

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for designation as an eligible  
telecommunications carrier (ETC) in the State  
of Florida, by TEMPO TELECOM, LLC.

DOCKET NO. 20240069-TP  
ORDER NO. PSC-2024-0207-PAA-TP  
ISSUED: June 20, 2024

The following Commissioners participated in the disposition of this matter:

MIKE LA ROSA, Chairman  
ART GRAHAM  
GARY F. CLARK  
ANDREW GILES FAY  
GABRIELLA PASSIDOMO

NOTICE OF PROPOSED AGENCY ACTION  
ORDER GRANTING ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

Background

TEMPO TELECOM, LLC (TEMPO or Company) seeks designation as an eligible telecommunications carrier (ETC) for the sole purpose to provide Lifeline service to qualifying consumers throughout Florida. TEMPO is a provider of commercial mobile radio service (CMRS) and provides prepaid wireless telecommunications services to consumers by using the underlying wireless network of T-Mobile USA, Inc (T-Mobile). TEMPO is currently designated as an ETC providing Lifeline service in 30 other states.

As a CMRS provider, TEMPO is regulated as a common carrier pursuant to 47 U.S.C. § 153(11).<sup>1</sup> TEMPO is a Georgia limited liability company and a wholly-owned subsidiary of Lingo Management, LLC (Lingo Management). On January 24, 2023, Lingo Management agreed that, subject to regulatory approval, Lingo Management will transfer 100 percent of the outstanding membership interests in TEMPO to Insight Mobile, Inc (Insight Mobile). Insight Mobile is a Delaware corporation that is not currently providing telecommunications services,

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<sup>1</sup> 47 U.S.C. § 153(11) (defining a common carrier as “any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio . . . .”; 47 U.S.C. § 332(c)(1)(A) (treating commercial mobile service providers as common carriers).

and is wholly-owned by Mr. Shadi Aslemand. TEMPO currently has an updated compliance plan pending with the FCC that reflects the aforementioned transaction.<sup>2</sup>

TEMPO asserts that it meets all applicable federal requirements for designation as a Lifeline only ETC in Florida pursuant to 47 U.S.C. 214(e) and 47 C.F.R. 54.201. TEMPO acknowledges and asserts that, if approved, it will comply with Section 364.10 and 364.105, Florida Statutes (F.S.) and Rule 25-4.0665, Florida Administrative Code (F.A.C.), which govern Lifeline service and provide for a transitional discount for customers who no longer qualify for Lifeline. In addition to the federal rules and statutes discussed above, we have jurisdiction in this matter pursuant to Section 364.10, F.S.

Section 214(e)(2) of the Telecommunications Act of 1996 (the Act) provides state public utility commissions with “primary responsibility” for the designation of ETCs. We initially exercised this authority to designate both wireline and wireless carriers as ETCs. In 2011, the Florida Legislature removed our authority to designate wireless ETC providers.<sup>3</sup> However, the Florida Legislature amended Section 364.10, F.S., in 2024 to specifically grant us jurisdiction to address wireless ETC petitions for Lifeline purposes only.<sup>4</sup>

### Decision

#### I. Requirements for ETC Designation

This Order addresses whether TEMPO qualifies for ETC designation to provide Lifeline Services throughout the State of Florida, ETC designation is necessary for telecommunications companies to participate in the federal Lifeline program.<sup>5</sup> Section 364.10, F.S., allows us to approve wireless Lifeline ETC petitions for requesting carriers. Specifically, paragraphs 364.10(1)(a) and (3)(a) F.S., provide us with the authority to designate a commercial mobile radio service provider as an ETC for the limited purpose of providing Lifeline service.

Federal rules outline the requirements for ETC designation.<sup>6</sup> To obtain ETC designation to provide Lifeline services, federal rules require that carriers:

- 1) Be a common carrier;
- 2) Offer the services that are supported by the federal universal support mechanisms either using its own facilities or a combination of its own facilities and resale of another carrier’s services;

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<sup>2</sup> TEMPO’s petition, Tempo Telecom LLC Second Updated Compliance Plan, April 28, 2023, Exhibit 3

<sup>3</sup> House Bill 1231 (2011), effective July 1, 2011.

<sup>4</sup> Senate Bill 478 (2024), effective April 15, 2024.

<sup>5</sup> 47 C.F.R. § 54.201(a).

<sup>6</sup> 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.101, 47 C.F.R. § 54.201, and 47 C.F.R. § 54.401; While 47 C.F.R. § 54.101(a) also includes requirements addressing toll limitation services to qualifying low-income consumers, the FCC in its 2012 Lifeline and Link Up Reform Order (FCC 12-11) stated that: “ETCs are not required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of minutes that do not distinguish between toll and non-toll calls.”

- 3) Advertise the availability of its Lifeline service through a media of general distribution;
- 4) Provide voice grade access to the public switch network or its functional equivalent;
- 5) Offer minutes of use for local service at no additional charge to end users;
- 6) Provide access to the emergency services available by local government or other public safety organizations;
- 7) Provide Broadband Internet Access Service;<sup>7</sup>
- 8) Demonstrate financial and technical capability to provide Lifeline service; and
- 9) Not charge Lifeline customers a monthly number-portability charge.

In addition, Florida law requires ETCs to:

- 1) Offer a discounted transitional basic telecommunications service;<sup>8</sup> and
- 2) Participate in the Lifeline Promotion Process.<sup>9</sup>

## II. Forbearance of Facilities Requirements

TEMPO plans to offer all of the supported services enumerated under Section 254(c) of the Act through its wireless resale agreement with T-Mobile. Therefore, it sought forbearance of the facilities requirement from the FCC. On May 25, 2012, the FCC approved TEMPO's compliance plan as a condition of obtaining forbearance from the facilities requirement for the provision of Lifeline service. As part of its compliance plan TEMPO committed to do the following:<sup>10</sup>

- 1) Provide the supported services throughout the carrier's designated areas;
- 2) Remain functional in emergency situations;
- 3) Comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service;
- 4) Demonstrate that it is financially and technically capable of providing the Lifeline service in compliance with federal rules; and
- 5) Describe the terms and conditions of the broadband Internet access service plans offered to Lifeline subscribers.

Because TEMPO will offer the supported services and is compliant with the FCC requirements pursuant to 47 U.S.C. § 214(e) and 47 C.F.R. § 54.201, as well as the Florida specific requirements, TEMPO is eligible for designation as a Lifeline only ETC in Florida.

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<sup>7</sup> Broadband Internet Access Service (BIAS) is defined as a mass-market retail service that provides the capability to transmit and receive data, but excluding dial-up service.

<sup>8</sup> Section 364.105, F.S. states that each ETC shall offer a residential basic local telecommunications service at 70 percent of the residential local telecommunications service rate for any Lifeline subscriber who no longer qualifies for Lifeline for a period of 1 year after the date the subscriber ceases to qualify for Lifeline .

<sup>9</sup> Rule 25-4.0665(3), F.A.C. The Lifeline Promotion Process is an electronic system developed in collaboration with the Florida Department of Children and Families, ETCs and the FPSC. This system helps assist ETCs and the FPSC in providing information on how to apply for Lifeline assistance to eligible customers.

<sup>10</sup> 47 C.F.R. § 54.202(a)

III. Financial, Managerial, and Technical Capabilities

As noted in its petition, TEMPO has offered service since 2012 and has not filed for any form of bankruptcy relief. The company has operated as an ETC in 30 states and has not been subject to any ETC revocation proceedings. The company has over 10 years of technical and managerial experience, and it does not rely exclusively on Lifeline reimbursements for its operating revenues. As TEMPO will be providing resold wireless service, it will also rely upon the managerial and technical expertise of its underlying carriers. Additionally, on April 28, 2023, TEMPO asserted to the FCC in an updated compliance plan filing that it has not been subject to an abnormal number of FCC enforcement proceedings within the last ten years, and such proceedings generally have focused on missed/late filings.<sup>11</sup>

IV. Public Interest

State commissions are required to find that ETC designation is in the public interest.<sup>12</sup> TEMPO asserts granting its ETC designation will bring Lifeline eligible consumers more choice in providers without creating an additional burden on the federal high-cost programs. In Florida, consumers are currently limited to three wireless Lifeline providers. These three companies represent 98 percent of the Lifeline market in Florida.<sup>13</sup> However, our estimated Lifeline participation rate for the last two years has hovered around 18 percent.<sup>14</sup> The increase in carriers servicing this market may increase participation through additional marketing and would serve the public interest.

V. Conclusion

We have reviewed TEMPO's petition for ETC designation in Florida. TEMPO meets all the requirements for designation as an ETC. Additionally, the company has demonstrated sufficient financial, managerial, and technical capabilities. Therefore, we grant TEMPO an ETC designation throughout the State of Florida as identified in Attachment A of this recommendation. We further order that if there is a future change of Company ownership, the new owners shall be required to file a petition with us to demonstrate that it is in the public interest to maintain the Company's ETC designation.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that TEMPO TELECOM, LLC's Petition for Designation as an Eligible Telecommunications Carrier throughout the State of Florida is GRANTED. It is further

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<sup>11</sup> TEMPO's petition, Tempo Telecom LLC Second Updated Compliance Plan, April 28, 2023, Exhibit 3, p 8.

<sup>12</sup> 47 U.S.C. § 214(e)(2)

<sup>13</sup> 2023 Florida Lifeline Assistance Report, December 2023, Appendix C, p 24.

<sup>14</sup> Ibid, p 13.

ORDERED that TEMPO TELECOM, LLC is designated an eligible telecommunications carrier for the sole purpose of providing Lifeline service to qualifying consumers in the State of Florida. It is further

ORDERED that if there is a future change in TEMPO TELECOM, LLC'S ownership, the new owners shall file a petition with the Commission to demonstrate that it is in the public interest to maintain the ETC designation. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, F.A.C., is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 20th day of June, 2024.



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ADAM J. TEITZMAN  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
[www.floridapsc.com](http://www.floridapsc.com)

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 11, 2024.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

T-Mobile Coverage

