeline service, with information on Tempo's product and service specifications, and including a letter from Tempo's resale partner, Sprint, stating that it will be providing the 911 service to Tempo's customers. No later than September 2, 2014, Tempo shall file in this docket proofs of service reflecting timely service of each letter.
- Tempo shall provide information on a quarterly basis, based on the calendar year, to the Commission on the number of Lifeline customers it is serving and the amounts paid to individual counties and the State of Michigan for 911 surcharges.
- Tempo shall advertise its Lifeline product in media of general distribution including newspaper, radio, its own website, and other direct advertising methods and provide a copy of the advertisement to the Commission. The advertisement shall include information on monthly service plans, the cost of initiating service and information needed for the forbearance compliance issues.
- Tempo shall promptly notify the Commission of any future changes to its rates, terms, and conditions regarding its low income offerings in this docket.

The application for ETC designation is granted on condition that Tempo comply with the service requirements contained in FCC Report and Order 11-161 (rel'd October 27, 2011) and subsequent rulings, the *Lifeline Reform Order*, the FCC-approved compliance plan, and the Commission's December 20, 2012 and January 17, 2013 orders in Case Nos. U-14535, U-16959, and U-17182. This approval is for the remainder of 2014. Tempo will be required to re-certify to the Commission for ETC designation for 2015, and annually thereafter.

THEREFORE, IT IS ORDERED that the application filed by Tempo Telecom, LLC, for designation as an eligible telecommunications carrier for purposes of wireless Lifeline universal service support is approved subject to the conditions described in this order.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party aggrieved by this order may file an action in the appropriate federal District Court pursuant to 28 USC 1331.

MICHIGAN PUBLIC SERVICE COMMISSION



John D. Quackenbush, Chairman



Greg R. White, Commissioner

By its action of July 8, 2014.

**Sally
Wallace**

 Digitally signed by Sally Wallace
DN: cn=Sally Wallace, o=Public
Service Commission, ou=RAD,
email=wallaces@michigan.gov,
c=US
Date: 2014.07.09 07:58:38 -04'00'

Sally L. Wallace, Acting Executive Secretary



Sally A. Talberg, Commissioner

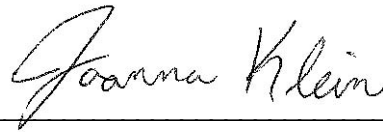
P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-17445

County of Ingham)

Joanna Klein being duly sworn, deposes and says that on July 8, 2014 A.D. she served a copy of the attached Commission order by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.



Joanna Klein

Subscribed and sworn to before me
This 8th day of July 2014

Gloria Pearl Jones
Notary Public, Ingham County, MI
My Commission Expires June 5, 2016
Acting in Eaton County

Service List U-17445

Michael S. Ashton
Fraser Trebilcock Davis & Dunlap PC
124 W. Allegan Street, Suite 1000
Lansing MI 48933

Birch Communications a/k/a NOW
Communications d/b/a Tempo Communications,
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Vincent M. Oddo
4885 Riverside Drive, Suite 304
Macon GA 31210

Angela F. Collins
Cahill Gordon & Reindel LLP
1990 K Street NW, Suite 950
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