

# BEFORE THE PUBLIC SERVICE COMMISSION

## OF THE STATE OF MISSOURI

In the Matter of the Application of AGL Networks, LLC     )  
for Interexchange and Non-Switched Local Exchange     )  
Service Authority     )     **Case No. CA-2008-0306**

### **ORDER APPROVING INTEREXCHANGE AND NONSWITCHED LOCAL EXCHANGE CERTIFICATES OF SERVICE AUTHORITY**

Issue Date: April 30, 2008

Effective Date: May 10, 2008

**Syllabus:** This order grants AGL Networks, LLC (“AGLN”) certificates of service authority to provide interexchange and nonswitched local exchange telecommunications services, restricted to providing dedicated private line services.

On March 24, 2008, AGLN applied to the Missouri Public Service Commission for certificates of service authority to provide switched interexchange and non-switched local exchange telecommunications services in Missouri. AGLN’s application, which was filed pursuant to Section 392.410, RSMo Cum. Supp. 2005 and Sections 392.420 through 392.450, RSMo 2000,<sup>1</sup> as well as the pertinent administrative regulations, did not (and was not required to) contain a proposed tariff.<sup>2</sup>

AGLN asked the Commission to classify it and its services as competitive and to waive certain statutes and Commission rules as authorized by Sections 392.361 and

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<sup>1</sup> Unless otherwise indicated, all statutory references are to RSMo 2000.

<sup>2</sup> See Commission Rule 4 CSR 240-3.510(1)(C), which provides that a proposed tariff may, but need not be, filed simultaneously with an application for a certificate of service authority to provide interexchange, local

392.420. AGLN, whose principal office is located at Ten Peachtree Place, Suite 1000, Atlanta, Georgia 30309, is a Delaware limited liability company duly registered and authorized to do business in Missouri.

The Commission issued a Notice of Applications for Intrastate Certificates of Service Authority and Opportunity to Intervene on April 2, 2008, directing parties wishing to intervene to file their requests by April 17, 2008. No requests for intervention were filed.

AGLN intends to provide switched interexchange and non-switched local exchange telecommunications services limited to providing dedicated private line service to business customers throughout Missouri by deploying, leasing and selling metropolitan fiber optic networks and systems to other telecommunications services providers.

In its Memorandum filed on April 29, 2008, the Staff of the Commission recommended that the Commission grant AGLN a certificate of intrastate interexchange service authority and a certificate of service authority for non-switched local exchange telecommunications service on condition that this authority be restricted to providing dedicated private line services. Staff recommended that the Commission classify AGLN and its services as competitive, and that the Commission waive the statutes and rules listed in the Notice.

The Commission finds that competition in the intrastate interexchange and non-switched local exchange telecommunications markets is in the public interest and that AGLN shall be granted certificates of service authority. The Commission finds that the services AGLN proposes to offer are competitive and that AGLN shall be classified as a competitive company. The Commission finds that waiving the statutes and Commission

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exchange, or basic local exchange telecommunications services. FairPoint has advised the Commission that it plans to file a tariff "forthwith" after it has been granted the requested certificates of service authority.

rules set out in the ordered paragraph below is reasonable and not detrimental to the public interest.

The Commission reminds the company that failure to comply with its regulatory obligations may result in the assessment of penalties against it. These regulatory obligations include, but are not limited to, the following:

A) The obligation to file an annual report, as established by Section 392.210. Failure to comply with this obligation will make the utility liable to a penalty of \$100 per day for each day that the violation continues. Commission Rule 4 CSR 240-3.540 requires telecommunications utilities to file their annual report on or before April 15 of each year.

B) The obligation to pay an annual assessment fee established by the Commission, as required by Section 386.370.

C) The obligation to comply with all relevant laws and regulations, as well as orders issued by the Commission. If the company fails to comply, it is subject to penalties for noncompliance ranging from \$100 to \$2,000 per day of noncompliance, pursuant to Section 386.570.

D) The obligation to keep the Commission informed of its current address and telephone number.

The company is also reminded that, as it is a corporation, non-attorneys may not represent the company before the Commission. Instead, the corporation must be represented by an attorney licensed to practice law in Missouri.

Furthermore, as noted above, no tariff was submitted with the application. While no tariff filing is required at this time, the Commission advises AGLN that “[b]efore service can be provided, a tariff and any applicable interconnection agreements must be filed with

the commission and approved.”<sup>3</sup> Finally, the company is reminded that Section 392.410.5, RSMo Cum. Supp. 2005, renders the company’s certificates of service authority null and void one year from the date of this order unless it has exercised its authority under those certificates.

**IT IS ORDERED THAT:**

1. AGL Networks, LLC is granted a certificate of service authority to provide intrastate interexchange telecommunications services in the state of Missouri, subject to the conditions and recommendations contained in the Memorandum filed by the Commission’s Staff on April 29, 2008, and also subject to all applicable statutes and Commission rules except as specified in this order.

2. AGL Networks, LLC is granted a certificate of service authority to provide non-switched local exchange telecommunications services in the state of Missouri, limited to providing dedicated private line services, subject to the conditions and recommendations contained in the Memorandum filed by the Commission’s Staff on April 29, 2008, and also subject to all applicable statutes and Commission rules except as specified in this order.

3. The certifications granted herein are conditioned upon AGL Networks, LLC’s compliance with the regulatory obligations in this order.

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<sup>3</sup> 4 CSR 240-3.510(1)(C). The tariff filed with the Commission must have “an effective date which is not fewer than forty-five (45) days after the tariff’s issue date.” *Id.* AGLN has advised that it plans to file a tariff “promptly” once it develops the necessary facts.

4. AGL Networks, LLC is classified as a competitive telecommunications company. Application of the following statutes and administrative regulations shall be waived:

**Statutes**

- 392.210.2 - Uniform System of Accounts
- 392.240.1 - Rates-Rentals-Service & Physical Connections
- 392.270 - Valuation of Property (Ratemaking)
- 392.280 - Depreciation Accounts
- 392.290 - Issuance of Securities
- 392.300.2 - Acquisition of Stock
- 392.310 - Stock and Debt Issuance
- 392.320 - Stock Dividend Payment
- 392.330 - Issuance of Securities, Debts and Notes
- 392.340 - Reorganization(s)

**Commission Rules**

- 4 CSR 240-10.020 - Depreciation Fund Income
- 4 CSR 240-30.040 - Uniform System of Accounts

- 5. This order shall become effective on May 10, 2008.
- 6. This case may be closed on May 11, 2008.

**BY THE COMMISSION**



Colleen M. Dale  
Secretary

( S E A L )

Benjamin H. Lane, Regulatory  
Law Judge, by delegation of authority  
under section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 30th day of April, 2008.