

DOCKET NO. 981488-TI

WITNESS: **Direct Testimony Of Jerry M. Hallenstein,**  
Appearing On Behalf Of Staff

DATE FILED: February 4, 2000

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

DIRECT TESTIMONY - JERRY M. HALLENSTEIN

1 Q. Please state your name and business address.

2 A. My name is Jerry M. Hallenstein. My business address is 2540 Shumard Oak  
3 Boulevard, Tallahassee, Florida 32399-0872.

4 Q. By whom are you employed, and in what capacity?

5 A. I have been an employee of the Public Service Commission Staff, Division of  
6 Auditing and Financial Analysis, Bureau of Regulatory Review since 1989. I am a  
7 Senior Management Analyst II and I conduct management and operational audits on  
8 utilities regulated by the FPSC.

9 Q. Describe your educational background and work experience.

10 A. I graduated from Florida State University in 1985 with a B.S. in Finance. From  
11 1985 to 1989 I was an employee of Ben Johnson Associates, Inc., an economic research  
12 and consulting firm specializing in issues of public policy and public utility  
13 regulation that included natural gas, electric, and telecommunications utilities.  
14 During my tenure at Ben Johnson Associates, I was employed as a Senior Research  
15 Analyst and was primarily responsible for assisting in the preparation of expert  
16 testimony, schedules and exhibits concerning a variety of regulatory issues, ranging  
17 from rate of return to revenue requirements and rate design.

18 My present duties as a Senior Management Analyst II at the Florida Public  
19 Service Commission include conducting management audits and reviews of utility  
20 operations and recommending improvements to internal controls and practices. To  
21 date, I have participated in over 20 audit projects, managing 13 of these projects.  
22 In each project I wrote or co-authored a written audit report. Examples of relevant  
23 Specific audit projects include assessments of: MCI Worldcom's PIC change process,  
24 Minimum Rate Pricing's PIC change process and, consumer fraud prevention controls  
25 of the three largest local exchange companies in Florida.

1 Q. Have you previously testified before this Commission, or any other Commission?

2 A. No.

3 Q. What is the purpose of your testimony in Docket 981488-TI?

4 A. As a result of the show cause proceeding and the issues it has raised, the  
5 Division of Communications requested that the Commission's Bureau of Regulatory  
6 Review initiate an audit of Accutel Communications. The purpose of my testimony is  
7 to describe the management audit of Accutel Communications.

8 Q. Please describe the objectives of your audit.

9 The objectives of the audit were threefold: 1) Determine Accutel's compliance with  
10 Sections 364.10 (1), 364.604 (2), and 364.337 (3), Florida Statutes, 2) Assess  
11 Accutel's billing policies and procedures, processes used to obtain new customers,  
12 and internal controls designed to protect consumers from unauthorized phone charges  
13 (cramming), and 3) Document Accutel's corporate structure and affiliated  
14 relationship.

15 Q. Please describe the results of your audit.

16 A. The results of my audit report, entitled Audit of Accutel Communications and  
17 dated January 2000, are provided as Exhibit JMH-1 to my testimony.

18 Q. Does this conclude your testimony?

19 A. Yes.

EXHIBIT NO. 1

DOCKET NO.: 981488-TI

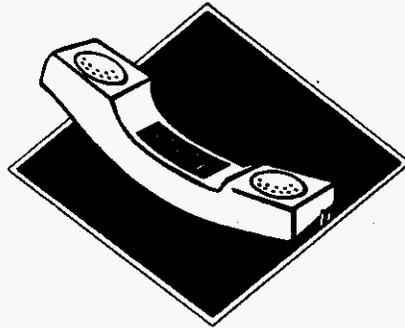
WITNESS: Jerry M. Hallenstein

PARTY: Florida Public Service Commission

DESCRIPTION: Final Audit Report

PROFFERING PARTY: STAFF

I.D.# JMH-1

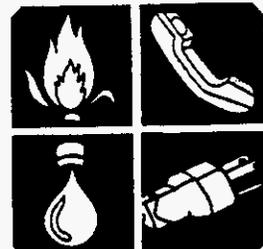


*Audit of*  
Accutel Communications, Inc.

February 2000

Exhibit JMH - 1

By Authority of  
The State of Florida for  
The Public Service Commission  
Division of Auditing and Financial Analysis  
Bureau of Regulatory Review



*Audit of*  
**Accutel Communications, Inc.**

Jerry Hallenstein  
Senior Management Analyst II

February 2000

By Authority of  
The State of Florida for  
The Public Service Commission  
Division of Auditing and Financial Analysis  
Bureau of Regulatory Review

RR-99-09-006

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## **1.0 EXECUTIVE SUMMARY**

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## **1.0 Executive Summary**

### **1.1 Objectives**

On August 18, 1999, the Florida Public Service Commission (FPSC or the Commission) ordered Accutel Communications, Inc. (Accutel or the company) to show cause why it should not have its operating certificate revoked for excessive "cramming" complaints received by the Commission's Division of Consumer Affairs. "Cramming" is the illegal practice of adding unauthorized charges for products and services to a consumer's bill. From September 30, 1997 through May 6, 1999, the Division of Consumer Affairs received 171 cramming complaints against Accutel regarding an unexplained \$4.95 monthly service charge.

In response to the Commission's Show Cause Order, Accutel attributed the \$4.95 monthly service charge to: 1) the unauthorized actions of a billing and rating company working on Accutel's behalf, and 2) calling card fees imposed on customers where Accutel was acting solely as a billing agent. At the request of the Division of Communications, the Bureau of Regulatory Review (BRR) performed a limited management audit to determine the validity of Accutel's response to the Show Cause Order. To satisfy this request, the primary objectives of this audit were to:

- Determine Accutel's compliance with Sections 364.10 (1), 364.604 (2), and 364.337 (3), Florida Statutes.
- Assess Accutel's billing policies and procedures, processes used to obtain new customers, and internal controls designed to protect consumers from unauthorized phone charges (cramming).
- Document Accutel's corporate structure and affiliated relationships.

### **1.2 Scope**

Given these objectives, the scope of the audit focused upon Accutel's past and current billing practices and services and products offered to new and existing customers. Additionally, staff attempted to examine Accutel's compliance with Commission rules and regulations.

### **1.3 Methodology**

Information regarding Accutel's business operations was gathered through a response to a staff document request, an on-site interview with the company president, and documentation provided in Docket No. 981488-TI. As noted in the report, staff was hindered by the company's failure to respond to a second document request. Staff also obtained information from utility regulators in other states where Accutel has undergone disciplinary proceedings. Information was obtained through teleconferences with the California Public Utilities Commission, the Tennessee Regulatory Authority, and the Tennessee Office of the Attorney General.

Once the analysis was concluded, a draft report was written and provided to Accutel to verify accuracy and to address issues related to the use of potentially confidential material in the report.

### **1.4 Overall Opinion**

As evidenced throughout this report, the company did not fully cooperate with the audit. Accutel has failed to provide responses to BRR staff's request for information and is believed to have misrepresented facts. Additionally, BRR has found sufficient cause to question Accutel's management and internal controls designed to protect customers from unauthorized charges. BRR concurs with staff's recommendation to levy an appropriate fine and cancel Accutel's certificate for operations.

## **2.0 Background and Perspective**

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## **2.0 Company Background and Perspective**

### **2.1 History**

Accutel Communications was incorporated in the State of Florida on July 31, 1996, by its current CEO, Arne Soreide. Mr. Soreide previously incorporated the business in Florida as Nortel, Inc. in 1995, but agreed to cease and desist in 1996 as a result of trademark conflict by another Nortel company. Accutel began operating as a telemarketing service provider to long-distance resellers in September 1996. In May 1997, after obtaining certification and approval from the FPSC and other state regulatory commissions, the company began reselling domestic, voice and data long-distance telecommunication services.

In an October 26, 1999, interview, the company president, Ms. Donna Kim, stated that Accutel currently serves approximately 250,000 customers, a reduction of 30 percent since 1998. She stated that the business sector comprised almost 90 percent of Accutel's customer base. On November 29, 1999, BRR staff requested that Accutel provide documentation of the number of Florida customers currently being served over the period January 1999 through September 1999. The company has failed to provide a response to this request.

The company provided an audited financial statement to the California Public Utilities Commission that reported over \$4.6 million in operating revenues as of December 1997. BRR attempted to obtain Accutel's most recent certified financial statements, including a separation of revenues by service type (e.g., switched 1-plus and 800/Toll Free) and the portion of revenues attributed to the company's sales in Florida. The company has failed to provide a response to this request.

### **2.2 Organization**

Accutel's current business location is Pompano Beach, Florida. Accutel is headed by the Mr. Soreide and Ms. Kim. As mentioned above, Mr. Soreide incorporated Accutel and, according to Ms. Kim, does not participate in any of the company's daily business operations. According to records filed with the Florida Secretary of State's Office and Ms. Kim's filed testimony in the State of California and Tennessee, the owner and sole-shareholder of the company is Mrs. Lynn Soreide, who is the spouse of Arne Soreide. However, according to a Prehearing Conference Statement submitted before the California Public Utilities Commission on June 11, 1999, Ms. Kim "recently informed CSD [Consumer Services Department] that she had been an owner of Accutel for the past year."

It is unclear to BRR staff as to the specific duties and management responsibilities of Mr. and Mrs. Soreide. BRR staff requested that the company provide, in detail, the roles and responsibilities of both positions, how each position is compensated, and any financial arrangements between each position and Ms. Kim. The company has failed to provide the requested information.

According to Ms. Kim's testimony filed before the Tennessee's Office of the Attorney General From July 1996 to December 1998, Ms. Soreide served as Accutel's president, treasurer, and secretary. In January 1999, Ms. Kim assumed Ms. Soreide's responsibilities and was appointed as president, vice president, secretary, and treasurer. Ms. Kim formerly served as Accutel's vice president of operations. Her current responsibilities include: handling legal issues, negotiating and implementing any new long-distance underlying reseller contracts, and overseeing day-to-day revenue flows (billing records), payroll, regulatory complaints, customer service, and Management Information System (MIS) operations.

As of November 1, 1999, a staff of six employees ran the company's operations. Ms. Kim directly supervises the business operations and has five employees reporting to her: three customer service representatives, one MIS manager, and one employee that handles external (state regulatory and FCC) complaints. All employees, including Ms. Kim, are employed through a leasing agency called ADP Payroll Services. According to the Ms. Kim, employees are able to obtain better benefits (e.g., group insurance, payroll) by contracting with a employee-leasing company. In order to gain a better understanding of the working relationship between Accutel and the leasing company, staff requested the name and address of the leasing company, a copy of any contractual agreements between the two, and an explanation of the working relationship. The company has also failed to respond to this request for information.

### **2.3 Affiliate Relationships**

In response to BRR's staff document request, the company stated that Accutel does not have parent companies, affiliates, or subsidiaries. However, through Ms. Kim's September 27, 1999, testimony filed before the Tennessee Office of the Attorney General, staff learned that another reselling operation known as Nor operates out of Accutel's place of business in Pompano Beach. Nor is incorporated in the State of Delaware. Mr. Soreide is the sole-owner, and Ms. Kim is also the President of Nor. In Ms. Kim's testimony, she further states that Nor also utilizes two of Accutel's staff members: the MIS position and the external complaints handler. The external complaints handler, Vanessa Finch, has been designated as the vice president for Nor. Ms. Finch is also the daughter of Ms. Kim.

Upon further questioning Ms. Kim about Nor, staff further learned that Nor appears to require minimal management and is able to operate by sharing Accutel's hardware and software to monitor and bill its customer base. Ms. Kim said that Nor operates in approximately ten

states. She could not name the specific states, but noted that Nor does not provide services to Florida customers. Upon further research of consumer complaints to the FPSC and a listing of certified IXC's in Florida, staff found no evidence of Nor operating in Florida.

In the interview, Ms. Kim stated that Accutel does business in at least two other states as Valuetel and Odin Communications. She explained that, like Nortel, the company could not use the Accutel name in these other states as a result of trademark conflicts with another Accutel business registered in the same state. Ms. Kim could not recall which specific states were affected. In testimony filed before the Tennessee Regulatory Authority, Ms. Kim stated that she did not know of an existing company called Valuetel, but acknowledged Accutel doing business as Odin Communications in the northeast. Through the November 29, 1999, document request, BRR staff attempted to obtain a copy of all operating certificates and a list of states and corporate names under which Accutel does, or has previously done, business. The company has failed to provide a response to the request for affiliate information.

## **2.4 Services**

Accutel offers intrastate and interstate interexchange long-distance service utilizing switched or dedicated access arrangements between the customer and company's facilities for call origination. Call completion is performed by the underlying carrier. The following services were being offered by Accutel as of October 26, 1999:

- 1 + Switched Outbound
- Dedicated Outbound
- 800 Switched
- Calling Cards

According to Ms. Kim, customers subscribing to any of the above services are assessed a \$4.95 monthly surcharge in addition to the usage rates set forth per service. However, staff notes the company's tariff on file with the FPSC only indicates the \$4.95 surcharge being applied to the 1 + Switched Outbound and Calling Card services. Staff requested a recent copy of a customer bill in order to examine the \$4.95 surcharge. However, Accutel has failed to provide the requested information. As previously mentioned, staff requested that Accutel provide the associated Florida revenues broken down by each of the above services, but the company has failed to respond to this request.

In response to the BRR's document request dated October 22, 1999, the company stated that Sprint is currently Accutel's underlying carrier. The same statement was made by Ms. Kim in testimony filed on September 27, 1999, with the Tennessee Office of the Attorney General. BRR staff contacted Sprint to obtain verification of this statement. According to a Sprint Executive Analyst, Sprint ceased processing end-user orders from Accutel in March 1999 due to

non-payment for services. In a letter from Sprint to BRR staff dated January 26, 2000, Sprint stated, "From April 1999 through present, Sprint has not made sales solicitations or provided discounts to Accutel for the purpose of providing service to Florida end-user customers. Sprint is not currently the underlying carrier for Accutel." Similarly, the Tennessee Regulatory Authority requested and obtained an affidavit from Sprint stating that, due to nonpayment, it ceased serving as Accutel's underlying carrier in Tennessee in July 1999. BRR staff requested a copy of the current contract between Accutel and Sprint to confirm whether or not Sprint is in fact Accutel's underlying carrier through a document request on November 29, 1999. Accutel also failed to provide this requested information.

### **3.0 FPSC Show Cause Proceeding**

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### **3.0 FPSC Show Cause Proceeding**

#### **3.1 Initiation to Show Cause**

From September 30, 1997, through May 6, 1999, the FPSC's Division of Consumer Affairs received 171 cramming complaints against Accutel. On July 15, 1999, in Docket No. 981488-TI, staff recommended that a Show Cause proceeding be initiated against Accutel for unlawful billing practices in violation of Sections 364.10 (1), 364.604 (2), and 364.337 (3) Florida Statutes.

Section 364.10 (1), Florida Statutes, states:

A telecommunications company may not make or give any undue or unreasonable preference or advantage to any person or locality, or subject any particular person or locality to any undue or unreasonable disadvantage in any respect whatsoever.

Section 364.604 (2) Florida Statutes, states:

A customer shall not be liable for any charge for telecommunications or information services that the customer did not order or that were not provided to the customer.

In addition to the alleged violations, staff's recommendation noted Accutel's failure to provide an explanation of why and how charges appeared on the customer's bill. The recommendation stated "Accutel has offered little to no explanation as to the genesis and nature of the \$4.95 charges that appear on the customers' telephone bills as service rendered by Accutel. These apparent violations indicate that Accutel has not established sufficient safeguards to protect consumers from unauthorized charges." As a result, staff further recommended the proceeding be initiated against Accutel due to insufficient management capability pursuant to Section 364.337 (3), Florida Statutes.

Section 364.337 (3), Florida Statutes, states:

The Commission shall grant a certificate of authority to provide intrastate interexchange telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served.

On August 18, 1999, the Commission issued an Order for Accutel to Show Cause in writing within 21 days (September 8, 1999) why Accutel should not be fined \$10,000 per cramming infraction for a total of \$1,710,000 or have its certificate canceled for failure to comply with Section 364.337 (3), Florida Statutes and apparent violations of Sections 364.10 (1) and 364.604 (2), Florida Statutes.

### **3.2 Accutel's Response to the Show Cause Order**

On September 8, 1999, Accutel submitted a response requesting that the FPSC find that the company did not violate the Florida Statutes and dismiss the Show Cause Order. In its response, the company provided explanations for the 171 complaints and stated that the company had provided credits or refunds to 155 of the customers who filed complaints.

Accutel attributed 139 out of the 171 cramming complaints to cases where the company served as a billing agent for various calling card companies in the spring of 1998. Among the calling card companies were: Public Communications, Inc., American Network, Inc., and Estate Planning Services, Inc., doing business as EPS Telecom. According to Accutel, these calling card companies were switching the customer's long-distance carrier without the customer's knowledge or consent and were imposing a one-time activation fee of \$4.95 plus a monthly recurring fee of \$4.95. Accutel asserts that it was acting merely as a billing agent. Accutel further asserts that there is no legal requirement for billing agents to require calling card companies to provide evidence or proof of authorization before issuing of a calling card.

According to Accutel, an additional 17 complaints were attributed to cases where Accutel's billing agent, Telecommunications Service Center (TSC), erroneously billed customers on Accutel's behalf. Of the 15 remaining complaints, Accutel claims that 11 were cases where the customer incurred monthly charges in accordance with the company's tariff filed with the FPSC. The four remaining complaints were cases in which Accutel alleges that the customer incurred no charges billed by or on behalf of Accutel.

### **3.3 Staff's Analysis of Internal Controls**

During the 1997 to 1998 time frame, the company functioned as both a reseller of long distance services and a provider of billing services for various calling card companies and other resellers, as noted in Ms. Kim's testimony before the Tennessee Office of the Attorney General and California Public Utilities Commission. The company entered into numerous contractual agreements, including those with primary interexchange carriers, wholesalers of interexchange service, telemarketers, third-party verifiers, calling card companies, billing aggregators, and billing clearinghouses.

### **3.3.1 Third-Party Agreements**

Coupled with these contracts, Accutel also entered into third-party contractual agreements. For example, Accutel entered into a third-party agreement with TSC and OAN Services in December 1997. Under the agreement, TSC would obtain long-distance toll-calling detail from Accutel, then rate and assess the charges for the calls. TSC, in turn submitted the call records to OAN, which in turn printed the data on the local exchange carrier's bill, and then sent it to the customer.

In Accutel's response to the Commission's Show Cause Order, the company asserts that TSC continued to access its records even after an amendment to the December 1997 contract was signed by the parties in May 1998 to terminate TSC's provision of services. Hence, TSC continued to submit Accutel charges to OAN for billing without Accutel's knowledge or consent. On top of this, once customers discovered that they had been crammed and called the phone number listed on the bill, they reached OAN Services and not TSC. OAN often could not help customers with the disputed charges. These complex billing layers prevent a clear audit trail since all three companies would possibly have to be contacted by the customer to question any unknown charges.

Accutel failed to take appropriate steps to ensure that its customer billing base was adequately safeguarded to prevent complaints. Accutel asserts TSC accessed its customer base and billed Accutel's customers without the company's knowledge or consent. Ms. Kim's prefiled testimony before the Public Service Commission of South Carolina where she states that Accutel accepts responsibility for the errors and mistakes and acknowledges that Accutel is responsible since TSC, and others, were performing outsourced functions and were acting as agents of Accutel.

### **3.3.2 Accutel's Billing Services**

Accutel failed to establish appropriate internal controls as billing agent. For the majority of the complaints to the FPSC, Accutel asserts that it is not legally liable, since the company served only as a billing agent for calling card companies. However, given the fact that Accutel's name would be shown on the customer's bill, the company should have implemented internal controls that would prohibit a vendor (e.g., a calling card company) from falsely submitting erroneous numbers and charges. In particular, Accutel, acting as a billing agent, could have identified the calling card company on the bill and provided more complete descriptions of the charges. Given the complexity of singling out the party responsible for cramming, Accutel should have made all customer charges clear and conspicuous on all bills. As previously stated, staff has requested a copy of an Accutel bill in order to conduct such an assessment. Accutel has failed to provide the requested information.

#### **4.0 CONCLUSION**

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## **4.0 Conclusion**

### **4.1 Compliance With Florida Statutes and FPSC Rules**

The Commission's Show Cause Order requires Accutel to prove it is compliance with Sections 364.10 (1), 364.604 (2), and 364.337 (3), Florida Statutes. BRR staff's attempt to assess Accutel's compliance with Sections 364.10 (1), and 364.604 (2) was hindered by the company's failure to fully comply with the audit. Both of these statutory requirements protect consumers from unauthorized and unlawful billing practices. In Accutel's response to the Commission's Show Cause Order, the company faults other un-affiliated companies for the majority of its cramming violations. BRR staff was prevented from assessing the credibility of Accutel's claims.

BRR staff believes Accutel has failed to comply with Section 364.337, Florida Statutes, which requires the company to show its managerial capabilities in order to provide telecommunications services. The statute specifically states:

The commission shall grant a certificate of authority of provide intrastate interexchange telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served.

The Commission's Show Cause Order states, "It appears Accutel lacks managerial controls and is disregarding Commission rules and regulations regarding its current operations. This pattern of conduct indicates Accutel has not established sufficient safeguards to protect consumers from unauthorized charges." BRR staff concurs with this statement. Staff found that management displayed less than full regard for regulatory compliance and strong indications that customer relations were not a top priority. The company was unable to control and safeguard its customer base from unauthorized manipulation and was unable to effectively deal with consumer complaints, as further discussed in Section 4.2 below.

BRR staff also believes Accutel to be in violation of FPSC Rules 25-24.019 parts (1) and (2), and 25-24.021 part (1b), Florida Administrative Code, for failure to fully comply with BRR staff's audit. Both FPSC rules address staff's accessibility to utility and affiliate records. The rules state:

Each utility shall furnish to the Commission at such times and in such form as the Commission may require the results of any required tests and summaries of any required records. The utility shall also furnish the Commission with any information concerning the utility's facilities or operations which the Commission may reasonably request and require. [FPSC Rule 25-24.021 (1)]

Where a telephone company is operated with another enterprise, records must be separated in such manner that results of the telephone operation may be determined at any time. [FPSC Rule 25-24.021 (2)]

Reasonable access means that company responses to audit requests for access to records shall be fully provided within the time frame established by the auditor. [25-24.019 (1b)]

BRR staff mailed and faxed a document request, comprised of 13 questions, to Accutel on November 29, 1999, with a due date of December 15, 1999. The company did not respond despite indicating that it would provide a response on or about December 23, 1999.

Further evidence of Accutel's disregard for Commission rules and regulations is found in the company's failure to respond to a staff survey mailed to the company on August 3, 1999. The survey requested that the company answer questions regarding steps currently taken to ensure compliance with a provision of Chapter 364.604, Florida Statutes, Billing Practices, and Other Information. The survey response was due on August 20, 1999. The company failed to respond to the survey.

#### **4.2 Billing Policies, Procedures, and Internal Controls**

BRR staff believes that Accutel did not have appropriate internal controls related to the billing function. The company's bills were unclear, there were no controls that prevented vendors from submitting erroneous charges, and there were no safeguards to protect the company's billing base.

The company alleges that the cause of the majority of cramming complaints were two-fold: 1) The company served as a billing agent for numerous calling card companies, who in turn, were slamming and cramming customers, and 2) An outsourced firm, which provided billing and rating services, was cramming customers without Accutel's consent or knowledge. The company claims to have corrected these problems by discontinuing billing on behalf of the calling card companies and bringing in-house the billing and rating functions. It is unclear to BRR staff whether Accutel is currently offering billing services to any third-party firm or the effectiveness of Accutel's in-house billing and rating function. Staff's attempt to pursue these issues was hindered by the company's failure to fully comply with the audit.

Although Accutel asserts that other vendors are to blame for its cramming violations, Accutel could have implemented internal controls that would prohibit a vendor from falsely submitting erroneous numbers and charges. Regardless of the party at fault, Accutel's inability to protect its customer billing base is evidence of the lack of policies, procedures, and internal controls. BRR

staff attempted to document a complete record of the company's Florida operations; however, this was also hindered by Accutel's failure to fully comply with the audit.

BRR staff believes Accutel did not have the management infrastructure in place to operate as a long-distance provider in Florida. Accutel undertook too many responsibilities, particularly considering that the president's position alone, serves as the vice president, secretary and treasurer of the company. The president admitted in her testimony before the Public Service Commission of South Carolina, that "Accutel accepts responsibility for the errors and mistakes and acknowledges that Accutel is responsible since others were performing outsourced functions and were acting as agents of Accutel."

Given the complexity of singling out the party responsible for cramming, Accutel should have made all customer charges clear and conspicuous on all bills. In April 1999, the Federal Communications Commission (FCC) issued and ordered principles and guidelines designed to make it easier for consumers to read and understand their telephone bills. The "truth-in-billing" principles and guidelines set forth in the Order make telephone bills more consumer friendly in order to protect against market abuses. The guidelines are based on three basic principles:

- That consumer telephone bills be clearly organized, clearly identify the service provider, and highlight any new providers.
- That bills contain full and nonmisleading descriptions of charges that appear therein.
- That bills contain clear and conspicuous disclosure of any information the consumer may need to make inquires about, or contest charges, on the bill.

Staff requested a recent copy of an Accutel bill in order to conduct such an assessment. Accutel has failed to provide the requested information.

#### **4.3 Corporate Structure and Affiliate Relationship**

BRR staff believes that Accutel misrepresented facts, when the company stated that it does not have a parent company, any affiliates, or subsidiaries. The company's actual corporate structure is uncertain. In an interview with BRR staff on October 26, 1999, the company president stated that she has no ownership in Accutel. However, according to a Prehearing Conference Statement before the California Public Utilities Commission on June 11, 1999, "Ms Kim [president] recently informed CSD [Consumer Services Department] that she had been an owner of Accutel for the past year."

Additionally, in the president's testimony before the Tennessee Office of the Attorney General, BRR staff learned that another reselling operation, known as Nor, operates out of

Accutel's place of business. Staff learned that Nor is owned by the CEO of Accutel, is operated by the president of Accutel, and shares Accutel's hardware, software, and several employees. Nor is not believed to be providing service to customers in Florida. BRR staff attempted to obtain a copy of all operating certificates and a list of states and corporate names under which Accutel does, or previously has done, business. The company has failed to provide a response to the request for affiliate information.

Further evidence of Accutel's misrepresentation of facts is documented in the company's response to BRR staff's first document request and through the interview with the company President. Accutel stated on October 22, 1999, that Sprint is its underlying carrier. On January 26, 2000, a Sprint Executive Analyst provided a signed letter to staff stating:

On or about March 8, 1999, after providing notice to Accutel, Sprint stopped processing end-user orders from Accutel due to its non-payment for services. From April 1999 through present, Sprint has not made sales solicitations or provided discounts to Accutel for the purpose of providing service to Florida end-user customers. Sprint is not currently the underlying carrier for Accutel.

In its November 29, 1999, BRR requested a copy of the current contract between Accutel and Sprint that confirms that Sprint is Accutel's underlying carrier. Accutel has failed to provide a response to the requested information.

**5.0 COMPANY COMMENTS**

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## 5.0 Company Comments

This chapter contains the company's comments in response to the audit report. These comments are included verbatim.

Pg. 4, 1<sup>st</sup> paragraph: In the Audit Report, it states that the FPSC Staff obtained information from other states where AccuTel [sic] has undergone disciplinary proceedings. For the record, I would like it noted that no decision's [sic] have been rendered against Accutel Communications, Inc., or any fines levied as of this date by California Public Utilities Commission, the Tennessee Regulatory Authority and Tennessee's Office of the Attorney General.

1.4 The report also states that Accutel Communications, Inc., did not fully cooperate with the audit. Which I disagree with. Accutel Communications, Inc., made every effort in responding to all requests, and I was informed that the last request for information was not received in your office. However it was sent to Mr. Hallenstein during the last week of December 1999 and a copy of the request that was sent was offered today via fax, but I was informed due to the deadline, that it was too late. It is still available for review and I will fax it to the BRR immediately.

2.1 It's stated that Accutel Communications, Inc., began operating as a telemarketing service provider, Accutel Communications, Inc., has never had or never acted as a telemarketing service provider. Please note since the beginning of its incorporation Accutel Communications, Inc., has been a Switchless long distance service provider. All of its customer base was procured by outsourcing to telemarketing firms.

It also states that the BRR requested documentation of the total count of customers in Florida, as mentioned in the onsite interview, due to the unique billing and rating system Accutel Communications, Inc., purchased, an adaptive request to the software company would be necessary to run such a query, and depending on their time frame, schedule and cost it would be made available. The request was put in to the software company for the report.

It also states that no current financial statements were supplied, with exception to the audited Financial Statement for year ending 1997. Accutel Communications, Inc., recently had its financial records audited by a firm called Singer, Lewak and Company in November of 1999, for year ending 1998, and is currently [a]waiting the final audited statements so we can release them. As soon as the audited financial statements are available we will make them available to the FPSC and BRR.

2.2 BRR's request for specific duties and management responsibilities of Mr. and Mr. Soreide, in their second request, was answered. Mr. and Mrs. Soreide are not responsible for any operations of Accutel Communications, Inc. Accutel Communications, Inc., is incorporated as a "S" corporation and any earnings or compensation to the shareholder would be earnings according to the operation of a "S" corporation.. [N]Either Mr. or Mrs. Soreide draws a salary from Accutel Communications, Inc.. Ms. Kim is compensated by a weekly salary paid by a Staff Leasing firm.

In the Order to Show Cause, I would like it noted for the record that while Accutel Communications, Inc., acted as a billing agent for other companies, a majority of the complaints generated was during that period. Since Accutel Communications, Inc., ceased doing business with such companies, and no longer acts as a billing agent, the complaints against Accutel Communications, Inc., has decreased dramatically. While Accutel Communications, Inc., has had its share of problems, we believe in our current position can function quite effectively as a Switchless long distance reseller. We also believe that a majority of the problems and complaints did stem from Accutel Communications, Inc., acting as a billing agent and entering into a contract with TSC, which took complete control of AccuTel's [sic] customer base and billing agreements with OAN. Which to date TSC has not returned. With the purchase of the new software, and its enhancements, it has given Accutel Communications, Inc. better control over it's [sic] provisioning and billing of its customers and management of it's [sic] base.

Sincerely,

Donna Kim, President

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

RECEIVED-PPSC

00 FEB -4 PM 4: 56

In re: Initiation of show cause proceedings against Accutel Communications, Inc. for Unlawful Billing Practices in violation of Section 364.10(1) and Section 364.604(2), F.S., and Insufficient Management Capability pursuant to Section 364.337(3), F.S.

RECORDS AND REPORTING

DOCKET NO. 981488-TI

FILED: FEBRUARY 4, 2000

CERTIFICATE OF SERVICE

HEREBY CERTIFIED that a true and correct copy of Direct Testimonies and Exhibits of Thomas E. Williams, III and Jerry M. Hallenstein, have been furnished by U.S. Mail this 4th day of February, 2000 to the following:

Accutel Communications, Inc.  
100 East Sample Road  
Pompano Beach, FL 33064-3548



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