

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Transfer of Operating Authority of TOUCH AMERICA SERVICES, INC., to TOUCH AMERICA, INC.	)	<u>DOCKET NO. 01-2310-01</u>
	)	
	)	<u>REPORT AND ORDER</u>

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ISSUED: June 7, 2001

SYNOPSIS

No detriment to the public interest appearing, the Commission approved the proposed certificate transfer. Since the transfer was merely from subsidiary entity to its parent, the Commission waived the requirement of notice and approval from each customer.

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By The Commission:

PROCEDURAL HISTORY

On April 12, 2001, the above-named entities filed an application for transfer of operating authority. Additionally, since the transfer is merely from a subsidiary to its parent, the parties sought a waiver of the Commission's requirement that all customers be notified of the transfer and their explicit permission be sought for change in their preferred interexchange carrier. The matter was referred for review and recommendation to the Division of Public Utilities, Utah Department of Commerce (DPU), which filed a recommendation for approval May 16, 2001. The Administrative Law Judge, having been fully advised in the matter, now enters the following Report, containing proposed findings of fact, conclusions of law, and the Order based thereon.

FINDINGS OF FACT

1. Touch America Services, Inc. (Transferor), is a telephone corporation, as defined by Utah law, certificated by this Commission.
2. Touch America, Inc. (Transferee), is a Montana-domiciled corporation qualified to do business in Utah. It is the parent corporation and 100% owner of Transferor.
3. Details of the business restructuring and rationale for the authority transfer are set forth in the DPU memorandum which is annexed hereto and incorporated herein by this reference.

CONCLUSIONS OF LAW

No detriment to the public interest appearing, the transfer should be approved and the Commission's customer notice requirement is waived.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

- The transfer of Certificate No. 2310 to Touch America, Inc., be and it is, approved, on all conditions set forth in

the original.

- The records of the Commission be amended to show the Transferee as holder of Certificate of Convenience and Necessity No. 2310.
- The Commission's requirement of notice to customers and explicit permission for change in preferred interexchange carrier be, and it is, waived.
- 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 7th day of June, 2001.

/s/ A. Robert Thurman  
Administrative Law Judge

Approved and Confirmed this 7th day of June, 2001, as the Report and Order of the Public Service Commission of Utah.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Richard M. Campbell, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary

{Division Letterhead}

May 9, 2001

**TO: PUBLIC SERVICE COMMISSION**

**FROM: DIVISION OF PUBLIC UTILITIES**

Lowell Alt, Director  
Ingo Henningsen, Manager, Telecommunications  
Peggy Egbert, Technical Consultant  
Bart Croxford, Regulatory Analyst

**Re: Application for Authority to Transfer Touch America Services, Inc.'s Certificate to its Parent, Touch America, Inc. in Docket No. 01-2310-01**

**Issues:**

Touch America Services, Inc. ("TAS") filed an Application with the Commission to transfer its Certificate of Public Convenience and Necessity ("CPCN") to Touch America, Inc. ("TAI") on April 12, 2001. TAS received its CPCN on June 26, 2000 in Docket No. 00-2310-01.

TAS was formed by Qwest Communications International Inc. to facilitate the federally-mandated divestiture of its interLATA customers and assets in the 14-state service territory. As part of its agreement to purchase TAS from Qwest, TAI entered into a one-year-long transition services agreement ("TSA"), in which Qwest provides certain back-office and technical support to ease the transition of customers. At the conclusion of the TSA on June 30, 2001, TAS proposes to transfer all customers currently served under its carrier identification code ("CIC") to TAI's CIC code and transfer all of its remaining assets to TAI. Once its

subsidiary's assets and customers have been transferred, TAI will file papers to dissolve TAS. TAI would remain as the corporate entity directly serving Utah customers. However, prior to transferring the assets and customers of its subsidiary, TAI requires a CPCN to operate in Utah in the same capacity as its subsidiary currently does.

Because customers subscribed to TAS will technically have their preferred interexchange carrier changed if the Commission approves this petition, TAI also seeks a waiver of the Commission's Customer Authorization Rule to allow it to transfer customers without first obtaining their individual consent.

The entire management team of TAS is shared with its parent, TAI; therefore, TAI's management team is qualified to directly control the CPCN. TAI is certified or otherwise authorized to provide switched and dedicated interexchange telecommunications services in thirty-five states and, in no instance, has any TAI application for federal or state telecommunications authorization been denied for rejected. The summaries of professional experience and education of its managerial personnel indicate that it has considerable experience in the telecommunications industry.

According to financial statements audited by the CPA firm of PriceWaterhouseCoopers, the Applicant has a positive net worth and is financially solvent.

**Recommendation:**

The Division believes that the information that TAI and TAS have provided is sufficient for the Division to recommend approval and should be considered under R746-110, which permits uncontested matters to be adjudicated informally. Additionally, the Division recommends that the Commission grant TAI a waiver of the Commission's Customer Authorization Rule to allow it to transfer customers without first obtaining their individual consent.

CC: Jonathan S. Marashlian, Touch America  
Division of Public Utilities  
Michael Ginsberg, Assistant Attorney General  
Committee of Consumer Services