

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF EARTHGRID’S</b>	)	<b>CASE NO. EPC-T-21-01</b>
<b>APPLICATION TO PROVIDE BASIC</b>	)	
<b>RESOLD AND FACILITIES-BASED LOCAL</b>	)	
<b>EXCHANGE TELECOMMUNICATION</b>	)	<b>ORDER NO. 35460</b>
<b>SERVICES IN THE STATE OF IDAHO</b>	)	
	)	

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On May 25, 2021, EarthGrid PBC (“Company”) applied for a Certificate of Public Convenience and Necessity (“CPCN”) to provide resold and facilities-based local exchange telecommunication services and internet services in Idaho.

On June 17, 2021, the Commission issued Notice of Application and Notice of Modified Procedure and set deadlines for public comments and the Company’s reply. Order No. 35080. Commission Staff (“Staff”) filed the only comments in this case. The Company did not respond.

On October 6, 2021, the Commission issued a final order conditionally granting the Company’s Application contingent on certain conditions. Order No. 35192.

On April 14, 2022, the Company filed a final price list outlining all its terms, rates, and conditions with the Commission.

On April 27, 2022, Staff filed a Decision Memorandum (“Memo”) recommending the Commission grant the Company a CPCN and change the required reporting dates. The Commission did not address the Memo during the Decision Meeting.

With this Order, we deny the Company’s Application without prejudice.

**BACKGROUND**

As put forth in the Company’s Application, and reiterated by the Commission:

The Company [sought] a CPCN to provide facilities-based and resold basic local exchange telecommunication services to business and municipal customers in Idaho through incumbent local exchange carriers. The Company plan[ned] to obtain interconnection agreements with customers.

The Company intend[ed] to provide traditional landline service to customers with applications including elevators, renewable energy facilities, and security systems. The Company also plan[ned] to offer high-speed internet via fiber-based services. The Company’s underlying carrier w[ould] handle operator assisted services and emergency call services.

The Company . . . w[ould] be subject to numbering conservation measures and w[ould] operate its local exchange services on a de-tariffed basis with its rates, terms, and conditions posted on its website.

The Company intend[ed] to offer service in geographic areas currently served by CenturyLink and other providers.

Order No. 35192 at 1-2. The Commission approved the Company's Application and granted it a CPCN contingent on five conditions. Condition three required the Company to file a final price list outlining all its rates, terms, and conditions prior to issuance of a CPCN. *Id.* at 3. Condition four required the Company to provide "three reports to the Commission indicating the number of basic local exchange customers it has and the services being offered." *Id.* These reports were due November 12, 2021, March 11, 2022, and July 15, 2022.

The Company did not file a price list until April 14, 2022 and has yet to file any of the three required reports.

#### **FINDINGS AND DISCUSSION**

We note that the Company did not file a final price list, as it was ordered to, before two of its three reports were due. The Company took over five months from the issuance of Order No. 35192 to file a final price list, and did not file a November 12, 2021, or March 11, 2022, report "indicating the number of basic local exchange customers it has and the services being offered" as directed in Order No. 35192. The Company could have communicated to the Commission which circumstances were preventing it from filing its final price list. The Company could have requested additional time to file the reports or explained to the Commission its plan to make meaningful progress in satisfying the conditions necessary to obtain a CPCN. It did none of these things. Now, seven months after being ordered to file three reports, the Company still has not complied. We have reservations granting the Company a CPCN when it failed to comply with the directives in Order No. 35192 to file a final price list in a reasonable time and has yet to file any reports.

The Company does not have a CPCN so there is no CPCN for us to revoke. However, because the Company has not demonstrated its intent to comply with our directives in Order No. 35192, we issue this Order denying the Company's Application, without prejudice. The Company is free to reapply for a CPCN in Idaho if it so chooses and is committed to complying with the requirements this Commission has established as a condition precedent to issuing a CPCN.

**ORDER**

IT IS HEREBY ORDERED that the Company’s Application for a CPCN is denied without prejudice.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code §§ 61-626.*

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 13<sup>th</sup> day of July 2022.



ERIC ANDERSON, PRESIDENT



JOHN CHATBURN, COMMISSIONER



JOHN R. HAMMOND, JR. COMMISSIONER

ATTEST:

  
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Jan Noriyuki  
Commission Secretary

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