

ATTACHMENT B

**BellSouth Telecommunications, Inc.
Florida Public Service Commission/
Audit Document/Record Request**

Florida Sales Review

Page 1 of 1

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**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF BELLSOUTH'S
RESPONSE TO FLORIDA PUBLIC SERVICE COMMISSIONS
AUDIT DOCUMENT/RECORD REQUEST FLORIDA
SALES REVIEW**

TWO REDACTED COPIES FOR PUBLIC DISCLOSURE

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

WEST

The following is Amendment No. One (1) ("Amendment") to Agreement No. R112817S ("Agreement") between BellSouth Affiliate Services Corporation, Inc. ("Buyer") and West TeleServices Corporation ("Seller").

It is jointly understood and agreed between the above parties that Exhibit E or Exhibit S "Performance Standards" and Exhibit A "Pricing" are hereby amended in the attached Amendment No. 1 "Performance Metrics and Price".

This amendment shall be effective November 1, 2002.

The parties acknowledge that they have read this Amendment, understand it, and agree that except as amended herein, the terms and conditions of the Agreement No. R112817S and Exhibit E or S shall not be amended hereby and shall remain in full force and effect. They further agree that the Agreement and this Amendment No. 1 constitute the entire agreement between the parties hereto with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties have executed this Amendment by their duly authorized representatives in one or more counterparts, each of which shall constitute an original, on the effective date specified above.

West TeleServices Corporation

BellSouth Affiliate Services Corporation

By:

Warren Tate
(Authorized Signature)

By:

Patricia W. Pitts
(Authorized Signature)

Name:

Warren Tate

Name:

FAMELA W. PITTS

Title:

Executive Vice President

Title:

Sr. Channel Mgr.

Date:

11/8/02

Date:

11/22/02

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FLORIDA PUBLIC SERVICE COMMISSION
AUDIT DOCUMENT/RECORD REQUEST
NOTICE OF INTENT

TO: Mary Rose Sirianni
UTILITY: BellSouth
FROM: John Duffey
(AUDIT MANAGER)

John Duffey
(AUDITOR PREPARING REQUEST)
DATE OF REQUEST: 8/21/03
Review of BellSouth Sales

REQUEST NUMBER: 6
AUDIT PURPOSE: Practices

REQUEST THE FOLLOWING ITEM(S) BE PROVIDED BY: August 29, 2003
REFERENCE RULE 25-22.006, F.A.C., THIS REQUEST IS MADE: INCIDENT TO AN INQUIRY
X OUTSIDE OF AN INQUIRY

DESCRIPTION:

1. Please fully describe BellSouth policies regarding disclosure of the availability of Lifeline Service to customers.
2. Please discuss BellSouth's interpretation of FPSC Rule 25-4.107 in regards to Lifeline eligibility disclosure.
3. Please describe how and if Lifeline is made known to callers who contact BellSouth calling centers.

TO: AUDIT MANAGER John Duffey

DATE: 8/29/03

THE REQUESTED RECORD OR DOCUMENTATION:

- (1) HAS BEEN PROVIDED TODAY
- (2) CANNOT BE PROVIDED BY THE REQUESTED DATE BUT WILL BE MADE AVAILABLE BY
- (3) AND IN MY OPINION, ITEM(S) IS (ARE) PROPRIETARY AND CONFIDENTIAL BUSINESS INFORMATION AS DEFINED IN 364.183, 366.093, OR 367.156, F.S. TO MAINTAIN CONTINUED CONFIDENTIAL HANDLING OF THIS MATERIAL, THE UTILITY OR OTHER PERSON MUST, WITHIN 21 DAYS AFTER THE AUDIT EXIT CONFERENCE, FILE A REQUEST FOR CONFIDENTIAL CLASSIFICATION WITH THE DIVISION OF RECORDS AND REPORTING. REFER TO RULE 25-22.006, F.A.C.
- (4) THE ITEM WILL NOT BE PROVIDED. (SEE ATTACHED MEMORANDUM)

Mary Rose Sirianni
SIGNATURE AND TITLE OF RESPONDENT

Distribution: Original: Utility (for completion and return to Auditor)
Copy: Audit File and FPSC Analyst

1. *Please fully describe BellSouth's policies regarding disclosure of the availability of Lifeline Service to customers.*

Our practice is to advise customers of Lifeline service if:

- a. Through the representative/customer discovery process, the customer mentions one of the qualifying programs or indicates that they are having a financial hardship, unemployed etc. or
- b. the customer specifically asks about Lifeline.

In addition, BellSouth provides the following regarding LifeLine:

- 1) Annual Bill Notice - FYI message in Feb/March
- 2) Article in Residential Starlines - June
- 3) Lifeline information in the Customer Guide pages of each directory
- 4) The following Lifeline information is provided via a letter to all N&T customers subsequent to the completion of a new connect or transfer order.

If you are a participant in one or more of the following federal or state funded programs, you may be eligible for a monthly credit on your telephone bill through the Lifeline Assistance Program with BellSouth: Medicaid Food Stamps Supplemental Security Income Temporary Aid for Needy Family (TANF) Federal Public Housing Low Income Home Energy Assistance Program (LIHEAP).

Call your BellSouth business office if you desire additional information regarding our program.

Also, we recently worked with the Department of Children and Families and the FPSC to incorporate verbiage regarding lifeline eligibility in the DCF eligibility notice. BellSouth has enrolled new Lifeline customers through the new improved DCF eligibility notice.

2. *Please discuss BellSouth's interpretation of FPSC Rule 25-4.107 in regards to Lifeline eligibility disclosure.*

FPSC Rule 25-4.107 requires the representative to advise the customer of the least expensive basic local exchange service during the negotiation of new service. Because Lifeline is not a local exchange service but rather a credit the customer receives on the bill against their local exchange service, Lifeline is not mentioned at this time. Following is the disclosure information provided to our representatives in Orbit:

The Florida Public Service Commission (FPSC) has ruled that BellSouth must offer the least expensive service, including the rate, during the initial contact with New Customers. This means that on all New Connects taken

for new customers, we must offer the least expensive service available, INCLUDING THE RATE. Regulatory has also determined that this disclosure is required when issuing a new connect for a former customer who has disconnected their previous service.

Additional Lines for NEW customers who are adding a line where there is existing service for another customer would require this disclosure because it is our initial contact with this new customer.

This rule does NOT apply to Transfer orders (T orders) or to Additional Line Orders issued to existing customers. T orders and ADL orders for existing customers are not initial new customer contact; therefore, this disclosure is not required.

NOTE: Failure to comply with this mandated disclosure could result in BellSouth being assessed heavy fines per occurrence.

3. *Please describe how and if Lifeline is made known to callers who contact BellSouth calling centers.*

Lifeline is made known to callers who contact a BellSouth call center if:

- a. Through the representative/customer discovery process, the customer mentions one of the qualifying programs or indicates that they are having a financial hardship, unemployed etc. or
- b. the customer specifically asks about Lifeline.

Following is Orbit documentation that the representatives follow:

Lifeline negotiations include:

- Proactively offering Lifeline if it is determined that the customer is a recipient of one of the programs
- Describing the program including Benefits and Restrictions as appropriate
- Advising of Front End Verification requirements of customer's eligibility
- Advising of periodic Back End Verification Letter by the state agency
- Advising eligible for Link-Up
- Following Order Process

**FLORIDA PUBLIC SERVICE COMMISSION
AUDIT DOCUMENT/RECORD REQUEST
NOTICE OF INTENT**

TO: Mary Rose sirianni
UTILITY: BellSouth
FROM: John Duffey
(AUDIT MANAGER)

John Duffey
(AUDITOR PREPARING REQUEST)

REQUEST NUMBER: 5
AUDIT PURPOSE: Sales Practices

DATE OF REQUEST: 7/31/03
Follow-up Review of BST

REQUEST THE FOLLOWING ITEM(S) BE PROVIDED BY: August 7, 2003
REFERENCE RULE 25-22.006, F.A.C., THIS REQUEST IS MADE: INCIDENT TO AN INQUIRY
X OUTSIDE OF AN INQUIRY

ITEM DESCRIPTION:

By Thursday, August 7, 2003,

- I. Please provide copies of two recent months' reports (2003) for each of the following two report types:
 - 1. The Associate Referral Summary Report, and,
 - 2. The Associate Referral Summary Graph Report.
- II. Please describe the function or purpose of each report and who/what functional unit prepares the reports.
- III. Please detail to whom the reports are made and how the recipients use them.
- IV. Please describe any other uses of the reports.

TO: AUDIT MANAGER

DATE:

THE REQUESTED RECORD OR DOCUMENTATION:

- (1) HAS BEEN PROVIDED TODAY
- (2) CANNOT BE PROVIDED BY THE REQUESTED DATE BUT WILL BE MADE AVAILABLE BY
- (3) AND IN MY OPINION, ITEM(S) _____ IS (ARE) PROPRIETARY AND CONFIDENTIAL BUSINESS INFORMATION AS DEFINED IN 364.183, 366.093, OR 367.156, F.S. TO MAINTAIN CONTINUED CONFIDENTIAL HANDLING OF THIS MATERIAL, THE UTILITY OR OTHER PERSON MUST, WITHIN 21 DAYS AFTER THE AUDIT EXIT CONFERENCE, FILE A REQUEST FOR CONFIDENTIAL CLASSIFICATION WITH THE DIVISION OF RECORDS AND REPORTING. REFER TO RULE 25-22.006, F.A.C.
- (4) THE ITEM WILL NOT BE PROVIDED. (SEE ATTACHED MEMORANDUM)

SIGNATURE AND TITLE OF RESPONDENT)

Distribution: Original: Utility (for completion and return to Auditor)
Copy: Audit File and FPSC Analyst
PSC/RGO-6 (Rev. 6/00)

1. Please Provide copies of two recent months' reports (2003) for each of the following two report types:
 - a. The Associate Referral summary Report, and,
 - b. The Associate Referral Summary Graph Report.

Response: See attached.

2. Please describe the function or purpose of each report and who/what functional unit prepares the reports.

Response: The Associate Referral Summary Report provides the number of Fraud and Gross Customer Abuse referrals by gate, i.e. Acquisition, Sales and Support, Collection, multi-lingual, and Vendor. In addition, there's a brief description of the referral, the office name, and the disciplinary action that occurred. The Associate Referral Summary Graph tracks, by month, the projected number of calls impacted by Fraud or Gross Customer Abuse based on the % of CPAT associate referrals and the number of calls handled. The reports are prepared by the Consumer CPAT team.

3. Please detail to whom the reports are made and how the recipients use them.

Response: The reports are provided upon request to Headquarters and consumer management. CPAT uses the report to identify gaps in training.

4. Please describe any other uses of the reports.

Response: There are no other uses of these reports at this time.

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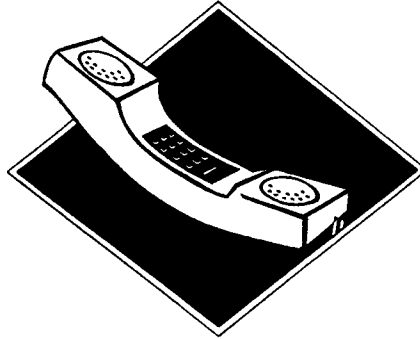
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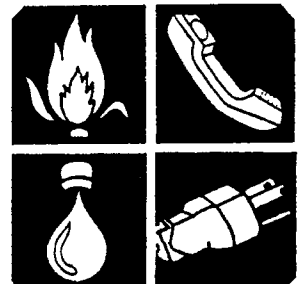
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REDACTED

Follow up Review of
BellSouth Telecommunications, Inc.
Sales Methods and Practices

January 2004



Division of Competitive Markets and Enforcement
Bureau of Regulatory Review

Follow up Review of
BellSouth Telecommunications, Inc.
Sales Methods and Practices

John Duffey
Operations Review Specialist

January 2004

By Authority of
The State of Florida for
The Public Service Commission
Division of Competitive Markets and Enforcement
Bureau of Regulatory Review

RR-02-03-003

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1.0 EXECUTIVE SUMMARY

1.0 Executive Summary

1.1 Objectives

This review was initiated by the Florida Public Service Commission's (FPSC or Commission) Bureau of Regulatory Review (BRR) as a follow-up to the *Review of BellSouth Telecommunications, Inc. Sales Methods and Practices* that was published in May 2001. The initial review examined the effectiveness of controls that the company implemented to detect and deter improper sales activity during the 1999 through 2000 time frame. The follow-up review was also conducted to examine these controls and to document the major organizational changes in the BellSouth Consumer Business Unit that took place in late 2002 and early 2003.

1.2 Scope

With these objectives, the scope of the review focused on the BellSouth sales process within the Consumer Business Unit. BellSouth Sales Associates and BellSouth Service Representatives are the primary points of contact for handling nearly all residential customer requests and/or inquiries. Management within the division oversees their conduct and formulates sales policy, goals, organizational structure and training.

1.3 Methodology

Staff conducted interviews with key management personnel of BellSouth's Consumer Business Unit. On-site visits and interviews were conducted in Atlanta, Miami and Jacksonville. Staff also toured inbound call centers. Additional information was gathered and reviewed in BellSouth's responses to staff's document requests. Unsolicited documentation was received from current and former BellSouth Sales Associates and BellSouth Service Associates. Interviews of those persons were also conducted.

Staff randomly monitored dozens of service and sales calls at various BellSouth inbound call centers throughout the BellSouth nine-state region. This monitoring was conducted both on site and from remote locations within BellSouth facilities in accordance with the company's agreements with the Communications Workers of America (CWA). BellSouth's AutoQuality system enabled staff to listen to recent randomly recorded calls on dates selected by staff that were unannounced to BellSouth. This was done both in person and through remote listening capabilities provided by BellSouth. The observed centers handled incoming calls, not only from Florida, but also from the other eight BellSouth states because of the new BellSouth regional approach to handling its customer contacts. Staff listened for compliance with relevant state and federal rules while observing the calls.

Staff visited a Jacksonville call center with BellSouth Consumer Process Analysis Team (CPAT) personnel. On that visit, staff listened to both sales and service calls. Staff observed as CPAT evaluated the representatives on the calls for ethics, customer service and commercial effectiveness.

In addition, staff reviewed each cramming complaint against BellSouth that was lodged with the FPSC's Division of Consumer Affairs during the years 2001 through 2003. The complaints were examined for commonalities or patterns. Trends were also considered. See Sections 5.1 and 5.2 for discussion of consumer complaints against BellSouth filed at the FPSC.

During the audit period, the FPSC also received seven complaints from current and/or former BellSouth employees who were involved in customer sales and/or service. Staff collected their allegations and investigated them to the extent possible. In some cases, the allegations could not be fully investigated due to jurisdictional limitations concerning workplace conditions and relationships. See Section 5.3 for discussion of the employee complaints.

BellSouth's Chief Corporate Auditor completed an internal audit of BellSouth's consumer sales operations in December 2001. In December 2002, a BellSouth follow-up to the internal audit was performed to track implementation of recommendations. Staff also analyzed these internal audits and implementation measures in the course of this review. See Section 4.5 for discussion of BellSouth's internal audits.

1.4 Overall Opinion

BellSouth customer representatives are coached to achieve sales goals and statistics are used to monitor their performance. For a number of years, BellSouth employees and former employees have complained of workplace conditions and unethical sales practices. The complainants can provide insight into problems, but it must be noted that their opinions are not necessarily objective or conclusive. Company management should be fully aware of and appropriately respond to concerns raised by its current and former employees. The fact that the complaining BellSouth employees believe they are being pushed to the brink of selling unwanted or unneeded services and products should be a matter of concern to company management. Staff believes that company management is dealing with an important challenge to ensure a proper balance between sales performance and maintaining ethics in fair-minded business practices. In the sub-sections below, staff discusses some concerns regarding the challenge facing BellSouth.

1.4.1 Least Cost and Lifeline Disclosures

In Section 6.2, least cost service and Lifeline disclosures are discussed. FPSC Rule 25-4.107 requires the disclosure of available local measured service, least cost flat rate service and Lifeline under certain circumstances. The rule states, in part:

At the time of initial contact, each local exchange telecommunications company shall

advise the person applying for or inquiring about residential or single line business service of the rate for the least expensive one party basic local exchange telephone service available to him unless he requests specific equipment or services. . . . Such person shall also be informed of the availability of and rates for local measured service, if offered in his exchange.

BellSouth interprets the rule to allow it to disclose the least cost options late in the call after the sales pitch has been made and after customers may already have signed up for more expensive products and services. There is a clear emphasis on the sale of high-revenue producing products as opposed to an early and full disclosure of customer options. BellSouth customer representatives frequently do not disclose least cost options to customers until they are well into the attempt to sell the customer more features, products and services. Moreover, BellSouth believes that disclosure of least cost options upon initiation of the contact might lead more customers to choose fewer higher revenue options. Thus, the company's sales motive appears to compete with the idea of a service motive.

1.4.2 BellSouth Sales and Marketing

Sections 3.5.2, 3.5.3, and 6.3 discuss assumptive sales practices and "overcoming objections" sales techniques used by BellSouth. BellSouth aggressively markets its products and services. Staff has identified some sales techniques employed by BellSouth as being potentially deceptive. In doing so, staff concurs with agreements reached by local exchange companies and others in a 1998 FCC workshop on cramming. The workshop recommended, and staff agrees, that assumptive sales techniques should be carefully implemented to ensure that no customer abuse takes place. Similarly, staff is concerned about the abuse potential in the use of "overcoming objections" sales techniques and coaching. Section 6.4 discusses sales quotas, incentives and employee concerns.

Sections 3.5.5, and 6.5 discuss BellSouth directives to its customer representatives. The company appears to instruct representatives that they must offer certain products and services because the products are leading revenue producers, not necessarily because the customer wants or needs them. While staff recognizes BellSouth's discretion to offer its products and services, if it does so in the manner shown in the quoted directive, this seems to contradict the idea that the sales process is a service-motivated dynamic.

1.4.3 Call Center Metrics and Performance Comparisons

Section 6.6 discusses region-wide comparisons of calling center performance. BellSouth should establish call center performance metrics that include ethical performance standards. While extensive analysis of individual employee performance is conducted, little comparison of performance among call centers is done to ensure consistency. The company should collect center-specific information and compare it. This should be done for the numbers of: (1) Did-Not-Order forms generated; (2) associate referrals according to category; (3) projected customers affected; (4) disciplinary sanctions imposed; (5) employee turnover rates; and other relevant data. Such analysis might show the effect of increased sales objectives, inconsistent training, etc. on a regional as well as local basis. Deviations from normal expectations and averages will assist BellSouth in identifying

both best and worst practices. Those practices should then be circulated among centers for expansion and prevention respectively.

Staff inquired whether BellSouth compared the number of sanctions imposed on employees for unethical behavior to the number of customer contacts. The company stated that it “does not compare the number of sanctions versus the number of contacts.” Staff believes this could be an informative indicator enabling BellSouth to gauge trends in unwanted sales, questionable or unethical behavior and other forms of misconduct among customer representatives. An upward trend correlated with factors, such as higher sales achievement expectations, might indicate sales pressures on employees are a cause, or that training is not sufficient.

On a monthly basis, CPAT and/or BellSouth Consumer Service Business Unit headquarters should circulate best practices, including observations on ethical practices, to all calling centers. Similarly, observation of worst practices should be summarized and distributed as examples of how not to conduct ethical sales.

1.4.4 Consistent Application of Misconduct Policy

The BellSouth misconduct referral process for representatives who are observed by Consumer Process Analysis Team (CPAT) lists nine categories of infractions. BellSouth declared that each employee is responsible for reporting a Did-Not-Order (DNO) claim by a customer who says unwanted products or services appeared on his bill. Further, according to BellSouth, a failure to report is as serious an actual cram. However, no matrix of standard sanctions for infractions exists at BellSouth except the three steps that BellSouth said are set forth in the company’s collective bargaining agreement with the CWA. As noted in Section 4.4.1, BellSouth management “has to make a judgment as to what is misconduct,” notwithstanding the list used by CPAT. Further, BellSouth has yet to formulate a policy on management misconduct. Without proper guidelines for management, it appears that employees may improperly react to performance pressures. While recognizing needed latitude for judgment calls, it is recommended that BellSouth develop matrices of misconduct with associated sanctions for both management and other employees. The current BellSouth focus is on employees and not their managers. Section 6.6 also discusses disciplinary action trending.

1.4.5 DNO (Did-Not-Order) Process Gaps

As noted in Sections 3.4.2 and 6.7, BellSouth internal auditors noted in December 2002 that vendors for high speed internet connection service (ADSL) are not included in DNO management reports. The auditors also found that vendor DNO claims from June through November 2002 may not have been investigated. In addition, BellSouth internal auditors were concerned that DNO investigations and results are not consistently documented from the Consumer Services Division Telemarketing vendor group. Staff believes that these findings are matters of serious concern. If it has not done so, BellSouth should immediately implement corrective action.

1.4.6 CPAT Checklist and Least Cost Disclosure

As noted in Sections 4.2.2 and 6.2, the CPAT checklist does not contain a field to check off

whether or not a BellSouth customer representative has properly disclosed the least cost alternatives such as basic flat rate and local measured service. The checklist also does not evaluate whether the representative presents Lifeline discounts as an option to customers who indicate certain financial constraints such as unemployment, participation in certain federal or state assistance programs, or other financial hardship. BellSouth should immediately undertake to include fields for both least cost and Lifeline disclosure on the CPAT checklist so that action can be taken to ensure representatives are handling these important aspects during customer interaction.

1.4.7 Ethics Hotline Complaints

As noted in Section 4.1, BellSouth maintains internal hotlines that receive and allow follow-up of employee tips concerning alleged ethical violations. The hotline will accept complaints and observations concerning ethics within the wide range of BellSouth interactions with its customers, vendors, partners, and internal organizations. For the purposes of this report, staff is interested only in those complaints that regard retail customers and BellSouth sales ethics including all sub-topics contained in this report. BellSouth should correlate sales related ethics complaints to the hotline to CPAT referrals with DNO data, sales programs, training and call centers where the alleged incidents occur.

1.4.8 Multi-Lingual CPAT Monitors

As discussed in Sections 4.2 and 6.8, CPAT has three Spanish-speaking monitors and, beyond that, no proficiency in languages other than English. CPAT's ability to evaluate BellSouth's Multi-Lingual Calling Center is thus limited. Significant localities within BellSouth's territory are heavily populated by non-English or non-native English speakers who are more articulate in their native languages. Population increases, particularly in the Spanish-speaking customer base, call for full coverage to help ensure ethical conduct in sales to populations that may have less understanding of the choices put to them. Estimates of the population of Creole-speaking persons in Florida range from 267,000 to more than 500,000 with a steep upward growth trend. Year 2000 Census data shows that 23.1 percent of Florida households speak a language other than English at home. In Florida alone, over 792,000 persons over the age of 18 live in households where no one over the age of 14 is proficient in English. It is recommended that BellSouth CPAT gain the capability of monitoring calls in other languages, particularly more in Spanish, and also Haitian Creole and Portugese.

1.4.9 Product Referral Spikes

After months of analysis, In January 2004, BellSouth stated that it had identified the causes of the spikes identified by BellSouth CPAT in both "Product Referrals" and "LPIC Referrals" in Spring 2003 discussed in Section 4.2.2, 4.2.3 and 6.9. Those actions should include not only the corrective actions BellSouth takes following the occurrence of referral spikes, but also vigorous preventive measures to test sales materials during development such as scripts, training, course content, etc. prior to putting the materials into a real customer environment.

1.4.10 Complaints and Allegations

Complaints received by FPSC are discussed in Chapter 5 of this review. Section 5.1 and 5.2

discuss recent trends and infractions.

Section 5.3 discusses the concerns and allegations of seven current and former BellSouth employees and contains staff analysis. Despite allegations to the contrary, during call monitoring, staff did not observe deviations from BellSouth's ethical controls with the exception of non-conformance with company policy regarding the declaration of Lifeline eligibility. Staff found that BellSouth employees who do not follow these practices risk disciplinary sanctions and ultimately termination. However, both staff and BellSouth acknowledge that failures to follow these practices do occur. The fact that these failures are real is supported by DNOs, CPAT referrals, product referral spikes, and needed modifications to training materials. Staff believes that rigorous training, ethics reminders, a review of both assumptive sales practices, and "overcoming objections" techniques as well as careful examinations of sales scripts and directives to representatives will help prevent unwanted sales.

Section 6.4, in part discusses the fact that, for several years, FPSC has continued to receive contacts from current and former BellSouth employees regarding unethical behavior. The complaints carry a consistent theme of a workplace atmosphere that results in employees discarding ethics in order to achieve sales numbers. It is not clear whether these allegations have been brought to the FPSC by a vocal few or whether they represent a substantial number of BellSouth's sales and service workforce. However, BellSouth should consider how to address the consistent recurring themes in these contacts. Although FPSC staff may continue to respond to these complaints, only BellSouth can resolve any underlying causes in the workplace.

2.0 BACKGROUND AND PERSPECTIVE

2.0 Background and Perspective

2.1 Southern Bell Retail Billing Practices 1993

During the past ten years, the BRR has completed three audits of BellSouth (formerly known as Southern Bell) sales practices. *Southern Bell Telephone and Telegraph Company Non-Contact Sales Incentive Program Controls* was published in February 1993. In October of that year, the BRR published *Southern Bell Telephone and Telegraph Company Contact Sales Methods and Controls*. In May 2001, a *Review of BellSouth Telecommunications, Inc. Sales Methods and Practices* was published. The first two audits, initiated in 1992, were in response to allegations by Southern Bell retail customers of improper sales practices with resultant billing problems. The third audit, completed in May 2001, was based on letters from BellSouth employees as described below. It was a review of BellSouth's sales methods and practices that built upon the previous audits and examined improvements BellSouth was to have effectuated.

The FPSC established a docket in 1990 to investigate facts surrounding allegations by customers of improper billing from sales of unwanted products and services. Consequently, the BRR audits were initiated. In late 1992, based on the allegations which spurred the BRR audits, BellSouth settled with the Florida Attorney General's Office of Statewide Prosecution. The settlement with the Attorney General included restitution by BellSouth of over \$15 million to more than 900,000 customers for improper billings for repair services and sales ethics lapses. The agreement mandated revision of BellSouth's sales and billing practices and controls. The settlement also called for BellSouth to provide written verification of optional services sold to customers. The restitution agreement stipulated that BellSouth admitted no wrongdoing. Pursuant to the settlement, a "Review Period" of three years was established to ensure that BellSouth comported with the settlement terms. It consisted of semi-annual audits performed by a third party. BellSouth states that "It has now been approximately 11 years since the date the settlement agreement was executed. Therefore the Review Period has now expired." See Section 6.0 for discussion of BellSouth ethics policy and the importance of continuing to "do the right thing."

The previous BRR audits noted ten findings. Staff found that investigations of ethics violations detected by BellSouth were not performed uniformly. BellSouth managers did not consistently document or retain evidence of random checks for control purposes. Further, BellSouth did not employ adequate controls in certain sales incentive programs to prevent or detect improper billings. BellSouth's management's response to problems was considered to be lacking. Many employees did not receive adequate training or guidance in proper sales methods, and management omissions then led to improper customer billing. In addition, staff found that additional controls over sales practices were needed to prevent the recurrence of improper billing to customers.

2.2 BellSouth Sales Methods and Practices 2001

The May 2001 *Review of BellSouth Telecommunications, Inc. Sales Methods and Practices* was triggered by two BellSouth employee complaint letters. The letters alleged that BellSouth's customer service and sales representatives were resorting to unethical sales activities in order to meet their individual sales quotas. The complainants said that overly aggressive BellSouth sales quotas created an incentive to cram unwanted services and products onto customers' bills. In the review, staff found that BellSouth representatives appeared to make use of customer confusion with offerings presented as a class of service. The BRR also found that BellSouth set high goals for representatives' sales objectives. The BRR recommended that BellSouth improve evaluation criteria to measure the quality of its handling of service-related calls and that supervisors be held accountable for employee behavior. Further, staff recommended annual ethics training with updates, tracking of lost service orders, and implementation of adequate controls to deter fraudulent sales of telephone equipment.

2.3 Follow-up to 2001 Review

In March 2002, BRR initiated this follow-up review. It was conducted to:

- ◆ document current sales practices;
- ◆ examine the effectiveness of controls for unethical practices;
- ◆ investigate continuing complaint allegations received by the FPSC;
- ◆ document procedural improvements since the 2001 review;
- ◆ document BellSouth organizational changes; and,
- ◆ examine the implementation of the BRR recommendations.

Staff surveyed organizational changes and conducted interviews with key BellSouth personnel regarding the restructuring of the residential retail sales function.

2.4 Transformation of BellSouth Consumer Business Unit

In December 2002 and January 2003, BellSouth completed massive reorganizations of its sales and service functions. The reorganization, which began in the third quarter of 2001, consolidated smaller regions within BellSouth's territory into one regionally managed operation.

In a document dated February 6, 2002, entitled *Consumer Services Transformation 2002*, distributed to employees affected by the reorganizations, BellSouth recapped the year 2001 by noting a softening economy, mounting competition, customer losses due to the deployment of alternate technologies including cable and wireless, and the effects of September 11, 2001, on consumer

confidence. It implemented a work force reduction of 1,300 representatives, which has been accomplished through attrition since 1999. The company cited growing competition and its effects in more than three million access lines lost to competitors and a 13.5 percent drop in call volumes over a three-year period.

The competitive objectives of the transformation were described in the document to employees as a need to:

- ◆ Become a highly effective and efficient call center operations and staff;
- ◆ Build a strong sales culture with employees engaged, motivated to succeed and accountable for results;
- ◆ Achieve strong revenue growth driven by focusing on retaining high value customers and growing share of customer spending;
- ◆ Balance the use of sales channels to proactively reach more customers; and,
- ◆ Provide exceptional service to customers differentiated by customer segment.

BellSouth also told employees that, prior to the transformation, it used 75 centers in 58 cities which had a “high variability of performance.” The center size varied from five to more than 200 representatives staffing calls. Centers had very different results in terms of productivity, sales, customer satisfaction ratings, employee attendance and other performance factors.

Further, BellSouth said there was a duplication of staff across five regions in the nine-state territory and headquarters. The five regions were Florida, Georgia, the Carolinas, Tennessee/Kentucky, and Louisiana/Alabama/Mississippi. Each had a Vice president for Consumer Services. Some other staff functions were duplicated in each of the five regions and at headquarters in Atlanta. Inbound calls were routed to centers within the five regions where they originated. Training and standardization of practices had not been implemented consistently in the five regions. BellSouth stated that it took too long to introduce new products and begin new processes.

BellSouth pointed out that in Florida there are many seasonal activations and terminations. Customers often shift the array of products they subscribe to in those circumstances. BellSouth said the regional approach will help to level that load and deliver quicker service to those customers. The company said that operating many smaller centers was expensive and difficult to manage consistently. Most of the best practices that are widely accepted in the calling center industry are applicable to centers with much higher numbers of staff than the pre-transformation BellSouth centers.

The company document offered employees other reasons for the reorganization. It cited

limited incentives for high sales performance by representatives and their supervisors, low accountability for sales results and a decline in revenue growth due to increased competition and product churn. It said customer satisfaction results had been flat. BellSouth said it had been dependent on a single inbound demand channel and had little differentiation of service by customer segment. The document also noted a failure, prior to transformation, to recognize the variety of service and product needs that different categories of users might want.

The transformation consolidated Acquisition, Sales and Support and Collections centers locations. It also consolidated six specialty centers into two regional centers. Other functions were moved to Service Representatives in the Acquisition and Sales and Support Centers. BellSouth staff was brought together primarily in Atlanta headquarters offices. Call center staffs were added making the consolidated centers larger in size, averaging between 200-300 employees. Select employees were offered an opportunity to relocate if their jobs were consolidated into another location or offered a severance package known as the "Transformation Bonus" for those "non-relocating employees" whose year-to-date performance was at "satisfactory" or higher levels.

For its employees, BellSouth listed the benefits of the transformation as follows:

- ◆ Stronger competitiveness to better serve customers;
- ◆ Better environment for employees with improved employee retention, career pathing, peer support and training;
- ◆ Improved sales and customer satisfaction ratings through use of best practices among all centers;
- ◆ On site dedicated training resources at lower cost;
- ◆ Increased speed to implement new processes and speedy introduction of new products;
- ◆ Improved center and employee productivity and scheduling efficiency for provisioning ease;
- ◆ Reduced systems cost, both ongoing and for feature enhancements and replacements;
- ◆ Reduced hiring costs; and,
- ◆ Reduced staffs and overhead.

In interviews, BellSouth described some of the efficiencies the transformation brought. Regional performance management was instituted establishing objectives for Customer Care, sales,

employee appraisals, a standardized system of compensation, discipline and rewards, training and development. Some BellSouth territorial software and hardware systems were also discarded in favor of regional systems. Through regionalization, BellSouth also hoped to develop “remote objective oversight” with headquarters in Atlanta.

Comparing 2002 headcounts with headcounts as of June 11, 2003, the impact of the Consumer Services Division “transformation” on BellSouth’s workforce in Florida is a net increase of 125 employees. BellSouth said that the wage scale for its customer representatives would be higher combined with a greater opportunity to earn from incentives. According to the company, before transformation BellSouth had a ratio of representatives to coach/supervisor of approximately 16:1 in service and 20:1 in sales. Those same functions now have a uniform ratio of 15:1.

The company stated that coach/supervisors typically have been on the line with customers prior to their promotion. Approximately five years’ tenure as a representative is normal prior to becoming a supervisor.

3.0 SALES PROCESS

3.0 Sales Process

The BellSouth Regional Calling Matrix directs customers to a particular “gate” based on the option chosen by the caller. BellSouth categorizes its customer contacts as five primary “gates” by which customer contact occurs. These are Acquisition, Service and Support, Collections, Multi-Lingual, and Vendor. According to BellSouth, Collections does not present products and services to callers. The other gates and the BellSouth Consumer Business Unit organization will be discussed below.

3.1 Consumer Business Unit

An organization chart from the BellSouth Consumer Business Unit appears below. Six vice presidents answer to the President of the Unit. Their areas of responsibility are Acquisition, Sales and Support, Operations Support, BellSouth Products, and Transition and Strategy.

BellSouth Telecommunications Consumer Business Unit

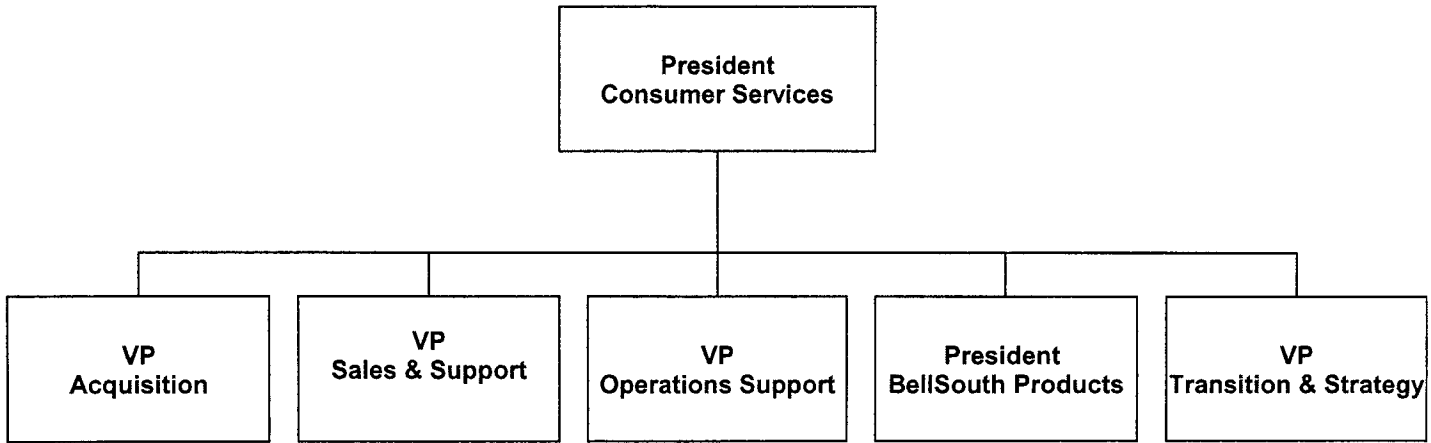


EXHIBIT 1

Source: Document Request 3

The Vice President for Operations Support for the Consumer Business Unit is located in Atlanta and oversees the sales process, including training. Her team takes business revenue expectations from corporate levels and translates them into sales objectives. Those objectives ultimately emanate from corporate officers and include how much contribution the revenues should be making to shareholders in the coming period. The actual exercise is a collaboration among marketing, finance and sales operations functions. The company said that in the post-transformation division, sales objectives are product-oriented rather than dollar-oriented as before. A BellSouth

manager stated, “When objectives are set as to what we want to sell, it’s decided which products are going to be pushed.” The manager stated that programs to “push” the products are then formed and implemented eventually reaching down to the level of coach/supervisors, trainers, support staff and customer representatives. Among the most common BellSouth services are basic local service, Caller ID and BellSouth VoiceMail. BellSouth also offers bundled packages such as Complete Choice, wireless, internet connections, and long distance. Hardware sold by BellSouth may include handsets, pagers, modems, etc. An organization chart for the functions beneath the Vice President for Operations Support appears below.

**BellSouth Telecommunications
Consumer Business Unit
Operations Support Group**

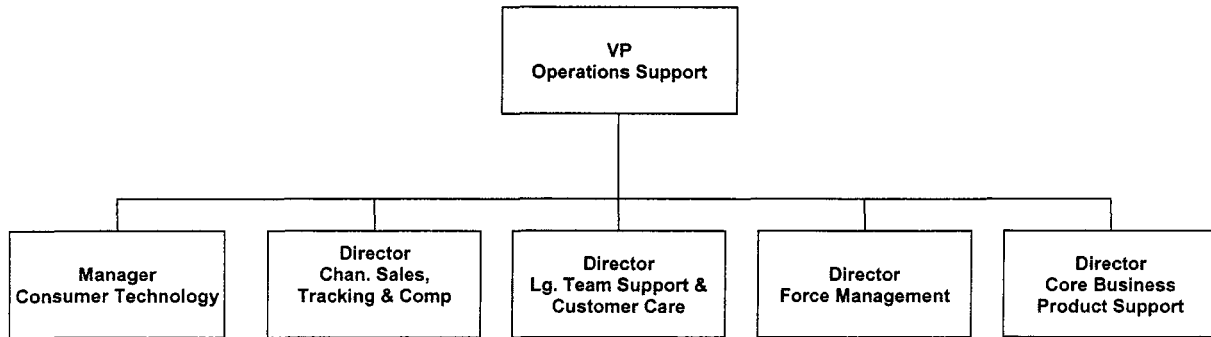


EXHIBIT 2

Source: Document Request 3

Products sales, awards and recognition, scripting, monitoring and observations, adherence to policy and procedure and discipline are also under the team’s purview. It was stated that the Operations Support team’s central principle is that BellSouth is a brand that BellSouth associates “have to deliver on.”

The Vice President for Sales and Support oversees the directors to whom the Sales and Support centers leaders report. Five directors oversee 20 Sales and Support centers throughout the nine-state region. Another director in Atlanta manages the Sales and Support Operations and Planning function for the entire region.

3.2 Acquisition Group

The Acquisitions group is in the business of acquiring new customers. “New customers” are those who are not BellSouth customers at the time contact is made, whether or not they have been customers in the past. The group also places orders for new customers who request BellSouth’s service and places orders for existing customers who transfer from one location to another.

The Vice President for Acquisition oversees the directors to whom the leaders of the Acquisition Centers, Alternate Sales Channels and other functions report. An organization chart appears below.

BellSouth Telecommunications Consumer Business Unit Acquisition Group

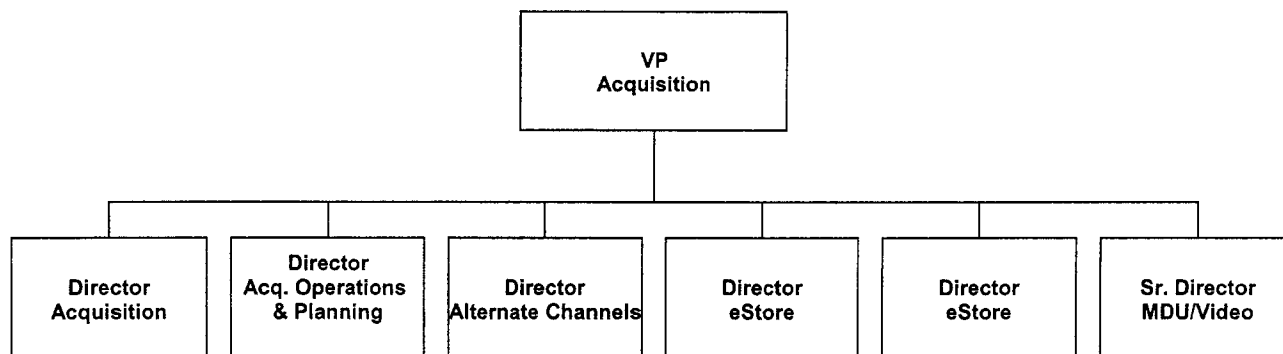


EXHIBIT 3

Source: Document Request 3

A typical Acquisition Center is managed by a Center Leader, with overall center performance responsibility. The Leader oversees one or two staff support managers and their training team. The staff support management is responsible for ensuring sales success and customer service. The training team is a key element in these. In addition, a center typically has an Administrative Manager, a Clerical Support Team and an Information Technology Support Team. Their roles are to meet employees' administrative and technology needs. According to BellSouth documents, each center typically has 200-300 sales associates. Sales Teams are formed with one team manager, often referred to as a "coach," and 15 sales associates. The Sales Team Managers report to the Center Leader. The sales function at the centers is assisted by a Support Team, each with one team manager and 15 support representatives. In the Acquisition Center, the Support Team's role is to follow-up with customers and internal BellSouth offices to efficiently provision products and services or to answer any questions a customer may have after discussions with the Sales team. This enables the sales team to focus on customer contacts and maximize revenue production.

The Acquisition group also handles Winback programs. The Winback program seeks to change the minds of former BellSouth customers who have left the company. After a disconnect order is placed, the customer is considered a new target. BellSouth does not contact the former customer until ten days after the completion of the transfer have passed. A Winback target may receive direct mail with special discounts or other offers, a contact through a vendor, or other solicitation.

Typical BellSouth Calling Center

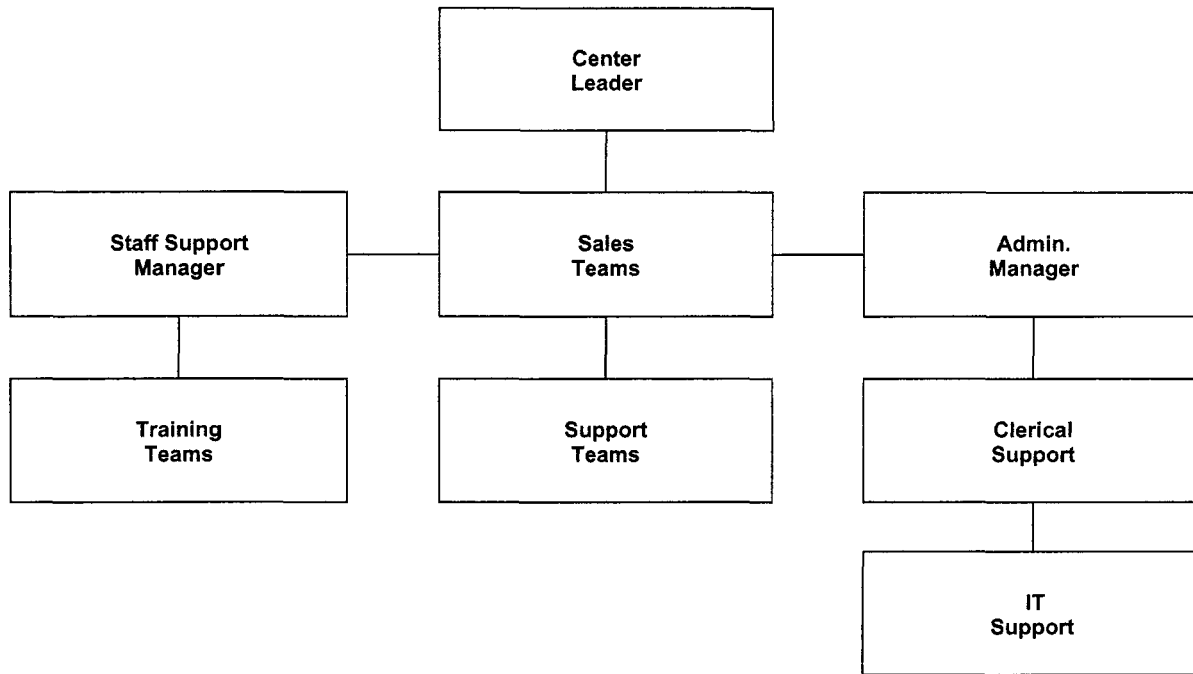


EXHIBIT 4

Source: BellSouth Documents

3.3 Sales and Support Group and Multi-Lingual Centers

The Sales and Support group serves existing BellSouth customer needs. The service side assists customers with billing inquiries, product questions, or service matters such as installation and repair appointment times. Sales Associates are trained to present products and services to callers each time they call, whether or not the customer inquires about additional products, new services or modifications to existing services. BellSouth treats each contact as a sales opportunity.

As noted above for the Acquisition Center support staff, in the service function, the Support Team's role is to follow-up with customers and internal BellSouth offices to efficiently provision products and services or answer any questions a customer may have after discussions with the Sales Team. This enables the Sales Team to focus on customer contacts and maximize revenue production.

The retention function is another focus of the Sales and Support group, particularly with Sales Associates and their management. The goal is to retain all BellSouth customers who are considering departure to other providers. Retention representatives handle a variety of customer calls, such as pending service order inquiries, disconnects, and orders to delete services. If a customer calls to disconnect or discontinue a service, BellSouth regards the contact as not only an

opportunity for a “save” but also as a chance to offer the caller BellSouth products or services suited to the customer’s needs and desires. Using the Listen Acknowledge Explore Respond (LAER) sales technique discussed in Section 3.5.2 below, it is considered an opportunity to learn what the customer wants and to shape a package for him, thus preventing his departure from the BellSouth customer base.

BellSouth’s two Multi-Lingual Centers are located in Miami. One is a Multi-Lingual Acquisition Center and the other is a Multi-Lingual Sales and support Center. The centers contain a sales group, a service group and support personnel. Personnel deployments are similar to Sales and Service Centers. The centers specialize in sales and service for non-English speaking customers. Spanish is most often used, but the center has Creole, French, German, Portugese and other language proficiencies.

3.4 Alternate Sales Channels Group

The Alternate Sales Channel Group develops market strategies and uses appropriate routes-to-market for BellSouth products and services. Alternate sales channels complement existing channels of inbound sales and service.

BellSouth stated that the transformation recognizes that many more alternate channels for sales exist as compared to only a few years ago. For example, as the internet matures, more potential customers are demanding access to products and services on-line, rather than with a live BellSouth representative. More advertising outlets are used, which generate more types of customer contacts, both on a single product as well as on different types of services.

For example, a customer might call BellSouth to add an additional line to his home or answer an advertisement in the newspaper with a toll-free number for a special promotion associated with Caller ID service. The latter may be handled by a vendor that has contracted with BellSouth to promote and to handle calls for that product. The warm transfer arrangement with Florida Power and Light, described below, is also handled by the Alternate Channels Group.

3.4.1 Warm Transfers

“Warm transfer” means a live transfer of the sales or service call from another entity, such as an electric utility. For instance, a customer representative from Florida Power and Light (FP&L) transfers a telephone call with an FP&L customer who is interested in BellSouth service. The customer representative from the first company remains on the line with the caller and “hands off” the caller to the second company’s customer representative with an introduction. Under a contract with BellSouth, FP&L transfers both the live call and specific information collected by FP&L in the course of its business with the caller. The transferred customer information includes names, new service address, mailing address, social security numbers, the electric service connect date, and the FP&L customer account number. BellSouth later enters the shared customer’s new telephone number into the shared database.

According to BellSouth, it has no current relationships with other utilities in Florida that involve warm transfer of customers seeking utility hook-ups. The relationship with FP&L is not reciprocal. According to FP&L, it does not receive warm transfers from BellSouth. FP&L does not inform its customers that local telecommunications providers other than BellSouth can also serve them.

FP&L said it approached BellSouth in 1995 with an idea for a warm transfer arrangement but terminated the arrangement in December 2001. The arrangement restarted soon afterwards under a different contract and process. The current arrangement was negotiated through the BellSouth Alternate Sales Channels Group. Under the current arrangement, FP&L is compensated by BellSouth for each call sent to BellSouth. For the months of January through May 2003, FP&L made just over 57,000 warm transfers to BellSouth service centers, an average of approximately 11,400 per month.

The parties to the agreement derive mutual benefit. FP&L learns the new telephone numbers assigned to its customers and is paid for each customer it transfers. BellSouth acquires customers, their information and the chance to sell them an array of services and products before a competitor does. Staff notes that nothing prevents other telecommunications providers from approaching FP&L or other entities for warm transfer arrangements.

3.4.2 Sales by Vendor

Vendor contract administration is handled by the Alternate Sales Channel Group. According to BellSouth, all outbound sales calls are generated by vendors. Staff observes that the national do-not-call list may significantly change the uses of outbound telemarketing, although BellSouth and its agents will still be able to call existing customers under the new federal telemarketing regulations.

The company said that it limits its vendors to handling one or two products at a time. Vendors cannot connect new service or offer repair. Access to full ordering systems is restricted to only BellSouth personnel. Vendors cannot access Customer Proprietary Network Information (CPNI), nor handle matters beyond the products that they are authorized to offer on behalf of BellSouth. Vendor representatives are trained to transfer customers to BellSouth centers if the caller has additional needs. According to the company, the intensive training needed to offer the full array of BellSouth products isn't practical to provide to vendors.

Vendors may handle incoming or outgoing calls, depending on the nature of the promotion. Inbound calls might be a result of demand generated by direct mail solicitation, a bill insert or a newspaper ad. Vendors do not handle DSL or wireless products because of system capabilities in noting the availability of the service in a particular locality. BellSouth regional product supply centers act as help desks to vendors in support of their sales activities. Outbound calls target certain customers for certain products. Demographics of age, gender, household income, current telecommunications service subscriptions, etc. are used to select groups of consumers who are more likely to purchase a service or product than the general population.

3.4.3 Vendor Compliance with Ethics

Third party verifications (TPV) of vendors' sales are performed by several TPV providers. BellSouth has a Product Support Center that is available as a help desk to vendors to assist in ensuring that factual information concerning a product's capability are properly stated.

Vendor Complaint Forms are used by BellSouth to process instances of improper handling of customers by a vendor representative. If the complaint involves an unwanted product or service or an unauthorized sale, a Did-Not-Order form (DNO) is submitted. According to BellSouth, when a *Vendor Complaint Form* is filled out, it is sent to the regional BellSouth center in Albany, Georgia. The form is logged in to a system and efforts are initiated to ensure the customer is properly cared for. The Albany center sends weekly reports of all customer complaints associated with vendors' handling of BellSouth customer contacts to the BellSouth personnel who manage the particular vendor's account. The reports sort by program, vendor and type of complaint, e.g. unauthorized sale, customer abuse, or other misconduct. The reports are to be compared by the vendor account manager with the previous week's report. BellSouth stated that its managers trend the reports. The report is sent from the BellSouth vendor account manager to the vendor's management. In addition, BellSouth requires vendors to perform live monitoring of their employees for compliance and customer etiquette.

BellSouth said DNOs are traced to a vendor and then to the person who took the call. Recordings of the sales are then obtained and checked. BellSouth vendor contracts provide for the recording and storage of customer/vendor transactions. There is a two-year requirement for the retention of vendors' call center recordings. If a recording cannot be located, BellSouth treats the matter as an unauthorized sale and fines the vendor \$500 per call. The Consumer Process Analysis Team (CPAT) monitors vendor employees at random, although pre-arrangements are made to access the vendors' calling centers. If a vendor's employee is found to have committed misconduct, BellSouth requires that he be taken off all of BellSouth's account work.

BellSouth stated that it handles all DNOs "from cradle to grave" regarding vendors. The DNO is the same one that is used for unwanted sales situations involving BellSouth employees. However, BellSouth's internal auditors noted, in December 2002, that ADSL vendor DNOs are not included in the DNO management reports. The auditors also found that vendor DNO claims from June through November 2002 may not have been investigated. In addition, BellSouth internal auditors were concerned that DNO investigations and results are not consistently documented from the Consumer Services Division Telemarketing vendor group.

Just prior to the publication of this review, BellSouth stated that the DNO process has been fully mechanized with one exception – the inbound telemarketing channel. According to BellSouth, the inbound channel DNO process will be incorporated into the centralized, web-based database that is monitored by a team on the “headquarters Staff of the Consumer Business Unit.” This last channel is expected to be fully functional in the database in January 2004, according to the company. BellSouth said that DNOs from the regional call centers, as well as from outbound telemarketing vendors for BellSouth products and services are now captured in this central database.

Vendors are contractually obligated to record and store all customer conversations for investigation in the event that a complaint arises. Vendors are penalized by BellSouth per unauthorized sale plus any compliance costs imposed by regulators. A slamming complaint brings a penalty imposed by BellSouth. In addition, if the slamming/cramming complaint brings a regulatory penalty, that is passed on to the vendor by BellSouth. If the recording of a call in question cannot be found within three days, BellSouth treats it as a violation and imposes penalties. BellSouth stated that less than one percent of vendor calls involve a complaint and less than 20 percent of those involve unauthorized sales. The company said that it has a ceiling goal of percent of vendor calls involving a complaint and that, in April 2003, the complaint rate was percent. BellSouth said the fines usually cause the vendor to terminate the representative if there are recurring problems.

According to BellSouth, prior to launching a sales program, vendors and their employees receive training from a BellSouth-contracted trainer. The trainer works cooperatively with BellSouth product experts. The vendors’ competence is then certified by the trainer. In tests given to vendor employees receiving training, BellSouth requires 100 percent test scores to be able to represent BellSouth products.

3.5 Sales Goals and Compensation

BellSouth compensates both sales and service representatives on an hourly wage basis coupled with a variety of incentive programs implemented by BellSouth locally and throughout the nine-state region. The Operations Support Group, which includes the Business Unit Vice President, reviews compensation plans including rewards and incentive pay.

Incentive compensation programs provide awards to individual sales representatives for various recognition programs. The incentives payments occur over and above hourly wages. For example, award programs might include daily attainment of an objective for a new product like a push for wireless, being one of the top representatives to sell a certain package over a time period, or exceeding monthly sales objectives for key products and services.

Service representatives’ pay packages differ somewhat from that of sales representatives. While both are compensated on an hourly wage basis, the only incentive programs available to

service representatives are Awards and recognition programs specific to service targets rather than sales targets. For example, service order accuracy is a category in which attainment of certain quotas might be rewarded, but the category is not something sales personnel deal with. Without the same sales responsibilities, service personnel are not eligible for other incentive programs available to sales personnel.

When a customer calls to cancel a service and is talked out of it, it is a "save." Statistics on the rates of retention for each sales and service representative are maintained by management. According to the company, during 2003, BellSouth did not conduct any save A&R programs which had been employed in 2002.

BellSouth supervisors/coaches also have more of their pay at risk now than prior to the transformation. If their team sells well, the coach receives incentive pay in the next pay period. If the team does not sell well, the coach will not receive incentive payments. Staff reviewed complainant-provided documents that included a message from a supervisor/coach to a team of representatives. A report was generated at 1:00 P.M. that listed each of the 15 team members with a raw number of key products sold that day for each. The message said,

BellSouth stated that it has "Awards and Recognition programs" that are "focused on specific sales efforts." The company said awards include "merchandise valued under \$200" and "points that can be redeemed for catalog items." Prizes have included gas cards, movie tickets, gift certificates, and sports, home and leisure items. In the Miami Service Center, recognition has included lunches at a Hooter's restaurant if sales personnel could sell defined products over a certain time period. Monthly contests may also be held.

According to BellSouth, "the corporate annual top recognition program" is given to approximately the top five percent of the entire employee base in sales. The company said "the award is usually a trip." Cruises and Las Vegas vacations have been awarded and other past destinations have included San Francisco, and the Bahamas. Participation events in various locales have been held to recognize top sales performers across the nine-state region.

Sales and service personnel with ethical violations are not qualified to enter corporate contests. Sales personnel are not eligible for the annual corporate recognition program if found guilty of an ethical violation. Representatives found guilty of misconduct will lose awards and recognition for a month even if sales targets are met or exceeded. The company said that entries of any misconduct are made in the employee's record for future reference. Discipline, while affecting incentives, does not affect a representative's base pay.

3.5.1 “Chargebacks”

In Section 5.3 two complainants charge that BellSouth has eliminated an important control that discourages unwanted sales. Prior to 2002, BellSouth employed a tool known as “charge backs” to remove pay incentives for its associates to sell products unwanted by the customer. Under BellSouth’s compensation structure, chargebacks helped ensure that inappropriate sales did not count toward the associates’ achievement of a sales objective. On a one-for-one basis, the numbers for each inappropriate sale were subtracted from the associates’ totals so as not to reward inappropriate conduct.

In 2002, BellSouth modified its compensation structure for associates. Under the revised structure, all associates receive a base salary commensurate with their wage scale, which is not dependent on sales performance. Associates also receive bonuses for sales performance above predetermined levels. BellSouth refers to the new compensation structure as the “incentive compensation plan.”

In its incentive compensation plan, BellSouth replaced the chargeback disincentive with a broader penalty. BellSouth states that in the current plan, an associate who is found to have made an unauthorized sale will lose any bonus compensation associated with the specific sale, all bonus compensation earned on all sales that month and also lose prize eligibility. Thus, associates have more pay at risk under the current plan for selling unwanted products.

All incentive programs are reviewed and approved by the BellSouth Consumer Business Unit Officer who is a corporate officer also. The Business Unit’s chief financial officer, senior level managers and a representative from Human Services also participate in the review and approval process. BellSouth stated that all incentive programs “are audited periodically to ensure compliance with corporate governance.”

3.5.2 “Discover and Propose” and Assumptive Sales Techniques

BellSouth representatives are trained to use a sales technique known as “Discover and Propose” (D&P). Using Consumer Proprietary Network Information (CPNI) or by inquiry into a customer’s lifestyle, household, demographics or other information, the customer representative “discovers” opportunities to “propose” services and products that the customer does not currently use. As discussed below in Section 3.5.3 and Section 3.5.4, BellSouth representatives are trained and directed to propose new services to customers whether or not the customer has expressed interest in something new, including on misdirected calls.

Current and former BellSouth employees stated that BellSouth sales and service representatives are coached to “assume the sale.” Assumptive sales techniques are used widely in sales of many types of products including telephone solicitations generally, automobiles or real estate. The employees characterize the practice as an aggressive sales technique. Three examples of the practice are demonstrated in BellSouth sales scripts provided by BellSouth and employees, which encourage the customer representative to say the following to the customer:

3.5.3 Overcoming Customer Objections to a Sales Opportunity

BellSouth customer representatives are trained and receive printed materials and coaching on how to answer customer objections and consummate a sale. Overcoming objections is a widely used sales technique in which even negative comments made by the customer are to be treated as another type of sales opportunity by the seller. BellSouth trains employees to overcome objections to a proposal to purchase its products or services with the LAER (Listen, Acknowledge, Explore, Respond) process. With the LAER process, employees are trained to get beneath the surface of the customer's initial objection to the proposed sale. BellSouth representatives are to attempt to have the customer explain his objection. Then, the representative is to acknowledge or validate the customer's negative feeling. In the next step, the representative is supposed to dig deeper to generate new information about why the customer objects. In the final LAER step, the BellSouth representative responds with specific points that surmount the customer's concerns and ideally result in winning over the customer to subscribe to the product.

A number of BellSouth objection sales guides, scripts and coaching materials regarding overcoming customer objections were provided to staff by complainants. One was entitled, the "Top

Ten Objections to Purchasing Cellular Service.” Among the possible customer objections and suggested BellSouth response frameworks are:

Another script, provided by BellSouth, addresses customer objections to sales of BellSouth

telephone equipment as too costly. It uses the LAER technique as shown in the first letter of the following text quoted below:

3.5.4 Use of Customer Proprietary Network Information (CPNI)

Like many marketers, BellSouth wants to have as much information about its potential buyer as possible. If, for example, a call to a service or sales center has been misdirected -- the caller had no intention of looking for new services -- before transferring the call to the proper department, BellSouth representatives are trained to request permission to access CPNI to pitch products and services. In a document provided by a complainant labeled "Short CC/Short MMC," representatives

our
:USS

The use of CPNI saves representatives' time in determining what services and products a customer already has. According to BellSouth, it makes CPNI available to its affiliates for their sales and marketing purposes pursuant to its interpretation of the FCC's rules which permit it to require a customer to affirmatively "opt-out" from allowing the sharing and use of the customers' CPNI.

Vendors of BellSouth services and products are contractually required by BellSouth to conduct a background investigation of their information systems personnel who may have access to CPNI. Further, BellSouth contractually prohibits any vendor employees with any criminal convictions related to computer security, theft, fraud or violence from access to CPNI.

According to documents provided by BellSouth and others, the company approaches the customer at the beginning of a call to obtain permission to use CPNI. The following four basic

scripts were provided by BellSouth and complainants:

3.5.5 Directives for Offerings

A complainant provided staff with a document entitled "Offer Rate Reduction." The document directs the representative to offer a "revenue product" and to offer pagers or wireless whenever a customer is eligible. Customer representatives are also directed to offer BellSouth local toll service if a customer has chosen another local toll carrier.

The document, apparently a guide or directive to BellSouth customer representatives, reads as follows:

Other complainant-provided BellSouth directives to customer representatives tell them to offer "Fast Access" internet service. They "must" offer DSL "whenever and wherever available." If DSL is not available in the locality, customer representatives have been instructed to offer Dial-up. "Awardper Qs" or other incentives may accompany the mandates to offer certain services to callers.

4.0 BELLSOUTH SALES PRACTICES CONTROLS

4.0 BellSouth Sales Practices Controls

In any sales arena, there is a chance for abuse and a need for controls. BellSouth has recognized this in the past and has implemented numerous controls. These are discussed below.

4.1 BellSouth Code of Ethics

The company said that all BellSouth Consumer Business Unit personnel must sign an ethics pledge annually. A compact disc entitled “ETHICS – Everybody’s Responsibility” was provided to staff for review. Used in all initial training classes for new employees, the compact disc is a general discussion of ethics at BellSouth and does not address sales ethics specifically or sales processes. While it contains cautions on the protection of customer proprietary information like business models or projected needs by commercial customers, it does not mention residential CPNI. Case studies are presented in “a positive working environment, relationships, property and company assets.” On the compact disc, BellSouth presents its reputation as a competitive asset. On several occasions the presentation emphasizes that BellSouth ethics are about “doing the right thing” rather than merely obeying the rules. In speaking of customer and marketplace relations, the Corporate Ethics Director says, “Trust comes from doing the right things for the right reasons.”

In its centers, BellSouth displays a variety of posters and reminders to employees about ethical conduct. Posters with cramming and slamming caution themes are among the posters urging maximum sales potential, promotions for certain products and incentives. The company said that vendors selling BellSouth products are also advised of relevant state and federal rules related to the products they sell.

BellSouth’s intranet human resources site provides “do’s and don’ts” for the manager’s role on how to proceed when an ethical violation comes to his attention. Managers are instructed to call the BellSouth Office of Ethics Compliance and Business Conduct if the manager believes BellSouth may be violating the law. In addition, managers are instructed to report any violation, to avoid obstruction or interference with investigations, to avoid retaliations against employees who report violations, and to avoid favoritism and inappropriate confrontations with employees. BellSouth managers are told “your primary responsibility is to provide a safe and secure work environment, protect the corporate assets, prevent, detect, report and correct dishonest conduct and take appropriate disciplinary action, subject to review and coordination with Human Resource.”

In addition, BellSouth maintains a toll-free ethics hotline staffed, according to BellSouth, by an independent contractor. All employees are encouraged to call the toll-free number if, in the broad range of potential ethical concerns, a violation or concern is noted. BellSouth stated that all calls are anonymous and that no Caller ID is used.

4.1.1 Ethical Violations and Customer Abuse

BellSouth procedures state that “Fraud violations occur whenever an Associate intentionally defrauds or misrepresents products/services to the customer.” The following examples of violations are provided:

- ◆ Adding any product or service to the customer’s account without negotiation. The associate issues an order, but never discusses it with the customer. Or, the Associate mentions and adds the cost of the product/service in the order recap, but the customer never agreed to it.
- ◆ Adding any service/product that was clearly declined by the customer. The Associate offers a product. The customer says “No,” but the order is issued with the product/service.
- ◆ Deliberately misrepresenting the capabilities of the service.
- ◆ Packaging Memory Call Answering Service or BellSouth Voice Mail. The Associate adds those products/services without quoting the individual parts, i.e. Call Forwarding Busy Line, Call Forwarding Don’t Answer, and Message Waiting Indicator.
- ◆ Adding a Local Toll Carrier (LPIC) without negotiation. The order is issued with an LPIC that was not discussed. The Associate led the customer to select a particular carrier or made an assumption that the customer would select a particular carrier.
- ◆ Offering a Global Calling Card by using the customer’s toll records. The associate says, “I can see from your records that you frequently bill calls to your home number when you’re away. I can send you a BellSouth Global calling card to use for these calls.”
- ◆ Failure to remove a feature requested by the customer.

Examples of “gross customer abuse” are situations that involve:

- ◆ Cutting off the customer.
- ◆ Using rude and/or abusive language during the call.
- ◆ Refusing to escalate the contact to the supervisor on request.
- ◆ Placing the customer on hold for extended periods or for purposes not related

to the call. An overly long hold is one that lasts over three minutes.

In a misconduct situation, employees may experience three disciplinary steps prior to termination of employment. The steps are pursuant to the collective bargaining agreement between CWA and BellSouth. Exceptions would be made in egregious cases of customer abuse or fraud. First, the employee may receive informal discussion and encouragement to do better. Next, formal counseling is given, which may involve training reminders and admonitions. Third, the employee may be suspended for a period of time. Finally, an employee is terminated. Disciplined employees are not qualified to receive incentives that month.

4.2 Regional Observation Team - CPAT

CPAT observes and evaluates calling center practices throughout BellSouth territory for all acquisition, service and retention functions. Ten CPAT monitors reside in six of the nine states of the region with none in Kentucky, Mississippi or Tennessee, although CPAT visits and remotely monitors any center in any state. The purpose of CPAT's observations, according to BellSouth documents, is "... primarily to evaluate the effectiveness, impact of practices and procedures, and to identify concerns in providing service." The monitors particularly screen for various behaviors that are identified by management. Three of the monitors speak Spanish. CPAT is not competent in any language other than English and Spanish.

BellSouth documents state that CPAT observations are considered to be Service Management Observations. CPAT refers Service Management Observations to local management for matters involving fraud, gross customer abuse and secrecy of communications.

4.2.1 CPAT Violation Procedure

CPAT documents require that notes are made during a call in which violations are observed. Using the BellSouth Customer Records System, the CPAT monitor is to compare notes to the order. If fraud or gross customer abuse happened, the monitor must "verbally" refer the matter to an Assistant Manager in the office where it occurred within one hour if possible or 24 hours at the latest. Then, written referral documentation is sent via e-mail to the Assistant Manager, Office Manager and CPAT Manager. A reply to CPAT by BellSouth local management is required within 14 days. A copy of the written referral, customer order, and the monitor's notes are kept in a CPAT file for three years.

Once CPAT monitors send a referral, BellSouth's local management has defined procedures to follow. First, the Assistant Manager receives the "verbal" referral. That is quickly followed by written referral documentation. The Assistant Manager follows local office procedure and contacts BellSouth labor relations offices, if necessary. Local management then must respond to CPAT within 14 days with a detailed account of action taken.

4.2.2 CPAT Monitoring and Checklists

CPAT sets its schedule weeks in advance. A statistician sets a schedule at random each

month as to when and which center will be monitored. A statistically valid sample of 30 to 150 calls per center are monitored each month. BellSouth stated that it conforms to FCC regulations which call for a minimum of 140 calls per office per month to be observed. When listening to a call, either on AutoQuality or live, CPAT is looking at the order and the same customer information, disclosures and pop-ups as the customer representative. CPAT can then go to the completed service order to check details. AutoQuality is a system that randomly records customer and representative conversations and negotiations. An archive of calls is maintained, but according to BellSouth, system capacity is limited to archiving calls for only one week. CPAT or others can go back to retrieve and monitor archived conversation in the AutoQuality system. Unobserved calls are retained for three days. Observed calls are retained for seven days.

CPAT monitors score each observed call on a mechanized checklist known as the Consumer Call Monitoring Team Tool, which is comprised of “yes” and “no” boxes. In staff’s opinion, the CPAT checklist is designed primarily for corporate sales objective performance, more so than ethics or customer service. For example, the Product Discovery section of the checklist contains fields in which the representative is scored on whether cues are used to pitch a product, and if information from CPNI is used. Another example is if discovery questions are employed to determine if a customer might be receptive to a sales pitch for a particular product or bundle. A third example is if inside wire maintenance plans are offered to eligible customers. However, as noted below, in April and May 2003, percent and percent of CPAT referrals were for product and LPIC/PIC violations.

The checklist contains 177 fields that represent qualitative aspects of a call related to profit motives, sales objectives, speed, accuracy, and disclosures. The fields are checked off or scored by the CPAT monitor as a call is observed. The checklist does not contain a field that could be marked to score the call on whether least cost service options are disclosed as required by FPSC. The checklist groups the 177 fields under a number of categories. Among the categories are Product Offered, Product Eligibility, Product Discover and Propose, Representative Professionalism, Revenue Generation, Service Order Accuracy - errors, Special Requests, Speed, Vendor, XDSL, First Call Resolution, Call Routing, Complete/Accurate, Credit Class and Full Disclosure.

Guidelines exist to assist CPAT in deciding what interactions need to be reported to management. In July 2002, CPAT instituted a new procedure for cases in which the customer is calling to advise BellSouth that he did not order a product, BellSouth-documented procedure calls for the CPAT monitor to take certain actions. After determining which customer representative handled the complaint call, the CPAT monitor is to call the relevant calling center office and tell the customer representative’s supervisor what was observed. The call is to be followed with a detailed e-mail. The supervisor is then to follow existing BellSouth Did-Not-Order procedures. According to BellSouth, CPAT, when observing a situation in which a DNO should have been filled out and sent, will actively verify that the form was, in fact, sent.

DNO forms are used by BellSouth customer representatives to document for follow-up procedures whenever a customer calls in with a complaint that a product or service has been received (or has shown up on a bill) that was not ordered. Completion of the form is mandatory. The sales or service representative who receives the complaint is responsible for resolving the complaint, making the appropriate credit adjustment, completing the DNO form and submitting it to management for investigation. Management conducts an investigation and identifies the representative who placed the order that led to the complaint. If warranted, disciplinary action is taken.

The BellSouth misconduct referral process for representatives who are observed by CPAT lists nine categories of infractions. These include the following:

- ◆ Misconduct related to adding features or services to a customer's account without the customer's assent.
- ◆ Misconduct related to deliberate misrepresentation of the cost of services or service capabilities.
- ◆ Misconduct related to Competitive Landscape Operating Requirements.
- ◆ Misconduct related to improperly taking credit for retaining a customer.
- ◆ Failure to remove a feature as requested by a customer.
- ◆ Cutting the customer off.
- ◆ Using rude and/or abusive language during contact.
- ◆ Refusal to escalate customer's concern to a supervisor upon customer request, and
- ◆ Placing a customer on hold for an extended period or for purposes not related to the contact.

In the months of March, April and May 2003, CPAT monitors generated , and customer representative referrals, respectively. The largest number of referrals came from the Service and Support gate accounting for percent of CPAT referrals that quarter. The referrals were for violations related to product, LPIC, disparagement, excessive hold time, rudeness, refusal to escalate to superiors, and retention. Referrals for misconduct are sent to the supervisors of each referred employee. BellSouth documented procedure requires those supervisors to follow any local practices for the state in which the customer resides, contact Labor Relations offices, if necessary, and to reply with actions taken to a named CPAT member within 14 days. CPAT then reviews the actions taken to ensure that discipline commensurate with the offense is actually enforced.

In April 2003, percent of CPAT referrals for misconduct involved product and LPIC violations. Several involved training issues and resulted in a review of LPIC and PIC procedures. Of CPAT referrals of associates in May 2003, percent were for product or LPIC-related violations. In both months, some of those referrals with product violations also had LPIC and PIC violations.

4.2.3 CPAT Referral Summary and Graph Reports

CPAT prepares two reports each month known as the Associate Referral Summary Report and the Associate Referral Summary Graph Report. The first report provides the number of fraud and gross customer abuse referrals by gate. In addition, there is a brief description of the referral, the office name, and the disciplinary action that occurred.

The Associate Referral Summary Report projects the region-wide number of calls affected based upon the percentage of CPAT referrals multiplied by the number of calls handled. For the category of “product referrals,” the five-month average was projected calls affected. “Product referrals” includes unwanted sales, failures to remove products from a customer bill as requested, and misrepresentations of costs or service capabilities. However, for May 2003, the report indicated that approximately BellSouth customer calls had been affected by misconduct related to products – a of the previous month’s projected number of customers affected. Of those projected customers affected, approximately percent were due to calls made into BellSouth Sales and Support employees. January through April 2003 totals averaged calls affected. A similar trend was noted in the category of “LPIC referrals” in which the April and May 2003 figures were more than over the previous three months’ average.

CPAT explained that spikes in monthly averages are typically attributable to new products or promotions. CPAT looks to see what new promotions have been recently undertaken. CPAT relays the information to ensure that training, coaching and management correct problematic scripts, training materials or behaviors. Product experts are also consulted. Staff verified that the DNO controls remain in place and are used by BellSouth to correct problematic presentations.

The second report, the Associate Referral Summary Graph, tracks, by month, the projected number of calls affected by fraud or gross customer abuse based on the percentage of CPAT referrals and the number of calls handled. BellSouth stated that both reports are provided “upon request only” to “headquarters and consumer management.” CPAT uses the reports to identify “gaps in training” when it notes a spike upward in any month which it might correlate to the introduction of a new product or promotion. Refinements to relevant training and scripts are then made. CPAT said there are currently no other uses for the reports. The two reports do not include third-party contractor vendor data. CPAT does not generate best and worst practices reports.

4.2.4 Vendor Observations

BellSouth procedure calls for CPAT to conduct monthly management observations on each sales vendor. The observations are done by programs (e.g., wireless, cash back, product support, and BellSouth.Net). However, sales programs or promotions of short duration may or may not be

observed by CPAT. Observations are conducted at random with a minimum of 15 observed calls per session. Call durations can stretch up to 20 minutes or more. The vendor observations are usually done with remote dial-in capabilities. BellSouth documents state that if the vendor does not have remote dial-in capability, CPAT calls the vendor's Quality Assurance Team and schedules a joint monitoring time.

CPAT scores vendor calls differently than it does calls involving BellSouth Sales Associates and BellSouth Service Associates. However, in both instances, Customer Proprietary Network Information is scored to ensure compliance with FCC restrictions on the use and transfer of the customer's private information. Vendor scripts may vary, so compliance to those are not checked as with BellSouth personnel because vendors are allowed latitude in pitching BellSouth products so long as they comply with ethical standards and etiquette. Proper greetings and closures are scored. CPAT documented procedure calls for reports on any fraud or customer abuse immediately to be sent to vendor management and certain BellSouth CPAT members for follow-up. BellSouth CPAT procedure calls for each referral for misconduct or anomalies to be documented as to time, date, to whom in vendor operations it was reported, the number of times the situation occurred, the vendor representative's name, and observed details.

4.3 Training

The Training Support Manager for the Division of Consumer Services answers to the Division Vice President of Operations Support, which is discussed in Section 3.1. The training manager is responsible for coordinating all training of new customer representatives as well as that for new products and other continuing training needs.

The company stated that the "needs and desires of the customer" are inculcated in training curriculums. Prior to the transformation, training had some "unique" aspects to it as related to certain states, but was "fairly similar" across the region. In the post-transformation division, due to regional call routing, all representatives receive the same training for products, etiquette, sales techniques, etc. The training manager stated that there is no specific class on sales ethics nor ethics in general, but in each training class for products or conduct, ethics is incorporated into the materials and presentations. The company said that the training also addresses how to deal with a customer who may be easily confused.

According to the company, after it hires a customer representative, the employee receives six weeks of intensive training before being put on the line with live customers. After their initial training period, they are assigned to a "Fast Start Team" for four weeks, which operates in a highly coached environment to build both on-screen skills and boost motivation. The new representatives in Fast Start are not held accountable for sales quotas until they leave that environment.

BellSouth said continuing training needs and "curriculum flow" are coordinated with the call

centers. Different types of calling centers may need varying types of training. A program known as “Pick Your Passion” permits the customer representatives to select their own training course topics. A supervisor/coach then decides the next course the representative will take. However, BellSouth noted it was beginning new and more vigorous training for managers in an attempt to catch up with a backlog of needed training for management/coaches. The company stated that it is presenting training at its various locations for management teams and coaches.

The company stated that the ORBIT system is a support and reminder system for representatives who have already been trained on the unique regulatory requirements and disclosures in each of the nine states. In the transformation, BellSouth said it took territorial documents and regionalized them with subsets for specific states. Florida has several disclosures and requirements unique to it. Among those are:

- ◆ Requirement to disclose least cost local service options.
- ◆ New order negotiation.
- ◆ Requirement to offer morning or afternoon appointments for connection or repair.
- ◆ Service settlements.
- ◆ Project Connect.
- ◆ New Service installation guarantee credits.
- ◆ Service settlements.

BellSouth maintains an intranet site for its employees. Sales and service employees have ready access to it. Human relations policy on workplace behavior is featured there. Among the topics covered for workplace behavior are: employee conduct, relationships, conflicts of interest, moonlighting, drug and alcohol abuse, use of the internet, employee discipline, no smoking policy and workplace violence.

BellSouth provides each employee with a booklet entitled “A Commitment to Our Personal Responsibility.” It is also available on the BellSouth intranet. The booklet contains specific guidelines that employees are to follow regarding various laws and regulations that apply to BellSouth customer interactions. In addition, BellSouth said it gives representatives 15 minutes each day to read new work-related materials. That might include the weekly *No Boundaries* newsletter, the intranet site, communications plans, ideas for new sales pitches or ethical information.

4.4 Did-Not-Order Form, Recaps and Confirmation Letters

Did-Not-Order (DNO) forms are used by BellSouth customer representatives to document situations for follow-up procedures whenever a customer calls in with a complaint that a product or service has been received (or has shown up on a bill) that was not ordered. Completion of the form

is mandatory. The sales or service representative who receives the complaint is responsible for resolving the complaint, making the appropriate credit adjustment, completing the DNO form and submitting it to management for investigation. Management conducts an investigation and identifies the representative who placed the order that led to the complaint. If warranted, disciplinary action is taken.

The FCC, the Florida Legislature and the FPSC have tried to address cramming. The FCC has no rules that directly address cramming, unethical sales activities, or deceptive marketing practices, but did issue and order principles and guidelines designed to make it easier for consumers to read and understand their telephone bills. These principles and guidelines, set forth in Section 64.2001, Title 47 CFR, were issued in 1999 and are known as the "Truth in Billing Requirements." The requirements are intended to make telephone bills more understandable by consumers and enable them to see what they have chosen to pay for as well as alert them to unwanted products or services for which they are being asked to pay. The requirements are based on three principles:

- ◆ That consumers' telephone bills be clearly organized, clearly identify the service provider, and highlight any new providers added since the last bill;
- ◆ That charges on telephone bills be accompanied by a brief, clear, non-misleading, plain language description of the service(s) rendered. The description must be sufficiently clear that customers can accurately assess the services for which they are being billed in fact correspond to those they have requested and actually received, and that the costs charged for the service conform to the consumer's understanding of the price; and,
- ◆ That bills contain clear and conspicuous disclosure of any information the consumer may need to make inquiries about, contest charges or otherwise express concerns about the products and services billed.

The FPSC also adopted rules to eliminate or reduce the number of cramming complaints in Florida. The rules relate to customer relations, customer billing and discontinuance of service and are relevant to cramming (FPSC Rule 25-4.107, 25-4.110, 25-4.113 FAC). The rule most directly affecting unethical sales concerns is FPSC Rule 25-4.107, Customer Relations, which sets forth conditions for a local exchange company before it may place an order for new telephone services or products:

Each company shall provide such information and assistance as is reasonable to assist any customer or applicant in obtaining telephone service adequate to his communications needs. At the time of initial contact, each local exchange telecommunications company shall advise the person applying for or inquiring about residential or single line business service of the rate for the least expensive one party basic local exchange telephone service available to him unless he requests specific equipment or services.

In any discussion of enhanced or optional services, each service shall be identified specifically, and the price of each service shall be given. Such person shall also be informed of the availability of and rates for local measured service, if offered in his exchange.

Additionally, as part of FPSC Rule 25-4.110, each local exchange company is required to provide customers with an itemized bill in easily understood language. The rule further requires itemized bills to include “charges for customer calling features, separated by feature.”

Florida law also addresses cramming. Section 364.604 of the Florida Statutes states in part:

364.604 Billing practices.--

(1) Each billing party must clearly identify on its bill the name and toll-free number of the originating party; the telecommunications service or information service billed; and the specific charges, taxes, and fees associated with each telecommunications or information service. The originating party is responsible for providing the billing party with all required information.

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

CPAT evaluations score representatives as to whether the order was recapitulated for the customer. CPAT evaluations call for everything that was discussed to be summarized as a means of verification to avoid any misunderstandings when the customer receives the bill. Recaps are BellSouth standard procedure for customer representatives whenever changes are made that could affect the customer’s bill or the services that they receive. Staff observed recaps in the calls that were monitored in the AutoQuality system and on live calls.

4.4.1 Did Not Order Forms (DNO)

According to BellSouth, the transformation brought changes to DNO processes. In 2002, the BellSouth DNO process involved customer representatives or other observers filling out a hard copy and sending the hard copy to the coach/supervisor of the employee who placed the order. The incident was investigated and if applicable, the employee was disciplined. DNOs were tracked at only one of the five territorial levels. They were not consolidated and trended or analyzed by management above territorial personnel.

According to BellSouth, DNOs are now almost fully mechanized and available to be submitted on the web. E-mailed or faxed DNOs are now rare, according to the company. The centralization of DNOs began in November 2002. The company said that in June 2003, a regional reporting system and database of DNOs was implemented. According to the company, it is estimated that in January 2004, the inbound telemarketing channel will be added to the central DNO

database.

The company said that its sales staff functional unit will use the database to give BellSouth the ability to sort, track and trend the DNOs in various ways according to product, time period, etc. Information derived from the database will be used to identify repeat offenders and to inform management of trends among offices and centers, thus helping to ensure consistent application of disciplinary policy.

BellSouth declared that each employee is responsible for reporting a DNO when a situation is brought to his attention unless the matter has already been reported. Further, the company declared, a failure to report "is as serious as an actual cram." A failure to submit a DNO when warranted is considered "gross customer abuse" and a "failure to follow procedures" by BellSouth. The company stated that it is "handled in accordance with the CWA Working Agreement.

According to the company, the BellSouth associate taking the complaint call inputs information onto an electronic claim form. At BellSouth Atlanta headquarters, an investigator in the Sales Support Staff is supposed to query the database daily. The investigator is expected to contact the customer with the unwanted sale and add relevant information to the database. If a DNO claim is verified, the offending associate's coach/supervisor and other managers are notified. The company further stated that the coach, or a designated agent, is to input any disciplinary action taken into the database.

During the period of January 1, 2003 through March 2003, 75 percent of DNOs were "verified" by the Large Team Support group. That means that, upon investigation, 75 percent of the DNOs submitted in that period were found to be unwanted sales, products added to bills contrary to customer wishes, or improper LPIC/PIC changes. Presumably, 25 percent were unverified due to customer confusion, an unauthorized household member or person ordering a new product for an account, or lack of information.

In the five-month period of January through May 2001, an average of 100 DNOs were reported each month. During the same period in 2003, an average of 150 DNOs were reported – a 50 percent increase. In contrast, during the five-month period of July through November 2001, an average of only 50 DNOs were reported. According to information provided by BellSouth, during the period of July 2000 to May 2003, the monthly numbers of DNOs reported has varied from 20 to 180. Staff noticed several clusters of sequential months in which the numbers of DNOs reported were particularly high. BellSouth said those "spikes" may be indicative of training needs. Section 4.2.3 above discusses the linkage of DNOs to BellSouth training.

The only matrix of disciplinary measures existing at BellSouth is contained in the company's collective bargaining agreement with the CWA as noted in Section 4.1.1. It was stated that management "has to make a judgment as to what is misconduct," notwithstanding the list used by CPAT which is discussed above in Section 4.2. According to BellSouth, the regionalization of the DNO process "has resulted in a greater degree of consistency across the region with regard to

reporting and discipline.”

4.5 Internal Audits and Management Reviews

BellSouth provided staff the *Consumer Sales Operations Audit Number 1169* for review. Conducted by the BellSouth internal auditors, it was published in December 2001. The internal audit evaluated key controls within the following processes: sales objective setting, incentive awards and recognition for represented employees, training and compliance, including the Did-Not-Order Process. The internal audit had primarily a commercial objective in maximizing revenues through the efficient and consistent delivery of customer service and sales. The bulk of the internal audit was oriented to that end. However, based on a concern that BellSouth “could receive negative publicity and/or incur fines, because Did-Not-Order complaints are not appropriately identified, documented, investigated and resolved,” the internal audit reviewed DNO processes.

The DNO process review concluded that a “standard process has not been implemented for documenting, recording, investigating and resolving DNO occurrences region-wide and stated that the issue is “considered an Improvement Opportunity.” The audit recommended establishment of consistent regional DNO processes. On February 5, 2002, the Chief Operating Officer for the Division of Consumer Services certified to the internal auditors that corrective action had been taken. On December 20, 2002, the internal auditors certified that a follow-up found the DNO process was “well controlled and functioning as intended” notwithstanding some “weaknesses” that should be resolved in the transformation of the Consumer Services Division that was just beginning to occur.

In the follow-up, BellSouth internal auditors noted the following weakness in the DNO process that needed to be addressed in the centralization of processes in the Consumer Services Division. BellSouth responses follow each bulleted item:

- ◆ “ADSL vendor DNO are not included in DNO management reports.” BellSouth stated that with the mechanization of vendor DNOs, the ADSL vendor reports are now included.
- ◆ “Although the process exists, DNO investigations and results are not consistently documented from the Consumer Services Telemarketing vendor group.” BellSouth states that it estimates that this channel will be included in the recently created central DNO database in January 2004.
- ◆ “Vendor DNO claims from June 2002 through November 2002 may not have been investigated.” While BellSouth stated that it had not been able to verify the exclusion of Vendor DNOs from that period, in January 2004, the company assured staff that “Vendor Management did properly investigate the

vendor claims” identified above.

- ◆ Although sales coordinators are monitoring the DNO process within each geographical area, tracking and trending is not being performed at headquarters to ensure that all DNO claims are investigated and consistently implemented across the region.” Staff notes BellSouth’s stated implementation of a regional DNO database in June 2003 with the exception of the inbound telemarketing channel as discussed above.

The follow-up continued, “Significant management changes during transformation contributed to the control weaknesses. Failure to investigate DNO could result in damages to customer relations, negative company publicity, financial losses due to payment of commissions for sales not made, and regulatory violations due to possible claims of cramming customers with products.”

Staff asked if BellSouth compared the number of sanctions imposed on employees for unethical behavior to the number of customer contacts. The company stated that it “does not compare the number of sanctions versus the number of contacts.”

5.0 Consumer and Employee Complaints

5.0 Consumer and Employee Complaints

5.1 Overview and Trends

Staff researched recent cramming complaints filed at the FPSC against BellSouth. Based on the number of cases logged, forwarded to BellSouth for reply and after FPSC review, the FPSC Consumer Affairs Division received 11 cramming complaints in 2001. The following year, the number of unwanted sales complaints rose to 22. Through August 2003, 25 cramming complaints against BellSouth were received. BellSouth resolved all the complaints. BellSouth contends the trend must be placed into the context of an increasingly competitive marketplace in which more customer contacts take place. In most of those customer contacts, BellSouth sales and service representatives take advantage of the opportunity to sell customers more services and products.

A number of the cramming complaints received by the FPSC involved third parties with billing arrangements through BellSouth. Customers often blame BellSouth for the charges the third parties place on the monthly BellSouth bills. BellSouth said that it is very selective in the choice of third parties that pay it for billing customers on BellSouth's monthly service billing.

5.2 BellSouth Infractions

Staff reviewed complaints lodged with the FPSC Division of Consumer Affairs from the years 2001, 2002 and 2003 in which unwanted services and products were added to customers' bills. Disputed billings ranged from \$1.11 to \$942. Some of those unwanted services or products were added by third parties that used BellSouth as their billing agent. Others were added by BellSouth vendors as well as BellSouth service and sales representatives. The third parties include, but are not limited to, dating services, internet service providers, paging services and voice-mail providers. However, in each case BellSouth corrected the problem and adjusted the customers' bills properly. No apparent FPSC rule violations were found in 2003 by the FPSC Consumer Affairs Division as of June 30, 2003.

Although no cases of unethical sales were captured in any of these complaints received by the FPSC's Division of Consumer Affairs, these types of complaints would most likely be resolved at the company level without the FPSC's intervention. When a customer calls BellSouth to report an unordered product or service, it is the company's policy to credit the customer's account.

5.3 Complaints from Former and Current BellSouth Employees

During the conduct of this review, FPSC received seven communications from present and/or former BellSouth employees in sales and service. These unsolicited contacts came to the FPSC in

writing and by telephone.

A detailed complaint was sent anonymously to the FPSC website. The writer, who named him/herself "Whistleblower," enumerated six specific problems with BellSouth sales conduct:

1. Allegation: BellSouth is required to give full disclosure of costs to any customer. Costs are not being fully disclosed.

Analysis: Staff noted that beyond the itemized billing requirements contained in FPSC Rule 24-4-110, BellSouth is required by the FPSC to send written verification of all optional services and products with associated prices each time a customer orders new products or services. The customer can then contact BellSouth to make appropriate billing adjustments if unwanted items appear. In addition, staff noted and observed a consistently applied BellSouth standard practice for customer sales and service representatives of summarizing the transactions and associated costs or adjustments for the customer. BellSouth's documented procedures set forth examples of fraud violations. In addition, as discussed in Section 4.1.1 of this report, a customer service representative who fails to fully disclose costs, including individually priced parts of products, is subject to disciplinary procedures.

Disclosure practices are discussed in Section 4.4 of this report. Staff did not observe deviations from these practices and notes that BellSouth employees who do not follow these practices risk disciplinary sanctions and ultimately termination. Nonetheless, staff acknowledges that failures to follow these practices do occur as supported by DNOs, CPAT referrals, and training materials acknowledge. However, it was not observed by staff while monitoring calls and observing representatives.

Pursuant to the collective bargaining agreement with CWA, BellSouth alerts customer representatives in each calling center when live monitoring is being conducted and when regulators, outside personnel, or management are observing live calls. Representatives are alerted by a green or red light in the ceiling above their workstations that indicate observers' presence or absence. Staff also obtained BellSouth memoranda from management to calling center staff alerting them to the presence of regulators and cautioning adherence to scripts.

2. Allegation: BellSouth customers are not being told the total cost of the BellSouth "Complete Choice" product.

Analysis: See response to Allegation 1 above. Staff did not observe deviations from those practices but is aware of the number of "product referrals" that the BellSouth CPAT projected for January to May 2003. Failures to disclose Complete Choice costs are included in the numbers of product referrals.

3. Allegation: BellSouth is offering bundled services. Individual disclosure of prices

for each item in the bundle is not being provided during the sale of the product. Customers are calling back to make adjustments to their bills because they didn't understand what they were agreeing to.

Analysis: See response to Allegation 1 above. As discussed in Section 4.1.1, BellSouth-documented procedures set forth examples of fraud violations. A customer service representative who fails to fully disclose costs, including individually priced parts of products, is subject to disciplinary procedures. As noted in the 2001 review, staff continues to believe that "In some instances, BellSouth representatives may have simply added Complete Choice to a customer's line without his/her authorization, while in others, BellSouth's representatives may have been benefitting from customer confusion." Disciplinary controls are in place for the former. For the latter, rigorous training, ethics reminders and a review of both assumptive sales practices, "overcoming objections" techniques and careful examination of sales scripts and directives to representatives will help prevent customers being taken advantage of.

4. Allegation: Customers with combined bills for Cingular and BellSouth products and services are not being told the full amount of charges if Cingular service is cancelled. Credits take longer than two billing cycles to correct.

Analysis: It is typical for cellular customers to incur a disconnection charge when the customer chooses to terminate service before the end of the cellular service contract runs out. That arrangement is typically understood by any customer of a cellular telephone provider. Cingular's arrangement is set forth in the contract that is sent to the customer. See also response to Allegation 1 above.

5. Allegation: When customers are sold hardware, such as customer premises equipment, cell phones, pagers, etc., the shipping charges are not being fully disclosed.

Analysis: The sale of telephonic hardware is not regulated by the Florida Public Service Commission. Any customer who orders hardware should reasonably expect to pay shipping charges. As noted in Section 3.5, staff examined BellSouth scripts and found that the scripts instruct the customer representative to state shipping costs.

6. Allegation: When customers upgrade their services, order new service or transfer their service, they are not told of prorated monthly charges.

Analysis: Staff witnessed BellSouth customer representatives discussing prorated charges for an incomplete month during the recap of charges to be incurred. According to BellSouth procedure, the recap is to take place on each call when changes are made. While staff cannot say instances of a failure to declare prorated

charges does not happen, no evidence of a widespread failure was actually observed.

Six other employee-complainants' allegations are discussed below in this section. The other six largely repeat the above-described themes of a pressurized workplace, and management emphasis on attaining changing sales goals.

The second complaint came after reading a news account of an FPSC inquiry into BellSouth service and repair practices, when a former BellSouth employee contacted the agency with concerns about sales ethics. Staff discussed with the caller his/her concerns over unethical practices including cramming, unfair workplace expectations, nepotism, and workplace health matters. According to the caller, he/she had been a long-term employee in both sales and service before being terminated. The caller gave two reasons for termination by BellSouth – absenteeism due to ill-health and failure to achieve ever-rising sales quotas. Staff was unable to substantiate the generalizations in the caller's allegations.

It was stated that even time used to go to the bathroom was monitored by BellSouth and that any employee making more than two trips per day of a few minutes each was subject to harassment by management. The former employee said that BellSouth managers told him/her that employees would waste valuable calling time loitering in the bathroom if the breaks weren't monitored. The employee said that it was indicative of a poor work environment when an employee would rather stay in a bathroom than take his station in a cubicle with a computer and telephone. BellSouth stated that it "does not monitor or regulate bathroom time of center employees." The company explained that when associates log in, the system "shows the status of each associate, i.e. on a call, on hold, not available or signed out." According to BellSouth, when associates are unavailable to answer calls, it impacts average answering time. Associates are expected by BellSouth to give an account for excessive unavailable or signed out time.

A third complainant noted news articles about an ongoing FPSC inquiry into BellSouth repair practices and improper billings. The complainant, a former BellSouth employee, said that BellSouth "forces" its employees to "cram and cram on almost every call" and blames its employees for "illegalities."

The third complainant was also concerned about the limitations and pressures to minimize call times, which can "get in the way" of serving a customer and fully answering their questions. The FPSC was asked to do something about the company's practices. The complainant continued that BellSouth places all responsibility upon the individual employees and makes them "feel heat if a rule is broken," but pushes them to the limits of ethical conduct with pressure tactics and high sales quotas.

A fourth complainant, a BellSouth employee and CWA member, alleged BellSouth encourages aggressive sales tactics by its representatives by telling them that they should speak to customers and "assume the sale" and "overcome saying no." Further, the complainant alleged that BellSouth "looks the other way" rather than filling out Did-Not-Order forms and pursuing "top sellers" in the sales force who are responsible for the unwanted sale. The complainant said that

employees feel that, because of all the observation and monitoring pressure they receive, supervisors ought to be catching situations involving unwanted sales. The fourth complainant also charged that BellSouth no longer used “charge backs” to remove products and services from the numbers that are compiled to determine attainment of sales quotas, thus providing an incentive to cram unwanted products on to customers’ bills. Section 3.5.1 discusses BellSouth’s current incentive compensation plan which substituted broader disincentives for unwanted sales than “charge backs” previously provided.

In addition, the fourth complainant expressed concern that BellSouth was disingenuous in sales to immigrants throughout the nine-state region, particularly Hispanics. The sale of Voice Mail, which is available in English only, to migrants who speak only Spanish was cited as an example of BellSouth taking advantage of the customer’s limited ability to fully understand what was being sold to him in a fast-paced conversation. Staff notes its recommendation in Section 1.4.8 that BellSouth add more foreign language capability into its CPAT process.

The fourth complainant also said that intense workplace pressures to achieve sales quotas, bathroom break monitoring, and harassment for not attaining goals was leading to employee burnout and unfair terminations. It was stated that supervisors in the Miami Sales and Service Centers walk around their subordinates’ cubicles listening, pushing and checking every five to ten minutes taking notes on what is being sold by each employee. It was further alleged that employees who do not have adequate sales to report at each visit will receive a return visit even sooner to push them to sell more.

The fourth complainant further stated that a Miami supervisor said to new employees coming from their initial training, “Do not mess with my paycheck!” Staff notes that Section 3.5 discusses incentive pay for coach/supervisors. The reported incident was unverifiable.

A fifth complainant, a CWA member, alleged that BellSouth “keeps numbers” on the customer representatives regarding their sales achievement. Staff notes that this is clearly true and that the BellSouth incentive and employee rating system is openly declared and necessary.

Further, the complainant alleged that, contrary to BellSouth representations, the AutoQuality system was not truly random in its selection of recorded sales and service calls. It was stated that representatives are targeted for monitoring to enable BellSouth to gather evidence to discharge individuals or pressure employees into resigning if they are not meeting ever rising sales quotas. Staff informed the complainant that it would pursue hard evidence of the allegation if it were credibly provided and fell under the FPSC’s jurisdiction. Staff observed the AutoQuality system operating in a random fashion as BellSouth stated.

The fifth complainant also stated that only the same certain individuals, time after time, received the awards and prizes given to the high sales achievers. The complainant also repeated other complainants’ remarks about BellSouth management monitoring time taken for bathroom breaks and pressuring employees to discourage restroom visits. See bathroom break discussion

above for the third complainant.

The sixth complainant is an anonymous BellSouth employee of “several years.” He/she copied the FPSC with a letter written to BellSouth management. In the letter, the complainant said BellSouth “service and sales representatives” are engaging in “deceptive” sales practices and failing to disclose the full costs of products and services to customers, including connection fees and bundled packages. The employee-complainant said that management “advises representatives that PSC is coming, so that they are careful with their actions and avoid alerting the PSC of their unethical and deceptive practices.” The complainant continues relating poor workplace morale and strained relationships between management and customer representatives due to “intimidation tactics” and “pressures to sell.” The writer claims that his/her choice of anonymity is due to fear of retribution. Staff notes the memos, discussed above, it obtained alerting BellSouth customer representatives of the Commission’s presence during monitoring.

The seventh complainant is also an anonymous BellSouth employee who implies both five years of tenure and a family history of BellSouth employment. The writer discusses ever-changing and “ridiculous sales objectives” and managers who harass customer representatives for “messing with their money” and bonuses. The complainant also describes representative/customer interactions in which high pressure is used to take advantage of confusion in seniors and busy parents. Speaking of customer representatives’ tactics, the complainant stated, “We prey on the old who we can confuse into saying yes with fast confusing talk, and we prey on the single parent with 4 kids, who can’t even pay their bill now, who we know we can talk into a cell phone or internet by pumping them up on how good their credit is with us, even though it probably stinks. It is a twisted web we have spun and the customer is in the middle.” The writer also alleges failures to fully disclose all “activation fees, contract terms, monthly rates.”

In addition, similar to the fourth complainant, the seventh complainant alleges that since “charge-backs” were discarded by management, employees are sending customers unwanted products and still collecting the commission payments for sales that are later reversed. The writer states, “So, it behooves us to screw the customer because we won’t get in trouble and it puts more money in our pocket, which in turn puts more money in the Mgrs. pocket.” Section 3.5.1 discusses BellSouth’s current incentive compensation plan which substituted broader disincentives for unwanted sales than “charge backs” previously provided.

The writer further alleges that BellSouth vendors “lie to the customer almost as much as we do.” Lastly, the seventh complainant writes that visits by mobile blood donation trucks to the calling center where he/she works were cancelled by management because “our office Mgr does not want us off the phone.”

6.0 CONCLUSIONS

6.0 Conclusions

In interviews, BellSouth stated “our instructions to customer representatives is to do what they (customers) want.” In BellSouth’s compact disc “*Ethics – Everybody’s Responsibility*,” the presentation emphasizes that BellSouth ethics are about “doing the right thing” rather than merely obeying the rules. In speaking of customer and marketplace relations, the Corporate Ethics Director says, “Trust comes from doing the right things for the right reasons.” Staff agrees that mere compliance with the law can be a low threshold for measuring whether one is “doing the right thing.”

6.1 Compliance with CPNI Regulations

As noted in Section 3.5.3, the last sentence in each of the BellSouth scripts provided to staff by both BellSouth and complainants, indicates a commercial motive for the CPNI. The reason for the question is to sell. The scripts say that service will not be affected by a refusal. The scripts are written to make clear to the customer that the permission is granted for that call only. However, BellSouth stated that, in 2003, the company

“modified its inbound processes to take advantage of the [FCC permitted] opt-out authorization. In a nutshell, under current practices, customer records of customers who have not opted out of CPNI approval, following written notification of the right and opportunity to do so are available to representatives to review and utilize in offering services in which the customer may be interested. For those customers who have opted out... however, the service records are preceded by an onscreen reminder to request permission to use CPNI for offering services for the duration of the present call only.”

BellSouth should continue a careful examination of its compliance with both the spirit and the letter of FCC regulations concerning CPNI. BellSouth should carefully examine all training and coaching materials, scripts, CPAT checklists, procedures and evaluations, and other relevant processes to ensure that full compliance with the letter and spirit of the FCC rule on use of CPNI is being followed.

6.2 Least Cost and Lifeline Disclosure:

Regarding BellSouth compliance with FPSC Rule 25-4.107, in April 2001, staff said in the *Review of BellSouth Telecommunications, Inc. Sales Methods and Practices*:

The Bureau of Regulatory Review believes representatives are able to capitalize on customer confusion due in part to the complexity of products and services now available. BellSouth representatives are given incentives to maximize their revenue opportunities by attempting

to sell a combination of products and services on each and every call as opposed to simply determining what would be most economical and useful to the customer. ...The Bureau notes that the spirit of the rule regarding the disclosure of the customers least cost option is not fulfilled under BellSouth's current practice.... BellSouth's practice is to disclose the option and rate of basic local service at some time during the call. BellSouth representatives are trained to ask for the customer's decision regarding the Complete Choice package before describing alternative choices, such as POTS flat rate, or measured rate service.

Staff continues to subscribe to the above opinion.

Staff is also concerned that Lifeline may not be disclosed at all or at the appropriate time. Failure to do so to customers who border on the ability to meet household expenses, including their telephone bill, demonstrates the priority BellSouth places on sales opportunity over customer service. BellSouth will benefit from a customer who is able to retain service rather than be disconnected for non-payment.

Through the AutoQuality system, staff observed one call during which a BellSouth service representative spoke with a customer who called because her bill was overdue for payment and she wanted to discuss and possibly reduce optional services that had raised her bill to approximately \$59 per month. Though, staff observed this in one instance only, given the likely number of other callers in similar situations, it is staff's opinion that the matter was noteworthy.

The customer told the service representative that she had just lost her job and did not know where she would find new employment. She said it would impact her ability to pay her bill. Further, the customer had a "D" credit rating, indicating she had a history of problems making payments on other household bills. The credit rating was apparent to the service representative. The customer service representative responded by reviewing the customer's optional features and successfully persuaded the customer to buy yet another feature that raised her bill more, presumably making the bill even more difficult to pay. At no time were Lifeline disclosures made.

In Document Request 6, BellSouth stated:

Our practice is to advise customers of Lifeline service if:

- a. Through the representative/customer discovery process, the customer mentions one of the qualifying programs or indicates that they are having a financial hardship, unemployed etc. or
- b. the customer specifically asks for Lifeline.

In addition, BellSouth provides various materials in bill inserts, newsletters, telephone directories and through certain state programs to inform customers of the eligibility guidelines for Lifeline service.

BellSouth advises customer representatives through the ORBIT system of disclosures required by jurisdictions applicable to the caller's locale. Florida rules requiring disclosures would be shown to the representatives this way. A customer representative must actively click on the ORBIT screen to close it. ORBIT pops up on the representative's screen and displays required declarations for each locality within the nine state region. Required disclosures may vary according to state. Vendors do not have ORBIT availability.

The above customer would likely have been eligible for Lifeline service, yet it was not disclosed to the customer. A reasonable reading of FPSC Rule Number 25-4.107 is that BellSouth should have disclosed potential Lifeline eligibility to the customer because Lifeline is merely discounted least cost service. The CPAT checklist does not contain a field that the monitor may score a customer representative on whether or not Lifeline was properly disclosed as an option. However, BellSouth has indicated that it will add a field to score representatives' handling of such situations.

While the principle of "buyer beware" is applicable in this instance, BRR staff believes that BellSouth opens itself to criticism in situations like this. BellSouth employees will continue to make claims, as others may do, regarding BellSouth's encouragement of overly aggressive sales tactics. This situation raises questions that BellSouth's coaching, training and emphasis on corporate sales and profits may be at the expense of customer service. While BRR staff recognizes that this was only one incident, it believes that it is another indicator of a very aggressive sales force in need of careful direction and controls that balance competitive pressures with service and ethics.

6.3 Assumptive Sales Practices and "Overcoming Objections"

Current and former BellSouth employees stated that BellSouth sales and service representatives are coached to "assume the sale." Section 3.5.2 discusses documents supplied by BellSouth and complainants. The documents demonstrate examples of assumptive sales practices. The employees characterize the practice as an aggressive sales technique.

In April 1998, the Chairman of the Federal Communications Commission (FCC) convened a group of telecommunications providers, including local exchange companies, to participate in a workshop intended to devise practices to combat cramming. While the workshop focused primarily on third-party submission of charges to LECs, LEC participants also affirmed their responsibilities in matters discussed in the workshop. The workshop identified sales "programs initiated via 'assumptive sale' plans" as ones with a history of problems related to cramming. The FCC workshop participants agreed on a series of "best practices." Included in the best practices recommendations of the workshop is one that LECs should screen assumptive sale programs for aspects, including text phrases in sales scripts, that may be deceptive or misleading.

Staff concurs with workshop participants and former Chairman Kennard, that sales pitches such as those above which encourage the customer representative to “assume the sale” are aggressive and can be deceptive. Staff recommends BellSouth carefully examine its assumptive sales practices and associated program materials, including training.

Similarly, the aggressive use of “overcoming objections” techniques discussed in Section 3.5.3 could become problematic in an organization in which sales ethics are valued. Staff is mindful of the admonitions to “do the right thing” in BellSouth ethics training materials.

6.4 Sales Quotas and Incentives

BellSouth places responsibility for unethical behavior on individual employees. Its intranet Human Resource site states:

Because the booklet [see Sec. 4.3] does not include all of the rules and regulations that apply to every situation, contents should be reviewed within the framework of company policies, practices and instructions as well as the law. Employees must exercise the highest ethical standards in every situation, even if BellSouth does not have a practice that addresses each situation.

The intranet site further states that Federal Sentencing Guidelines impose severe financial penalties on corporations that commit criminal acts through the actions of one or more of its employees. It also says that federal law requires companies like BellSouth to have effective compliance programs to prevent and detect violations of the law. It continues by concluding that “adequate and consistent discipline of individuals responsible for an offense is a necessary part of enforcement.”

CWA members communicated that BellSouth pushes its sales and service force to ever higher sales goals, which requires the employees to resort to inappropriately aggressive sales tactics. They contend that when the aggressive tactics result in unwanted sales or cramming, the individual employee is blamed for the transgression. The CWA members argued that BellSouth need look no further than its corporate sales incentives and quotas for the root cause of many ethical breaches. The members said the pressure results in a high turnover of employees.

For several years, the FPSC has continued to receive contacts from current and former BellSouth employees who complain about being pushed to the brink of unethical behavior. A common theme is allegedly unreasonable management expectations and that management places all the blame for unethical behavior on individual employees. Complainants have alleged coaching by BellSouth management to engage in aggressive sales tactics in order to keep their jobs and attain the sales numbers the company wants.

BellSouth should consider how to address the consistent recurring themes in these contacts. Either there is a small, but vocal number of disgruntled employees who repeat the allegations, or the complaints received represent a substantial number of other BellSouth customer representatives' opinions. Only BellSouth is in a position to fully determine the extent of this problem and any underlying issues. Although FPSC staff may continue to respond to these complaints, only BellSouth can resolve any underlying causes.

If the allegations and themes brought forward in this review and the May 2001 review have merit, the FPSC will continue to receive complaints and to take corrective action. Staff recognizes the linkage between employees who feel highly pressured to reach individualized numeric sales objectives and the increased potential for unethical conduct. That some BellSouth employees feel they are being pushed to the brink of selling unwanted or unneeded services and products will continue to be a matter of concern to the FPSC staff and should also be a matter of equal concern to the company.

6.5 Directives to Sell Certain Products

Section 3.5.4 discusses BellSouth directives to its customer representatives. The directive quoted diminishes BellSouth's claim that it looks for the best way to serve its customers. The company appears to instruct representatives that they must offer certain products and services because the products are leading revenue producers, not necessarily because the customer wants or needs them. While staff recognizes BellSouth's certain amount of discretion to offer its products and services, if it does so in the manner shown, this seems to contradict the idea that the sales process is a service motivated dynamic.

6.6 Region-wide Comparisons and Feedback

As discussed in Section 4.5, BellSouth needs to collect center specific information and compare it. This should be done for the numbers of Did-Not-Order forms generated, disciplinary sanctions imposed, employee turnover rates and other relevant data that might show the effect of increased sales pressures, and flaws in consistent training on a regional as well as local basis. It should be realized that norms for service center calls would typically vary from sales center calls given volumes, duration of calls and the opportunity for sales.

The Consumer process Analysis Team (CPAT) already generates two key monthly reports that use data gathered from all BellSouth gates and offices. In addition, BellSouth should be making comparisons of the trends and numbers of transgressions per gate and according to office or calling center as well as comparisons of local numbers with regional averages. Such information would identify management issues and locations of both best and worst practices. Staff notes that

BellSouth has recently regionalized a DNO report database that should enable much of the needed trending and comparisons. Management should be held accountable when numbers of transgressions at any particular center are above a normal range. Similarly, best practices at those centers, including vendors with the fewest referrals for gross customer abuse and ethics violations, should be commended.

CPAT should generate monthly sales and service practice reports containing a section highlighting the best ethical and customer services practices observed in a monthly reporting period. In parallel, the worst practices reports should be issued monthly and also contain a section highlighting some of the most egregious and/or common ethics and customer service transgressions to demonstrate what ought not be happening. The best and worst practices reports should be submitted to sales support staff at headquarters who should then prepare that information for distribution to all centers and offices. Neither the April or May 2003 CPAT practices reports reviewed by staff contained evaluations related to ethics or customer service. The emphasis for practices was on effective commercial/sales performance.

BellSouth does not maintain a matrix of standard disciplinary procedures for either management or customer representatives. Moreover, procedures, either in laxity or severity, might vary according to calling center. Comparative data concerning DNOs, discipline, product referrals and other problems should be compared by BellSouth management regionally and among centers so that best practices and worst practices are identified. Staff believes this could be an informative indicator enabling BellSouth to gauge trends in unwanted sales, unethical behavior and other forms of misconduct among customer representatives. An upward trend correlated with factors such as higher sales achievement expectations might indicate sales pressures on employees are a cause, or that training is not sufficient.

Similarly, trends among calling centers across the BellSouth nine-state region are not generated or compared by the company. Staff believes that periodic comparisons could indicate management inconsistencies in training, counseling, coaching or otherwise as relates to unwanted sales ethics violations at any particular center. Center management should be held accountable for performance outside a norm.

6.7 Internal Audit - Vendor DNOs

As noted in Section 3.5.2, BellSouth stated that it handles all DNOs related to vendor sales from "cradle to grave." However, in December 2002, BellSouth internal auditors found that some vendor related DNOs are not included in management reports. The auditors found that vendor DNOs from June through November 2002 may not have been investigated. Further, the internal auditors were concerned that DNO investigations and results are not consistently documented from the Consumer Services Division Telemarketing vendor group. Staff believes that these findings are matters of serious concern. BellSouth should immediately implement corrective action.

6.8 CPAT Multi-Lingual Capability

CPAT has three Spanish-speaking monitors and, beyond that, no proficiency in languages other than English. CPAT's ability to evaluate BellSouth's Multi-lingual Calling Center is thus limited. Significant localities within BellSouth's territory are heavily populated by non-English or non-native English speakers who are more articulate in their native language. Population increases, particularly in the Spanish-speaking customer base, call for full coverage to help ensure ethical conduct in sales to populations that may have less understanding of the choices put to them.

Estimates of the population of Creole-speaking persons in Florida range from 267,000 to over 500,000 with a steep upward growth trend. Year 2000 Census data shows that 23.1 percent of Florida households speak a language other than English at home. The data also shows that, in Florida alone, over 792,000 persons over the age of 18 live in households where no one over age 14 is proficient in English. It is recommended that BellSouth CPAT gain the capability of monitoring more calls in other languages, particularly more in Spanish, and also Haitian Creole and Portuguese.

6.9 CPAT Product Referral Spikes

In reports supplied by BellSouth, staff noted sharp increases in the number of projected calls affected by product referrals. For May 2003, staff noted 46,000 calls in which customer may have been affected by misconduct related to BellSouth product offerings – a doubling of the previous months projected number of customers affected. The spikes in product and LPIC referrals may indicate that training and/or changes in BellSouth's sales pitch for local toll services were problematic during that period and encouraged problematic solicitations. BellSouth states that if the CPAT monitor identifies a spike in product referrals, the product subject matter expert (SME) is advised. The SME will then initiate additional training to correct the problem. If necessary, BellSouth said that coaches will take disciplinary steps.

In January 2004, BellSouth assured staff that the causes of spikes identified by CPAT in both "Product Referrals" and "LPIC Referrals" in Spring 2003 have been corrected. The company had previously been unable to identify the cause. The company stated that, "the referenced product referral spikes coincided with our widespread rollout of interLATA long distance service" and that "additional long distance training was conducted." According to BellSouth, it has not identified additional spikes in data through November 2003.

To complement its corrective actions, BellSouth should consider using more rigorous review of training curricula. In addition, the company should ensure that it thoroughly examines and tests scripts, coaching suggestions and promotional materials while in development prior to fully deploying them or placing them into the real customer environment.

