

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 83 Ill. Adm. Code 757.200(b). : **03-0418**
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ORDER

By the Commission:

On June 30, 2003, the Universal Telephone Assistance Corporation ("UTAC") filed a petition, as required by 83 Ill. Adm. Code 757.200(b), requesting that the Illinois Commerce Commission ("Commission") determine the amount and form 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 reduce the current UTSAP supplemental assistance benefits in view of the significantly increased participation levels and the diminished income to the UTSAP fund. In addition, UTAC requests that the Commission order telecommunications carriers to file tariffs consistent with the Commission's determination, authorize its Staff to file information with the Federal Communications Commission ("FCC"), and approve a reduction in the amount paid to eligible Illinois consumers.

Pursuant to due notice, a hearing was held in this matter before a duly authorized Administrative Law Judge of the Commission at its offices in Springfield on July 29, 2003. Appearances were entered by counsel for UTAC and by Barbara Lankford, a member of the Commission's Consumer Services Division ("Staff"). The prepared testimony of Allen W. Cherry, the current president of the UTAC Board, was admitted into evidence as UTAC Group Exhibit A. At the conclusion of the July 29, 2003 hearing, the record was marked "Heard and Taken."

UTAC filed a draft order.

UTAC is a not-for-profit corporation, of which all Illinois carriers are members, formed pursuant to the requirements of Section 757.215. 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 83 Ill. Adm. Code 757, Subpart C.

All funding for UTSAP comes from voluntary contributions from customers of carriers. The carriers collect the contributions and report and transfer these amounts to UTAC. The carriers also report to UTAC any costs they have incurred that are directly related to administration of the program, which they are entitled to recover from UTSAP contributions.

As indicated above, UTAC filed its petition pursuant to Section 757.200(b), which requires that UTAC, as the UTSAP Administrator, file annual petitions with the Commission, “requesting the Commission to determine the amount of supplemental assistance, if any, the [carriers] shall provide each eligible new subscriber or eligible subscriber” under UTSAP. Section 757.200(b) additionally requires that UTAC, as the UTSAP Administrator, make recommendations regarding waiver amounts and new UTSAP programs. The assistance to be provided under UTSAP is supplemental to the assistance provided under the federal Link-Up and Lifeline programs, pursuant to Subparts B and E of Code Part 757.

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 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).

On November 23, 1993, in Docket No. 93-0332, the Commission issued its first order pursuant to Section 757.200(b). That order determined that supplemental assistance through UTSAP should be provided by means of a one-time waiver of \$6.00 on initial telephone service installation charges for eligible new subscribers, in addition to the 50% waiver (up to \$30.00) provided under the federal connection assistance program. On July 7, 1994, in Docket No. 94-0178, the Commission issued its second order pursuant to Section 757.200(b), authorizing an increase from \$6.00 to \$10.00 in the one-time waiver of initial telephone service installation charges for eligible new subscribers. In an order entered in Docket No. 95-0004 on May 3, 1995, the Commission approved a continuation of the one-time additional waiver of up to \$10 to be applied to the telephone installation charges of eligible new subscribers. Similarly, the Commission approved continuation of the connection fee waiver of up to \$10 by orders entered on February 7, 1996 in Docket No. 95-0546, on April 23, 1997 in Docket No. 96-0372, and on June 17, 1998 in Docket No. 97-0556. On April 21, 1999, in Docket No. 98-0884, the Commission approved UTAC’s proposal to create a

supplemental monthly assistance credit of \$1.50. This \$1.50 UTSAP monthly credit, when coupled with the \$5.25 federal Lifeline assistance and \$0.75 in federal matching funds, gave qualified customers of eligible telecommunications carriers a total of \$7.50 in monthly telephone assistance. On August 11, 1999, in Docket No. 99-0360, the Commission approved UTAC's proposal to maintain the \$1.50 UTSAP monthly credit and the supplemental connection fee waiver of 50% of each telephone company's connection charge, and approved a new cap of \$30.00 on the UTSAP supplemental connection assistance, analogous to the \$30.00 cap on federal Link-Up assistance imposed by the FCC. On September 20, 2000, in Docket No. 00-0481 and on July 25, 2001 in Docket No. 01-0478, the Commission entered orders maintaining the same level of assistance as approved in Docket No. 99-0360. On August 8, 2002, in Docket No. 02-0451, the Commission approved UTAC's request to reduce the installation waiver to \$10, and to reduce the monthly supplemental credit from \$1.50 to \$1.20, in light of UTAC's diminishing reserves.

As of May 31, 2003, UTSAP had a fund balance of approximately \$1.0 million. For the period of June 1, 2002 through May 31, 2003, UTSAP's total monthly expenses averaged approximately \$182,300. Contributions plus interest income for the same period averaged approximately \$76,800 per month. As of December 31, 2002, approximately 90,700 customers were participants in the UTSAP Lifeline assistance program. During calendar year 2002, UTSAP provided telephone installation fee waivers for approximately 40,700 customers at a cost of approximately \$927,000.

At the end of December, 1999, assuming no change in UTAC's then-current levels of enrollment, benefits, expenditure and income, UTAC projected that it could have continued to offer supplemental assistance for approximately 15 years. Two years ago, due to the dramatically increased levels of participation and expenses, UTAC projected a remaining pool life of only approximately 5-1/2 years, at the then-existing levels of contributions and expenses. One year ago, continued increases in participation, decreased contributions, and diminishing interest income (due both to lower interest rates and a reduced fund balance) combined to further reduce the projected life of the UTSAP fund to approximately 16 months. At that time, the Commission reduced the benefit levels in an attempt to prolong the life of the fund. Nevertheless, using the most current data, and assuming no change in the present levels of participation, contributions, income and benefits, the UTSAP pool life is only approximately 11 months.

Mr. Cherry testified that the decline in the projected life of the UTSAP fund is not unanticipated. He explained that UTAC currently expends more per month on connection assistance, monthly assistance and administrative expenses than it receives in voluntary contributions and interest, and has done so since the implementation of the monthly assistance program in October, 1999. According to Mr. Cherry, the success of UTAC's and its member carriers' strategies to expand the number of recipients benefiting from the Lifeline and Link-Up programs has dramatically increased UTSAP costs, and this increased participation in the UTSAP is the most important cause of the diminished fund life. He testified that enrollment in the Lifeline Program increased by

approximately 8% during 2000, by over 41% during 2001, and by approximately 12% during 2002.

According to Mr. Cherry, at the same time, voluntary contributions have decreased in the past year, likely as a result of the downturn in the economy. Mr. Cherry stated that UTSAP income has further suffered from the decline in interest rates and the decrease in the funds on which interest is earned. According to Mr. Cherry, while UTAC could not anticipate the current decrease in interest rates or the recession-driven decrease in contributions, the UTAC Board has recognized from its inception that the number of eligible subscribers far exceeds UTSAP enrollment. Mr. Cherry testified that UTAC has been acutely aware that success in increasing enrollment would increase its expenses, potentially dramatically. He stated that, for this reason, UTAC delayed in proposing a monthly assistance program until it built up sufficient reserves to permit it to offer a meaningful monthly benefit for a period of time. According to Mr. Cherry, it has always been clear that unless contributions and interest income keep up with the increases in enrollment, the life of the UTSAP fund will be limited. Mr. Cherry pointed out that, in Docket No. 98-0884, when UTAC first proposed a monthly assistance program, its witness explained that the \$1.50 monthly assistance level would be sustainable for five years provided that enrollment did not exceed 76,000 subscribers. Mr. Cherry testified that Lifeline enrollment exceeded that estimate during 2001, forcing UTAC to recommend in its 2002 filing that the Commission reduce the monthly assistance level. He stated that the reduction in the monthly assistance level was successful in sustaining the program for another year, but indicated that UTSAP reserves are now depleted and that expenses must be reduced to a level that will allow a positive cash flow. He noted that ironically, the more successful the program is in outreach and enrollment efforts, the more difficult it becomes to keep the program solvent.

Because of the continuing, significant decrease in the expected pool life to the point where the funds would be depleted in less than a year at the current rate of spending, UTAC states that it cannot prudently recommend a continuation of the existing benefit levels of UTSAP at this time. UTAC recommends that the Commission maintain the UTSAP installation fee waiver at the current level of up to \$10, but not to exceed 50% of the total connection charge. UTAC recommends, however, that the Commission eliminate entirely the UTSAP monthly supplemental assistance, which is currently \$1.20. Pursuant to 47 C.F.R. 54.403(a)(3), federal matching funds have been available in amount equal to one-half of the amount of the UTSAP supplemental monthly assistance ("Tier Three" federal support). Elimination of the UTSAP monthly supplemental assistance therefore means that customers of eligible telecommunications carriers would no longer receive the Tier Three federal matching support of 50%, or \$0.60 monthly. Mr. Cherry testified, however, that customers of eligible telecommunications carriers would continue to receive a waiver of the monthly federal subscriber line charge, which differs in amount from carrier to carrier ("Tier One" federal support), plus an additional \$1.75 monthly credit through the federal Lifeline program ("Tier Two" federal support").

Mr. Cherry further testified that, in order to allow carriers time to provide notice of the reduced monthly benefits to Lifeline customers, the new benefit levels should become effective January 1, 2004. UTAC estimates that it has sufficient funds to provide benefits at the present levels until the January 1, 2004 implementation date.

Mr. Cherry explained that UTAC has known and advised the Commission in its annual filings under 83 Ill. Adm. Code 757.200 for several years that its voluntary contributions and interest income were not keeping pace with expenses, primarily due to the growth in program participation. He noted that UTAC was only able to offer a monthly supplemental assistance program in 1999 after accumulating voluntary contributions for a number of years. UTAC states that elimination of the UTSAP monthly supplemental assistance is projected to establish a positive cash flow for the UTSAP fund. Mr. Cherry testified that, in the future, UTAC would evaluate the possibility of increasing benefits, based on participation and contribution levels. He noted, however, that due to the high level of program participation, UTSAP reserves might not grow to a level that would permit reestablishment of a monthly supplemental assistance program.

UTAC states, that as participation in the UTSAP increases, viability of the program depends on ever-increasing contributions. For this reason, UTAC reports that it has continued its efforts to increase contributions to the UTSAP. Mr. Cherry testified that postcards were mailed to all current Verizon contributors, encouraging them to increase the level of their contributions. In addition, he indicated that UTAC is currently preparing an outreach program to reach potential contributors in hospital waiting rooms. Mr. Cherry testified that UTAC has also prepared and distributed a radio public service announcement soliciting contributions to the UTSAP. He explained that other cost-effective solicitation programs are under development, including a Speakers Bureau and information on the Safety Council website.

UTAC requests that all carriers be ordered to file new tariffs substantially in the form attached as Appendix A or B to this order and that these tariffs become effective on January 1, 2004. UTAC noted that the Commission's order should recognize that Verizon may need to adjust the form of tariff to reflect its unique, federally-regulated USA Lifeline programs.

Mr. Cherry testified that Appendix A applies to all eligible telecommunications carriers. Eligible telecommunications carriers offer and have tariffed the federally funded Lifeline and Link-Up programs. He explained that each eligible telecommunications carrier will need to insert the appropriate Subscriber Line Charge or End User Common Line Charge on Appendix A, page 2 of 3, Section I.B.1.a. Mr. Cherry further testified that Appendix B applies to those telecommunications carriers who have not applied for "eligible telecommunications carrier" status. Non-eligible telecommunications carriers do not offer the federally funded Lifeline and Link-Up programs. Mr. Cherry testified that all incumbent local exchange carriers as well as a some competitive carriers are eligible telecommunications carriers. The non-eligible

telecommunications carriers are competitive carriers that have not applied for eligible telecommunications carrier status.

As noted above, the federal Lifeline program established by the FCC provides all eligible telephone subscribers with additional Tier Three federal support equal to one-half of the state monthly supplemental assistance. UTAC points out that it may be necessary for the Commission Staff to file Illinois supplemental assistance information with the FCC in order to inform the FCC that the UTSAP will no longer provide any state monthly supplemental support, and, consequently, Illinois carriers will no longer receive, as a pass through to customers, the 50% Tier Three match from the federal program.

In addition, UTAC's petition requests that the Commission approve a reduction in the amount paid by eligible Illinois consumers of \$1.75, in compliance with 47 C.F.R. §54.403(a)(2). Section 54.403(a)(2) provides:

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.

UTAC requests that the Commission's Order approve a rate reduction for qualified customers of eligible telecommunications carriers of \$1.75 to ensure the availability of Tier Two federal support. UTAC further requests that the Commission's Order authorize Staff to make any necessary filings with the FCC to reflect the impact of the Order on Tier Two and Tier Three federal support.

At the hearing, Barbara Lankford, a member of the Commission's Consumer Services Division, stated that Staff recommends approval of the relief requested by UTAC.

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) the amount of supplemental assistance applied to the telephone installation charge for eligible new subscribers of eligible telecommunications carriers should be in an amount equal to the lesser of

\$10.00 or 50% of each telephone installation charge (after application of federal Link-Up funds);

- (4) the amount of supplemental assistance applied to the telephone installation charge for eligible new subscribers of non-eligible telecommunications carriers should be the lesser of \$10.00 or 50% of the carrier's total connection charge;
- (5) UTSAP should discontinue provision of supplemental assistance in the form of a credit applied to the monthly local telephone bills of eligible subscribers;
- (6) by no later than November 17, 2003, all Illinois carriers should file tariffs consistent with this Order, to become effective January 1, 2004, substantially in the form of Appendix A (applicable to eligible telecommunications carriers) or Appendix B (applicable to non-eligible telecommunications carriers) attached to this Order (with modifications, as necessary, for Verizon to reflect its USA Lifeline program);
- (7) the Commission Staff is authorized and directed to file information regarding this order with the Administrator of the FCC's universal service support mechanisms; and
- (8) pursuant to 47 C.F.R. Sec. 54.403(a)(2), the Commission should approve a reduction in the amount paid by qualified Illinois customers of eligible telecommunications carriers of \$1.75 to ensure the availability of federal Tier Two support.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that all eligible and non-eligible telecommunications carriers shall fully comply with Findings (3), (4), (5), and (6), as applicable.

IT IS FURTHER ORDERED that the Staff of the Commission is authorized and directed to file information regarding this Order with the Administrator of the FCC's universal service support mechanisms.

IT IS FURTHER ORDERED that, pursuant to 47 C.F.R. Sec. 54.403(a)(2), the amount paid by qualified Illinois subscribers of eligible telecommunications carriers shall be reduced by \$1.75 to ensure the availability of federal Tier Two matching 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 9th day of September, 2003.

(SIGNED) EDWARD C. HURLEY

Chairman