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DATE: \* May 20, 2004

TO: Marguerite H. Lockard, Commission Deputy Clerk I, Division of the Commission Clerk & Administrative Services

FROM: John J. Duffey, Operations Review Specialist, Division of Competitive Markets & Enforcement

RE: Docket # 040467 .TL

Appended are two documents. One is the published *Follow up Review of BellSouth Telecommunications, Inc. Sales Methods and Practices* which has been redacted according to BellSouth's pending request for confidential classification. The second is an unredacted copy of the review.

Both documents need to be included in the docket file

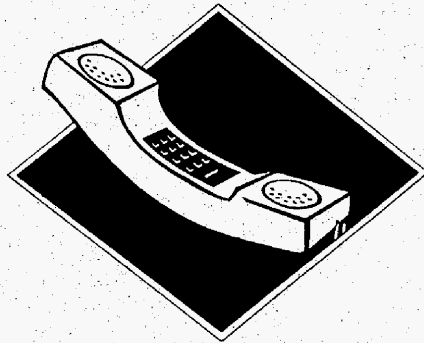
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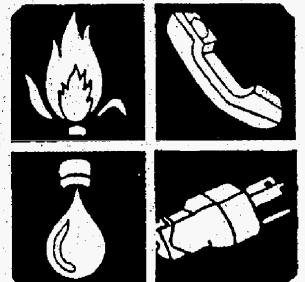


*(Redacted)*

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

April 2004

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



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## **1.0 EXECUTIVE SUMMARY**

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## **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 2002 and 2003. This report also addresses seven complaints from current and former BellSouth employees that were received during the course of the review.

### **1.2 Scope**

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. The review focused upon BellSouth operations between first quarter 2002 and third quarter 2003. Some information regarding more recent changes made by BellSouth is also included.

### **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.

Staff randomly monitored dozens of live 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.



In addition, staff reviewed cramming complaints against BellSouth lodged with the FPSC's Division of Consumer Affairs during the years 2001 through 2003. The complaints were examined for commonalities, patterns and trends. 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 reviewed the allegations and investigated them to the extent possible.

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 activities in the course of this review.

## **1.4 Overall Opinion**

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 subsections below, staff discusses some concerns regarding the controls BellSouth has in place to assist with these challenges.

### **1.4.1 Least Cost Disclosure**

BellSouth sales associates and BellSouth service representatives frequently do not disclose least cost options (as required by FPSC Rule 25-4.107) to customers until they are well into the attempt to sell the customer more features, products and services. Admittedly this rule does not clearly state when during the conversation this disclosure must be made, so staff does not believe this practice constitutes a rule violation by BellSouth.

However, this practice does, in BRR staff's opinion, reduce the customer's ability to know all of his choices up front and make a fully informed decision. This issue was previously identified in staff's 2001 review of sales methods and practices, and staff continues to believe that BellSouth should require disclosure of basic service offerings prior to offering any other calling plans. Least cost service disclosure is discussed in Sections 4.4.4 and 6.1.

### **1.4.2 BellSouth Sales and Marketing**

BellSouth markets its products and services by using assumptive sales techniques. Staff believes that assumptive sales techniques should be carefully reviewed by BellSouth management to ensure that sales scripts are not deceptive or misleading. This same general concern was noted by the FCC following a 1998 workshop it held on the subject of assumptive sales techniques in the telecommunications industry. Sections 3.5.2, 3.5.3, and 6.2 discuss the assumptive sales practices and "overcoming objections" sales techniques used by BellSouth.

Staff also believes that BellSouth should take steps to address the recurring themes in employee complaints regarding excessive sales objectives. Based upon recent levels of product referrals, as described in Section 4.2.3, BRR staff believes that BellSouth should conduct a study to ensure its sales incentive programs are comparable to those of other companies and to determine whether or not its current practices could lead to inappropriate behavior.

### **1.4.3 Call Center Metrics and Performance Comparisons**

While extensive analysis of individual employee performance is conducted, little comparison of performance among call centers is done to ensure consistency. BRR staff believes that BellSouth should examine and compare call center performance measures that indicate compliance with its ethics standards. Information regarding best and worst practices should also be analyzed and widely disseminated. Such analyses might show the effect of increased sales objectives and inconsistent training on a regional as well as local basis. Suggested actions include the following:

- ◆ Performance measures, including but not necessarily limited to the following, should be compared among call centers:
  - ▶ (DNO) Did Not Order forms generated;
  - ▶ associate referrals by category (Associate Referral Summary Report and Graph);
  - ▶ projected customers affected;
  - ▶ disciplinary sanctions imposed; and
  - ▶ employee turnover rates.
- ◆ Consumer Process Analysis Team (CPAT) best and worst practices reports should be created and circulated to managers.
- ◆ Relevant Ethics Hotline investigation results should be circulated to managers.
- ◆ Individual cases of ethical problems should be researched and cross-referenced against similar occurrences involving the following:
  - ▶ product referrals;
  - ▶ DNO forms;
  - ▶ CPAT observations; and
  - ▶ Ethics Hotline complaints.
- ◆ Periodic reviews of training programs and materials and sales promotions should be conducted in terms of trends in the following:
  - ▶ product referrals;
  - ▶ DNO forms;
  - ▶ CPAT observations; and
  - ▶ Ethics Hotline complaints.
- ◆ A disciplinary action matrix guide should be created addressing both craft and management ethical violations to ensure consistency among centers.

Sections 4.2 and 4.5 discuss these controls and possible opportunities for results comparisons.

### **1.4.4 Multi-Lingual CPAT Monitors**

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. Because the Multi-Lingual Center is competent in a variety of languages, so should be CPAT monitors. 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. Sections 4.2 and 6.6 discuss CPAT operations and its multi-lingual limitations. BRR staff believes that BellSouth should increase CPAT's multi-lingual capabilities.

#### **1.4.5 CPAT Product Referral Calls**

Based upon the referrals generated through CPAT observations, BellSouth projects estimates of numbers of calls affected by issues such as unwanted sales, failures to remove products from a customer bill as requested, and misrepresentations of costs or service capabilities. For example, for the nine-state region, BellSouth estimated a monthly average of 28,400 calls effected by misconduct over the first five months of 2003. In May 2003 alone BellSouth's estimate was over 46,000 calls regionwide. This translates into hundreds of thousands of these calls each year. Undoubtedly such calls include many that are merely the result of customer confusion or miscommunications. However, by BellSouth's own definition, many could be the result of improper sales efforts, including fraud and customer abuse.

BellSouth states that product referrals tend to peak immediately after new products are introduced. The company points to the inherent confusion and communication difficulties involved in describing and familiarizing customers with a new product. Therefore, staff believes BellSouth should employ vigorous preventive measures to test sales materials during development such as scripts, training, course content prior to putting the materials into a real customer environment. Sections 4.2.2, 4.2.3 and 6.7 discuss CPAT-identified product referrals, monitoring activities and product referral spikes.

#### **1.4.6 Employee and Consumer Complaints**

Staff did not identify evidence verifying the specific allegations of improper sales techniques made by complainants, though staff does note that BellSouth aggressively markets its services and that customer confusion can easily occur. Indicators such as CPAT product referrals and Did Not Order forms that result from customer calls clearly establish that substantial numbers of customers find it necessary to seek corrections after sales contacts.

However, customer complaints received by the Florida Public Service Commission's Division of Consumer Affairs and the on-site observations of staff do not indicate a widespread problem of improper sales practices. Staff researched recent cramming complaints filed at the FPSC against BellSouth. The FPSC's Consumer Affairs Division received 11 cramming complaints in 2001, and the number of unwanted sales complaints rose to 22 in 2002. Through August 2003, 25 cramming complaints against BellSouth were received. BellSouth resolved all of the complaints. BellSouth states the trend must be placed into the context of an increasingly competitive marketplace in which more customer contacts take place. Staff also notes that these numbers of complaints should be viewed in the context of the millions of BellSouth customers and access lines in Florida. Sections 5.1 and 5.2 discuss customer complaints to the Commission.

In recent years, the FPSC has received contacts from current and former BellSouth employees regarding unethical behavior. The seven complaints most recently received 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 take steps to address the consistent recurring themes in these contacts. Sections 5.3 and 6.8 discuss and analyze the employee complaints received during the review.

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## **2.0 BACKGROUND AND PERSPECTIVE**

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## **2.0 Background and Perspective**

### **2.1 Southern Bell Retail Billing Practices 1993**

During the past ten years, the Bureau of Regulatory Review has completed three audits of BellSouth's (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*. The first two audits 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 and titled a *Review of BellSouth Telecommunications, Inc. Sales Methods and Practices*, 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 more than \$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. The review period 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 further discussion of BellSouth's ethics policy and the importance of continuing to "do the right thing."

The 1993 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 sales associates and service 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.

Staff believed that BellSouth sales associates and service representatives appeared to make use of customer confusion with offerings presented as a class of service. (Staff notes that BellSouth continues to disagree with this opinion.) Staff also found that BellSouth set high goals for representative' sales objectives. Regarding sales objectives, staff stated "An unrealistic goal can lead to inappropriate behavior." Staff 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, the 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's 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 employees, 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 following competitive objectives of the organizational transformation were described in a 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 organizational 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 employees handling 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 employees 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 organizational 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 organizational 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;
- ◆ Onsite 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 organizational 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, BellSouth had a ratio of representatives to coach/supervisor of approximately 16:1 in service and 20:1 in sales before the transformation. Those same functions now have a uniform ratio of 15:1.

## **3.0 SALES PROCESS**

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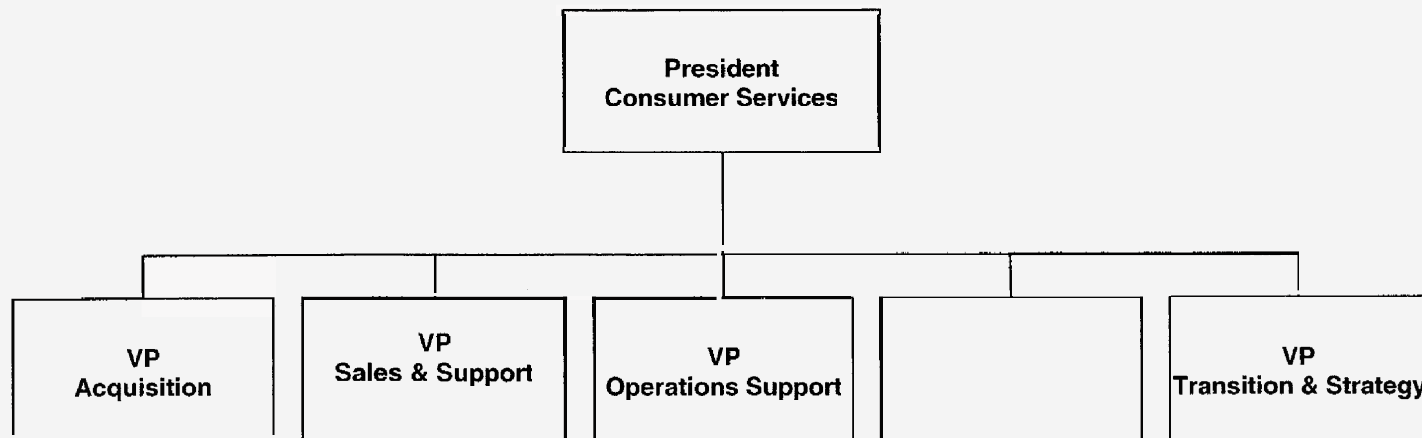
### 3.0 Sales Process

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

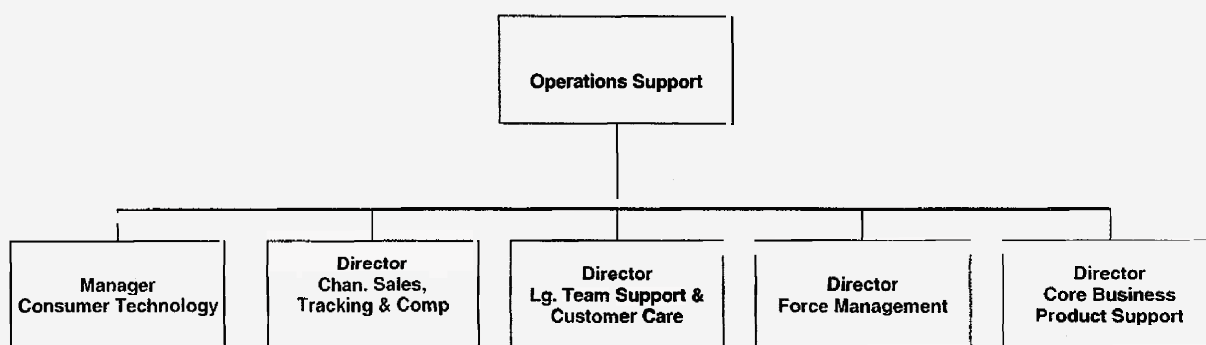


**EXHIBIT 1**

The Vice President for Operations Support for the Consumer Business Unit is located in Atlanta and oversees the sales process, which includes 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 service. 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.”

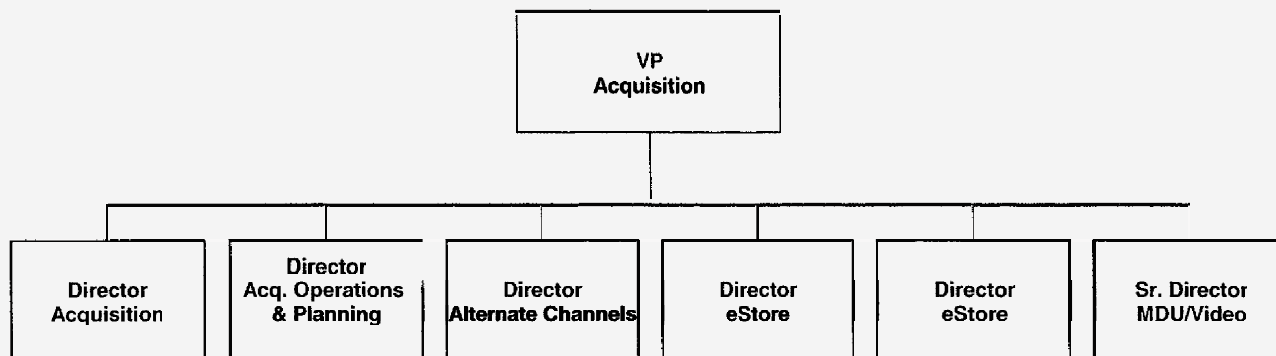
The Vice President for Sales and Support oversees the directors to whom the Sales and Support centers leaders report. Five directors oversee 20 Sales and Support centers throughout the nine-state region. Another director in Atlanta manages the Sales and Support Operations and Planning function for the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



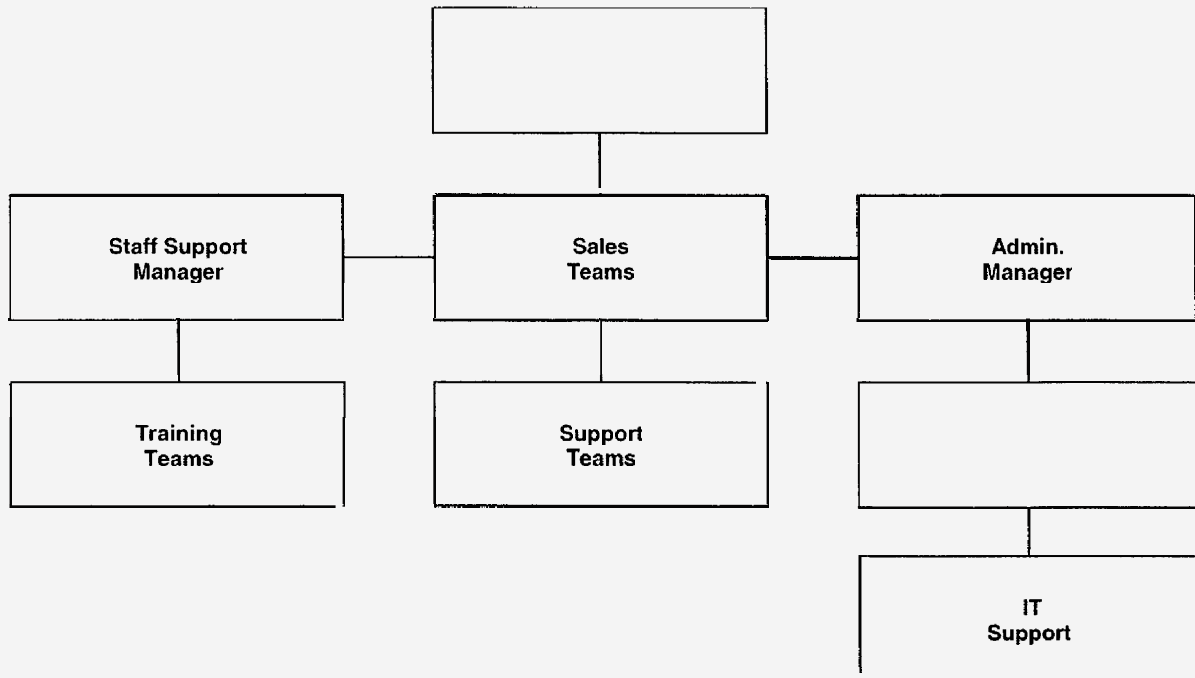
**EXHIBIT 3**

*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 organizational 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 to 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 & Light Company, 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 & Light Company (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.



### **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.

Goals in the vendor program are measured by how many sales occur per hour. BellSouth will reward the vendor with overpayment if contractual goals are exceeded or may impose penalties if underachievement or costly regulatory violations occur. All contracted vendors receive the same compensation terms. BellSouth said it is unconcerned about internal compensation schemes for individual vendor representatives.

### **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 into 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 [REDACTED] per call. The Consumer Process Analysis Team (CPAT) monitors vendor employees at random, although prearrangements 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 [REDACTED] per unauthorized sale plus any compliance costs imposed by regulators. A slamming complaint brings a [REDACTED] 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 [REDACTED] percent of vendor calls involving a complaint and that, in April 2003, the complaint rate was [REDACTED] 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 associates 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 employees 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 associates. 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 representative are maintained by management. According to the company, during 2003 BellSouth did not conduct any of the "save" awards and recognition programs that 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,

[REDACTED]

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 restaurant gift certificates if sales personnel sell defined numbers of products over a certain time period.

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. Employees 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 an employee’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 “chargebacks” 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 sales associates and service representatives are trained to use a sales technique known as “Discover and Propose” (D&P). By inquiry into a customer’s lifestyle, household, demographics or other information, the employee “discovers” opportunities to “propose” services and products that the customer does not currently use. As discussed below in Sections 3.5.3 and 3.5.4, BellSouth employees are trained and directed to propose new services to customers whether or not the customer has expressed interest in something new.

Current and former BellSouth employees stated that BellSouth sales associates 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 use of the following statements:

- [REDACTED]
- [REDACTED]
- [REDACTED]

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.

### **3.5.3 Overcoming Customer Objections to a Sales Opportunity**

BellSouth sales associates and service 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 employees are to attempt to have the customer explain his objection. Then, the employee is to acknowledge or validate the customer's negative feeling. In the next step, the employee is supposed to dig deeper to generate new information about why the customer objects. In the final LAER step, the BellSouth employee 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:

- A list item consisting of a small black square followed by a large black redaction block covering several lines of text.
  
- A second list item consisting of a small black square followed by a large black redaction block covering several lines of text.

[REDACTED]

[REDACTED]

[REDACTED]

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:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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**4.0 BELLSOUTH SALES PRACTICES  
CONTROLS**

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## **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 they have an ethical concern or suspicion relating to interactions with customers, managers, coworkers, vendors, and internal organizations. BellSouth states that no Caller ID is used and that employees may remain anonymous while making a report if they wish.

#### **4.1.1 Ethical Violations and Customer Abuse**

BellSouth procedures state that, "Fraud violations occur whenever an representative 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 an InterLATA Primary Interexchange 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."; and
- ◆ Failure to remove a feature requested by the customer;

Examples of "gross customer abuse" are situations that involve the following:

- ◆ Cutting off the customer;
- ◆ Using rude and/or abusive language during the call;
- ◆ Refusing to escalate the contact to the supervisor on request; or
- 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's territory for all acquisition and service functions. Ten CPAT monitors reside in six of the nine states of the region with none in Kentucky, Mississippi or Tennessee, although CPAT observers can visit and remotely monitor 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. 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.

Three of the monitors speak Spanish. CPAT observers are not competent in any language other than English and Spanish. 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. In light of these numbers, BellSouth's CPAT may need to increase its capability of monitoring calls in other languages such as Haitian, Creole, Portugese, and particularly Spanish

### **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. To meet this objective, monitors observe ten calls per coach per office. If an office has less than 14 coaches, monitors will continue to observe calls until they reach the 140 call objective.

When listening to a call, either on AutoQuality or live, CPAT observers are looking at the order and the same customer information, disclosures and pop-ups as the sales associates and service representatives. CPAT observers 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 members or others can go back to retrieve and monitor archived conversation in the AutoQuality system for up to seven days on an observed call. Unobserved calls are retained for three 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. The checklist contains 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 groups these 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, DSL, First Call Resolution, Call Routing, Complete/Accurate, Credit Class and Full Disclosure.

Guidelines exist to assist the CPAT observers 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 employee handled the complaint call, the CPAT monitor is to call the relevant calling center office and tell the employee'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 members, 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 employees 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 associate 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 employee who placed the order that led to the complaint. If warranted, disciplinary action is taken.

The BellSouth misconduct referral process for employees 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.

During the months of March, April and May 2003, CPAT monitors generated [REDACTED] referrals, respectively. The largest number of referrals came from the Service and Support gate accounting for [REDACTED] 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 the 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 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 regionwide 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 projected that approximately █ BellSouth customer calls had been affected by misconduct related to products – █ 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. The company points to the inherent confusion and communication difficulties involved in describing and familiarizing customers with a new product. CPAT looks to see what new promotions have been recently undertaken. The spikes in product and LPIC referrals may indicate that training and/or changes in BellSouth’s sales methods may have been problematic during that period and encouraged problematic solicitations. CPAT relays the information to ensure that training, coaching and management correct problematic scripts, training materials or behaviors. BellSouth states that if the CPAT monitor identifies a spike in product referrals, the product subject matter expert (SME) is advised. The SME then initiates additional training to correct the problem. If necessary, BellSouth said that coaches will take disciplinary steps. Staff verified that the DNO controls remain in place and are used by BellSouth to correct problematic presentations.

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.

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.

#### **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 that 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. The training manager is responsible for coordinating all training of new sales associates and service 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 fully addressed in training curriculae. Prior to the organizational 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 sales associates and service representatives receive the

same training for products, etiquette, sales techniques, etc. The training manager stated that there is no specific class on sales ethics or 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 sales associates or service representative, the employee receives eight 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 both build on-screen skills and boost motivation. The employees in Fast Start are not held accountable for sales objectives 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 employees to select their own training course topics. A supervisor/coach then decides the next course the employee 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 employees 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 the following:

- ◆ 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; and
- ◆ New Service installation guarantee credits.

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 employees 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, Confirmation Letters and Disclosures**

A combination of statutorily mandated and voluntary controls provide some degree of protection for consumers against cramming, improper sales practices and billing confusion.

### **4.4.1 Billing and Disclosure Requirements**

The FCC, the Florida Legislature and the FPSC have addressed cramming. Although the FCC has no rules that directly address cramming, unethical sales activities, or deceptive marketing practices, it did issue 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 the following 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 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....

#### **4.4.2 Order Recaps**

CPAT evaluations score sales associates and service 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 sales associates and service 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.

#### **4.4.3 Did Not Order Forms (DNO)**

Did-Not-Order (DNO) forms are used by BellSouth sales associates and service 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 associate or and 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 then conducts an investigation and identifies the employee who placed the order that led to the complaint. If warranted, disciplinary action is taken.

According to BellSouth, the organizational transformation brought changes to DNO processes. In 2002, the BellSouth DNO process involved employees or 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.

According to BellSouth, DNOs are now almost fully mechanized and available to be submitted on the web. According to the company, E-mailed or faxed DNOs are now rare. 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 the inbound telemarketing channel will be added to the central DNO database in January 2004.

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’s 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, ■ percent of DNOs were “verified” by the Large Team Support group. That means that, upon investigation, ■ 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 (a change of local toll and/or long distance carrier). Presumably, ■ 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 ■ DNOs were reported each month. During the same period in 2003, an average of ■ DNOs were reported – a ■ percent increase. In contrast, during the five-month period of July through November 2001, an average of only ■ DNOs were reported. According to information provided by BellSouth, the

monthly numbers of DNOs reported has varied from [REDACTED] during the period of July 2000 to May 2003. 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.” In response to staff’s inquiry regarding sanctions imposed on employees for unethical behavior, the company stated that it “does not compare the number of sanctions versus the number of contacts.”

#### **4.4.4 Least Cost and Lifeline Disclosures**

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. 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 nonpayment.

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 employees through the ORBIT system of disclosures required by jurisdictions applicable to the caller's locale. Florida rules requiring disclosures would be shown to the employees this way. The employee must actively click on the ORBIT screen to close it. ORBIT pops up on the employee'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.

## 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, and 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.”

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## **5.0 Consumer and Employee Complaints**

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## **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 reviewed by the FPSC, the FPSC's 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 of the complaints. BellSouth contends the trend must be placed into the context of an increasingly competitive marketplace in which more customer contacts take place.

### **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 sales associates and service representatives. The third parties include, but are not limited to, 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 the first half of 2003 by the FPSC Consumer Affairs Division.

### **5.3 BellSouth Employee Complaints**

During the conduct of this review, the FPSC received seven communications from present and/or former BellSouth employees in sales and service. These unsolicited contacts came to the FPSC in writing, by telephone, and via the Internet. This section summarizes each complainant's points and provides for each the results of BRR staff's analysis and review efforts.

A detailed complaint was sent anonymously to the FPSC website. The writer, who named him/herself "Whistleblower," enumerated the following 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 sales associates 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. CPAT observers specifically screen for sales associates and service representatives failing to fully disclose costs. In addition, as discussed in Section 4.1.1 of this report, sales associates and service representatives failing to fully disclose costs could be subject to disciplinary procedures.

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 sales associates and service representatives.

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

Analysis: Product referral numbers do indicate that customers experience some unwanted sales, billing problems and misrepresentation of cost or service capabilities. The low numbers of complaints received by the Commission appear to indicate that the vast majority of these problems are resolved through BellSouth's internal processes and controls. CPAT observers specifically screen for sales associates and service representatives failing to fully disclose costs. If observed doing so, these employees could be subject to disciplinary procedures. Staff did not observe the alleged behavior while monitoring calls and observing sales associates and service representatives.

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: Product referral numbers do indicate that customers experience some unwanted sales, billing problems and misrepresentation of cost or service capabilities. The low numbers of complaints received by the Commission appear to indicate that the vast majority of these problems are resolved through BellSouth's internal processes and controls. CPAT observers specifically screen for sales associates and service representatives failing to fully disclose costs. If observed doing so, these employees could be subject to disciplinary procedures. Staff did not observe the alleged behavior while monitoring calls and observing sales associates and service representatives.

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: Staff found no evidence to support this allegation and did not observe the alleged behavior while monitoring calls and observing sales associates and service representatives..

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

Analysis: Staff found no evidence to support this allegation. As noted in Section 3.5, staff examined BellSouth scripts and found that the scripts specifically instruct the employee to disclose shipping costs. CPAT observers screen for sales associates and service representatives failing to do so. If observed doing so, these employees could be subject to disciplinary procedures. Staff did not observe the alleged behavior while monitoring calls and observing sales associates and service representatives.

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

Analysis: Staff found no evidence to support this allegation. Staff witnessed BellSouth employees 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. CPAT observers specifically screen for sales associates and service representatives failing to cover prorated charges. If observed doing so, these employees could be subject to disciplinary procedures.

The second complainant discussed concerns over unethical practices including cramming, unfair workplace expectations, nepotism, and workplace health matters. The caller had been an employee in both sales and service and was 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.

A third complainant, a former BellSouth employee, said that BellSouth forces its employees to cram. This complainant discussed pressure to minimize call times. The complainant states 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.

Staff did not observe the alleged behavior. Staff believes that minimizing call times is an appropriate efficiency goal and agrees that individual employees should be held responsible for following reasonable ethics policies. Staff recommendations regarding sales objectives are presented in Section 6.4.

A fourth complainant, also a BellSouth employee, alleged BellSouth encourages aggressive sales tactics by its employees 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 “chargebacks” 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 more effective and broader disincentives for unwanted sales than “chargebacks” previously provided.

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. Staff recommendations regarding sales objectives are presented in Section 6.4.

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. In Section 6.8, staff recommends that BellSouth add more foreign language capability to its CPAT process.

A fifth complainant, alleged that BellSouth “keeps numbers” on employees 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 employees 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 observed the AutoQuality system and saw no evidence that it selected calls other than randomly.

The sixth complainant, a BellSouth employee, 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. Staff did not observe any such failure. Failure to disclose costs by sales associates or service representatives could result in disciplinary action.

The 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 employees due to “intimidation tactics” and “pressures to sell.” During the review, staff obtained memos from complainants that alert BellSouth sales associates or service representatives of the Commission’s presence during monitoring. It is not clear whether these memos pertained to staff’s activities in this review or to those of other staff members during other on-site visits.

The seventh complainant is also a BellSouth employee who discusses ever-changing and “ridiculous sales objectives” and managers who harass employees for “messaging with their money” and bonuses. The complainant also describes employee/customer interactions in which high pressure is used to take advantage of confusion in seniors and busy parents. The complainant stated that little thought is given to whether customers can afford the services they have selected and that customers are sometimes falsely complimented on their good credit rating to encourage sales. The writer also alleges failures to fully disclose all “activation fees, contract terms, monthly rates.”

Staff did not observe any failure to disclose costs, nor the use of these techniques during this review. Product referral numbers do indicate that customers experience some unwanted sales, billing problems and misrepresentation of cost or service capabilities. The low numbers of complaints received by the Commission appear to indicate that the vast majority of these problems are resolved through BellSouth’s internal processes and controls. Employees who fail to fully disclose costs are subject to disciplinary procedures.

In addition, similar to the fourth complainant, the seventh complainant alleges that since “chargebacks” were discarded by management, employees are sending customers unwanted products and still collecting the commission payments for sales that are later reversed. Section 3.5.1 discusses BellSouth’s current incentive compensation plan, which substituted more effective and broader disincentives for unwanted sales than “chargebacks” previously provided.

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## **6.0 CONCLUSIONS**

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## **6.0 Conclusions**

Based upon its analysis, the Bureau of Regulatory Review staff presents the following conclusions and recommendations.

### **6.1 Least Cost and Lifeline Disclosures**

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. Staff continues to believe, as stated in its 2001 sales practices review report, that BellSouth should disclose basic service offerings to customers prior to offering other calling plans.

### **6.2 Assumptive Sales Practices**

Current and former BellSouth employees stated that BellSouth sales associates and service representatives are coached to “assume the sale.” Documents supplied by BellSouth and the complainants demonstrate examples of assumptive sales practices. Staff believes that sales pitches such as those which encourage the sales associates and service representatives to “assume the sale” are aggressive and can be deceptive and misleading. BRR staff concurs with statements regarding assumptive sales in the telecommunications industry issued by the FCC. Staff recommends that BellSouth carefully examine its assumptive sales practices and associated program materials, including training materials and scripts.

### **6.3 Sales Objectives and Incentives**

Complainants alleged that BellSouth pushes its sales and service force to ever higher sales goals, which results in employees resorting to inappropriate sales tactics. They contend that when the aggressive tactics result in unwanted sales or cramming, the individual employee is blamed for

the transgression. The complainants argued that BellSouth's sales incentives and aggressive sales objectives are the root causes of many ethical breaches and cause higher turnover of employees.

Either there is a small but vocal number of disgruntled employees who repeat these allegations or the complaints received represent a substantial number of other BellSouth employees' 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.

Based upon recent levels of product referrals, staff believes that BellSouth should conduct a study to ensure that its sales incentive programs are comparable to those of other companies and to determine whether or not the current practices are leading to inappropriate behavior.

## **6.4 Call Center Metrics and Performance Comparisons**

While extensive analysis of individual employee performance is conducted by BellSouth, little comparison of performance among call centers is done to ensure consistency. BRR staff believes BellSouth should examine and compare call center performance measures that indicate compliance with its ethics standards. Information regarding best and worst practices should also be analyzed and widely disseminated. Such analyses might show the effect of increased sales objectives, inconsistent training, etc., on a regional as well as local basis. Suggested actions include the following:

- ◆ Call Center performance measures, including but not necessarily limited to the following, should be compared:
  - ▶ DNO forms generated;
  - ▶ associate referrals by category (Associate Referral Summary Report and Graph);
  - ▶ projected customers affected;
  - ▶ disciplinary sanctions imposed; or
  - ▶ employee turnover rates.
  
- ◆ CPAT best and worst practices reports should be created and circulated to managers.
  
- ◆ Relevant Ethics Hotline investigation results should be circulated to managers.
  
- ◆ Individual cases of ethical problems should be researched and cross-referenced against similar occurrences involving any of the following:
  - ▶ product referrals;
  - ▶ DNO forms;
  - ▶ CPAT observations; or
  - ▶ Ethics Hotline complaints.



- ◆ Periodic reviews of training programs and materials and sales promotions should be conducted in terms of trends in the following:
  - product referrals;
  - DNO forms;
  - CPAT observations; and
  - Ethics Hotline complaints.
- ◆ A disciplinary action matrix guide should be created addressing both craft and management ethical violations to ensure consistency among centers.

## **6.5 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. BRR staff believes BellSouth should increase CPAT's multi-lingual capabilities.

## **6.6 CPAT Product Referral Calls**

Based upon the referrals generated through CPAT call observations, BellSouth projects an estimate of calls effected by issues such as unwanted sales, failures to remove products from a customer bill as requested, and misrepresentations of costs or service capabilities. For example, for the nine-state region BellSouth estimated a monthly average of 28,400 calls effected by misconduct over the first five months of 2003. This translates into hundreds of thousands of these calls each year. Undoubtedly such calls include many that are merely the result of customer confusion or miscommunications. However, by BellSouth's own definition, many could be the result of improper sales efforts, including fraud and customer abuse.

In May 2003 alone BellSouth's estimate of customers effected by misconduct was over 46,000 calls regionwide. Of those 46,000 projected customers affected, approximately 59 percent were due to calls made into BellSouth Sales and Support employees. A similar trend was noted in the category of "LPIC referrals" in which the April and May 2003 figures were more than quadrupled over the previous three months' average.

Staff believes that BellSouth should employ vigorous preventive measures, such as scripts, training, and course content, to test sales materials during development prior to putting the materials into a real customer environment. To complement its corrective actions, BellSouth should more rigorously review training curricula, sales scripts, coaching suggestions and promotional materials while in development.

## **6.7 Employee and Customer Complaints**

Staff did not identify evidence verifying the specific allegations of improper sales techniques made by complainants, though staff does note that BellSouth aggressively markets its services and that customer confusion can easily occur. Indicators such as CPAT product referrals and Did Not Order forms that result from customer calls clearly establish that a potentially significant number of customers find it necessary to seek corrections after sales contacts.

However, customer complaints received by the Florida Public Service Commission's Division of Consumer Affairs and the on-site observations of staff do not indicate a widespread problem of improper sales practices. Staff researched recent cramming complaints filed at the FPSC against BellSouth. The FPSC Consumer Affairs Division received 11 cramming complaints in 2001. The number of unwanted sales complaints rose to 22 in 2002. Through August 2003, 25 cramming complaints against BellSouth were received. BellSouth resolved all of the complaints. BellSouth contends that the trend must be placed into the context of an increasingly competitive marketplace in which more customer contacts take place. Staff also notes that these relatively few customer complaints should be viewed against the context of the millions of Florida access lines served by BellSouth.

In recent years, the FPSC has received 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, staff believes that BellSouth should take appropriate steps to address the recurring themes in these complaints.

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## **7.0 COMPANY COMMENTS**

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## **7.0 Company Comments**

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

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### **Chapter 1 – Executive Summary**

#### **Section 1.3 – Methodology**

BellSouth is troubled by the fact that the Staff interviewed current BellSouth employees during the course of the audit without providing notice to BellSouth and an opportunity to be present. Moreover, no opportunity was given BellSouth to review any so-called “unsolicited documentation” until after the audit report was written. BellSouth believes that the Staff’s inclusion of this material in the audit report is inappropriate, particularly since the vast majority of the allegations were not substantiated.

### **Chapter 2: Background**

#### **Section 2.2- BellSouth Sales Methods and Practices 2001**

The Staff states “staff found that BellSouth representatives appeared to make use of customer confusion with offerings presented as a class of service.” As stated in our comments to the 2001 report, BellSouth does not believe that this allegation is supported by facts and that the Staff’s conclusion was an opinion based on limited information obtained from complaint letters and limited observations. As agreed by the Staff, BellSouth was not then and is not currently in violation of any Commission rule. BellSouth is not required to disclose basic service options prior to offering any other call plans.

### **Chapter 4 – BellSouth Sales Practices Controls**

#### **Section 4.4.3 – Did Not Order Forms (DNO)**

In the fourth paragraph on page 43, it states that failure to submit a DNO is considered “gross customer abuse.” This statement is incorrect. Failure to submit a DNO is considered “failure to follow procedures.”

## **Chapter 5 – Consumer and Employee Complaints**

### **Section 5.3 – BellSouth Employee Complaints**

This entire section should be deleted. First, as mentioned several times herein, BellSouth was not notified of these so called complaints nor given an opportunity to investigate during the course of the audit. Second, there is no indication that Staff substantiated any of the allegations made. However, there is no focus on that, rather the focus is on the sensational allegations made. Third, this is simply unacceptable auditing practice. If the auditor, by reviewing sales practices, training material, or interviews, found specific evidence of wrongdoing, then the specific facts should be stated. Absent such findings, non-fact based allegations create the inference of compliance issues where they do not exist and are not appropriate in an audit report.

## **Chapter 6.0 – Conclusions**

### **Section 6.1 – Least Cost Disclosures**

BellSouth does not believe this conclusion is supported by the facts and refers Staff to BellSouth's response to the 2001 Audit. As agreed by Staff therein, BellSouth is not in violation of Rule 25-4.107, Florida Administrative Code. The rule does not specify a certain time during the initial contact with the customer when the company should disclose the least expensive service. The Staff's recommendation of requiring the disclosure of basic local service upfront would require a change in the current Commission rule. Additionally, BellSouth would point out that the current rule requiring disclosure is not applicable to CLECs. In an ever increasing competitive local environment, BellSouth believes that additional regulatory requirements placed upon the ILECs would be discriminatory.

### **Section 6.3 – Sales Quotas and Incentives**

BellSouth acknowledges that employees complain about the sales aspect of their job. In an environment in which BellSouth is held to higher standards than its competitors, BellSouth must be active and assiduous in selling its products and services in order to retain its customers. Additionally, as long as BellSouth continues to have the appropriate controls in place to deter deceptive marketing practices, Staff should not be concerned with the sales quotas placed on representatives. BellSouth works very hard to put customers first and provide service in the most efficient manner. BellSouth treats its customers and its employees fairly and ethically and finds no evidence in the draft report to the contrary. BellSouth believes Staff's conclusion regarding sales quotas are not substantiated by facts. Furthermore, BellSouth believes that Staff has overstepped its jurisdiction on this matter.

### **Section 6.4 – Call Center Metrics and Performance Comparison**

BellSouth believes that the Staff has made some valid suggestions and we will take them under consideration.

### **Section 6.5 – CPAT Multi-Lingual Capability**

With regard to other languages, BellSouth has included an option in the job posting that additional languages would be an asset and asking the applicant what specific languages they speak. The new job posting has already borne fruit as a new CPAT monitor has been hired recently who is fluent in Creole. It should be kept in mind though that the most qualified candidate may speak English only.

### **Section 6.6 CPAT Product Referral Calls**

Procedures are in place to identify training or behavioral issues surrounding product spikes. If the CPAT monitor identifies a spike in product referrals, the product subject matter expert is notified. The subject matter expert will then initiate additional training through job aids and Desk Top Communications training. The coach will take appropriate disciplinary action if necessary.

### **Section 6.7 Employee and Customer Complaints**

BellSouth employees are a microcosm of society. BellSouth cannot prevent an individual from acting unethically if that individual is determined to do so. We can only put the right controls in place to deter, detect, and punish such behavior. This BellSouth has done.