

1 SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY
2 TESTIMONY OF JOSEPH P. LACHER
3 BEFORE THE
4 FLORIDA PUBLIC SERVICE COMMISSION
5 IN
6 DOCKET NOS. 900960-TL, 910163-TL,
7 910727-TL and 920260-TL
8 FEBRUARY 15, 1993
9
10
11 Q. PLEASE STATE YOUR NAME AND POSITION WITH SOUTHERN
12 BELL TELEPHONE AND TELEGRAPH COMPANY.
13
14 A. I AM JOSEPH P. LACHER AND I AM SOUTHERN BELL'S
15 PRESIDENT - FLORIDA. IN THIS CAPACITY, I HAVE
16 OVERALL RESPONSIBILITY FOR SERVICE AND FINANCIAL
17 RESULTS FOR BELLSOUTH TELECOMMUNICATIONS, INC.,
18 D/B/A SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY
19 ("SOUTHERN BELL" OR THE "COMPANY") IN FLORIDA.
20
21 Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR
22 BACKGROUND.
23
24 A. I GRADUATED FROM BELMONT ABBEY COLLEGE WITH A
25 BACHELOR OF ARTS DEGREE IN 1967, RECEIVED AN MBA

1 DEGREE FROM FAIRLEIGH DICKENSON UNIVERSITY IN 1978
2 AND WAS A SLOAN FELLOW AT THE MASSACHUSETTS
3 INSTITUTE OF TECHNOLOGY IN 1984. I BEGAN MY CAREER
4 WITH SOUTHERN BELL IN CHARLOTTE, NORTH CAROLINA IN
5 1967 AND HAVE SINCE HELD VARIOUS POSITIONS OF
6 INCREASING RESPONSIBILITY. I ASSUMED MY PRESENT
7 POSITION IN SEPTEMBER OF 1990.

8

9 Q. MR. LACHER, CAN YOU TELL THE COMMISSION WHY YOU, AS
10 THE PRESIDENT OF SOUTHERN BELL IN FLORIDA, ARE
11 TESTIFYING TODAY?

12

13 A. YES. THE THREE DOCKETS THAT WE ARE INVOLVED WITH
14 TODAY, INVOLVING NON-CONTACT SALES AND TROUBLE
15 REPAIR OPERATIONS, STRIKE AT THE HEART OF OUR
16 REPUTATION IN THIS STATE. CERTAIN TRAGIC EVENTS
17 OCCURRED PRIOR TO SEPTEMBER, 1990. EVENTS FOR
18 WHICH ALL OF US AT SOUTHERN BELL ARE SORRY. THESE
19 EVENTS CONCERNED THE CONDUCT OF SOME INDIVIDUALS
20 AND THEIR HANDLING OF SALES AND TROUBLE REPORT
21 ACTIVITIES. AS A CONSEQUENCE OF OUR VIGOROUSLY
22 ROOTING OUT THESE PROBLEMS, WE HAVE BEEN ACCUSED OF
23 BEING A COMPANY THAT HAS, THROUGH MISMANAGEMENT OR
24 OTHERWISE, ABUSED OUR SUBSCRIBERS. WHILE I WILL
25 NOT DENY THAT A FEW OF OUR MORE THAN 18,000

1 EMPLOYEES IN THIS STATE HAVE ENGAGED IN CONDUCT
2 THAT IS REPREHENSIBLE TO ME AND MY FELLOW
3 EMPLOYEES, THIS PROCEEDING HAS CAST A SHADOW OVER
4 ALL OF US. THAT IS UNFAIR AND UNWARRANTED BY THE
5 FACTS. WERE WE THE KIND OF PEOPLE WHO HAD CHOSEN
6 TO CONDONE THIS CONDUCT OR TO COVER IT UP THERE
7 WOULD BE NO HEARING TODAY.

8
9 SPECIFICALLY, I WANT THIS COMMISSION TO UNDERSTAND
10 IT WAS MY FELLOW EMPLOYEES WHO FOUND THAT WE HAD
11 POSSIBLE PROBLEMS IN OUR NON-CONTACT SALES
12 PROGRAMS. IT WAS OUR COMPANY THAT BROUGHT THIS
13 ISSUE TO THE U.S. ATTORNEY IN TAMPA AS WELL AS TO
14 THE FLORIDA ATTORNEY GENERAL AND TO THIS
15 COMMISSION. SIMILARLY, IT WAS SOUTHERN BELL THAT
16 FIRST DISCOVERED PROBLEMS IN OUR REPAIR AND TROUBLE
17 REPORTING OPERATIONS, NOT ANY OUTSIDE ENTITY.
18 THROUGHOUT THIS DIFFICULT TIME OUR FOCUS HAS BEEN
19 ON MAKING THINGS RIGHT WITH OUR CUSTOMERS.

20
21 WHAT IS MOST IMPORTANT, AND INVARIABLY OVERLOOKED
22 BY THE PARTIES WHO SEEM INTENT ON BRANDING ALL OF
23 SOUTHERN BELL WITH THE SHORTCOMINGS OF JUST A FEW
24 INDIVIDUALS, IS THAT THE PRIMARY SOURCE OF THESE
25 PARTIES' ALLEGATIONS WAS EMPLOYEES TERMINATED FOR

1 THE VERY ACTS THAT WE ARE BEING ACCUSED OF
2 FOSTERING AND THEN IGNORING. THE FACT THAT
3 SOUTHERN BELL TOOK SWIFT AND DECISIVE DISCIPLINARY
4 ACTION, IN AND OF ITSELF, DEMONSTRATES THE
5 COMPANY'S EMPHASIS ON ETHICAL CONDUCT BY ITS
6 EMPLOYEES.

7
8 IT IS IRONIC THAT IF WE HAD NOT TERMINATED THOSE
9 FORMER EMPLOYEES, OR IF WE HAD GIVEN IN TO THEIR
10 THINLY VEILED THREATS WHEN THEY SOUGHT
11 REINSTATEMENT, SOUTHERN BELL COULD HAVE AVOIDED
12 THIS ENTIRE PROCEEDING. INSTEAD, SOUTHERN BELL DID
13 THE RIGHT THING, IT ACTED WITH INTEGRITY AND DID
14 WHAT IT KNEW TO BE RIGHT AND PROPER. NOW ALMOST
15 THREE YEARS LATER, ONE PARTY HAS SUGGESTED WE BE
16 PENALIZED MILLIONS OF DOLLARS FOR DOING WHAT IS
17 RIGHT.

18
19 I BELIEVE THAT THE FACTS WILL SUPPORT THE
20 CONCLUSION THAT NO PENALTY IS WARRANTED IN THIS
21 CASE. AS I WILL DEMONSTRATE, SOUTHERN BELL HAS
22 ALREADY BEEN PENALIZED. WE HAVE REFUNDED TO OUR
23 SUBSCRIBERS SUMS IN EXCESS OF ANY ACTUAL DAMAGES
24 THAT THEY MAY HAVE SUFFERED IN ORDER TO ENSURE THAT
25 OUR CUSTOMERS HAVE BEEN COMPENSATED AND IN EVERY

1 WAY, HAVE BEEN MADE WHOLE. WE HAVE ALSO
2 STRENGTHENED OUR EXISTING CONTROLS AND HAVE
3 ENHANCED OUR SYSTEMS, POLICIES AND PROCEDURES. WE
4 HAVE FELT PERSONALLY THE PENALTY OF LOST CUSTOMER
5 CONFIDENCE. THE SUGGESTION THAT WE SHOULD BE
6 PENALIZED FURTHER FOR HAVING COME FORWARD IS WRONG.
7 IT COULD ACTUALLY DETER OUR EFFORTS TO ENCOURAGE
8 PROPER CONDUCT.

9

10 Q. CAN YOU ELABORATE ON YOUR LAST POINT REGARDING
11 SOUTHERN BELL'S FUTURE CONDUCT.

12

13 A. YES. THIS POINT ALSO TOUCHES ON THE PENALTY THAT
14 HAS BEEN SUGGESTED. IF THIS COMMISSION WANTS TO
15 ENCOURAGE COMPANIES TO COME FORWARD AND TO CORRECT
16 PROBLEMS WHEN THEY FIND THEM, NOTHING COULD HAVE A
17 MORE ADVERSE IMPACT THAN PENALIZING US. THIS IS AN
18 ETHICAL COMPANY THAT IS CUSTOMER FOCUSED. TO
19 PENALIZE US FOR BEING FORTHRIGHT IN CORRECTING OUR
20 PROBLEMS WOULD SEND A CLEAR SIGNAL TO THE INDUSTRY
21 THAT THE BEST WAY TO AVOID A PENALTY IS TO HIDE ANY
22 PROBLEM THAT MAY BE FOUND. WHILE I WILL DETAIL THE
23 FINANCIAL IMPACT IN A MOMENT, WE CANNOT OVERLOOK
24 THE OTHER PENALTIES THAT WE HAVE SUFFERED.

25

1 SPECIFICALLY, TO THE EXTENT THAT A PENALTY MAY TEND
2 TO DISCOURAGE INAPPROPRIATE CONDUCT, IT IS
3 DIFFICULT TO IMAGINE ANYTHING HAVING A MORE ADVERSE
4 IMPACT THAN WHAT WE HAVE ENDURED. THE IMPOSITION
5 OF ANY ADDITIONAL PENALTY WOULD BE COUNTER
6 PRODUCTIVE. OTHER WITNESSES THAT WILL APPEAR WITH
7 ME CAN SHARE WITH YOU THE EFFECT THAT THE EVENTS OF
8 THE PAST TWO YEARS HAVE HAD ON THE MORALE OF OUR
9 EMPLOYEES. ALL OF US HAVE BEEN PUNISHED BY THESE
10 EVENTS.

11

12 Q. CAN YOU BRIEFLY DESCRIBE THE TOPICS YOU WILL
13 DISCUSS IN THE BALANCE OF YOUR TESTIMONY?

14

15 A. YES, THE REMAINDER OF MY TESTIMONY WILL DETAIL THE
16 SPECIFIC PROBLEMS THAT WE DISCOVERED IN CONNECTION
17 WITH WHAT WE REFER TO AS OUR NON-CONTACT SALES
18 PROGRAM AND OUR TROUBLE REPAIR OPERATIONS. I WILL
19 DESCRIBE IN MORE DETAIL FOR THE COMMISSION WHAT
20 OCCURRED, HOW IT WAS DISCOVERED, AND WHAT WE DID TO
21 CORRECT THE PROBLEMS WE FOUND. I WILL ALSO
22 DESCRIBE HOW THE COMPANY HAS MORE THAN REIMBURSED
23 ITS CUSTOMERS FOR ANY REFUNDS THEY WERE ENTITLED TO
24 AS A RESULT OF THE SERVICE WE PROVIDED TO THEM. IN
25 THIS REGARD, I WILL DISCUSS THE COMPANY'S

1 SETTLEMENT OF AN INVESTIGATION BY THE OFFICE OF
2 STATEWIDE PROSECUTION IN CONNECTION WITH OUR NON-
3 CONTACT SALES PROGRAM AND OUR REPAIR AND TROUBLE
4 REPORTING OPERATIONS. IMPORTANTLY, MY TESTIMONY
5 WILL DEMONSTRATE THAT THE COMPANY'S CONTROLS AND
6 MANAGEMENT OF THESE PROBLEMS WERE REASONABLE, AND
7 HAVE BEEN ENHANCED, AND THAT OUR CUSTOMERS HAVE
8 BEEN FULLY COMPENSATED. I WILL ALSO DEMONSTRATE
9 THAT INCENTIVE REGULATION WAS NOT THE CAUSE OF ANY
10 OF THESE ISSUES. FINALLY, AS I HAVE ALREADY
11 BRIEFLY DISCUSSED, I WILL SHOW WHY THIS COMMISSION
12 SHOULD NOT PENALIZE SOUTHERN BELL FOR ALLEGED
13 MISMANAGEMENT OR FOR ANY PURPORTED VIOLATIONS OF
14 THE COMMISSION'S RULES OR OF ANY FLORIDA STATUTES.

15

16 Q. CAN YOU DESCRIBE WHAT CONSTITUTES A NON-CONTACT
17 SALE?

18

19 A. YES. THE TERM REFERS TO SALES THAT WERE MADE BY
20 EMPLOYEES WHO WERE NOT EXPECTED TO SELL THE
21 COMPANY'S PRODUCTS AS A REGULAR PART OF THEIR
22 ACTIVITIES. A GOOD ILLUSTRATION WOULD BE A SERVICE
23 TECHNICIAN, WHO IS AN EMPLOYEE DISPATCHED TO
24 INSTALL NEW SERVICE OR REPAIR A TELEPHONE LINE THAT
25 IS OUT OF SERVICE. THE EMPLOYEE'S PRIMARY FUNCTION

1 IS TO INSTALL OR REPAIR TELEPHONE SERVICE, NOT TO
2 SELL SERVICES. HOWEVER, AS CAN BE EXPECTED, AN
3 EMPLOYEE DOING THIS TYPE OF WORK DOES HAVE
4 OPPORTUNITIES TO SELL THE COMPANY'S OPTIONAL
5 SERVICES, E.G., CALL WAITING OR INSIDE WIRE
6 MAINTENANCE PLANS. WHEN HE OR SHE DID MAKE SUCH A
7 SALE, IT WAS RECORDED AS A NON-CONTACT SALE. THIS
8 IS IN CONTRAST TO SALES MADE BY OUR CUSTOMER
9 SERVICE REPRESENTATIVES, WHO MAKE SALES DURING
10 THEIR ROUTINE CONTACTS WITH CUSTOMERS. THESE ARE
11 CALLED CONTACT SALES.

12

13 Q. CAN YOU PROVIDE A BRIEF DESCRIPTION OF WHAT
14 OCCURRED IN CONNECTION WITH WHAT YOU HAVE DESCRIBED
15 AS THE NON-CONTACT SALES INVESTIGATION.

16

17 A. YES. DURING JUNE OF 1990, SEVERAL CUSTOMER SERVICE
18 REPRESENTATIVES IN OUR BROOKSVILLE OFFICE RECEIVED
19 COMPLAINTS FROM CUSTOMERS WHO STATED THAT THEY WERE
20 BEING CHARGED FOR SERVICES THEY HAD NOT ORDERED.
21 SINCE THESE SALES HAD BEEN MADE BY NETWORK
22 EMPLOYEES, THE OPERATIONS MANAGER SUPERVISING THE
23 CUSTOMER SERVICE REPRESENTATIVES CONTACTED HIS
24 COUNTERPART IN THE NETWORK ORGANIZATION. THE
25 NETWORK OPERATIONS MANAGER, IN TURN, CONTACTED OUR

1 SECURITY DEPARTMENT AND REQUESTED AN INVESTIGATION
2 OF THE MATTER. A SECURITY INVESTIGATION WAS
3 CONDUCTED WHEREBY IT WAS DETERMINED THAT TWO
4 EMPLOYEES OF THE COMPANY, LOCATED IN THE ORLANDO
5 AREA, HAD BEEN ADDING UNORDERED SERVICES TO OUR
6 CUSTOMERS' BILLS.

7

8 Q. WHAT HAPPENED AFTER THIS DISCOVERY WAS MADE?

9

10 A. THE CHAIRMAN AND CHIEF EXECUTIVE OFFICER OF
11 SOUTHERN BELL ASKED THE LEGAL DEPARTMENT TO
12 COORDINATE A FURTHER INVESTIGATION TO DETERMINE THE
13 EXTENT OF THE PROBLEM. THE LEGAL DEPARTMENT
14 REQUESTED THE ASSISTANCE OF THE INTERNAL AUDITING
15 AND SECURITY DEPARTMENTS IN THE INVESTIGATION. THE
16 COMPANY ALSO CONTACTED THE U.S. ATTORNEY FOR THE
17 MIDDLE DISTRICT OF FLORIDA, THE FLORIDA ATTORNEY
18 GENERAL'S OFFICE, AND THIS COMMISSION TO NOTIFY
19 THEM OF THE COMPANY'S DISCOVERY THAT TWO OF ITS
20 EMPLOYEES HAD BEEN ADDING SERVICES TO OUR
21 CUSTOMERS' BILLS WITHOUT AUTHORIZATION TO DO SO.

22

23 Q. HOW WAS THIS INVESTIGATION CONDUCTED?

24

25 A. THE INTERNAL AUDITING DEPARTMENT REVIEWED THE

1 RESULTS OF ALL NON-CONTACT SALES ACTIVITY IN
2 FLORIDA. THE PURPOSE OF THIS REVIEW WAS TO
3 IDENTIFY EMPLOYEES WITH RELATIVELY HIGH NUMBERS OF
4 NON-CONTACT SALES. ONCE THIS WAS COMPLETED, LISTS
5 OF CUSTOMERS WHO HAD BEEN SOLD SERVICES BY THE
6 EMPLOYEES IDENTIFIED BY INTERNAL AUDITING WERE
7 COMPILED. OUR DIRECT MARKETING CENTER THEN
8 CONTACTED A NUMBER OF THOSE CUSTOMERS TO SEE
9 WHETHER ANY PATTERN EXISTED THAT MIGHT INDICATE A
10 PROBLEM. IN CONJUNCTION WITH THIS EFFORT, THE
11 SECURITY DEPARTMENT CONDUCTED FURTHER INTERVIEWS
12 REGARDING THE NON-CONTACT SALES.

13

14 Q. WHAT WAS THE RESULT OF THE COMPANY'S ACTIVITIES
15 THAT YOU HAVE JUST DESCRIBED?

16

17 A. WE DETERMINED THAT, IN ADDITION TO THE TWO
18 EMPLOYEES IN ORLANDO WHOM I PREVIOUSLY DESCRIBED,
19 AN EMPLOYEE IN WEST PALM BEACH APPEARED TO HAVE
20 DONE ESSENTIALLY THE SAME THING, I.E., ADDED
21 SERVICES TO CUSTOMERS' BILLS WITHOUT AUTHORIZATION.

22

23 Q. WHAT DID YOU DO WITH REGARD TO THESE EMPLOYEES?

24

25 A. THEY WERE DISCHARGED. IN ADDITION, TWO MANAGERS,

1 IN EACH INSTANCE A PERSON THAT HAD BEEN EITHER THE
2 IMMEDIATE SUPERVISOR OR A SECOND LEVEL MANAGER OF
3 THE TERMINATED EMPLOYEES, WERE ALSO FIRED.

4

5 Q. WERE ANY OTHER EMPLOYEES DISCIPLINED AS A RESULT OF
6 THE NON-CONTACT SALES INVESTIGATIONS?

7

8 A. YES. WE DISCIPLINED ANOTHER 14 EMPLOYEES WHO
9 EITHER HAD INFORMATION WHICH SHOULD HAVE ALERTED
10 THEM TO THE EXISTENCE OF A PROBLEM OR WHO COULD
11 HAVE, IN THE CAREFUL EXERCISE OF THEIR
12 RESPONSIBILITIES, DISCOVERED THIS PROBLEM EARLIER
13 THAN IT WAS DISCOVERED. THE EMPLOYEES IN THE
14 LATTER GROUP WERE DISCIPLINED NOT BECAUSE THEY HAD
15 ANY ACTUAL NOTICE OF THE IMPROPER ACTIVITIES, BUT
16 BECAUSE THESE ACTIVITIES OCCURRED "ON THEIR WATCH"
17 AND THUS WHILE THEY WERE REASONABLY IN A POSITION
18 TO LEARN OF AND STOP THEM.

19

20 Q. WHAT KINDS OF SERVICES DID THE TERMINATED EMPLOYEES
21 ADD TO THE BILLS OF YOUR CUSTOMERS?

22

23 A. AT ONE TIME A CUSTOMER COULD BUY EITHER THE TROUBLE
24 ISOLATION PLAN (TIP) OR THE INSIDE WIRE MAINTENANCE
25 (IWM) PLAN SEPARATELY. LATER, ALL THAT WAS

1 AVAILABLE FOR NEW CUSTOMERS WAS A COMBINED PLAN
2 WHICH INCLUDED BOTH SERVICES. THE TERMINATED
3 EMPLOYEES WERE ADDING TIP WHERE THE CUSTOMER HAD
4 IWM AND VICE VERSA. IN SOME INSTANCES THEY ADDED
5 THE COMBINED PLAN.
6

7 Q. CAN YOU EXPLAIN WHAT THE COMPANY DID FOR ITS
8 CUSTOMERS ONCE IT DISCOVERED THAT THESE THREE
9 EMPLOYEES HAD ADDED SERVICES TO CUSTOMERS' BILLS?
10

11 A. SEVERAL THINGS HAPPENED. FIRST, WE IDENTIFIED
12 EVERY CUSTOMER WHOSE BILL CONTAINED SERVICES ADDED
13 BY THE THREE EMPLOYEES I MENTIONED. OF THE THREE
14 EMPLOYEES, ONE ADMITTED THAT ALL OF HIS SALES WERE
15 IMPROPER, ANOTHER CLAIMED THAT ONE-FOURTH OF HER
16 SALES WERE LEGITIMATE AND THE LAST EMPLOYEE DENIED
17 ANY WRONGDOING AT ALL. WE ALSO FOUND THAT THE
18 SALES CODE OF A FOURTH EMPLOYEE, UNBEKNOWNST TO
19 HIM, HAD BEEN CREDITED WITH IMPROPER SALES,
20 PROBABLY BY ONE OF THE THREE EMPLOYEES WHO WERE
21 FIRED. NOTWITHSTANDING ASSERTIONS THAT SOME OF THE
22 SALES WERE PROPER, WE SENT LETTERS TO EACH OF THE
23 CUSTOMERS THAT WE IDENTIFIED AND PROVIDED EACH OF
24 THEM WITH A FULL REFUND, PLUS INTEREST, OF THE
25 MONEY THAT THEY HAD PAID FOR THE SERVICES THAT HAD

1 BEEN ADDED. WE DID THIS WITHOUT REGARD TO WHETHER
2 THE CUSTOMER CLAIMED A REFUND. WE ALSO TOLD THOSE
3 CUSTOMERS THAT THEY COULD CONTINUE THE SERVICE IN
4 QUESTION BY CONTACTING THE COMPANY AND THAT THERE
5 WOULD BE NO LAPSE IN COVERAGE IF THE CUSTOMER
6 WANTED THE SERVICE.

7
8 SECOND, OUT OF AN ABUNDANCE OF CAUTION, THE COMPANY
9 USED ITS COMPUTER SYSTEMS IN AN EFFORT TO IDENTIFY
10 EVERY CUSTOMER WHO HAD BEEN SOLD A SERVICE THROUGH
11 A NON-CONTACT SALES PROGRAM. APPROXIMATELY 141,000
12 CUSTOMERS, WERE EACH SENT A LETTER WHICH LISTED ALL
13 SERVICES TO WHICH THEY SUBSCRIBED AND ASKED THEM TO
14 REVIEW THEIR LIST TO CONFIRM THAT THEY HAD ORDERED
15 THOSE SERVICES. THEY WERE FURTHER TOLD THAT IF
16 THEY FOUND ANY DISCREPANCIES OR HAD ANY QUESTIONS
17 TO CALL AN 800 NUMBER. CUSTOMERS WHO CALLED AND
18 STATED THAT THEY HAD NOT ORDERED A SERVICE WERE
19 GIVEN A FULL REFUND WITH INTEREST. THE 800 NUMBER
20 WAS ALSO AVAILABLE TO ANY CUSTOMER WHO THOUGHT
21 THERE MIGHT BE A PROBLEM WITH THE SERVICES THAT THE
22 CUSTOMER WAS RECEIVING. THIS 800 NUMBER WAS WIDELY
23 DISSEMINATED BOTH THROUGH THE MEDIA AND THROUGH
24 BILL STUFFERS.
25

1 Q. HOW MANY CUSTOMERS WERE BILLED FOR SERVICES THEY
2 DID NOT ORDER AND HOW MUCH MONEY WAS REFUNDED AS A
3 RESULT OF THE COMPANY'S EFFORTS TO ADDRESS THE
4 NON-CONTACT SALES MATTER?
5
6 A. THE COMPANY REFUNDED SLIGHTLY OVER \$850,000.00 TO
7 APPROXIMATELY 36,000 CUSTOMERS AS A RESULT OF THE
8 IDENTIFICATION OF SPECIFIC CUSTOMERS WHO HAD
9 SERVICES ADDED TO THEIR BILLS WITHOUT THEIR
10 AUTHORIZATION BY THE DISCHARGED EMPLOYEES I
11 MENTIONED EARLIER. AGAIN, WE DID NOT INQUIRE AS TO
12 WHETHER ANY OF THESE CUSTOMERS HAD ACTUALLY ORDERED
13 THE SERVICES IN QUESTION, BUT RATHER WE GAVE THEM A
14 REFUND SO AS TO AVOID ANY QUESTION OF OVERLOOKING A
15 CUSTOMER THAT SHOULD HAVE GOTTEN A REFUND. OTHER
16 CUSTOMERS, WHO CALLED OUR 800 NUMBER, ALSO RECEIVED
17 REFUNDS WHEN REQUESTED. THE CALLERS INCLUDED
18 PEOPLE WHO WERE AMONG THE 141,000 CUSTOMERS WHO
19 RECEIVED A LETTER AS A RESULT OF THE COMPANY'S
20 HAVING IDENTIFIED THEM AS HAVING BEEN SOLD A
21 SERVICE THROUGH THE NON-CONTACT SALES PROGRAM AS
22 WELL AS OTHER PEOPLE WHO CLAIMED THEY HAD NOT
23 ORDERED A PARTICULAR SERVICE. ONCE AN INDIVIDUAL
24 CLAIMED THAT HE HAD NOT ORDERED A SERVICE, THE
25 COMPANY REMOVED THE SERVICE AND PROVIDED A FULL

1 REFUND, WITH INTEREST. IN ADDITION, A LARGE
2 PORTION OF THE REFUNDS THAT MAKE UP THE SETTLEMENT
3 THE COMPANY REACHED WITH THE OFFICE OF STATEWIDE
4 PROSECUTION WERE RELATED TO THIS MATTER. AS A
5 CONSEQUENCE, THE COMPANY HAS ACTUALLY REFUNDED MORE
6 TO ITS CUSTOMERS THAN IT EVER RECEIVED FROM THIS
7 INAPPROPRIATE BILLING.

8

9 Q. PLEASE DISCUSS WHY SOUTHERN BELL HAD NON-CONTACT
10 SALES PROGRAMS.

11

12 A. A PART OF ENSURING THAT CUSTOMERS GET WHAT THEY
13 WANT AND NEED IS EDUCATING THEM ABOUT WHAT OPTIONS
14 ARE AVAILABLE. WE DO THIS IN A NUMBER OF WAYS, BUT
15 AN OBVIOUS ONE IS TO HAVE EMPLOYEES WHO ACTUALLY
16 HAVE FACE-TO-FACE CONTACT WITH OUR CUSTOMERS SELL
17 THE PRODUCTS DESIRED BY A CUSTOMER. FOR INSTANCE,
18 WHEN A SERVICE TECHNICIAN HAS COME TO A CUSTOMER'S
19 PREMISES TO ADD A SECOND LINE, THAT IS A GOOD TIME
20 TO ASK IF THE CUSTOMER IS AWARE OF OUR
21 DISCRETIONARY SERVICES, AND TO SELL THEM TO THE
22 CUSTOMER IF HE WANTS THEM.

23

24 AS SOUTHERN BELL GAINED EXPERIENCE WITH NON-CONTACT
25 SALES PROGRAMS, IT CONTINUALLY REFINED THEM. THIS

1 ULTIMATELY LED TO THE GOLDLINE PROGRAM, PURSUANT TO
2 WHICH FIELD EMPLOYEES REFERRED SALES TO EMPLOYEES
3 WHO WERE RESPONSIBLE FOR MAKING SALES DURING THE
4 ORDINARY COURSE OF THEIR DAILY ACTIVITIES. THESE
5 LATTER EMPLOYEES THEN CONTACTED THE CUSTOMER TO
6 CLOSE THE SALE. THE GOLDLINE REFERRAL PROGRAM
7 REPLACED ALL NON-CONTACT SALES PROGRAMS.

8
9 OUR NON-CONTACT SALES AND REFERRAL PROGRAMS,
10 WHEN IMPLEMENTED AS DESIGNED, WERE PROPER AND
11 APPROPRIATE. UNFORTUNATELY, A FEW OF OUR MORE THAN
12 18,000 EMPLOYEES DISREGARDED THE RULES OF OUR
13 NON-CONTACT SALES PROGRAMS. AS A RESULT, BOTH OUR
14 CUSTOMERS AND THE COMPANY SUFFERED. THIS FAILURE
15 WAS NOT, HOWEVER, A RESULT OF MISMANAGEMENT BY THE
16 COMPANY NOR WAS IT THE RESULT OF A LACK OF CONTROLS
17 OVER THE PROGRAMS. THIS IS NOT TO SAY THAT, BY
18 USING THE CONTROLS THAT WERE AVAILABLE TO THEM,
19 MANAGERS SHOULD NOT HAVE PREVENTED THE IMPROPER
20 CONDUCT FROM OCCURRING. RATHER, THE MANAGEMENT
21 FAILURES THAT DID OCCUR WERE NOT SYSTEMIC. THIS
22 CONCLUSION IS CONFIRMED BY OUR 1990 STATEWIDE
23 INVESTIGATION WHICH FOUND PROBLEMS ONLY IN ORLANDO
24 AND WEST PALM BEACH.

25

1 Q. PLEASE ELABORATE ON THE CONTROLS THAT WERE
2 AVAILABLE.
3
4 A. FIRST, THE 2011A FORM AND ITS PREDECESSOR, THE
5 2011, SHOULD HAVE PERMITTED MANAGERS TO IDENTIFY
6 ANY POTENTIAL PROBLEMS. THESE FORMS, WHICH WERE
7 DISSEMINATED TO LOCAL MANAGEMENT, SHOWED SALES BY
8 DISTRICT AND BY INDIVIDUAL EMPLOYEES. THERE WERE
9 ALSO SALES COORDINATORS WHO WERE RESPONSIBLE FOR
10 THE NON-CONTACT SALES PROGRAMS AND FOR THESE FORMS.
11 A REVIEW OF THESE FORMS WOULD HAVE SHOWN AN
12 UNUSUALLY HIGH LEVEL OF SALES BY A FEW EMPLOYEES IN
13 THE ORLANDO AND WEST PALM BEACH DISTRICTS. THIS
14 SHOULD HAVE CAUSED A REVIEW OF THE SALES OF THESE
15 EMPLOYEES. SECOND, IN MOST INSTANCES, THESE SALES
16 WERE PROCESSED THROUGH THE COMPANY BUSINESS OFFICES
17 BY CUSTOMER SERVICE REPRESENTATIVES WHO SHOULD HAVE
18 AND, IN SOME INSTANCES, DID RECOGNIZE A
19 SURPRISINGLY HIGH LEVEL OF SALES BY INDIVIDUAL
20 EMPLOYEES. THESE FINDINGS SHOULD THEN HAVE BEEN
21 REFERRED FOR FURTHER INVESTIGATION. FINALLY, EACH
22 SALE OF INSIDE WIRE MAINTENANCE WAS IDENTIFIED ON
23 THE CUSTOMER'S FIRST BILL AFTER THE SERVICE WAS
24 ADDED AND WAS THEREAFTER SEPARATELY IDENTIFIED ON
25 EACH MONTH'S BILL.

1

2 Q. COULDN'T AUDITS OR SAMPLING HAVE BEEN USED TO CHECK
3 THESE SALES?

4

5 A. WHILE IN HINDSIGHT THIS MIGHT HAVE BEEN POSSIBLE,
6 OTHER POTENTIAL CONTROLS THAT MIGHT APPLY IN OTHER
7 CIRCUMSTANCES WERE NOT PRACTICAL FOR NON-CONTACT
8 SALES AS THE PROGRAMS WERE DESIGNED. FOR EXAMPLE,
9 IT WOULD HAVE BEEN IMPOSSIBLE FOR SUPERVISORS TO
10 HAVE EFFECTIVELY OBSERVED SALES MADE BY EMPLOYEES
11 IN THE FIELD.

12

13 SIMILARLY, WHILE SAMPLING SOUNDS APPEALING, IT IS
14 NOT VERY PRACTICAL. ITS ACCURACY DEPENDS UPON A
15 NUMBER OF FACTORS, INCLUDING ASCERTAINING WHICH
16 HOUSEHOLD MEMBER MAY HAVE SUBSCRIBED TO THE SERVICE
17 IN QUESTION. NEVERTHELESS, IN RETROSPECT, I WOULD
18 AGREE THAT IF WE WERE EVER TO REINSTITUTE A NON-
19 CONTACT SALES PROGRAM, SOME FORM OF SAMPLING MIGHT
20 BE APPROPRIATE IN ORDER TO DETECT ABUSES LIKE WE
21 DISCOVERED HERE. I MUST NOTE, HOWEVER, THAT THIS
22 POINT IS MOOT BECAUSE IN 1990 WE ELIMINATED ALL
23 NON-CONTACT SALES PROGRAMS.

24

25 Q. WERE THE CONTROLS SOUTHERN BELL HAD IN PLACE

1 UNREASONABLE?

2

3 A. NO. THE ONLY WAY TO ENSURE THAT EVERY SALE WAS
4 PROPER WAS TO OBSERVE THE EMPLOYEE MAKING THE SALE.
5 AGAIN I NOTE THAT THIS WAS SUPPOSED TO HAVE BEEN A
6 SECONDARY ACTIVITY ON THE PART OF THESE EMPLOYEES.
7 TO ARGUE OTHERWISE WOULD BE TO IMPUTE TO SOUTHERN
8 BELL THE KNOWLEDGE IT GARNERED AFTER THE FACT. A
9 REASONABLE PERSON COULD HAVE CONCLUDED THAT THE
10 CONTROLS WERE SUFFICIENT.

11

12 Q. ISN'T IT TRUE THAT THERE HAD BEEN EARLIER INCIDENTS
13 WHERE EMPLOYEES WHO MADE NON-CONTACT SALES HAD MADE
14 THEM IMPROPERLY?

15

16 A. THERE WERE INSTANCES WHEN SOUTHERN BELL FOUND AN
17 EMPLOYEE WHO MADE A SMALL NUMBER OF IMPROPER
18 NON-CONTACT SALES. BUT THIS MUST BE PUT IN
19 CONTEXT. REMEMBER, THERE WERE OVER 2,300 EMPLOYEES
20 WHO WERE ELIGIBLE TO PARTICIPATE IN THE NON-CONTACT
21 SALES PROGRAM. THE FACT THAT TWO OR THREE OR EVEN
22 FIVE OR SIX OF THEM VIOLATED THE TRUST THAT WE
23 PLACED IN THEM IS NOT SUFFICIENT TO INDICT THE
24 ENTIRE COMPANY OR THE SALES PROGRAM. THE FACT
25 THAT WE CAUGHT THESE ISOLATED PROBLEMS LED US

1 REASONABLY TO BELIEVE THAT OUR CONTROLS DID WORK.
2 THE POINT IS THAT THERE IS NO BASIS TO CONCLUDE
3 THAT THE PROBLEMS WE HAVE EXPERIENCED WERE THE
4 RESULT OF MISMANAGEMENT ON THE PART OF UPPER
5 MANAGEMENT OF THIS COMPANY.

6

7 Q. WHAT ABOUT THE SO CALLED "BOILER ROOM" SALES
8 EFFORTS?

9

10 A. "BOILER ROOM" IS A SLANG TERM FOR TELEMARKETING.
11 THE DESIGN OF OUR NETWORK SALES PROGRAM AND THE
12 CONTROLS IMPLEMENTED DID NOT ANTICIPATE THIS TYPE
13 OF SALES PROCESS. OUTBOUND TELEMARKETING IS NOT
14 INHERENTLY WRONG. HOWEVER, THE LOCAL MANAGERS IN
15 ORLANDO AND WEST PALM BEACH SHOULD NOT HAVE USED
16 THIS APPROACH WITHOUT IMPLEMENTING ADDITIONAL
17 CONTROLS TO ASSURE THAT OUR QUALITY AND ETHICS
18 STANDARDS WERE MET.

19

20 Q. HAS SOUTHERN BELL EXPERIENCED ANY OTHER PROBLEMS
21 REGARDING THE SALES OF ITS SERVICES?

22

23 A. NO SYSTEMIC PROBLEMS WITH SOUTHERN BELL'S SALES
24 HAVE BEEN FOUND. LIKE ANY COMPANY WITH A LARGE
25 SALES ORGANIZATION, SOUTHERN BELL OCCASIONALLY

1 DISCOVERS PROBLEMS WITH CUSTOMER SALES. SOUTHERN
2 BELL HAS IN PLACE CONTROLS SUCH AS SALES MONITORING
3 AND MANAGEMENT SALES REPORTS TO DETECT POTENTIAL
4 PROBLEMS. WHEN A PROBLEM IS DISCOVERED, IT IS
5 PROMPTLY CORRECTED AND ANY NECESSARY REFUND TO THE
6 CUSTOMER TO MAKE HIM WHOLE IS MADE. IN ADDITION,
7 THE EMPLOYEE AT FAULT IS DISCIPLINED. THUS, AT
8 WORST, ANY ACTS OF MISCONDUCT BY SOUTHERN BELL'S
9 EMPLOYEES WITH RESPECT TO SALES HAVE BEEN ISOLATED
10 INSTANCES. SINCE SOUTHERN BELL HAS CONTROLS IN
11 PLACE TO FIND SUCH POTENTIAL ACTS AND DEALS WITH
12 ANY PROBLEMS IT FINDS, NO ADDITIONAL ACTION IS
13 WARRANTED.

14

15 Q. WHAT HAS SOUTHERN BELL DONE TO PREVENT A
16 REOCCURRENCE?

17

18 A. THE IRONY IS THAT IN 1990 SOUTHERN BELL BEGAN
19 IMPLEMENTING CORRECTIVE ACTION EVEN BEFORE WE
20 IDENTIFIED THE PROBLEM. WITH THE INTRODUCTION OF
21 GOLDLINE, WE STOPPED ALL NETWORK SALES. BECAUSE OF
22 THE ADVERSE PUBLICITY WE HAVE EVEN ENDED THIS SALES
23 REFERRAL PROGRAM. TODAY, SOUTHERN BELL DOES NOT
24 HAVE ANY NETWORK OR NON-CONTACT SALES PROGRAMS.
25 THIS HAS BEEN TRUE SINCE JULY, 1991.

1

2 FURTHER, WE HAVE STRENGTHENED OUR EXISTING CONTROLS
3 ON SALES IN SEVERAL WAYS. WE NOW SEND AN ITEMIZED
4 CONFIRMATION LETTER ON EVERY SALE. WE ALSO ITEMIZE
5 EVERY RESIDENCE BILL EVERY MONTH.

6

7 Q. CAN YOU NOW TURN TO THE REPAIR AND TROUBLE
8 REPORTING OPERATIONS THAT YOU MENTIONED AT THE
9 BEGINNING OF YOUR TESTIMONY?

10

11 A. YES. AS THE COMMISSION KNOWS, THE COMPANY IS
12 GENERALLY REQUIRED TO CLEAR 95% OF ITS OUT-OF-
13 SERVICE ("OOS") REPORTS WITHIN 24 HOURS OF
14 RECEIVING THE REPORT. WITH A FEW EXCEPTIONS, THE
15 COMPANY IS FURTHER OBLIGATED TO PROVIDE A REFUND
16 WHEN THE OUT-OF-SERVICE CONDITION GOES OVER 24
17 HOURS. SOUTHERN BELL DID EXPERIENCE SOME PROBLEMS
18 IN THE AREA OF TROUBLE REPORTING.

19

20 IN OCTOBER OF 1990, THE COMPANY IDENTIFIED
21 IRREGULARITIES IN THE HANDLING OF TROUBLE REPORTS
22 AS A RESULT OF A ROUTINE NETWORK OPERATIONS REVIEW
23 IN ITS NORTH DADE INSTALLATION AND MAINTENANCE
24 CENTER ("IMC"). AS A RESULT OF THAT REVIEW, AN
25 INTERNAL INVESTIGATION WAS BEGUN IMMEDIATELY.

1 THE COMPANY'S INVESTIGATION DETERMINED THAT
2 CUSTOMER TROUBLE REPORTS HAD BEEN DELIBERATELY
3 MISCODED AS OUT-OF-SERVICE WHEN IN FACT THEY WERE
4 NOT. THE IDENTIFICATION OF THE NORTH DADE PROBLEM
5 LED THE COMPANY TO INVESTIGATE STATEWIDE, WHICH
6 RESULTED IN THE DISCOVERY OF A PROBLEM IN THE
7 GAINESVILLE IMC, WHERE AN EMPLOYEE HAD CREATED
8 FICTITIOUS TROUBLE REPORTS. THUS, IN BOTH
9 LOCATIONS, OUT-OF-SERVICE CUSTOMER REPORTS HAD
10 BEEN CREATED IN AN ATTEMPT TO FAVORABLY AFFECT THE
11 IMCS ATTAINMENT OF THEIR GOAL OF CLEARING 95% OF
12 THEIR CUSTOMERS' OUT-OF-SERVICE TROUBLES WITHIN A
13 24 HOUR PERIOD. SUCH ACTIVITY TO "MEET THE INDEX"
14 HAD THE EFFECT OF CAUSING THE COMPANY UNKNOWINGLY
15 TO FILE INCORRECT LOCAL EXCHANGE SERVICE
16 PERFORMANCE REPORTS WITH THIS COMMISSION BUT DID
17 NOT AFFECT ANY CUSTOMER REBATES. AS A RESULT OF
18 THESE INVESTIGATIONS, TWO EMPLOYEES WERE
19 DISCHARGED.

20

21 Q. WHAT OTHER INVESTIGATION EFFORTS WERE UNDERTAKEN BY
22 THE COMPANY?

23

24 A. BEGINNING IN FEBRUARY OF 1991, AT THE DIRECTION OF
25 MANAGEMENT, THE COMPANY'S LEGAL DEPARTMENT, WITH

1 ASSISTANCE FROM NETWORK EXPERTS, INTERNAL AUDITORS,
2 AND THE SECURITY DEPARTMENT, CONDUCTED AN
3 EXHAUSTIVE INVESTIGATION OF THE COMPANY'S REPAIR
4 AND TROUBLE REPORTING OPERATIONS THROUGHOUT
5 FLORIDA. THIS PRIVILEGED INVESTIGATION CONSISTED
6 OF THE INTERVIEWS OF COMPANY EMPLOYEES AT ALL
7 LEVELS OF MANAGEMENT, THE PERFORMANCE OF SEVERAL
8 AUDITS OF COMPANY SYSTEMS, AND AN ANALYSIS OF THE
9 IMPACT OF ANY TROUBLE REPORTING PROBLEMS ON THE
10 COMPANY'S CUSTOMERS.

11

12 Q. WHAT ACTION WAS TAKEN AS A RESULT OF THE COMPANY'S
13 INTERNAL INVESTIGATION?

14

15 A. A TOTAL OF 112 EMPLOYEES WERE DISCIPLINED. THE
16 DISCIPLINE INCLUDED COUNSELINGS, WARNINGS, AND
17 REPRIMANDS WITH ADVERSE PAY TREATMENT. IN
18 ADDITION, AS A RESULT OF A SETTLEMENT AGREEMENT
19 WITH THE OFFICE OF STATEWIDE PROSECUTION, THE
20 COMPANY COMPENSATED ANY CUSTOMER WHO COULD HAVE
21 BEEN AFFECTED BY THE IMPROPER TROUBLE REPORTING
22 PROCEDURES, AND INSTITUTED ENHANCEMENTS TO ITS
23 SYSTEMS AND POLICIES AND PROCEDURES TO PREVENT THIS
24 SITUATION FROM OCCURRING AGAIN.

25

1 Q. DID THE COMPANY HAVE CONTROLS IN PLACE DESIGNED TO
2 PREVENT EMPLOYEES FROM MISREPORTING OR OTHERWISE
3 MISCODING TROUBLE REPORTS?

4
5 A. YES. WHILE I AM NOT COMPLETELY FAMILIAR WITH ALL
6 THE DETAILS OF HOW THE COMPANY'S SYSTEMS COULD HAVE
7 BEEN MANIPULATED TO GENERATE INCORRECT TROUBLE
8 REPORT INFORMATION, I DO KNOW THAT VARIOUS CONTROLS
9 WERE IN PLACE THAT MANAGEMENT REASONABLY BELIEVED
10 WOULD PREVENT ABUSES. THESE CONTROLS INCLUDED
11 REVIEWS CONDUCTED BY BOTH NETWORK STAFF EMPLOYEES
12 AND LOCAL IMC MANAGEMENT; DAILY, WEEKLY AND MONTHLY
13 REPORTS PROVIDED TO MANAGEMENT; AND CONTROLS
14 CONTAINED WITHIN OUR DATA SYSTEMS. MS. APRIL IVY,
15 MANAGER OF THE COMPANY'S SOUTH DADE IMC, WILL
16 PROVIDE TESTIMONY CONCERNING CUSTOMER TROUBLE
17 REPORTING AND RESTORATION PROCEDURES AND THE
18 MAINTENANCE CENTER'S RESPONSIBILITIES REGARDING
19 THESE ACTIVITIES. SHE WILL ALSO DESCRIBE IN DETAIL
20 THE CONTROLS THAT WERE IN PLACE PRIOR TO 1992,
21 INCLUDING THE PURPOSES AND PROCEDURES OF THE
22 NETWORK OPERATIONAL REVIEW PROCESS, AS WELL AS THE
23 CONTROLS THAT ARE IN PLACE TODAY.

24

25 Q. DID SOUTHERN BELL'S MANAGEMENT ENCOURAGE BEHAVIOR

1 THAT LED TO THE ALLEGED VIOLATIONS OF THIS
2 COMMISSION'S RULES OR OF FLORIDA STATUTES WITH
3 REGARD TO THE COMPANY'S TROUBLE REPORTING AND
4 REPAIR OPERATIONS?

5
6 A. ABSOLUTELY NOT. WHILE INDIVIDUAL MANAGERS MAY HAVE
7 VIOLATED THE COMPANY'S PROCEDURES, SOUTHERN BELL'S
8 MANAGEMENT TEAM IS ETHICAL AND CUSTOMER FOCUSED.
9 IT DISCOVERED THE PROBLEMS WITH THE TROUBLE
10 REPORTING PROCESS AND HAS DEALT WITH THEM IN AN
11 EFFECTIVE FASHION. THE NETWORK ORGANIZATION IN THE
12 STATE OF FLORIDA HAS SOME 10,000 EMPLOYEES WITH
13 2,000 MANAGERS. WHILE I AM DISAPPOINTED THAT
14 ABUSES OCCURRED, IT IS NOT OUT OF THE QUESTION
15 THAT, IN AN EMPLOYEE BODY OF THAT SIZE, SOME
16 EMPLOYEES MAY HAVE TAKEN SHORTCUTS OR THAT SOME
17 MANAGERS MAY HAVE FAILED TO FOLLOW-THROUGH AND
18 ATTEND TO THE DETAILS OF THEIR JOBS. MOREOVER,
19 THIS MATTER MUST BE PLACED IN PERSPECTIVE. THE
20 IRREGULARITIES IN THE TROUBLE REPORTING PROCESS
21 WERE FIRST DISCOVERED BY SOUTHERN BELL'S
22 MANAGEMENT. WE DETERMINED THE SCOPE AND EFFECT OF
23 THE PROBLEM AND WE IMPLEMENTED THE NECESSARY
24 CHANGES TO THE PROCESSES TO DISCOURAGE FUTURE
25 PROBLEMS. WE ALSO FULLY REIMBURSED OUR CUSTOMERS.

1
2 WE BELIEVE THAT WE HAD APPROPRIATE CONTROLS IN
3 PLACE. WE DID NOTHING TO ENCOURAGE ANY IMPROPER
4 BEHAVIOR THAT MAY HAVE OCCURRED. IN FACT, THE
5 TRUTH IS QUITE THE OPPOSITE. WHERE WE FOUND
6 IMPROPER ACTIVITIES, WE TOOK APPROPRIATE
7 DISCIPLINARY ACTION AND WE TIGHTENED RELEVANT
8 CONTROLS. IT HAS BEEN A PAINFUL PROCESS BUT I
9 BELIEVE THE COMPANY HAS DONE THE RIGHT THING.

10

11 Q. DID INCENTIVE REGULATION IN ANY WAY CREATE AN
12 ENVIRONMENT WHICH ENCOURAGED EMPLOYEES TO ENGAGE IN
13 INAPPROPRIATE CONDUCT?

14

15 A. NO. VARIOUS PARTIES HAVE ALLEGED THAT PROBLEMS
16 WITH NON-CONTACT SALES AND TROUBLE REPORTING BEGAN
17 BEFORE 1988. IF SO, THEN SUCH PROBLEMS PREDATE
18 INCENTIVE REGULATION.

19

20 THE FORM OF REGULATION UNDER WHICH SOUTHERN BELL
21 OPERATES HAS IN NO WAY AFFECTED THE COMPANY'S
22 EMPHASIS ON ETHICAL AND HONEST CONDUCT. INDEED, IF
23 ANYTHING, THE EMPHASIS ON THE CUSTOMER THAT IS PART
24 AND PARCEL OF INCENTIVE REGULATION MAKES IT LESS
25 LIKELY THAT INAPPROPRIATE ACTIONS WILL OCCUR. THE

1 UNFORTUNATE ACTIONS OF A FEW EMPLOYEES COULD HAVE
2 OCCURRED UNDER ANY FORM OF REGULATION AND ARE IN NO
3 WAY LINKED TO INCENTIVE REGULATION.

4

5 Q. IN LIGHT OF THE EVENTS, WHY SHOULD THIS COMMISSION
6 CONSIDER ALTERNATIVES TO TRADITIONAL RATE OF RETURN
7 REGULATION?

8

9 A. IT IS IMPORTANT TO RECOGNIZE THAT THE SAFEGUARDS
10 AND CONTROLS AVAILABLE TO THIS COMMISSION ARE THE
11 SAME REGARDLESS OF THE FORM OF REGULATION IMPOSED.

12

13 FURTHER, THERE IS NO EVIDENCE THAT THE REGULATORY
14 STRUCTURE PLAYED ANY ROLE IN THE EVENTS UNDER
15 REVIEW. QUITE TO THE CONTRARY, THE STAFF'S
16 MANAGEMENT AUDIT OF 1991 STATED THAT THEY FOUND NO
17 EVIDENCE THAT INCENTIVE REGULATION HAD RESULTED IN
18 ANY REDUCED EMPHASIS ON SERVICE BY SOUTHERN BELL.
19 INDEED, THESE EVENTS PREDATED THE INTRODUCTION OF
20 INCENTIVE REGULATION AND WERE CORRECTED BY THE
21 COMPANY UNDER INCENTIVE REGULATION. ANY SUGGESTION
22 THAT THE REGULATORY STRUCTURE PLAYED ANY ROLE IN
23 THESE EVENTS IS INCORRECT.

24

25 IN ADDITION, THE MARKET FORCES THAT ARE CHANGING

1 THE REGULATORY WORLD STILL EXIST. THIS COMMISSION
2 RECOGNIZED THIS CHANGING ENVIRONMENT IN 1988.
3 SINCE THAT TIME, THE PACE OF CHANGE HAS ESCALATED.
4 FORTY-TWO OTHER COMMISSIONS HAVE RECOGNIZED THIS
5 REALITY AND HAVE IMPLEMENTED ALTERNATIVE FORMS OF
6 REGULATION OR PRICING FLEXIBILITY.

7
8 ONLY ONE MAJOR TELEPHONE COMPANY IN FLORIDA HAS NOT
9 SOUGHT A RATE INCREASE IN THE LAST FOUR YEARS.
10 THAT COMPANY, SOUTHERN BELL, WAS REGULATED BY
11 INCENTIVE REGULATION. WE BELIEVE THAT INCENTIVE
12 REGULATION WAS A SIGNIFICANT REASON WHY WE WERE
13 ABLE TO AVOID ASKING FOR A RATE INCREASE.

14
15 SECRETARY OF STATE GREG FARMER HAS TESTIFIED BEFORE
16 THE COMMISSION ON THE IMPORTANCE OF PROGRESSIVE
17 TELECOMMUNICATIONS POLICY IN THE ECONOMIC
18 DEVELOPMENT OF THIS STATE. NOW IS NOT THE TIME TO
19 DISCOURAGE ECONOMIC DEVELOPMENT. ADEQUATE CONTROLS
20 ARE IN PLACE TO PROTECT THE CONSUMER. INCENTIVE
21 REGULATION IS GOOD FOR THE CONSUMER AND GOOD FOR
22 THE STATE.

23

24 Q. IN VIEW OF YOUR PRIOR COMMENTS, WHY DID THE COMPANY
25 AGREE TO SETTLE THIS MATTER AND OTHER ISSUES WITH

1 THE OFFICE OF STATEWIDE PROSECUTION?

2

3 A. QUITE SIMPLY, THE COMPANY SETTLED THIS MATTER IN
4 ORDER TO FOCUS FULLY ON ITS PRIMARY MISSION: THE
5 PROVISION OF QUALITY TELECOMMUNICATIONS SERVICES TO
6 ITS CUSTOMERS. I SIGNED THE SETTLEMENT AGREEMENT
7 ON OCTOBER 9, 1992, TO BEGIN THE PROCESSES OF
8 RESTORING OUR CUSTOMERS' CONFIDENCE IN US AND
9 IMPROVING EMPLOYEE MORALE, WHICH HAD DETERIORATED
10 BECAUSE OF THE NEGATIVE AND UNJUSTIFIED PUBLICITY
11 THAT UNFAIRLY ATTACKED OUR EMPLOYEES' REPUTATION
12 FOR INTEGRITY. AS IMPORTANT, WE ALSO WANTED TO
13 MAKE OUR CUSTOMERS WHOLE, WHICH WE DID AS A RESULT
14 OF THE RESTITUTION WE AGREED TO PAY IN THE
15 SETTLEMENT OF THIS MATTER.

16

17 Q. WHAT DOES THE SETTLEMENT AGREEMENT REQUIRE THE
18 COMPANY TO DO?

19

20 A. THE SETTLEMENT AGREEMENT WAS A COMPROMISE OF
21 DISPUTED CLAIMS. IT PROVIDED FOR RESTITUTION TO
22 CUSTOMERS, THE PAYMENT OF INVESTIGATIVE COSTS TO
23 THE STATE, AND THE COMPANY'S FULL COOPERATION WITH
24 THE OFFICE OF STATEWIDE PROSECUTION WITH RESPECT TO
25 THE INVESTIGATION OF INDIVIDUALS. FINALLY, THE

1 COMPANY AGREED TO IMPLEMENT VARIOUS SYSTEMS AND
2 OPERATIONS CHANGES.

3
4 IT IS IMPORTANT TO RECOGNIZE THAT OUR SETTLEMENT
5 AGREEMENT WITH THE OFFICE OF STATEWIDE PROSECUTION
6 COMPENSATED CUSTOMERS WHO MAY HAVE BEEN AFFECTED BY
7 THE NETWORK TROUBLE REPORTING PROBLEMS. THE
8 COMPANY HAS PAID 622,997 CUSTOMERS \$3.76 FOR EACH
9 TROUBLE REPORT AFFECTING THEIR LINE. THE CUSTOMERS
10 WHO RECEIVED THIS AMOUNT WERE DETERMINED BY
11 IDENTIFYING EACH TROUBLE REPORT THAT WAS CLOSED,
12 BASED ON COMPUTER TIME, MORE THAN 24 HOURS AFTER IT
13 WAS REPORTED AND WHICH DID NOT HAVE A REBATE
14 ASSOCIATED WITH IT. THIS UNIVERSE WAS
15 OVERINCLUSIVE BECAUSE MANY OF THE OOS TROUBLE
16 REPORTS THAT RECEIVED A REFUND PAYMENT PURSUANT TO
17 THE SETTLEMENT AGREEMENT WERE ACTUALLY CLEARED
18 WITHIN 24 HOURS OR WERE OTHERWISE PROPERLY EXCLUDED
19 FROM THE REBATE PROCESS. IN ADDITION, THE \$3.76
20 PAID PER TROUBLE REPORT IS MORE THAN FOUR TIMES THE
21 AVERAGE REBATE REQUIRED TO BE PAID PURSUANT TO
22 COMMISSION RULE 25-4.110(2).

23
24 THE SAME IS TRUE FOR THE AMOUNT THE COMPANY AGREED
25 TO PAY TO SETTLE THE NON-CONTACT SALES ISSUE. THE

1 COMPANY PAID NOT LESS THAN \$74.01 TO EACH CUSTOMER
2 WHO WAS IDENTIFIED AS HAVING BEEN SOLD A SERVICE
3 THROUGH A NON-CONTACT SALES PROGRAM AND WHO HAD NOT
4 PREVIOUSLY REQUESTED A REFUND. THUS, THE PEOPLE
5 WHO HAD NOT IDENTIFIED THEMSELVES TO THE COMPANY AS
6 HAVING HAD A SERVICE ADDED TO THEIR BILL WITHOUT
7 THEIR CONSENT WERE THE ONES WHO BENEFITED FROM THE
8 SETTLEMENT. OF COURSE, THOSE WHO DID SELF-IDENTIFY
9 HAVE ALREADY RECEIVED A FULL REFUND WITH INTEREST.

10

11 THE COMPANY HAS ALSO IMPLEMENTED AN ETHICS
12 EDUCATION PROGRAM FOR ITS EMPLOYEES, STOPPED ALL
13 NON-CONTACT SALES AND REFERRAL PROGRAMS, INTRODUCED
14 NUMEROUS SYSTEMS AND PROCEDURAL CHANGES TO ITS
15 TROUBLE REPORTING AND REPAIR PROCESSES, AND
16 DEVELOPED ENHANCED PROCEDURES TO AUDIT AND REVIEW
17 ITS TROUBLE REPORTING AND RESTORATION PROCESSES.
18 WE BELIEVE THESE CHANGES WILL PREVENT THE
19 RECURRENCE OF TROUBLE REPORTING PROBLEMS AND ENSURE
20 THE ACCURACY OF SERVICE PERFORMANCE REPORTS FILED
21 WITH THIS COMMISSION.

22

23 Q. SHOULD ADDITIONAL PROCEDURES AND CONTROLS OR
24 REPORTS BE REQUIRED OF SOUTHERN BELL BY THIS
25 COMMISSION?

1
2 A. NO. AS MS. IVY DESCRIBES, SOUTHERN BELL HAS
3 IMPLEMENTED NUMEROUS CHANGES TO ITS PRACTICES,
4 PROCEDURES, AND SYSTEMS TO ENSURE THE QUALITY AND
5 ACCURACY OF ITS TROUBLE REPORTING AND REBATE
6 PROCESSES. THESE CHANGES INCLUDE MORE STRINGENT
7 ACCESS TO ITS SYSTEMS, STANDARDIZATION OF ITS
8 TROUBLE REPORTING CODES, ELIMINATION OF THE USE OF
9 CERTAIN CODES AND ADDITIONAL AUDIT AND REVIEW
10 PROCESSES. ALL OF THESE REMEDIAL EFFORTS ARE
11 SUBJECT TO A SEMIANNUAL AUDIT BY AN OUTSIDE
12 ACCOUNTING FIRM DURING A THREE YEAR REVIEW PERIOD.
13 THEREFORE, I DO NOT BELIEVE THAT ADDITIONAL
14 PROCEDURES OR COMMISSION REPORTS ARE NECESSARY IN
15 ORDER TO ENSURE THE ACCURACY OF THE COMPANY'S
16 SERVICE PERFORMANCE REPORTS FILED WITH THIS
17 COMMISSION, NOR DO I BELIEVE THAT ADDITIONAL
18 PROCEDURES ARE NEEDED TO ENSURE THAT OUR CUSTOMERS
19 ARE PROPERLY CREDITED FOR AN OUT-OF-SERVICE
20 CONDITION.

21

22 Q. SHOULD THE COMMISSION PENALIZE SOUTHERN BELL FOR
23 ITS TROUBLE REPORTING AND REBATE ACTIVITIES?

24

25 A. NO. I DO NOT BELIEVE THAT A PENALTY WOULD BE

1 APPROPRIATE OR IN ANY WAY JUSTIFIED. THE COMPANY
2 DISCOVERED THE PROBLEMS IN ITS TROUBLE REPORTING
3 PROCESSES AS A RESULT OF CONTROLS AND PROCEDURES
4 DESIGNED TO MONITOR THE QUALITY OF ITS TROUBLE
5 REPORTING PRACTICES. ONCE THE PROBLEMS WERE
6 DISCOVERED, THE COMPANY PROMPTLY BEGAN AN INTENSIVE
7 INVESTIGATION OF THOSE PROBLEMS AND THEIR EFFECT
8 UPON OUR CUSTOMERS. DISCIPLINARY ACTION WAS
9 IMPOSED IN A TIMELY FASHION AND NUMEROUS CORRECTIVE
10 MEASURES HAVE BEEN IMPLEMENTED TO PREVENT THE
11 RECURRENCE OF THE PROBLEMS. MOST IMPORTANTLY, OUR
12 CUSTOMERS HAVE BEEN FULLY COMPENSATED FOR ANY LOSS
13 THEY MAY HAVE EXPERIENCED. I HAVE SEEN NO EVIDENCE
14 THAT THE COMPANY INTENDED TO DEPRIVE ITS CUSTOMERS
15 OF THEIR APPROPRIATE CREDITS FOR OUT OF SERVICE
16 CONDITIONS NOR DO I BELIEVE THAT ANYONE WITHIN THE
17 COMPANY INTENTIONALLY FILED INACCURATE REPORTS WITH
18 THIS COMMISSION. SIMILARLY, IT WAS THE COMPANY
19 THAT IDENTIFIED THE NON-CONTACT SALES PROBLEM,
20 REPORTED IT, AND CORRECTED IT WITH OUR CUSTOMERS.
21
22 WE HAVE IN FACT ALREADY BEEN PENALIZED. THIS
23 COMPANY HAS LOST THE GOODWILL AND FAITH OF SOME OF
24 ITS CUSTOMERS. IT HAS ALSO INCURRED THE COSTS
25 ASSOCIATED WITH ITS SETTLEMENT WITH THE OFFICE OF

1 STATEWIDE PROSECUTION. NONE OF THESE COSTS HAVE
2 BEEN OR WILL BE INCLUDED IN OUR CUSTOMERS' SERVICE
3 RATES. THEREFORE, NO PENALTY OR PUNITIVE ACTION BY
4 THIS COMMISSION IS NECESSARY OR APPROPRIATE.
5 FURTHERMORE, AS I HAVE PREVIOUSLY DISCUSSED, A
6 PENALTY IMPOSED UPON THE COMPANY WOULD SEND THE
7 WRONG SIGNAL TO SOUTHERN BELL AND ALL OTHER
8 COMPANIES REGULATED BY THIS COMMISSION. IT WOULD
9 TELL THEM THAT DEALING PROPERLY WITH PROBLEMS THEY
10 MAY FIND CAN RESULT IN THE IMPOSITION OF FINANCIAL
11 LOSS. THIS SIGNAL WOULD BE COUNTER-PRODUCTIVE AND
12 DETRIMENTAL TO THE INTERESTS OF ALL CONCERNED.

13

14 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

15

16 A. YES IT DOES.

17

18

19

20

21

22

23

24

25