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Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of

WC Docket No. 11-24

Domestic Section 214 Application  
Filed for the Acquisition of Assets  
of Blue Casa Communications, Inc.,  
by Blue Casa Telephone, LLC

**COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION  
AND THE PEOPLE OF THE STATE OF CALIFORNIA**

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February 28, 2011

The California Public Utilities Commission and the People of the State of California (CPUC or California) submit these comments in response to the Public Notice released February 14, 2011. In the Public Notice, the Federal Communications Commission (FCC or Commission) seeks comments on the Joint Section 214 Application of Blue Casa Communications, Inc. (FRN: 0018554444) ("Blue Casa"), Blue Casa (assignment for the benefit of creditors), LLC (FRN 0020570354) ("Assignee *FBD* Creditors"), and Blue Casa Telephone, LLC (FRN 0020552303) (Joint Application).<sup>1</sup>

The CPUC is filing these comments to alert the FCC to the fact that Blue Casa owes California over one million dollars (\$1,000,000) in surcharges assessed to support the CPUC's universal service programs, as well as the CPUC user fee. In addition, Blue Casa owes its customers \$84,000.00. We want to ensure that the requested sale of Blue Casa does not hinder payment of these monies to the CPUC and to Blue Casa's customers. Accordingly, the CPUC requests that the FCC require Blue Casa to inform the Commission of how it intends to repay its debts, and in particular, its debts to California. We also ask that the FCC provide the CPUC with an opportunity to comment on the information that Blue Casa provides to the Commission.

As stated in the Public Notice, Blue Casa provides local exchange, exchange access, and domestic interexchange telephone services to residential customers in California. The CPUC granted Blue Casa a certificate of public convenience and

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<sup>1</sup> Domestic Section 214 Application Filed for the Acquisition of Assets of Blue Casa Communications, Inc. by Blue Casa Telephone, LLC, Public Notice, WC Docket No. 11-24 (DA 11-288) rel. February 14, 2011. (Public Notice).

necessity on May 8, 2003 to provide local exchange and interexchange services in California (CPCN No. U-9667-C).

California state law and CPUC regulations require local exchange carriers to collect from end users and remit to the CPUC surcharge revenues that support the state's six universal service programs and a user fee that supports the regulatory activity of the CPUC. The surcharges and fees are assessed as a percentage of the intrastate billings of each customer of telecommunications services providers in California.

A recent CPUC audit of Blue Casa determined that Blue Casa should refund approximately \$1.2 million to the CPUC for overpayments related to our California LifeLine Program (formerly known as our "ULTS Fund") and to the CPUC's user fee. The audit also concluded that Blue Casa should refund approximately \$84,000.00 to its customers. The audit report is attached.<sup>2</sup>

The CPUC first received word of the proposed sale via the FCC's Daily Digest Public Notice requesting comments on the Joint Application. Subsequently, on February 16, 2011, TCAST Communications, Inc. (TCAST) filed an Advice Letter with the CPUC requesting approval to purchase the assets of Blue Casa. The CPUC has not had sufficient time to fully analyze the implications of the requested transfer of assets and/or its potential affect on the monies Blue Casa owes to California and its customers. It may well be that the assignee FBO Creditors or TCAST will assume and pay the debts of Blue Casa. However, because the CPUC is unclear at this time as to the affect of the

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<sup>2</sup> Blue Casa submitted to the CPUC a response to the attached audit report, but marked that response as confidential. Accordingly, we are not providing that response to the FCC.

transfer on these debts, we are informing the FCC of this matter, and requesting that the FCC require Blue Casa to produce a written account of how it intends to pay these debts or how the transfer of assets will affect the payment of these debts. We also request the opportunity to comment on Blue Casa's submission.

Respectfully submitted,

FRANK R. LINDH  
HELEN M. MICKIEWICZ  
SINDY J. YUN

By: /s/ Sindy J. Yun

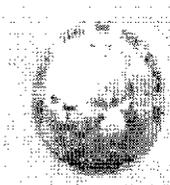
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February 28, 2011

**ATTACHMENT**



**California Public Utilities Commission**  
*Division of Water and Audits*

**Regulatory Compliance Audit of the  
Public Programs Surcharges and Claims  
And User Fees of**

**Blue Casa Communications Inc.  
U-6764-C**

**For the Year Ended  
December 31, 2008**

**Prepared by  
Kayode Kajopaiye, CPA  
Tracy Fok, CPA**

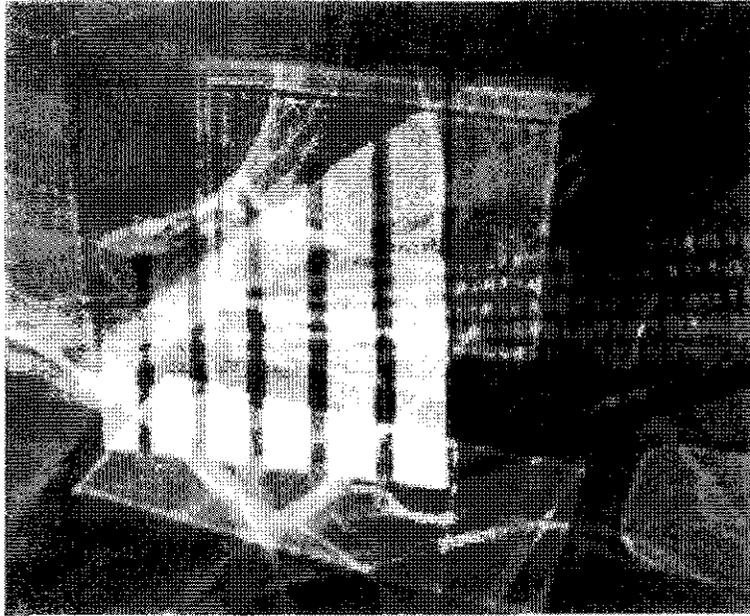
**February 2, 2011**



Regulatory Compliance Audit of the  
Public Programs Surcharges and Claims  
and User Fees of  
Blue Casa Communications Inc.  
U-6764-C  
For the Year Ended December 31, 2008

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**Regulatory Compliance Audit of the  
Public Programs Surcharges and Claims and User Fees of  
Blue Casa Communications Inc.**

**U-6764-C**

**For the Year Ended December 31, 2008**

**Independent Audit Opinion**

Pursuant to Public Utilities Code (PUC) §§274 and 314 and Commission Decision (D.) 02-04-059, Ordering Paragraph (OP) 6, the Utility Audit, Finance and Compliance Branch (UAFCB), of the Commission's Division of Water and Audits, performed a regulatory compliance audit of the California Universal Telecommunication Services public program surcharges and claims and the Public Utilities Commission Reimbursement Fees (User Fees), collected and remitted by Blue Casa Communications, Inc. (Blue Casa) in 2008.

Blue Casa's management is responsible for compliance with the requirements of:

1. D. 96-10-066, in which the Commission adopted, among other things, rules pertaining to how universal telecommunication services will be carried out,
2. D.00-10-028, in which the Commission adopted changes to General Order (GO)153 and the Universal Lifeline Telephone Service (ULTS) Program,
3. D.87-04-027, in which the Commission adopted rules regarding the Deaf and Disabled Telecommunications Program,
4. D.07-12-054, in which the Commission adopted rules regarding the California Advanced Services Fund, and
5. PUC §§432(c)(3), 433 and 434 for collecting and remitting User Fees.

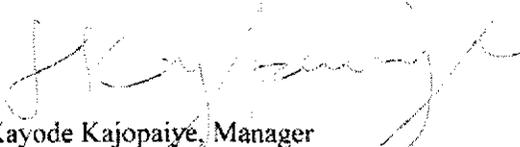
The responsibility of the UAFCB is to express an opinion on Blue Casa's compliance with the aforementioned regulations based on the UAFCB's examination of Blue Casa's records. UAFCB's examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants (AICPA) and, accordingly, included examining, on a test basis, evidence concerning Blue Casa's compliance with the requirements noted above and performing any other procedures as we considered necessary in the circumstances. The UAFCB believes that its examination provides a reasonable basis for an opinion. UAFCB's opinion does not provide a legal determination on Blue Casa's compliance with the specified requirements.

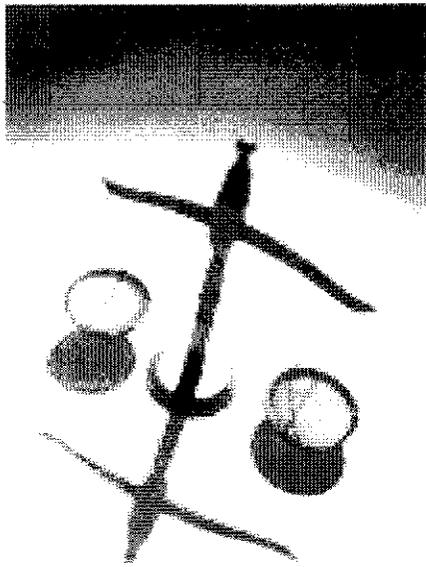
UAFCB found the following material noncompliance by Blue Casa:

1. Blue Casa incorrectly assessed surcharges on the discounted portion of its ULTS billings and thus was not in compliance with GO 153, §8.1.9 and D.07-12-054, OP 3.a.
2. Blue Casa did not correctly assess and remit surcharges and User Fees and thus was not in compliance with PUC §§ 275(b), 276(b), 277(b), 278(b), 280(c), 432(c)(3), 433 and D.07-12-054, OP 4.
3. Blue Casa over-claimed reimbursement against the ULTS fund thus was not in compliance with various rules in GO 153.

Because of the significant effects of the aforementioned noncompliance by Blue Casa, Blue Casa did not comply, in all material respects, with the aforementioned requirements for the year ended December 31, 2008.

The UAFCB can not express an opinion with regards to the accuracy of Blue Casa's billing base because our audit procedures only address the verification of the billing base that the utility reports on its surcharge and User Fee transmittals to the utility's billing detail.

  
Kayode Kajopaiye, Manager  
Utility Audit, Finance and Compliance Branch  
November 30, 2010



**Regulatory Compliance Audit of the  
Public Programs Surcharges and Claims  
and User Fees of  
Blue Casa Communications Inc.  
U-6764-C  
For the Year Ended December 31, 2008**

**I. Executive Summary<sup>1</sup>**

Pursuant to Public Utilities Code (PUC) §§274 and 314 and Commission Decision (D.) 02-04-059, Ordering Paragraph (OP) 6, The Utility Audit, Finance, and Compliance Branch (UAFCB), of the Commission's Division of Water and Audits, performed a regulatory compliance audit of the California Universal Telecommunication Services public program surcharges and claims and the Public Utilities Commission Reimbursement Fees (User Fees), collected and remitted by Blue Casa Communications, Inc. (Blue Casa) in 2008. The UAFCB finds that:

1. Blue Casa owes the Commission \$1,288,844:<sup>2</sup>
  - a. Blue Casa over-claimed a total of \$1,267,074 for reimbursement against the Universal Lifeline Telephone Service (ULTS) Program Fund;
  - b. Blue Casa owes a total of \$9,550 in interest related to its over-claiming for reimbursement against the ULTS fund;
  - c. Blue Casa under-remitted \$10,184 in User Fees;
  - d. Blue Casa owes \$2,036 as a penalty due to its under-remittance of User Fees.
2. Blue Casa over-assessed and over-collected \$82,174 in surcharges from its customers and remitted this amount to the Commission. Blue Casa needs to refund \$82,174 to its customers as a surcredit.
3. Blue Casa over-remitted \$53,036 in surcharges and User Fees to the Commission and under-claimed \$107,341 from the ULTS fund.<sup>3</sup>

Overall, Blue Casa did not comply with the Commission's directives regarding the assessment, collection, and remittance of public program surcharges and User Fees, nor when it submitted claims against the ULTS Fund. Blue Casa's non-compliance is material.

**II. Recommendations**

1. Blue Casa needs to ensure it uses the correct surcharge rates when reporting and remitting surcharges to the Commission. (Refer to Section V, Finding 1.)
2. Blue Casa must stop assessing surcharges on the discounted portion of its ULTS billings. (Refer to Section V, Finding 2.a.)
3. Blue Casa must stop assessing surcharges on the Federal Communications Commission's (FCC) Subscriber Line Charge. (Refer to Section V, Finding 2.b.)

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<sup>1</sup> Appendix B describes the abbreviations and acronyms used in this report.

<sup>2</sup> \$1,288,844 = \$1,267,074 + \$9,550 + \$10,184 + \$2,036.

<sup>3</sup> When calculating the amount of interest and penalties owed by Blue Casa, UAFCB netted the over-remittances from the under-remittances and the under-claims from the over-claims.

4. Blue Casa should use the correct intrastate revenue when reporting and remitting its surcharges to the Commission. (Refer to Section V, Finding 2.c.)
5. Blue Casa should use correct intrastate revenue when reporting and remitting User Fees to the Commission. (Refer to Section V, Finding 5.b.)
6. Within 30 days from the date of this report, Blue Casa should remit a total of \$1,288,844 to the Commission, including interest and penalties, as shown in the following table. Blue Casa should show the total of each of the amounts on its transmittal form and designate that these amounts are for the 2008 calendar year.

**Table 1**  
**Total User Fees, ULTS Claims, Interest, and Penalties Blue Casa Owes**

| Designate on Transmittal Form As | Reason  | Refer to Finding in Section V | Amount             |
|----------------------------------|---|-------------------------------|--------------------|
| User Fees                        | Under remitted its User Fees  | Finding 5.a.                  | \$10,184           |
| Refund to ULTS Fund              | Blue Casa illegitimately received funds for customers who were denied from the ULTS program, who belonged to different carriers, or who did not complete the certification or verification process. | Finding 7.a.                  | \$41,161           |
| Refund to ULTS Fund              | Blue Casa did not offset its ULTS claims for back-billings to its ineligible ULTS customers.  | Finding 7.b.                  | \$9,123            |
| Refund to ULTS Fund              | Bad debt that Blue Casa did not make reasonable collection efforts for.   | Finding 7.c.                  | \$24,386           |
| Refund to ULTS Fund              | Federal excise and local taxes that Blue Casa assessed on the ULTS discount and claimed against the ULTS fund but failed to remit to the respective taxing jurisdictions. <sup>4</sup>              | Finding 7.d.                  | \$833,232          |
| Refund to ULTS Fund              | Blue Casa illegitimately claimed customers with multiple ULTS lines.  | Finding 7.e.                  | \$5,341            |
| Refund to ULTS Fund              | Customers who were non-existent, who belonged to different carriers, or who did not complete the certification or verification process.   | Finding 7.f.                  | \$196,573          |
| Refund to ULTS Fund              | Customers with denial status as identified in Solix's database.   | Finding 7.g.                  | \$29,099           |
| Refund to ULTS Fund              | Blue Casa's over-claim on its amended May 2008 claim.   | Finding 7.h.                  | \$128,159          |
| Interest                         | Over claims to the ULTS Fund  | Finding 8.                    | \$9,550            |
| Penalties                        | Under Payment of User Fees  | Finding 9                     | \$2,036            |
| <b>Total Owed</b>                |   |                               | <b>\$1,288,844</b> |

<sup>4</sup> Or Blue Casa should provide documentation to UAFCB that it paid the federal excise and local taxes on the ULTS discount that it claimed against the ULTS Fund.

7. Blue Casa should use correct connection and flat service rates when reporting its ULTS claims to the Commission. (Refer to Section V. Finding 7.i.)
8. Within 30 days from the date of this report, Blue Casa should issue a total of \$82,174 in surcredits to its customers due to its over-assessment of surcharges, as shown in the following table:

**Table 2**  
**Total Surcredits for Customers**

| Fund         | Over Assessed Surcharges on ULTS Discount Refer to Section V. Finding 2.a | Over Assesed Surcharges on FCC Subscriber Line Charge Refer to Section V. Finding 2.b | Total Surcredits to Be Issued |
|--------------|---|---|-------------------------------|
| CHCF-A       | \$ (8,513)  | \$ (1,347)  | \$ (9,860)                    |
| CHCF-B       | (4,427)   | (701)   | (5,128)                       |
| CTF          | (3,506)   | (536)   | (4,042)                       |
| DDTP         | (6,811)   | (1,078)   | (7,889)                       |
| ULTS         | (39,162)  | (6,197)   | (45,359)                      |
| CASF         | (8,513)   | (1,383)   | (9,896)                       |
| <b>Total</b> | <b><u>\$(70,932)</u></b>  | <b><u>\$(11,242)</u></b>  | <b><u>\$(82,174)</u></b>      |

9. In the following table, UAFCB shows the total amount of surcharges and User Fees Blue Casa over-remitted and under-claimed from the ULTS fund. Blue Casa should use correct surcharge rates and intrastate revenue when reporting and remitting surcharges and User Fees to the Commission and use correct connection and flat service rates when claiming against the ULTS fund.

**Table 3**  
**Total Over Remitted Surcharges and Under-Claimed ULTS**

| Fund         | Finding 1                | Finding 2.c              | Finding 5.b             | Finding 7.i               | Total                     |
|--------------|--------------------------|--------------------------|-------------------------|---------------------------|---------------------------|
| CHCF-A       | \$ (1,186)               | \$ (1,937)               | \$ 0                    | \$ 0                      | \$ (3,123)                |
| CHCF-B       | (15,571)                 | (17,013)                 | 0                       | 0                         | (32,584)                  |
| CTF          | 0                        | (1,002)                  | 0                       | 0                         | (1,002)                   |
| DDTP         | (2,521)                  | (3,676)                  | 0                       | 0                         | (6,197)                   |
| ULTS         | 0                        | (6,644)                  | 0                       | (107,341)                 | (113,985)                 |
| CASF         | 0                        | (1,444)                  | 0                       | 0                         | (1,444)                   |
| User Fee     | 0                        | 0                        | <u>\$(2,042)</u>        | 0                         | <u>(2,042)</u>            |
| <b>Total</b> | <b><u>\$(19,278)</u></b> | <b><u>\$(31,716)</u></b> | <b><u>\$(2,042)</u></b> | <b><u>\$(107,341)</u></b> | <b><u>\$(160,377)</u></b> |

### III. Background

Blue Casa was founded in 2003 and offers local and long distance telecommunication services with customized calling packages. Blue Casa's headquarters is located in Santa Barbara, California.

Blue Casa predominantly services customers who are low-income households and qualify for the ULTS discounts. In 2008, Blue Casa generated 70% of its total revenue from its claims for reimbursement of the ULTS discounts against the ULTS Fund.

### **A. Universal Service Programs**

In 1996, the Commission revised its rules and guidelines regarding four of its universal service programs and the program funds that subsidize these public programs, laying the foundation for the utilities' compliance and the Commission's oversight.<sup>5</sup> Subsequently, the Commission revised its General Order (GO) 153 and its rules for these four programs.<sup>6</sup> To manage the surcharges collected for these programs, the Commission established the following funds:

- The California High Cost Fund A (CHCF-A) which provides a source of supplemental revenue to small local exchange carriers for the purpose of minimizing any rate disparity of basic telephone service between rural and metropolitan areas.
- The California High Cost Fund B (CHCF-B) which subsidizes carriers who provide service in high cost areas. Claims against the CHCF-B are limited to the four largest incumbent local exchange carriers.
- The Universal Lifeline Telephone Service (ULTS) Fund which provides reimbursement to carriers that discount basic residential telephone service to qualified low-income customers.
- The California Teleconnect Fund (CTF) which provides reimbursement to carriers that provide telephone service at reduced rates to qualified schools, hospitals, libraries, and other public institutions.

In addition to the four universal service programs and funds discussed above, the Commission oversees another universal service program for deaf and disabled telecommunication customers, called the Deaf and Disabled Telecommunication Program (DDTP). In 1987, the Commission revised its rules regarding the provision of the deaf and disabled telecommunication services.<sup>7</sup> The Commission requires telephone corporations to collect funds for the DDTP and remit such funds to the Commission's:<sup>8</sup>

- Deaf and Disabled Telecommunications Administrative Committee Fund (DDTPACF), otherwise known as the California Relay Service and Communications Device Fund (CRSCD), which provides funding for equipment and services for hearing-impaired and disabled customers.

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<sup>5</sup> See Decision (D.) 96-10-066.

<sup>6</sup> See D. 00-10-028.

<sup>7</sup> See D. 87-04-027.

<sup>8</sup> See D. 92603.

In 2007, the Commission implemented its sixth universal service program, with a separate fund, to promote the deployment of broadband services in unserved and underserved areas of California.<sup>9</sup> The Commission requires the telephone corporations that collect funds for this program to remit such funds to the Commission's:

- California Advanced Services Fund (CASF), which promotes universal broadband service in un-served and underserved areas in the state by awarding funding for qualifying broadband infrastructure projects.

The aforementioned six public program funds (Funds) are supported through surcharges that are included on the monthly bills of all telephone customers in the state. The surcharges are applied to the intrastate portion of these monthly bills. The Commission administers these Funds for the purpose of making basic communication services affordable to all California customers, by providing subsidized telephone and broadband services and special equipment to qualified carriers and individuals.

Carriers remit surcharges on a monthly basis to each of the aforementioned public program funds separately. Carriers report all of the surcharges they are remitting on a Surcharge Transmittal, which the carrier files with the Commission when they remit the surcharges. These surcharges are essential funding sources for the aforementioned programs. Any carriers consistently under-collecting and/or underpaying surcharges could financially undermine these vital universal services. Conversely, if the surcharges are over-collected, ratepayers would be harmed.

## **B. ULTS**

ULTS is a class of subsidized local telephone service designed to meet the minimum communication needs of low-income residential customers. ULTS is funded by a surcharge on all end users of intrastate telecommunications services except for the following:

- ULTS billings,
- Coin-sent paid and debit card calling,
- Reselling services,
- Customer-specific contracts effective before September 15, 1994,
- Usage charges for coin-operated pay telephones,
- Directory advertising, and
- One-way radio paging

Utilities may recover from the ULTS Fund the reasonable costs and lost revenues that it incurs to provide ULTS to the extent that such costs and lost revenues meet all of the following criteria:

- Directly attributable to the ULTS program;
- Would not otherwise be incurred in the absence of the ULTS program;
- Not recovered from other sources such as the rates and charges paid by ULTS customers, the utility's general rates, or subsidies from the federal Lifeline and Link Up programs; and
- Are specified in GO 153 §§9.3 and 9.4

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<sup>9</sup> See D. 07-12-054.

The following are examples of the costs and lost revenue that utilities can recover from the ULTS Fund:

- Lost revenue caused by providing discounts to ULTS customers, such as ULTS connection charges, conversion charges, discounted monthly rates for local services, and untimed local calls;
- The federal End-User Common Line (EUCL)<sup>10</sup> charge that the utility pays on behalf of its ULTS customers;
- The taxes, fees, and surcharges that a utility pays on behalf of its ULTS customers; and
- Bad-debt costs.

### **C. User Fees**

In addition to the universal service programs, pursuant to PUC §§431 through 434, utilities are obligated to collect and remit correct amounts of User Fees to the Commission. Consistent under-collection and/or underpayment of User Fees could adversely affect the Commission's services and operations. Conversely, any over collection of the User Fees could harm ratepayers.

### **D. Blue Casa's 2008 Surcharges and User Fees**

In 2008, on an average, Blue Casa serviced 65,921 customers in California and reported \$18,936,033 in total intrastate revenues. Blue Casa remitted a total of \$414,200 to the Funds and \$35,087 in User Fees to the Commission in 2008 as shown in the following table:

**Table 4  
 2008 Surcharges and User Fees Remitted**

| <b>Type</b>                          | <b>Amount Remitted</b>  |
|--------------------------------------|-------------------------|
| California High Cost Fund A          | \$ 25,803               |
| California High Cost Fund B          | 62,911                  |
| California Teleconnect Fund          | 19,989                  |
| Deaf & Disabled Telephone Program    | 40,393                  |
| Universal Lifeline Telephone Service | 217,764                 |
| California Advanced Services Fund    | 47,340                  |
| User Fees                            | <u>35,087</u>           |
| <b>Total</b>                         | <b><u>\$449,287</u></b> |

In 2008, Blue Casa had an average of 57,142 eligible ULTS customers. For 2008, Blue Casa claimed \$13,202,227 against the ULTS Fund for a loss of revenue as a result of providing ULTS services.

Blue Casa offers its eligible ULTS customers discounts on the following service charges:

- Nonrecurring service activation charges; and
- Monthly rates for flat-rate local service and measured rate local service.

<sup>10</sup> EUCL charge is a federally mandated monthly charge assessed directly on end-users of telecommunications services to recover portion of a utility's interstate-allocated cost of the access line between the utility's central office and the end-user's premises.

Pursuant to GO 153, Rules 8.1.7 and 8.1.9, Blue Casa is required to offer the following items to its eligible ULTS customers free of any charges:

- EUCL; and
- Exemption from the CHCF-A, CHCF-B, CTF, DDTP, ULTS and CASF surcharges.

Blue Casa did not file any claims for reimbursement from the following Funds:

- Pursuant to D. 96-10-066, Appendix B, Rule 6.A.4, Blue Casa is not a local exchange carrier that is authorized to receive CHCF-A and CHCF-B subsidies.
- Pursuant to D. 96-10-066, Appendix B, Rules 8.B., C. and D., Blue Casa is not required to provide discounted services under the CTF to qualifying organizations because the carrier does not service these organizations.
- Pursuant to D.87-04-027, OP 3, Blue Casa is not required to offer DDTP services or equipment or allowed to make claims against those funds.

## **IV. Compliance Audit**

On August 18, 2009, the UAFCB began its Compliance Audit of Blue Casa and completed its field work on November 30, 2010.

### **A. Audit Requirements**

PUC Chapter 1.5, §274, states, among other things, that the Commission may, on its own order, conduct financial audits of the surcharges required to be collected and remitted to the Funds, as well as the program-related costs and activities. These audits are to be conducted every three to five years.

In D.02-04-059, OP 6, the Commission delegated authority to the Communications Division's Director to develop schedules for these compliance audits. The UAFCB conducts these audits at the request of the Communications Division. The following six Funds are relevant to this regulatory audit:

- CHCF-A
- CHCF-B
- ULTS
- CTF
- DDTP
- CASF

PUC §314 authorizes the Commission to inspect the utilities' accounts, books, papers and documents, at any time. This regulation permits the Commission to examine a utility's financial records regarding the collection and remittances of User Fees. When conducting this audit, the UAFCB included an examination of the User Fees collected and remitted in 2008 by Blue Casa.

### **B. Auditing Standards Applied**

To conduct this audit, UAFCB utilized the general guidelines set forth by the American Institute of Certified Public Accountants (AICPA), as set forth in the Codification of

Statements on Standards for Attestation Engagements, numbers 1-12. UAFCB also incorporated the standards set forth in Statement on Auditing Standards No. 74, "Compliance Auditing Considerations in Audits of Governmental Entities and Recipients of Governmental Financial Assistance."

### **C. Audit Purpose and Scope**

The overall purpose of UAFCB's audit is to:

- (1) Determine whether Blue Casa remitted the proper amounts of surcharges and User Fees for the audited period.
- (2) Determine whether Blue Casa claimed the proper amounts of reimbursement against the ULTS Fund for the audited period.

UAFCB's audit scope includes the following:

- (1) Process Compliance – Blue Casa's assessment, collection, and remittance of public program surcharges and User Fees, as well as claims against the ULTS Fund, for the period from January 1, 2008 through December 31, 2008.
- (2) Integrity of Reporting – completeness and accuracy of Blue Casa's surcharge and User Fees transmittal forms, as well as its ULTS claims, for the period from January 1, 2008 through December 31, 2008.

### **D. Audit Goals**

UAFCB's audit goals include the following:

1. Determine whether Blue Casa used the correct surcharge rate on its Surcharge Transmittal forms for each of the six public program funds when assessing and remitting the surcharges.
2. Determine whether Blue Casa remitted to the Commission the amount of surcharges assessed on and collected from its customers' intrastate billings.
3. Determine whether Blue Casa remitted the surcharges to the Commission on a timely basis.
4. Determine whether Blue Casa correctly assessed the User Fee rate on its customers and on its remittances to the Commission.
5. Determine whether Blue Casa remitted to the Commission the amount of User Fees as assessed on and collected from its customers' intrastate billings.
6. Determine whether Blue Casa remitted the User Fees to the Commission on a timely basis.
7. Determine whether Blue Casa's claims for reimbursement against the ULTS Fund were reasonably accurate and in compliance with the Commission's policies and rules.
8. Determine whether Blue Casa owes any interest and penalties.

### **E. Audit Tests**

UAFCB utilized the following procedures:

- Compared surcharges assessed and remitted with underlying billing system supporting documentation and bank records;
- Compared User Fee Transmittals with underlying billing system supporting documentation;

- Evaluated ULTS claims for compliance with the Commission's policies and rules; and
- Calculated any interest and penalties owed.

**F. Preliminary Findings**

On July 13, 2010, UAFCB provided Blue Casa its preliminary findings discussed in Section V, Finding 7.a through 7.i. UAFCB did so to provide Blue Casa with additional time to gather supporting documentation and information for UAFCB's review.

Blue Casa had ample time to provide UAFCB with its records and documentation for UAFCB's review. For example, on August 18, 2009, UAFCB presented its engagement letter and audit data request to Blue Casa. On December 20, 2010, Blue Casa provided its final supplemental data to the UAFCB. Between August 18, 2009 and December 20, 2010, Blue Casa had numerous opportunities to provide UAFCB with its records.

Ultimately, Blue Casa had approximately 16 months to provide its documentation to support its assessment, collection, and remittances of the surcharges and User Fees and its claims against the ULTS fund. Yet in many instances, Blue Casa did not produce adequate documentation, including but not limited to, supporting documentation of its ULTS bad debt collection efforts and supporting documentation of local and federal excise taxes remittances for the ULTS discount reimbursement.

**V. Audit Findings**

Based on the application of the above procedures, the UAFCB found the following:

**Goal 1:** Determine whether Blue Casa used the correct surcharge rate for each of the six public program funds when assessing surcharges on its customers and when reporting and remitting surcharges to the Commission.

**Finding 1:** Blue Casa used correct surcharge rates when assessing surcharges on its customers. However, Blue Casa did not use the correct surcharge rates on its January 2008 Surcharge Transmittal form for CHCF-A, CHCF-B, and DDTP when reporting and remitting these surcharges to the Commission. As a result, Blue Casa over-remitted \$19,278 in surcharges to the Commission:

**Table 5  
 Incorrect Surcharge Rate Over-Remittance**

| Fund   | Correct Rate | Rate Used by Blue Casa | Amount Over-Remitted   |
|--------|--------------|------------------------|------------------------|
| CHCF-A | 0.13%        | 0.21%                  | \$1,186                |
| CHCF-B | 0.25%        | 1.30%                  | \$15,571               |
| DDTP   | 0.20%        | 0.37%                  | \$2,521                |
|        |              | <b>Total</b>           | <b><u>\$19,278</u></b> |

In doing so, Blue Casa was not in compliance with PUC §§ 275 (b), 276(b), and 278(b), which require that all surcharge revenues collected by telephone corporations in rates authorized by the Commission to fund the CHCF-A, CHCF-B, and DDTP programs be submitted to the Commission pursuant to a schedule established by the Commission.

**Recommendation:**

Blue Casa needs to ensure it uses the correct surcharge rates when reporting and remitting surcharges to the Commission.

**Goal 2:** Determine whether Blue Casa remitted to the Commission the amount of surcharges assessed on and collected from its customers' intrastate billings.

**Finding 2:** Blue Casa over-collected and over-remitted a total of \$113,890 in surcharges to the Commission:

- a. Blue Casa erroneously assessed surcharges on its ULTS billings, such as ULTS basic rates and installation rates. Consequently, Blue Casa over-assessed and over-collected \$70,932 from its ULTS customers, and over-remitted the same amount to the Commission. In doing so, Blue Casa was not in compliance with the following Commission's directives:
  - GO 153, §8.1.9 – No charge to ULTS customers' ULTS billing for surcharges including the following: CHCF-A, CHCF-B, CTF, DDTP, and ULTS surcharges.
  - D.07-12-054, OP 3.a – All telecommunications carriers are required to charge all end users, the CASF surcharge, as set by the Commission, except for ULTS billings.

The following table shows Blue Casa's surcharge over-assessment, over-collection, and over-remittance on ULTS billings for each Fund:

**Table 6**  
**Surcharge Over-Assessment, Over-Collection and Over-Remittances on ULTS Billings**

| ULTS            | CTF            | DDTP           | CHCF-A         | CHCF-B         | CASF           | Total           |
|-----------------|----------------|----------------|----------------|----------------|----------------|-----------------|
| <u>\$39,162</u> | <u>\$3,506</u> | <u>\$6,811</u> | <u>\$8,513</u> | <u>\$4,427</u> | <u>\$8,513</u> | <u>\$70,932</u> |

**Recommendations:**

1. Blue Casa must stop assessing surcharges on the discounted portion of its ULTS billings.
  2. Blue Casa should issue a \$70,932 surcredit to its customers for over assessing \$70,932 in surcharges on the discounted portion of the ULTS billings.
- b. Blue Casa erroneously assessed surcharges on the FCC Subscriber Line Charge. Consequently, Blue Casa over-assessed and over-collected \$11,242 from its customers, and over-remitted the same amount to the Commission. The FCC Subscriber Line Charge is a fee that Blue Casa's customers pay to

Blue Casa to connect them to the telephone network. This fee is not considered intrastate revenue for the purpose of assessing the universal service surcharges.

The following table shows Blue Casa's surcharge over-assessment, over-collection, and over-remittance on FCC Subscriber Line Charge for each Fund:

**Table 7**  
**Surcharge Over-Assessment, Over-Collection and Over-Remittances on FCC Subscriber Line Charge**

| ULTS           | CTF          | DDTP           | CHCF-A         | CHCF-B       | CASF           | Total           |
|----------------|--------------|----------------|----------------|--------------|----------------|-----------------|
| <u>\$6,197</u> | <u>\$536</u> | <u>\$1,078</u> | <u>\$1,347</u> | <u>\$701</u> | <u>\$1,383</u> | <u>\$11,242</u> |

**Recommendations:**

1. Blue Casa must stop assessing surcharges on the Federal Communications Commission (FCC) Subscriber Line Charge.
  2. Blue Casa should issue a \$11,242 surcredit to its customers for over assessing \$11,242 in surcharges on the FCC Subscriber Line Charge.
- c. Blue Casa over-remitted \$31,716 in surcharges because it overstated its intrastate revenue when reporting and remitting surcharges on its 2008 Surcharge Transmittal Forms. In doing so, Blue Casa was not in compliance with PUC §§ 275 (b), 276(b), 277(b), 278(b), 280(c), and D.07-12-054, OP 4, which require that all surcharge revenues collected by telephone corporations to fund the CHCF-A, CHCF-B, CTF, DDTP, ULTS, and CASF programs be submitted to the Commission pursuant to a schedule established by the Commission. The following table shows Blue Casa's over-remittance for each Fund due to its overstated intrastate revenue:

**Table 8**  
**Surcharge Over-Remittances Due To Overstated Intrastate Revenue**

| ULTS           | CTF            | DDTP           | CHCF-A         | CHCF-B          | CASF           | Total           |
|----------------|----------------|----------------|----------------|-----------------|----------------|-----------------|
| <u>\$6,644</u> | <u>\$1,002</u> | <u>\$3,676</u> | <u>\$1,937</u> | <u>\$17,013</u> | <u>\$1,444</u> | <u>\$31,716</u> |

**Recommendations:**

Blue Casa should use correct intrastate revenue when reporting and remitting its surcharges to the Commission.

**Goal 3:** Determine whether Blue Casa remitted its surcharges to the Commission on a timely basis.

**Finding 3:** Blue Casa remitted its surcharges to the Commission on a timely basis.

**Recommendation: None.**

**Goal 4:** Determine whether Blue Casa correctly assessed the User Fee rate on its customers and on its remittances to the Commission.

**Finding 4:** Blue Casa correctly assessed the User Fee rate on its customers and on its remittances to the Commission.

**Recommendation:** None.

**Goal 5:** Determine whether Blue Casa remitted to the Commission the amount of User Fees as assessed on and collected from its customers' intrastate billings.

**Finding 5:** Blue Casa under-remitted a total of \$8,142 in User Fees:

- a. Blue Casa did not remit \$10,184 in User Fees on behalf of its ULTS customers for the ULTS unbilled discount portion of the bills. In doing so, Blue Casa was not in compliance with the following Commission's directives:
  - GO 153, §8.1.9.1 – Utilities shall pay to appropriate taxing authorities the applicable taxes, fees, and surcharges billed to ULTS customers and the ULTS Fund.
  - GO 153, §9.3.5 – Utilities may recover the taxes, fees, and surcharges that a utility pays on behalf of its ULTS customers.

**Recommendation:**

Blue Casa should remit \$10,184 in User Fees that it owes to the Commission.

- b. Blue Casa over-remitted \$2,042 in User Fees because it overstated its intrastate revenue when reporting and remitting User Fees on its 2008 User Fee Transmittal Forms. Consequently, Blue Casa was not in compliance with PUC §§ 432(c)(3) and 433, which require that all telephone corporations pay the Commission all User Fees assessed and collected, based on the utility's California intrastate revenue.

**Recommendation:**

Blue Casa should use correct intrastate revenue when reporting and remitting User Fees to the Commission.

**Goal 6:** Determine whether Blue Casa remitted its User Fees to the Commission on a timely basis.

**Finding 6:** Blue Casa remitted its User Fees to the Commission on a timely basis.

**Recommendation:** None.

**Goal 7:** Determine whether Blue Casa's claims for reimbursement against the ULTS Fund were reasonably accurate and in compliance with the Commission's policies and rules.

**Finding 7:** Blue Casa over-claimed a total of \$1,267,074 against the ULTS Fund for reimbursement of its loss of revenue from offering ULTS discounts and under-claimed \$107,341:

- a. Blue Casa erroneously claimed \$41,161 for lost revenue and costs associated with customers:
- who were denied from the ULTS program;
  - who belonged to different carriers; or
  - who failed to complete certification or verification processes and were disconnected in same month that they initiated service.

These customers were not eligible for ULTS discounts and Blue Casa was not entitled to the reimbursement it claimed for these customers. Blue Casa was not in compliance with the following Commission's directives:

- GO 153, §5.4 – Each customer enrolling in the ULTS program is subject to the certification process described in 5.4.1 through 5.4.5.
- GO 153, §5.5 – To remain in ULTS, each ULTS customer is subject to the annual verification process described in 5.5.1 through 5.5.5.
- GO 153, §5.4.4.1 – Where a utility has not filed for reimbursement from a state and/or federal fund for unauthorized ULTS discounts received by a customer as of the date of notification from CertA, the utility must not submit such reimbursement request to the state and/or federal fund.

**Preliminary Finding:**

Initially, UAFCB determined that Blue Casa claimed \$89,161 for lost revenue and costs associated with customers who failed to complete certification or verification processes and were disconnected in the same month that they initiated service. Based on UAFCB's review of Blue Casa's response to UAFCB's draft report and the additional supporting documentation submitted on December 20, 2010, 46% of \$89,480, or \$41,161, was related to customers who were denied from the ULTS program, who belonged to different carriers, or who did not complete the certification or verification process.

**Recommendation:**

Blue Casa should refund \$41,161 to the ULTS fund, the amount that Blue Casa illegitimately claimed against the fund for customers who were denied from the ULTS program, who belonged to different carriers, or who did not complete the certification or verification process.

- b. Blue Casa erroneously claimed \$9,123 for the lost revenue and costs associated with ineligible ULTS customers whom it back-billed but failed to reduce the ULTS claims. Blue Casa is not in compliance with the following directive:
- GO 153, §5.7 – The CPUC may reduce ULTS claim payments to a utility by the amount of ULTS discounts and interest that a utility fails to bill to an ineligible customer found to be participating in the ULTS programs.

Blue Casa claimed lost revenue and costs associated with customers whom Solix denied for certification or verification who continued as customers of Blue Casa. Blue Casa back-billed these customers for the amounts of the lost revenue and costs. However, Blue Casa did not reduce its ULTS claims with the amounts it back-billed.

In accordance with GO 153, 5.7, Blue Casa was not entitled to the lost revenue and costs associated with the ineligible ULTS customers, the amount Blue Casa failed to include as a reduction in its ULTS claims.

**Preliminary Finding:**

Initially, UAFCB found that Blue Casa failed to back bill \$9,123 customers whom Solix denied for certification or verification who continued as customers of Blue Casa. In its comments on UAFCB's draft report, Blue Casa claimed that it properly back-billed these customers. However, Blue Casa did not reduce its ULTS claims with the amounts it back-billed. Consequently, Blue Casa over-claimed its reimbursement and owes the Fund \$9,123.

**Recommendation:**

Blue Casa should refund \$9,123 to the ULTS fund, the amount that Blue Casa did not offset its ULTS claims for back-billings to its ineligible ULTS customers.

- c. Blue Casa erroneously claimed \$24,386 for the reimbursement of ULTS bad debt against the ULTS Fund and failed to take reasonable steps to collect this debt from its ULTS customers before it applied to recover same from the ULTS Fund. Blue Casa was not in compliance with the following directive:
- GO 153, §9.3.9.1 – Utilities must take reasonable steps to collect bad debt costs from ULTS customers before they seek to recover these costs from the ULTS Fund. A utility that disconnects a customer for non-payment of ULTS rates and charges and/or back-billed ULTS discounts, pursuant to the applicable rules governing disconnection, shall be deemed to have undertaken reasonable collection efforts for the purpose of this section.

Blue Casa claimed a bad debt expense related to customers whose service inception dates, disconnection dates, and bad debt claim dates were all in the

same month. Blue Casa did not take reasonable steps to collect these bad debt costs from these customers before it applied to recover these costs from the ULTS Fund. In accordance with GO 153, 9.3.9.1, Blue Casa was not entitled to the bad debt costs that Blue Casa did not take reasonable steps to collect.

**Recommendation:**

Blue Casa should refund \$24,386 to the ULTS fund, the amount of bad debt that Blue Casa did not have reasonable collection efforts for.

- d. Blue Casa erroneously claimed \$833,232 in federal excise and local taxes in its ULTS claims. Blue Casa did not pay these taxes on behalf of its ULTS customers. The carrier was not in compliance with the following Commission's directives:
- GO 153, §9.3.5 – Utilities may recover the taxes, fees, and surcharges that a utility pays on behalf of its ULTS customers.
  - GO 153, §8.1.9.1 – Utilities shall pay to appropriate taxing authorities the applicable taxes, fees, and surcharges billed to ULTS customers and the ULTS Fund.

Blue Casa's practice is to assess federal excise and local taxes on the amount paid by the ULTS customers, as well as applying these taxes on the ULTS discount amount and claiming them against the fund. Blue Casa properly remits the tax amounts assessed on and collected from its ULTS customers to the respective taxing jurisdictions. However, Blue Casa fails to remit the taxes assessed on the ULTS discount and claimed against the fund to the respective tax jurisdictions. Consequently, in accordance with GO 153 §§9.3.5 and 8.1.9.1, Blue Casa was not entitled to claim these taxes, \$277,744 in federal excise taxes and \$555,488 in local taxes, for reimbursement against the ULTS Fund.

**Recommendation:**

Blue Casa should provide UAFCB with documentation that it paid the federal excise and local taxes or it should refund \$833,232 to the ULTS fund, the amount of the federal excise and local taxes that Blue Casa assessed on the ULTS discount and claimed against the ULTS fund but failed to remit to the respective taxing jurisdictions.

- e. Blue Casa erroneously claimed \$5,341 for reimbursement for customers with multiple ULTS lines. Blue Casa reported that it did not have any disabled customers subscribing to and entitled to two ULTS lines. Blue Casa was not in compliance with the following directives:
- GO 153, §5.1.2 – The customer and the members of the customer's household collective have one, and only one, ULTS line, except as provided in 5.1.7.
  - GO 153, §5.1.7 – A household shall be eligible to receive two ULTS lines if: (i) the household meets all ULTS eligibility criteria set forth above; (ii) the house has a disabled member who has

immediate and continuous access within the household to a TTY;  
and (iii) the TTY is issued by DDTP or a medical certificate  
indicating the household member's need for a TTY is submitted.

In accordance with GO 153, 5.1.2 and 5.1.7, Blue Casa was not eligible to claim more than one ULTS line for each customer.

**Recommendation:**

Blue Casa should refund \$5,341 to the ULTS fund, the amount that Blue Casa illegitimately claimed against the fund for customers with multiple ULTS lines.

- f. Blue Casa erroneously claimed \$196,573 for reimbursement of phone lines that were non-existent in Solix's database. Blue Casa was not entitled to the costs and lost revenue claimed for these phone lines as they were not ULTS-eligible. Blue Casa was not in compliance with the following directive:
- GO 153, §9.1.1 – Any utility that provided ULTS may submit for the reimbursement of its ULTS-related costs and lost revenues.

**Preliminary Finding:**

Initially, UAFCB found \$233,805 for the phone numbers that did not exist in Solix's database. Based on UAFCB's review of Blue Casa's response to UAFCB's draft report and Blue Casa's additional supporting documentation provided on December 20, 2010, 13% of the customers in AT&T's territory were legitimate ULTS customers and 17% of the customers in Verizon's territory were legitimate customers. The remainder were customers:

- who were non-existent;
- who belonged to different carriers; or
- who failed to complete certification or verification processes.

As a result, UAFCB reduced the amount owed by Blue Casa from \$233,805 to \$196,573.

**Recommendation:**

Blue Casa should refund \$196,573 to the ULTS fund, the amount that Blue Casa illegitimately claimed against the fund for customers which were non-existent, who belonged to different carriers, or who did not complete the certification or verification process.

- g. Blue Casa erroneously claimed \$29,099 for reimbursement of ULTS benefits given to customers who were denied such benefits by Solix. Blue Casa should have converted these denied customers to regular rates upon notification from Solix, and should not have claimed costs and lost revenue from these customers. Blue Casa was not in compliance with the following directives:
- GO 153, §9.1.1 – Any utility that provided ULTS may submit for the reimbursement of its ULTS-related costs and lost revenues.

- GO 153, §5.4.4 - Any customer who fails to qualify for ULTS by the certification date shall be removed from the ULTS program and converted to regular service. Upon notification from the CertA, the utility shall bill the customer for all ULTS discounts received by the customer, including all previously waived or discounted charges, service initiation charges, end user common line charges, taxes, and surcharges associated with ULTS discounts. The customer will also be subject to the utility's rules applicable to the establishment of credit, including any deposit requirement.
- GO 153, §5.5.4 - Any customer who fails to qualify for continued eligibility to ULTS shall be removed from the ULTS program. Upon notification from the CertA, the utility shall convert the customer to regular residential service starting with the removal date provided by the CertA.

UAFCB sent a list of customers to Solix for ULTS status verification. Solix found that 1,864 customers on the list were determined ineligible for ULTS before January 1, 2008. Nevertheless, Blue Casa claimed the costs and lost revenue associated with these denied customers in its 2008 ULTS claims. Blue Casa was not entitled to costs and lost revenue claimed for these customers because they were not ULTS-related.

**Recommendation:**

Blue Casa should refund \$29,099 to the ULTS fund, the amount that Blue Casa illegitimately claimed against the fund for the customers with denial status as identified in Solix's database.

- h. Blue Casa over-claimed \$128,159 due to its overstated amended claim for May of 2008. In its amended claim, Blue Casa reported \$989,153 as the amount of its original claim with payment made by CPUC for May of 2008. However, the CPUC's records show that it paid Blue Casa \$1,117,312 for Blue Casa's original claim for May of 2008.

Blue Casa understated the amount of its original claim payment made by CPUC for May of 2008 and thus overstated the net amount owed by CPUC in the amended claim. The amount of this overstatement is \$128,159, which is the difference of \$1,117,312 and \$989,153.

**Recommendation:**

Blue Casa should refund \$128,159 to the ULTS fund, the amount that Blue Casa over-claimed on its amended May 2008 claim.

- i. Blue Casa under-claimed its ULTS reimbursement by \$107,341 because it did not use the correct rates when calculating the subsidies it provided to its ULTS customers. Blue Casa was not in compliance with the following directive:

- GO 153, §9.3.2 – Each utility, on a per ULTS customer basis, may collect from the ULTS Fund an amount of lost revenues equal to the difference between (a) ULTS rates and charges, and (b) the lesser of the following: (i) the utility's regular tariffed rates and charges, or (ii) the regular tariffed rates and charges of the ULTS customer's incumbent local exchange carrier.

Blue Casa incorrectly used \$33 as the AT&T connection rate from January 15 through February 29, 2008 when calculating the subsidies to its ULTS customers in AT&T's service territory. Blue Casa should have used \$40, the correct AT&T connection rate, to derive the subsidies provided to its ULTS customers in AT&T's service territory. As a result of Blue Casa using this incorrect connection rate for its ULTS claims, Blue Casa under-claimed \$60,298.

Blue Casa incorrectly used \$10.69 as the AT&T flat service rate from April 18 through December 31, 2008 when calculating its subsidies to its ULTS customers in AT&T's service territory. Blue Casa should have used \$10.94, the correct flat service rate, to derive the subsidies to its ULTS customers in AT&T's service territory. As a result of Blue Casa using this incorrect flat service rate for its ULTS claims, Blue Casa under-claimed \$47,043.

**Recommendation:**

Blue Casa should use correct connection and flat service rates when filing claims against the ULTS fund.

**Goal 8:** Determine whether Blue Casa owes any interest and penalties

**Finding 8:** As of November 30, 2010, Blue Casa owes a total of \$9,550 in interest for the 2008 ULTS claims that it was not entitled to, as addressed in Finding 7, above. UAFCB calculated the interest on the overpayment based on the 3-month commercial paper rates established by Federal Reserve, compounded annually, pursuant to the following Commission's directives:

- GO 153, §13.4 – Utilities that promptly reimburse the ULTS Fund for an overpayment of ULTS claims found by a Commission audit shall pay interest on the amount of overpayment based on the 3-month commercial paper rate, unless there is malfeasance on the part of the utility, in which case the rate of interest shall depend on the law and circumstances existing at the time the malfeasance is discovered.

**Preliminary Finding:**

Initially, UAFCB assessed a total of \$10,351 in interest for the 2008 ULTS claims that Blue Casa was not entitled to. After reducing the ULTS over-claimed amount from Findings 7.a and 7.f, UAFCB reduced the interest owed by Blue Casa from \$10,351 to \$9,550.

**Recommendation:**

Blue Casa should pay the Commission \$9,550 in interest for claiming the ULTS reimbursement that it was not entitled to.

**Goal 9:** Determine whether Blue Casa owes any penalties for under-remitting User Fees to the Commission.

**Finding 9:** Blue Casa owes \$2,036 as a penalty for its under-remittance of User Fees as indicated in Finding 5, above. UAFCB calculated the penalties based on a rate of 25% in accordance with the following Commission's directive:

- PUC § 405 provides that the Commission may estimate appropriate User Fees and may add a penalty, not to exceed 25 percent of the amount, on account of the failure, refusal, or neglect to prepare and submit the report or to pay the fee, and the person or corporation shall be estopped to complain of the amount of the Commission's estimate.

**Recommendation:**

Blue Casa should pay the Commission \$2,036 in penalties for its under-remittance of User Fees.

## **VI. Blue Casa's Response to Audit Findings**

On December 2, 2010, UAFCB provided a copy of its draft report to Blue Casa for its review and comments. Included in the copy of the draft report were draft Sections I-III, as well as UAFCB's draft findings. UAFCB requested that Blue Casa provide its comments by December 17, 2010.

Blue Casa responded to UAFCB's draft report on December 20, 2010. In addition to providing its comments on UAFCB's draft report and findings, Blue Casa provided supplemental information for UAFCB's review.

Blue Casa does not dispute UAFCB's Findings 1 through 6, 7.e, 7.h, 7.i, 8 and 9. Below is a brief summary of Blue Casa's response for UAFCB's findings that Blue Casa disputes. Appendix A contains Blue Casa's response in its entirety.

**Finding 7a** Blue Casa denies having over-claimed lost revenue and costs for customers with brief service durations, who failed to complete the certification or verification process and were disconnected in the same month that they initiated service. Blue Casa provided a sample of 48 randomly selected customers from the aforementioned type of customers and related supporting data. Blue Casa asserts that the sample and related data indicated that 80% of these customers with brief service durations were caused by either switching between carriers or voluntary service disconnections. Blue Casa asserts that it should legitimately claim costs associated with these customers against the ULTS fund for reimbursement.

- Finding 7b** Blue Casa denies having over-claimed lost revenue and costs associated with ineligible ULTS customers that were not back billed for those lost revenues and costs. Blue Casa provided invoices for 21 randomly selected customers, which show that these customers were properly back-billed.
- Finding 7c** Blue Casa denies having over-claimed bad debt for which Blue Casa did not take reasonable steps to collect from customers. Blue Casa asserts that it claimed the bad debt in accordance with the Communications Division's guidelines.
- Finding 7d** Blue Casa confirms that it may have advertently over-claimed or failed to remit Federal excise and local taxes assessed on the ULTS discount reimbursement recovered during the audited period. Blue Casa proposes to true up its payments of Federal excise and local taxes to the respective taxing jurisdictions.
- Finding 7f** Blue Casa denies having over-claimed subsidies for customers that Solix identified as non-existent in its database. Blue Casa claims that 100% of the identified records had been submitted to Solix to initiate the certification process. 62% of the submitted records were certified by being accepted into the ULTS program. The remaining 38% were customers who disconnected services with Blue Casa within the first 30 days after initiating services due to either win-back efforts or voluntary service disconnection. Blue Casa's position on this finding is that these customers were eligible for subsidies and that Blue Casa is entitled to reimbursement for lost revenue and costs from the ULTS fund for these customers.
- Finding 7g** Blue Casa denies having over-claimed reimbursement for customers that Solix identified as denied customers in its database. Blue Casa compared the identified records to its daily record from Solix. Blue Casa asserts that it did not find any denial notice for any of the customers in the identified records. Blue Casa claims that these customers were eligible for subsidies and that Blue Casa is entitled to reimbursement for lost revenue and costs from the ULTS fund for these customers.

## VII. UAFCB's Rebuttal

The UAFCB reviewed, tested and analyzed the supplemental materials received from Blue Casa on December 20, 2010. Based on its review of this information and information Blue Casa previously submitted, the UAFCB modified some of its audit findings:

- Finding 7a** UAFCB independently verified the customer information for the 48 customers selected by Blue Casa to Solix's online system. UAFCB found that 54% of the sampled customers were indeed approved ULTS customers. The remaining 46% were customers who belonged to different carriers, denied customers, or customers who did not complete the certification or verification process. UAFCB finds that 46% of the sampled customers are not allowable and extrapolated this percentage to the population of the

customers who were initially disallowed by UAFCB. Consequently, UAFCB reduced its disallowance from \$89,480 to \$41,161.

UAFCB provided the supporting documentation pertaining to the aforementioned adjustment to Blue Casa on January 6, 2011.

**Finding 7b** UAFCB independently verified the 21 invoices provided by Blue Casa for back-billing to ineligible ULTS customers. Although Blue Casa properly back-billed these ineligible ULTS customers, Blue Casa did not reduce its ULTS claims with the amounts it back-billed. Consequently, Blue Casa still over-claimed and owes the Commission the same amount of over-reimbursement from the ULTS fund for the back-billing of ineligible ULTS customers.

**Finding 7c** Blue Casa should, at a minimum, demonstrate that it sent out a series of collection notices to its customers who had defaulted on their bills before it claimed the bad debt amount against the fund. Blue Casa failed to provide any supporting documentation demonstrating its reasonable collection efforts. As mentioned previously, Blue Casa had plenty of time, approximate five months, to prepare all the necessary supporting documentation for its dispute of this finding.

In addition, Blue Casa asserted that it automatically wrote off unpaid balances under \$20 without collection efforts. This assertion further confirms Blue Casa's noncompliance with GO 153, §9.3.9.1. Blue Casa still owes the Commission the same amount of over-reimbursement for bad debt as indicated in Section IV, Finding 7.c.

**Finding 7d** Blue Casa applied the federal excise and local taxes on the ULTS discount and claimed these taxes against the fund but failed to remit these taxes to the respective taxing jurisdictions. Blue Casa unjustly enriched itself by keeping the taxes reimbursed from the ULTS fund. It is difficult for the respective taxing jurisdictions to detect Blue Casa's receipt of these monies because Blue Casa has not included the ULTS discount in its intrastate billing bases when reporting and remitting taxes to the respective taxing jurisdictions.

**Finding 7f** UAFCB randomly selected 60 customers from the population that Solix identified as non-existent customers in its database. The 60 customers consist of 30 from AT&T's territory and 30 from Verizon's territory. UAFCB verified the selected customers to Solix's online system, "Call Center Search." UAFCB found that 87% of the customers in AT&T's territory and 83% of the customers in Verizon's territory were non-existent customers, customers who belonged to different carriers during the claim period, or customers who did not complete the certification or verification process with Blue Casa. UAFCB extrapolated the aforementioned percentages from those associated with the AT&T and Verizon territories to develop a disallowance adjustment. Consequently, UAFCB adjusts its initial disallowance in Finding 7.f from \$233,805 to \$196,573.

UAFCB provided its supporting documentation pertaining to the aforementioned adjustment to Blue Casa on January 6, 2011.

**Finding 7g** On December 23, 2010, UAFCB provided a list of customers generated from Solix's database with denial status to Blue Casa to demonstrate that the customers UAFCB disallowed were indeed denied from ULTS in Solix's database. UAFCB did not adjust its original finding in this area.

**Finding 8** UAFCB reduced the interest that Blue Casa owes the Commission from \$10,351 to \$9,550 based on UAFCB's adjustments to its Findings 7.a and 7.h, as discussed above.