



**GVNW CONSULTING, INC.**

2270 LA MONTANA WAY#100  
COLORADO SPRINGS, CO 80918  
TEL. 719.594.5800  
[www.gvnw.com](http://www.gvnw.com)

June 28, 2018

Ms. Lynn M. Retz  
Secretary to the Commission  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, KS 66604-4027

RE: Docket No. 18-TEMT-043-KSF  
*In the Matter of the Audit of Tempo Telecom, LLC by the Kanas Universal Service Fund (KUSF) Administrator Pursuant to K.S.A 2015 Supp. 66-2010(b) for KUSF Operating Year 20, Fiscal Year March 2016-February 2017.*

Dear Ms. Retz:

In its August 1, 2017 Order, the Kansas Corporation Commission (KCC) directed GVNW to perform a KUSF carrier audit of Tempo Telecom, LLC (Tempo or Company).

The KCC directed GVNW to file two (2) Audit Reports, if applicable, with one containing confidential information and one with the confidential data redacted for public disclosure. GVNW is filing both a confidential and a redacted Audit Report due to Tempo requesting confidential treatment for Attachments B, D, E, and F. Tempo, citing a Commission order,<sup>1</sup> states any information provided to the KUSF administrator is confidential. Tempo's request for confidential designation is included with the Attachments.

GVNW disagrees that Attachments D, E, and F meet the threshold for confidential designation as they do not contain company: 1) specific revenue data; 2) customer information; 3) sensitive employee information; 4) marketing data; 5) reports, workpapers or other documentation related to internal or external auditor or consultants; nor 6) contract negotiation strategies and/or trade secret information.<sup>2</sup> GVNW requested that Tempo withdraw its request for confidential designation for Attachments D, E, and F;<sup>3</sup> however, at the time of this filing, the Company has not responded. GVNW has, therefore, filed Attachments D, E, and F as confidential.

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<sup>1</sup> Tempo cited to a November 2, 1998 Order in Docket No. 94-GIMT-478-GIT. GVNW believes the correct cite is the Order, dated October 30, 1998 (478 October Order). In the 478 October Order, ¶18, the Commission determined, "although the requested information is not subject to public review or disclosure by the fund administrator under KORA, in this Commission proceeding, it is available for limited review if the standards governing the examination of confidential and proprietary information are met."

<sup>2</sup> *Ibid.*, See also K.S.A. 66-1220a, Kansas Administrative Regulation 82-1-221a; and Order On Prehearing Motions, Docket No. 16-KCPE-593-ACQ, January 26, 2017.

<sup>3</sup> K.A.R 82-1-221a(b)(2).

Copies of the supporting documentation, including GVNW's audit work papers and information provided by the Company, are not included with the Audit Report, but will be provided by GVNW upon request.

Sincerely,

A handwritten signature in black ink, appearing to be 'DW' with a stylized flourish extending to the right.

David Winter  
Senior Consultant

cc w/encl: Sandy Reams

**BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

In the Matter of the Audit of Tempo )  
Telecom, LLC by the Kansas Universal )  
Service Fund (KUSF) Administrator ) Docket No. 18-TEMT-043-KSF  
Pursuant to K.S.A. 2016 Supp. 66- )  
2010(b) for KUSF Operating Year 20, )  
Fiscal Year March 2016-February 2017. )

**KANSAS UNIVERSAL SERVICE FUND AUDIT REPORT**

**Prepared By:** David Winter  
GVNW Consulting, Inc.

**Company Representatives:** Sharyl Fowler – Manager, Regulatory Administration  
Elena Thomasson – Transaction Taxes Manager

**Date of On-Site Visit:** February 6 - 7, 2018

**Date Submitted to Company:** June 13, 2018

**Audit Summary**

Based on the Kansas Universal Service Fund (KUSF) Carrier Review Procedures for Operating Year 20,<sup>1</sup> GVNW Consulting, Inc. (GVNW) identified two (2) reporting deficiencies regarding Tempo Telecom, LLC (Tempo or Company) with an estimated net impact of an additional \$3,810.16 due to the KUSF:

- Finding No. 1: Tempo reported calculated revenues to the KUSF based on the KUSF assessment collected from subscribers, which is recorded as a monthly KUSF liability. The aggregate monthly KUSF liability is divided by the assessment rate to determine the revenues reported in the monthly report. Based on additional audit testing, GVNW concludes Tempo met its KUSF obligations for the revenue represented by the calculated revenue; however, as discussed in Finding No. 2, the Company did not report all revenue.
- Finding No. 2: The Company did not report revenues received from the federal lifeline program to the KUSF for the period July 2016 through March 2018. Tempo stopped this reporting practice, effective with the April 2018 data reported in May 2018, and owes an additional \$3,810.16 to the KUSF.

GVNW recommends that the Kansas Corporation Commission (Commission or KCC) issue an Order to: (1) adopt the audit findings and recommendations of this Audit Report;

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<sup>1</sup> Order Accepting GVNW's KUSF Year 20 Audit Selections, Proposed Revisions to Selection Criteria and Audit Review Procedures, Docket No. 16-GIMT-067-GIT, July 25, 2017 (16-067 Order).

and (2) direct the Company to submit Audit True-ups for the period of July 2016 through March 2018 and pay \$3,810.16 in additional assessments to the KUSF within 30-days of the issuance of a Commission Order. GVNW will file a Compliance Report in this Docket within 60-days of issuance of an Order.

GVNW also recommends, based on Tempo's history of failing to comply with its statutory and regulatory KUSF obligations, as detailed in this Report and Attachment A, the Commission Staff should be directed to initiate a show cause proceeding if the Company becomes delinquent with its KUSF obligations in the future.

### **Current KUSF Obligations**

Tempo is a designated ETC in the state of Kansas for federal Lifeline purposes.<sup>2</sup> As detailed in GVNW's Administrative Division's Memorandum, included as Attachment A, Tempo has repeatedly failed to comply its KUSF obligations; including failing to submit monthly Carrier Remittance Worksheets (CRW), assessment payments, and its annual Company Identification and Operations form.<sup>3</sup> GVNW Administration has assessed multiple penalties to Tempo, consistent with Commission Orders,<sup>4</sup> for failure to comply with its KUSF obligations.

### **Tempo Response**

Tempo takes its regulatory reporting obligations seriously, and regrets any prior delay in filing reports or responding to inquiries. Many of the delays were the result of employee departures and other reorganization of internal Company functions. Since that time, Tempo has implemented changes in its regulatory reporting, and is in the process of contracting with a third-party to assist with the management of the multi-state regulatory reporting process. Tempo believes these changes are reflected in the information provided in Attachment A for FY 21 and FY 22, which show a significant reduction in delinquent filings. Tempo therefore disagrees with GVNW's recommendation.

### **Background**

Tempo is a prepaid wireless service provider headquartered in Atlanta, Georgia. Based on revenues, the Company is required to report its revenue and pay the related assessments to the KUSF no less than semi-annually, however, as an ETC, Tempo

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<sup>2</sup> See Order Granting Eligible Telecommunications Carrier Status in Kansas, Docket No. 13-BTKT-403-ETC, June 5, 2013 (13-403 Order), and Order Granting Expanded Eligible Telecommunications Carrier Status in Kansas, Docket No. 14-BTKT-051-ETC, Sept. 10, 2013 (14-051 Order).

<sup>3</sup> The Company Identification and Operations form includes information about the company and company contacts for KUSF purposes and must be filed yearly by April 15<sup>th</sup>. See Order Setting the Kansas Universal Service Fund Assessment Rate for Year Ten and Establishing Reporting Requirements, Docket No. 06-GIMT-332-GIT, January 23, 2006 (06-332 Order).

<sup>4</sup> Penalties include: Late Payment Penalties, Order, Docket No. 94-GIMT-478-GIT (Docket 94-478), Feb. 19, 1997; Late Carrier Remittance Worksheet (CRW) Penalties, 06-332 Order; and Delinquent Balance Penalties, Order, Docket No. 10-GIMT-188-GIT, Jan. 23, 2010 Order.

reports on a monthly basis. Tempo is authorized to collect an amount equal to or less than its assessment from customers,<sup>5</sup> and does so. The Company is an ETC for federal low-income Lifeline program purposes;<sup>6</sup> however, it is not an ETC for Kansas Lifeline Service Program (KLSP) purposes. As an ETC, Tempo is required to offer and advertise Lifeline services to its customers,<sup>7</sup> which it does. The Company uses the Federal Communication Commission's (FCC) Safe Harbor percentage to identify Kansas intrastate revenues.<sup>8</sup>

Tempo bundles assessable and non-assessable services and reports total bundled revenues to the KUSF.<sup>9</sup> The Company does not offer promotional discounts; therefore, Tempo reports gross revenues to the KUSF.<sup>10</sup> Tempo does not use the same bundled service methodology to identify, report, and allocate revenue to the KUSF and the Federal Universal Service Fund (Federal USF).<sup>11</sup> For Federal USF reporting purposes, Tempo reports revenues from bundled telecommunications and CPE/enhanced services offering(s) based on the unbundled service offering prices.<sup>12</sup>

On August 1, 2017, the Commission issued Order No. 1 in Docket 18-043 directing GVNW to conduct an audit for KUSF purposes.

On May 4, 2018, Fusion Telecommunications International, Inc. (Fusion), a cloud service provider, merged with the cloud and business services of Birch Communications Holding, Inc. (Birch Communications). Tempo did not become a subsidiary of Fusion, but was spun-off to a newly formed holding company held by the existing owners of Birch Communications. Tempo represents that the merger will not affect the Company's operations and/or KUSF reporting.<sup>13</sup>

### **Audit Findings**

GVNW identified the following audit findings and proposes the following recommendations:

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<sup>5</sup> K.S.A. 66-2008.

<sup>6</sup> 13-403 Order.

<sup>7</sup> 47 C.F.R. 214(e)(1), Order, Docket No. 94-GIMT-478-GIT, Dec. 27, 1996 (94-478 Order).

<sup>8</sup> Source: Tempo response to DR No. 7 (Attachment B).

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> 47 C.F.R. 214(e)(1), 94-478 Order. Effective July 1, 2016, pursuant to K.S.A. 66-2008(a): "The commission shall not require any provider to contribute to the KUSF under a different contribution methodology than such provider uses for purposes of the federal universal service fund, including for bundled offerings."

<sup>12</sup> 47 C.F.R. 214(e)(1), 94-478 Order.

<sup>13</sup> Source: Tempo response to DR No. 19 (Attachment C).

### **Audit Finding No. 1**

**Standard:** Carriers are required to report actual intrastate retail revenues and may report uncollectible revenue written off, to the KUSF to determine their KUSF assessment obligation.<sup>14</sup>

**Finding:** Tempo reported revenues for monthly services, roaming charges, activation fees, etc. to the KUSF based on the assessment collected from customers, which was recorded as a KUSF assessment accrued liability in its general ledger. The KUSF assessment accrued liability was then divided by the KUSF assessment rate, starting in July 2016,<sup>15</sup> to calculate the revenue it reported to the KUSF, claiming it started using this methodology due to employee turnover.<sup>16</sup> Tempo did not file a Quarterly True-up,<sup>17</sup> but later filed an Annual True-up for KUSF Operating Year 20 that reflected no changes from the calculated revenues reported to the KUSF via the monthly CRW submittal.<sup>18</sup>

For revenue represented by the calculated revenue, GVNW performed additional testing and determined, that based on Tempo's assessment methodology, the KUSF assessment was properly applied to its subscribers' total assessable revenues derived from its various recurring and non-recurring monthly prepaid service plans to include activation fees, unlimited roaming, pay-go plans, etc. This does not include all Lifeline subscriber revenues, as discussed in Finding No. 2.

GVNW's testing included: (1) tracing the KUSF assessments collected from subscribers to the monthly KUSF accrued liability per the general ledger; (2) verification of monthly accruals; (3) tracing the monthly KUSF accrued liability to the revenue reported on each respective CRW; and (4) verified, for the period July 2016 through February 2017 revenues reported to the KUSF were equal to or exceeded revenues recorded in Tempo's general ledger. The results of GVNW's latter testing supports an immaterial \$1.56 overpayment of assessments to the KUSF for the audit period, with GVNW concluding Tempo has met its KUSF obligations.

**Recommendation:** GVNW does not recommend any further actions at this time; however, Tempo should be reminded that it is required to ensure it meets its KUSF obligations and to submit Quarterly True-ups if there are material changes, billing errors or corrections, or changed circumstance that would result in a correction to its reported revenue or KUSF assessment obligation.

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<sup>14</sup> See K.S.A. 66-2008(a) and 94-478 Order, ¶ 108-110. See *a/so* Order on Reconsideration and Attachment 1, Feb. 3, 1997; and Order on Issue of Uncollectible Revenue and Additional KUSF Revenue Reporting Issues, Aug. 13, 1999, Docket 94-478. See *a/so*, Order, Docket No. 16-GIMT-517-GIT, Feb. 17, 2017.

<sup>15</sup> Source: Tempo response to DR No.16 (Attachment D).

<sup>16</sup> *Ibid.*

<sup>17</sup> Source: Tempo response to DR No. 18 (Attachment E).

<sup>18</sup> Due to the KUSF Administrator on April 15, 2017, but filed on June 27, 2017.

## **Audit Finding No. 2**

**Standard:** For Lifeline customers, the total gross intrastate monthly customer charge is to be reported to the KUSF.<sup>19</sup>

**Finding:** Tempo did not report revenues earned from subscribers and reimbursed from the federal Lifeline program (\$9.25) to the KUSF for the months of July 2016 to March 2018.<sup>20</sup> Therefore, Tempo under-reported revenues to the KUSF and owes an additional \$3,810.16 to the KUSF. Tempo stopped this reporting practice effective with the April 2018 data it reported in May 2018.

**Recommendation:** The Commission should direct Tempo to submit Audit True-ups for July 2016 through March 2018 to correct this audit deficiency and pay \$3,810.16 in additional assessments to the KUSF within 30-days of the issuance of an Order. GVNW will address Tempo's compliance with this audit finding in its Compliance Report.

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<sup>19</sup> Order Accepting and Adopting GVNW Consulting, Inc.'s Audit Report and Recommendations, Docket No. 17-TFWZ-022-KSF, June 22, 2017; and Order Accepting and Adopting GVNW Consulting, Inc.'s Audit Report and Recommendation, Docket No. 17-VMBZ-023-KSF, July 11, 2017. See also Kansas Universal Service Fund (KUSF) Carrier Remittance Worksheet Instructions dated March 9, 2016, effective March 2016 – February 2017 (FY 20).

<sup>20</sup> Tempo response to DR No. 17 (Attachment F).

## **TEMPO - Request for Confidential Treatment**

- On Attachment B, pages 1 and 2 – Tempo requests that its responses to the audit inquiries be redacted for the reasons set forth below.
- On Attachment D, pages 1 and 2 – Tempo requests that its responses to the audit inquiries be redacted for the reasons set forth below.
- On Attachment E, page 1 – Tempo requests that its responses to the audit inquiries be redacted for the reasons set forth below.
- On Attachment F, page 1 – Tempo requests that its responses to the audit inquiries be redacted for the reasons set forth below.

For the following reasons, Tempo Telecom, LLC (“Tempo” or the “Company”) respectfully requests confidential treatment for the items listed above, which are the Company’s responses to the audit inquiries issued by GVNW Consulting, Inc. (“GVNW”). The Company provides this explanation in accordance with the requirements of K.A.R. 82-1-221a.

K.S.A. 66-2010(c) states “[a]ny information made available or received by the administrator from carriers, utilities or providers receiving funds from or providing funds to the KUSF shall not be subject to any provisions of the Kansas open records act and shall be considered confidential and proprietary.” The Kansas Corporation Commission has stated “[t]here is no dispute that information received from the telecommunications carriers, public utilities and wireless service providers, and in the hands of the fund administrator is not subject to release under [the Kansas Open Records Act].<sup>1</sup> In addition, the Company’s responses also are protected from public disclosure under K.S.A. 66-1220a, which states the Commission “shall not disclose to or allow inspection by anyone, including, but not limited to, parties to a regulatory proceeding before the commission, any information which is a trade secret under the uniform trade secrets act (K.S.A. 60-3320 et seq., and amendments thereto) or any confidential commercial information of a corporation.”

Tempo is not publicly traded, and its responses contain data regarding the Company’s financial status, operations, and internal policies and procedures. The information contained in the responses is not routinely made available for public disclosure, and the Company takes efforts to maintain its confidentiality. The responses contain proprietary, sensitive, commercial, and financial information that is not publicly available and, if released, could be used by the Company’s competitors to cause competitive harm. The potential harm to Company is substantial, and the need for proprietary protection of this information outweighs any need for public disclosure at this time. As such, the Company’s responses fall within K.S.A. 66-1220a, are “trade secrets” as defined in K.S.A. 60-3320, and therefore are exempt from public disclosure.

In the event it is determined the Company’s responses should be made available to the public, the Company respectfully requests notice of that determination and an opportunity to appeal that determination prior the responses being made available for public inspection.





CONSULTING

## KUSF MEMO

Date: June 26, 2018  
To: David Winter, KUSF Auditor  
From: Nicole Stephens, KUSF Compliance Administrator  
RE: Tempo Telecom, LLC – KUSF Account KS004211

### **BACKGROUND**

This Memorandum provides KUSF reporting information for Tempo Telecom, LLC ("Tempo"), KUSF Account No. KS004211, for the March 2015 – February 2016 (FY 19), March 2016 – February 2017 (FY 20) and March 2017 – February 2018 (FY 21) fiscal years (FY). Tempo registered with the KUSF effective with the March 2013 – February 2014 (FY 17) fiscal year, and was delinquent with obligations during FY 17 and FY 18 (March 2014 – February 2015). Although Tempo was delinquent in prior KUSF years, this Memorandum provides KUSF reporting information for FY 19 through FY 21, along with the March and April 2018 period, to focus on the Company's delinquent status around the Audit Period.

For FY 19, Tempo's KUSF delinquencies include the following:

- FY 19 Company Identification and Operations form, referred to as Attachment B, was due on April 15, 2015. The FY 19 Attachment B was received on May 27, 2015. Tempo elected to report and pay on an Annual basis for FY 19, but never remitted the FY 19 Annual Carrier Remittance Worksheet (CRW) and assessment, due April 15, 2015.
- On August 6, 2015, a revised FY 19 Attachment B, changing reporting frequency from Annual to Quarterly, was received, along with the FY 19 1<sup>st</sup> Quarter (March - May) CRW and assessment payment. Tempo incurred Late Worksheet<sup>1</sup> penalties totaling \$500.00;
- FY 19 2<sup>nd</sup> Quarter (June - August) CRW, due July 15, 2015, was received on January 20, 2016. Tempo was assessed Late Worksheet and Delinquent Balance<sup>2</sup> penalties totaling \$104.47. The 2<sup>nd</sup> Quarter assessment payment, also due July 15, 2015, was not paid until February 4, 2016, with an additional \$2.53 in Late Payment<sup>3</sup> and Delinquent Balance penalties being assessed;

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<sup>1</sup> Order, Docket No. 06-GIMT-332-GIT, 1/23/2006.

<sup>2</sup> Order, Docket No. 10-GIMT-188-GIT, 1/13/2010.

<sup>3</sup> Order, Docket No. 190-492-U (94-GIMT-478-GIT), 2/19/1997.

- FY 19 4<sup>th</sup> Quarter (December 2015 - February 2016) CRW and assessment were due December 15, 2015. The CRW was received on March 4, 2016. The 4th Quarter assessment, also due December 15, 2015, was not paid until August 9, 2016. Tempo was assessed, in total, Late Worksheet and Delinquent Balance penalties of \$127.50 for the 4<sup>th</sup> Quarter period;
- Total outstanding balance as of February 1, 2016, was \$551.79, comprised of prior late penalties of \$148.32 related to FY 18 (March 2014 - February 2015); 2Q FY 19 assessment of \$299.00; and 2Q FY 19 late penalties of \$104.47);
- FY 19 Annual True-up, due on April 15, 2016, was received on August 9, 2016; and
- For FY 19, Tempo was assessed total penalties of \$734.50, of which \$375.64 was prepaid on 7/14/15, \$338.03 was paid on August 9, 2016, and the remaining \$20.83 of FY 19 penalties were paid on January 11, 2017.

For FY 20, Tempo's KUSF delinquencies include the following:

- FY 20 Attachment B, due on April 15, 2016, was received on May 25, 2016; Tempo elected to report and pay on a Monthly basis for FY 20;
- The monthly CRWs for March, April and May and related assessment payments were due April 15, 2016; May 16, 2016; and June 15, 2016, respectively, but were received on June 13, 2016. Tempo was assessed Late Worksheet and Late Payment penalties totaling \$306.70;
- June 2016 CRW and assessment payment, due July 15, 2016, were received on July 18, 2016, with the Company being assessed \$108.12 in Late Worksheet and Late Payment penalties;
- Due to non-payment of prior period penalties, as of August 1, 2016, the outstanding delinquent penalties owed by the Company was \$841.68, which Tempo paid on August 9, 2016; and
- in August 2016, the KCC Staff became aware that Tempo may not be reporting its Federal lifeline revenues correctly. Discussions between the Company and Staff resulted in the Company submitting an Annual True-up for FY 19 in March 2017, resulting in Tempo owing \$276.97 in additional assessments to the KUSF, which was paid on April 17, 2017.

For FY 21, Tempo reports to the KUSF on a Monthly basis and was delinquent with the following:

- December 2017 CRW and assessment payment, due January 15, 2018; and
- January 2018 CRW and assessment payment, due February 15, 2018.

The above-listed FY 21 items were submitted on May 9, 2018. Tempo will be assessed a \$100 late CRW penalty for each of the past due December 2017 and January 2018 CRWs submitted.

For FY 22, Tempo was delinquent in submitting its FY 22 Company Identification and Operations (Attachment B) Form, which was due by April 16, 2018. Tempo submitted its FY 22 Company Identification and Operations (Attachment B) Form on June 4, 2018.

As of June 26, 2018, Tempo is delinquent with the following:

- March 2018 CRW and assessment payment, due April 16, 2018
- April 2018 CRW and assessment payment, due May 15, 2018

- May 2018 CRW and assessment payment, due June 15, 2018

Tempo currently has a balance due on its KUSF account in the amount of \$154.13. This balance is related to Late Worksheet Penalties applied to the past due December 2017 and January 2018 CRWs, which were submitted on May 9, 2018.

In addition, Tempo has been sent numerous notifications from both the Kansas Corporation Commission Staff (Staff) and GVNW in regard to its delinquent status and that the Company may be subject to a show cause proceeding. Furthermore, GVNW and Staff have notified Tempo numerous times about concerns related to the Company's method of reporting revenues. Specifically, the amount of KUSF Assessments Collected from Customers each month is equal to the Company's monthly Net KUSF Assessment due to the Fund, indicating the Company may derive its intrastate revenue by dividing the reported KUSF assessment collected from end-users by the KUSF assessment rate.

KPMG submits KUSF reports on behalf of Tempo. Both Staff and GVNW have contacted Tempo requesting that the Company review the revenue and of the assessments collected from customers to verify their accuracy and provide an explanation of its process that results in assessments owed and assessments collected from customers being equal. Despite numerous requests, neither Staff nor GVNW has received a response.

#4211

Utilities Division  
1500 SW Arrowhead Road  
Topeka, KS 66604-4027



Phone: 785-271-3220  
Fax: 785-271-3357  
<http://kcc.ks.gov/>

Pat Apple, Chairman  
Shari Feist-Albrecht, Commissioner  
Jay Scott Emler, Commissioner

Sam Brownback, Governor

March 2, 2017

Angela Hoke  
Tempo Telecom, LLC  
2323 Grand Blvd Ste 925  
Kansas City, MO 64108-2670

Dear Ms. Hoke:

Tempo Telecom, LLC Company Identification Operations and Form identified KPMG, LLC (KPMG) as an agent for Kansas Universal Service Fund (KUSF) purposes. GVNW Consulting, Inc. (GVNW), the KUSF administrator, has advised Kansas Corporation Commission Staff (Commission and Staff, respectively) that the Company may not be in compliance with KUSF requirements. Specifically, a company is required to report its actual intrastate retail revenue and pay the related assessments for KUSF purposes; however, there is a concern that the Company may be reporting calculated intrastate retail revenue based on dividing the assessments collected from customers by the KUSF assessment rate.

Enclosed is a copy of Staff's letter to KPMG. We request the Company, and if applicable, KPMG, review the reporting procedures used for KUSF purposes to ensure compliance with Kansas statute and Commission policies. Such review should also ensure revenue reported for prior KUSF years reflect the Company's actual intrastate retail revenue to ensure the Company's KUSF records reflect actual intrastate retail revenue and the related KUSF assessments. Please contact Nicole Stephens, GVNW, at [nstephens@gvnw.com](mailto:nstephens@gvnw.com) or (217) 862-1510 if a revision to the reported revenues is necessary.

The Commission has authority to ensure a provider reports to the KUSF consistent with Kansas statute and Commission policies. K.S.A. 66-2010 requires GVNW to audit providers to ensure a provider is in compliance with its KUSF obligations. A provider may be recommended for an audit and/or a show cause proceeding to determine compliance with its KUSF obligations and/or if the assessment of sanctions or fines for failure to comply with Kansas statute and Commission orders, are warranted.

Your attention to this matter is appreciated.

Sincerely,

Sandy Reams  
Assistant Chief of Telecommunications  
Utilities Division  
Kansas Corporation Commission  
(785) 271-3130

Enc,

cc: Nicole Stephens

Docket No. 18-TEMT-043-KSF

CONFIDENTIAL

Attachment B

To Kansas USF Audit Report

Dated 6/28/2018

**Request No. 7**

**RE:** Contribution Methodology

Please provide the following information:

**RESPONSE:**

- a Provide the Company's internal KUSF reporting policies or procedures, including, but not limited to how the Company identifies and reports revenues derived from Lifeline subscribers, discounts and promotional service revenues, and bundled services to the KUSF.

**RESPONSE:** [REDACTED]

- b. If your Company offers assessable and non-assessable services in a bundle, does your Company report revenues to the KUSF based on the:
- 1.-Unbundled service price of the assessable service;
  - 2.-The total price of the bundle containing the service; or
  - 3.-If the Company uses an alternative methodology to allocate bundled service revenue to the assessable services in a bundle, please provide a detailed description of the allocation methodology, including an example calculation.

**RESPONSE:** [REDACTED]

- c. If your company recognizes any end-user, promotional, or other discounts in the revenue reported to the KUSF, please provide:

**RESPONSE:** [REDACTED]

1. A detailed listing of the types of discounts provided [REDACTED]
2. A detailed explanation regarding how the discounts are assigned to assessable and non-assessable services if the Company offers bundled services; [REDACTED]



- d. Are the methodologies to identify, report, and allocate revenue from bundled services and discounts the same for both KUSF and FUSF purposes (Yes/No)? If yes, provide a copy of the Company's internal Federal USF and associated KUSF reporting policies or procedures that supports the Company's KUSF contribution methodology is consistent with its Federal USF contribution methodology. If no, please explain the differences between the methodologies and why the Company uses separate practices.

**RESPONSE:**

[REDACTED]

#### Verification of Response

I have read the foregoing Data Request and answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to GVNW's auditor any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.

Signed:           /s/ Sharyl D. Fowler          

Date:           11/13/17

**KUSF Carrier Audit Information Request**

**Submitted By:** David Winter

**Submitted To:** Sharyl Fowler  
Elena Thomasson

**Company Name:** Tempo Telecom, LLC

**Docket Number:** 18-TEMT-043-KSF

**Request Date:** May 29, 2018

**Date Information Needed:** June 8, 2018

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**Request No. 19**

RE: Fusion Merger & FCC 499

- a. Explain how Tempo's operations and KUSF reporting will change due to Tempo's merger with Fusion.
- b. Tempo's FCC Form 499 registration does not list Kansas – please explain why:  
<http://apps.fcc.gov/cgb/form499/499detail.cfm?FilerNum=829777>

**NOTE:** If for some reason, the above information cannot be provided by the date requested, please submit a Request for Additional Time (see Attachment A).

**TEMPO RESPONSE:**

(a) Tempo's operations and KUSF reporting will not change due to the merger transaction between Birch Communications, Inc. and Fusion Telecommunications International, Inc. ("Fusion"), which was consummated on May 4, 2018. As explained in the notice filed with the Kansas Corporation Commission, Tempo did not become a subsidiary of Fusion as a result of the merger transaction. Instead, Tempo was spun-off to a newly formed holding company held by the existing owners of Birch Communications, Inc. This *pro forma* change has no effect on Tempo's current operations and or its KUSF reporting.

(b) Tempo does not maintain the FCC Form 499 Filer Database. Tempo confirms that Kansas was checked on its initial 499 registration filed in May 2013, and has been checked in each of its annual FCC Form 499-A filings since that time, including the FCC Form 499-A filing made in April 2018.

**Verification of Response – Data Request No. 19**

I have read the foregoing Data Request and answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to GVNW's auditor any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.



**KUSF Carrier Audit Information Request**

Attachment C  
Docket No. 18-TEMT-043-KSF  
Page 2 of 2

Signed:           /s/ Sharyl D. Fowler          

Date:           May 31, 2018

Docket No. 18-TEMT-043-KSF

CONFIDENTIAL

Attachment D

To Kansas USF Audit Report

Dated 6/28/2018

**KUSF Carrier Audit Information Request**

**Submitted By:** David Winter  
**Submitted To:** Sharyl Fowler  
Elena Thomasson  
**Company Name:** Tempo Telecom, LLC  
**Docket Number:** 18-TEMT-043-KSF  
**Request Date:** February 7, 2018  
**Date Information Needed:** February 21, 2018

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**Request No. 16**

**RE:** KUSF Reporting

Please provide the following information:

1. Confirm whether Tempo reports revenues to the KUSF by dividing the KUSF assessments collected from the Company's subscribers by the KUSF assessment rate to produce the actual intrastate revenue reported to the KUSF

[REDACTED]

2. Verify whether Tempo's reporting methodology reflects the Kansas intrastate revenue on which the Company assessed the KUSF surcharge.

a. Response.-

[REDACTED]

3. Confirm whether Tempo's revenue is not broken down in the general ledger or other reporting systems in sufficient detail to determine taxing jurisdiction, exemptions, taxable service, etc.

a. Response.-

[REDACTED]

4. Are Tempo's billing systems setup to identify actual Kansas intrastate retail revenue on which KUSF amounts are billed and/or calculated?

a. Response.-

[REDACTED]

**KUSF Carrier Audit Information Request**

5. Confirm that Tempo's calculated and reported revenue to the KUSF is based upon actual amounts identified by its billing systems, billed and owed.

a. Response.- [REDACTED]  
[REDACTED]  
[REDACTED]

6. Are the KUSF assessment amounts recorded in Tempo's books and records and reconciled to its remittances to the KUSF.

Response.- [REDACTED]  
[REDACTED]

7. Please provide any detailed work papers, calculations, memorandum, etc. that ties to the revenues reported to the KUSF for the test months of April, July and September 2016.

Response.- [REDACTED]

**NOTE:** If for some reason, the above information cannot be provided by the date requested, please submit a Request for Additional Time (see Attachment A).

**Verification of Response – Data Request No. 16**

I have read the foregoing Data Request and answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to GVNW's auditor any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.

Signed: Elena Thomasson

Date: March 2, 2018

Docket No. 18-TEMT-043-KSF

CONFIDENTIAL

Attachment E

To Kansas USF Audit Report

Dated 6/28/2018

**KUSF Carrier Audit Information Request**

**Submitted By:** David Winter  
**Submitted To:** Sharyl Fowler  
Elena Thomasson  
**Company Name:** Tempo Telecom, LLC  
**Docket Number:** 18-TEMT-043-KSF  
**Request Date:** March 16, 2018  
**Date Information Needed:** March 29, 2018

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**Request No. 18**

**RE:** Tempo Response to DR No. 16

- a. Why did Tempo start to "report base on dividing KUSF by the tax rate"?

Response.- [REDACTED]

- b. Did Tempo file Quarterly or Annual True-ups to reflect actual Kansas intrastate revenues? If so, please provide copies.

c. Response.- [REDACTED]

- d. If not, provide actual Kansas revenues per month for the period July 2016 until present or until such time that Tempo discontinued this reporting practice.

Response.- [REDACTED]

Please provide the following information:

**NOTE:** If for some reason, the above information cannot be provided by the date requested, please submit a Request for Additional Time (see Attachment A).

**Verification of Response – Data Request No. 18**

I have read the foregoing Data Request and answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to GVNW's auditor any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.

Signed: Elena Thomasson

Date: April 20, 2018

Docket No. 18-TEMT-043-KSF

CONFIDENTIAL

Attachment F

To Kansas USF Audit Report

Dated 6/28/2018

**KUSF Carrier Audit Information Request**

**Submitted By:** David Winter  
**Submitted To:** Sharyl Fowler  
Elena Thomasson  
**Company Name:** Tempo Telecom, LLC  
**Docket Number:** 18-TEMT-043-KSF  
**Request Date:** March 16, 2018  
**Date Information Needed:** March 29, 2018

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**Request No. 17**

**RE:** Reporting of Lifeline Subscriber Revenues

For what months (to present if necessary) did Tempo not report the \$9.25 Federal Lifeline credit to the KUSF. Did Tempo subsequently file Quarterly or Annual True-ups that included the \$9.25 Lifeline credit for those non-reporting months? If so, please provide the Lifeline credit lines and revenues per month reported per the filed Quarterly or Annual True-up.

Response.- [REDACTED]

If not, provide the number of Federal Lifeline credit lines per month until such time that Tempo started reporting Lifeline credit revenues to the KUSF. What KUSF reporting period did Tempo start reporting the \$9.25 Lifeline credit to the KUSF?

Please provide the following information:

**NOTE:** If for some reason, the above information cannot be provided by the date requested, please submit a Request for Additional Time (see Attachment A).

**Verification of Response – Data Request No. 17**

I have read the foregoing Data Request and answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to GVNW's auditor any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.

Signed: Elena Thomasson

Date: April 22, 2018



## CERTIFICATE OF SERVICE

I hereby certify that on this 28<sup>th</sup> day of June 2018, the above Kansas Universal Service Fund Audit Report was e-filed with the Kansas Corporation Commission and a copy was sent via electronic mail and/or U.S. Mail to:

Kansas Corporation Commission  
1500 S.W. Arrowhead Road  
Topeka, KS 66604

Otto Newton, Litigation Counsel  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, KS 66604  
Email: [o.newton@kcc.ks.gov](mailto:o.newton@kcc.ks.gov)

Nicole Stephens, KUSF Administrator Manager  
GVNW Consulting, Inc.  
2930 Montvale Drive, Ste. B  
Springfield, IL 62704  
Email: [nstephens@gvnw.com](mailto:nstephens@gvnw.com)

Sharyl Fowler, Regulatory & Lifeline Compliance Manager  
Tempo Telecom, LLC  
115 Gateway Dr  
Macon, GA 31210  
Email: [sharyl.fowler@Tempo.com](mailto:sharyl.fowler@Tempo.com)

Elena Thomasson, Transaction Taxes Manager  
320 Interstate North Parkway, SE  
Atlanta, GA 30339  
Email: [elena.thomasson@Tempo.com](mailto:elena.thomasson@Tempo.com)



David G. Winter