

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

**Universal Telephone Assistance Corporation** :  
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**Petition for determination of the amount and form of supplemental assistance to be provided by local exchange telecommunications carriers, pursuant to Ill. Adm. Code 757.200(b).** : **10-0634**  
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**ORDER**

By the Commission:

On November 3, 2010, the Universal Telephone Assistance Corporation (“UTAC”) filed a petition pursuant to Section 757.200(e) of 83 Ill. Adm. Code 757, “Telephone Assistance Programs” (“Part 757”), requesting that the Illinois Commerce Commission (“Commission”) temporarily reduce the amount of supplemental assistance to be provided by the Illinois local exchange carriers (“carriers”) to each eligible subscriber or eligible new subscriber under the Universal Telephone Service Assistance Program (“UTSAP”). Specifically, UTAC requests that the Commission approve, on an expedited basis, a one-time installation fee benefit of up to \$5, but not to exceed 50% of the total installation charge. Eligible customers of eligible

telecommunications carriers (“ETCs”) would continue to receive full federal Lifeline and Link-Up benefits. In addition, UTAC requests that the Commission’s order authorize eligible telecommunications carriers to continue to pass through to their qualified low income customers the full amount (\$1.75) of federal “Tier Two” support, pursuant to 47 C.F.R. § 54.403(a)(2). UTAC further requests that the Commission’s order find that Illinois operates a statutorily-mandated telephone assistance program, the UTSAP, which provides state support for the federal Lifeline/Link-Up program, and that the Commission order carriers to file new tariffs reflecting the Commission’s order within fifteen days of the date of the Commission’s order without further notice, to become effective upon filing.

Attached to its Petition, UTAC filed the form of tariff to be used by ETCs (Attachment 1), the form of tariff to be used by carriers that are not ETCs (Attachment 2) , and copies of the quarterly reports to the Commission pursuant to 83 Ill. Adm. Code §575.Exhibit A filed by three competitive carriers (Attachments 3, 4, and 5). UTAC also submitted the testimony and attached schedules of Allen Cherry, President of the UTAC Board. Barbara Lankford, Program Coordinator in the Commission’s Consumer Services Division, submitted a Verified Statement on behalf of Commission Staff (“Staff”), stating that Staff had no objection to the petition and saw no reason why the Commission should not grant the requested relief. No petitions to intervene were received, and no hearing was held in this matter.

### **Background**

UTAC is a not-for-profit corporation, of which all Illinois carriers are members, formed pursuant to the requirements of Section 757.215 of the Commission's regulations. The formation of UTAC and its organizational documents were approved by the Commission in Docket No. 93-0067, and UTAC remains subject to the jurisdiction of the Commission. The principal purpose of UTAC is to carry out the provisions of Sections 13-301 and 13-301.1 of the Public Utilities Act ("Act"), 220 ILCS 5/1-101 et seq., as implemented by Subpart C of Part 757. All funding for UTSAP comes from voluntary contributions from customers of carriers.

On or before July 1 of each year, UTAC is required to file a petition requesting the Commission to determine the amount of assistance, if any, that the carriers will provide each eligible new subscriber or eligible subscriber from the UTSAP funds. 83 Ill. Adm. Code §757.200(b). The funds may be used to reimburse carriers for providing discounts on installation charges and/or on monthly telephone bills of eligible low-income customers. 83 Ill. Adm. Code §757.200(c).

Since UTAC's inception over 17 years ago, the Commission has ordered and UTSAP has provided a reimbursement to carriers who offer an installation fee discount to their eligible low-income customers. Since 2007, the installation fee waiver from UTSAP funds has been up to \$12, but not to exceed 50% of the total installation charge. This means that carriers that provide a \$12 discount on their installation charge to eligible new low-income subscribers receive a \$12 reimbursement from the UTSAP fund. Carriers that are ETCs additionally receive reimbursement of 50% of the installation fee (up to \$30) from the federal Link-Up program. In

other words, an ETC can waive up to \$42 in installation fees for eligible new low-income subscribers and be reimbursed by UTSAP and Link-Up funds.

UTAC's most recent annual petition was filed on June 29, 2010. At that time, UTAC recommended that the Commission maintain the UTSAP installation fee benefit at up to \$12, but not to exceed 50% of the carrier's installation fee. The Commission approved UTAC's petition on August 18, 2010 in Docket No. 10-0417.

UTAC filed the present petition pursuant to Section 757.200(e), which provides:

The Commission, on its own motion, or based upon a petition filed by the UTSAP Administrator, may order the LECs to ...temporarily reduce the amount of the supplemental assistance provided under the program set forth in Section 757.200(c), if the total program costs exceed, or will exceed, the funds available from contributions specified in Section 757.205. If the Commission ...reduces the amount of payments under this Section, the Commission shall determine, subject to the availability of funds, the amount of supplemental assistance, if any, the LECs shall provide each eligible new subscriber...under the programs set forth in subsection (c) of this Section.

### **UTAC's Position**

UTAC states that when it prepared its annual petition in Docket No. 10-0417, its financial outlook for the next twelve months appeared to be stable. Mr. Cherry testified that in May, 2010, the UTSAP fund balance had decreased by only \$10,000 in the previous twelve months, and UTSAP average monthly installation waiver expenses had decreased by \$8,800 in the previous twelve months. He stated that since voluntary contributions had decreased by approximately the

same amount as the waiver expense, the UTAC Board concluded, in late May of 2010, that its expenses, income, and fund balance were relatively stable.

However, UTAC states that beginning in June, 2010, requests for reimbursement from the UTSAP fund for the \$12 connection fee waiver from several competitive, landline ETCs began to increase dramatically and without any forewarning. According to UTAC, the UTSAP fund cannot support this unprecedented level of claims for reimbursement of installation fee waivers; if claims remain at the September 2010 level without increasing further, and the benefit level remains at \$12, the UTSAP fund has a remaining life of only 14 months.

UTAC presented evidence that UTSAP costs currently exceed funds available from contributions and interest income by a substantial amount. With respect to UTAC's costs, Mr. Cherry testified that, beginning around June, 2010, UTAC began receiving significantly higher requests for reimbursement from IQ Telecom, Inc. ("IQ Telecom"), Midwestern Telecom, Inc. ("MTI"), and SOS Telecom, Inc. ("SOS Telecom"). He testified that IQ Telecom had averaged just under \$11,000 per month in waiver expenses for the first 5 months of 2010, but IQ Telecom's reimbursement requests skyrocketed to \$54,300, \$68,700, \$53,600, and \$44,000 in June, July, August and September, 2010, respectively. According to Mr. Cherry, MTI had averaged \$4,400 per month in reimbursement requests for the first 5 months of 2010, but MTI requested \$9,100, \$14,700, and almost \$23,800 in July, August and September, 2010, respectively. In addition, Mr. Cherry stated that SOS Telecom, which had averaged approximately \$2,300 in waiver reimbursement requests for the first 5 months of 2010, requested \$5,800, \$5,950, \$4,900, and \$6,000 in June, July, August and September, 2010, respectively.

Mr. Cherry testified that, as a group, these three competitive ETCs' requests for reimbursement increased 517% from the first quarter to the third quarter of 2010.

Mr. Cherry stated that for the last three months in which statewide data on LEC reimbursement requests are available, these three competitive carriers together have requested between 86 to 88% of all funds claimed by Illinois carriers for reimbursement of installation waivers. In contrast, AT&T has requested 11% to 12% of all funds, and all other local exchange carriers together account for 1.5% to 2% of all installation waiver claims submitted.

While its installation waiver expenses have increased recently and dramatically, UTAC states that UTSAP contributions have been decreasing steadily since 2000. Mr. Cherry testified that for the first 8 months of 2010, contributions averaged almost \$33,000 per month and interest income averaged \$1,656 monthly, for an average total income of \$34,656 monthly. He stated that this income was more than sufficient when reimbursement claims averaged \$25,000 per month. However, Mr. Cherry stated that with reimbursement claims in excess of \$80,000 since June, 2010, UTSAP program costs significantly exceed the funds available from contributions and interest. He noted that UTAC and its public relations consultant, Filson-Gordon, do not see any realistic possibility of increasing contributions to UTAC sufficiently to cover the increased claims by these competitive ETCs, without diverting an unacceptably large portion of the UTSAP funds to fund-raising efforts.

Mr. Cherry testified that in September 2010 (from UTAC's October 2010 financial report), total contributions plus interest income were approximately \$35,640 while cost of

installation waivers alone was \$85,550 and UTAC's total monthly expenses were \$92,180. Mr. Cherry further testified that the UTSAP fund had net losses of \$69,600 in July, \$62,300 in August, \$56,200 in September, \$56,500 in October, 2010.

UTAC states that these unforeseen and dramatic increases in the reimbursement claims of certain competitive ETCs threaten to deplete the UTSAP fund, creating an urgent need for expedited relief. UTAC urges the Commission to reduce the installation waiver to up to \$5 (but not to exceed 50% of the carrier's installation charge) until UTAC's next filing, in order to prolong the life of the UTSAP fund while still providing some assistance to low-income telephone subscribers beyond the federal Link-Up and Lifeline benefits. Mr. Cherry testified that if the supplemental assistance benefit is set at up to \$5, and if reimbursement claims remain constant, the UTSAP fund would have a remaining life of more than 6 years. At the \$5 benefit level, if reimbursement claims increase by 50%, the fund would still have a remaining life of almost 2.5 years.

Mr. Cherry testified that UTAC also has concerns about whether the unprecedented sums of UTSAP funds paid to these competitive carriers are furthering the universal service goals of Part 757. He explained that subsidizing the installation fee for low-income telephone subscribers was intended to reduce barriers to connection so that low-income customers could participate in the federal Lifeline monthly telephone subsidy program. Mr. Cherry noted that although these three carriers seek reimbursement for connecting record numbers of new low-income subscribers to the telephone network, their Lifeline subscribership is not increasing commensurately.

Mr. Cherry testified that the Board of Directors of UTAC expressed its concerns over the dramatic increases in installation waivers and the low retention rate of these low income customers in a letter to the management of each of these three carriers. He stated that the letter included specific questions that the companies were requested to address to help UTAC better understand the causes and effects of the recent increase in installation waivers. Mr. Cherry testified that all three carriers responded to the questions. He stated that their responses indicated that all three companies had engaged in very aggressive marketing by agents during the third quarter of 2010, including approaching potential customers outside public aid offices and/or soliciting door-to-door in communities where the companies expected large concentrations of households eligible for connection benefits. According to Mr. Cherry, all three carriers had promotions for eligible low income customers that included an offer to connect service without any money from the participant and an initial month of free telephone service. Mr. Cherry testified that these campaigns significantly increased new subscribers, but the customers who paid nothing tended to be terminated for nonpayment after the first free month.

UTAC is required to file its next annual petition to establish the level of supplemental assistance on July 1, 2011, and to recommend the level of UTSAP benefits for the subsequent twelve months. UTAC states that it hopes by that time to have a better understanding of the trends in installation waivers and the legitimacy of the greatly increased reimbursement claims by some competitive ETCs. UTAC also states that it intends to examine whether the Illinois UTSAP regulations have the unintended effect of enabling companies to benefit financially without producing meaningful gains in low-income telephone subscribership. UTAC noted that

it may propose rule amendments or other regulatory action to ensure that UTSAP funds are used effectively to promote universal service among low-income customers in Illinois.

UTAC points out that if the Commission approves UTAC's request to reduce the current level of UTSAP benefits, it will be necessary to order carriers to file new tariffs reflecting the reduced benefit level. UTAC also requests, pursuant to 47 C.F.R. §54.403(a)(2), that the Commission's order authorize eligible telecommunications carriers to continue to pass through to their qualified low-income customers the full amount of federal "Tier Two" support (\$1.75). In addition, as in each petition for determination of the amount of Illinois supplemental assistance, UTAC respectfully requests that the Commission's order expressly find that Illinois operates a statutorily-mandated telephone assistance program, the UTSAP, which provides state support to the federal Lifeline/Link-Up program, in order to provide documentation to the Federal Communications Commission ("FCC") that Illinois is not a federal "default" state.

### **Staff's Position**

As noted, Barbara Lankford filed a Verified Statement setting forth Staff's opinion regarding the Petition. In her Verified Statement, Ms. Lankford explained that she has participated in UTAC's meetings over an extended period of time, and believes the facts presented by UTAC, particularly with respect to its financial position, to be true and correct. Ms. Lankford concurs that UTAC's costs exceed or will exceed the funds available from contributions, as required by 83 Ill. Adm. Code §757.200(e), so as to justify the relief sought by UTAC in this proceeding. Ms. Lankford concluded that Staff does not object to UTAC's

petition, and is of the opinion that redetermination by the Commission of the amount of supplemental assistance to be offered through the UTSAP is warranted. Ms. Lankford offers no opinion regarding the remainder of the assertions made in UTAC's Petition.

### **Commission Findings and Conclusions**

In this proceeding, UTAC seeks a temporary reduction in the amount of supplemental assistance benefit offered to eligible low-income customers under the UTSAP. In order to grant such relief, the Commission must find that the total UTSAP program costs exceed, or will exceed, the funds available from contributions specified in Section 757.205. 83 Ill. Adm. Code §757.200(e).

Based on the evidence presented by UTAC and the Verified Statement by Staff, the Commission concludes that UTAC's costs for the UTSAP have substantially exceeded the funds available from contributions for the third quarter of 2010, resulting in significant net losses in the UTSAP fund in July through October, 2010. The Commission concludes that immediate action to reduce the UTSAP benefit level is needed in order to preserve the fund assets.

Under 83 Ill. Adm. Code §757.200(e),

If the Commission ...reduces the amount of payments under this Section, the Commission shall determine, subject to the availability of funds, the amount of supplemental assistance, if any, the LECs shall provide each eligible new subscriber...under the programs set forth in subsection (c) of this Section.

Section 757.200(c) establishes three mechanisms by which the carriers, through UTSAP, may provide assistance or supplement the assistance provided to low income residents under the federal Link-Up and Lifeline programs. Specifically, the Commission may order that assistance through UTSAP be made by means of (1) a waiver of initial telephone service installation charges for eligible new subscribers, which, in the case of eligible telecommunications carriers, is in addition to the 50% waiver (up to \$30.00) provided under the federal Link-Up program; (2) a waiver of all or part of the local exchange service obligation (i.e., monthly bills for local exchange telephone service) of eligible subscribers or eligible new subscribers, which, in the case of eligible telecommunications carriers, is in the form of state support for the federal Lifeline program; or (3) a combination of (1) and (2).

UTAC seeks a temporary determination that the assistance be made by means of a waiver of initial telephone service installation charges for eligible new subscribers in an amount of up to \$5, but not to exceed 50% of the carrier's total installation charge. The Commission concludes that UTSAP benefits should be offered by means of a waiver of initial telephone service installation charges for eligible new subscribers, and that it is appropriate to reduce the benefit from up to \$12 to up to \$5, but not to exceed 50% of the carrier's total installation charge, until UTAC's next annual filing on July 1, 2011. The Commission finds that this reduction in the UTSAP benefit will extend the life of the fund while still providing an incentive to connect to the telephone network.

UTAC also requests that the Commission's Order in this proceeding expressly find that Illinois operates a statutorily-mandated telephone assistance program, the UTSAP, which

provides state support to the federal Lifeline/Link-Up program. Under the FCC's rules, any state that has a state telephone assistance program and provides state support for the Lifeline/ Link-Up program is permitted to establish eligibility criteria that differ from the FCC's "default" eligibility criteria. Illinois has established its own eligibility criteria and verification procedures by rule (See Docket No. 06-0312 and Docket No. 07-0476) and Illinois thus does not operate as a "federal default" state with respect to Lifeline and Linkup programs.

Additionally, pursuant to 47 C.F.R. §54.403(a)(2), UTAC requests that the Commission's order authorize eligible telecommunications carriers to pass through to their qualified low income customers the full amount of federal "Tier Two" support (\$1.75). Section 54.403(a)(2) provides that:

Tier Two. Additional federal Lifeline support in the amount of \$1.75 per month will be made available to the eligible telecommunications carrier providing Lifeline service to the qualifying low-income consumer, if that carrier certifies to the Administrator that it will pass through the full amount of Tier-Two support to its qualifying low-income consumers and that it has received any non-federal regulatory approvals necessary to implement the required rate reduction.

The Commission will approve continuation of a rate reduction for qualified customers of eligible telecommunications carriers of \$1.75 to ensure the continued availability of "Tier Two" federal Lifeline support.

Finally, because the Commission approves the proposal to reduce the current level of UTSAP connection benefit to up to \$5, but not to exceed 50% of the carrier's installation fee,

new tariff filings will be necessary for all carriers. A uniform form of tariff for eligible telecommunications carriers is attached to this Order as Attachment 1. A form of tariff for non-eligible telecommunications carriers is attached as Attachment 2. All carriers are directed to file the applicable new tariff pages, customized for their company, within 15 days of the Commission's Order, without further notice, to become effective immediately.

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- 1) the Commission has jurisdiction over UTAC and its member Illinois local exchange telecommunications carriers, and over the subject matter herein;
- 2) the recitals of fact and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- 3) Illinois has a statutorily mandated telephone assistance program, the UTSAP, which provides state support to the federal Lifeline/Link-Up programs;
- 4) the amount of Illinois UTSAP supplemental assistance applied to the telephone installation charge for eligible new subscribers of eligible telecommunications carriers should be the lesser of \$5.00 or 50% of the carrier's total connection charge;

- 5) the amount of Illinois UTSAP supplemental assistance applied to the telephone installation charge for eligible new subscribers of non-eligible telecommunications carriers should be the lesser of \$5.00 or 50% of the carrier's total connection charge;
- 6) pursuant to 47 C.F.R. §54.403(a)(2), the Commission should approve continuation of a reduction in the amount paid by qualified Illinois customers of eligible telecommunications carriers of \$1.75 to ensure the continued availability of federal "Tier Two" Lifeline support; and
- 7) each carrier should file the applicable new tariff pages, in the form attached hereto as Attachment 1 or 2, within 15 days of the Commission's Order, without further notice, to become effective immediately.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that all eligible and non-eligible telecommunications carriers shall fully comply with Findings (4), (5), and (7), as applicable.

IT IS FURTHER ORDERED that, pursuant to 47 C.F.R. §54.403(a)(2), the amount paid by qualified Illinois subscribers of eligible telecommunications carriers shall continue to be reduced by \$1.75 to ensure the continued availability of federal "Tier Two" Lifeline funds.

IT IS FURTHER ORDERED that a copy of this Order shall be served on all local exchange telecommunications carriers.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this \_\_\_\_ day of \_\_\_\_\_, 2010.