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

In the Matter of	)	
	)	
TEMPO TELECOM, LLC	)	**WC Docket No. 09-197**
(formerly filed under Birch Communications, Inc.)	)	
	)	
Petition for Designation as an Eligible	)	**WC Docket No. 11-42**
Telecommunications Carrier pursuant to	)	
Section 214(e)(6) of the Communications Act	)	
for Lifeline Support Only	)	
	)	

TEMPO TELECOM, LLC
AMENDED PETITION FOR DESIGNATION
AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER
PURSUANT TO SECTION 214(e)(6) OF THE COMMUNICATIONS ACT
FOR LIFELINE SUPPORT ONLY

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Dated: May 13, 2013

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Tempo Telecom, LLC ("Tempo"), by its attorneys, respectfully submits this Amended Petition for designation as an eligible telecommunications carrier ("ETC") pursuant to Section 214(e)[1] of the Communications Act of 1934, as amended (the "Act"), and Section 54.201[2] of the rules and regulations of the Federal Communications Commission ("Commission").[3] Specifically, Tempo seeks ETC designation for Lifeline support only to provide prepaid wireless services in the states of Alabama, Florida, North Carolina, Tennessee, and Texas (the "Designated Service Area").[4] This Amended Petition is being filed to: (1) consolidate pending petitions; (2) to update the Commission with respect to the corporate structure of the entity to be designated as an ETC and with additional Lifeline plans to be offered; and (3) provide additional information requested by Commission staff. All of the statements made in this Amended

[1] 47 U.S.C. § 214(e).

[2] 47 C.F.R. § 54.201.

[3] *See, e.g.*, *Lifeline and Link Up Reform and Modernization, et al.*, 27 FCC Rcd 6656 (2012) ("*Lifeline Reform Order*").

[4] More detail on Tempo's Designated Service Area is set forth herein and in Exhibit 3.

Petition are incorporated by reference into Tempo's approved Compliance Plan, which is attached hereto as **Exhibit 1**.

I. OVERVIEW OF TEMPO

This designation petition was originally filed by Birch Communications, Inc. ("Birch") on April 27, 2012 covering the states of Alabama, Florida, North Carolina, and Tennessee.[5] On June 29, 2012, Birch filed Compliance Plan with the Commission (attached as **Exhibit 1**),[6] which was approved on August 8, 2012.[7] Birch filed a second designation petition for the state of Texas on November 29, 2012.[8] In both designation petitions and in the Compliance Plan, Birch noted that it was reviewing whether a separate legal entity should be established for the provision of its prepaid wireless Lifeline service or whether the service should be provided through one of the existing Birch entities.[9]

On December 18, 2012, Birch notified the Commission that the prepaid wireless Lifeline service would be provided by a separate legal entity known as Now Communications, LLC ("Now Comm"), and requested that ETC status be granted to Now Comm rather than Birch.[10] In

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[5] WC Docket Nos. 09-197, 11-42, Birch Communications, Inc. Petition for Designation as an Eligible Telecommunications Carrier pursuant to Section 214(e)(6) of the Communications Act for Lifeline Support Only and Compliance Plan (filed Apr. 27, 2012) ("Birch Multiple State Petition").

[6] WC Docket Nos. 09-197, 11-42, Further Amended Compliance Plan of Birch Communications, Inc. (filed June 29, 2012) ("Compliance Plan"). Tempo will implement and comply with the Compliance Plan and hereby adopts the Compliance Plan as its own.

[7] WC Docket Nos. 09-197 and 11-42, *Wireline Competition Bureau Approves the Compliance Plans of Birch Communications, Boomerang Wireless, IM Telecom, Q Link Wireless, and TAG Mobile*, 27 FCC Rcd 9184 (2012).

[8] WC Docket Nos. 09-197, 11-42, Birch Communications, Inc. Petition for Designation as an Eligible Telecommunications Carrier pursuant to Section 214(e)(6) of the Communications Act for Lifeline Support Only in the State of Texas (filed Nov. 29, 2012) ("Birch Texas Petition").

[9] Birch Multiple State Petition at n.4; Birch Texas Petition at n.4; Compliance Plan at n.3.

[10] WC Docket Nos. 09-197, 11-42, Letter from Angela F. Collins, Counsel to Birch, to Marlene H. Dortch, FCC (filed Dec. 18, 2012) (notifying FCC of adoption of Compliance Plan); WC Docket Nos. 09-197, 11-42, Amendment to Petition for Designation as an Eligible Telecommunications Carrier pursuant to Section 214(e)(6) of the Communications Act for Lifeline Support Only in the States of Alabama, Florida, North Carolina, and Tennessee (filed Dec. 18, 2012) (amending Birch Multiple State Petition); WC Docket Nos. 09-197, 11-42, Amendment to Petition for Designation as an Eligible Telecommunications Carrier pursuant to Section 214(e)(6) of

that filing, Now Comm committed to implement and comply with the previously-approved Compliance Plan, and notified the FCC that it adopted the Compliance Plan as its own. Now Comm also committed to utilize the same procedures and operations set forth in the Compliance Plan for its provision of prepaid wireless Lifeline service, offer the same prepaid wireless Lifeline service plan set forth in the Compliance Plan, and market and advertise its prepaid wireless Lifeline service in the same manner as described in the Compliance Plan. The FCC acknowledged these changes in corporate structure in a December 20, 2012 public notice, and confirmed that the previously-approved Compliance Plan would apply to Now Comm.[11]

Subsequent to the December 2012 filing, Now Comm changed its name to Tempo Telecom, LLC. The prepaid wireless Lifeline service at issue in this Petition will be provided by Tempo, and ETC status should be granted in Tempo's name only. All other statements in the December 2012 filing apply equally to Tempo. Tempo utilizes the same management and day-to-day operational personnel as currently utilized by Birch.[12] Birch's current corporate officers are corporate officers of Tempo, and Tempo is owned by the same ultimate owners of Birch, but is not part of the Birch corporate family.[13]

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the Communications Act for Lifeline Support Only in the State of Texas (filed Dec. 18, 2012) (amending Birch Texas Petition).

[11] *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*, 27 FCC Rcd 15937 (2012) ("The Wireline Competition Bureau has approved Birch's compliance plan, which will also apply to Now Comm.")

[12] Birch is a competitive local exchange carrier ("CLEC") and interexchange carrier ("IXC"), and since 1996 has been providing high-quality, cost-effective integrated communications services and related information technology services to residential and small and medium-sized business ("SMB") customers. Today, Birch offers a variety of products, services and tailored solutions including local voice, long distance voice, broadband Internet, converged Internet Protocol ("IP") solutions, and related telecommunications and IT services. The Birch family of companies currently serves customers throughout 46 states and the District of Columbia.

[13] Specifically, Birch Capital, LLC (a Georgia limited liability company) holds a 100% ownership interest in Tempo. The current owners of Birch (Holcombe Green and R. Kirby Godsey, which in combination hold a 98% interest in Birch) own approximately 90% of Birch Capital, LLC, with the remaining percentage owned by Vincent Oddo, the Chief Executive Officer of both Birch and Tempo.

Tempo is in the process of registering with the Commission to provide domestic interstate telecommunications services, and its authorization for the provision of international telecommunications services is pending. Tempo provides prepaid wireless voice and data services in 18 states.[14] Tempo will provide prepaid wireless Lifeline services in those same 18 states once it receives all necessary authority. For purposes of providing its prepaid wireless Lifeline and non-Lifeline services, Tempo will resell the wireless services of Sprint, which provides wholesale capacity to many wireless resellers. Sprint will provide Tempo with the network infrastructure and wireless transmission facilities needed for Tempo to offer wireless voice and data services as a Mobile Virtual Network Operator ("MVNO"), as Sprint does for several other prepaid wireless providers that have received ETC designation. Tempo will rely on Birch for all other facilities, network, back office, billing, and customer support functions necessary to provide both its Lifeline and non-Lifeline services.[15]

II. THE COMMISSION HAS JURISDICTION OVER TEMPO'S DESIGNATION REQUEST

Tempo certifies that each state for which Tempo seeks ETC designation from the Commission has asserted that it lacks jurisdiction over the wireless services that Tempo seeks to provide as a Lifeline-only ETC. Tempo therefore seeks ETC designation from the Commission pursuant to Section 214(e)(6).[16] Attached as **Exhibit 2** to this Amended Petition are the relevant orders and/or examples of letters from the Alabama, Florida, North Carolina, Tennessee, and

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[14] These states are: Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, Ohio, South Carolina, Tennessee, Texas, and Wisconsin.

[15] For numerous years, Birch has been providing wireline Lifeline services in 18 states as a non-ETC reseller using resold services obtained from AT&T, and thus Birch is familiar with the Commission's eligibility and verification procedures applicable to Lifeline service offerings.

[16] 47 U.S.C. § 214(e)(6).

Texas state commissions asserting to a lack of jurisdiction over ETC designation for wireless services.

III. TEMPO MEETS THE REQUIREMENTS FOR ETC DESIGNATION UNDER SECTION 214(e) OF THE ACT AND SECTION 54.201(d) OF THE COMMISSION'S RULES

Under Section 214(e)(1) of the Act and Section 54.201(d) of the Commission's rules, a common carrier[17] may be designated as an ETC if it (1) offers the services supported by federal universal service as determined by the Commission, (2) offers such services using its own facilities or a combination of its own facilities and resale of another carrier's services; and (3) advertises the availability of such services and the relevant charges using media of general distribution.[18] As set forth below, Tempo meets these requirements.

A. Tempo Will Offer the Services Supported by Federal Universal Service throughout Its Designated Service Area

Pursuant to Section 54.101(a) of the Commission's rules, as modified by the *Lifeline Reform Order*, carriers seeking ETC designation must provide voice telephony services.[19] Specifically, eligible Lifeline 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 toll limitation at no charge (subject to certain requirements and limitations).[20] Tempo certifies that its prepaid wireless Lifeline service offering satisfies the

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[17] Tempo will be a common carrier by virtue of its provision of wireless services. *See* 47 U.S.C. § 332(c)(1)(A) (an entity providing commercial mobile services is deemed to be a common carrier); *see also* 47 U.S.C. § 332(d)(1) (defining "commercial mobile service" to be any mobile service that is provided for profit and makes interconnected service available to the public).

[18] 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d).

[19] 47 C.F.R. § 54.101(a); *Lifeline Reform Order* ¶ 48.

[20] *Lifeline Reform Order* ¶ 48.

Commission's definition of voice telephony service, and it will therefore provide all services designated for support by the Commission.

Tempo's prepaid wireless Lifeline service offering will provide voice grade access to the PSTN through its provision of resold wireless services from Sprint. As described below, Tempo's prepaid wireless Lifeline service offerings will provide a bucket of minutes of use to eligible consumers at no additional charge. In addition, as explained below, Tempo's prepaid wireless Lifeline service offering will provide consumers with access to 911 and enhanced 911 to the extent local governments have implemented such services. Although Tempo understands it has an independent obligation to provide 911 and E911 services as a reseller,[21] Tempo will rely on its contractual arrangement with Sprint to provide such emergency services to consumers.

With respect to toll limitation service, the *Lifeline Reform Order* 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.[22] As explained more below, Tempo's prepaid wireless Lifeline service offerings will offer a nationwide calling plan, and will not distinguish between toll and non-toll calls. Consumers, however, may implement toll control for international calls to the extent they seek that capability. Moreover, consumers purchasing Tempo's prepaid wireless Lifeline service offering will have the ability to monitor their minute usage and balances from their handset, online, or though customer service.

B. Tempo Will Provide Service Throughout Its Designated Service Area

Tempo will offer the services supported by federal universal service throughout its Designated Service Area. Tempo's requested Designated Service Area is Sprint's wireless coverage area or Sprint's licensed service area in the states of Alabama, Florida, North Carolina,

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[21] 47 C.F.R. § 20.18(m).

[22] *Lifeline Reform Order* ¶ 49.

Tennessee, and Texas, which comprise a portion or the entirety of the telephone company study areas identified on **Exhibit 3**.

C. Tempo Satisfies the Requirements for Conditional Forbearance from the Facilities Requirement

Both the Act and the Commission's rules require a carrier seeking ETC designation to offer the supported services using its own facilities or a combination of its own facilities and resale of another carrier's services.[23] In the *Lifeline Reform Order*, however, the Commission decided to conditionally forbear from application of the Act's facilities requirement to all telecommunications carriers that seek limited ETC designation to participate in the Lifeline program.[24] 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 obligations contained in the *Lifeline Reform Order* as well as further safeguards against waste, fraud and abuse as the Wireline Competition Bureau may deem necessary.[25] Tempo certifies that it meets the requirements for conditional forbearance as demonstrated in its approved Compliance Plan, which is attached as **Exhibit 1**.

Tempo's prepaid wireless Lifeline service offering will comply with the 911 requirements outlined in the *Lifeline Reform Order* necessary for application of conditional forbearance. Tempo will provide its prepaid wireless Lifeline subscribers with 911 and E911 access regardless of activation status and availability of minutes. Tempo will also provide its Lifeline subscribers with E911-compliant handsets and replace, at no additional charge to the

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[23] 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d).

[24] *Lifeline Reform Order* ¶ 368.

[25] *Lifeline Reform Order* ¶ 368.

subscriber, any non-compliant handset. As noted above, Tempo will rely on its contractual arrangement with Sprint to provide 911 and E911 services to consumers, as well as obtain the handsets to be provided to consumers.[26] Tempo's MVNO arrangement with Sprint specifically addresses 911/E911 services and requires Sprint to supply handsets that satisfy all Commission requirements.

In further support of Tempo's eligibility for the conditional grant of forbearance from the facilities requirement, Tempo provides a copy of its approved Compliance Plan in **Exhibit 1**, which was prepared in accordance with the requirements of the *Lifeline Reform Order* and the Public Notice issued by the Wireline Competition Bureau on February 29, 2012.[27]

D. Tempo Will Advertise the Availability of the Supported Services and the Relevant Charges Using Media of General Distribution

Tempo will publicize the availability of its prepaid wireless Lifeline service offering in a manner reasonably designed to reach those likely to qualify for the service.[28] Tempo will utilize the Commission's 2004 outreach guidelines for advertising its prepaid wireless Lifeline service offering.[29] Specifically, Tempo will utilize outreach materials and methods designed to reach households that currently do not have telephone service, will develop advertising materials for non-English speaking populations within its service area, and will coordinate its outreach efforts with relevant government agencies.

Tempo's advertising strategy for its prepaid wireless Lifeline service offering will build on its expertise in advertising its wireline Lifeline product currently offered as a non-ETC

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[26] Tempo understands that it has an independent obligation to provide 911 and E911 services as a wireless reseller, and will utilize its underlying contractual arrangement with Sprint to meet that obligation. *See, e.g.*, 47 C.F.R. § 20.18(m); *Lifeline Reform Order* at n.989.

[27] *Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the Lifeline Reform Order*, 27 FCC Rcd 2186 (2012).

[28] 47 C.F.R. § 54.405(b).

[29] *Lifeline and Link Up*, 19 FCC Rcd 8302, ¶¶ 45-48 (2004).

reseller. Tempo's advertising for its prepaid wireless Lifeline service offering will include, but not be limited to, targeted direct mail, advertisements in daily and weekly print periodicals, billboards, and radio advertising. Tempo will also coordinate 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 subscribers. Tempo will build on the existing relationships with these organizations that Birch has in connection with Birch's current wireline Lifeline service offering as a non-ETC reseller. Tempo will also advertise through online search engines and third-party referral agents/dealers.[30] As required under the *Lifeline Reform Order*, Tempo will ensure the Commission-required disclosures, any DBA names it uses, and details of the prepaid wireless Lifeline service offering are contained in all marketing materials.[31] An example of Tempo's marketing materials are attached as **Exhibit 4**.

IV. TEMPO MEETS THE ADDITIONAL REQUIREMENTS FOR ETC DESIGNATION UNDER SECTION 54.202 OF THE COMMISSION'S RULES

Section 54.202 of the Commission's rules contains certain additional requirements for a common carrier[32] to be designated as an ETC. As set forth below, Tempo satisfies each of those requirements.

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[30] Tempo explains its relationships with third-party dealers and retail outlets in its approved Compliance Plan (attached as **Exhibit 1**). Tempo confirms that a Tempo employee will be responsible for overseeing and finalizing every Lifeline enrollment prior to including that customer on a FCC Form 497 for reimbursement. Tempo will be responsible for the actions of all of its employees and agents, including those enrolling customers in any Tempo-owned, affiliated, or third-party retail location.

[31] *Lifeline Reform Order* ¶¶ 274-282.

[32] Tempo will be a common carrier by virtue of its provision of wireless services. *See* 47 U.S.C. § 332(c)(1)(A) (an entity providing commercial mobile services is deemed to be a common carrier); *see also* 47 U.S.C. § 332(d)(1) (defining "commercial mobile service" to be any mobile service that is provided for profit and makes interconnected service available to the public).

A. Tempo Will Comply with the Service Requirements Applicable to Lifeline Support

Section 54.202(a)(1) of the Commission's rules requires a common carrier seeking ETC designation to (1) certify that it will comply with the service requirements applicable to the support that it receives and (2) submit a five-year plan for proposed improvements or upgrades to the applicant's network unless the applicant is seeking Lifeline support only.[33] Tempo hereby certifies that it will comply with the service requirements applicable to Lifeline support as set forth herein and in its approved Compliance Plan set forth in **Exhibit 1**. Given that Tempo seeks designation for Lifeline support only, a five-year network improvement plan is no longer necessary.[34]

B. Tempo Will Remain Functional in Emergency Situations

Section 54.202(a)(2) of the Commission's rules requires a common carrier seeking ETC designation to demonstrate its 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.[35] Tempo's MVNO contract arrangement with Sprint imposes certain obligations on Sprint to ensure Tempo's prepaid wireless Lifeline service offering remains functional during emergency situations.[36] As a large, nationwide wireless carrier, Sprint is subject to regulatory requirements to remain functional

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[33] 47 C.F.R. § 54.202(a)(1).

[34] *Lifeline Reform Order* ¶ 386.

[35] 47 C.F.R. § 54.202(a)(2).

[36] Sprint will provide the underlying wireless services to Tempo, but Birch will provide any necessary billing services associated with the Tempo prepaid wireless Lifeline product to the Tempo end user customer. The Birch billing system will be served by two geographically separate data centers for back-up redundancy, one currently located in Macon, Georgia and the other in Emporia, Kansas.

during emergency situations.[37] Tempo's MVNO agreement with Sprint also contains certain quality of service guarantees.

As noted above, Tempo also will rely on Birch for various operational functions. Birch has been offering telecommunications services since 1996, and thus has significant experience with remaining functional in emergency situations. As a CLEC/IXC, Birch is currently subject to the Commission's outage reporting rules, as well as the back-up power and outage requirements in the states in which Birch operates. As a successful, profitable CLEC for over 15 years Birch 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 will rely on Birch to apply these same measures to Tempo's prepaid wireless Lifeline service offering to the extent there is an emergency situation affecting Tempo's operations.

C. Tempo Will Satisfy Applicable Consumer Protection and Service Quality Standards

Section 54.202(a)(3) of the Commission's rules requires a common carrier seeking ETC designation to demonstrate that it will satisfy applicable consumer protection and service quality standards.[38] Tempo will comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service to satisfy this requirement.

In response to a request from Commission staff, Tempo confirms that customers will be able to reach a live customer service representative between the hours of 8:00am to 8:00pm Eastern, Monday through Friday, and between the hours of 8:30am to 6:00pm Eastern on Saturdays. After these hours, the customer will receive a message informing it of Tempo's

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[37] Tempo is also familiar with the continuity and disaster response program Sprint has implemented, which addresses the need to remain functional during emergency situations.

[38] 47 C.F.R. § 54.202(a)(3).

normal business hours and offering the customer the ability to utilize an automated payment system to add additional minutes, etc. If the customer does not choose to use the automated payment system, a recorded message will inform the customer to call back during normal business hours.

D. Tempo Is Financially and Technically Capable of Providing Lifeline Services in Accordance with the Commission's Rules

Section 54.202(a)(4) of the Commission's rules requires a common carrier seeking ETC designation for Lifeline support to demonstrate it is financially and technically capable of providing Lifeline service in compliance with the Commission's rules.[39] The Commission stated that the "relevant considerations" for satisfying this requirement would be whether the applicant previously offered services to non-Lifeline consumers, how long the applicant has been in business, whether the applicant intends to rely exclusively on universal service fund disbursements to operate, whether the applicant receives funds from other sources, and whether the applicant has been subject to enforcement action or ETC revocation proceedings in other states.[40]

Tempo is financially capable of offering Lifeline services. Tempo does not intend to rely exclusively on universal service fund disbursements to operate, and will receive revenues from other sources. As discussed further above, Tempo will initially offer prepaid wireless voice and data services in 18 states starting in June 2013. This portion of Tempo's business will be fully operational prior to Tempo's receipt of ETC designation or its rollout of its prepaid wireless Lifeline services once designated. Tempo's core business will be the provision of wireless voice and data services to non-Lifeline customers. Based on its forward-looking business and financial

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[39] 47 C.F.R. § 54.202(a)(4); *see also Lifeline Reform Order* ¶ 387.

[40] *Lifeline Reform Order* ¶ 388.

plans, Tempo projects that the majority of its target customer base will not be eligible to receive Lifeline service.

Further, Tempo has sufficient operating capital to provide prepaid wireless Lifeline services. In May 2013, the individual owners of Birch Capital, LLC (Tempo's sole member) contributed a significant amount of funding to the company. These "start-up" funds are large enough to cover the company's operating expenses for more than a month. Tempo projects that it will start accruing revenues from its prepaid non-Lifeline wireless voice and data services in July 2013.

The ultimate owners and management of Tempo are intimately familiar with the financial and technical needs of a telecommunications company. As noted above, Tempo utilizes the same management and day-to-day operational personnel as currently utilized by Birch, a company that has been operating as a successful competitive local exchange carrier since 1996. Birch's current corporate officers are also corporate officers of Tempo, and Tempo is owned by the same ultimate owners of Birch (but is not part of the Birch corporate family). In addition, Tempo relies on Birch for various network facilities, back office, billing, and customer support functions necessary for Tempo to provide both its Lifeline and non-Lifeline services.

Finally, Tempo is reselling the wireless services of Sprint for both its Lifeline and non-Lifeline services. Sprint provides wholesale capacity to numerous wireless resellers. Like several other prepaid wireless providers, Sprint will provide Tempo with the network infrastructure and wireless transmission facilities needed for Tempo to offer service as a MVNO. Sprint is a large, nationwide carrier, and serves several other MVNOs offering wireless Lifeline

products.[41] Tempo's partnership with Sprint further demonstrates Tempo is technically and financially capable of providing a prepaid wireless Lifeline service.

E. Tempo Will Provide Prepaid Wireless Lifeline Service Plans to Eligible Consumers

Section 54.202(a)(5) of the Commission's rules require a common carrier seeking ETC designation for Lifeline support to submit information describing the terms and conditions of the voice telephony plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges for toll calls (if any), and rates for each such plan.[42] At this time, Tempo plans to offer two prepaid wireless Lifeline options at no charge to the customer. Specifically, the customer can choose between the following options:

Option 1
250 nationwide minutes or 750 texts per month

Option 2
150 nationwide minutes or 450 texts per month with the ability to rollover unused minutes to the next month

Either option also will provide the customer with:

- Wireless handset (there are several handset options) - at least one free choice and the possibility of additional choices[43]
- Voicemail
- National texting, with three (3) texts counting as one (1) minute
- 911 and E911 access as available

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[41] Based on filings made with the Commission, it appears Sprint also provides underlying MVNO services to other carriers such as PlatinumTel, i-wireless, and CAL Communications, which also have sought ETC designation from the Commission.

[42] 47 C.F.R. § 54.202(a)(5).

[43] Tempo is still considering which handsets will be offered, but all handsets will be compliant with all applicable Commission requirements. Handsets will be offered for free in conjunction with the prepaid wireless Lifeline product. Based upon market availability and handset prices, the consumer may have a choice of handsets. Tempo is continuing to evaluate the possibility of offering premium handsets at an additional cost, but a free handset will always be offered to every prepaid wireless Lifeline subscriber.

- Custom calling features such as call waiting, call forwarding, and caller ID
- Option for international calling with per-minute pricing based on the country to be called, which will be provided to the consumer when opting for this capability
- Option to add wireless data plans for an additional cost (also dependent on handset)
- Option to purchase additional minutes anytime during the month that are available for 60 days from purchase at the following rates:

Additional Minutes	Price
200	13.95
250	16.95
300	19.95
400	25.95
900	49.95

Tempo's planned prepaid wireless Lifeline service offering is consistent with the Act's requirement that consumers have access to quality services at "just, reasonable, and affordable rates,"[44] and is consistent with the Commission's findings that Lifeline consumers should have the option to purchase bundled packages, additional calling features, and optional voice services.[45]

As set forth in Tempo's approved Compliance Plan (attached as **Exhibit 1**), Tempo has established processes for ensuring Lifeline services are provided only to eligible customers, including procedures for confirming consumer eligibility, enrolling eligible customers, re-certifying eligibility at regular intervals, and recordkeeping. Attached as **Exhibit 5** are updated versions of Tempo's initial enrollment and certification form, which will also be used for re-certification as explained in Tempo's approved Compliance Plan (attached as **Exhibit 1**). Tempo has revised its forms based on a request from Commission staff to include a statement

[44] 47 U.S.C. § 254(b)(1).

[45] *Lifeline Reform Order* ¶ 317.

that not all Lifeline services are marketed under the "Lifeline" name, and may be offered under other names, and to clarify that certain consumer information will be provided to the Universal Service Administrative Company for the purpose of verifying eligibility and maintaining the information in a database. Tempo has made similar changes to its script for third party verification ("TPV") of Lifeline eligibility, and has informed its customer service representatives to include these statements in any oral disclosures given to potential Lifeline customers. Tempo also confirms in response to a request from Commission staff that a Tempo employee will be responsible for overseeing and finalizing every Lifeline enrollment prior to including that customer on a FCC Form 497 for reimbursement. Tempo will be responsible for the actions of all of its employees and agents, including those enrolling customers in any Tempo-owned, affiliated, or third-party retail location.[46]

F. Designation of Tempo as a Lifeline-Only ETC Is in the Public Interest

Section 54.202(b) of the Commission's rules requires the Commission make a public interest finding prior to making an ETC designation.[47] Designation of Tempo as an ETC for Lifeline support serves the public interest. Tempo's ETC designation will bring another competitive alternative to low-income consumers in the Designated Service Area, and will exert further competitive pressures on existing wireless Lifeline providers operating in the Designated Service Area. Tempo seeks to make it easier for low-income consumers located within the Designated Service Area to receive affordable telecommunications services that are comparable to those enjoyed by other consumers. Tempo's ETC designation serves the public interest by providing services to a portion of the public that may not otherwise be able to obtain

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[46] Tempo explains its relationships with third-party dealers and retail outlets in its approved Compliance Plan (attached as **Exhibit 1**).

[47] 47 C.F.R. § 54.202(b).

telecommunications services due to insufficient credit, immigrant status, or living situation. Prepaid wireless services also offer consumers convenience, control over their telecommunications spending without the imposition of high monthly fees, and the ability to pay for only those services needed. The goals of universal service mandated by Congress and the Commission are therefore served by designation of Tempo as a Lifeline-only ETC.[48]

V. TEMPO MEETS THE REQUIREMENTS FOR LIFELINE SERVICES UNDER SECTION 54.405 OF THE COMMISSION'S RULES

Under Section 54.405 of the Commission's rules, an ETC has certain obligations to offer Lifeline service.[49] Tempo understands these obligations and will meet them as described below.

A. Tempo Will Make Lifeline Service Available as Defined under the Commission's Rules

Section 54.405(a) of the Commission's rules requires an ETC to make available Lifeline service, as defined in Section 54.401 of the Commission's rules,[50] to qualifying low-income consumers.[51] Tempo certifies that its prepaid wireless Lifeline service offering will conform to the definition of "Lifeline" in the Commission's rules.

B. Tempo Will Publicize the Availability of Lifeline Service

Section 54.405(b) of the Commission's rules requires an ETC to publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.[52] As described above in Section III.D., Tempo will publicize the availability of its prepaid wireless Lifeline service offering in a manner reasonably designed to reach eligible consumers.

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48 47 U.S.C. § 254.

49 47 C.F.R. § 54.405.

50 47 C.F.R. § 54.401.

51 47 C.F.R. § 54.405(a).

52 47 C.F.R. § 54.405(b).

C. Tempo Will Include Certain Disclosures on Materials Describing Its Lifeline Service, Including the Name of the ETC

Sections 54.405(c) and (d) of the Commission's rules require an ETC to make certain disclosures on all materials describing the Lifeline service offering, including the name of the ETC.[53] As noted above in Section III.D., Tempo will ensure that all materials describing its prepaid wireless Lifeline service offering use easily understood language to indicate that the service is a Lifeline service, that Lifeline is a government assistance program, that the service is non-transferrable, that only eligible consumers may enroll in the program, and that the program is limited to one discount per household as required under the rules.[54] Tempo will also ensure that all materials describing its prepaid wireless Lifeline service offering include its name as well as its D/B/A name of "Tempo" as the name of the ETC providing services.[55] Tempo understands that the term "materials describing the service" include all print, audio, video, and web materials used to describe or enroll in the Lifeline service offering, including application and certification forms.[56]

D. Tempo Will Comply with the Commission's De-Enrollment Procedures

Section 54.405(e) of the Commission's rules requires an ETC to impose certain de-enrollment procedures for Lifeline services.[57] Tempo will comply with the Commission's de-enrollment procedures as described more fully in the approved Compliance Plan set forth in **Exhibit 1**. As discussed in the Compliance Plan, Tempo will de-enroll Lifeline customers for

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53 47 C.F.R. § 54.405(c), (d).

54 47 C.F.R. § 54.405(c).

55 47 C.F.R. § 54.405(d).

56 47 C.F.R. § 54.405(c).

57 47 C.F.R. § 54.405(d).

duplicative support, for non-usage, and for failure to re-certify, and will have general de-enrollment procedures in place.

VI. ANTI-DRUG ABUSE CERTIFICATION

Tempo certifies that, pursuant to Sections 1.2001 through 1.2003 of the Commission's rules, that neither Tempo nor its subsidiaries, affiliates, officers, directors, or persons holding 5% or more of its outstanding stock, are subject to a denial of federal benefits, including Commission benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.[58]

[58] *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, 12 FCC Rcd 22947, 22948-949 (1997).

CONCLUSION

WHEREFORE, for the forgoing reasons, Tempo respectfully requests that the Commission expeditiously designate it as an ETC for the provision of prepaid wireless Lifeline services in the states of Alabama, Florida, North Carolina, Tennessee, and Texas.

Respectfully submitted,

TEMPO TELECOM, LLC

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Dated: May 13, 2013

Its Attorneys

EXHIBIT 1

FCC-Approved Compliance Plan

Tempo Telecom, LLC Compliance Plan

Tempo Telecom, LLC (f/k/a Now Communications, LLC) has adopted the following Further Amended Compliance Plan of Birch Communications, Inc. dated June 29, 2012, which was approved by the Wireline Competition Bureau 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*, 27 FCC Rcd 9184 (2012).

The Wireline Competition Bureau confirmed the adoption of the Compliance Plan by Tempo Telecom, LLC (f/k/a Now Communications, LLC) on December 20, 2012. *See 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*, 27 FCC Rcd 15937 (2012) ("The Wireline Competition Bureau has approved Birch's compliance plan, which will also apply to Now Comm.").

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

In the Matter of	)	
	)	
BIRCH COMMUNICATIONS, INC.	)	**WC Docket No. 09-197**
	)	
Compliance Plan	)	**WC Docket No. 11-42**
	)	
	)	
Petition for Designation as an Eligible Telecommunications Carrier pursuant to Section 214(e)(6) of the Communications Act for Lifeline Support Only	)	

FURTHER AMENDED COMPLIANCE PLAN OF BIRCH COMMUNICATIONS, INC.

Birch Communications, Inc. ("Birch"), by its attorneys, respectfully submits this Amended Compliance Plan to be associated with its Petition for designation as an eligible telecommunications carrier ("ETC") pursuant to Section 214(e)[1] of the Communications Act of 1934, as amended (the "Act"), and Section 54.201[2] of the rules and regulations of the Federal Communications Commission ("Commission"), which was filed on April 27, 2012 in the above-referenced matters. Birch's original Compliance Plan was filed May 7, 2012, and an amendment was filed June 1, 2012. Birch seeks ETC designation for Lifeline support only to provide prepaid wireless services under the "NOW Communications" brand name in the non-rural areas of the following states: Alabama, Florida, North Carolina, and Tennessee (the "Designated Service Area").[3]

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[1] 47 U.S.C. § 214(e).

[2] 47 C.F.R. § 54.201.

[3] Birch is reviewing whether a separate legal entity should be established for the provision of its prepaid wireless Lifeline service or whether the service should be provided through one of the existing Birch entities, such as Birch Telecom of the South, Inc. (FCC Filer ID 820616), which is a subsidiary of Birch and operates as a certificated carrier in Alabama, Florida, North Carolina, and Tennessee. More information on Birch's corporate structure is set forth herein.

Both the Act and the Commission's rules require a carrier seeking ETC designation to offer the supported services using its own facilities or a combination of its own facilities and resale of another carrier's services.[4] In the *Lifeline Reform Order*, however, the Commission decided to conditionally forbear from application of the Act's facilities requirement to all telecommunications carriers that seek limited ETC designation to participate in the Lifeline program.[5] 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 obligations contained in the *Lifeline Reform Order* as well as further safeguards against waste, fraud and abuse as the Wireline Competition Bureau may deem necessary.[6]

To avail itself of the Commission's conditional grant of forbearance from the facilities requirement, Birch provides this Compliance Plan in accordance with the requirements of the *Lifeline Reform Order*[7] and the *Public Notice* issued by the Wireline Competition Bureau on February 29, 2012.[8] Specifically, Birch's Compliance Plan provides information regarding Birch's planned Lifeline service offerings and outlines the measures Birch will take to implement the obligations contained in the *Lifeline Reform Order* as well as further safeguards

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4 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d).

5 *Lifeline Reform Order* ¶ 368.

6 *Lifeline Reform Order* ¶ 368.

7 WC Docket Nos. 11-42, 03-109, 12-23 and CC Docket No. 96-45, *Lifeline and Link Up Reform and Modernization, et al.*, FCC 12-11, Report and Order and Further Notice of Proposed Rulemaking, ¶ 368 ("*Lifeline Reform Order*").

8 WC Docket Nos. 09-197, 11-42, *Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the Lifeline Reform Order*, Public Notice, DA 12-314 (rel. Feb. 29, 2012) ("*Public Notice*").

against waste, fraud and abuse. To that end, Birch provides the information requested in the *Public Notice*, which indicated compliance plans should contain the following:

(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;

Birch is a competitive local exchange carrier ("CLEC") and interexchange carrier ("IXC"), and since 1996 has been providing high-quality, cost-effective integrated communications services and related information technology services to residential and small and medium-sized business ("SMB") customers. Today, Birch offers a variety of products, services and tailored solutions including local voice, long distance voice, broadband Internet, converged Internet Protocol ("IP") solutions, and related telecommunications and IT services.

Birch is a Georgia corporation with offices located at 3060 Peachtree Road NW, Suite 1065, Atlanta, GA 30305 and 2300 Main Street, Suite 340, Kansas City, MO 64108. Birch has authority to provide interstate and international telecommunications services from the Commission.[9] Birch's wholly-owned subsidiary, Birch Communications of Virginia, Inc., operates pursuant to Birch's international 214 authority and is registered to provide interstate telecommunications services.[10] Birch's wholly-owned subsidiary, Birch Telecom, Inc., has authority to provide international telecommunications services.[11] The following wholly-owned subsidiaries of Birch Telecom, Inc. operate pursuant to Birch Telecom Inc.'s international authority and also provide interstate telecommunications services: Birch Telecom of the South, Inc., Birch Telecom of the West, Inc., Birch Telecom of the Great Lakes, Inc., Birch Telecom of Missouri, Inc., Birch Telecom of Oklahoma, Inc., Birch Telecom of Texas Ltd., LLP, Birch

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[9] IB File No. ITC-214-19970926-00584, FCC Filer ID 815113.

[10] FCC Filer ID 828502.

[11] IB File No. ITC-214-19990701-00441.

Telecom of Kansas, Inc., Birch Communications of the Northeast, Inc., Ionex Communications, Inc., Ionex Communications South, Inc., and Ionex Communications North, Inc.[12] Each of these subsidiaries also operates under the D/B/A name of "Birch Communications," and certain of Birch's subsidiaries also serve customers under the brand name "NOW Communications."[13] Customers purchasing Birch's prepaid wireless Lifeline service offering will see the "NOW Communications" logo.[14]

The Birch family of companies either offer service or are certificated to offer telecommunications services as CLECs and intrastate IXCs in the following 38 states: Alabama, Arkansas, California, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, New Jersey, New Mexico, New York, North Carolina, North Dakota, Nebraska, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, Wisconsin, and Wyoming. The Birch family of companies currently serves approximately 118,000 customers throughout Birch's 38-state territory.

Birch Communications Holdings, Inc. ("Birch Holdings") owns a 100% voting and equity interest in Birch. Birch Holdings is a Georgia corporation whose principal business is

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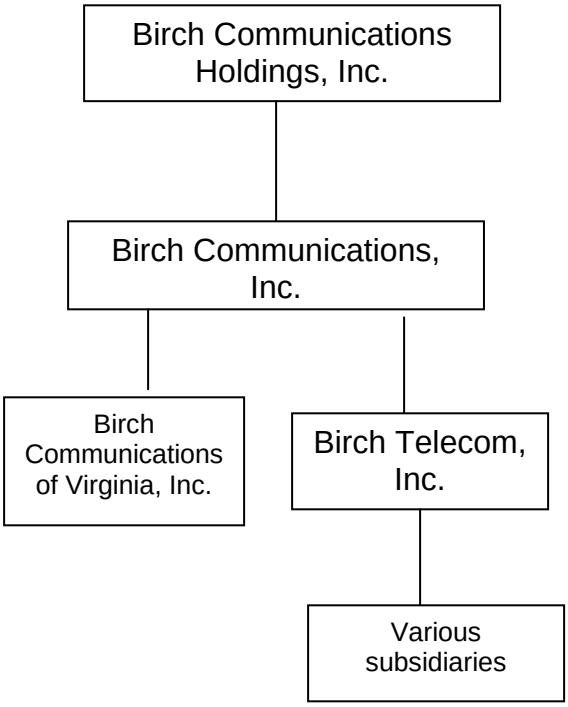
[12] Birch Telecom of the South, Inc. (FCC Filer ID 820616), Birch Telecom of the West, Inc. (FCC Filer ID 827985), Birch Telecom of the Great Lakes, Inc. (FCC Filer ID 826636), Birch Telecom of Missouri, Inc. (FCC Filer ID 819422), Birch Telecom of Oklahoma, Inc. (FCC Filer ID 820061), Birch Telecom of Texas LTD LLP (FCC Filer ID 819948), Birch Telecom of Kansas, Inc. (FCC Filer ID 807993), IONEX Communications, Inc. (FCC Filer ID 815376), Birch Communications of the Northeast, Inc. (FCC Filer ID 828483), Ionex Communications South, Inc. (FCC Filer ID 808443), Ionex Communications North, Inc. (FCC Filer ID 815082).

[13] These subsidiaries are Birch Telecom of the South, Inc., Birch Telecom of Missouri, Inc., Birch Telecom of Kansas, Inc., Birch Telecom of Oklahoma, Inc., and Birch Telecom of Texas Ltd., L.L.P. Birch acquired the use of the "NOW Communications" trade name in an earlier asset acquisition.

[14] Birch is reviewing whether a separate legal entity should be established for the provision of its prepaid wireless Lifeline service or whether the service should be provided through one of the existing Birch entities, such as Birch Telecom of the South, Inc. (FCC Filer ID 820616), which is a certificated carrier in Alabama, Florida, North Carolina, and Tennessee.

telecommunications holdings. The address for Birch Holdings is 3060 Peachtree Road, NW, Suite 1065, Atlanta, GA 30305. Below is Birch's organizational chart:



The following entities and individuals hold a ten percent (10%) or greater direct or indirect ownership interest in Birch Holdings: (1) Holcombe Green, a U.S. citizen, owns a 66% voting and equity interest in Birch Holdings and (2) R. Kirby Godsey, a U.S. citizen, owns a 32% voting and equity interest[15] in Birch Holdings. The business address for both Mr. Green and Mr. Godsey is 3060 Peachtree St., NW, Suite 1060, Atlanta, GA 30305. None of the entities or individuals holding an interest in Birch or Birch Holdings hold any interests in other telecommunications-related entities.

[15] R. Kirby Godsey holds his percentage through his individual holdings and through the R. Kirby Godsey 2008 Grantor Retained Annuity Trust.

(b) detailed information demonstrating that the carrier is financially and technically capable of providing the supported Lifeline service in compliance with the Commission's rules;

The Commission has stated that the "relevant considerations" for demonstrating that a carrier is financially and technically capable would be whether the applicant previously offered services to non-Lifeline consumers, how long the applicant has been in business, whether the applicant intends to rely exclusively on universal service fund disbursements to operate, whether the applicant receives funds from other sources, and whether the applicant has been subject to enforcement action or ETC revocation proceedings in other states.[16] Birch has been operating as a CLEC/IXC since 1996, and currently operates in 38 states. In addition to the other services it offers, Birch has been providing wireline Lifeline services in 18 states as a non-ETC reseller using resold services obtained from AT&T for numerous years. Birch serves approximately 1800 wireline Lifeline customers at this time as a non-ETC reseller. Birch does not, and will not, rely on universal service fund disbursements to operate - the majority of Birch's funds to operate will come from the non-Lifeline services it provides throughout its 38-state territory. Birch has not been subject to an abnormal number of enforcement proceedings given the significant number of customers it serves and the more than 15 years it has been offering service.

With respect to the prepaid wireless Lifeline service, Birch will resell the wireless services of Sprint, which provides wholesale capacity to wireless resellers. Like several other prepaid wireless providers, Sprint will provide Birch with the network infrastructure and wireless transmission facilities needed for Birch to offer service as a Mobile Virtual Network Operator ("MVNO"). Sprint is a large, nationwide carrier, and serves several other MVNOs offering

[16] *Lifeline Reform Order* ¶ 388.

wireless Lifeline products.[17] Birch's partnership with Sprint further demonstrates that Birch is technically capable of providing a prepaid wireless Lifeline service.

(c) detailed information, including geographic locations, of the carrier's current service offerings if the carrier currently offers service;

Please see Birch's response to 1(a) above. Birch currently provides local, toll, domestic long distance, and international long distance as a CLEC/IXC in the 38 states listed above. Birch also provides broadband Internet, converged IP solutions, and related telecommunications and IT services throughout its 38-state service territory.

(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; and

At this time, Birch plans to offer the following prepaid wireless Lifeline plan <u>at no charge</u> to an eligible customer:

<u>Basic Plan Prepaid Wireless Lifeline Plan</u>
Wireless handset (there are several handset options) - at least one free choice and the possibility of additional choices[18]
250 nationwide minutes per month
Voicemail
National texting, with each text sent or received counting as 1 minute
911 and E911 access as available
Option to purchase additional minutes anytime during the month that carry over for 2 months
Option for international calling with per-minute pricing based on the country to be called, which will be provided to the consumer when opting for this capability

[17] Based on filings made with the Commission, it appears Sprint also provides underlying MVNO services to other carriers such as PlatinumTel, i-wireless, and CAL Communications, which also have sought ETC designation from the Commission.

[18] Birch is still considering which handsets will be offered, but all handsets will be compliant with all applicable Commission requirements. Handsets will be offered for free in conjunction with the prepaid wireless Lifeline product. Based upon market availability and handset prices, the consumer may have a choice of handsets. Birch is continuing to evaluate the possibility of offering premium handsets at an additional cost, but a free handset will always be offered to every prepaid wireless Lifeline subscriber.

Additional minutes

Minutes	Price
200	13.95
250	16.95
300	19.95
400	25.95
900	49.95

Available minutes are nationwide, and there are no additional charges for toll calling.

(e) all other certifications required under newly amended section 54.202 of the Commission's rules.

Section 54.202 of the Commission's rules requires a common carrier seeking ETC designation to: (1) certify that it will comply with the service requirements applicable to the support that it receives;[19] (2) submit a five-year plan for proposed improvements or upgrades to the applicant's network unless the applicant is seeking Lifeline support only;[20] (3) demonstrate its 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;[21] (4) demonstrate that it will satisfy applicable consumer protection and service quality standards;[22] (5) demonstrate it is financially and technically capable of providing Lifeline service in compliance with the Commission's rules;[23] and (6) submit information describing the terms and conditions of the voice telephony plans offered to

[19] 47 C.F.R. § 54.202(a)(1)(i).

[20] 47 C.F.R. § 54.202(a)(1)(ii).

[21] 47 C.F.R. § 54.202(a)(2).

[22] 47 C.F.R. § 54.202(a)(3).

[23] 47 C.F.R. § 54.202(a)(4).

Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges for toll calls (if any), and rates for each such plan.[24]

Birch has addressed (5) and (6) above in (1)(b) and (1)(d), and the five-year plan required under (2) is no longer applicable given that Birch seeks designation for Lifeline support only.[25]

With respect to (1), Birch seeks ETC designation for Lifeline support only, and therefore certifies that it will comply with the service requirements applicable to Lifeline support.

With respect to (3), Birch has the ability to remain functional in emergency situations. Birch has been offering telecommunications services since 1996, and thus has significant experience with remaining functional in emergency situations. As a CLEC/IXC, Birch is currently subject to the Commission's outage reporting rules, as well as the back-up power and outage requirements in the states in which Birch operates. As a successful, profitable CLEC for over 15 years Birch 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. Birch will apply these same measures to its prepaid wireless Lifeline service offering to the extent there is an emergency situation affecting Birch's operations. Birch's MVNO contract arrangement with Sprint also imposes certain obligations on Sprint to ensure Birch's prepaid wireless Lifeline service offering remains functional during emergency situations.[26] As a large, nationwide wireless carrier, Sprint is subject to regulatory

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[24] 47 C.F.R. § 54.202(a)(5).

[25] *Lifeline Reform Order* ¶ 386.

[26] While Sprint will provide the underlying wireless services to Birch, Birch will provide billing services associated with the prepaid wireless Lifeline product to the Birch end user customer. The Birch billing system will be served by two geographically separate data centers for back-up redundancy, one currently located in Macon, Georgia and the other in Emporia, Kansas.

requirements to remain functional during emergency situations.[27] Birch's MVNO agreement with Sprint also contains certain quality of service guarantees.

With respect to (4), Birch will satisfy applicable consumer protection and service quality standards. As a CLEC/IXC, Birch is currently subject to the consumer protection and service quality standards promulgated by the Commission and the states in which Birch operates. Birch will apply these same practices to its prepaid wireless Lifeline service product, and will comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service to satisfy this requirement as permitted by the Commission's rules.[28]

(2) A detailed explanation of how the carrier will comply with the Commission's new rules relating to determinations of subscriber eligibility for Lifeline services, including all of the consumer eligibility, consumer enrollment, and re-certification procedures, as required by Section VI and Appendix C of the *Lifeline Reform Order*, and a copy of the carrier's certification form.

Birch currently offers wireline Lifeline services as a non-ETC reseller. Birch is therefore intimately familiar with the Commission's procedures for confirming consumer eligibility, enrolling eligible customers, re-certifying eligibility at regular intervals, and recordkeeping. Birch plans to build on that expertise in offering its prepaid wireless Lifeline service offering as an ETC. Birch has implemented the Commission's *Lifeline Reform Order* rule changes into its existing wireline, non-ETC Lifeline program.[29] Birch will utilize the same processes outlined below for both its prepaid wireless Lifeline service (as an ETC) and its wireline Lifeline service (as a non-ETC reseller) to the extent applicable.

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[27] Birch is also familiar with the continuity and disaster response program Sprint has implemented, which addresses the need to remain functional during emergency situations.

[28] 47 C.F.R. § 54.202(a)(3).

[29] Birch recently received and executed a certification form from AT&T, its underlying provider for its resold Lifeline services, in which Birch certified its compliance with the FCC's *Lifeline Reform Order* requirements for Birch's provision of wireline Lifeline services as a non-ETC reseller.

Set forth as Attachment A is an initial draft of Birch's prepaid wireless Lifeline enrollment and certification forms. Birch is continuing to refine these documents and will make any necessary changes to the extent the Commission or the Universal Service Administrative Company ("USAC") issue additional guidance on the language to be contained on enrollment and certification forms. Birch also confirms that it will comply with any future Commission or USAC guidance, directives, or rule changes regarding the Lifeline program.

Consumer Eligibility

Under its current procedures for its wireline Lifeline offering (as a non-ETC reseller), Birch utilizes the Texas Low Income Database Administrator database to verify and document a Texas consumer's eligibility for Lifeline service. Until a national database is available, Birch will utilize available state-level databases to verify eligibility for its prepaid wireless Lifeline service offering as required under the Commission's rules. Where state-level database technology is not available, Birch will require potential customers to provide their proof of eligibility documentation directly to Birch (either via facsimile, U.S. mail, electronic mail, or through a Birch-authorized third-party dealer as discussed below). New subscribers can be added to the Lifeline program through Birch internal sales agents or through Birch-authorized third-party dealers. Birch currently utilizes approximately 100 third-party dealers for its wireline Lifeline product (non-ETC reseller), and plans to offer its wireless Lifeline product at those same locations plus additional locations that would be frequented by the target audience for Lifeline services. Birch's current third-party dealers include check cashing locations, grocery stores, computer stores, independent telephone retailers, storage facilities, beauty supply stores, and pawn shops. Once wireless Lifeline service is implemented, Birch plans to add independent wireless retailers and mall kiosks to its potential third-party dealer locations.

In the internal sales agent situation, the potential subscriber would provide its eligibility documentation to Birch and would complete the enrollment and certification form in paper format, via third-party verification (or "TPV"), or via electronic signature as described in the "Enrollment and Certification" section below. As described in more detail below, the handset would then be shipped to the customer after Birch verifies the customer's eligibility to obtain a Lifeline product and has obtained all necessary certifications from the customer. The flow-chart in Attachment B-1 provides more detail on the process using internal sales agents.

At the third-party retail location, a potential subscriber can provide its eligibility information in-person to the third-party dealer, which will then be transmitted to Birch for review as explained below. The potential subscriber can also complete the enrollment and certification form discussed further below and a draft of which is set forth in Attachment A. As described in more detail below, the handset would then be shipped to the customer after Birch verifies the customer's eligibility to obtain a Lifeline product and has obtained all necessary certifications from the customer. The flow-chart in Attachment B-2 provides more detail on the process using third-party retail locations. To ensure compliance with the Commission's one-per-household and other Lifeline eligibility requirements, Birch will require its third-party dealers to have their employees participate in quarterly webinars to receive training (and re-training) on Commission-compliance requirements for Lifeline services. Birch will also supply each third-party dealer with copies of written materials providing detailed information on the Commission's Lifeline compliance requirements. Birch will then require the third-party dealer to sign documentation certifying that all employees selling Birch Lifeline services have read the Lifeline compliance requirements provided by Birch, understand the Lifeline compliance requirements,

and will comply with the Lifeline compliance requirements. Birch will conduct periodic audits and random checks of its third-party dealers to ensure compliance with the Commission's rules.

It is important to note that, even when a customer signs up for Lifeline service through a third-party dealer, eligibility information provided by potential consumers will be reviewed by appropriate Birch personnel pursuant to Birch's internal policies for review of Lifeline eligibility documents. Until such time as there is adequate database access allowing third-party dealers to confirm eligibility automatically through Commission-sanctioned databases, all initial eligibility determinations will be made by Birch personnel. And even after third-party dealers have access to eligibility databases, Birch will review and verify a consumer's eligibility prior to seeking reimbursement for that customer. As part of confirming a potential customer's eligibility, Birch personnel will also confirm that there is no Lifeline duplication using the process discussed under (5) below. Detailed information regarding the documents provided by the potential customer and Birch's review of the documentation will be included in the customer's account information as kept in Birch's internal recordkeeping system. Any actual documentation provided by the potential customer will be destroyed or returned to the customer upon request.[30]

Enrollment and Certification

Once Birch determines a potential customer is eligible to receive a Lifeline service product, Birch will proceed to enroll the customer in its prepaid wireless Lifeline program and obtain the necessary certifications under the Commission's rules (this can be done by an internal Birch sales agent or a Birch-authorized third-party dealer as explained above). In its current wireline Lifeline service offering (as a non-ETC reseller), Birch utilizes TPV to enroll customers and confirm their certification for Lifeline eligibility in addition to paper enrollment/certification

[30] *Lifeline Reform Order* ¶ 101.

forms. Birch plans to continue utilizing TPV for its prepaid wireless Lifeline service product[31] to the extent Birch can ensure all Commission-required information is included in the TPV without the process becoming too unwieldy for the potential customer. Birch also plans to make paper forms available for enrollment/certification and also is looking to develop an online portal that potential customers could access via any Internet connection, including at their local libraries or social service organizations for electronic signature of the required documentation.

As part of the enrollment/certification process, Birch will first obtain the relevant contact information from the potential customer: (a) full name; (b) full residential address; (c) whether the residential address is permanent or temporary; (d) billing address if different than residential; (e) date of birth, (f) last 4 digits of Social Security Number; (g) if qualifying under federal or state assistance program, which program; and (h) if qualifying under income-based criteria, the number of individuals in the household. Birch will also require the customer to indicate whether the household is shared, which would trigger the use of the Lifeline Household Worksheet developed by USAC (included as part of Birch's draft enrollment and certification form set forth in Attachment A). Birch will also confirm that the customer understands its information may be shared with USAC as necessary under the Commission's rules and to ensure there is no duplication of Lifeline benefits.

Next, Birch will utilize its TPV script or the paper form (or online portal once developed) to address each of the certifications required under the Commission's rules. The certifications will be addressed through individual questions, each to be answered by the customer before

[31] The Commission has recognized TPV is an acceptable method for obtaining such information. *See Lifeline Reform Order* ¶ 169.

moving any further in the TPV script[32] or each to be initialed by the customer on the paper form (or each to be individually acknowledged in an online format):

- Certifying, under penalty of perjury, that the consumer meets the Lifeline eligibility requirements because either the household receives benefits from a qualifying state or federal assistance program (and naming the program) or has income at or below 135% of the Federal Poverty Guidelines;
- Certifying, under penalty of perjury, that the consumer has presented documentation to Birch that accurately represents the consumer's household income or participation in the program;
- Certifying, under penalty of perjury, that the consumer will notify Birch within 30 days when it is no longer eligible for Lifeline service, whether because the consumer no longer qualifies, it has another Lifeline supported service, or for any other reason, and confirming that the customer understands failure to so notify Birch may subject it to penalties;
- Certifying, under the penalty of perjury, that the information the consumer is providing to Birch is true and correct to the best of its knowledge;
- Certifying, under the penalty of perjury, that the consumer understands that providing false or fraudulent information to receive Lifeline benefits is punishable by law;
- Certifying, under penalty of perjury, that the consumer understands it will be required to annually re-certify its continued eligibility for Lifeline at any time and that failure to do so will result in the termination of the consumer's Lifeline benefits;

[32] The customer will be required to answer "Yes" to these questions on the recorded TPV to enroll in Birch's prepaid wireless Lifeline program. TPV recordings are searchable by confirmation number and primary telephone number assigned to the customer. TPV confirmation numbers will be stored in the order and account notes associated with the customer.

- Certifying, under penalty of perjury, that the consumer will provide its new address to Birch within 30 days of moving;
- Certifying, under penalty of perjury, that the consumer will be required to verify its temporary address every 90 days if the subscriber provides a temporary residential address when initially enrolling;
- Certifying, under penalty of perjury that the subscriber's household is receiving no more than one Lifeline-supported service, that the consumer receives Lifeline-supported service only from Birch, and to the best of the consumer's knowledge no one else in the subscriber's household is receiving a Lifeline-supported service;
- Certifying that the consumer understands that Lifeline is a government benefit and consumers who willfully make false statements in order to obtain the benefit can be punished by fine or imprisonment or can be barred from the program;
- Certifying that the consumer understands that Lifeline is a non-transferrable benefit, and that an eligible Lifeline subscriber may not transfer its phone service to anyone else, not even someone who is also eligible;
- Certifying that the consumer understands that non-usage of its prepaid wireless Lifeline service from Birch for any consecutive 60-day period of time will result in de-enrollment and deactivation of the service; and
- Certifying that the consumer understands that (a) Lifeline is a federal benefit; (b) Lifeline service is available for only one line per household; (c) a household is defined for purposes of the Lifeline program as any individual or group of individuals who live together at the same address and share income and expenses; (d) a household is not permitted to receive Lifeline benefits from multiple providers; and (e) violation of the

one-per-household rule constitutes a violation of Commission rules and will result in the consumer's de-enrollment from the program and could result in criminal prosecution by the United States government.

Birch will ensure its TPV script and paper documentation is written in clear, easily understood language. Birch will retain its TPV recordings and copies of its paper enrollment/certification documentation for at least five (5) years.

Once all eligibility determinations and documentation requirements are complete, Birch will ship the handset to the customer via overnight delivery to the address listed on the enrollment form. Birch will require the customer to take affirmative steps to "personally activate" the service, either by requiring the customer to use the handset to activate the Lifeline service or to complete an outgoing call.[33] If service is not initiated, Birch will not consider the consumer to be enrolled in the Lifeline program and Birch will not request Lifeline reimbursement until the subscriber personally activates its service.[34] The flow-charts in Attachments B-1 and B-2 provide more detail on the certification process using both internal sales agents and third-party dealers.

Annual Re-Certification

Birch's systems are capable of tracking and flagging the anniversary of a Lifeline customer's start date. Birch plans to utilize this anniversary date to ensure its Lifeline customers re-certify their eligibility to participate in the Lifeline program once a year. Birch will utilize state-level databases or the national database to the extent available to re-certify customers. Until that time, Birch plans to contact its prepaid wireless Lifeline customers via written notification, and is exploring the ability to utilize text messaging, automated voicemail, and TPV

[33] *Lifeline Reform Order* ¶ 260.

[34] *Lifeline Reform Order* ¶ 257.

re-certification procedures. Any customers that do not re-certify within the 30-day window will be de-enrolled from Birch's prepaid wireless Lifeline service within five (5) business days after the expiration of the subscriber's time to respond to Birch's re-certification efforts as required by Commission's rules, which is explained in more detail below.[35] Birch will retain any TPV recordings, paper forms, copies of text message, or other documentation for re-certification for at least five (5) years. The flow-chart in Attachment B-3 provides more detail on the annual re-certification process.

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

Birch's prepaid wireless Lifeline service offering will comply with the 911 requirements outlined in the *Lifeline Reform Order* necessary for application of conditional forbearance. Birch will provide its prepaid wireless Lifeline subscribers with 911 and E911 access regardless of activation status and availability of minutes. Birch will also provide its Lifeline subscribers with E911-compliant handsets and replace, at no additional charge to the subscriber, any non-compliant handset. Birch will rely on its contractual arrangement with Sprint to provide 911 and E911 services to consumers, as well as obtain the handsets to be provided to consumers.[36] Birch's MVNO arrangement with Sprint specifically addresses 911/E911 services and requires Sprint to supply handsets that satisfy all Commission requirements.

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[35] 47 C.F.R. § 54.405(e)(4).

[36] Birch understands that it has an independent obligation to provide 911 and E911 services as a wireless reseller, and will utilize its underlying contractual arrangement with Sprint to meet that obligation. *See, e.g.*, 47 C.F.R. § 20.18(m); *Lifeline Reform Order* at n.989.

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

Birch will publicize the availability of its prepaid wireless Lifeline service offering in a manner reasonably designed to reach those likely to qualify the service.[37] Birch will utilize the Commission's 2004 outreach guidelines for advertising its prepaid wireless Lifeline service offering.[38] Specifically, Birch will utilize outreach materials and methods designed to reach households that currently do not have telephone service, will develop advertising materials for non-English speaking populations within its service area, and will coordinate its outreach efforts with relevant government agencies. As required under the *Lifeline Reform Order*, Birch will ensure the Commission-required disclosures, any DBA names it uses, and details of the prepaid wireless Lifeline service offering are contained in all marketing materials.[39]

Birch's advertising strategy for its prepaid wireless Lifeline service offering will build on its expertise in advertising its wireline Lifeline product currently offered as a non-ETC reseller. Birch understands that its ability to provide wireline Lifeline services as a non-ETC reseller may be limited in the future. As part of its marketing efforts for its prepaid wireless Lifeline service, Birch will market to those consumers currently taking its wireline Lifeline product, but will ensure that the consumer receives only one Lifeline service in accordance with the Commission's one-per-household rules.

Birch's advertising for its prepaid wireless Lifeline service offering will include, but not be limited to, targeted direct mail, advertisements in daily and weekly print periodicals, billboards, event sponsorship, bus advertising, radio advertising, and online search engines. Birch will also engage in outbound calling campaigns (consistent with applicable telemarketing

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[37] 47 C.F.R. § 54.405(b).

[38] *Lifeline and Link Up*, 19 FCC Rcd 8302, ¶¶ 45-48 (2004).

[39] *Lifeline Reform Order* ¶¶ 274-282.

regulations). Birch will obtain marketing calling lists through various marketing activities, which may include, but not be limited to interest forms completed by prospective customers who have attended a marketing event and have provided their phone number indicating their interest in being contacted. Birch also plans to target its current wireline Lifeline customers (served by Birch as a non-ETC reseller) to determine interest in converting from wireline Lifeline service to wireless Lifeline service. Birch will also consider purchasing prospective customer lists for outbound calling campaigns once the company has determined such lists effectively target potential Lifeline customers and adhere to all applicable telemarketing regulations. Once Birch has a list of prospective customer to contact, Birch marketing personnel will deliver a marketing message that accurately and in detail describes the benefits of the Lifeline program, how the Lifeline program works, and eligibility requirements to qualify as a Lifeline customer, including a determination of whether the prospective customer is already receiving a Lifeline service (duplicative service check). If the prospective customer appears initially qualify, the outbound marketing call with initiate the completion of the Birch Lifeline Enrollment Form and receipt program eligibility documents to be reviewed by Birch personnel.

Birch will also coordinate with relevant state agencies, community outreach organizations, and non-profit organizations to make information available regarding Birch'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 subscribers. Birch has existing relationships with these organizations in connection with its current wireline Lifeline service offering. Birch will pro-actively market 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. Birch will have marketing personnel dedicated to building strong relationships with these agencies - and formulate marketing programs that support the missions of these agencies. Birch will raise awareness of Birch Lifeline services through the inclusion of Birch 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. Birch will also pursue referral arrangements and partnerships where a non-profit non-governmental agency can specifically refer Lifeline-eligible customers directly to Birch in exchange for minimal compensation or other remuneration to the agency for the referral. Birch will also raise 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.

Prior to enrolling a Lifeline customer, Birch will take two steps to prevent duplicate Lifeline subsidies within its own subscriber base. First, Birch will review its own service records to ensure the potential customer is not currently receiving a Lifeline service from Birch. Second, Birch will utilize available state-level databases and the national database to be created to ensure the potential customer is not currently receiving a Lifeline service from any other carrier. Birch will promptly investigate any notification it receives from a state, the Commission, or USAC that one of its Lifeline customers is improperly receiving service. Birch will also update any required databases within one (1) business day of de-enrolling a consumer.[40] The flow-chart set forth in Attachment B-4 provides additional detail on the de-enrollment process described herein.

[40] *Lifeline Reform Order* ¶ 257.

De-enrollment for failure to re-certify. Birch will also re-check its internal databases and available state-level or federal databases as part of its annual re-certification process. Birch will issue a letter separate from the invoice to all subscribers, requesting them to recertify and noticing the subscriber that failure to respond within 30 days will trigger de-enrollment. The subscriber will be given the option to mail or fax back the re-certification form. The subscriber will also be given the option to complete their recertification form online, over the phone with TPV, or by mail. If the subscriber fails to respond with their completed form and documentation of eligibility by the 30th day of the notice period, Birch will de-enroll the customer by taking the following steps: Birch will place a Local Service Request ("LSR") with the supporting local exchange carrier to remove the Lifeline USOC to prevent further credits; remove the credit supplied by Birch to the end user from the billing system; and the credit may only be reapplied if customer goes through certification process again. The flow-chart in Attachment B-3 provides more detail on the annual re-certification process.

De-enrollment for duplicative support. Birch understands that duplicative claims are wasteful and burden the fund, and will take 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, Birch will de-enroll the subscriber within five business days.[41] To the extent de-enrollment is necessary due to duplicative support, Birch will take the following steps to de-enroll a customer: Birch will immediately place a LSR with the supporting local exchange carrier to remove the Lifeline USOC to prevent further credits; remove the credit supplied by Birch to the end user from the

[41] 47 C.F.R. § 54.405(e)(2); *see also Lifeline and Link Up Reform and Modernization*, 26 FCC Rcd 9022, ¶ 15 (2011).

billing system; and have a company policy in place that the credit may only be reapplied if the customer goes through certification process again. Birch will not seek reimbursement for any de-enrolled subscriber following the date of that subscriber's de-enrollment.

De-enrollment for non-usage. As part of its de-enrollment procedures, Birch will comply with the Commission's 60-day non-usage policy. Specifically, Birch will not consider a consumer to be enrolled, and Birch will not seek reimbursement for that consumer, until the consumer activates its service in the first instance.[42] Further, Birch will de-enroll and not seek reimbursement for any consumer whose service is inactive for a consecutive 60-day period.[43] Birch will define "usage" consistent with Commission rules. Specifically, the following activities will constitute "usage" of Birch's prepaid wireless Lifeline service: (1) completion of an outbound call; (2) purchase of minutes to add to the subscriber's service plan; (3) answer of an incoming call from a party other than Birch or its representative; and (4) response to direct contact from Birch and confirmation that the consumer seeks to continue receiving the Lifeline service.[44] Birch will run usage reports for each customer to determine non-usage over a period of 60 consecutive days. Despite a consumer's "usage" as defined herein and in the Commission's rules, Birch will continue to comply with its existing public safety obligations to transmit all wireless 911 calls regardless of subscriber inactivity even if Birch is no longer providing Lifeline service to that consumer.[45]

When a customer has been identified for de-enrollment for non-usage, a letter will be sent to the customer, and the customer will have 30 days to respond. Birch will allow 15 calendar

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[42] 47 C.F.R. § 54.404(b)(10).

[43] *Lifeline Reform Order* ¶ 257.

[44] 47 C.F.R. § 54.407(c)(2); *Lifeline Reform Order* ¶ 261.

[45] *Lifeline Reform Order* ¶ 262.

days for mail delivery and handling, and a 30-day notice period thereafter. Birch will run usage monitoring reports on the customers who have been noticed and de-enroll the customer if usage is not reflected on their account by the 30th day. On the 31st day, Birch will de-enroll the customer by placing a LSR with the supporting local exchange carrier to remove the Lifeline USOC to prevent further credits and remove the credit supplied by Birch to the end user from the billing system. The flow-chart set forth in Attachment B-5 provides more information on the process for de-enrollment for non-usage.

CONCLUSION

WHEREFORE, for the forgoing reasons, Birch respectfully requests that the Commission expeditiously approve its further amended Compliance Plan and designate it as an ETC for the provision of prepaid wireless Lifeline services in the states of Alabama, Florida, North Carolina, and Tennessee.

Respectfully submitted,

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Dated: June 29, 2012

Its Attorneys

Attachment A
to
Compliance Plan

Draft Enrollment and Certification Form

Lifeline Enrollment Form

Three East Steps to Complete:

Step #1 – Complete Lifeline Enrollment Form on page 2
(And if needed Household Worksheet on page 5)

Step #2 – Locate your Lifeline benefit documentation
(More info on your required documentation on pages 3 and 4)

Step #3 – Send complete enrollment form and benefit documentation to NOW Communications
(There are many convenient ways to send them, check Page 2)

Lifeline Enrollment Form

This signed application is required to enroll you in the Lifeline program in your state. This application is only for the purpose of verifying your participation in these programs and will not be used for any other purpose.

Things to know about the Lifeline Program:
- Lifeline is a Federal benefit that is not transferrable to any other person;
- Lifeline service is available for only one line per household. A household cannot receive benefits from multiple providers;
- A household is defined, for purposes of the Lifeline program, as any individual or group of individuals living at the same address that share income and expenses; and,
- Violation of the one-per household rule is not permitted under federal rules and will result in the subscriber's de-enrollment from the program and possible criminal prosecution by the U.S. Government.

First Name: _____ **MI:** _____ **Last Name:** _____ **Date of Birth:** _____

Last Four Digits of Social Security Number: _____ **Contact Telephone Number:** _____

Residential Address:
Must be a street address (not a P.O. Box) and your principal residence.

Address Line 1: _____
Address Line 2: _____
City, State and Zip: _____

Billing Address:
May contain a P.O Box.

☐ Check here if the billing address is the same as the residential address.

Address Line 1: _____
Address Line 2: _____
City, State and Zip: _____

This Address Is: ☐ Permanent ☐ Temporary *(If temporary, your address must be certified or updated every 90 days.)*
☐ A shared, multi-household residence → _____ *(Initial)* If shared, multi-household residence, I hereby certify that other household adults do not contribute income and/or share expenses in my household. *Complete Household Worksheet.*
(Complete Household Worksheet)

_____ *(Initial)* I hereby certify that I qualify to participate in at least one of the following programs (*check all that apply*):
Please see the related documentation requirements on the reverse side.

☐ Supplemental Nutrition Assistance Program (SNAP) formerly known as Food Stamps ☐ Supplemental Security Income (SSI)

☐ Federal Public Housing Assistance (FPHA) or Section 8 ☐ Low Income Home Energy Assistance Program (LIHEAP)

☐ National School Lunch Program's free lunch program ☐ Temporary Assistance for Needy Families (TANF) ☐ Medicaid

_____ *(initial)* I hereby certify that my household income is at or below 135% of the Federal Poverty Guidelines; there are _____ members in my household.
Please see the Federal Poverty Guidelines and the related documentation requirements on the reverse side.

I certify, under penalty of perjury: ***Initial by Each Certification***

_____ The information provided in this application is true and correct to the best of my knowledge; I acknowledge that willfully providing false or fraudulent information in order to receive Lifeline service is punishable by fine or imprisonment, termination of all Lifeline benefits, and being barred from participating in the Lifeline program.

_____ I acknowledge that non-usage over a consecutive 60-day period will result in my de-enrollment from this Lifeline service.

_____ I am eligible for Lifeline service through participation in the qualifying program(s) or meeting the income requirements as identified above.

_____ I have provided documentation of eligibility for Lifeline service, unless otherwise specifically exempted from providing such documentation.

_____ I will inform NOW within 30 days of any potential change in eligibility, including, but not limited to: (i) a move or change of address; (ii) any change in participation in the programs identified above or change in income or household members; (iii) receiving Lifeline service from another provider; or (iv) any other change that would affect my eligibility for Lifeline service. If I fail to inform NOW of any of these changes, I understand under penalty of perjury, I may be subject to penalties.

_____ I have provided the address where I currently reside and, if a temporary address has been provided, then I acknowledge that NOW will attempt to verify my address every 90 days, and, if I do not respond to verification attempts within 30 days, then I may be de-enrolled from my Lifeline benefits.

_____ My household will receive only one Lifeline benefit and, to the best of my knowledge, no one in my household is currently receiving Lifeline service from any other provider.

_____ I acknowledge that I will be required to annually re-certify eligibility and may be required to re-certify continued eligibility for Lifeline at any time and failure to re-certify will result in the termination of Lifeline benefits or other penalties.

_____ I authorize NOW and its agents to access any records (including financial records) required to verify my statements herein and to confirm my eligibility for Lifeline service. I authorize government agencies and their authorized representatives to discuss with and/or provide information to NOW and its agents verifying my participation in public assistance programs that qualify me for Lifeline service.

_____ I acknowledge and consent to my name, telephone number, and address being divulged to the Universal Service Administrative Company (USAC) (the administrator of the program) and/or its agents for the purpose of verifying that I, as a subscriber, do not receive more than one Lifeline benefit. In the event that USAC identifies that I am receiving more than one Lifeline subsidy for my household, all carriers involved may be notified so that I may select one service and be de-enrolled from the other.

APPLICANT SIGNATURE/TPV ID: _____ DATE: _____

FOR NOW COMMUNICATIONS OFFICE USE ONLY

Company Representative Name: _____

☐ Database Queried? Date: ___/___/____ Database Name:_____

☐ ETC Eligibility Review

Confirmation Type:☐ Written, attached ☐Screenshot, attached☐ ETC employee

Type of Documentation reviewed: _____

☐ State Agency Queried? Date: ___/___/___ Agency Name:_____

Agency contact:_____ Confirmation Type: ☐ Notice, attached

Type of media:_____ How received: _____

Date/Expiration Date of Documentation: ___/___/_____

Identity of Documentation: _____

Date reviewed: ___/___/_____

☐Applicant name different than name on documentation (Note: _____)

Name: _____

_____ Certification that individual is part of applicant's household

_____ Certification that individual is does not already receive Lifeline

Representative Signature: _____ Date: _____

NOTES : _____

_____

_____

HOW TO SUBMIT YOUR ENROLLMENT APPLICATION:
COMPLETE ENROLLMENT APPLICATION ONLINE: www.nowcommunications.com FAX: (877) 465-0545 EMAIL: nowcommunications@birch.com
POSTAL MAIL : NOW Communications, 2300 Main St., Suite 340, Kansas City, MO 64108.

HOW TO SUBMIT YOUR DOCUMENTATION:
TEXT A DOCUMENT: (816) 446-3388 FAX: (877) 465-0545 EMAIL: nowcommunications@birch.com POSTAL MAIL: NOW Communications, 2300 Main St., Suite 340, Kansas City, MO 64108.

DOCUMENTATION REQUIREMENTS

You are required to provide proof of your participation in the programs you identified OR proof of your qualifying income.

PROGRAM ELIGIBILITY

If, on page 1 of this form, you indicated you were in a qualifying program. You must provide documentation to prove receipt of benefits under these programs to NOW Communications. Upon examination by NOW Communications, any copies, photos or faxes of your documentation will be destroyed or returned to you at your request. Acceptable forms of documentation are described below:

Public Housing Assistance (FPHA) or Section 8
There are two types of documentation that can prove receipt of benefits under the Public Housing Assistance (FPHA), or Section 8, Program.
First, an applicant can provide an award letter. A recipient of Public Housing Assistance (FPHA), or Section 8, receives an award letter from his or her local Public Housing Agency (PHA). The award letter should include the following information:, name of program, date of award, name of beneficiary and award amount.

Second, an applicant can provide either a Public Housing Assistance Lease Agreement or a Section 8 Voucher. These items should clearly reflect the type of Public Housing Assistance credit issued.
If the beneficiary does not have an award letter, lease agreement, or voucher, the applicant can contact the agency that approved the application and request formal documentation of his or her award. To find contact information for a local Public Housing Agency, please visit the U.S. Department of Housing and Urban Development's state contact and agency listing.

The beneficiary named on the FPHA documentation may be a member of the Lifeline applicant's household, rather than the applicant. If the name of the beneficiary on the documentation provided does not match the name of the Lifeline applicant, NOW Communications must record the name of the beneficiary and confirm by receiving certification from the applicant that the named beneficiary is a member of his or her household, and that this individual does not receive Lifeline.

Low Income Home Energy Assistance Program (LIHEAP)
Because the Low Income Home Energy Assistance Program (LIHEAP) is administered by a wide range of local agencies, the program's name may vary by state (note that most include the words "energy assistance program" in the name).
There are two types of documentation applicants can provide to demonstrate receipt of LIHEAP benefits.

First, a LIHEAP participant might have an award letter from a state agency. The award letter will include the following: name of program, date of award, name of beneficiary and award amount. In some instances, if the beneficiary received notification of his or her approval in-person, the awardee might not have a formal award letter and will need to contact the state agency that approved the application to request a formal award letter.
Second, a LIHEAP participant can provide a utility bill that reflects the Housing Assistance credit. The utility bill should clearly reflect inclusion of an Energy Assistance credit.
The beneficiary named on the LIHEAP documentation may be a member of the Lifeline applicant's household, rather than the applicant. If the name of the beneficiary on the documentation provided does not match the name of the Lifeline applicant, the ETC must record the name of the beneficiary and confirm by receiving certification from the applicant that the named beneficiary is a member of his or her household, and that this individual does not receive Lifeline.
To find contact information for a local LIHEAP agency, please visit the Low Income Home Energy Assistance Program's state contact and agency listing.

National School Lunch Program's Free Lunch Program (NSLP)
Although the National School Lunch Program's Free Lunch Program (NSLFP) is a federally assisted program, award letters are provided by state agencies and, thus, will vary by locality. All award letters should contain the following basic information: name of program, name of beneficiary, address of beneficiary and date of award. The beneficiary named on the NSLP documentation may be a dependent of the Lifeline applicant, rather than the applicant. If the name of the beneficiary on the documentation provided does not match the name of the Lifeline applicant, the ETC must record the name of the beneficiary and confirm by receiving certification from the applicant that the named beneficiary is a member of his or her household, and that this individual does not receive Lifeline.

Supplemental Security Income (SSI)
Participation in the federal portion of SSI is an eligibility criterion for Lifeline. Some states offer state supplements to the federal SSI program, but receipt of benefits from the state supplement, but not federal SSI, does not qualify an individual for Lifeline. All award letters should contain the following basic information: name of program, name of beneficiary, address of beneficiary, date of award and award amount. A benefit check stub from the Social Security Administration may also be submitted as proof of participation, if the check stub clearly states the date and name of the beneficiary.
The beneficiary named on the SSI documentation may be a dependent of the Lifeline applicant, rather than the applicant. If the name of the beneficiary on the documentation provided does not match the name of the Lifeline applicant, the ETC must record the name of the beneficiary and confirm by receiving certification from the applicant that the named beneficiary is a member of his or her household, and that this individual does not receive Lifeline.

Temporary Assistance for Needy Families (TANF)
All award letters should contain the following basic information: name of program, name of beneficiary, address of beneficiary and date of award.
The beneficiary named on the TANF documentation may be a member of the Lifeline applicant's household, rather than the applicant. If the name of the beneficiary on the documentation provided does not match the name of the Lifeline applicant, the ETC must record the name of the beneficiary and confirm by receiving certification from applicant that the named beneficiary is a member of his or her household, and that this individual does not receive Lifeline.

In some states, TANF might be more commonly referred to by a different name. Look for your state on this list of TANF program names by state.

Supplemental Nutrition Assistance Program (SNAP)
The Supplemental Nutrition Assistance Program (SNAP) was previously known as Food Stamps. Beneficiary cards and award letters may vary because SNAP is administered on a state level. Because not all beneficiary cards include the recipient's name, it is recommended that an award letter from the local state agency be used for Lifeline verification purposes. All award letters should contain the following basic information: name of program, name of beneficiary, address of beneficiary and date of award.
The beneficiary named on the SNAP documentation may be a member of the Lifeline applicant's household, rather than the applicant. If the name of the beneficiary on the documentation provided does not match the name of the Lifeline applicant, the ETC must record the name of the beneficiary and confirm by receiving certification from the applicant that the named beneficiary is a member of his or her household, and that this individual does not receive Lifeline.

In some states, SNAP might be more commonly referred to by a different name. Look for your state on this list of SNAP program names by state.

Medicaid
Each state provides its own unique Medicaid card to beneficiaries. However, most cards should clearly state the following: name of program, name of beneficiary, state of residence, issued or effective date and the name of the state agency that provided the card.
The beneficiary named on the Medicaid documentation may be a dependent of the Lifeline applicant, rather than the applicant. If the name of the beneficiary on the documentation provided does not match the name of the Lifeline applicant, the ETC must record the name of the beneficiary and confirm by receiving certification from the applicant that the named beneficiary is a member of his or her household, and that this individual does not receive Lifeline.

Some states have different names for their Medicaid programs. Look for your state on this list of Medicaid program names by state.

PROGRAM ELIGIBILITY

An applicant may be eligible for Lifeline if he or she has a household income at or below 135% of the Federal Poverty Guidelines. Below are the acceptable types of documentation:

- The prior year's state, federal, or Tribal tax return
- A current income statement from an employer or paycheck stub
- A Social Security statement of benefits
- A Veterans Administration statement of benefits
- A retirement or pension statement of benefits
- An Unemployment or Workers' Compensation statement of benefits
- A federal or Tribal notice letter of participation in General Assistance
- A divorce decree, child support award, or other official document containing income information
- If the documentation relied on does not cover a full year, such as a

135% FEDERAL POVERTY GUIDELINES - 2012	
Members of Household	**Household Income must be at or below**
1	$ 15,080
2	$ 20,426
3	$ 25,772
4	$ 31,118
5	$ 36,464
6	$ 41,810
7	$ 47,156
8	$52,502
For every additional member of your household, add $4,950.	

Optional Lifeline Household Worksheet

Complete only if you checked "A shared, multi-household residence" on your enrollment form

Name	
Address	
Telephone Number	

Lifeline is a government program that provides a monthly discount on home or mobile telephone services. Only ONE Lifeline discount is allowed per household. Members of a household are not permitted to receive Lifeline service from multiple telephone companies.

Your **household** is everyone who lives together at your address as one economic unit (including children and people who are not related to you).

The **adults** you live with are part of your **economic unit** if they contribute to and share in the income and expenses of the household. An **adult** is any person 18 years of age or older, or an emancipated minor (a person under age 18 who is legally considered to be an adult). Household **expenses** include food, health care expenses (such as medical bills) and the cost of renting or paying a mortgage on your place of residence (a house or apartment, for example) and utilities (including water, heat and electricity). **Income** includes salary, public assistance benefits, social security payments, pensions, unemployment compensation, veteran's benefits, inheritances, alimony, child support payments, worker's compensation benefits, gifts, and lottery winnings.

Spouses and domestic partners are considered to be part of the same household. Children under the age of 18 living with their parents or guardians are considered to be part of the same household as their parents or guardians. If an adult has no income, or minimal income, and lives with someone who provides financial support to that adult, both people are considered part of the same household.

You have been asked to complete this Worksheet because someone else currently receives a Lifeline-supported service at your address. This other person may or may not be a part of your household. Answer the questions below to determine whether there is more than one household residing at your address.

1. Does your spouse or domestic partner (that is, someone you are married to or in a relationship with) already receive a Lifeline-discounted phone? (*check no if you do not have a spouse or partner*) _____**YES** _____**NO**

- If you checked **YES**, you may not sign up for Lifeline because someone in your household already receives Lifeline. Only ONE Lifeline discount is allowed per household.
- If you checked **NO**, please answer question #2.

2. Other than a spouse or partner, do other adults (people over the age of 18 or emancipated minors) live with you at your address?

A. A parent _____**YES** _____**NO**
B. An adult son or daughter _____**YES** _____**NO**
C. Another adult relative (such as a sibling, aunt, cousin, grandparent, grandchild, etc.) _____**YES** _____**NO**
D. An adult roommate _____**YES** _____**NO**
E. Other _____ _____**YES** _____**NO**

- If you checked **NO** for each statement above, you do not need to answer the remaining questions. Please initial line B, below, and sign and date the worksheet.
- If you checked **YES**, please answer question #3.

3. Do you share living expenses (bills, food, etc.) and share income (either your income, the other person's income or both incomes together) with at least one of the adults listed above in question #2? _____**YES** _____**NO**

- If you checked **NO**, then your address includes **more than one household**. Please initial lines A and B below, and sign and date the worksheet.
- If you checked **YES**, then your address includes only **one household**. You may not sign up for Lifeline because someone in your household already receives Lifeline.

CERTIFICATION

Please initial the certifications below and sign and date this worksheet. Submit this worksheet to NOW Communications along with your Lifeline application.

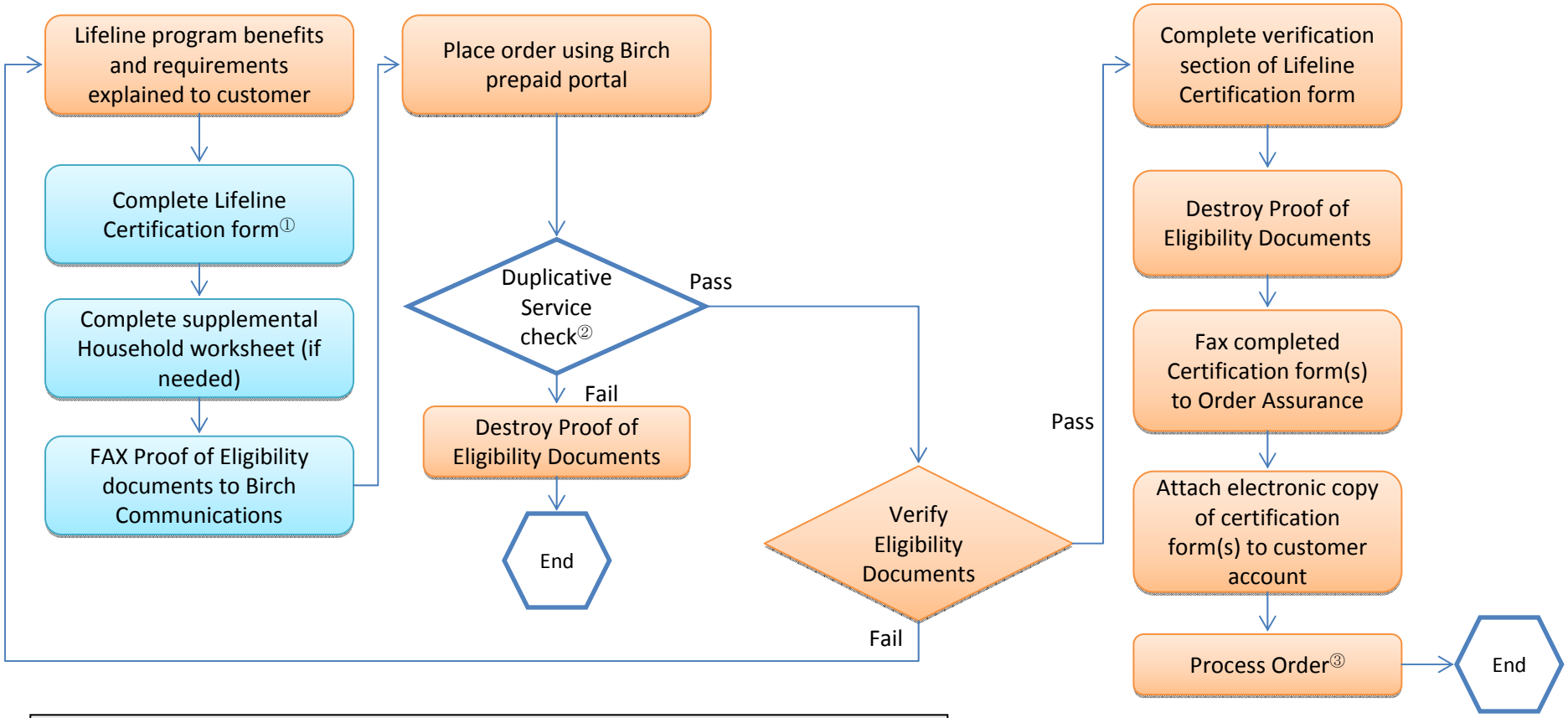
A. _____*I certify that I live at an address occupied by multiple households.*
B. _____*I understand that violation of the one-per-household requirement is against the Federal Communication Commission's rules and may result in me losing my Lifeline benefits, and potentially, prosecution by the United States government.*

Signature_____ Date_____

Attachment B
to
Compliance Plan

Flow-Charts Depicting Birch Internal Processes for Lifeline Compliance

Lifeline Certification process – Internal Sales Agents



① Certification form may be completed by one of the following methods:
- Hand-written paper form
- Third-Party Verification (TPV)
- Electronic Signature (Docusign)

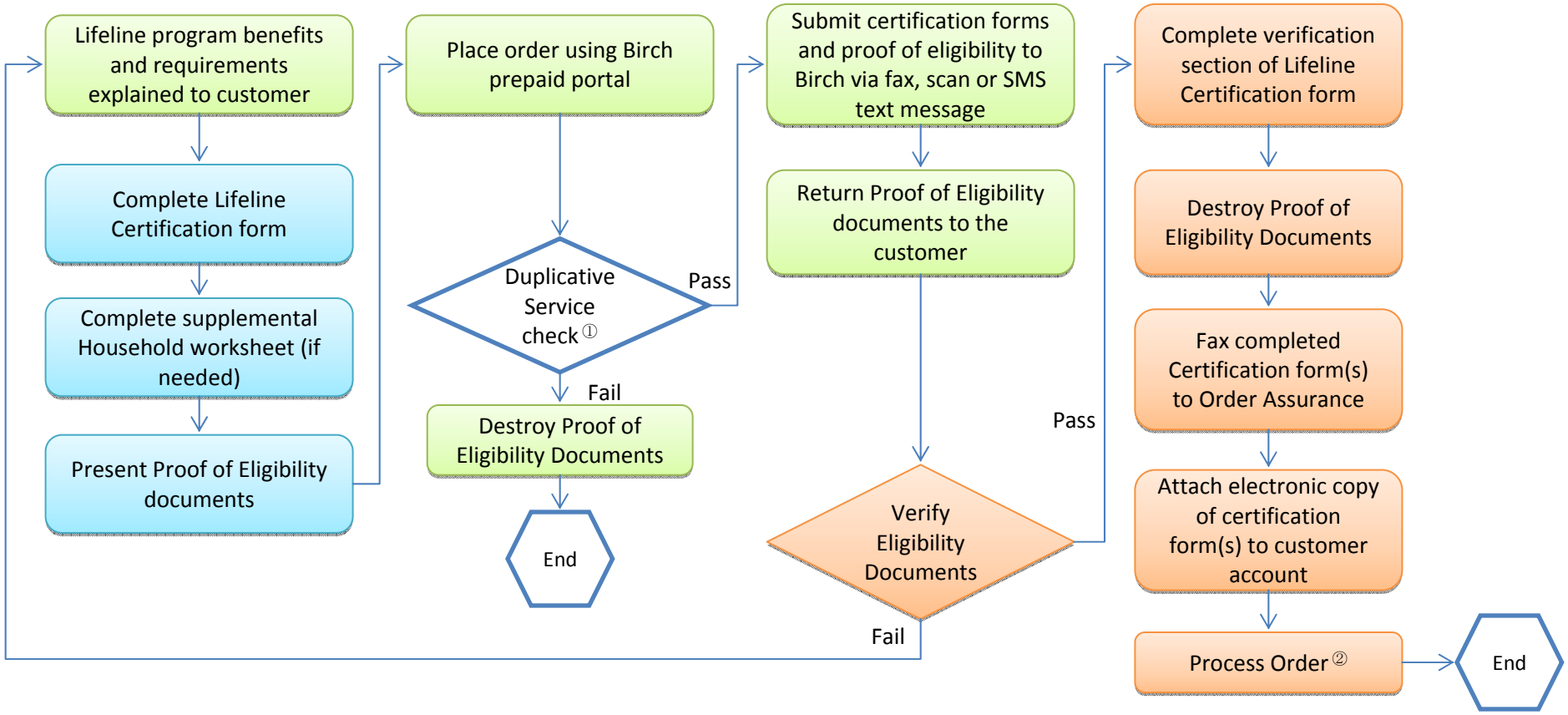
② When duplicative service is found, Birch will determine if customer is part of multi-household residence

③ Wireless handsets will be shipped to the customer in an inactive state. Birch will not seek lifeline reimbursement from USAC until the customer activates the device and incurs usage

Customer

Birch Communications

Lifeline Certification process – Authorized Dealers



① When duplicative service is found, Birch will determine if customer is part of multi-household residence

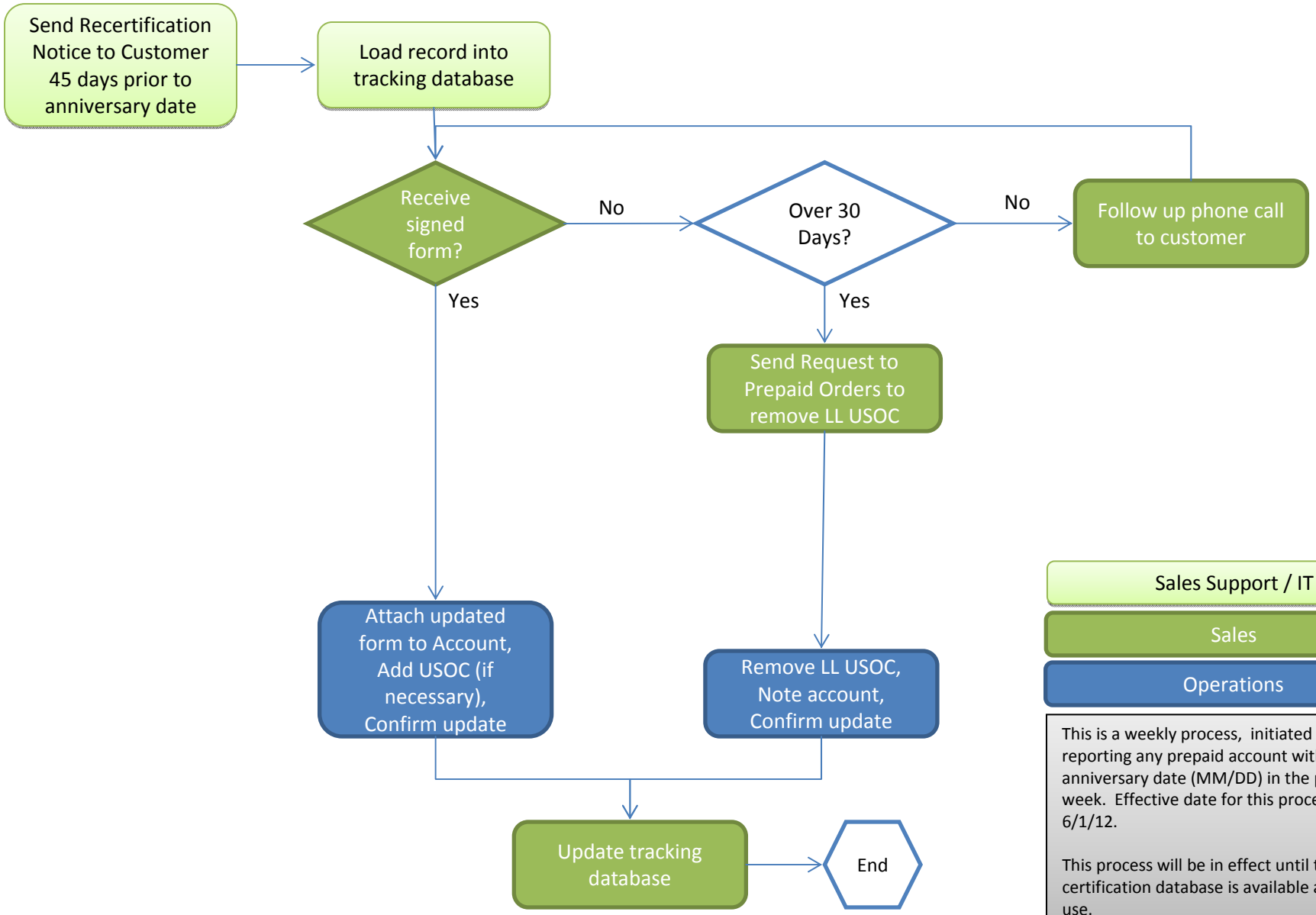
② Wireless handsets will be shipped to the customer in an inactive state. Birch will not seek lifeline reimbursement from USAC until the customer activates the device and incurs usage

Birch Authorized Dealer

Customer

Birch Communications

Annual Lifeline Re-Certification



Sales Support / IT

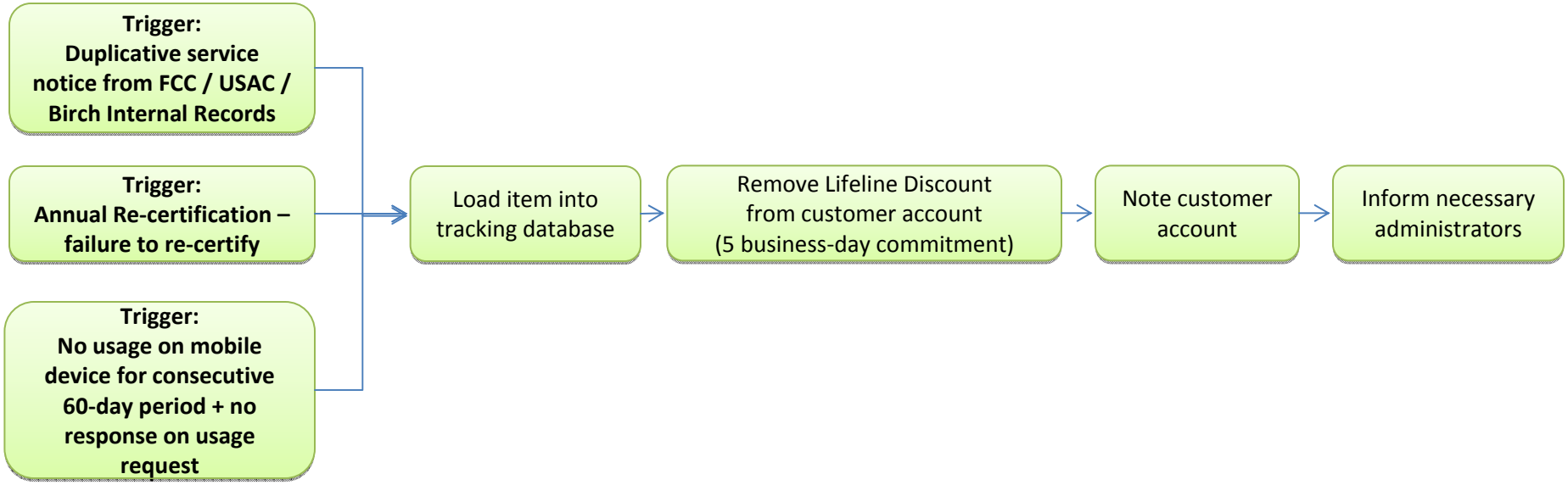
Sales

Operations

This is a weekly process, initiated by reporting any prepaid account with an anniversary date (MM/DD) in the previous week. Effective date for this process is 6/1/12.

This process will be in effect until the national certification database is available and is in use.

Lifeline De-enrollment Scenarios



- De-enrollment in Lifeline program will remove the customer from any USAC filings for reimbursement of the lifeline discount amount.
- All wireless handsets, regardless of activation status, will retain the capability of dialing and reaching emergency-911

Non-Usage notification

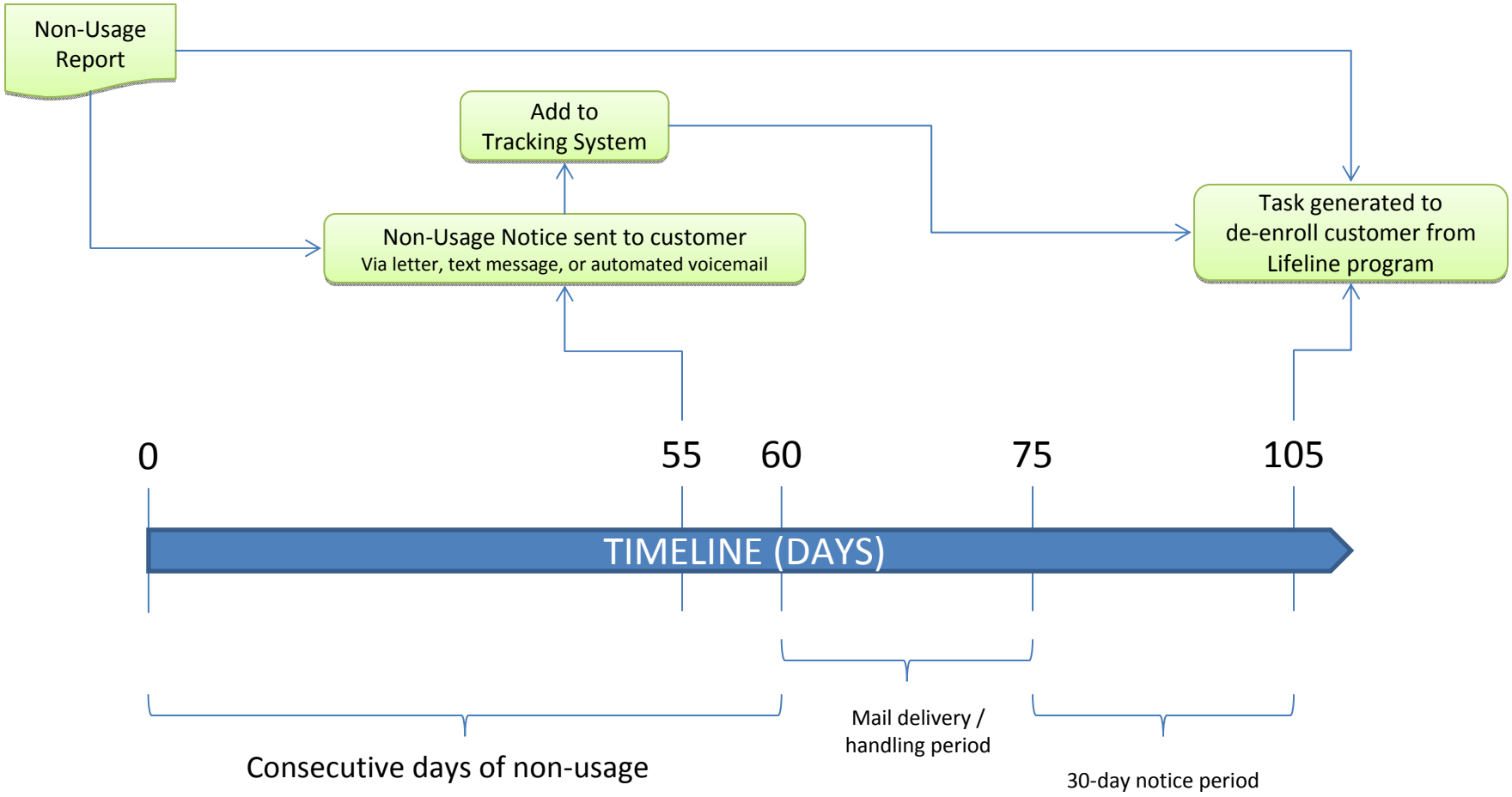


EXHIBIT 2

State Commission Statements regarding Jurisdiction for Wireless ETC Designation for Alabama, Florida, North Carolina, Tennessee, and Texas

Alabama Public Service Commission Orders

PINE BELT CELLULAR, INC. and PINE BELT PCS, INC., **Joint Petitioners**	**PETITION: For ETC status and/or clarification regarding the jurisdiction of the Commission to grant ETC status to wireless carriers.** **DOCKET U-4400**

ORDER

BY THE COMMISSION:

In a joint pleading submitted on September 11, 2001, Pine Belt Cellular, Inc. and Pine Belt PCS, Inc. (collectively referred to as "Pine Belt") each notified the Commission of their desire to be designated as universal service eligible telecommunications carriers ("ETCs") for purposes of providing wireless ETC service in certain of the non-rural Alabama wireline service territories of BellSouth Telecommunications, Inc. ("BellSouth") and Verizon South, Inc. ("Verizon"). The Pine Belt companies noted their affiliation with Pine Belt Telephone Company, a provider of wireline telephone service in rural Alabama, but clarified that they exclusively provide cellular telecommunications and personal communications (collectively referred to as "CMRS" or "wireless") services in their respective service areas in Alabama in accordance with licenses granted by the Federal Communications Commission ("FCC"). The pivotal issue raised in the joint pleading of Pine Belt companies is whether the Commission will assert jurisdiction in this matter given the wireless status of the Pine Belt companies.

As noted in the filing of the Pine Belt companies, state Commissions have primary responsibility for the designation of eligible telecommunications carriers in their respective jurisdictions for universal service purposes pursuant to 47 USC §214 (e). The Commission indeed established guidelines and requirements for attaining ETC status in this jurisdiction pursuant to notice issued on October 31, 1997.

For carriers not subject to state jurisdiction, however, §214(e)(6) of the Telecommunications Act of 1996 provides that the FCC shall, upon request, designate such carriers as ETCs in non-rural service territories if said carriers meet the requirements of §214(e)(1). In an FCC Public Notice released December 29, 1997 (FCC 97-419) entitled "Procedures for FCC designation of Eligible Telecommunications Carriers pursuant to §214(e)(6) of the Telecommunications Act", the FCC required each applicant seeking ETC designation from the FCC to provide, among other things, "a certification and brief statement of supporting facts demonstrating that the Petitioner is not subject to the jurisdiction of a state Commission."

The Pine Belt companies enclosed with their joint pleading completed ETC application forms as developed by the Commission. In the event the Commission determines that it does not have jurisdiction to act on the Pine Belt request for ETC status, however, the Pine Belt companies seek an affirmative written statement from the Commission indicating that the Commission lacks jurisdiction to grant them ETC status as wireless carriers.

The issue concerning the APSC's jurisdiction over providers of cellular services, broadband personal communications services, and commercial mobile radio services is one that was rather recently addressed by the Commission. The Commission indeed issued a Declaratory Ruling on March 2, 2000, in Docket 26414 which concluded that as the result of certain amendments to the Code of Alabama, 1975 §40-21-120(2) and (1)(a) effectuated in June of 1999, the APSC has no authority to regulate, *in any respect*, cellular services, broadband personal communications services and commercial mobile radio services in Alabama. Given the aforementioned conclusions by the Commission, it seems rather clear that the Commission has no jurisdiction to take action on the Application of the Pine Belt companies for ETC status in this jurisdiction. The Pine Belt companies and all other wireless providers seeking ETC status should pursue their ETC designation request with the FCC as provided by 47 USC §214(e)(6).

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the Commission's jurisdiction to grant Eligible Telecommunications Carrier status for universal service purposes does not extend to providers of cellular services, broadband personal communications services, and commercial mobile radio services. Providers of such services seeking Eligible Telecommunications Carrier status should accordingly pursue their requests through the Federal Communications Commission.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 12th day of March, 2002.

ALABAMA PUBLIC SERVICE COMMISSION

Jim Sullivan, President

Jan Cook, Commissioner

George C. Wallace, Jr., Commissioner

ATTEST: A True Copy

Walter L. Thomas, Jr., Secretary

Press the Back Arrow to Return to the Search

Return to PSC Home - http://www.psc.state.al.us/index.htm

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EDUARDO E. BALBIS
JULIE I. BROWN

STATE OF FLORIDA

GENERAL COUNSEL
S. CURTIS KISER
(850) 413-6199

Public Service Commission

June 2, 2011

Mr. Douglas D. Orvis, II
Bingham McCutchen, LLP
2020 K. Street NW
Washington, DC 20006-1806

Re: Undocketed – TAG Mobile, LLC's ETC Designation

Dear Mr. Orvis:

We received your May 25, 2011 letter requesting a statement that the Florida Public Service Commission's jurisdiction to grant ETC designation to TAG Mobile, LLC changed with Governor Scott's approval of HB 1231, the telecom reform bill.

This letter acknowledges that Governor Scott's approval of HB 1231, the telecom reform bill, revises Chapter 364, Florida Statutes, thereby changing the Commission's jurisdiction regarding telecommunications companies. I direct your attention to Chapter 364, Florida Statutes, including the revisions by HB 1231 for the proposition that the Federal Communications Commission, rather than this Commission is the appropriate agency to consider TAG Mobile, LLC's bid for ETC status.

Sincerely,

S. Curtis Kiser

S. Curtis Kiser
General Counsel

cc: Beth W. Salak, Director, Division of Regulatory Analysis
Robert J. Casey, Public Utilities Supervisor, Division of Regulatory Analysis
Adam J. Teitzman, Attorney Supervisor, Office of the General Counsel
Ann Cole, Commission Clerk, Office of Commission Clerk

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. P-100, SUB 133c

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Designation of Carriers Eligible for Universal Carrier Support	)))	ORDER GRANTING PETITION

BY THE COMMISSION: On August 22, 2003, North Carolina RSA3 Cellular Telephone Company, d/b/a Carolina West (Carolina West), a commercial mobile radio service (CMRS) provider, filed a Petition seeking an affirmative declaratory ruling that the Commission lacks jurisdiction to designate CMRS carrier eligible telecommunications carrier (ETC) status for the purposes of receiving federal universal service support.

In support of its Petition, Carolina West stated that it was a CMRS provider authorized by the Federal Communications Commission (FCC) to provide cellular mobile radio telephone service in North Carolina, and that the FCC had clearly recognized that CMRS carriers such as Carolina West may be designated as ETCs. ETC status is necessary for a provider to be eligible to receive universal service support. Section 214(e)(6) of the Telecommunications Act provides that if a state commission determines that it lacks jurisdiction over a class of carriers, the FCC is charged with making the ETC determination. The FCC has stated that, in order for the FCC to consider requests pursuant to this provision, a carrier must provide an "affirmative statement" from the state commission or court of competent jurisdiction that the state lacks jurisdiction to perform the designation. To date, several state commissions have declined to exercise such jurisdiction.

North Carolina has excluded CMRS form the definition of "public utility." See, G.S. 62-3(23)j. Pursuant to this, the Commission issued its Order Concerning Deregulation of Wireless Providers in Docket Nos. P-100, Sub 114 and Sub 124 on August 28, 1995, concluding that the Commission no longer has jurisdiction over cellular services. Accordingly, Carolina West has now requested the Commission to issue an Order stating that it does not have jurisdiction to designate CMRS carriers ETC status for the purposes of receiving federal universal service support.

WHEREUPON, the Commission reaches the following

CONCLUSIONS

After careful consideration, the Commission concludes that it should grant Carolina West's Petition and issue an Order stating that it lacks jurisdiction to designate ETC status

for CMRS carriers. As noted above, in its August 28, 1995, Order in Docket Nos. P-100, Sub 114 and Sub 124, the Commission observed that G.S. 62-3(23)j, enacted on July 29, 1995, has removed cellular services, radio common carriers, personal communications services, and other services then or in the future constituting a mobile radio communications service from the Commission's jurisdiction. 47 USC 3(41) defines a "state commission" as a body which "has regulatory jurisdiction with respect to the intrastate operation of carriers." Pursuant to 47 USC 214(e)(6), if a state commission determines that it lacks jurisdiction over a class of carriers, the FCC must determine which carriers in that class may be designated as ETCs. Given these circumstances, it follows that the Commission lacks jurisdiction over CMRS services and the appropriate venue for the designation of ETC status for such services is with the FCC. Accord., Order Granting Petition, ALLTEL Communications, Inc., June 24, 2003.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of August, 2003.

NORTH CAROLINA UTILITIES COMMISSION

Patricia Swenson

Patricia Swenson, Deputy Clerk

p082503.01

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 11, 2003

IN RE:	)	
	)	
APPLICATION OF ADVANTAGE CELLULAR SYSTEMS, INC. TO BE DESIGNATED AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER	)))	**DOCKET NO. 02-01245**

ORDER

This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned in this docket, at the regularly scheduled Authority Conference held on January 27, 2003, for consideration of the *Application of Advantage Cellular Systems, Inc. To Be Designated As An Eligible Telecommunications Carrier* ("*Application*") filed on November 21, 2002.

Background

Advantage Cellular Systems, Inc. ("Advantage") is a commercial mobile radio service provider ("CMRS") seeking designation as an Eligible Telecommunications Carrier ("ETC") by the Authority pursuant to 47 U.S.C. §§ 214 and 254. In its *Application*, Advantage asserts that it seeks ETC status for the entire study area of Dekalb Telephone Cooperative, Inc., a rural cooperative telephone company. Advantage maintains that it meets all the necessary requirements for ETC status and therefore is eligible to receive universal service support throughout its service area.

The January 27, 2003 Authority Conference

During the regularly scheduled Authority Conference on January 27, 2003, the panel of Directors assigned to this docket deliberated Advantage's *Application*. Of foremost consideration was the issue of the Authority's jurisdiction. The panel unanimously found that the Authority lacked

jurisdiction over Advantage for ETC designation purposes.[1]

This conclusion was implicitly premised on Tenn. Code Ann. § 65-4-104, which provides that:

> The Authority has general supervisory and regulatory power, jurisdiction and control over all public utilities and also over their property, property rights, facilities, and franchises, so far as may be necessary for the purpose of carrying out the provisions of this chapter.

For purposes of Tenn. Code Ann. § 65-4-104, the definition of public utilities specifically excludes, with certain exceptions not relevant to this case, "[a]ny individual, partnership, copartnership, association, corporation or joint stock company offering domestic public cellular radio telephone service authorized by the federal communications commission."

The Authority's lack of jurisdiction over CMRS providers implicates 47 U.S.C. § 214(e), which addresses the provision of universal service. Where common carriers seeking universal service support are not subject to a state regulatory commission's jurisdiction, 47 U.S.C. § 214(e)(6) authorizes the Federal Communications Commission ("FCC") to perform the ETC designation.[2]

---

[1] This finding is not inconsistent with the Authority's decision in *In re: Universal Service Generic Contested Case*, Docket 97-00888, *Interim Order on Phase I of Universal Service*, pp. 53-57 (May 20, 1998), in which the Authority required intrastate telecommunications carriers to contribute to the intrastate Universal Service Fund including telecommunications carriers not subject to authority of the TRA. The decision in Docket No. 97-00888 was based primarily on 47 U.S.C. § 254(f) which authorizes states to adopt regulations not inconsistent with the Federal Communications Commission's rules on Universal Service and specifically requires every telecommunications carrier that provides intrastate telecommunications services to contribute to the preservation and advancement of universal service in that state. The *Interim Order* was issued prior to the effective date of 47 U.S.C. § 214(e)(6).

[2] 47 U.S.C. §214(e)(6) states:

(6) Common carriers not subject to state commission jurisdiction

> In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law. Upon request and consistent with the public interest, convenience and necessity, the Commission may, with respect to an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated under this paragraph, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest.

As a matter of "state-federal comity," the FCC requires that carriers seeking ETC designation "first consult with the state commission to give the state commission an opportunity to interpret state law."[3] Most carriers that are not subject to a state regulatory commission's jurisdiction seeking ETC designation must provide the FCC "with an affirmative statement from a court of competent jurisdiction or the state commission that it lacks jurisdiction to perform the designation."[4]

The panel noted that the FCC is the appropriate forum for Advantage to pursue ETC status pursuant to 47 U.S.C. § 214(e)(6). This Order shall serve as the above mentioned affirmative statement required by the FCC.

IT IS THEREFORE ORDERED THAT:

The *Application of Advantage Cellular Systems, Inc. To Be Designated As An Eligible Telecommunications Carrier* is dismissed for lack of subject matter jurisdiction.

Sara Kyle, Chairman

Deborah Taylor Tate, Director

Pat Miller, Director

[3] *In the Matter of Federal-State Joint Bd. on Universal Service*, CC Docket No. 96-45, *Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, 15 F.C.C.R. 12208, 12264, ¶ 113 (June 30, 2000).

[4] *See id.* (The "affirmative statement of the state commission may consist of any duly authorized letter, comment, or state commission order indicating that it lacks jurisdiction to perform designations over a particular carrier.")

PROJECT NO. 40561

2012 NOV 21 AM 11:37

RULEMAKING TO AMEND SUBSTANTIVE RULE 26.418 RELATING TO DESIGNATION OF COMMON CARRIERS AS ELIGIBLE TELECOMMUNICATIONS CARRIERS TO RECEIVE FEDERAL UNIVERSAL SERVICE FUNDS	§ § § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS

ORDER ADOPTING AMENDMENT TO §26.418 AS APPROVED AT THE NOVEMBER 16, 2012 OPEN MEETING

The Public Utility Commission of Texas (commission) adopts an amendment to §26.418, relating to Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds, with no changes to the proposed text as published in the August 31, 2012, issue of the *Texas Register* (37 TexReg 6874). The amendment will exclude commercial mobile radio service (CMRS) resellers from eligibility for designation by the commission as an eligible telecommunications carrier (ETC). Instead, a CMRS reseller will be able to seek designation as an ETC by the Federal Communications Commission (FCC). Project Number 40561 is assigned to this proceeding.

The commission did not receive any comments on the proposed amendment.

The amendment is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2007 and Supp. 2012) (PURA), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically §51.001, which provides that it is the policy of this state to promote diversity of telecommunications providers and interconnectivity; encourage a fully competitive

8

telecommunications marketplace; and maintain a wide availability of high quality interoperable, standards-based telecommunications services at affordable rates.

Cross Reference to Statutes: PURA §§14.002 and 51.001.

§26.418. Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds.

(a) **Purpose.** This section provides the requirements for the commission to designate common carriers as eligible telecommunications carriers (ETCs) to receive support from the federal universal service fund (FUSF) pursuant to 47 United States Code (U.S.C.) §214(e) (relating to Provision of Universal Service). In addition, this section provides guidelines for rural and non-rural carriers to meet the federal requirements of annual certification for FUSF support criteria and, if requested or ordered, for the disaggregation of rural carriers' FUSF support.

(b) **Applicability.** This section applies to a common carrier seeking designation as an ETC, except for commercial mobile radio service (CMRS) resellers. A CMRS reseller may not seek designation from the commission, but instead may seek designation as an ETC by the Federal Communications Commission (FCC). This section also applies to a common carrier that has been designated by the commission as an ETC, including a CMRS reseller.

(c) **Service areas.** The commission may designate ETC service areas according to the following criteria.

(1) **Non-rural service area.** To be eligible to receive federal universal service support in non-rural areas, a carrier must provide federally supported services pursuant to 47 Code of Federal Regulations (C.F.R.) §54.101 (relating to

Supported Services for Rural, Insular, and High Cost Areas) throughout the area for which the carrier seeks to be designated an ETC.

(2) **Rural service area.** In the case of areas served by a rural telephone company, as defined in §26.404 of this title (relating to Small and Rural Incumbent Local Exchange Company (ILEC) Universal Service Plan), a carrier must provide federally supported services pursuant to 47 C.F.R. §54.101 throughout the study area of the rural telephone company in order to be eligible to receive federal universal service support.

(d) **Criteria for determination of ETCs.** A common carrier shall be designated as eligible to receive federal universal service support if it:

(1) offers the services that are supported by the federal universal service support mechanisms under 47 C.F.R. §54.101 either using its own facilities or a combination of its own facilities and resale of another carrier's services; and

(2) advertises the availability of and charges for such services using media of general distribution.

(e) **Criteria for determination of receipt of federal universal service support.** In order to receive federal universal service support, a common carrier must:

(1) meet the requirements of subsection (d) of this section;

(2) offer Lifeline Service to qualifying low-income consumers in compliance with 47 C.F.R. Part 54, Subpart E (relating to Universal Service Support for Low-Income Consumers); and

(3) offer toll limitation services in accordance with 47 C.F.R. §54.400 (relating to Terms and Definitions) and §54.401 (relating to Lifeline Defined).

(f) **Designation of more than one ETC.**

(1) Non-rural service areas. In areas not served by rural telephone companies, as defined in §26.404 of this title, the commission shall designate, upon application, more than one ETC in a service area so long as each additional carrier meets the requirements of subsection (c)(1) of this section and subsection (d) of this section.

(2) Rural service areas. In areas served by rural telephone companies, as defined in §26.404 of this title, the commission may designate as an ETC a carrier that meets the requirements of subsection (c)(2) of this section and subsection (d) of this section if the commission finds that the designation is in the public interest.

(g) **Proceedings to designate ETCs.**

(1) At any time, a common carrier may seek commission approval to be designated an ETC for a requested service area.

(2) In order to receive support under this section for exchanges purchased from an unaffiliated carrier, the acquiring ETC shall file an application, within 30 days after the date of the purchase, to amend its ETC service area to include those geographic areas that are eligible for support.

(3) If an ETC receiving support under this section sells an exchange to an unaffiliated carrier, it shall file an application, within 30 days after the date of the sale, to

amend its ETC designation to exclude from its designated service area those exchanges for which it was receiving support.

(h) **Application requirements and commission processing of applications.**

(1) **Requirements for notice and contents of application.**

(A) Notice of application. Notice shall be published in the *Texas Register*. The presiding officer may require additional notice. Unless otherwise required by the presiding officer or by law, the notice shall include at a minimum a description of the service area for which the applicant seeks eligibility, the proposed effective date of the designation, and the following statement: "Persons who wish to comment on this application should notify the Public Utility Commission of Texas by (specified date, ten days before the proposed effective date). Requests for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or you may call the Public Utility Commission's Customer Protection Division at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136, or use Relay Texas (800) 735-2989 to reach the commission's toll free number (888) 782-8477."

(B) Contents of application for each common carrier seeking ETC designation. A common carrier that seeks to be designated as an ETC shall file with the commission an application complying with the requirements of this

section. In addition to copies required by other commission rules, one copy of the application shall be delivered to the commission's Regulatory Division and one copy shall be delivered to the Office of Public Utility Counsel. The application shall:

(i) show that the applicant offers each of the services that are supported by the FUSF support mechanisms under 47 U.S.C. §254(c) (relating to Universal Service) either using its own facilities or a combination of its own facilities and resale of another carrier's services throughout the service area for which it seeks designation as an ETC;

(ii) show that the applicant assumes the obligation to offer each of the services that are supported by the FUSF support mechanisms under 47 U.S.C. §254(c) to any consumer in the service area for which it seeks designation as an ETC;

(iii) show that the applicant advertises the availability of, and charges for, such services using media of general distribution;

(iv) show the service area in which the applicant seeks designation as an ETC;

(v) contain a statement detailing the method and content of the notice the applicant has provided or intends to provide to the public regarding the application and a brief statement explaining why the proposed notice is reasonable and in compliance with applicable law;

(vi) contain a copy of the text of the notice;

(vii) contain the proposed effective date of the designation; and

(viii) contain any other information which the applicant wants considered in connection with the commission's review of its application.

(C) Contents of application for each common carrier seeking ETC designation and receipt of federal universal service support. A common carrier that seeks to be designated as an ETC and receive federal universal service support shall file with the commission an application complying with the requirements of this section. In addition to copies required by other commission rules, one copy of the application shall be delivered to the commission staff and one copy shall be delivered to the Office of Public Utility Counsel. The application shall:

(i) comply with the requirements of subparagraph (B) of this paragraph;

(ii) show that the applicant offers Lifeline Service to qualifying low-income consumers in compliance with 47 C.F.R. Part 54, Subpart E; and

(iii) show that the applicant offers toll limitation services in accordance with 47 C.F.R. §54.400 and §54.401.

(2) **Commission processing of application.**

(A) Administrative review. An application considered under this section may be reviewed administratively unless the presiding officer, for good cause,

determines at any point during the review that the application should be docketed.

(i) The effective date shall be no earlier than 30 days after the filing date of the application or 30 days after notice is completed, whichever is later.

(ii) The application shall be examined for sufficiency. If the presiding officer concludes that material deficiencies exist in the application, the applicant shall be notified within ten working days of the filing date of the specific deficiency in its application. The earliest possible effective date of the application shall be no less than 30 days after the filing of a sufficient application with substantially complete information as required by the presiding officer. Thereafter, any deadlines shall be determined from the 30th day after the filing of the sufficient application and information or from the effective date if the presiding officer extends that date.

(iii) While the application is being administratively reviewed, the commission staff and the staff of the Office of Public Utility Counsel may submit requests for information to the telecommunications carrier. Three copies of all answers to such requests for information shall be provided to the commission staff and the Office of Public Utility Counsel within ten days after receipt of the request by the telecommunications carrier.

(iv) No later than 20 days after the filing date of the application or the completion of notice, whichever is later, interested persons may provide the commission staff with written comments or recommendations concerning the application. The commission staff shall and the Office of Public Utility Counsel may file with the presiding officer written comments or recommendations regarding the application.

(v) No later than 35 days after the proposed effective date of the application, the presiding officer shall issue an order approving, denying, or docketing the application.

(B) Approval or denial of application.

(i) An application filed pursuant to paragraph (1)(B) of this subsection shall be approved by the presiding officer if the application meets the following requirements:

(I) the provision of service constitutes the services that are supported by the FUSF support mechanisms under 47 U.S.C. §254(c);

(II) the applicant will provide service using either its own facilities or a combination of its own facilities and resale of another carrier's services;

(III) the applicant advertises the availability of, and charges for, such services using media of general distribution;

(IV) notice was provided as required by this section;

(V) the applicant satisfies the requirements contained in subsection (c) of this section; and

(VI) if, in areas served by a rural telephone company, the ETC designation is consistent with the public interest.

(ii) An application filed pursuant to paragraph (1)(C) of this subsection shall be approved by the presiding officer if the application meets the following requirements:

(I) the applicant has satisfied the requirements set forth in clause (i) of this subparagraph;

(II) the applicant offers Lifeline Service to qualifying low-income consumers in compliance with 47 C.F.R. Part 54, Subpart E; and

(III) the applicant offers toll limitation services in accordance with 47 C.F.R. §54.400 and §54.401.

(C) Docketing. If, based on the administrative review, the presiding officer determines that one or more of the requirements have not been met, the presiding officer shall docket the application.

(D) Review of the application after docketing. If the application is docketed, the effective date of the application shall be automatically suspended to a date 120 days after the applicant has filed all of its direct testimony and exhibits, or 155 days after the proposed effective date, whichever is later. Three copies of all answers to requests for information shall be filed with the commission within ten days after receipt of the request. Affected

persons may move to intervene in the docket, and a hearing on the merits shall be scheduled. A hearing on the merits shall be limited to issues of eligibility. The application shall be processed in accordance with the commission's rules applicable to docketed cases.

(E) Waiver. In the event that an otherwise ETC requests additional time to complete the network upgrades needed to provide single-party service, access to enhanced 911 service, or toll limitation, the commission may grant a waiver of these service requirements upon a finding that exceptional circumstances prevent the carrier from providing single-party service, access to enhanced 911 service, or toll limitation. The period for the waiver shall not extend beyond the time that the commission deems necessary for that carrier to complete network upgrades to provide single-party service, access to enhanced 911 service, or toll limitation services.

(i) **Designation of ETC for unserved areas.** If no common carrier will provide the services that are supported by federal universal service support mechanisms under 47 U.S.C. §254(c) to an unserved community or any portion thereof that requests such service, the commission, with respect to intrastate services, shall determine which common carrier or carriers are best able to provide such service to the requesting unserved community or portion thereof and shall order such carrier or carriers to provide such service for that unserved community or portion thereof.

(j) **Relinquishment of ETC designation.** A common carrier may seek to relinquish its ETC designation.

(1) **Area served by more than one ETC.** The commission shall permit a common carrier to relinquish its designation as an ETC in any area served by more than one ETC upon:

(A) written notification not less than 90 days prior to the proposed effective date that the common carrier seeks to relinquish its designation as an ETC;

(B) determination by the commission that the remaining eligible telecommunications carrier or carriers can offer federally supported services to the relinquishing carrier's customers; and

(C) determination by the commission that sufficient notice of relinquishment has been provided to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier or carriers.

(2) **Area where the common carrier is the sole ETC.** In areas where the common carrier is the only ETC, the commission may permit it to relinquish its ETC designation upon:

(A) written notification not less than 90 days prior to the proposed effective date that the common carrier seeks to relinquish its designation as an ETC; and

(B) commission designation of a new ETC for the service area or areas.

(k) **Rural and non-rural carriers' requirements for annual certification to receive FUSF support.** A common carrier serving a rural or non-rural study area shall comply with the following requirements for annual certification for the receipt of FUSF support.

(1) **Annual certification.** Common carriers must provide the commission with an affidavit annually, on or before September 1st of each year, which certifies that the carrier is complying with the federal requirements for the receipt of FUSF support. Upon receipt and acceptance of the affidavits filed on or before September 1st each year, the commission will certify these carriers' eligibility for FUSF to the FCC and the Federal Universal Service Fund Administrator by October 1st each year.

(2) **Failure to file.** Common carriers failing to file an affidavit by September 1st may still be certified by the commission for annual FUSF. However, the carrier is ineligible for support until the quarter following the federal universal service administrator's receipt of the commission's supplemental submission of the carrier's compliance with the federal requirements.

(3) **Supplemental certification.** For carriers not subject to the annual certification process, the schedule set forth in 47 C.F.R. §54.313 and 47 C.F.R. §54.314(d) for the filing of supplemental certifications shall apply.

(4) **Recommendation for Revocation of FUSF support certification.** The commission may recommend the revocation of the FUSF support certification of any carrier that it determines has not complied with the federal requirements pursuant to 47 U.S.C. §254(e) and will review any challenge to a carrier's FUSF

support certification and make an appropriate recommendation as a result of any such review.

(l) **Disaggregation of rural carriers' FUSF support.** Common carriers serving rural study areas must comply with the following requirements regarding disaggregation of FUSF support.

(1) **Election by May 15, 2002.** On or before May 15, 2002, all rural incumbent local exchange carriers (ILECs) may notify the commission of one of the following elections regarding FUSF support. This election will remain in place for four years from the effective date of certification, pursuant to 47 C.F.R. §54.315, unless the commission, on its own motion, or upon the motion of the rural ILEC or an interested party, requires a change to the elected disaggregation plan:

(A) a rural ILEC may choose to certify to the commission that it will not disaggregate at this time;

(B) a rural ILEC may seek disaggregation of its FUSF support by filing a targeted plan with the commission that meets the criteria in paragraph (3) of this subsection, subject to the commission's approval of the plan;

(C) a rural ILEC may self-certify a disaggregation targeted plan that meets the criteria in paragraphs (3) and (4) of this subsection, disaggregate support to the wire center level or up to no more than two cost zones, or mirror a plan for disaggregation that has received prior commission approval; or

(D) if the rural ILEC serves a study area that is served by another carrier designated as an ETC prior to the effective date of 47 C.F.R. §54.315,

(June 19, 2001), the ILEC may only self-certify the disaggregation of its FUSF support by adopting a plan for disaggregation that has received prior commission approval.

(2) **Abstain from filing.** If a rural ILEC abstains from filing an election on or before May 15, 2002, the carrier will not be permitted to disaggregate its FUSF support unless it is ordered to do so by the commission pursuant to the terms of paragraph (5) of this subsection.

(3) **Requirements for rural ILECs' disaggregation plans.** Pursuant to the federal requirements in 47 C.F.R. §54.315(e) a rural ILEC's disaggregation plan, whether submitted pursuant to paragraph (1)(B), (C) or (D) of this subsection, must meet the following requirements:

(A) the sum of the disaggregated annual support must be equal to the study area's total annual FUSF support amount without disaggregation;

(B) the ratio of the per line FUSF support between disaggregation zones for each disaggregated category of FUSF support shall remain fixed over time, except as changes are required pursuant to paragraph (5) of this subsection;

(C) the ratio of per line FUSF support shall be publicly available;

(D) the per line FUSF support amount for each disaggregated zone or wire center shall be recalculated whenever the rural ILEC's total annual FUSF support amount changes and revised total per line FUSF support and updated access line counts shall then be applied using the changed FUSF support amount and updated access line counts applicable at that point;

(E) each support category complies with subparagraphs (A) and (B) of this paragraph;

(F) monthly payments of FUSF support shall be based upon the annual amount of FUSF support divided by 12 months if the rural ILEC's study area does not contain a competitive carrier designated as an ETC; and

(G) a rural ILEC's disaggregation plan methodology and the underlying access line count upon which it is based will apply to any competitive carrier designated as an ETC in the study area.

(4) **Additional requirements for self-certification of a disaggregation plan.** Pursuant to 47 C.F.R. §54.315(d)(2), a rural ILEC's self-certified disaggregation plan must also include the following items in addition to those items required by paragraph (3) of this subsection:

(A) support for, and a description of, the rationale used, including methods and data relied upon, as well as a discussion of how the plan meets the requirements in paragraph (3) of this subsection and this paragraph;

(B) a reasonable relationship between the cost of providing service for each disaggregation zone within each disaggregation category of support proposed;

(C) a clearly specified per-line level of FUSF support for each category pursuant to 47 C.F.R. §54.315(d)(2)(iii);

(D) if the plan uses a benchmark, a detailed explanation of the benchmark and how it was determined that is generally consistent with how the level of

support for each category of costs was derived so that competitive ETCs may compare the disaggregated costs for each cost zone proposed; and

(E) maps identifying the boundaries of the disaggregated zones within the study area.

(5) **Disaggregation upon commission order.** The commission on its own motion or upon the motion of an interested party may order a rural ILEC to disaggregate FUSF support under the following criteria:

(A) the commission determines that the public interest of the rural study area is best served by disaggregation of the rural ILEC's FUSF support;

(B) the commission establishes the appropriate disaggregated level of FUSF support for the rural ILEC; or

(C) changes in ownership or changes in state or federal regulation warrant the commission's action.

(6) **Effective dates of disaggregation plans.** The effective date of a rural ILEC's disaggregation plan shall be as specified in 47 C.F.R. §54.315.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that §26.418 relating to Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds, is hereby adopted with no changes to the text as proposed.

SIGNED AT AUSTIN, TEXAS on the 16th day of November 2012.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

ROLANDO PABLOS, COMMISSIONER

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EXHIBIT 3

Tempo Telecom, LLC
Designated Service Area

Tempo Telecom, LLC
Designated Service Area

Tempo's Designated Service Area is Sprint's wireless coverage area or Sprint's licensed service area in the states of Alabama, Florida, North Carolina, Tennessee, and Texas, which comprise a portion of or the entirety of the telephone company study areas identified in the following list:

State	Study Area Code	Company Name
AL	290280	ARDMORE TELEPHONE CO., INC.
AL	250282	BLOUNTSVILLE TELEPHONE CO., INC.
AL	250283	BRINDLEE MOUNTAIN TELEPHONE LLC
AL	250284	BUTLER TELEPHONE CO., INC.
AL	250285	CASTLEBERRY TELEPHONE CO., INC.
AL	259789	CENTURYTEL-AL-NORTH
AL	259788	CENTURYTEL-AL-SOUTH
AL	250290	FARMERS TELECOMMUNICATIONS COOPERATIVE, INC.
AL	250306	FRONTIER COMMUNICATIONS OF ALABAMA, LLC
AL	250301	FRONTIER COMMUNICATIONS OF LAMAR COUNTY, LLC
AL	250318	FRONTIER COMMUNICATIONS OF THE SOUTH, LLC - AL
AL	210291	GTC, INC.
AL	250298	GULF TELEPHONE CO.
AL	250299	HAYNEVILLE TELEPHONE CO., INC.
AL	220371	KNOLOGY OF THE VALLEY, INC.
AL	250295	KNOLOGY TOTAL COMMUNICATIONS, INC.
AL	250305	MON - CRE TELEPHONE COOPERATIVE, INC.
AL	250307	MOUNDVILLE TELEPHONE CO.
AL	250308	NEW HOPE TELEPHONE COOPERATIVE
AL	250311	OAKMAN TELEPHONE CO., INC.
AL	250312	OTELCO TELEPHONE LLC
AL	250314	PEOPLES TELEPHONE CO., INC.
AL	250316	RAGLAND TELEPHONE CO., INC.
AL	255181	SOUTH CENTRAL BELL-AL
AL	220324	VALLEY TELEPHONE CO., LLC
AL	250302	WINDSTREAM ALABAMA, INC.
FL	215191	FL. SO. CENTRAL BELL
FL	210341	EMBARQ FLORIDA INC.
FL	210318	FRONTIER COMMUNICATIONS OF THE SOUTH, LLC - FL
FL	210291	GTC, INC.
FL	210329	GTC, INC.
FL	210339	GTC, INC.
FL	210331	ITS TELECOMMUN. SYSTEMS, INC.
FL	210335	NORTHEAST FLORIDA TELEPHONE CO., INC.
FL	210338	QUINCY TELEPHONE CO.
FL	210330	SMART CITY TELECOM LLC DBA SMART CITY TELECOM

Tempo Telecom, LLC
Designated Service Area

State	Study Area Code	Company Name
FL	210328	VERIZON FLORIDA INC.
FL	210336	WINDSTREAM FLORIDA, INC.
NC	230468	ATLANTIC TELEPHONE MEMBERSHIP CORP.
NC	230469	BARNARDSVILLE TELEPHONE CO.
NC	230470	CAROLINA TEL & TEL
NC	230471	CENTRAL TEL CO. OF NORTH CAROLINA
NC	230773	CITIZENS TELEPHONE CO.
NC	230478	ELLERBE TELEPHONE CO., INC.
NC	230479	FRONTIER COMMUNICATIONS OF THE CAROLINAS INC.
NC	230509	FRONTIER COMMUNICATIONS OF THE CAROLINAS INC.
NC	230485	MEBTEL, INC.
NC	230491	NORTH STATE TELEPHONE CO.
NC	230497	PIEDMONT TELEPHONE MEMBERSHIP CORP.
NC	230494	PINEVILLE TELEPHONE CO.
NC	230495	RANDOLPH TELEPHONE MEMBERSHIP CORP.
NC	230498	SALUDA MOUNTAIN TELEPHONE CO.
NC	230501	SKYLINE TELEPHONE MEMBERSHIP CORP.
NC	235193	SOUTHERN BELL - NC
NC	230502	STAR TELEPHONE MEMBERSHIP CORP.
NC	230503	SURRY TELEPHONE MEMBERSHIP CORP.
NC	230505	TRI - COUNTY TELEPHONE MEMBERSHIP CORP.
NC	230864	VERIZON SOUTH, INC. - NC
NC	230510	WILKES TELEPHONE MEMBERSHIP CORP.
NC	230474	WINDSTREAM CONCORD TELEPHONE INC.
NC	230483	WINDSTREAM LEXCOM COMMMUNICATIONS, INC.
NC	230476	WINDSTREAM NORTH CAROLINA, INC.
NC	230511	YADKIN VALLEY TELEPHONE MEMBERSHIP CORP.
TN	290280	ARDMORE TELEPHONE CO., INC.
TN	290553	BEN LOMAND RURAL TELEPHONE COOPERATIVE, INC.
TN	290554	BLEDSOE TELEPHONE COOPERATIVE
TN	290557	CENTURYTEL-CLAIBORNE
TN	290552	CENTURYTEL-ADAMSVILLE
TN	290574	CENTURYTEL-OOLTEWAH
TN	294336	CITIZENS - FRONTIER COMM OF TN, LLC
TN	290580	CITIZENS - FRONTIER VOL STATE
TN	290559	CONCORD TELEPHONE EXCHANGE, INC.
TN	290561	CROCKETT TELEPHONE CO., INC.
TN	290565	HIGHLAND TELEPHONE COOPERATIVE, INC. - TN
TN	290566	HUMPHREYS COUNTY TELEPHONE CO.
TN	290571	MILLINGTON TELEPHONE CO., INC.

Tempo Telecom, LLC
Designated Service Area

State	Study Area Code	Company Name
TN	290573	NORTH CENTRAL TELEPHONE COOPERATIVE, INC. - TN
TN	230501	SKYLINE TELEPHONE MEMBERSHIP CORP.
TN	295185	SO. CENTRAL BELL - TN
TN	290578	TELLICO TELEPHONE CO., INC.
TN	290575	TENNESSEE TELEPHONE CO.
TN	290579	TWIN LAKES TELEPHONE COOPERATIVE CORP.
TN	290581	UNITED TEL CO INC.
TN	209567	UNITED TELEPHONE - CENTURYLINK - TN
TN	290598	WEST KENTUCKY RURAL TELEPHONE COOP. CORP., INC.
TN	290583	WEST TENNESSEE TELEPHONE CO., INC.
TX	442090	ALENCO COMMUNICATIONS, INC.
TX	442039	BIG BEND TELEPHONE CO., INC.
TX	442038	BLOSSOM TELEPHONE CO.
TX	442040	BRAZORIA TELEPHONE CO.
TX	442041	BRAZOS TELECOMMUNICATIONS, INC.
TX	440425	CAMERON TELEPHONE CO.
TX	442046	CAP ROCK TELEPHONE COOPERATIVE
TX	442114	CENTRAL TEL. CO. OF TEXAS DBA CENTURYLINK
TX	442052	CENTRAL TEXAS TELEPHONE COOPERATIVE, INC.
TX	442101	CENTURYTEL OF LAKE DALLAS, INC. DBA CENTURYLINK
TX	442117	CENTURYTEL OF PORT ARANSAS, INC. DBA CENTURYLINK
TX	442057	COLEMAN COUNTY TELEPHONE COOPERATIVE, INC.
TX	442059	COLORADO VALLEY TELEPHONE COOPERATIVE, INC.
TX	442061	COMMUNITY TELEPHONE CO.
TX	442072	CONSOLIDATED COMMUNICATIONS OF FORT BEND CO.
TX	442109	CONSOLIDATED COMMUNICATIONS OF TEXAS CO.
TX	442065	CUMBY TELEPHONE COOPERATIVE, INC.
TX	442262	E.N.M.R. TELEPHONE COOPERATIVE
TX	442068	EASTEX TELEPHONE COOPERATIVE, INC.
TX	442069	ELECTRA TELEPHONE CO., INC.
TX	442070	ETEX TELEPHONE COOPERATIVE, INC.
TX	442091	ETS TELEPHONE COMPANY, INC.
TX	442071	FIVE AREA TELEPHONE COOPERATIVE, INC.
TX	442076	GANADO TELEPHONE CO., INC.
TX	442083	GUADALUPE VALLEY TELEPHONE COOPERATIVE, INC.
TX	442086	HILL COUNTRY TELEPHONE COOPERATIVE, INC.
TX	442093	INDUSTRY TELEPHONE CO.
TX	442103	LA WARD TELEPHONE EXCHANGE, INC.
TX	442104	LAKE LIVINGSTON TELEPHONE COMPANY
TX	442105	LIPAN TELEPHONE CO.
TX	442107	LIVINGSTON TELEPHONE CO.

Tempo Telecom, LLC
Designated Service Area

State	Study Area Code	Company Name
TX	442112	MID-PLAINS RURAL TELEPHONE COOPERATIVE, INC.
TX	442116	MUENSTER TELEPHONE CORP. OF TEXAS
TX	442043	NORTH TEXAS TELEPHONE CO.
TX	442130	PEOPLES TELEPHONE COOPERATIVE
TX	442131	POKA - LAMBRO TELEPHONE COOPERATIVE, INC.
TX	442134	RIVIERA TELEPHONE CO., INC.
TX	442141	SANTA ROSA TELEPHONE COOPERATIVE, INC.
TX	442143	SOUTH PLAINS TELEPHONE COOPERATIVE, INC.
TX	401724	SOUTHWEST ARKANSAS TELEPHONE COOPERATIVE, INC.
TX	442135	SOUTHWEST TEXAS TELEPHONE CO.
TX	445216	SOUTHWESTERN BELL TELEPHONE
TX	442151	TAYLOR TELEPHONE COOPERATIVE, INC.
TX	442060	TOTELCOM COMMUNICATIONS, LLC
TX	442084	UNITED TELEPHONE OF TEXAS INC DBA CENTURYLINK
TX	442159	VALLEY TELEPHONE COOPERATIVE, INC.
TX	442080	VERIZON SOUTHWEST INC.
TX	442154	VERIZON SOUTHWEST INC.
TX	442168	WES - TEX TELEPHONE COOPERATIVE, INC.
TX	442071	WEST PLAINS TELECOMMUNICATIONS, INC.
TX	442166	WEST TEXAS RURAL TELEPHONE COOPERATIVE, INC.
TX	441163	WINDSTREAM - VALOR TELECOMM TX, LD-TX #2
TX	442097	WINDSTREAM COMMUNICATIONS - KERRVILLE
TX	442147	WINDSTREAM COMMUNICATIONS - SUGAR LAND
TX	442153	WINDSTREAM COMMUNICATIONS - TEXAS
TX	442170	XIT RURAL TELEPHONE COOPERATIVE, INC.

EXHIBIT 4

Examples of Marketing Material

FREE Cell Phone
FREE 250 Mins Every Month!

1-8XX-XXX-XXXX

You may qualify if you participate in programs such as Food Stamps or Medicaid.

No contract. No credit check. No hidden fees.

Tempo is a Lifeline supported service, a government assistance program. Only eligible customers may enroll in the program. See if you qualify for a free phone with free monthly service! Service is limited to one discount per household, consisting of either wireline or wireless service. Rules and forms of documentation necessary for enrollment are listed on reverse. Service is non-transferable.

tempo Communications at your pace.

FREE Cell Phone & Free Minute Plan

Choose your FREE monthly plan!

250 minutes/750 Texts
-or-
150 minutes/450 Texts with Rollover

Included Features

Nationwide Calling
Text Messaging
Caller ID
Voicemail
Additional Minute Plans
911 Service

Call to Qualify!

- Tempo is a Lifeline supported service, a government assistance program. Only eligible customers may enroll in the program.
- Lifeline benefits are limited to a single line of service per household. You may not receive multiple Lifeline benefits. You may apply your Lifeline discount to either one landline or one wireless number, but you cannot have the discount on both.
- You must present Photo ID and Proof of Benefit to obtain service. You may qualify if you have Food Stamps, MedicAid or are enrolled in other governmental assistance programs.

To sign up or ask us a question, we're ready to help!

1-8XX-XXX-XXXX

Forms of documentation necessary for enrollment: All subscribers will be required to demonstrate eligibility based at least on (1) Household income at or below 135% of Fed Poverty guidelines for a household of that size; OR (2) the household's participation in a qualifying state, federal or Tribal program, (a) current or prior year's statement of benefits from a qualifying state,federal or Tribal program. (b) a notice letter of participation in a qualifying state,federal or Tribal program. (c) program participation documents (eg: consumers SNAP card, Medicaid card, or copy thereof). (d) other official document evidencing the consumer's participation in a qualifying state, federal or Tribal program.
Income eligibility: prior year's state, federal or Tribal tax return, current income statement from an employer or paycheck. Social Security statement of benefits. Veterans Administration statement of benefits. Retirement/pension statement of benefits. Unemployment / Workmen's comp statement of benefits. Federal or Tribal notice letter of participation in General Assistance. Divorce decree, child support award, or other official document containing income information for at least three (3) months time. Tempo will NOT retain a copy of this documentation.

IMPORTANT: 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.

Tempo Telecom, LLC is an Eligible Telecommunications Carrier (ETC), doing business as Tempo.

EXHIBIT 5

Revised Certification and Enrollment Forms

Lifeline Subscriber Name
Address 1 **Address 2**
City, State, ZIP

Month, Day, Year

Time to Recertify!
In order to keep your lifeline discounts on your phone service, you must complete the recertification form and provide your benefit documentation by *April 22, 2013.*

We value your business! The Federal Government requires Tempo to recertify your eligibility once a year in order for you to continue receiving your lifeline discount. In order to continue receiving your discount you must recertify by **April 22, 2013.**

To recertify please complete the attached recertification form, and provide your documentation of income or government program eligibility. You can provide your documentation to Tempo in many ways:

- Fax the completed form to (877) 465-0545.
- Scan and e-mail the completed form to lifeline@mytempo.com.
- Take a picture of the completed form with your mobile phone and text the photo to (816) 446-3388.

We very much value your business. If you have any questions, or there is anything we can do for you, please call us at (866) 580-8411.

Thank you,

Darrell Freelon
Tempo Telesales Manager

Lifeline Enrollment And Recertification Form

Three Easy Steps to Complete:

Step #1 – Complete Lifeline Enrollment Form on page 3

Step #2 – Locate your Lifeline Benefit Documentation
(More info on your required documentation on pages 4 and 5)

Step #3 – Send completed Lifeline Enrollment Form and Lifeline Benefit Documentation to Tempo
(There are many convenient ways to send them, check Page 4)

Lifeline Enrollment/Recertification Form

Account #:_____

This signed application is required to enroll you in the Lifeline program in your state. This application is only for the purpose of verifying your participation in these programs and will not be used for any other purpose.

Things to know about the Lifeline Program:
- Lifeline is a Federal benefit that is not transferrable to any other person;
- Lifeline service is available for only one line per household. A household cannot receive benefits from multiple providers. Not all Lifeline services are marketed under the name Lifeline, and may be offered under other names;
- A household is defined, for purposes of the Lifeline program, as any individual or group of individuals living at the same address that share income and expenses; and,
- Violation of the one-per household rule is not permitted under federal rules and will result in the subscriber's de-enrollment from the program and possible criminal prosecution by the U.S. Government.

First Name: _____ **MI:** _____ **Last Name:** _____ **Date of Birth:** _____

Last Four Digits of Social Security Number: _____ **Contact Telephone Number:** _____

Residential Address:
Must be a street address (not a P.O. Box) and your principal residence.

Address Line 1: _____
Address Line 2: _____
City, State and Zip: _____

Billing Address:
May contain a P.O Box.

- Check here if the billing address is the same as the residential address.

Address Line 1: _____
Address Line 2: _____
City, State and Zip: _____

This Address Is:
- Permanent
- Temporary *(If temporary, your address must be certified or updated every 90 days.)*
- A shared, multi-household residence → _____ *(Initial)* If shared, multi-household residence, I hereby certify that other household adults do not contribute income and/or share expenses in my household. *Complete Household Worksheet.*
  (Complete Household Worksheet)

_____ *(Initial)* I hereby certify that I qualify to participate in at least one of the following programs (*check all that apply*):
Please see the related documentation requirements on the reverse side.

- Supplemental Nutrition Assistance Program (SNAP) formerly known as Food Stamps
- Supplemental Security Income (SSI)
- Federal Public Housing Assistance (FPHA) or Section 8
- Low Income Home Energy Assistance Program (LIHEAP)
- National School Lunch Program's free lunch program
- Temporary Assistance for Needy Families (TANF)
- Medicaid

_____ *(initial)* I hereby certify that my household income is at or below 135% of the Federal Poverty Guidelines; there are _____ members in my household.
Please see the Federal Poverty Guidelines and the related documentation requirements on the reverse side.

I certify, under penalty of perjury: (Initial by Each Certification)

_____ The information provided in this application is true and correct to the best of my knowledge; I acknowledge that willfully providing false or fraudulent information in order to receive Lifeline service is punishable by fine or imprisonment, termination of all Lifeline benefits, and being barred from participating in the Lifeline program.

_____ I acknowledge that non-usage over a consecutive 60-day period will result in my de-enrollment from this Lifeline service.

_____ I am eligible for Lifeline service through participation in the qualifying program(s) or meeting the income requirements as identified above.

_____ I have provided documentation of eligibility for Lifeline service, unless otherwise specifically exempted from providing such documentation.

_____ I will inform Tempo within 30 days of any potential change in eligibility, including, but not limited to: (i) a move or change of address; (ii) any change in participation in the programs identified above or change in income or household members; (iii) receiving Lifeline service from another provider; or (iv) any other change that would affect my eligibility for Lifeline service. If I fail to inform Tempo of any of these changes, I understand under penalty of perjury, I may be subject to penalties.

_____ I have provided the address where I currently reside and, if a temporary address has been provided, then I acknowledge that Tempo will attempt to verify my address every 90 days, and, if I do not respond to verification attempts within 30 days, then I may be de-enrolled from my Lifeline benefits.

_____ My household will receive only one Lifeline benefit and, to the best of my knowledge, no one in my household is currently receiving Lifeline service from any other provider.

_____ I acknowledge that I will be required to annually re-certify eligibility and may be required to re-certify continued eligibility for Lifeline at any time and failure to re-certify will result in the termination of Lifeline benefits or other penalties.

_____ I authorize Tempo and its agents to access any records (including financial records) required to verify my statements herein and to confirm my eligibility for Lifeline service. I authorize government agencies and their authorized representatives to discuss with and/or provide information to Tempo and its agents verifying my participation in public assistance programs that qualify me for Lifeline service.

_____ I acknowledge and consent to my name, telephone number, and address being divulged to the Universal Service Administrative Company (USAC) (the administrator of the program) and/or its agents for the purpose of maintaining the information in a database and verifying that I, as a subscriber, do not receive more than one Lifeline benefit. In the event that USAC identifies that I am receiving more than one Lifeline subsidy for my household, all carriers involved may be notified so that I may select one service and be de-enrolled from the other.

APPLICANT SIGNATURE/TPV ID: _____ DATE: _____

FOR TEMPO OFFICE USE ONLY

Account #:_____ TPV ID: _____

Company Representative Name: _____ • Database Queried? Date: ___/___/____ Database Name:_____

• ETC Eligibility Review Confirmation Type: Written, attached • Screenshot, attached • ETC employee

Type of Documentation: • Benefits Card • Award Letter • Voucher • State Agency Queried? Date: ___/___/___ Agency Name:_____

• Income Statement • Other _____ Agency contact:_____ Confirmation Type: • Notice, attached

How received: • In person • Fax • Email • Text Photo • Mail

Date/Expiration Date of Documentation: ___/___/_____

Describe Documentation: _____ Name on Documentation: _____

Date reviewed: ___/___/_____

• Applicant name different than name on documentation (Note relationship to applicant: _____)

Applicant Name: _____

_____ Certification that individual is part of applicant's household **(MUST certify with applicant in-person or verbally)**

_____ Certification that individual is does not already receive Lifeline **(MUST certify with applicant in-person or verbally)**

Representative Signature: _____ Date: _____

NOTES : _____

_____

_____

HOW TO SUBMIT YOUR ENROLLMENT APPLICATION:

FAX: (877) 465-0545 EMAIL: lifeline@mytempo.com POSTAL MAIL : Tempo, 2300 Main St., Suite 340, Kansas City, MO 64108.

HOW TO SUBMIT YOUR DOCUMENTATION:

TEXT A DOCUMENT: (816) 446-3388 FAX: (877) 465-0545 EMAIL: lifeline@mytempo.com POSTAL MAIL: Tempo, 2300 Main St., Suite 340, Kansas City, MO 64108.

DOCUMENTATION REQUIREMENTS

You are required to provide proof of your participation in the programs you identified OR proof of your qualifying income.

PROGRAM ELIGIBILITY

If, on page 3 of this form, you indicated you were in a qualifying program, you must provide documentation to prove receipt of benefits under these programs to Tempo. Upon examination by Tempo, any copies, photos or faxes of your documentation will be destroyed or returned to you at your request. Acceptable forms of documentation are described below:

Public Housing Assistance (FPHA) or Section 8

There are two types of documentation that can prove receipt of benefits under the Public Housing Assistance (FPHA), or Section 8, Program.

First, an applicant can provide an award letter. A recipient of Public Housing Assistance (FPHA), or Section 8, receives an award letter from his or her local Public Housing Agency (PHA). The award letter should include the following information:, name of program, date of award, name of beneficiary and award amount.

Second, an applicant can provide either a Public Housing Assistance Lease Agreement or a Section 8 Voucher. These items should clearly reflect the type of Public Housing Assistance credit issued.

If the beneficiary does not have an award letter, lease agreement, or voucher, the applicant can contact the agency that approved the application and request formal documentation of his or her award. To find contact information for a local Public Housing Agency, please visit the U.S. Department of Housing and Urban Development's state contact and agency listing.

The beneficiary named on the FPHA documentation may be a member of the Lifeline applicant's household, rather than the applicant. If the name of the beneficiary on the documentation provided does not match the name of the Lifeline applicant, Tempo must record the name of the beneficiary and confirm by receiving certification from the applicant that the named beneficiary is a member of his or her household, and that this individual does not receive Lifeline.

Low Income Home Energy Assistance Program (LIHEAP)

Because the Low Income Home Energy Assistance Program (LIHEAP) is administered by a wide range of local agencies, the program's name may vary by state (note that most include the words "energy assistance program" in the name).

There are two types of documentation applicants can provide to demonstrate receipt of LIHEAP benefits.

First, a LIHEAP participant might have an award letter from a state agency. The award letter will include the following: name of program, date of award, name of beneficiary and award amount. In some instances, if the beneficiary received notification of his or her approval in-person, the awardee might not have a formal award letter and will need to contact the state agency that approved the application to request a formal award letter.
Second, a LIHEAP participant can provide a utility bill that reflects the Housing Assistance credit. The utility bill should clearly reflect inclusion of an Energy Assistance credit.
The beneficiary named on the LIHEAP documentation may be a member of the Lifeline applicant's household, rather than the applicant. If the name of the beneficiary on the documentation provided does not match the name of the Lifeline applicant, the ETC must record the name of the beneficiary and confirm by receiving certification from the applicant that the named beneficiary is a member of his or her household, and that this individual does not receive Lifeline.
To find contact information for a local LIHEAP agency, please visit the Low Income Home Energy Assistance Program's state contact and agency listing.

National School Lunch Program's Free Lunch Program (NSLP)
Although the National School Lunch Program's Free Lunch Program (NSLFP) is a federally assisted program, award letters are provided by state agencies and, thus, will vary by locality. All award letters should contain the following basic information: name of program, name of beneficiary, address of beneficiary and date of award. The beneficiary named on the NSLP documentation may be a dependent of the Lifeline applicant, rather than the applicant. If the name of the beneficiary on the documentation provided does not match the name of the Lifeline applicant, the ETC must record the name of the beneficiary and confirm by receiving certification from the applicant that the named beneficiary is a member of his or her household, and that this individual does not receive Lifeline.

Supplemental Security Income (SSI)
Participation in the federal portion of SSI is an eligibility criterion for Lifeline. Some states offer state supplements to the federal SSI program, but receipt of benefits from the state supplement, but not federal SSI, does not qualify an individual for Lifeline. All award letters should contain the following basic information: name of program, name of beneficiary, address of beneficiary, date of award and award amount. A benefit check stub from the Social Security Administration may also be submitted as proof of participation, if the check stub clearly states the date and name of the beneficiary.
The beneficiary named on the SSI documentation may be a dependent of the Lifeline applicant, rather than the applicant. If the name of the beneficiary on the documentation provided does not match the name of the Lifeline applicant, the ETC must record the name of the beneficiary and confirm by receiving certification from the applicant that the named beneficiary is a member of his or her household, and that this individual does not receive Lifeline.

Temporary Assistance for Needy Families (TANF)
All award letters should contain the following basic information: name of program, name of beneficiary, address of beneficiary and date of award.
The beneficiary named on the TANF documentation may be a member of the Lifeline applicant's household, rather than the applicant. If the name of the beneficiary on the documentation provided does not match the name of the Lifeline applicant, the ETC must record the name of the beneficiary and confirm by receiving certification from applicant that the named beneficiary is a member of his or her household, and that this individual does not receive Lifeline.
In some states, TANF might be more commonly referred to by a different name. Look for your state on this list of TANF program names by state.

Supplemental Nutrition Assistance Program (SNAP)
The Supplemental Nutrition Assistance Program (SNAP) was previously known as Food Stamps. Beneficiary cards and award letters may vary because SNAP is administered on a state level. Because not all beneficiary cards include the recipient's name, it is recommended that an award letter from the local state agency be used for Lifeline verification purposes. All award letters should contain the following basic information: name of program, name of beneficiary, address of beneficiary and date of award.
The beneficiary named on the SNAP documentation may be a member of the Lifeline applicant's household, rather than the applicant. If the name of the beneficiary on the documentation provided does not match the name of the Lifeline applicant, the ETC must record the name of the beneficiary and confirm by receiving certification from the applicant that the named beneficiary is a member of his or her household, and that this individual does not receive Lifeline.
In some states, SNAP might be more commonly referred to by a different name. Look for your state on this list of SNAP program names by state.

Medicaid
Each state provides its own unique Medicaid card to beneficiaries. However, most cards should clearly state the following: name of program, name of beneficiary, state of residence, issued or effective date and the name of the state agency that provided the card.
The beneficiary named on the Medicaid documentation may be a dependent of the Lifeline applicant, rather than the applicant. If the name of the beneficiary on the documentation provided does not match the name of the Lifeline applicant, the ETC must record the name of the beneficiary and confirm by receiving certification from the applicant that the named beneficiary is a member of his or her household, and that this individual does not receive Lifeline.
Some states have different names for their Medicaid programs. Look for your state on this list of Medicaid program names by state.

PROGRAM ELIGIBILITY

An applicant may be eligible for Lifeline if he or she has a household income at or below 135% of the Federal Poverty Guidelines. Below are the acceptable types of documentation:

- The prior year's state, federal, or Tribal tax return
- A current income statement from an employer or paycheck stub
- A Social Security statement of benefits
- A Veterans Administration statement of benefits
- A retirement or pension statement of benefits
- An Unemployment or Workers' Compensation statement of benefits
- A federal or Tribal notice letter of participation in General Assistance
- A divorce decree, child support award, or other official document containing income information
- If the documentation relied on does not cover a full year, such as a current pay stub, the subscriber must present the same type of documentation covering three consecutive months within the previous twelve months.

135% FEDERAL POVERTY GUIDELINES - 2013	
Members of Household	**Household Income must be at or below**
1	$ 15,512
2	$ 20,939
3	$ 26,366
4	$ 31,793
5	$ 37,220
6	$ 42,647
7	$ 48,074
8	$ 53,501
For every additional member of your household, add $5,427.	

Upon examination by Tempo, any copies, photos or faxes of your documentation will be destroyed or returned to you at your request.