

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

-----

In the Matter of the Application of TOUCH ) AMERICA, INC., QWEST COMMUNI- ) CATIONS INTERNATIONAL, INC., and ) TELEDISTANCE, INC., for Approval of ) the Transfer of the Stock of Teledistance ) Holdings, Inc., the Parent of Teledistance, ) Inc., from Qwest Communications Internat- ) ional, Inc., to Touch America, Inc. )	<p><u>DOCKET NO. 00-2312-01</u></p> <p><u>REPORT AND ORDER</u></p>
---	--

-----

Issued: May 23, 2000

SYNOPSIS

No detriment to the public interest appearing, the Commission approved the proposed stock transfer.

-----

By the Commission:

PROCEDURAL HISTORY

On March 15, 2000, the above-named joint petitioners filed their petition seeking approval of the transfer of stock currently held by Qwest Communications International, Inc. The matter was referred for review and recommendation to the Division of Public Utilities, Utah Department of Commerce (DPU), which filed its memorandum recommending approval May 11, 2000. We adopt said memorandum, annexed hereto and incorporated herein by this reference, as the Commission's finding of facts in this matter. Since the matter has engendered no opposition, and appears unlikely to do so, we have determined to dispose of it without further proceedings. We conclude the proposed transfer is in the public interest and should be approved. Accordingly, the Administrative Law Judge, having been fully advised in the matter, now enters the following proposed

ORDER

WHEREFORE, IT IS HEREBY ORDERED that:

The proposed stock transfer be, and it is, approved effective the date of this Order.

Any person aggrieved by this Order may petition the Commission for review within 20 days of the date of this Order. Failure so to do will forfeit the right to appeal to the Utah Supreme Court.

DATED at Salt Lake City, Utah, this 23<sup>rd</sup> day of May, 2000.

/s/ A. Robert Thurman  
Administrative Law Judge

Approved and Confirmed this 23<sup>rd</sup> day of May, 2000, as the Report and Order of the Public Service Commission of Utah.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary

May 8, 2000

## MEMORANDUM

**TO: PUBLIC SERVICE COMMISSION**

**FROM: DIVISION OF PUBLIC UTILITIES**

Ric Campbell, Director  
Ingo Henningsen, Manager, Telecommunications  
Bart Croxford, Regulatory Analyst  
Krystal Fishlock, Regulatory Analyst  
Emily Marshall, Utility Economist

**RE: Docket No. 00-2312-01 - Transfer of Stock of TeleDistance Holdings, Inc. from Qwest Communications International Inc. to Touch America, Inc.**

**ISSUES:** The purpose of this filing is to seek approval to transfer the stock of TeleDistance Holdings, Inc. (TDH), the parent of TeleDistance, Inc. (TDI), from Qwest Inc. to Touch America, Inc. In order to comply with Section 271 of the Communications Act of 1934, as amended ("Section 271"), the subsidiaries of Qwest Inc. are required to divest themselves of all in-region interLATA long distance services to both residential and business end-user customers residing in the State of Utah before completion of the merger between Qwest Communications International Inc and U S West, Inc. may take place.

To effectuate this divestiture, Qwest Inc. established a new wholly-owned direct subsidiary, TeleDistance Holdings, Inc., which has one, wholly-owned, subsidiary, TeleDistance. TeleDistance has applied, via another application ("TeleDistance Application" - Docket No. 00-2310-01), for authority to provide competitive telecommunications services in Utah. As detailed in the TeleDistance application, the subsidiaries of Qwest Inc. will assign the customers and other assets to be divested to TeleDistance, anticipated to occur at the time of the Stock Transfer of TeleDistance Holdings, Inc. to Touch America, Inc ("Stock Transfer"). The divestiture will be accomplished by transferring the affected customer assets and services obligations, as well as network facilities (including dark fiber in the form of an IRU along one specified route, associated optronics, and eleven frame relay/ATM data switches, to TeleDistance. Control of TeleDistance will pass to Touch America, and then the company's name will be changed to Touch America Services, Inc. Qwest will not have any ongoing financial interest in the transferred business after the sale, nor will it have any right to repurchase this business at a later date.

**RECOMMENDATION:** The Division recommends that the Petition of the Parties be approved. The Division believes that the proposed transfer is in the public interest. Current Utah customers who will be affected by the transfer will be notified of the change by Touch America twice, once before the switch and once after the switch. In addition, Touch America has contracted with Qwest to provide transitional support services for certain periods of time, which should make the transition from Qwest to Touch America relatively transparent in the eyes of the Utah customer (besides the obvious name change on his/her phone bill). The sale of Montana Power's regulated entities will also facilitate a large investment by Touch America into deploying new facilities and adding improvements, which will also benefit Utah consumers by providing higher quality service.

**BACKGROUND:** Touch America is a Montana Corporation with its principle office and place of business at 130 East Main Street in Butte Montana. It is a wholly-owned subsidiary of Entech, Inc., which is a wholly-owned subsidiary of Montana Power. Montana Power is a provider of regulated energy, including electric transmission and distribution operations, regulated natural gas transportation, distribution, and storage operations, coal operations, independent power operations, and oil and natural gas exploration, development, production, and processing operations, including operations involved with the trading and marketing of oil, natural gas, and natural gas liquids.

Touch America is Montana Power's telecommunications subsidiary and the focus of its growth strategy is in broadband fiber-optic and wireless spectrum applications. Montana Power's 1999 Annual Report and 10-K Report indicate that the telecommunications businesses (mainly under the direction of Touch America) including joint ventures are financially sound, generating approximately \$35 million in net income from telecommunications operations.

The management team of Touch America is an experienced provider of an array of telecommunications services and has supervised the construction and operation of a fully-digital fiber network and oversees the provision of dedicated long distance, travel cards, toll-free telephone, Internet services, conference calling and carrier termination. Touch America is now certified to operate in ten states.

Touch America has the technical expertise to develop, construct, operate, and maintain a fiber-optic network and digital microwave facilities. In total, its current fiber network spans 14 states and is comprised of up-to-date fiber technology and includes SL SMF28, and LEAF fiber. It has also installed or is upgrading to Dense Wave Division Multiplexing (DWDM) technology, which greatly increases the capacity of each fiber strand.

On March 28, 2000, Montana Power issued a statement that it intends to offer for sale all of its regulated energy businesses listed above. The Division questioned whether this sell-off of Montana Power's traditional power business could affect the financial viability of the company - post-Utah portion of the TeleDistance acquisition. According to Touch America's response, the total book value of all of Montana Power's plant, property and equipment as of December 31, 1999 was \$1,700,000,000, while the value of the property, plant and equipment that are part of the businesses that they will offer for sale is approximately \$1,500,000,000. Further, upon completion of the sales of their energy businesses, some of which are subject to shareholder approval, revenues from the sale of the regulated electric utility will go toward updating and investing in Touch America.

Another concern of the Division is the sufficient notification to current Qwest customers of the change of providers - from Qwest to Touch America (the transfer of assets from Qwest to TeleDistance will be transparent to the Utah customer). According to responses of Division data requests, Touch America will distribute pre- and post-migration customer notification letters to current Qwest customers. The letters advise customers that they have the right to change carriers. Further, affected Utah customers will not be responsible for any presubscribed interexchange carrier ("PIC") change charge in association with their assignment to TeleDistance and the transfer to Touch America; such charge will be paid by Qwest Inc. and/or Touch America. Moreover, Qwest Inc. and/or Touch America will reimburse one PIC change charge for any customer changing carriers within 60 days of notice of the transfer of the customer's account to Touch America, provided that Qwest Inc. and/or Touch America will not reimburse charges separately paid and/or reimbursed by another carrier.

The transfer of customers from Qwest to Touch America should be smooth. Touch America will obtain support services from Qwest to facilitate the transition of the divested business. The support will include: (a) for up to six months, assistance in order entry, training, customer service staff and other professional services; and (b) for up to one year billing and collection, software licensing, data processing, and switch maintenance and similar technical support. These transitional support services will be provided in a manner that ensures that Qwest's role is invisible to customers at all times, and prices of the transitional support services will not be based in any way on the level of Touch America's in-region revenues.

cc: Jonathan S. Marashlian, Esq.  
Steven F. Morris, Esq.  
Kevin N. Anderson, Esq.  
Robert Palmer Rees, Esq.

