

**EXHIBIT 2**

**FCC Compliance Plan**

April 28, 2023

**Via ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
Office of the Secretary  
45 L Street, NE  
Washington, DC 20554

RE: Tempo Telecom, LLC Second Updated Compliance Plan - Acquisition by Insight Mobile, Inc.; WC Docket Nos. 09-197, 11-42

Dear Ms. Dortch:

On July 25, 2022, Tempo Telecom, LLC (“Tempo” or the “Company”) filed its Updated Compliance Plan for wireless Lifeline services, outlining the measures it would take to comply with the Federal Communications Commission’s (“Commission’s”) Lifeline rules. The Wireline Competition Bureau (“Bureau”) approved the plan on September 21, 2022.<sup>1</sup> Enclosed, on behalf of Tempo and Insight Mobile, Inc. (“Insight Mobile”), is Tempo’s Second Updated Compliance Plan. Tempo is revising its approved Updated Compliance Plan to reflect a transaction, described in more detail in the Second Updated Compliance Plan, whereby Insight will acquire 100 percent ownership and control of Tempo. Tempo and Insight Mobile respectfully request that the Bureau expeditiously approve the Second Updated Compliance Plan.

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<sup>1</sup> *Wireline Competition Bureau Approves the Updated Compliance Plan of Tempo Telecom, LLC*, WC Docket Nos. 09-197, 11-42, Public Notice, DA 22-991 (Sept. 21, 2022). Tempo’s Compliance Plan originally was filed in 2012 under the name of Birch Communications, Inc. (“Birch”) in support of Birch’s request to be designated as an ETC by the Commission. The Commission approved the Compliance Plan on August 8, 2012. See *Wireline Competition Bureau Approves the Compliance Plans of Birch Communications, Boomerang Wireless, IM Telecom, Q Link Wireless, and TAG Mobile*, Public Notice, DA 12-1286 (Aug. 8, 2012).

Current Tempo Operations

As discussed in the Second Updated Compliance Plan, Tempo operates, or is authorized to operate (insofar as required), as a Mobile Virtual Network Operator in 21 states, providing prepaid commercial mobile radio services to consumers utilizing the wireless networks of its underlying facilities-based providers. The Company is designated as an eligible telecommunications carrier (“ETC”) to provide Lifeline services to low-income consumers on a wireless basis in 21 states, and does not have ETC applications pending in any states.

Insight Mobile Transaction

Tempo is currently 100 percent owned by Lingo Management, LLC (“Lingo Management”). Pursuant to a Membership Interest Purchase Agreement (the “Agreement”), dated January 24, 2023, Lingo Management and Insight Mobile have agreed that Lingo Management will transfer 100 percent of the outstanding membership interests in Tempo to Insight Mobile (the “Transaction”).<sup>2</sup> The Transaction will be closed as soon as required regulatory approvals are obtained and other pre-closing conditions satisfied or waived. Following the consummation of the Transaction, Tempo will be a direct wholly-owned subsidiary of Insight Mobile.

Insight Mobile is a Delaware corporation with principal offices located at 12301 Wilshire Boulevard, Suite 303, Los Angeles, California 90025. Insight Mobile holds international Section 214 authority from the Commission to provide global facilities-based and resale service, but is not currently providing telecommunications services. The acquisition of Tempo by Insight Mobile, as contemplated by the Agreement, will benefit consumers throughout Tempo’s current and future operating territories. Insight Mobile is financially strong and is directly managed by a hands-on team which brings significant experience in the telecommunications and technology industries, as well as in the Lifeline services market. Insight Mobile’s extensive telecommunications experience and financial resources will be available to Tempo as it continues to grow and develop its business. This will facilitate improvements to Tempo’s operating efficiency, financial management, and strategic decision-making. As a result, Tempo will be able to compete more effectively in the wireless and broadband market sectors. At the same time, the Transaction holds no adverse effects for consumers as it will not lead to any loss of or reduction in services to Tempo’s customers, nor will it result in any change to the rates, terms and conditions associated with those services.<sup>3</sup>

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<sup>2</sup> The January 24, 2023 Agreement was entered between Lingo Management and another company. However, pursuant to an assignment and assumption agreement between that company and Insight Mobile dated April 5, 2023, Insight Mobile is now the purchaser.

<sup>3</sup> Future changes to Tempo’s service offerings and/or the rates, terms and conditions applicable to those offerings will be implemented consistent with applicable regulatory requirements.

Marlene H. Dortch  
April 28, 2023  
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This letter and attached Second Updated Compliance Plan are being filed electronically for inclusion in the public record of the above-referenced proceedings. Please contact the undersigned should you have any questions.

Respectfully submitted,

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*Counsel for Insight Mobile, Inc.*

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>TEMPO TELECOM, LLC</b>	)	<b>WC Docket No. 09-197</b>
	)	
<b>Compliance Plan for Lifeline Service</b>	)	<b>WC Docket No. 11-42</b>
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**SECOND UPDATED COMPLIANCE PLAN OF TEMPO TELECOM, LLC**

Tempo Telecom, LLC (“Tempo” or the “Company”) and Insight Mobile, Inc. (“Insight Mobile”), through their undersigned counsel, hereby respectfully submit and request expeditious approval of Tempo’s Second Updated Compliance Plan outlining the measures it will take to implement the conditions imposed by the Federal Communications Commission (“Commission”) in its Lifeline Rules and Orders<sup>1</sup> and reflecting both immaterial and material changes in ownership of Tempo.<sup>2</sup>

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<sup>1</sup> See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report And Order and Further Notice Of Proposed Rulemaking, FCC 12-11 (Feb. 6, 2012) (*2012 Lifeline Reform Order*); *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42, et al., Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71 (2015); *Lifeline and Link Up Reform and Modernization, et al.*, WC Docket No. 11-42, et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (2016) (“*2016 Lifeline Reform Order*”); *Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support*, WC Docket Nos. 17-287, 11-42, and 09-197, Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 19-111 (rel. Nov. 14, 2019) (collectively, with 47 C.F.R. Part 54 (including but not limited to sections 54.101, 54.202 and 54.400-54.423), “Lifeline Rules and Orders”).

<sup>2</sup> After the transaction described herein, Tempo will be 100 percent owned by Insight Mobile. This Second Updated Compliance Plan is submitted in accordance Commission’s guidance regarding compliance plans. See *Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the 2012 Lifeline Reform Order*, WC Docket Nos. 09-197, 11-42, Public Notice, DA 12-314 (WCB Feb. 29, 2012) (“*2012 Public Notice*”).

## INTRODUCTION

Both the Communications Act of 1934, as amended (the “Act”), and the Commission’s rules require a carrier seeking designation as an eligible telecommunications carrier (“ETC”) to offer the supported services using its own facilities or a combination of its own facilities and resale of another carrier’s services.<sup>3</sup> In the *2012 Lifeline Reform Order*, however, the Commission decided to conditionally forbear from application of the Act’s facilities requirement for telecommunications carriers that seek limited ETC designation to participate in the Lifeline program.<sup>4</sup> Specifically, the Commission determined that conditional forbearance from the facilities requirement would apply if the carrier: (1) complied with certain 911 requirements and (2) filed and received approval of a compliance plan providing specific information regarding the carrier’s service offerings and outlining the measures the carrier will take to implement the Commission’s requirements as well as safeguard against waste, fraud, and abuse.<sup>5</sup>

To continue to avail itself of the Commission’s conditional grant of forbearance from the facilities requirement, Tempo provides this Second Updated Compliance Plan. Specifically, Tempo’s Second Updated Compliance Plan provides information regarding Tempo’s current Lifeline service offerings and outlines the measures Tempo takes to implement the Commission’s Lifeline requirements as well as safeguard against waste, fraud, and abuse.

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<sup>3</sup> 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d)(1).

<sup>4</sup> See *2012 Lifeline Reform Order*, ¶ 368.

<sup>5</sup> See *id.*. Subsequently, the Commission provided guidance for carriers submitting compliance plans pursuant to the *2012 Lifeline Reform Order*. See *2012 Public Notice*.

## HISTORY OF TEMPO'S COMPLIANCE PLAN

Tempo's Compliance Plan originally was filed in 2012 under the name of Birch Communications, Inc. ("Birch") in support of Birch's request to be designated as an ETC by the Commission. The Commission approved the Compliance Plan on August 8, 2012.<sup>6</sup>

Via letter dated December 18, 2012, Birch notified the Commission that the prepaid wireless Lifeline service at issue in the Compliance Plan would be provided by a separate legal entity known as Now Communications, LLC ("Now Comm"). Now Comm committed to implement and comply with the previously-approved Compliance Plan, and notified the Commission that it adopted the Compliance Plan as its own. The Commission acknowledged these changes in corporate structure in a December 20, 2012 public notice, and confirmed that the previously-approved Compliance Plan applied to Now Comm.<sup>7</sup>

After the December 2012 filing, Now Comm changed its name to Tempo Telecom, LLC. Via letter dated September 17, 2013, Tempo notified the Commission it would implement and comply with the previously-approved Compliance Plan and adopt the Compliance Plan as its own. Tempo committed to using the same procedures and policies set forth in the approved Compliance Plan for its provision of prepaid wireless Lifeline service.<sup>8</sup> Via letter dated January 9, 2014, Tempo re-confirmed that the previously-approved Compliance Plan applied to all

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<sup>6</sup> *Wireline Competition Bureau Approves the Compliance Plans of Birch Communications, Boomerang Wireless, IM Telecom, Q Link Wireless, and TAG Mobile*, WC Docket Nos. 09-197, 11-42, Public Notice, DA 12-1286 (WCB Aug. 8, 2012).

<sup>7</sup> *Wireline Competition Bureau Seeks Comment on Petitions for Designation as a Low-Income Eligible Telecommunications Carrier filed by Now Comm, Zing PCS, LTS, Odin Wireless, and TX Mobile*, WC Docket No. 09-197, Public Notice (WCB Dec. 20, 2012) ("The Wireline Competition Bureau has approved Birch's compliance plan, which will also apply to Now Comm.")

<sup>8</sup> WC Docket Nos. 09-197, 11-42, Letter from Tempo Telecom, LLC (Sept. 17, 2013).

jurisdictions in which Tempo sought designation as an ETC.<sup>9</sup> On July 25, 2022, Tempo filed its Updated Compliance Plan. The Commission approved the plan on September 21, 2022.<sup>10</sup>

### **COMPLIANCE PLAN**

**(1) Information about the carrier and the Lifeline plans it intends to offer:**

**(a) Names and identifiers used by the carrier, its holding company, operating company and all affiliates**

Tempo is a Georgia limited liability company and wireless reseller that offers prepaid wireless services throughout the United States, and prepaid wireless Lifeline services in 21 states.<sup>11</sup> Tempo operates under the “Tempo” or “Tempo Telecom” name throughout the United States.

Tempo is a wholly-owned subsidiary of Lingo Management, LLC (“Lingo Management”), a Delaware limited liability company with a principal office at 3475 Piedmont Road NE, 12th Floor, Suite 1260, Atlanta, GA 30305. Lingo Management is a holding company and does not provide any telecommunications services or hold authorizations from any state authority for the provision of telecommunications services. Lingo Management holds international Section 214 authority from the Commission on behalf of its operating subsidiaries, but does not provide any services.

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<sup>9</sup> WC Docket Nos. 09-197, 11-42, Letter from Tempo Telecom, LLC (Jan. 9, 2014).

<sup>10</sup> *Wireline Competition Bureau Approves the Updated Compliance Plan of Tempo Telecom, LLC*, WC Docket Nos. 09-197, 11-42, Public Notice, DA 22-991, at 1 (WCB Sept. 21, 2022). Tempo is filing this Second Updated Compliance Plan to advise the Commission of a transaction whereby Insight Mobile will acquire Tempo.

<sup>11</sup> These states are: Colorado, Georgia, Hawaii, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, Nevada, North Dakota, Ohio, Rhode Island, South Carolina, Utah, West Virginia, Wisconsin, and Wyoming.

B. Riley Principal Investments, LLC (“BRPI”), a Delaware limited liability company, holds 100 percent of Lingo Management.<sup>12</sup> BRPI is a holding company with a principal office at 30870 Russell Ranch Road, Suite 250, Westlake Village, CA 91362. BRPI is owned by B. Riley Financial, Inc., a publicly traded Delaware corporation (NASDAQ: RILY) and diversified financial services company that takes a collaborative approach to the capital raising and financial advisory needs of public and private companies and high net worth individuals. Bryant R. Riley, a U.S. citizen, beneficially owns approximately 20.8 percent of the shares of B. Riley outstanding as of March 28, 2022. BRPI does not provide telecommunications services or hold authorizations from any state or federal authority for the provision of telecommunications services.

In 2021, the Commission approved a transaction to increase BRPI’s ownership interest in Lingo Management to 80 percent (with Lingo holding the remaining 20 percent) (the “BR Transaction”).<sup>13</sup> Prior to the BR Transaction, BRPI held a 40 percent interest in Lingo Management and Lingo held a 60 percent interest in Lingo Management. The BR Transaction closed on May 31, 2022.

Lingo Management also is the holding company for the following telecommunications carriers (the “Lingo Carriers”):

- Lingo Telecom, LLC (f/k/a Matrix Telecom, LLC): A Texas limited liability company providing local exchange, intrastate interexchange, interconnected Voice over Internet

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<sup>12</sup> In the Updated Compliance Plan approved on September 21, 2022, BRPI held an 80 percent interest in Lingo Management and Lingo Communications, LLC (“Lingo”), a Georgia limited liability company held a 20 percent interest in Lingo Management. On February 24, 2023, BRPI acquired Lingo’s 20 percent interest in Lingo Management, thereby becoming its sole owner. Given that BRPI already held a controlling interest in BRPI, there was not transfer of control.

<sup>13</sup> See *Notice of Domestic Section 214 Authorization Granted*, WC Docket No. 21-21, Public Notice Da 21-280 (WCB Mar. 8, 2021).

Protocol (“VoIP”), interstate, international, and/or broadband Internet access services to residential and small business customers in 49 states and the District of Columbia.

- Lingo Telecom of Virginia, LLC (f/k/a Matrix Telecom of Virginia, LLC): A Virginia limited liability company providing local exchange, intrastate interexchange, interconnected VoIP, interstate, and/or broadband Internet access services to residential and small business customers in Virginia.
- Lingo Telecom of the West, LLC: A Delaware limited liability company providing local exchange, intrastate interexchange, interconnected VoIP, and/or broadband Internet access services in the state of California. In connection with an internal corporate reorganization expected to occur in the next few months, this entity will be dissolved and its California customers will continue to be served by Lingo Telecom, LLC.
- Lingo Communications of Kentucky, LLC (“Lingo Kentucky”): A Georgia limited liability company providing local exchange, intrastate interexchange, interstate, and/or international services in certain areas of Kentucky.<sup>14</sup>
- BullsEye Telecom, Inc. (“BullsEye”), a Michigan corporation with a principal office at 25925 Telegraph Road, Suite 210, Southfield, MI 48033. BullsEye is a competitive provider of communications solutions, including traditional telephone, interconnected

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<sup>14</sup> Lingo Kentucky is a rural competitive local exchange carrier operating only in certain rural areas of Kentucky. *See, e.g., Lingo Communications of Kentucky, LLC Tariff F.C.C. No. 1*, WC Docket No. 20-245, Order (WCB Dec. 16, 2020).

VoIP, interstate, international, and/or broadband Internet access services, to business customers in the lower 48 states and the District of Columbia.<sup>15</sup>

Separate and apart from its holdings in Lingo Management, BRPI also holds ownership interests in:

- United Online, Inc.: A Delaware corporation that offers Internet access services to consumers under the NetZero and Juno brands, as well as email, Internet security, web hosting services, and other communications-related services in the District of Columbia and all 50 states.
- YMax Communications Corp.: A Delaware corporation that offers competitive local exchange and/or interexchange services in the District of Columbia and all 50 states except for Alaska and New Hampshire.
- magicJack SMB, Inc.: A Florida corporation that offers interconnected VoIP services in the District of Columbia and all 50 states except for Alaska.

As noted above, Tempo is currently 100 percent owned by Lingo Management. Pursuant to a Membership Interest Purchase Agreement (the “Agreement”), dated January 24, 2023, Lingo Management and Insight Mobile have agreed that Lingo Management will transfer 100 percent

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<sup>15</sup> The Commission approved the acquisition of BullsEye on June 14, 2022. *See generally, Domestic 214 Application Granted for the Transfer of BullsEye Telecom, Inc. to the Lingo Entities*, WC Docket No. 22-249, Public Notice, DA 22-632 (WCB June 14, 2022). BullsEye Telecom of Virginia, LLC, a wholly-owned subsidiary of BullsEye, is authorized to provide intrastate services in Virginia.

of the outstanding membership interests in Tempo to Insight Mobile (the “Transaction”).<sup>16</sup> Pre- and post-close corporate structure diagrams are included as Exhibit A.

**(b) Detailed information demonstrating the carrier is financially and technically capable of providing the supported Lifeline service in compliance with the Commission’s rules**

Commission rules require ETCs to demonstrate financial and technical capability to comply with Lifeline service requirements,<sup>17</sup> and the Commission has requested such demonstrations also be included in compliance plans.<sup>18</sup> The Commission has stated the “relevant considerations” for demonstrating that a carrier is financially and technically capable would be whether the carrier previously offered services to non-Lifeline consumers, how long the carrier has been in business, whether the carrier intends to rely exclusively on universal service fund disbursements to operate, whether the carrier receives funds from other sources, and whether the carrier has been subject to enforcement action or ETC revocation proceedings in other states.<sup>19</sup>

Tempo has successfully operated as a wireless reseller since 2012 and has been providing Lifeline services since 2013. Tempo’s affiliates have been operating as nationwide competitive local exchange carriers since at least 1996. Tempo has not been subject to an abnormal number of enforcement proceedings in the past ten years, and such proceedings generally have focused on a missed/late filing or payment. Tempo has never been subject to an ETC revocation proceeding in any state. Tempo’s Lifeline operations also have been audited by

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<sup>16</sup> The January 24, 2023 Agreement was entered between Lingo Management and another company. However, pursuant to an assignment and assumption agreement between that company and Insight Mobile dated April 5, 2023, Insight Mobile has taken the place of that company and is now the purchaser.

<sup>17</sup> *Public Notice*, at 3.

<sup>18</sup> 47 C.F.R. § 54.202(a)(4).

<sup>19</sup> *2012 Lifeline Reform Order*, ¶ 388.

the Universal Service Administrative Company (“USAC”) and several states, and those audits have not disclosed any material non-compliance with Commission Lifeline requirements.

Financial support for Tempo’s continued operations will be enhanced by the Transaction whereby, subject to regulatory approval, Insight Mobile will acquire 100 percent of the membership interest in Tempo. Following the proposed change in Tempo’s ownership, the Company’s corporate and trade names and identifiers initially will remain unchanged, and any future changes to the Company’s name will comply with relevant laws governing customer notices. The Transaction will not result in any loss or impairment of service for any customer, and customers will continue to receive their existing services at the same rates, terms and conditions currently in effect. Moreover, the Transaction will neither eliminate any Lifeline market participants nor reduce the service choices available to Lifeline-eligible consumers.

Insight Mobile is a Delaware corporation with principal offices located at 12301 Wilshire Boulevard, Suite 303, Los Angeles, California 90025. Insight Mobile holds international Section 214 authority from the Commission to provide global facilities-based and resale service.<sup>20</sup> Insight Mobile is not currently providing telecommunications services. Shadi Aslemand, a United States citizen, owns 100 percent of Insight Mobile. Ms. Aslemand is also a 50 percent owner of Excess Telecom, Inc. (Excess Telecom), a California corporation that holds international Section 214 authority from the Commission to provide global facilities-based and resale services.<sup>21</sup> Upon closing of the Transaction, Tempo will be affiliated with Excess Telecom which operates as a Mobile Virtual Network Operator (MVNO) and delivers domestic

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<sup>20</sup> File No. ITC-214-20220314-00037, granted April 8, 2022.

<sup>21</sup> File No. ITC-214-20150218-00049, granted March 13, 2015.

wireless voice services and broadband services to qualified low-income households nationwide and participates in the Affordable Connectivity Program.

With respect to technical expertise, Tempo has demonstrated its technical capabilities over the past 10 years of successful operation. Further, Tempo's partnerships with nationwide wireless carriers demonstrate Tempo is technically capable of providing prepaid wireless Lifeline service throughout its 21-state service territory. Initially, Tempo resold the wireless services of Sprint, and later added T-Mobile as an additional underlying carrier (Sprint and T-Mobile have since merged, and thus Tempo refers only to T-Mobile herein). T-Mobile provides Tempo with the underlying network infrastructure and wireless transmission facilities needed for Tempo to offer service as a MVNO.

Upon approval of the change in ownership, Insight Mobile's management team will be responsible for day-to-day oversight of Tempo's operations. However, the parties contemplate that Tempo's employees who are currently responsible for the Company's Lifeline service business will maintain their positions under Insight Mobile's ownership. Information about the key members of Insight Mobile's management team is attached as Exhibit B. Insight Mobile's management team has extensive experience in the telecommunications and technology industries, as well as in the Lifeline services market. Their collective expertise will guide the Company's decisions going forward and its adherence to this Second Updated Compliance Plan.<sup>22</sup> As a result, the Transaction will bring together the full strength of Tempo's and Insight Mobile's experience in the telecommunications industry and business expertise. The resulting

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<sup>22</sup> Insight Mobile's management team currently hold dual roles at both Insight Mobile and Excess Telecom. Upon the closing of the Transaction, members of the management team will transition to full-time employment with Insight Mobile.

synergies will enable Tempo to achieve measurable growth at the same time as it develops improved operating efficiencies, both necessary components for the Company to thrive. Moreover, with access to Insight Mobile’s financial and technical resources, Tempo will be able to offer enhanced service offerings to all current and future end users, including those who are enrolled in the Lifeline program.

**(c) Detailed information, including geographic locations, of the carrier’s current service offerings if the carrier currently offers service**

Tempo currently offers prepaid wireless services on a nationwide basis. Tempo currently provides prepaid wireless Lifeline service in certain designated portions of the following 21 states: (1) Colorado; (2) Georgia; (3) Hawaii; (4) Indiana; (5) Iowa; (6) Kansas; (7) Kentucky; (8) Maryland; (9) Michigan; (10) Minnesota; (11) Missouri; (12) Nebraska; (13) Nevada; (14) North Dakota; (15) Ohio; (16) Rhode Island; (17) South Carolina; (18) Utah; (19) West Virginia; (20) Wisconsin; and (21) Wyoming.

**(d) The terms and conditions of each Lifeline service plan offering, including rates, the number of minutes provided, and additional charges, if any, for toll calls**

Tempo currently offers a “Lifeline Data Bundle” plan, which offers unlimited nationwide voice minutes, voicemail, unlimited nationwide text messages, and 4.5 GBs of data each month at no charge to an eligible consumer.<sup>23</sup> In addition, Tempo offers consumers the ability to purchase additional MBs or additional GBs of data at reduced rates (plus applicable taxes and fees). The Lifeline Data Bundle also provides an option to add international calling with per-

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<sup>23</sup> Tempo’s Lifeline plan components may differ in some states in accordance with state-mandated requirements for Lifeline services, but all plans comply with the Commission’s minimum service standards for wireless Lifeline services.

minute pricing based on the country to be called, which is provided to the consumer when opting for this capability.

**(e) All other certifications required under section 54.202 of the Commission's rules**

Commission Rule 54.202 requires a common carrier seeking ETC designation to make certain certifications, and the Commission has requested such certifications be included in compliance plans.<sup>24</sup> Specifically, Rule 54.202 requires: (1) certification that the carrier will comply with the service requirements applicable to the support it receives;<sup>25</sup> (2) submission of a five-year plan for proposed improvements or upgrades to the carrier's network unless the carrier seeks Lifeline support only;<sup>26</sup> (3) demonstration of the carrier's ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations;<sup>27</sup> (4) demonstration the carrier will satisfy applicable consumer protection and service quality standards;<sup>28</sup> (5) demonstration the carrier is financially and technically capable of providing Lifeline service in compliance with the Commission's rules;<sup>29</sup> (6) submission of information describing the terms and conditions of the voice telephony plans offered to Lifeline

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<sup>24</sup> 2012 Public Notice, at 3.

<sup>25</sup> 47 C.F.R. § 54.202(a)(1)(i).

<sup>26</sup> 47 C.F.R. § 54.202(a)(1)(ii).

<sup>27</sup> 47 C.F.R. § 54.202(a)(2).

<sup>28</sup> 47 C.F.R. § 54.202(a)(3).

<sup>29</sup> 47 C.F.R. § 54.202(a)(4).

subscribers;<sup>30</sup> and (7) submission of information describing the terms and conditions of broadband Internet access service plans offered to Lifeline subscribers.<sup>31</sup>

*With respect to (1) above*, Tempo provides Lifeline service only, and therefore certifies that it complies with the service requirements applicable to Lifeline support. Eligible voice telephony services must provide voice grade access to the public switched telephone network (“PSTN”) or its functional equivalent, minutes of use for local service provided at no additional charge, access to emergency 911 and enhanced 911 service in locations where implemented, and for qualifying low-income consumers, toll limitation service.<sup>32</sup> Eligible broadband Internet access services must provide the capability to transmit and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service.

Tempo’s Lifeline offering provides voice grade access to the PSTN, and includes unlimited local calling. In addition, Tempo’s Lifeline offering provides consumers with access to 911 and enhanced 911 to the extent local governments have implemented such services as explained further below. With respect to toll limitation service, the Commission eliminated the requirement to provide toll limitation services if the Lifeline offering provides a set amount of minutes that do not distinguish between toll and non-toll calls.<sup>33</sup> Thus, Tempo is not required to provide toll limitation service in connection with its Lifeline service offering because Tempo’s Lifeline plan offers unlimited voice calling within the United States. Similarly, Tempo’s Lifeline service offering provides consumers with the capability to transmit data to and receive

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<sup>30</sup> 47 C.F.R. § 54.202(a)(5).

<sup>31</sup> 47 C.F.R. § 54.202(a)(6).

<sup>32</sup> 47 C.F.R. § 54.101(a)(1).

<sup>33</sup> *2012 Lifeline Reform Order*, ¶ 49.

data from all or substantially all Internet endpoints, and meets the minimum service standards for broadband Internet access service required by Commission rules.<sup>34</sup>

*With respect to (2) above,* Tempo provides Lifeline-only service, and a five-year plan is not required for carriers offering supported services only under the Lifeline program.<sup>35</sup>

*With respect to (3) above,* Tempo has the ability to remain functional in emergency situations. Tempo has been offering telecommunications services since 2012, and its affiliates have been offering telecommunications services since at least 1996. Thus, Tempo and its affiliated telecommunications carriers have significant experience with remaining functional in emergency situations. Tempo has disaster recovery contingency plans that include diverse/alternate routing, electronics redundancy, dual data centers geographically separated, and environmental controls for data and switching centers. Tempo's MVNO contract arrangements with T-Mobile also impose certain obligations on T-Mobile to ensure Tempo's prepaid wireless Lifeline service offering remains functional during emergency situations. As a large, nationwide wireless carrier, T-Mobile is subject to regulatory requirements to remain functional during emergency situations.<sup>36</sup> Tempo's MVNO agreements also contain certain quality of service guarantees.

*With respect to (4) above,* Tempo satisfies applicable consumer protection and service quality standards. Tempo complies with the Cellular Telecommunications and Internet

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<sup>34</sup> 47 C.F.R. § 54.408(b). The current minimum service standards for mobile broadband is speed 3G or better and usage of 4.5 GB per month.

<sup>35</sup> 47 C.F.R. § 54.202(a)(1)(ii); *see also 2012 Lifeline Reform Order*, ¶ 386.

<sup>36</sup> Tempo is also familiar with the continuity and disaster response program T-Mobile has implemented, which addresses the need to remain functional during emergency situations.

Association's Consumer Code for Wireless Service to satisfy this requirement as permitted by the Commission's rules.<sup>37</sup>

*With respect to (5) above*, Tempo is financially and technically capable of providing Lifeline service in compliance with the Commission's rules as explained in 1(b) above.

*With respect to (6) and (7) above*, information regarding Tempo's Lifeline service plan is set forth in (1)(d) above. Commission rules also allow a carrier to provide a link to a public Website outlining the Lifeline service plan.<sup>38</sup> Information regarding Tempo's Lifeline service plan is available at: <https://mytempo.com/lifeline-wireless/>.

**(2) A detailed explanation of how the carrier will comply with the Commission's rules relating to determinations of subscriber eligibility for Lifeline services, including all of the consumer eligibility, consumer enrollment, and re-certification procedures**

Tempo has been offering Lifeline services for nearly 10 years, and is therefore intimately familiar with the Commission's procedures for confirming consumer eligibility, enrolling eligible customers, recertification, activation, and usage.

*Consumer Eligibility*

Tempo has implemented detailed policies and procedures to ensure its Lifeline customers are eligible to receive Lifeline service under the Commission's rules. Tempo does not provide Lifeline service – and does not provide an activated device – to any consumer until Tempo has confirmed the consumer meets the eligibility requirements established by the Commission for receipt of Lifeline services.<sup>39</sup> Specifically, a consumer must meet one of the following requirements to be eligible for Lifeline service: (1) the consumer's household income is at or

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<sup>37</sup> 47 C.F.R. § 54.202(a)(3).

<sup>38</sup> 47 C.F.R. § 54.202(5), (6).

<sup>39</sup> 47 C.F.R. § 54.409.

below 135 percent of the Federal Poverty Guidelines currently in effect for a household of that size; or (2) the consumer (or the consumer's dependents or household) receives benefits from certain federal assistance programs.<sup>40</sup> Tempo relies solely on the Lifeline National Verifier for establishing a prospective customer's eligibility for Lifeline service.<sup>41</sup>

### Enrollment

Prospective Lifeline customers can contact Tempo via its website or toll-free customer service number to start the process of receiving Lifeline services from Tempo.<sup>42</sup> Tempo relies on the USAC-standard application and certification form, and thus Tempo's processes comply with Commission rules for subscriber eligibility determinations and certifications.<sup>43</sup> If the customer has not pre-qualified via the Lifeline National Verifier, Tempo first directs the customer to the Lifeline National Verifier so the customer can confirm its eligibility for Lifeline service and obtain an approved application ID from the Lifeline National Verifier.

Once the customer's eligibility has been confirmed by the Lifeline National Verifier (and the customer has obtained an approved application ID), Tempo takes two additional steps to prevent duplicate Lifeline subsidies. First, Tempo reviews its own service records to ensure the potential customer is not currently receiving Lifeline service from Tempo. Second, Tempo checks the National Lifeline Accountability Database ("NLAD") to ensure the potential

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<sup>40</sup> 47 C.F.R. § 54.409(a). Tempo also complies with any state-specific eligibility requirements applicable in its 21-state Lifeline service territory.

<sup>41</sup> The Lifeline National Verifier also collects any needed documentation from the prospective customer.

<sup>42</sup> At this time, Tempo is not using third-party dealer locations to sign-up prospective Lifeline customers. In the future, prospective customers may be able to begin the process of receiving Lifeline services from Tempo via a third-party dealer location.

<sup>43</sup> 47 C.F.R. § 54.410. Tempo representatives also orally explain the application and certification form to potential Lifeline customers if they choose to enroll over the phone.

customer is not currently receiving a Lifeline service from any other carrier.<sup>44</sup> When applicable, Tempo requires the prospective customer to complete the Independent Economic Household Worksheet via the Lifeline National Verifier. This USAC-developed form contains the following: (1) an explanation of the Commission's one-per-household rule; (2) a check box that an applicant can mark to indicate that he or she lives at an address occupied by multiple households; (3) a space for the applicant to certify that he or she shares an address with other adults who do not contribute income to the applicant's household and share in the household's expenses or benefit from the applicant's income, pursuant to the Commission's definition; and (4) the penalty for a consumer's failure to make the one-per-household certification when required.

Once Tempo has confirmed there is no duplicate service, Tempo enrolls the customer in the Lifeline program using NLAD's real-time interface (API), and submits all required information regarding the customer to NLAD.<sup>45</sup> Tempo does not enroll or claim reimbursement for a prospective customer if NLAD or the Lifeline National Verifier cannot verify the identity of the prospective customer or the prospective customer's status as non-deceased.<sup>46</sup>

All Tempo representatives involved in the Lifeline enrollment process (both in-house and third-party)<sup>47</sup> are required to take a training course regarding the Commission's Lifeline rules

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<sup>44</sup> Tempo also commits to promptly investigate any notification it receives from a state, the Commission, or USAC that one of its Lifeline customers is improperly receiving service.

<sup>45</sup> In addition, Tempo updates each subscriber's information in NLAD within ten (10) business days of any change, except for de-enrollment, which is updated within one (1) business day. *See* 47 C.F.R. § 54.404(b)(8), (10).

<sup>46</sup> 47 C.F.R. § 54.404(b).

<sup>47</sup> At this time, Tempo does not utilize third-party dealers to enroll prospective customers in the Lifeline program, but could do so in the future. Tempo includes information regarding third-party representatives herein in the event Tempo uses such representatives in the future.

and to be registered with USAC prior to enrolling any customer in NLAD.<sup>48</sup> Tempo also conducts periodic audits and random checks of its Lifeline representatives to ensure compliance with Commission rules. Tempo does not offer or provide any commission or other compensation to enrollment representatives based on the number of consumers that apply for or are enrolled in the Lifeline program.<sup>49</sup>

#### Annual Verification

Tempo's systems are capable of tracking and flagging the anniversary of a Lifeline customer's start date. Tempo uses the anniversary date to ensure its Lifeline customers re-certify their eligibility to participate in the Lifeline program once a year. Tempo Lifeline customers are re-certified within 12 months after the subscriber's service initiation date and within every 12 months thereafter by the Lifeline National Verifier as required under Commission rules.<sup>50</sup> The annual re-certification materials inform the subscriber it is being contacted to re-certify continuing eligibility for Lifeline, and if the subscriber fails to respond, it will be de-enrolled from the program as discussed below.

#### Activation and Usage

Once all eligibility determinations and documentation requirements are complete, Tempo ships the handset to the customer at the address listed on the enrollment form.<sup>51</sup> Tempo requires the customer to take affirmative steps to "personally activate" the service by requiring the

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<sup>48</sup> 47 C.F.R. § 54.406. Tempo also requires its representatives to engage in routine, ongoing training regarding Commission compliance requirements for Lifeline services.

<sup>49</sup> 47 C.F.R. § 54.406(b).

<sup>50</sup> 47 C.F.R. § 54.410(f).

<sup>51</sup> If Tempo were to use third-party dealers in the future, the third-party representative may provide the handset to the customer during an in-person enrollment depending on handset availability.

customer to complete an outgoing call.<sup>52</sup> If service is not initiated, Tempo does not consider the consumer to be enrolled in the Lifeline program and Tempo does not request Lifeline reimbursement until the subscriber personally activates its service.<sup>53</sup> After service activation, Tempo does not seek reimbursement for any Lifeline subscriber who has not used the service consistent with Commission usage requirements.<sup>54</sup>

**(3) A detailed explanation of how the carrier will comply with the forbearance conditions relating to public safety and 911/E911 access**

Pursuant to the *2012 Lifeline Reform Order*, forbearance for non-facilities based ETCs is conditioned upon the ETC providing its Lifeline voice subscribers with 911/E911 access, regardless of activation status and availability of minutes, and providing its Lifeline voice subscribers with E911-compliant handsets and replacing, at no additional charge to the subscriber, any non-compliant handsets.<sup>55</sup> Tempo's prepaid wireless Lifeline service offering complies with the 911 requirements necessary for application of conditional forbearance.

Tempo provides access to 911/E911 services for all its customers, including its Lifeline customers. Tempo uses T-Mobile as its underlying network provider, which routes 911/E911 calls from Tempo's customers in the same manner as 911/E911 calls from T-Mobile's own customers.<sup>56</sup> To the extent that T-Mobile delivers 911/E911 calls in a given public safety answering point territory, this capability functions the same for Tempo and its customers.

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<sup>52</sup> *2012 Lifeline Reform Order*, ¶ 260.

<sup>53</sup> *2012 Lifeline Reform Order*, ¶ 257.

<sup>54</sup> 47 C.F.R. § 54.407(c)(2).

<sup>55</sup> *2012 Lifeline Reform Order*, ¶ 373.

<sup>56</sup> Tempo understands that it has an independent obligation to provide 911/E911 services as a wireless reseller, and utilizes its underlying contractual arrangements to meet that obligation. See *2012 Lifeline Reform Order*, n.989.

Tempo enables 911/E911 emergency calling services for all properly activated handsets regardless of whether the account associated with the handset is active or suspended. Further, all 911/E911 calls initiated from any Tempo handset are transmitted even if the account associated with the handset has no remaining minutes (which would not occur given Tempo's current Lifeline service plan offers unlimited voice minutes).

Tempo provides its Lifeline subscribers with E911-compliant handsets, and replaces, at no additional charge to the subscriber, any non-compliant handset. Tempo relies on underlying contractual arrangements with third-parties to provide handsets to consumers, and those contractual arrangements require the third-party to supply handsets that satisfy all Commission requirements. Thus, any Lifeline customer that obtains a handset from Tempo has an E911-compliant handset.

**(4) A detailed explanation of how the carrier will comply with the Commission's marketing and disclosure requirements for participation in the Lifeline program**

Tempo includes the following information regarding its Lifeline service on all relevant marketing materials: (1) it is a Lifeline-supported service; (2) Lifeline is a government assistance program; (3) the service is non-transferable; (4) only eligible consumers may enroll in the Lifeline program; (5) the Lifeline program is limited to one discount per household; and (6) documentation is necessary for enrollment in the Lifeline program.<sup>57</sup> Tempo ensures the Commission-required disclosures, any DBA names it uses, and details of the prepaid wireless Lifeline service offering are contained in all marketing materials.<sup>58</sup> This information is included in all print, audio, video, website, and electronic materials (including social networking) used to describe or enroll subscribers in Lifeline service. In addition, the standard

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<sup>57</sup> 47 C.F.R. § 54.405(c).

<sup>58</sup> *2012 Lifeline Reform Order*, ¶¶ 274-282.

application/certification forms developed by USAC state that consumers who willfully make a false statement in order to obtain the Lifeline benefit can be punished by fine or imprisonment or can be barred from the program.<sup>59</sup>

Tempo publicizes the availability of its prepaid wireless Lifeline service offering in a manner reasonably designed to reach those likely to qualify for the service.<sup>60</sup> Tempo utilizes the Commission's 2004 outreach guidelines for advertising its prepaid wireless Lifeline service offering.<sup>61</sup> Specifically, Tempo utilizes outreach materials and methods designed to reach households that currently do not have telephone service, has developed advertising materials for non-English speaking populations within its service area, and coordinates its outreach efforts with relevant government agencies.

Tempo's advertising strategy for its prepaid wireless Lifeline service offering builds on its expertise in advertising its prepaid wireless service, and the advertising used by Tempo's telecommunications carrier affiliates. Tempo's advertising for its prepaid wireless Lifeline service offering includes, but is not limited to, targeted direct mail, advertisements in daily and weekly print periodicals, billboards, event sponsorship, bus advertising, radio advertising, and online search engines.

Tempo also coordinates with relevant state agencies, community outreach organizations, and non-profit organizations to make information available regarding Tempo's prepaid wireless Lifeline service offering in resource guides and other printed materials produced by those organizations, as well as in their offices or other locations visited by potential Lifeline-eligible

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<sup>59</sup> 47 C.F.R. § 54.410(d)(1).

<sup>60</sup> 47 C.F.R. § 54.405(b).

<sup>61</sup> *Lifeline and Link Up*, 19 FCC Rcd 8302, ¶¶ 45-48 (2004).

subscribers. In addition, Tempo markets its prepaid wireless Lifeline services through state, county, municipal and non-profit community action agencies, associations, and networks. These agencies support Lifeline-eligible individuals and families in obtaining support services, employment, employment training, life skills training, and other services. Tempo helps raise awareness of Lifeline services through the inclusion of Tempo Lifeline information in resource guides and other support materials (online and in printed materials issued by the agency) that are provided to Lifeline-eligible prospective customers. Tempo also raises awareness of its Lifeline services through sponsoring events held by these agencies.

- (5) A detailed explanation of the carrier’s procedures and efforts to prevent waste, fraud and abuse in connection with Lifeline funds, including but not limited to, procedures the carrier has in place to prevent duplicate Lifeline subsidies within its own subscriber base, procedures the carrier undertakes to de-enroll subscribers receiving more than one Lifeline subsidy per household, information regarding the carrier’s toll limitation service, if applicable, and the carrier’s non-usage policy, if applicable**

Throughout this Second Updated Compliance Plan, Tempo explains its procedures and efforts to prevent waste, fraud, and abuse. This section focuses on Tempo’s de-enrollment procedures, and how they prevent waste, fraud, and abuse. Tempo de-enrolls Lifeline customers for: no longer qualifying for Lifeline service; duplicative support; non-usage; failure to re-certify; and when requested by the Lifeline subscriber. As required by the Commission’s rules, Tempo updates NLAD with de-enrollment information within one (1) business day of de-enrollment.<sup>62</sup>

#### *De-Enrollment for Ineligibility*

If Tempo has a reasonable basis to believe that one of its Lifeline customers no longer meets the eligibility criteria (either based on Tempo’s own knowledge or information supplied

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<sup>62</sup> 47 C.F.R. § 54.404(b)(10).

by a third-party), Tempo notifies the subscriber of the impending de-enrollment in writing and gives the subscriber thirty (30) days to demonstrate continued eligibility.<sup>63</sup> Any demonstration of eligibility from the subscriber must comply with the annual re-certification procedures set forth in the Commission's rules, including the submission of the USAC-created enrollment/certification form. A subscriber's failure to provide the requested documentation will result in de-enrollment within five (5) business days after the expiration of the subscriber's time to respond.

*De-enrollment for duplicative support*

Tempo understands that duplicative claims are wasteful and burden universal service and takes all necessary steps to swiftly de-enroll consumers found to be receiving duplicative federal Lifeline discounts. Upon notification from the Commission, a state, or USAC that a subscriber is receiving Lifeline service from another carrier, or more than one member of a household is receiving Lifeline service, Tempo de-enrolls the subscriber within five (5) business days.<sup>64</sup>

*De-enrollment for non-usage*

Tempo de-enrolls any Lifeline customer whose service is inactive for a consecutive 30-day period after providing the customer with notice and a 15-day "cure" period.<sup>65</sup> After 30 consecutive days of non-usage (as defined in Commission rules), Tempo provides subscribers notice, using clear, easily understood language, to inform the subscriber that its failure to use the Lifeline service within the next 15 days will result in service termination on the 46th day (30

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<sup>63</sup> 47 C.F.R. § 54.405(e)(1).

<sup>64</sup> 47 C.F.R. § 54.405(e)(2); *see also Lifeline and Link Up Reform and Modernization*, 26 FCC Rcd 9022, ¶ 15 (2011).

<sup>65</sup> 47 C.F.R. § 54.405(e)(3). Tempo provides the customer with notice via text message on day 7, day 14, and day 28 that failure to use the Lifeline service may result in service termination.

days of non-usage plus the 15-day “cure” period).<sup>66</sup> Despite a consumer’s “usage” (as defined in Commission rules), Tempo will continue to comply with its existing public safety obligations to transmit all 911/E911 calls regardless of subscriber inactivity even if Tempo is no longer providing Lifeline service to that consumer.<sup>67</sup> Tempo includes any subscribers de-enrolled for non-usage in its annual non-usage de-enrollment reports. Tempo also understands that it can only seek reimbursement for any subscriber that has used its Lifeline service within the last 30 days or who has cured its non-usage as described above.<sup>68</sup>

*De-enrollment for failure to re-certify*

Tempo de-enrolls subscribers who do not respond to an annual re-certification request or fail to provide the required certification to the Lifeline National Verifier,<sup>69</sup> which is the entity responsible for annual re-certification of a subscriber’s Lifeline eligibility. Prior to de-enrolling a subscriber for failure to re-certify, subscribers receive written notice explaining that failure to respond to the re-certification request within sixty (60) days will result in the subscriber’s de-enrollment. Tempo de-enrolls the subscriber within five (5) business days after the expiration of the subscriber’s time to respond.

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<sup>66</sup> Tempo provides the customer with notice via text message on day 30, day 35, and days 40-44 that failure to use the Lifeline service may result in service termination. Tempo then provides the customer with notice via text message on day 45 that the service will be disconnected for non-usage.

<sup>67</sup> *2012 Lifeline Reform Order*, ¶ 262.

<sup>68</sup> 47 C.F.R. § 54.407(c)(2).

<sup>69</sup> 47 C.F.R. § 54.405(e)(4).

### De-Enrollment by Subscriber

If a subscriber contacts Tempo and states the subscriber is no longer eligible for Lifeline or wishes to de-enroll for any reason, Tempo de-enrolls the subscriber within two (2) business days.<sup>70</sup> Subscribers can make this request either via customer service or online.

### **(6) Other requirements applicable to wireless Lifeline providers**

Tempo complies with all current Commission rules governing the provision of prepaid wireless Lifeline services.

### Handset Requirements

In the *2016 Lifeline Reform Order*, the Commission required providers of Lifeline-supported services offering both mobile broadband services and devices to provide their customers with handset devices that are Wi-Fi enabled.<sup>71</sup> Lifeline customers also are entitled to a choice of at least one (1) device that is capable of being used as a hotspot.<sup>72</sup> All handsets offered by Tempo to Lifeline customers are Wi-Fi enabled and at least 55 percent of Tempo's handsets offered to Lifeline customers are capable of being used as a hotspot as required under the rules.<sup>73</sup>

### Annual Reports and Certifications

Tempo submits its required annual reports and certifications to the Commission, including FCC Form 481 and FCC Form 555, as well as any other reports the Commission directs ETCs to file on a one-time or periodic basis.

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<sup>70</sup> 47 C.F.R. § 54.405(e)(5).

<sup>71</sup> *2016 Lifeline Reform Order*, ¶¶ 366-67.

<sup>72</sup> 47 C.F.R. § 54.408(f)(3).

<sup>73</sup> 47 C.F.R. § 54.408(f)(3)(v) (requiring at least 45 percent of devices to be capable of being used as a hotspot from December 1, 2021 to November 30, 2022). Tempo will ensure that it meets the appropriate percentages required by the rules for December 1, 2022 going forward.

Reimbursement and Recordkeeping

Tempo ensures it has valid certification and recertification forms for each of the Lifeline subscribers for whom it seeks reimbursement.<sup>74</sup> Further, Tempo complies with the Commission's requirement to use the number of eligible Lifeline subscribers as of the snapshot date indicated by NLAD data to request reimbursement for its provision of Lifeline service.<sup>75</sup> Finally, Tempo maintains accurate records as directed by USAC and as required by Commission's rules.<sup>76</sup>

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<sup>74</sup> 47 C.F.R. § 54.407(d). Tempo relies upon the Lifeline National Verifier and/or its website to obtain initial certification and enrollment information. In addition, Tempo relies on USAC and/or the Lifeline National Verifier to recertify customers and obtain the necessary documentation associated with recertification. Tempo provides notice to its customers to assist them in the recertification process.

<sup>75</sup> 47 C.F.R. § 54.407(a).

<sup>76</sup> 47 C.F.R. § 54.417.

**CONCLUSION**

WHEREFORE, for the forgoing reasons, Tempo and Insight Mobile respectfully request that the Commission expeditiously approve Tempo's updated Compliance Plan.

Respectfully submitted,

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