

1 **TESTIMONY OF ALLEN W. CHERRY**

2 **ON BEHALF OF UNIVERSAL TELEPHONE ASSISTANCE CORPORATION**

3 **DOCKET NO. 12-0408**

4 **Q1. Please state your name and address.**

5 **A1.** My name is Allen W. Cherry. My address is 711 S. River Road #703, Des Plaines,  
6 Illinois 60016.

7 **Q2. Please summarize your educational background and professional experience/duties.**

8 **A2.** I am a 1977 graduate of the Northwestern University School of Law. Since then, I have  
9 practiced as an attorney in public interest and public service assignments. I have  
10 represented low-income individuals and low-income community organizations before  
11 the Commission for more than 30 years. Those proceedings include energy and  
12 telecommunications issues. I represented low-income community organizations in the  
13 proceedings that created telephone lifeline programs in Illinois. I have worked with the  
14 board of the Universal Telephone Assistance Corporation since its inception, been a  
15 board member since 1995 and have served as President since 1998.

16 **Q3. In what capacity are you testifying today?**

17 **A3.** I am testifying on behalf of the Universal Telephone Assistance Corporation (“UTAC”),  
18 a not-for-profit corporation, of which all Illinois local exchange telecommunications  
19 carriers are members. The principal purpose of UTAC is to carry out the provisions of  
20 the Universal Telephone Service Assistance Program (“UTSAP”), as required by Section  
21 13-301.1 of the Public Utilities Act and 83 Ill. Adm. Code 757, Subpart C. Part 757  
22 contains the Commission’s rules.

23 **Q4. What is the purpose of this proceeding?**

24 **A4.** UTAC has filed the present petition pursuant to 83 Ill. Adm. Code § 757.200(b),  
25 requesting that the Commission determine the amount of supplemental assistance  
26 provided under the UTSAP for the next year. UTAC recommends that the Commission  
27 increase the one-time installation fee benefit from its current \$5 to \$15, but not to exceed  
28 50% of the Illinois local exchange carrier’s total customary installation charge.

29 **Q5. Please provide a summary of your testimony.**

30 **A5.** I will provide a brief background on the UTSAP and the installation fee benefits it offers  
31 for Illinois low-income landline telephone subscribers. I will explain recent  
32 developments in Lifeline and UTSAP participation, including the Federal  
33 Communications Commission’s recent Lifeline Reform Order (*Lifeline and Linkup*  
34 *Reform and Modernization Order* (report and NPRM, WC Dkt. 11-42, CC Dkt. No. 96-  
35 45)) that terminated federal Link-Up and instituted dramatic changes to federal Lifeline.  
36 I will discuss why the state link-up supplement should continue in light of the  
37 discontinuance of federal Link-Up, and that an increase in the benefit amount will lead to  
38 the connection of people who otherwise could not afford connection. Finally, I will  
39 explain why UTAC believes that the Commission should increase the UTSAP  
40 supplemental installation fee waiver from \$5 to \$15 (not to exceed 50% of the carrier’s  
41 customary total connection fee) for qualified low-income telephone subscribers of Illinois  
42 local exchange telecommunications carriers (“LECs”).

43

44 **I. Background of the UTSAP and its Benefits.**

45 **Q6. Please provide a brief overview of the UTSAP program.**

46 **A6.** UTAC was formed in 1993 to administer the UTSAP, and its organizational documents

47 were approved by the Commission in Docket No. 93-0067. The UTSAP is funded by  
48 voluntary charitable contributions from telephone subscribers in Illinois who choose to  
49 support universal telephone service through a donation added to their monthly telephone  
50 bills or a one-time donation. Section 757.200(c) of the Commission’s rules provides that  
51 UTSAP funds may be used to provide a waiver of the initial telephone service installation  
52 charges for eligible new subscribers and/or to provide a waiver of all or a portion of the  
53 monthly local exchange service obligation of eligible subscribers or eligible new  
54 subscribers. The Commission’s rules refer to the UTSAP assistance as “supplemental  
55 assistance” because it is supplemental to the federal low-income telephone assistance  
56 program known as Lifeline and formerly included Linkup. UTSAP assistance is  
57 available to qualified low-income telephone subscribers of all Illinois LECs, while the  
58 federal Lifeline programs are only offered to customers of “eligible telecommunications  
59 carriers” (“ETCs”) as defined in 47 C.F.R. § 54.5.

60 **Q7. How is the level of UTSAP assistance for low-income telephone subscribers**  
61 **established?**

62 **A7.** On or before July 1 of each year, UTAC files a petition with the Commission pursuant to  
63 83 Ill. Adm. Code § 757.200(b), recommending the form and amount of supplemental  
64 assistance to eligible low-income telephone subscribers from the UTSAP fund. The  
65 Commission then establishes by order the supplemental assistance benefit for the  
66 subsequent 12 months.

67 **Q8. What changes have occurred in the past year with respect to the federal Linkup and**  
68 **Lifeline programs?**

69 **A8.** On February 6, 2012, the Federal Communications Commission (“FCC”) released its

70 *Lifeline and Linkup Reform and Modernization Order* (report and NPRM, WC Dkt. 11-  
71 42, CC Dkt. No. 96-45) (“Lifeline Reform Order”). The Lifeline Reform Order, together  
72 with the notice of proposed rule-making involved a major restructuring of the Lifeline  
73 requirements to reduce waste, fraud, and abuse and in the process the FCC imposed many  
74 new requirements on eligible telecommunications carriers (“ETC”). The Lifeline Reform  
75 Order also terminated the federal Linkup program. The Lifeline Reform Order imposes  
76 new marketing and application requirements on ETCs, limits Lifeline service to one per  
77 household, works towards the creation of a national Lifeline accountability database that  
78 ETCs must check, and establishes a temporary uniform Lifeline support amount of \$9.25  
79 per month. There are numerous other provisions in the Order and further changes in  
80 federal Lifeline will be forthcoming when the FCC completes its notice of proposed rule-  
81 making.

82 **Q9. Could you please summarize the financial assistance that is currently offered to**  
83 **qualified Illinois telephone subscribers?**

84 **A9.** Pursuant to the Commission’s Order in Docket No. 11-0507, the UTSAP currently  
85 provides for connection assistance to cover \$5 of a LECs connection fee, up to a  
86 maximum of 50% of the carrier’s total connection fee. The federal Linkup Program has  
87 been abolished. However, qualified low-income subscribers of ETCs receive a monthly  
88 credit under the federal Lifeline program equal to \$9.25.

89 **Q10. Do the Illinois supplemental assistance benefits and the federal Lifeline assistance**  
90 **benefits go directly to the low-income telephone customer?**

91 **A10.** No. The telecommunications carrier waives the applicable charges to the customer, and  
92 is reimbursed by UTAC from the UTSAP fund and by the Universal Service Assistance

93 Corporation (“USAC”) from federal funds.

94 **Q11. What are the eligibility requirements for the UTSAP programs?**

95 **A11.** Customers are eligible for the federal assistance and state supplemental assistance if they  
96 participate in any one of the following programs: Medicaid, Food Stamps Supplemental  
97 Security Income, Federal Public Housing, Low Income Home Energy Assistance  
98 (“LIHEAP”), Temporary Assistance to Needy Families program (“TANF”) or the  
99 National School Lunch’s free lunch program. Federal Lifeline uses the same standards  
100 except federal Lifeline also uses an income test (135% of poverty) as a qualifying test.

101 **Q12. Could you please provide a history of UTSAP benefits?**

102 **A12.** Yes. The history of UTSAP benefits is summarized in Schedule 1.0 to my testimony.  
103 Since its inception in 1993, the UTSAP has consistently offered a one-time waiver of a  
104 portion of the connection fee to eligible new telephone subscribers in Illinois. The  
105 amount of this supplemental connection assistance has varied from \$6 in 1993 to up to  
106 50% of the customer’s installation charge, from 1998 to 2002. From September, 2007  
107 through January, 2011, the supplemental connection fee waiver was set at up to \$12, but  
108 not to exceed 50% of the carrier’s connection charge. Since early February, 2011, the  
109 supplemental connection fee waiver has been \$5, but not to exceed 50% of the carrier’s  
110 total connection charge.

111 Between October, 1999 and December, 2004, the UTSAP fund was also able to provide a  
112 supplemental monthly credit on telephone bills of \$1.50 and later \$1.20, both augmented  
113 by federal matching funds of 50%. The monthly UTSAP supplemental monthly  
114 assistance was terminated at the end of 2003.

115

116 **II. Recent Participation in the Low-Income Telephone Assistance Programs.**

117 **Q13. How many customers presently participate in the Lifeline and UTSAP connection**  
118 **assistance programs?**

119 **A13.** As of December 31, 2011, approximately 410,685 customers were participants in the  
120 federal Lifeline assistance program. Of this total, approximately 341,301 or 83% were  
121 wireless Lifeline customers and approximately 69,384 or 17% were landline Lifeline  
122 customers. This compares to approximately 69,384 landline Lifeline customers in 2010,  
123 and approximately 97,540 customers in 2008. Schedule 2.0 to my testimony shows  
124 participation in Lifeline since 1999.

125 Until 2009, virtually all Illinois Lifeline participants had landline telephone service. In  
126 2009, TracFone began wireless Lifeline service in Illinois. Based on data from USAC,  
127 UTAC estimates that there were approximately 132,800 wireless Lifeline customers in  
128 Illinois as of December 31, 2009, in addition to the 97,540 landline Lifeline customers.

129 During calendar year 2011, UTSAP provided telephone installation waivers for 9,622  
130 Illinois customers. This compares to 56,189 installation waivers in 2010, and 40,374  
131 installation waivers in 2009. The chart on Schedule 3.0 to my testimony shows the  
132 membership of UTSAP supplemental installation waivers since 2000.

133 **Q14. Your Answer 13 indicates that UTSAP installation waivers decreased from**  
134 **approximately 56,189 in 2010 to 9,622 in 2011. What accounts for this dramatic**  
135 **decrease in UTSAP installation waivers?**

136 **A14.** Beginning in June, 2010, requests for reimbursement from the UTSAP fund for the then-  
137 \$12 connection fee waiver from several competitive, prepaid, landline ETCs began to  
138 increase dramatically and without any forewarning to UTAC.

139 For example, IQ Telecom, Inc. (“IQ Telecom”) had averaged just under \$11,000 per  
140 month in waiver expenses for the first 5 months of 2010. However, IQ Telecom’s  
141 reimbursement requests skyrocketed to \$54,300, \$68,700, \$53,600, and \$44,000 in June,  
142 July, August and September, 2010, respectively. Similarly, Midwestern Telecom, Inc.  
143 (“MTI”) had averaged \$4,400 per month in reimbursement requests for the first 5 months  
144 of 2010. MTI requested \$9,100, \$14,700, and almost \$23,800 in July, August and  
145 September, 2010, respectively. SOS Telecom, Inc. (“SOS Telecom”), which had  
146 averaged approximately \$2,300 in waiver reimbursement requests for the first 5 months  
147 of 2010, requested \$5,800, \$5,950, \$4,900, and \$6,000 in June, July, August and  
148 September, 2010, respectively.

149 As a group, these three competitive ETCs’ requests for reimbursement increased 517%  
150 from the first quarter to the third quarter of 2010.

151 To put these dramatically increased reimbursement claims by competitive ETCs into  
152 perspective, AT&T’s requests for reimbursement remained consistent throughout 2010,  
153 ranging from a low of \$9,120 in January to a high of \$11,316 in March, 2010. AT&T  
154 requested an average of \$10,340 per month in connection fee reimbursement between  
155 June and September, 2010, compared to a monthly average of \$55,140 in claims by IQ  
156 Telecom, \$16,120 in claims by MTI, and \$5,660 by SOS Telecom for that same period.  
157 Once the amount of UTSAP reimbursement was lowered to \$5 per installation in 10-0634  
158 in January 2011, the requests subsided enormously.

159 **Q15. How will the provision of wireless low-income service impact the UTSAP fund?**

160 **A15.** Wireless ETC service per se should have no impact on the UTSAP fund. It is UTAC’s  
161 understanding that these wireless carriers are not subject to the Commission’s jurisdiction

162 as “telecommunications carriers” providing “local exchange telecommunications service”  
163 as defined in 220 ILCS 5/13-202 and 13-204, and, therefore, they are not presently  
164 eligible to participate in the Illinois UTSAP connection fee waiver program under 83 Ill.  
165 Adm. Code 757.200.

166 **Q16. What efforts has UTAC made to publicize the Lifeline and UTSAP programs to**  
167 **potential participants and contributors?**

168 **A16.** As in past years, continued viability of the UTSAP program depends on voluntary  
169 contributions. UTAC has continued to focus its publicity resources on the dual goals of  
170 increasing contributions and informing potential customers of the benefits available  
171 through Lifeline and UTSAP supplemental assistance.

172 For the first quarter of 2011 a summary of Link Up, Lifeline, and the UTSAP programs  
173 was distributed through e-mail to members of the Family Support Network, a statewide  
174 group of families who are impacted by developmental disabilities and many of whom are  
175 Medicaid eligible. UTAC created a Facebook page in the second quarter to reach out to  
176 both eligible populations and potential donors. A press event was held jointly with the  
177 Illinois Commerce Commission for Lifeline Awareness Week and a bill insert was sent to  
178 all current telephone subscribers in the third and fourth quarters.

179 For the first quarter of 2012, UTAC sent a mailing to every Housing Authority in the  
180 state providing a summary of the programs administered by UTAC and the eligibility  
181 requirements. A press release was also placed on UTAC’s website notifying the public  
182 about the change that eliminated the federal Link Up program.

183 In addition to these quarterly publicity efforts, UTAC maintains a website about the  
184 programs at [www.linkupillinois.org](http://www.linkupillinois.org) and each telephone company includes information

185 about the programs in its telephone directory. Links to the UTAC website and/or  
186 telephone assistance program information have been added to the DuPage County  
187 Community Resource Information System (C.R.I.S) website and the Illinois Commerce  
188 Commission's website. In the view of the UTAC Board of Directors, these specific  
189 publicity campaigns are likely to promote program participation at a minimum cost, and  
190 help increase UTSAP contributions.

191 **Q17. What changes has the Commission Staff made in response to the FCC's Lifeline**  
192 **Reform Order?**

193 **A17.** Staff has conducted two informal industry wide workshops prior to initiating rulemaking  
194 to review the Commission's present UTSAP rules in response to the Lifeline Reform  
195 Order. Staff has recently circulated a draft of the revised rules. Based on the comments  
196 from various participants, staff believes the revisions will be acceptable to all  
197 stakeholders. . I expect formal ruling-making changes will take place in 2012.

198 **Q18. What has been the financial performance of the UTSAP fund since July, 2011 when**  
199 **testimony was presented in UTAC's last annual filing pursuant to Part 757.200(b)?**

200 **A18.** Monthly contributions have declined steadily over the past ten years. As of May 31,  
201 2012, monthly contributions (including approximately \$700 per month small interest  
202 income) were averaging approximately \$24,800, as compared to \$30,150 as of May 31,  
203 2011.

204 **Q19. How many individuals contribute to the UTSAP program?**

205 **A19.** The number of contributors, like the amount of contributions, has declined in recent  
206 years. As of April 30, 2012, the number of contributors was approximately 20,968 as  
207 compared to 27,240 as of April 30, 2011, 33,900 as of April 30, 2010, and 41,800 as of

208 April 30, 2009. Schedule 4.0 shows UTAC's number of contributors, average monthly  
209 contributions, average total monthly income (contributions plus interest income), and  
210 fund balance over time.

211 **Q20. How does UTAC track participation levels in the Lifeline and UTSAP programs?**

212 **A20.** Since the inception of UTAC and the UTSAP, telecommunications carriers have been  
213 required to report data to the Commission at least quarterly, pursuant to 83 Ill. Adm.  
214 Code 757.210 and 757.Exhibit A. Through 2004, the Commission tabulated and  
215 published this data. Through 2003, the data generally appeared to be accurate and  
216 internally consistent. However, in preparing its 2005 annual petition to the Commission,  
217 pursuant to 83 Ill. Adm. Code 757.200(b), UTAC discovered that the 2004 statistical  
218 report prepared by the Commission Staff was incomplete and incorrect. UTAC discussed  
219 its concerns regarding the quality of the data compilations with Staff. In June, 2005,  
220 Staff informed UTAC that it would discontinue summarizing the data on Lifeline, Link-  
221 up and UTSAP, because it did not have the resources to provide accurate tabulations.  
222 Consequently, since that time, UTAC has contracted with its pooled fund administrator to  
223 summarize the participation data reported by member carriers. Until 2010, UTAC did  
224 not receive data on participation in Lifeline and Link-Up from wireless ETCs. With the  
225 assistance of Staff, UTAC now receives this information.

226

227 **III. UTAC's Recommendation for Supplemental Assistance for the Next Year.**

228 **Q21. What is UTAC's recommendation in this proceeding regarding the form and**  
229 **amount of supplemental assistance from the UTSAP fund?**

230 **A21.** UTAC recommends that the Commission increase the benefit level. Specifically, UTAC

231 recommends that the supplemental connection fee assistance provided by the carriers  
232 under the UTSAP be up to \$15, but not to exceed 50% of the telecommunications  
233 carrier's total connection charge. UTAC does not recommend reinstatement of a monthly  
234 benefit. If the Commission approves UTAC's recommendations, new tariff filings will  
235 be necessary. UTAC requests that all carriers have a tariff in effect be directed to file the  
236 applicable new tariff pages implementing the connection fee waiver of up to \$15 (not to  
237 exceed 50% of the total installation charge) within 15 days of the Commission's Order, to  
238 become effective immediately.

239 UTAC also recommends that the Commission's order authorize eligible ETCs to pass  
240 through to their qualified low income customers the full amount of Lifeline support and  
241 to the extent that support exceeds the Federal End User Common Line charge, to apply  
242 any additional federal support to the customers intrastate rate.

243 In addition, UTAC requests that the Commission's order find that Illinois has a  
244 statutorily-mandated telephone assistance program, the UTSAP, which provides state  
245 support to the federal Lifeline program.

246

247 **Q22. Why does UTAC recommend that the Commission increase the supplemental**  
248 **connection fee waiver of up to \$15?**

249 **A22.** In 2010 UTAC experienced a substantial increase in waivers from the 3 ETCs mentioned  
250 earlier and the waiver claims have now subsided and leveled off to a normal level. It  
251 appears likely that the 3 ETCs have stopped doing business in Illinois so UTAC does not  
252 expect the abuse with state landline link up to occur in the future. Over the past year,  
253 UTAC has managed to increase the UTSAP fund so that it is now able to offer a more

254 generous benefit. In addition, UTAC believes that, even with the discontinuance of  
255 federal Link-Up, UTAC can still provide meaningful assistance by increasing benefit  
256 amount to \$15 and that will lead to the connection of low income consumers who  
257 otherwise could not afford connection

258 **Q23. Why does UTAC request that the Commission’s order find that Illinois has a**  
259 **statutorily-mandated telephone assistance program, the UTSAP, which provides**  
260 **state support to the federal Lifeline program?**

261 **A23.** Under the FCC’s rules, any state that has a state telephone assistance program and  
262 provides state support for the Lifeline program is permitted to establish eligibility criteria  
263 that differ from the FCC’s “default” eligibility criteria. Illinois meets these criteria  
264 because of its UTSAP program has established its own eligibility criteria by rule. An  
265 express finding on this issue by the Commission in this proceeding will provide further  
266 confirmation to the FCC and its Universal Service Administration Company that Illinois  
267 is not a federal default state.

268 **Q24 Why does UTAC request that the Commission’s order authorize ETCs to continue**  
269 **to pass through to their qualified low-income customers the full amount of federal**  
270 **Lifeline support?**

271 **A24.** Under 47 C.F.R. §54.403(a)(1), the federal Lifeline support of \$9.25 per month is  
272 available if the ETC certifies to the Universal Service Administration Company that it  
273 will pass through the full amount of the support to its qualifying, low-income consumers  
274 and that it has received any non-federal regulatory approvals necessary to implement the  
275 required rate reduction. Under 47 C.F.R. §54.403(a)(2), ETCs that charge federal End  
276 User Common Line charges or its equivalent must apply Lifeline support to waive the

277 federal End User Common Line charge for Lifeline subscribers. Such carriers must then  
278 apply any additional federal support amount to the qualifying low income customers  
279 intrastate rate if the carrier has received the non-federal regulatory approvals necessary to  
280 implement the required rate reduction. The Commission's authorization to pass through  
281 the additional Lifeline amount provides ETCs with the "non-federal regulatory  
282 approvals" necessary to implement the pass-through and to provide the required  
283 certification to USAC.

284 **Q25. Does this conclude your direct testimony?**

285 **A25.** Yes, it does.