

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Andrew J. French, Chairperson
Dwight D. Keen
Annie Kuether

In the Matter of the Application of)
EarthGrid PBC Application for Certificate)
of Convenience and Authority to Provide) Docket No. 24-EGPT-336-COC
Interexchange Telecommunication Services)
(IXC))

ORDER APPROVING CERTIFICATE OF CONVENIENCE APPLICATION

This matter comes before the State Corporation Commission of the State of Kansas (“Commission”) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings:

1. On October 13, 2023, Earthgrid PBC (Earthgrid) filed its Application for Certificate of Convenience and Authority (COC) to provide interexchange telecommunication services (IXC) within the state of Kansas.

2. Commission Staff (Staff) submitted a Report and Recommendation dated March 26, 2024, in regards to the Application attached hereto and made a part hereof by reference.

3. K.S.A. 66-131 states: “No common carrier or public utility...shall transact business in the state of Kansas until it shall have obtained a certificate from the corporation commission that public convenience will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in this state.”

4. Earthgrid is a Delaware corporation, headquartered in Berkley, California, and is also properly registered with the Kansas Secretary of State’s Office with a status of active and in

good standing. Staff believes that adequate expertise exists through Earthgrid's management to provide interexchange services in Kansas.

5. Staff states that Earthgrid does not currently provide telecommunications services but will request negotiation of an interconnection agreement with AT&T Kansas and/or Brightspeed of Kansas, Inc. upon approval of this Application. The Company is currently authorized to provide telecommunications service in 36 states.

6. Staff also states that upon approval of the Certificate, Earthgrid must register with Vantage Point Solutions (VPS), the Kansas Universal Service Fund (KUSF) Administrator, within 30 days of an Order granting the Company's Application, and make the appropriate KUSF remittance and payment election via the Company Identification and Operations Form. Within 30 days of generating Kansas assessable revenue, the Company shall submit the relevant Carrier Remittance Worksheets and assessment payments to VPS.

7. Staff requests Earthgrid notify the Commission immediately of any change in address or contact telephone numbers or email addresses, file timely annual interrogatories, maintain current registration with the Kansas Secretary of State's Office, and pay all Commission and KUSF assessments in a timely manner.

8. Staff recommends approval of Earthgrid's Application for an IXC Certificate to provide interexchange services in Kansas.

9. The Commission finds that Earthgrid's Application should be granted and a Certificate of Convenience and Authority should be issued to Earthgrid.

THEREFORE, THE COMMISSION ORDERS:

A. Earthgrid PBC's request for a Certificate of Convenience and Necessity and Authority to Provide Interexchange Telecommunications Services in the state of Kansas is approved.

B. Earthgrid PBC must register with Vantage Point Solutions, the Kansas Universal Service Fund Administrator, within 30 days of an Order granting the Company's Application, and make the appropriate KUSF remittance and payment election via the Company Identification and Operations Form. Within 30 days of generating Kansas assessable revenue, the Company shall submit the relevant Carrier Remittance Worksheets and assessment payments to VPS.

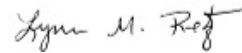
C. Earthgrid PBC is to notify the Commission immediately of any change in address or contact telephone numbers or email addresses, file timely annual interrogatories, maintain current registration with the Kansas Secretary of State's Office, and pay all Commission and Kansas Universal Service Fund assessments in a timely manner.

D. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).¹

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 04/04/2024



Lynn M. Retz
Executive Director

AAL

¹ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

FROM: Hemant Bhagat, Senior Telecommunications Analyst
Steve Garrett, Deputy Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: March 26, 2024

SUBJECT: Docket No. 24-EGPT-336-COC

In the Matter of the Application of EarthGrid PBC Application for Certificate of Convenience and Authority to Provide Interexchange Telecommunication Services (IXC)

EXECUTIVE SUMMARY

On October 13, 2023, EarthGrid PBC (EarthGrid) filed an Application with the Kansas Corporation Commission (Commission) seeking a Certificate of Convenience and Authority (COC) to provide Interexchange Carrier (IXC) services within the state of Kansas. On October 17, 2023, EarthGrid filed an Amended Application correcting a statement on page one of the initial Application that inadvertently indicated EarthGrid's intention to engage in the business of a CLEC Provider. The Amended Application clarified that the Company was seeking certification for IXC services in the state of Kansas.

The Commission Staff recommends approval of EarthGrid's Application to provide IXC services in the state of Kansas.

BACKGROUND

The Commission derives its authority to supervise telecommunications public utilities from K.S.A. 66-1,188 and K.S.A. 66-2005(z). The Commission derives its authority to certificate and decertificate public utilities from K.S.A. 66-131, which requires the Commission to review all certification and decertification Applications to determine whether the "public convenience" will be promoted by granting the request.

ANALYSIS

EarthGrid is a Delaware corporation registered on September 23, 2016 as Red Gopher Cooperative Corp. (Red Gopher) for the purpose of developing and providing clean energy superhighway systems to connect wind and solar power plants to cities and industrial centers. Red Gopher changed its name to EarthGrid PBC thru a Certificate of Amendment on June 29, 2020.¹ The Company is headquartered in Berkeley, California and is registered with the Kansas Secretary of State's office and is currently "active and in good standing."²

EarthGrid seeks authority to provide non-switched point-to-point and interexchange telecommunications service in Kansas via its own fiber facilities and/or through resale arrangements to wireless service providers, data centers, internet service providers, telecommunications carriers and communications providers, municipalities, tribal communities, and commercial customers. The Company initially plans to offer service in the areas where AT&T Kansas and Brightspeed of Kansas, Inc. (Brightspeed)³ operate and may extend services into other areas as it finds additional opportunities. Extending services outside where AT&T Kansas and Brightspeed operate would apply to interexchange telecommunications service only.

EarthGrid's long-term plans include significant investment in long-range fiber route infrastructure. The execution of the fiber route infrastructure will take more than 12 months to begin physical installation of plant. The Company does not currently provide telecommunications services but will request negotiation of an interconnection agreement with AT&T Kansas and/or Brightspeed upon approval of this Application. The Company is currently authorized to provide telecommunications service in 36 states.

EarthGrid identified its founder and Chief Executive Officer, Chief Operations Officer, Senior Vice Presidents of Telecommunications, Projects and Constructions, Vice President of Engineering, Directors, and regulatory contact name and contact information,

The Company's management team has experience with energy, telecommunications, engineering and business operations, construction management, project management, property acquisition, engineering, design, and project management.⁴ The management team has telecommunications experience with Qwest, Lucent Technologies, Nextel Wireless, AT&T, Verizon, Southwestern Bell Telephone, and Sprint. The Company does not anticipate having any service personnel located in Kansas.⁵ Based on the information submitted and the investigation Staff has performed, the Company appears to have the managerial, technical and financial ability to provide Interexchange Services in Kansas.

EarthGrid submitted a signed Telecommunications Carrier Code of Conduct with its Application.⁶ The Company also provided comparative Income Statements and Balance Sheets for 2021, 2022,

¹ Application, Exhibit V, Articles of Incorporation.

² Kansas Secretary of State Office, Business Entity Search, Earthgrid PBC, <https://www.sos.ks.gov/eforms/BusinessEntity/Search.aspx>, last viewed March 22, 2024.

³ Order Approving Name Change to Brightspeed of Kansas, Inc. in Docket 24-UTDT-204-CCN dated October 12, 2023.

⁴ Application, Exhibit II, Management Resumes/Bios.

⁵ Application, 10.B, page 3.

⁶ Application, Exhibit VII, Telecommunications Code of Conduct

and Jan thru June 2023.⁷

To the extent that the Company's presence in Kansas will increase consumer options for services, Staff believes the general public would benefit from Commission approval of this Application.

RECOMMENDATION

Staff recommends approval of EarthGrid's Application for an IXC Certification to provide Interexchange Services in the state of Kansas. Based on the findings discussed above, Staff believes it would be in the public interest of Kansans to grant this request.

The Commission should direct the Company to register with Vantage Point Solutions (VPS), the Kansas Universal Service Fund (KUSF) Administrator, within 30 days of an Order granting the Company's Application, through the appropriate KUSF remittance and payment election via the Company Identification and Operations. Within 30 days of generating Kansas intrastate assessable retail revenue, the Company shall submit the relevant Carrier Remittance Worksheets and assessment payments to VPS.

The Company is reminded to notify the Commission immediately of any change in address or contact information, timely file Annual Interrogatories, maintain current registration with the Kansas Secretary of State's Office, and pay all Commission and KUSF assessments in a timely manner.

⁷ Application, Confidential Exhibit IV, Financial Statements.

CERTIFICATE OF SERVICE

24-EGPT-336-COC

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 04/04/2024.

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/S/ KCC Docket Room

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