

Decision 21-07-016 July 15, 2021

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of EarthGrid PBC for a
Certificate of Public Convenience and
Necessity to Operate as a Competitive
Local Carrier to Provide Full
Facilities-Based and Resold Competitive
Local Exchange Telecommunications
Services and Interexchange Service as a
Non-Dominant Interexchange Carrier in
California.

Application 20-12-012

**DECISION GRANTING EARTHGRID PBC A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY TO PROVIDE FULL FACILITIES-BASED
AND RESOLD COMPETITIVE LOCAL EXCHANGE SERVICES
AND RESOLD INTEREXCHANGE SERVICES**

TABLE OF CONTENTS

Title	Page
Summary	2
1. Background	2
2. Jurisdiction	4
3. California Environmental Quality Act (CEQA).....	5
4. Financial Qualifications.....	9
5. Technical Qualifications	11
6. Tariffs	12
7. Map of Service Territory	13
8. Rule 3.1(i) Statement	14
9. Expected Customer Base	14
10. Environmental and Social Justice	14
11. Request for Treatment as a Non-dominant Interexchange Carrier	15
12. Request for Exemption from the Requirement to Keep its Books and Records in Accordance with the Uniform System of Accounts.....	16
13. Safety Considerations	16
14. Conclusion.....	17
15. Request to File Under Seal	18
16. Waiver of Comment Period	18
17. Assignment of Proceeding	18
Findings of Fact.....	19
Conclusions of Law	21

ATTACHMENT A - (LEFT INTENTIONALLY BLANK)

**ATTACHMENT B - REQUIREMENTS APPLICABLE TO COMPETITIVE
LOCAL EXCHANGE CARRIERS AND
INTEREXCHANGE CARRIERS**

ATTACHMENT C - ANNUAL REPORT

**ATTACHMENT D - CALENDAR YEAR AFFILIATE TRANSACTION
REPORT**

**DECISION GRANTING EARTHGRID PBC A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY TO PROVIDE FULL FACILITIES-BASED
AND RESOLD COMPETITIVE LOCAL EXCHANGE SERVICES
AND RESOLD INTEREXCHANGE SERVICES**

Summary

Pursuant to Public Utilities Code § 1001, we grant EarthGrid PBC a certificate of public convenience and necessity to provide full facilities-based and resold competitive local exchange services and resold interexchange services in California subject to the terms and conditions set forth in the Ordering Paragraphs.

This proceeding is closed.

1. Background

On December 16, 2020, EarthGrid PBC (EarthGrid or Applicant), a corporation authorized to do business in California, filed an application for a certificate of public convenience and necessity (CPCN) to provide full facilities-based and resold competitive local exchange services and resold interexchange services as a non-dominant interexchange carrier in California.

EarthGrid initially proposes to provide competitive local exchange services to business and enterprise customers via underground utility tunnels containing ultra-high-speed fiber optic lines and other related telecommunications facilities in existing utility right of ways. Applicant notes that the tunnels will be in locations “where ‘middle mile’ is lacking for voice, broadband, and other utility applications.” In areas without electric power, the tunnels would also bring electrical wires to power the telecommunications equipment.¹

However, in the second Amended Application filed on March 25, 2021, EarthGrid states that it proposes to build its first project by running fiber optic

¹ See, EarthGrid Application (December 16, 2020) at 4.

cable on existing overhead electrical towers or poles, which will require the installation of a single, stand-alone, solar-powered repeater along the route. Where required, if overhead installation is not possible, the fiber optic cable would be installed via open trench construction at a depth of 40 inches. Any underground placement would occur within the existing roadway right-of-way along the roadway shoulder.² This second Amended Application also states that EarthGrid intends to serve residential customers at some point in the future, after the initial anchor customer has been connected.³

EarthGrid's principal place of business is located at 1 West Barrett Avenue, Richmond, California 94801.

On February 8 and March 25, 2021, EarthGrid filed Amended Applications containing supplemental information in response to Administrative Law Judge (ALJ) inquiries addressing environmental and social justice considerations, anticipated customer requirements, construction plans and intentions, and California Environmental Quality Act (CEQA) compliance. On February 16, March 4 and April 28, 2021, EarthGrid filed supplements to its application in response to additional ALJ inquiries regarding documentation of financial fitness. In addition to filing its response on April 28, EarthGrid also filed a motion to late-file its response and a motion to file Exhibits 1, 2, 4, and 5 of its response under seal.

A prehearing conference (PHC) was held on March 4, 2021. EarthGrid was the only party appearing at the PHC. A Scoping Memo was issued on April 1, 2021. The application is unopposed, and no hearings were held.

² See, EarthGrid Application Supplement (March 25, 2021) at 4.

³ See, EarthGrid Application Supplement (March 25, 2021) at 3.

2. Jurisdiction

Public Utilities Code (Pub. Util. Code) § 216(a) defines the term “Public utility” to include a “telephone corporation,” which in turn is defined in Public Utilities Code § 234(a) as “every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state.”

EarthGrid proposes to provide full facilities-based and resold local exchange services “to business and enterprise customers on a network that will carry voice and high-speed broadband communications. Applicant further intends to provide interexchange service as an NDIEC to business and commercial customers. Applicant notes that it intends to provide unregulated wholesale services such as dark fiber leasing to other communications or information companies. Applicant will not serve any residential customers.”⁴ In the second amended application filed on March 25, 2021, EarthGrid notes that it plans to serve residential customers at some point in the future, after its initial sub-project has been completed.⁵ EarthGrid is a telephone corporation and a public utility subject to our jurisdiction.

At the PHC, EarthGrid certified that it is a Common Carrier as defined by § 153 of the Federal Telecommunications Act of 1996 (Act) eligible to interconnect with the public switched telephone network pursuant to § 251 and § 252 of the Act, and that if granted a CPCN, it will operate as a telephone corporation under Pub. Util. Code § 234(a), and obey the Pub. Util. Code and all Commission rules, decisions, and orders applicable to telephone corporations.

⁴ See, EarthGrid Application (December 16, 2020) at 3.

⁵ See, EarthGrid Application Supplement (March 25, 2021) at 3.

3. California Environmental Quality Act (CEQA)

Pursuant to CEQA and Rule 2.4⁶ of the Commission's Rules of Practice and Procedure, the Commission examines projects to determine any potential environmental impacts in order that adverse effects are avoided, and environmental quality is restored or enhanced to the fullest extent possible under CEQA.

In the Proponent's Environmental Assessment and Response, EarthGrid's proposed construction activities for its initial project will generally include the installation of approximately nine miles of fiber optic cable and a single, stand-alone, solar-powered repeater along the route. To the extent possible, the proposed fiber optic line would be installed on the existing overhead electrical towers or poles that run along Ahart Road and the Palermo-Honcut Highway/Upper Palermo Road. Where overhead installation is not possible, the fiber optic line would be installed via open trench construction at a depth of approximately 40 inches. Any underground placement of the fiber optic line would occur within the roadway right-of-way, along the roadway shoulder.

These activities fall within the following classes of projects that are exempt from CEQA and for which neither an Environmental Impact Report nor a Negative Declaration is required.

- Class 1 Exemption: operation, repair, maintenance, leasing or minor alteration of existing public or private structures and facilities, with negligible or no expansion of an existing use. This includes existing facilities used to provide public utility services. (14 CCR § 15301.)
- Class 3 Exemption: construction including water main, sewage, electrical, gas and *other utility extensions of*

⁶ Unless otherwise noted, items labeled "Rule" are from the Commission's Rules of Practice and Procedure.

reasonable length to serve such construction. This includes the construction of limited numbers of new small facilities or utility extensions. (14 CCR § 15303.)

EarthGrid's proposed activities involve construction of reasonably short utility extensions (Class 3). As discussed above, EarthGrid's initial project will be to install its fiber optic cable and a repeater on the existing overhead electrical towers or poles that run along Ahart Road and the Palermo-Honcut Highway/Upper Palermo Road, where possible. Where overhead installation is not possible, the fiber optic line would be installed via open trench within existing rights-of-way, along the roadway shoulder. For future projects, EarthGrid may offer services to business and enterprise customers via underground utility tunnels containing ultra-high-speed fiber optic lines and other related telecommunications facilities in existing utility right of ways. Applicant notes that the tunnels will be in locations "where 'middle mile' is lacking for voice, broadband, and other utility applications." In areas without electric power, the tunnels would also bring electrical wires to power the telecommunications equipment.

Exemption of these activities is consistent with Commission precedent. EarthGrid's proposed new construction activities are similar to those undertaken by other carriers that we have decided are categorically exempt from CEQA. (See, e.g., D.06-04-063 (*ClearLinx Network Corporation*); D.06-04-067 (*CA-CLEC LLC*).)

EarthGrid requests approval to utilize a procedure for expedited review of its projects once it is aware of a specific site(s) in which it plans construction. The proposed procedure tracks the expedited review procedure that we have approved for other carriers. Such a process will expedite CEQA review and is appropriate for the type of construction outlined here, which will be

categorically exempt. By establishing this expedited review process, we are able to review the information on a specific project to confirm that it is categorically exempt from CEQA or to explain why further environmental review is required. At the same time, the proposed CEQA review process will enable EarthGrid to undertake construction of its projects in an efficient manner without experiencing delays caused by an unnecessarily protracted CEQA review.

Similar to the procedure approved for other carriers, the following procedure will be used to obtain Commission approval of EarthGrid's claimed CEQA exemptions for proposed construction projects:

- EarthGrid will provide the Commission's Energy Division with:
 - A detailed description of the proposed project, including:
 - Customer(s) to be served;
 - The precise location of the proposed construction project; and
 - Regional and local site maps.
 - A description of the environmental setting, to include at a minimum:
 - Cultural, historical, and paleontological resources;
 - Biological resources; and
 - Current land use and zoning.
 - A construction workplan, to include:
 - Commission Preconstruction Survey Checklist – Archaeological Resources;
 - Commission Preconstruction Survey Checklist – Biological Resources;
 - A detailed schedule of construction activities, including site restoration activities;

- A description of construction/installation techniques;
- A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
- A list of permits required for the proposed project.
- A statement of the CEQA exemption(s) applicable to the proposed project; and
- Documentation and factual evidence sufficient to support a finding that the claimed exemption(s) is (are) applicable.
- The Energy Division will review EarthGrid's submission for the proposed project to confirm that the claimed exemption(s) from CEQA are applicable.
- Within 21 days from the date of EarthGrid's submittal, the Energy Division will issue either:
 - A Notice to Proceed (NTP) and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research, or
 - A letter of denial stating the specific reasons why the claimed exemption(s) are not applicable to the proposed project.

We have reviewed the application and Supplement and find that:

- EarthGrid's proposed facilities-based project activities are very limited;
- These activities would in almost all circumstances be very likely to qualify for an exemption from CEQA; and
- The proposed process for reviewing the applicability of CEQA exemptions to EarthGrid's facilities-based projects is not only adequate for the Commission's purposes as CEQA Lead Agency, but is also in the public interest because it enables EarthGrid to respond in a timely manner to requests for service without the delay or

burden of a full CEQA review when such review is unnecessary.

We therefore approve EarthGrid's proposed process for Commission review of claimed CEQA exemptions for construction projects undertaken pursuant to EarthGrid's full facilities-based authority, based on the specific facts of this case with the following modifications related to the Commission's Energy Division review and approval or disapproval of the proposed exemptions.

If the Energy Division disapproves EarthGrid's claimed CEQA exemption(s) and issues a letter of denial to EarthGrid, EarthGrid must either re-design the specific project and facilities and then reapply for a finding of exemption from CEQA, or file a formal application with the Commission seeking the requisite approval and full CEQA review, before commencing any construction activities.

EarthGrid shall not perform any full facilities-based construction activities without first obtaining an NTP from the Energy Division or authorization by the Commission after the requisite environmental review.

We have previously determined that the public convenience and necessity require that competition be allowed in the provision of competitive local exchange service, Rulemaking 95-04-043/Investigation 95-04-044. Granting this application will benefit the public interest by expanding the availability of technologically advanced telecommunications services within the state.

4. Financial Qualifications

To be granted a CPCN, an applicant for authority to provide full facilities-based and resold competitive local exchange services and resold interexchange services must demonstrate that it has a minimum of \$100,000 cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up

expenses.⁷ In its supplemental filings on March 4 and April 28, 2021, EarthGrid provided (1) an irrevocable guarantee for \$125,000 lasting 12 months after granting of a CPCN, issued by Pristine Sun Corporation, and (2) evidence demonstrating that Pristine Sun Corporation has sufficient resources to extend the guarantee.⁸ Since EarthGrid has provided documentation that it possesses a minimum of \$100,000 that is reasonably liquid and available, it has demonstrated that it has sufficient funds to meet its start-up expenses and has fulfilled this requirement. EarthGrid's financial documentation will be subject to verification and review by the Commission for one year to ensure that such funds are available.

In addition to demonstrating financial fitness, the Applicant must also demonstrate that an additional \$25,000, or an amount equal to the deposit required by AT&T California, Frontier California, Frontier Communications, and Consolidated Communications, would be available to EarthGrid for one year following certification.⁹ EarthGrid asserts that it will not need deposits for currently anticipated services, but that if deposits are later required, Applicant expects that they will not exceed a total of \$25,000. The previously mentioned \$125,000 guarantee and financial documentation for Pristine Sun Corporation

⁷ The financial requirement for Competitive Local Exchange Carriers (CLEC) is contained in Decision (D.) 95-12-056, Appendix C. The financial requirement for Non-Dominant Interexchange Carriers (NDIEC) is contained in D.91-10-041.

⁸ The documents filed are: a business bank statement of Pristine Sun Corporation, a business bank statement of subsidiary Pristine Sun WI, LLC, documentation demonstrating that SolaRenewal LLC is a subsidiary of Pristine Sun Corporation, business bank statements of SolaRenewal LLC, and audited financial statements of SolaRenewal LLC.

⁹ The requirement for Competitive Local Carrier (CLC) applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local Exchange Carriers (LEC) and/or IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

demonstrate that these funds are available for any deposits that may be required by AT&T California, Frontier California, Frontier Communications, and Consolidated Communications. Therefore, no additional resources are required at this time to cover deposits.

5. Technical Qualifications

To be granted a CPCN for authority to provide competitive local exchange and interexchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.¹⁰ EarthGrid supplied biographical information on its management in Exhibit F to its application that demonstrates it has sufficient expertise and training to operate as a telecommunications provider.

In its application, EarthGrid verified that no one associated with or employed by EarthGrid as an affiliate, officer, director, partner, or owner of more than 10 percent of EarthGrid, or anyone acting in a management capacity for EarthGrid:

- (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been (to his/her knowledge) the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of §§ 17000 *et seq.*, §§ 17200 *et seq.*, or §§ 17500 *et seq.* of the California Business & Professions Code, or of any other

¹⁰ D.95-12-056 at Appendix C, Rule 4.A.

statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; or (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; or (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general.¹¹

Also, to the best of EarthGrid's knowledge, neither EarthGrid, or any affiliate, officer, director, partner, nor owner of more than 10% of EarthGrid, or any person acting in such capacity whether or not formally appointed, is being, or has been investigated by the Federal Communications Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order.¹²

While disclosing what it characterizes as "early missteps" on the part of CEO and Founder Troy Helming over fifteen years ago, EarthGrid asserts that Mr. Helming has learned from these incidents and assures the Commission that there will be no similar incidents going forward.¹³

For the above reasons, we find that EarthGrid is in compliance with the requirements of D.13-05-035.

6. Tariffs

In its application, EarthGrid asserts that it does not initially intend to offer residential services and will only be offering services to business and commercial

¹¹ These certifications are required by D.13-05-035, Ordering Paragraph 14.

¹² *Id.*

¹³ See, Application Exhibit F, G (Attachment 1), H (Attachment 3), and I (Attachment 4).

customers or wholesale carriers or providers.¹⁴ EarthGrid further states that it will offer its service on a non-discriminatory basis and at competitive rates but will do so through individual case basis contracts. However, in the Second Amended Application filed on March 25, 2021, EarthGrid states that it intends to serve "local residents [...] that are within a 20-mile radius" of EarthGrid's initial customer, Jarvis Solar Farm at some point in the future.¹⁵

EarthGrid has requested detariffed status and may be exempt from the requirement to file tariffs provided that EarthGrid does not serve any residential customers and complies with the consumer protection rules identified in D.98-08-031. We approve EarthGrid's detariffing request subject to those conditions. EarthGrid may not offer services to residential customers unless tariffs approved by the Communications Division are filed with and authorized by this Commission, in accordance with General Order 96 B.

7. Map of Service Territory

To be granted a CPCN for authority to provide competitive local exchange service, an applicant must provide a map of the service territories it proposes to serve.¹⁶ In its application, EarthGrid provided a map of the location of its proposed service territory, in compliance with this requirement.

¹⁴ See, Application (December 16, 2020) at 9.

¹⁵ See, EarthGrid Application Supplement (March 25, 2021) at 3.

¹⁶ D.95-12-056 at Appendix C, Rule 4.F.

8. Rule 3.1(i) Statement

Rule 3.1(i) sets forth the requirement that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding GO 104-A, Section 2. EarthGrid states that it is not aware of any reportable matters pursuant to GO 104-A, Section 2. EarthGrid, therefore, has nothing to report under this rule.

On a going forward basis, though, EarthGrid must file all reports required of a public utility under Commission jurisdiction.

9. Expected Customer Base

EarthGrid provided its estimated customer base for the first and fifth years of operation in Section 15 of its application. In its February 8, 2021 filing in response to ALJ inquiry, EarthGrid updated these estimates and added its customer requirements for these years. In its March 25, 2021 filing, EarthGrid provided additional details on its expected customer base and customer requirements for its first year of operations. Therefore, EarthGrid has complied with this requirement.

10. Environmental and Social Justice

In its February 8, 2021 filing in response to ALJ inquiry, EarthGrid addressed how its operations are expected to impact achievement of the goals of the Commission's Environmental and Social Justice (ESJ) Action Plan.¹⁷ EarthGrid provided several examples of how it anticipates supporting the goals of the ESJ Action Plan, including procurement from vendors who meet the qualifications of the Commission's Utility Supplier Diversity Program;¹⁸

¹⁷ Available at http://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/UtilitiesIndustries/Energy/EnergyPrograms/Infrastructure/DC/Env%20and%20Social%20Justice%20ActionPlan_%202019-02-21.docx.pdf as of March 26, 2021.

¹⁸ Available at <https://www.cpuc.ca.gov/supplierdiversity/> as of March 29, 2021.

provision of broadband to rural, remote, and Tribal communities that will increase their access to goods and services including telehealth and e-learning; provision of broadband that will enable smart grid technologies and wildfire prevention applications; and greater reliability of broadband service due to undergrounding of facilities.

In its March 25, 2021, filing, EarthGrid further notes that it plans to serve the existing Jarvis Solar Farm, and to enable a potential future expansion of the solar facility. Thereafter, EarthGrid states that it plans to seek to serve the K-3 Honcut Elementary School located in Oroville, California, as well as to serve nearby residents.¹⁹ EarthGrid asserts that the project location is currently unserved by broadband internet. The project will thus expand broadband service and enable more clean energy generation.

We find that EarthGrid's proposed operations are consistent with the goals of the Commission's ESJ Action Plan.

11. Request for Treatment as a Non-dominant Interexchange Carrier

Applicant requests treatment as a non-dominant interexchange carrier, which would include exemption from the requirements of Pub. Util. Code §§ 816-830 concerning stocks and security and § 851 concerning the encumbrance and transfer of utility property. While the Commission has granted exemption from §§ 816 – 830 to others, exemption from §§ 851 – 854 is not commonly granted and an exception is not warranted here. The Commission detailed its rules regarding exemption of non-dominant carriers in D.85-01-008, and subsequently modified in D.85-07-081 and D.85-11-044.

¹⁹ Note that EarthGrid may not offer detariffed service to residential customers. (See Section 6 (Tariffs).)

We grant Applicant's request for non-dominant interexchange carrier status, which provides an exemption from Pub. Util. Code §§ 816-830 concerning stocks and security, provided that it follows all rules detailed in the above referenced decisions.

12. Request for Exemption from the Requirement to Keep its Books and Records in Accordance with the Uniform System of Accounts

EarthGrid requests that it be exempted from any requirement to maintain its books and records in accordance with the Uniform System of Accounts specified in Title 47 I.E Part 32. EarthGrid asserts that it is not part of an ILEC corporate entity and should therefore be exempted from the requirement to keep its books of account in conformance with the Uniform System of Accounts as we did for all CLEC's in D.99-02-038. We agree and cite D.07-04-024 as additional authority to do so.

13. Safety Considerations

With the adoption of the *Safety Policy Statement of the California Public Utilities Commission* on July 10, 2014, the Commission has, among other things, heightened its focus on the potential safety implications of every proceeding. We have considered the potential safety implications here. The Commission is satisfied that EarthGrid will meet the Commission's minimum safety goals and expectations of competitive local exchange carriers (CLECs) because:

(1) EarthGrid has taken steps to meet the financial requirements as set forth in this decision for a facilities-based CLEC, and (2) EarthGrid is a public utility that is required pursuant to Pub. Util. Code § 451 to "... furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

14. Conclusion

We conclude that the application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we grant EarthGrid a CPCN to provide full facilities-based and resold competitive local exchange services and interexchange services in California subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

The CPCN granted by this decision provides benefits to EarthGrid and corresponding obligations. EarthGrid receives authority to operate in the prescribed service territory, and this authority enables EarthGrid, pursuant to Section 251 of the 1934 Communications Act, as amended by the 1996 Telecommunications Act (47 U.S.C. § 251), to interconnect with telecommunications carriers.²⁰ This authority also enables EarthGrid to obtain access to public rights-of-way in California as set forth in D.98-10-058, and approved in *T-Mobile West LLC v. City and County of San Francisco*, 6 Cal. 5th 1107 (2019)" - subject to the CEQA requirements set forth in this decision.

In return, EarthGrid is obligated to comply with all Public Utilities Code provisions, Commission rules, GOs, and decisions applicable to telephone corporations providing approved services. The applicable statutes, rules, GOs, and decisions include, but are not limited to consumer protection rules, tariffing, and reporting requirements. Moreover, EarthGrid is obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in the Appendix B of this decision, to comply with CEQA, and to adhere to Pub. Util. Code § 451 which states that every public utility "...shall furnish and

²⁰ The California Public Utilities Code uses the term "telephone corporation." Its counterpart in federal law is a "telecommunications carrier."

maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in § 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.”

15. Request to File Under Seal

Pursuant to Rule 11.4 of the Commission’s Rules of Practice and Procedure, EarthGrid moved for leave to file Exhibit D to the application as confidential materials under seal. EarthGrid represents that the information is sensitive, and disclosure could place EarthGrid at an unfair business disadvantage. EarthGrid similarly moved for leave to file under seal Exhibits 1, 2, 4, and 5 of its April 28, 2021 filing. EarthGrid represents that the information, which relates to the finances of Pristine Sun Corporation and its subsidiaries, is sensitive, and disclosure could place Pristine Sun Corporation and its subsidiaries at an unfair business disadvantage. We have granted similar requests in the past and do so here.

Pursuant to Rule 11.6 of the Commission's Rules of Practice and Procedure, EarthGrid filed a motion to late-file its response to ALJ inquiry on April 28, 2021. We also grant that motion here.

16. Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to § 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

17. Assignment of Proceeding

Martha Guzman Aceves is the assigned Commissioner and Joanna Gubman is the assigned ALJ in this proceeding.

Findings of Fact

1. EarthGrid is a telephone corporation and a public utility as defined in Pub. Util. Code § 234(a) and § 216(a).

2. EarthGrid's proposed construction activities appear to fall within one or more CEQA categorical exemptions.

3. EarthGrid has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.

4. EarthGrid has sufficient additional cash or cash equivalent to cover deposits that may be required by other telephone corporations in order to provide the proposed service.

5. EarthGrid's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.

6. No one associated with or employed by EarthGrid as an affiliate, officer, director, partner, agent, or owner (directly or indirectly) of more than 10 percent of EarthGrid, or anyone acting in a management capacity for EarthGrid: (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of §§ 17000 *et seq.*, §§ 17200 *et seq.*, or §§ 17500 *et seq.* of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or

misrepresentations to consumers or others; or (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; or (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general.

7. To the best of EarthGrid's knowledge, neither EarthGrid, or any affiliate, officer, director, partner, nor owner of more than 10 percent of EarthGrid, or any person acting in such capacity whether or not formally appointed, is being, or has been investigated by the Federal Communications Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order.

8. EarthGrid requested and is eligible for exemption from tariffing requirements, provided that EarthGrid does not serve any residential customers, and must observe the consumer protection rules adopted in D.98-08-031.

9. EarthGrid plans to offer its services on a nondiscriminatory basis and individual case basis contracts.

10. EarthGrid provided a map of the location of its proposed service territory.

11. EarthGrid has no information to report under Rule 3.1(i), which requires that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding compliance with GO 104-A, Section 2.

12. EarthGrid provided an estimate of its customer base and customer requirements for the first and fifth year of operation.

13. Pursuant to Rule 11.4, EarthGrid filed two motions for leave to file confidential materials under seal, including its balance sheet as of December 10, 2020, its profit and loss statement for January through November 2020, and the following documents pertaining to Pristine Sun Corporation: a

business bank statement of Pristine Sun Corporation, a business bank statement of subsidiary Pristine Sun WI, LLC, documentation demonstrating that SolaRenewal LLC is a subsidiary of Pristine Sun Corporation, business bank statements of SolaRenewal LLC, and audited financial statements of SolaRenewal LLC.

Conclusions of Law

1. EarthGrid should be granted a CPCN to provide full facilities-based and resold competitive local exchange services and resold interexchange services in the service territories of AT&T California, Frontier California, Frontier Communications, Consolidated Communications; and full-facilities based and resold interexchange services in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

2. EarthGrid should be allowed to use the Energy Division 21-day CEQA exemption process.

3. EarthGrid, once granted a CPCN, should be subject to the applicable Commission rules, decisions, GOs, and statutes that pertain to California public utilities.

4. EarthGrid should be granted an exemption from the requirement to file tariffs.

5. EarthGrid should be exempted from any requirement to maintain its books and records in accordance with the Uniform System of Accounts specified in Title 47 I.E Part 32.

6. EarthGrid's motion to file under seal its Exhibit D to the application should be granted for three years.

7. EarthGrid's motion to file under seal Exhibits 1, 2, 4, and 5 to its April 28, 2021 response to ALJ inquiry should be granted for three years.

8. EarthGrid should be granted non-dominant carrier status, subject to Commission rules and regulations as detailed in D.85-01-008 and modified in D.85-07-081 and D.85-11-044, provided that it does not serve residential customers.

9. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to EarthGrid PBC to provide full facilities-based and resold competitive local exchange services in the territories of Pacific Bell Telephone Company d/b/a AT&T California, Frontier California Inc., Citizens Telecommunications Company of California, Inc. d/b/a/ Frontier Communications of California, and Consolidated Communications of California Company; and resold interexchange services in California, subject to the terms and conditions in this decision.

2. The corporate identification number assigned to EarthGrid PBC, U7383C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

3. EarthGrid PBC must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this decision. Written acceptance filed in this docket does not reopen the proceeding.

4. The certificate granted by this decision will expire if not exercised within 12 months of the effective date of this decision.

5. EarthGrid PBC must notify the Director of the Communications Division of the date that competitive local exchange service is first rendered to the public, no later than five days after service first begins, by email to cdcompliance@cpuc.ca.gov.

6. EarthGrid PBC must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, EarthGrid PBC must submit a Tier-1 Advice Letter to the Communications Division, containing a copy of the license holder's executed bond, and submit a Tier-1 Advice Letter annually, but not later than March 31 of each year, with a copy of the executed bond.

7. EarthGrid PBC must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

8. In addition to all the requirements applicable to competitive local exchange carriers and interexchange carriers included in Attachments B, C, and D to this decision, EarthGrid PBC is subject to the Consumer Protection Rules contained in General Order 168, and all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

9. EarthGrid PBC must report intrastate revenue and pay the resulting public purpose program surcharges specified in Attachment B monthly, through the Commission's proprietary Telecommunications and User Fee Filing System (TUFFS) even if there are no revenues (\$0) and resulting surcharges to report and remit. Communications Division must issue a compliance directive to the

EarthGrid PBC primary contact, providing directions for reporting and remitting surcharges and the User Fee through the TUFFS system.

10. EarthGrid PBC must pay an annual minimum user fee of \$100 or at the standard user fee remittance rate applied to the gross intrastate revenue, whichever is greater. The standard user fee remittance rate is posted on the Commission's webpage. Under Public Utilities Code § 405, carriers that are in default of reporting and submitting user fees more than 30 days after the quarterly user fee payment due dates of January 15th, April 15th, July 15th, and October 15th, or more than 30 days after the January 15th due date for those utilities paying the annual minimum user fee of \$100, will be subject to penalties including suspension or revocation of their authority to operate in California.

11. Prior to initiating service, EarthGrid PBC must provide the Commission's Consumer Affairs Branch with the name(s), address(es), e-mail address, and telephone number(s) of its designated contact person(s) for purposes of resolving consumer complaints. This information must be updated if the name(s), address(es), or telephone number(s) change, or at least annually.

12. Prior to initiating service, EarthGrid PBC must provide the Commission's Communications Division with the name(s), address(es), e-mail address, and telephone number(s) of its designated regulatory/official contact person(s). This information must be provided electronically, using the "Communications Utility Contact Update Form" found at <http://www.cpuc.ca.gov/communications>. This information must be updated if the name or telephone number changes, or at least annually by June 1 of each calendar year.

13. EarthGrid PBC must submit an affiliate transaction report to the Director of the Communications Division, by email to cdcompliance@cpuc.ca.gov, in

compliance with Decision 93-02-019, on a calendar year basis using the form contained in Attachment D.

14. EarthGrid PBC must submit an annual report to the Director of the Communications Division, by email to cdcompliance@cpuc.ca.gov, in compliance with General Order 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

15. The staff of the Commission's Energy Division is authorized to review, process, and act upon EarthGrid PBC's requests for a determination that its full facilities-based construction activities are exempt from the requirements of the California Environmental Quality Act.

16. If EarthGrid PBC (EarthGrid) wishes to engage in full facilities-based construction activities and believes that these activities are exempt from California Environmental Quality Act (CEQA), EarthGrid shall first apply to the Commission's Energy Division staff for a determination of exemption from CEQA by providing the Commission's Energy Division (Energy Division) with:

- a. A detailed description of the proposed project, including:
 - i. Customer(s) to be served;
 - ii. The precise location of the proposed construction project; and
 - iii. Regional and local site maps.
- b. A description of the environmental setting, including at a minimum:
 - i. Cultural, historical, and paleontological resources;
 - ii. Biological resources; and
 - iii. Current land use and zoning.
- c. A construction workplan, including:
 - i. Commission Preconstruction Survey Checklist – Archaeological Resources;

- ii. Commission Preconstruction Survey Checklist – Biological Resources;
 - iii. A detailed schedule of construction activities, including site restoration activities;
 - iv. A description of construction/installation techniques;
 - v. A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
 - vi. A list of permits required for the proposed project.
- d. A statement of the CEQA exemption(s) claimed to apply to the proposed project; and
- e. Documentation supporting the finding of exemption from CEQA.
- f. The Energy Division will then review the submittal and notify EarthGrid of either its approval or its denial of EarthGrid's claim for exemption from CEQA review within 21 days from the time that EarthGrid's submittal is complete.

17. If the Energy Division approves EarthGrid PBC's (EarthGrid) claimed California Environmental Quality Act (CEQA) exemption(s), the staff shall prepare a Notice to Proceed and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research. If the Energy Division disapproves EarthGrid's claimed CEQA exemptions, the staff shall issue to EarthGrid a letter which states the specific reasons that the claimed CEQA exemptions do not apply to the proposed project.

18. If the Energy Division disapproves EarthGrid PBC's claimed California Environmental Quality Act (CEQA) exemption(s), EarthGrid PBC shall either re-design the specific project and facilities and then reapply for a finding of exemption from CEQA, or file a formal application with the Commission seeking

the requisite approval and full CEQA review, before commencing any full facilities-based construction activities.

19. EarthGrid PBC may not offer services to residential customers unless tariffs approved by the Commission's Communications Division are filed with and authorized by this Commission, in accordance with General Order 96 B.

20. EarthGrid PBC's (EarthGrid) motion to file under seal its Exhibit D is granted for a period of three years after the date of this decision. During this three year period, this information shall not be publicly disclosed except on further Commission order or Administrative Law Judge ruling. If EarthGrid believes that it is necessary for this information to remain under seal for longer than three years, EarthGrid may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

21. EarthGrid PBC's (EarthGrid) motion to file under seal its Exhibits 1, 2, 4, and 5, filed April 28, 2021, is granted for a period of three years after the date of this decision. During this three year period, this information shall not be publicly disclosed except on further Commission order or Administrative Law Judge ruling. If EarthGrid believes that it is necessary for this information to remain under seal for longer than three years, EarthGrid may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

22. EarthGrid PBC's motion to late-file its response to Administrative Law Judge inquiry is granted.

23. Application 20-12-012 is closed.

This decision is effective today.

Dated July 15, 2021, at San Francisco, California.

MARYBEL BATJER

President

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

DARCIE HOUCK

Commissioners

ATTACHMENT A

This attachment is intentionally left blank.

(END OF ATTACHMENT A)

ATTACHMENT B

REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS

1. Applicant must file, in this docket with reference to this decision number,¹ a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.
2. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 12 months of the date of this decision.
3. Applicant is subject to the following fees and surcharges that must be regularly remitted. Per the instructions in Exhibit E to Decision (D.) 00-10-028, carriers authorized to operate in California shall report intrastate revenue and remit the resulting public purpose program surcharges specified as follows monthly, through the Commission's proprietary Telecommunications and User Fee Filing System (TUFFS) even if there is no intrastate revenue (\$0) and resulting surcharges to report and remit. Communications Division shall issue a compliance directive to the carrier's primary contact, providing directions for reporting and remitting surcharges and the User Fee through TUFFS.
 - a. The Universal Lifeline Telephone Service Trust
Administrative Committee Fund (Pub. Util. Code § 277);
 - b. The California Relay Service and Communications Devices
Fund (Pub. Util. Code § 2881; D.98-12-073);

¹ Written acceptance filed in this docket does not reopen the proceeding.

- c. The California High Cost Fund-A (Pub. Util. Code § 275.6); D.96-10-066, at 3-4, App. B, Rule 1.C);
- d. The California High Cost Fund-B (Pub. Util. Code § 276.5), D.96-10-066, at 191, App. B, Rule 6.F.; D.07-12-054);
- e. The California Advanced Services Fund (Pub. Util. Code § 281; D.07-12-054);
- f. The California Teleconnect Fund (Pub. Util. Code § 280; D.96-10-066, at 88, App. B, Rule 8.G);
- g. The User Fee provided in Pub. Util. Code §§ 431-435. The minimum annual User Fee is \$100, as set forth in D.13-05-035.

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must check the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (d/b/a AT&T California) and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised. Current and historical surcharge rates can be found at <http://www.cpuc.ca.gov/General.aspx?id=1124>.

- i. Carriers must report and remit CPUC telephone program surcharges online using the CPUC TUFFS. Information and instructions for online reporting and payment of surcharges are available at <http://www.cpuc.ca.gov/General.aspx?id=1010>. To request a user ID and password for TUFFS online filing and for questions, please e-mail Telcosurcharge@cpuc.ca.gov.
- ii. Carriers must submit and pay the PUC User Fee (*see* Item 3.g above) quarterly, through the Commission's TUFFS system within 15 days after the end of each calendar quarter (December 31, March 31, June 30 and September 30) and by the 30th day after the 15-day reporting and payment requirement to avoid a one-time 25% penalty. For questions regarding the User Fee, please email userfees@cpuc.ca.gov.

4. If Applicant is a competitive local exchange carrier, the effectiveness of its future competitive local exchange carrier tariffs is subject to the requirements of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

5. If Applicant is a non-dominant interexchange carrier, the effectiveness of its future non-dominant interexchange carrier tariffs is subject to the requirement of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

6. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in Item 3 above.

7. Applicant must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Applicant must submit a Tier-1 Advice Letter to the Communications Division, containing a copy of the license holder's executed bond, and submit a Tier-1 Advice Letter annually, but not later than March 31, with a copy of the executed bond.

8. Applicant must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

9. Applicants providing local exchange service must submit a service area map as part of their initial tariff to the Communications Division.

10. Prior to initiating service, Applicant must provide the Commission's Consumer Affairs Branch with the name(s), address(es), e-mail address(es) and telephone number(s) of its designated contact person(s) for purposes of resolving consumer complaints. This information must be provided electronically, using the "Communications Utility Contact Update Form" found at <http://www.cpuc.ca.gov/communications>. This information must be updated if the name(s), address(es), and telephone number(s) change, or at least annually by June 1 of each calendar year.

11. In addition, Applicant must provide the Commission's Communications Division with the name(s), address(es), and telephone number(s) of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Communications Utility Contact Update Form" found at <http://www.cpuc.ca.gov/communications>. This information must be updated if the name(s), address(es), and telephone number(s) change, or at least annually by June 1 of each calendar year.

12. Applicant must notify the Director of the Communications Division, in writing submitted by email to cdcompliance@cpuc.ca.gov, no later than five days after service first begins, of the date that local exchange service is first rendered to the public.

13. Applicant must keep its books and records in accordance with the Generally Accepted Accounting Principles.

14. In the event Applicant's books and records are required for inspection by the Commission or its staff, it must either produce such records at the Commission's offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to its office.

15. Applicant must submit an annual report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

16. Applicant must submit an affiliate transaction report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with D.93-02-019, on a calendar-year basis using the form contained in Attachment D.

17. Applicant must ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.

18. Within 60 days of the effective date of this order, Applicant must comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Communications Division of its compliance in writing, by email to cdcompliance@cpuc.ca.gov.

19. If Applicant is 90 days or more late in submitting an annual report, or in remitting the surcharges and fee listed in #3 above, and has not received written permission from the Communications Division to file or remit late: the Communications Division must issue a citation pursuant to Resolution T-17601. Failure to comply with the issued citation or timely appeal the citation may result in a revocation of the company's operating authority and/or a referral to the CPUC Consumer Protection and Enforcement Division (CPED) for enforcement action, which could result in additional fines, penalties, or other sanctions.

20. Applicant is exempt from Rule 3.1(b) of the Commission's Rules of Practice and Procedure.

21. Applicant is exempt from Pub. Util. Code §§ 816-830.

22. If Applicant decides to discontinue service or file for bankruptcy, it must immediately notify the Communications Division's Bankruptcy Coordinator.

23. Applicant must send a copy of this decision to concerned local permitting agencies no later than 30 days from the date of this order.

(END OF ATTACHMENT B)

ATTACHMENT C

ATTACHMENT C

ANNUAL REPORT

In addition to the annual reports requirement pursuant to General Order 104-A, submit the following information electronically via email to cdcompliance@cpuc.ca.gov no later than March 31st of the year following the calendar year for which the annual report is submitted.

Failure to submit this information on time may result in a penalty as provided for in Pub. Util. Code §§ 2107 and 2108.

Required information:

1. Exact legal name and U # of the reporting utility.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (*e.g.*, corporation, partnership, sole proprietorship, etc.).
If incorporated, specify:
 - a. Date of filing articles of incorporation with the Secretary of State.
 - b. State in which incorporated.
6. Number and date of the Commission decision granting the Certificate of Public Convenience and Necessity.
7. Date operations were begun.

8. Description of other business activities in which the utility is engaged.
9. List of all affiliated companies and their relationship to the utility. State if affiliate is a:
 - a. Regulated public utility.
 - b. Publicly held corporation.
10. Balance sheet as of December 31st of the year for which information is submitted.
11. Income statement for California operations for the calendar year for which information is submitted.
12. Cash Flow statement as of December 31st of the calendar year for which information is submitted, for California operations only.

For any questions concerning this report, please send an email to cdcompliance@cpuca.ca.gov with a subject line that includes: "CD Annual Reports."

(END OF ATTACHMENT C)

ATTACHMENT D

ATTACHMENT D

CALENDAR YEAR AFFILIATE TRANSACTION REPORT

Submit the following information electronically via e-mail to cdcompliance@cpuc.ca.gov no later than May 1st of the year following the calendar year for which the annual affiliate transaction report is submitted.

1. Each utility must list and provide the following information for each affiliated entity and regulated subsidiary that the utility had during the period covered by the Annual Affiliate Transaction Report.

- Form of organization (*e.g.*, corporation, partnership, joint venture, strategic alliance, etc.);
- Brief description of business activities engaged in;
- Relationship to the utility (*e.g.*, controlling corporation, subsidiary, regulated subsidiary, affiliate);
- Ownership of the utility (including type and percent ownership)
- Voting rights held by the utility and percent; and
- Corporate officers.

2. The utility must prepare and submit a corporate organization chart showing any and all corporate relationships between the utility and its affiliated entities and regulated subsidiaries in #1 above. The chart must have the controlling corporation (if any) at the top of the chart, the utility and any subsidiaries and/or affiliates of the controlling corporation in the middle levels of the chart, and all secondary subsidiaries and affiliates (*e.g.*, a subsidiary that in turn is owned by another subsidiary and/or affiliate) in the lower levels. Any regulated subsidiary must be clearly noted.

3. For a utility that has individuals who are classified as “controlling corporations” of the competitive utility, the utility must only report under the

requirements of #1 and #2 above any affiliated entity that either (a) is a public utility or (b) transacts any business with the utility filing the annual report excluding the provision of tariff services.

4. Each annual report must be signed by a corporate officer of the utility stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

5. Any required material that a utility is unable to provide must be reasonably described and the reasons the data cannot be obtained, as well as the efforts expended to obtain the information, must be set forth in the utility's Annual Affiliate Transaction Report and verified in accordance with Section I-F of Decision 93-02-019.

6. Utilities that do not have affiliated entities must submit, in lieu of the annual transaction report, an annual statement to the Commission stating that the utility had no affiliated entities during the report period. This statement must be signed by a corporate officer of the utility, stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

For any questions concerning this report, please send an e-mail to cdcompliance@cpuca.ca.gov with a subject line that includes: "CD Annual Reports."

(END OF ATTACHMENT D)



STEVE SISOLAK
Governor

STATE OF NEVADA
PUBLIC UTILITIES COMMISSION

HAYLEY WILLIAMSON
Chair

C.J. MANTHE
Commissioner

TAMMY CORDOVA
Commissioner

STEPHANIE MULLEN
Executive Director

July 16, 2021

Troy Helming
EarthGrid PBC
1 W Barrett Ave
Richmond, CA 94801

Re: Docket No. 21-05020

Dear Troy Helming,

Enclosed is Certificate of Public Convenience and Necessity 3079 authorizing EarthGrid PBC to operate as a competitive supplier of telecommunication service within the State of Nevada.

Also enclosed is a copy of the requirements to maintain a Certificate of Public Convenience and Necessity and a copy of Nevada Administrative Code ("NAC") 707.030, which pertains to the reporting and money collections of surcharges to be submitted to the Commission.

If you have any questions regarding the enclosed document, please call (775) 684-6101.

Sincerely,

TRISHA OSBORNE
Assistant Commission Secretary

Enclosures
TO: cl

NAC 707.030 Submission of report and money collected as surcharge. (NRS 427A.797, 703.025) Not later than January 31, April 30, July 31 and October 31 of each year, each carrier shall submit to the Commission, for the 3 full months immediately preceding that date, the money collected as the surcharge and a report containing the following information:

1. The name and address of the carrier;
2. The amount of the surcharge for each line of access;
3. The total number of lines of access;
4. The amount of the surcharge collected; and
5. The amount of the surcharge to be submitted to the Commission.

↪ Each carrier may submit the money collected with an appropriate report more frequently than quarterly.

(Added to NAC by Pub. Service Comm'n, eff. 1-6-86; A by Pub. Utilities Comm'n by R010-04, 6-28-2004; R071-13, 12-23-2013)

REQUIREMENTS TO MAINTAIN A TELECOMMUNICATIONS CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY

NORTHERN NEVADA

1150 E. William Street
Carson City, NV 89701
Phone: (775) 684-6101
Fax: (775) 684-6110

Consumer Complaints: (775) 684-6100



SOUTHERN NEVADA

9075 W. Diablo Dr., Ste. 250
Las Vegas, NV 89148
Phone: (702) 486-7210
Fax: (702) 486-7206

Consumer Complaints: (702) 486-2600

In order to maintain a Certificate of Public Convenience and Necessity ("CPC"), you must comply with the following statutes and regulations.

REVENUE ASSESSMENT REQUIREMENTS

Nevada Revised Statute ("NRS") 704.033 requires that by July 1 of each year telecommunication utilities pay an assessment to the Public Utilities Commission of Nevada ("PUCN") based upon the total dollars of gross operating revenue derived from their intrastate operations for the preceding calendar year. Please note the minimum assessment due and payable is \$100.00.

The assessment must be submitted by completing and submitting an Annual Revenue and Assessment Report Form. The PUCN mails this form to regulated entities each year, but it is also available on the PUCN website. The assessment rate and how to calculate the amount due are provided in the assessment form. Failure to pay the assessment on or before August 1 will result in an additional fee pursuant to NRS 704.035.

ANNUAL REPORTING

NRS 703.191 requires an Annual Report be submitted for each calendar year no later than May 15 of the following calendar year. Nevada Administrative Code ("NAC") 704.225 lists the information each public utility is required to submit.

ELIGIBLE TELECOMMUNICATIONS CARRIERS

NAC 704.680465 requires companies designated as Eligible Telecommunications Carriers ("ETC") provide information annually to demonstrate that, during the compliance year, they offered the services described in 47 Code of Federal Regulations 54.101 and that they advertised the availability of those services. See NAC 704.680461. This information can be attached to the Annual Report as an exhibit.

TDD SURCHARGE REPORTING

NRS 427A.797 pertains to the Telecommunication Devices for the Deaf (TDD) Surcharge for Assistance to Persons with Impaired Speech or Hearing. The TDD Letter, available on the PUCN's website, provides the current rate and instructions on reporting and payment.

UNIVERSAL SERVICE FUND

NAC 704.6804 et seq. pertains to the Universal Service Fund. All certificated telecommunications carriers are required to pay into the Nevada Universal Service Fund, which is administered by Solix. Solix informs carriers of the current assessment rate.

COMPANY NAME & OTHER CHANGES

Pursuant to NAC 704.7494, a competitive provider of telecommunications services may not change its name or the name under which it conducts business in this state without filing an application with the PUCN and obtaining prior authorization. There is a \$50.00 filing fee for this application. NAC 704.7494 also requires a competitive provider of telecommunications services that changes its address, telephone number, toll-free customer service number, or any other contact information, to file a notification of the change(s) with the PUCN no later than 30 days after the provider makes that change.

PENALTY FOR NON-COMPLIANCE

This information is provided as a courtesy. It is the obligation of each telecommunication provider to comply with all applicable statutes and regulations. NRS 703.380 provides that any public utility that violates any provision of NRS Chapters 703 or 704, or fails to pay any applicable assessment, may be liable for a civil penalty of up to \$1,000 per day for each day of the violation. Failure to comply with regulatory obligations may also result in revocation of the applicable certificate.

MORE INFORMATION

Contact the Financial Analysis Division at (775) 684-6155 for questions about Annual Report or ETC requirements; the Fiscal Analysis Division at (775) 684-6187 for TDD or annual assessments questions; or the Legal Case Manager at (775) 684-6188 for questions regarding name or contact information change applications.



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www.pucn.nv.gov

April 10, 2017

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PUBLIC UTILITIES COMMISSION OF NEVADA

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

EarthGrid PBC

CPC 3079
Docket No. 21-05020

The Public Utilities Commission of Nevada ("Commission") entered its Order in Docket No. 21-05020 finding that EarthGrid PBC has met the requirements to operate as a competitive supplier of telecommunication service within the State of Nevada.

EarthGrid PBC is hereby granted this Certificate of Public Convenience and Necessity as evidence of its authority to operate as a competitive supplier of telecommunication service within the State of Nevada. As a condition of this Certificate, EarthGrid PBC shall render reasonably continuous and adequate service to the public within the State of Nevada. Failure to comply with all applicable provisions of the Nevada Revised Statutes; all applicable rules, regulations, and orders of the Commission; and any applicable terms, conditions, and limitations pertaining to the privileges granted in this Certificate shall comprise sufficient grounds for the suspension or revocation of this Certificate. Nothing contained in this Certificate shall be construed to create a franchise or to constitute the granting of an irrevocable certificate.


This Certificate of Public Convenience and Necessity shall not be conveyed or transferred without the Commission's prior approval.

By the Commission,


HAYLEY WILLIAMSON, Chair

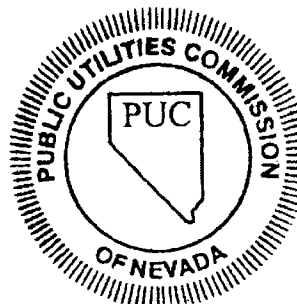

C.J. MANTHE, Commissioner


TAMMY CORDOVA, Commissioner

Attest: 
TRISHA OSBORNE,
Assistant Commission Secretary

Dated: Carson City, Nevada

7/16/21
(SEAL)



ERICK SHANER
DEPUTY ATTORNEY GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0314
IDAHO BAR NO. 5214

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IDAHO PUBLIC
UTILITIES COMMISSION

Street Address for Express Mail:
11331 W CHINDEN BLVD, BLDG 8, SUITE 201-A
BOISE, ID 83714

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF EARTHGRID'S)	
APPLICATION TO PROVIDE BASIC RESOLD)	CASE NO. EPC-T-21-01
AND FACILITIES-BASED LOCAL EXCHANGE)	
TELECOMMUNICATION SERVICES IN THE)	
STATE OF IDAHO)	COMMENTS OF THE
)	COMMISSION STAFF
)	

STAFF OF the Idaho Public Utilities Commission, by and through its Attorney of record, Erick Shaner, Deputy Attorney General, submits the following comments.

BACKGROUND

On May 25, 2021, EarthGrid PBC ("EarthGrid" or "Company") applied for a Certificate of Public Convenience and Necessity ("CPCN") to provide resold and facilities-based local exchange telecommunication service in Idaho pursuant to IDAPA 31.01.01.114.

STAFF ANALYSIS

EarthGrid is incorporated in the State of Delaware and is authorized to do business in Idaho. Its main corporate address is 1 West Barrett Avenue, Richmond, California 94801. It is registered with the Idaho Secretary of State as a foreign business corporation. Application, Exhibit 1. EarthGrid plans to offer service "in the geographic areas currently served by CenturyLink and other providers as deemed appropriate." Application at 4.

EarthGrid provided the names and addresses of its officers and owners, as well as relevant corporate financial information. The Company asserts it has reviewed the Commission's applicable rules and agrees to provide service in accordance with those rules.

STAFF RECOMMENDATION

Staff has reviewed EarthGrid's Application and believes the Company understands the Commission's rules and requirements related to the provision of telecommunication services in Idaho. Staff believes EarthGrid's Application fulfills the requirements of the procedural Rule 114 and Order No. 26665. Staff also believes the Company possesses the requisite financial, managerial, and technical qualifications necessary to operate as a provider of telecommunications services.

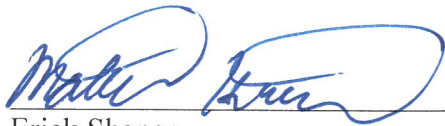
Therefore, Staff recommends approval of EarthGrid's Application for a CPCN subject to the following conditions:

1. EarthGrid complies with number pooling and reporting requirements of the North American Numbering Plan Administrator, as set forth in Commission Order No. 30425;
2. EarthGrid provides necessary reports and contributions appropriate to the Idaho Universal Service Fund, Idaho Telecommunications Relay Services, Idaho Telecommunications Service Assistance Program, and complies with all future reporting requirements deemed appropriate by the Commission for competitive telecommunications providers;
3. Prior to issuance of the CPCN, EarthGrid files a final price list outlining all its rates, terms, and conditions with the Commission; and
4. EarthGrid provides three reports to the Commission indicating the number of basic local exchange customers it has and the services being offered. These reports will be due as follows:
 - a. November 12, 2021
 - b. March 11, 2022
 - c. July 15, 2022

If the Company fails to provide the three reports, EarthGrid shall relinquish its CPCN and all telephone numbers it has been assigned or the Commission will by its own order revoke the Company's CPCN.

5. If EarthGrid is not providing basic local exchange service by the time the third report is due, the Commission by its own order will revoke the Company's CPCN.

Respectfully submitted this 9th day of July 2021.


for Erick Shaner
Deputy Attorney General

Technical Staff: Daniel Klein

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 9TH DAY OF JULY 2021, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. EPC-T-21-01, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

SCOTT LANE COO
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E-MAIL: scott@earthgrid.io

TROY HELMING CEO
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SECRETARY