

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION  
NASHVILLE, TENNESSEE**

**February 28, 2024**

<b>IN RE:</b>	)	
	)	
<b>APPLICATION OF EARTHGRID PBC, INC.</b>	)	
<b>FOR A CERTIFICATE TO PROVIDE</b>	)	<b>DOCKET NO.</b>
<b>FACILITIES-BASED AND RESOLD LOCAL</b>	)	<b>23-00063</b>
<b>EXCHANGE AND INTEREXCHANGE</b>	)	
<b>TELECOMMUNICATIONS SERVICES</b>	)	
<b>THROUGHOUT THE STATE OF</b>	)	
<b>TENNESSEE</b>		

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**INITIAL ORDER GRANTING CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY**

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This matter came before the Administrative Judge of the Tennessee Public Utility Commission (the “Commission” or “TPUC”) at a Hearing held on February 16, 2024 to consider the *Application for Certificate to Provide Competing Local Exchange and Interexchange Telecommunication Services on a Facilities and Resold Basis* (the “*Application*”) filed by EarthGrid PBC, Inc. (“EarthGrid,” “Applicant,” or “Company”) on August 30, 2023. In its *Application*, EarthGrid seeks a Certificate of Public Convenience and Necessity (“CCN”) for authority to provide intrastate telecommunications services within the State of Tennessee.

**I. LEGAL STANDARD**

EarthGrid’s *Application* was made in accordance with and is considered in light of the criteria for granting a CCN as set forth in Tenn. Code Ann. § 65-4-201 which provides, in pertinent part:

- (a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the commission, after written application and hearing, a certificate that the present or future public convenience and necessity

require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system, or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate ....

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(c) (1) After notice to the incumbent local exchange telephone company and other interested parties and following a hearing, the commission shall grant a certificate of convenience and necessity to a competing telecommunications service provider if after examining the evidence presented, the authority finds:

(A) The applicant has demonstrated that it will adhere to all applicable commission policies, rules and orders; and

(B) The applicant possesses sufficient managerial, financial and technical abilities to provide the applied for services.

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Furthermore, pursuant to Tenn. Code Ann. § 65-5-112, a competing telecommunications provider is required to file with the Commission a small and minority-owned telecommunications business participation plan which provides the provider's plan for purchasing goods and services from small and minority-owned telecommunications businesses and information on programs that might provide technical assistance to such businesses.

## **II. HEARING ON THE MERITS**

In accordance with the requirements of Tenn. Code Ann. § 65-4-204, a public notice of the Hearing in this matter was issued by the Administrative Judge on February 1, 2024 setting the case for Hearing on February 16, 2024. No persons sought intervention prior to or during the Hearing. Mr. Troy Helming, Founder and Chief Executive Officer of EarthGrid, appeared at the Hearing and provided testimony.

Mr. Helming participated in the Hearing, adopting and summarizing his Pre-Filed Testimony with no corrections, revisions, or amendments. Mr. Helming testified that the Company will comply with all applicable laws, and TPUC rules, policies, and orders and stated that it is in the public interest to grant the *Application*. He also provided a summary of the Company's financial, technical, and managerial qualifications and provided responses to the questions of the Administrative Judge.

The Administrative Judge opened the floor for public comment, but no member of the public came forward to comment. Upon conclusion of the presentation of its proof, the Administrative Judge granted EarthGrid's *Application* based upon the findings of fact and conclusions of law stated herein.

### **III. FINDINGS AND CONCLUSIONS**

#### **A. EARTHGRID'S QUALIFICATIONS**

1. EarthGrid is a Delaware corporation authorized to do business in the State of Tennessee.
2. The Company's principal office is located at 2625 Alcatraz Avenue, Suite 111, Berkley, California. The Company's telephone number is (833) 327-8441.
3. The *Application* and information in the record indicate that EarthGrid has the requisite technical and managerial ability to provide competitive local and intrastate telecommunications services within the State of Tennessee. Specifically, EarthGrid's management team possesses extensive business, technical, operational, and regulatory experience in the telecommunications industry.
4. EarthGrid has the necessary capital and financial ability to provide the services it proposes to offer.

5. EarthGrid has represented that it will adhere to all applicable statutes, policies, rules, and orders of the Commission.

#### **B. PROPOSED SERVICES**

EarthGrid proposes to offer reseller and facilities-based non-switched local exchange and interexchange telecommunications throughout the state via its own lit and dark fiber facilities. Initially, EarthGrid intends to offer point-to-point dedicated telecommunications services. These services will be offered to Wireless Service Providers (WSPs) and other telecommunications carriers and providers, municipalities and other commercial customers. The Applicant does not intend to provide switched services, including exchange access.<sup>1</sup>

#### **C. PERMITTING COMPETITION TO SERVE THE PUBLIC CONVENIENCE AND NECESSITY**

EarthGrid's *Application* and its proposed services would inure to the benefit of the present and future public convenience by permitting competition in the telecommunications services markets in the State and fostering the development of an efficient, technologically advanced statewide system of telecommunications services. EarthGrid's proposed services would also assist in ensuring that persons are able to obtain competitive pricing, increased accountability through reliable and responsive customer service, and advanced technological innovation.

#### **D. SMALL AND MINORITY-OWNED TELECOMMUNICATIONS BUSINESS PARTICIPATION PLAN AND BUSINESS ASSISTANCE PROGRAM**

EarthGrid has filed a satisfactory small and minority-owned telecommunications business participation plan, pursuant to Tenn. Code Ann. § 65-5-112 and the Commission's Rules.

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<sup>1</sup> *Application*, p. 3 (August 30, 2023).

**IT IS THEREFORE ORDERED THAT:**

1. The *Application for Certificate to Provide Competing Local Exchange and Interexchange Telecommunication Services on a Facilities and Resold Basis*, filed by EartGrid PBC, Inc., is approved.

2. Any party aggrieved by the Hearing Officer's decision in this matter may file a petition for reconsideration within fifteen (15) days from the date of this Order.

3. This Initial Order shall become a Final Order of the Tennessee Public Utility Commission, if no petition for reconsideration or appeal of this Order is filed prior to the expiration of the fifteen (15) day appeal period.



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Aaron J. Conklin, Administrative Judge