

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  TALK AMERICA, INC., f/k/a TEL-SAVE, INC.	DOCKET NOS. TCU-97-12 TF-02-396 WRU-02-24-581
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**ORDER RECOGNIZING CORPORATE NAME CHANGE, APPROVING TARIFF,  
GRANTING WAIVER, AND ISSUING CERTIFICATE**

(Issued July 23, 2002)

On June 27, 1997, the Board issued an order in Docket No. TCU-97-12, granting the application of Tel-Save, Inc. (Tel-Save), n/k/a Talk America, Inc. (Talk America), to provide local exchange service in the listed exchanges and approving concurrence in the exchange maps of Qwest Corporation, f/k/a U S WEST Communications, Inc. (Qwest). In that order, the Board stated that a certificate would be issued when Tel-Save obtained an approved tariff setting forth the prices, terms, and conditions of local exchange service in Iowa.

On June 28, 2002, Talk America filed a proposed local exchange tariff with the Utilities Board (Board) providing the terms, conditions, and rates for local exchange service in listed exchanges as described in the local exchange maps in the tariffs of Qwest. On July 8, 2002, Talk America filed a supplement to its tariff. The proposed tariff has been identified as Docket No. TF-02-396.

Also on June 28, 2002, Talk America filed a pleading indicating to the Board that it had changed its corporate name. Talk America stated that its corporate name had changed from Tel-Save, Inc., to Talk America, Inc.

The Board will recognize the corporate name change to Talk America, Inc. The Board has also reviewed the proposed tariff and finds that it substantially complies with Board rules for the filing and processing of tariff pages. The tariff contains rates for both business and residential customers. Notice was provided to all affected carriers. The Board will approve the tariff effective the date of this order and issue Talk America a certificate of public convenience and necessity concurrent with this order. Certificate No. 0251 will be issued to Talk America pursuant to Iowa Code § 476.29 (2001).

Talk America has also requested the Board waive the requirements of 199 IAC 16.5(2), 18.2, and 22.3(1). The waiver requests have been identified as Docket No. WRU-02-24-581.

Talk America requested a waiver of 199 IAC 16.5(2), which requires the keeping of records according to the uniform system of accounts. Talk America states it will maintain its books in accordance with generally accepted accounting principles (GAAP). The Board finds this waiver should be granted since records kept in accordance with GAAP accounting are acceptable for a competitive local exchange service provider.

Talk America has requested the requirements of 199 IAC 18.2 be waived. The rule requires that a regulated public utility keep its records in Iowa. The Board will

grant the waiver based on Talk America's statement that it will make the records available to the Board upon request.

Talk America also requests a waiver of 199 IAC 22.3(1), requiring it to independently publish a directory. The Board will grant the waiver based upon Talk America's statement that it will arrange for its customers to be included in the directories published in the areas where it provides local exchange service.

Rule 199 IAC 1.3 states that the Board may grant waivers if it finds, based upon clear and convincing evidence, that the application of the rule would pose an undue hardship, would not prejudice the substantial legal rights of any person, the provisions waived are not specifically mandated by statute, and substantially equal protection of public health, safety, and welfare will be afforded after the waiver. The Board has considered the waiver requests as described above and finds that the waiver meets the four criteria of the rule and the evidence in support of the waiver is clear and convincing.

Adherence to these rules would be an undue hardship on a competitive telecommunications company just beginning to do business in Iowa. It would be an undue hardship for such companies to keep a separate set of books just for Iowa, to maintain a separate set of records in Iowa, and to publish a directory for just their customers. The Board finds there are no substantial legal rights of any person that are affected by these waivers, and there is no statute that specifically mandates the actions waived. Additionally, the Board finds that there will be substantially equal

protection of the public health, safety, and welfare provided since the actions waived will be completed under different circumstances.

**IT IS THEREFORE ORDERED:**

1. The corporate name change from Tel-Save, Inc., to Talk America, Inc., requested on June 28, 2002, is approved.
2. The proposed tariff, identified as Docket No. TF-02-396, filed by Talk America, Inc., f/k/a Tel-Save, Inc., on June 28, 2002, is approved.
3. The waiver of 199 IAC 16.5(2), 18.2, and 22.3(1), identified as Docket No. WRU-02-24-581, is granted as described in this order.
4. Certificate No. 0251 is being issued concurrently with this order. Under this certificate, Talk America, Inc., f/k/a Tel-Save, Inc., will be allowed to provide local exchange service as shown by its tariffs as currently and subsequently approved.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Sharon Mayer  
Executive Secretary, Assistant to

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 23<sup>rd</sup> day of July, 2002.