



0000107485

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BEFORE THE ARIZONA CORPORATION COMMISSION  
  
IN THE MATTER OF THE APPLICATION  
OF AGL NETWORKS, LLC FOR )  
APPROVAL OF A PETITION FOR A ) DOCKET NO.  
CERTIFICATE OF CONVENIENCE AND ) T-20667A-09-0179  
NECESSITY TO PROVIDE INTRASTATE )  
TELECOMMUNICATIONS SERVICES IN )  
ARIZONA. ) Evidentiary Hearing  
\_\_\_\_\_ )

AT: Phoenix, Arizona

DATE: December 17, 2009

FILED: **JAN 04 2010**

RECEIVED  
2010 JAN -11 PM 12:00

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Arizona Corporation Commission  
**DOCKETED**  
JAN -4 2010

DOCKETED BY *ma*

ARIZONA REPORTING SERVICE, INC.  
Court Reporting  
2200 North Central Avenue  
Suite 502  
Phoenix, Arizona 85004

Prepared for:  
ACC

BY: SHERYL BARKER  
Certified Reporter  
Certificate No. 50185

**ORIGINAL**

**FOR  
INTERNAL  
&  
INTERAGENCY  
USE  
ONLY**

Pursuant to the contract with Arizona Reporting Service all transcripts are available electronically for internal agency use only.

Do not copy, forward or transmit outside the Arizona Corporation Commission.

1	INDEX TO EXAMINATIONS		
2	WITNESS		PAGE
3	WALTER ANDREW HARRISON		
4	Direct Examination by Mr. Gerry		7
5	Cross-Examination by Ms. Mitchell		25
6	Examination by ALJ Kinsey		27
7	Redirect Examination by Mr. Gerry		31
8			
9	LORI MORRISON		
10	Direct Examination by Ms. Mitchell		32
11	Examination by ALJ Kinsey		35

12	INDEX TO EXHIBITS			
13				
14	NUMBER	DESCRIPTION	IDENTIFIED	ADMITTED
15	S-1	Staff Report	31	32



1 ALJ KINSEY: Good morning everybody. I'm  
2 Yvette Kinsey. This is the time set for the hearing on  
3 AGL Networks, LLC's application to provide local and long  
4 distance point-to-point private line telecommunication  
5 services in Arizona, and a petition for a determination  
6 that its proposed services be classified as competitive.

7 This is Docket T-20667A-09-0179.

8 May I have appearances for the record?

9 MR. GERRY: Yes, Your Honor. My name is Norman  
10 Gerry. I'm with the law firm of Friend, Hudak & Harris  
11 in Atlanta, Georgia. I am admitted to practice in the  
12 State of Arizona, and my Bar number is 013844.

13 My witness today will be Mr. Walter A. Harrison  
14 on behalf of AGL Networks, LLC.

15 ALJ KINSEY: Thank you. And for Staff?

16 MS. MITCHELL: Good morning, Judge. Robin  
17 Mitchell on behalf of Commission Staff.

18 ALJ KINSEY: I will say that Ms. Mitchell and I  
19 should feel in good company, Mr. Gerry. We all have  
20 southern accents.

21 MR. GERRY: To digress slightly, where is the  
22 Judge from?

23 ALJ KINSEY: Alabama.

24 MR. GERRY: We are all close. To close the  
25 circle fully, I lived out here for seven years.

1 ALJ KINSEY: Did you really? You still did not  
2 lose the accent.

3 Do we have any procedural issues that we need to  
4 discuss this morning?

5 MS. MITCHELL: No, Your Honor.

6 MR. GERRY: No.

7 ALJ KINSEY: Any members of the public here?

8 Let the record reflect there are no members of  
9 the public present, and we can go ahead and get started.

10 Mr. Gerry, would you like to make an opening  
11 statement regarding the application?

12 MR. GERRY: Yes, Your Honor. We are here on  
13 behalf of AGL Networks who for the past nine or ten years  
14 has slowly developed a dark fiber --

15 ALJ KINSEY: Mr. Gerry. I'm just going to  
16 interrupt you. We are not that formal. You can be  
17 seated.

18 MR. GERRY: Some Commissions are.

19 ALJ KINSEY: Yes, I can imagine.

20 MR. GERRY: I have embarrassed myself many  
21 times.

22 ALJ KINSEY: Don't be embarrassed.

23 MR. GERRY: AGL's presence in the valley started  
24 in about 2002, which sequentially developed pursuant to  
25 license agreements with various municipalities, initially

1 Phoenix and Tempe, a dark fiber multi-conduit, multi-ring  
2 network with laterals that connect to particular  
3 customers who consist of telecommunications companies and  
4 large businesses to a fiber optic network.

5 We subsequently expanded that network into  
6 Chandler, into Mesa, into Gilbert and just received  
7 authorization to be in Gilbert and Glendale. We are  
8 working with Peoria, Scottsdale, and wonder of wonders  
9 even Paradise Valley let us put fiber in their streets.

10 So we have been providing this network, managing  
11 this network, repairing and maintaining this network for  
12 the better part of ten years, and have a substantial  
13 capital investment in the valley, expertise with the  
14 maintenance and care of actual facilities, personnel in  
15 the valley to handle on-site responses if there are  
16 issues with the facilities, and in the face of multiple  
17 requests and a perceived need by our existing customer  
18 base, AGL seeks to provide local and long distance  
19 point-to-point type services, transport services.

20 ALJ KINSEY: Okay. Thank you very much. And  
21 for Staff?

22 MS. MITCHELL: Thank you, Judge Kinsey. Staff  
23 has recommended approval of this application with some  
24 conditions. Staff will have one witness this morning.  
25 It is Ms. Lori Morrison.

1 ALJ KINSEY: Thank you. If you would like to go  
2 ahead and call your first witness, Mr. Gerry, we will get  
3 them sworn in.

4 MR. GERRY: My first witness is Mr. Walter Andy  
5 Harrison. He is my only witness.

6

7

WALTER ANDREW HARRISON

8 called as a witness on behalf of the Company, having been  
9 first duly sworn by the Certified Reporter to speak the  
10 whole truth and nothing but the truth, was examined and  
11 testified as follows:

12

13

DIRECT EXAMINATION

14 BY MR. GERRY:

15 Q. Would you please state your name and business  
16 address?

17 A. Yes. It is Walter Andrew Harrison. I go by  
18 Andy. Business address is 10 Peach Tree Place, Atlanta,  
19 Georgia 30309. Suite 1000.

20 Q. By whom are you employed and in what capacity?

21 A. AGL Networks, LLC is my employer, and I am the  
22 Director of Business Operations.

23 Q. Would you please state the full name of the  
24 company, business address and the telephone number?

25 A. Yes. It is AGL Networks, LLC, and the address

1 is the same, 10 Peach Tree Place, Atlanta, Georgia 30309,  
2 Suite 1000.

3 My phone number is (404) 584-4917.

4 Q. Would you please provide us with a brief  
5 description of your education and background?

6 A. Certainly. I have a technical and financial  
7 background through graduation at Georgia Institute of  
8 Technology back in 1983. Worked for AGL Resources which  
9 is our parent company since 1983 in various capacities of  
10 engineering, operation and construction.

11 Then later received a Master's of Business  
12 Administration from Kennesaw State University also in the  
13 Atlanta area, and in 2000 was one of the three founding  
14 members or employees of AGL Networks who was wholly owned  
15 by AGL Resources.

16 From that point I managed and directed the  
17 operation and construction of our networks in Kansas  
18 City, St. Louis, Richmond, Atlanta, Phoenix and now  
19 Charlotte.

20 I have held the position of City Manager in  
21 Atlanta, and now manage all of the operations of the  
22 organization including the back office which is billing,  
23 which is collections, our recordkeeping, contracts, the  
24 financial side, accounting side and then the construction  
25 operations.

1 Q. Could you let us know what business your AGL  
2 Resources is in?

3 A. AGL Resources. AGL Resources is a large entity  
4 service holding company. They have multiple gas  
5 distribution companies as well as multiple non-regulated  
6 companies. AGL Networks is a non-regulated company.

7 The gas distribution companies are made up of  
8 organizations in Georgia, Tennessee, Virginia, Maryland,  
9 New Jersey and Florida and have over several million  
10 customers. A very large organization.

11 Q. Just to clarify for the Court, when you said the  
12 City Manager, Atlanta, you don't mean that you were the  
13 City Manager of Atlanta, you were the City Manager for  
14 AGL Networks in the development and implementation of the  
15 network in Atlanta?

16 A. Correct. Not in a municipal capacity. We have  
17 had several franchise applications chuckle at that.

18 Q. What is the purpose of your testimony?

19 A. Well, in support of the application for our CC&N  
20 and also to help Staff and this Court understand our  
21 financial capabilities and operational capabilities.

22 Q. Would there be any other witnesses testifying on  
23 behalf of AGL Networks?

24 A. No, there won't be.

25 Q. Are you familiar with the amended and restated

1 application that was submitted to this Commission?

2 A. Yes. It was submitted under my direction  
3 June 25th, I think, of 2009.

4 Q. Do you ratify and confirm the statements made in  
5 that application?

6 A. I do.

7 Q. Would you please in a little more detail  
8 describe AGL Networks and its ownership structure?

9 A. Okay. AGL Networks is an LLC out of Delaware.  
10 It originated in 2000, August 15, 2000, and it is wholly  
11 owned by our parent which I have described briefly  
12 earlier which is a holding company. It is one of the  
13 non-regulated entities that it owns, and AGL Networks  
14 started operations in Phoenix April 30, 2002, or in  
15 Arizona, the State of Arizona.

16 Q. Would you please first describe AGL's current  
17 operations in Arizona?

18 A. Yes. Currently we own multiple ring,  
19 telecommunication rings approximately 255 miles worth.  
20 We started with 60 and have built over the last six years  
21 the extension of the 250 miles.

22 It is made up of one to multiple ducts in ring  
23 configurations in which we pull fiber optic cables  
24 anywhere in size from 144 fibers to 432 fibers.

25 We have the laterals that serve approximately 86

1 buildings off of that network. They are C.O.s, central  
2 offices. They are multi-tenant businesses. There is  
3 point of presence. Data centers.

4 From there we lease dark fiber presently or sell  
5 dark fiber to our customers which are basically  
6 telecommunication service providers and/or large  
7 enterprise customers.

8 What we plan to do is we want to use our CC&N to  
9 provide facility based, resold competitive local exchange  
10 services to the marketplace. That would include intra  
11 and inter lateral non-switched services.

12 The facility based services would also be  
13 private line services --

14 Q. Let me interrupt. You are now moving on to  
15 proposed services that you'll offer after --

16 A. True. I thought that is what you had asked.  
17 I'm sorry.

18 Q. That is all right. Go ahead.

19 A. So not only will we sell, and what we have been  
20 doing is lease dark fiber. I thought that you had asked  
21 what we would also be doing in the future. Sorry.

22 So, what we plan on doing with this CC&N is then  
23 do the point-to-point, the point-to-multipoint, the  
24 multipoint to multipoint services, the intra and inter  
25 exchange for the provisioning of voice data and

1 information services.

2 Basically, our customers would be  
3 telecommunication providers and also large businesses,  
4 enterprise businesses.

5 Q. Just to clarify, you presently serve  
6 approximately 84 facilities?

7 A. We serve 86 establishments, buildings, in the  
8 Phoenix area. Our custom base is something just under  
9 100.

10 Q. And approximately how many fiber miles do you  
11 have in the Phoenix area?

12 A. Approximately, 64,000 fiber miles of network.

13 Q. Does AGL possess the sufficient technical and  
14 financial capability to offer or provide the proposed  
15 services in Phoenix, Arizona or in Arizona?

16 A. I believe it does. I know it does. We are  
17 wholly owned. All of this network is ours. It  
18 represents a net investment to us of about 35 million  
19 dollars for us.

20 Our parent is a supporter of that also. It is a  
21 -- I think it has assets of 6.7 billion dollars and has  
22 revenues annually of 2.8 billion dollars. So I believe  
23 that we do.

24 Q. Could you describe the management and their  
25 capabilities of AGL Networks?

1           A.     Our team has over 100 years of management  
2     experience made up of five players.  Myself, who I have  
3     over 26 years of experience in facility based networks  
4     and/or utility based infrastructure.

5           I have some summaries of these, if you want me  
6     to open them up and go through them, or would you like to  
7     just use the record in the application?

8           ALJ KINSEY:  Either way.  Whatever is fine.  I  
9     have it in the record.

10          MR. GERRY:  I would like for you to identify the  
11     members and their capacity, if it's all right with the  
12     Court.

13          ALJ KINSEY:  Certainly.

14          MR. GERRY:  We don't need to read all of that  
15     into what is already in the record.

16          ALJ KINSEY:  No.

17          MR. GERRY:  Thank you very much, Your Honor.

18          THE WITNESS:  Jim Gillis is our President, and  
19     he joined the company in 2003.

20          William Peeples has 30 years of experience.  He  
21     was an original AGL Resource employee.  He is Vice  
22     President of Marketing and also of Enterprise Sales.

23          Jim Nolte is Vice President of Strategic Sales.

24          Deborah Silvia is Director of Wholesale Sales.

25          Q.     BY MR. GERRY:  That was Deborah --

1 A. Silvia.

2 Q. We have already discussed the others.

3 Could you describe AGL Networks facilities  
4 located in Arizona?

5 A. I have already some, so I'll try to summarize it  
6 again.

7 It's approximately 255 miles of network, 64,000  
8 fiber miles of network. It is ring based. It gives  
9 redundancy. Most of our laterals are redundant meaning  
10 there are two laterals into each building. Not always,  
11 but usually it is whatever the customer wants is what we  
12 provide for those customers.

13 We are in Chandler. We are in Mesa. We are in  
14 Tempe. We are in Phoenix, Scottsdale, Paradise Valley.  
15 We just have been licensed last franchise to be in  
16 Gilbert and also Glendale.

17 Q. You currently provide dark fiber services to  
18 customers in all but the last two municipalities?

19 A. That is correct.

20 Q. Every place but Gilbert and Glendale?

21 A. That is correct.

22 Q. Where in Arizona does AGL intend to offer its  
23 services?

24 A. To start we would be in, obviously, the existing  
25 network that we have. However, if there is demand and

1 financial justification to go elsewhere, we would be glad  
2 to go elsewhere.

3 Q. How do you propose to offer those services?

4 A. It will be by tariff, obviously, and also by  
5 individual case basis, depending on how the customer  
6 needs to have its facilities granted.

7 Q. How will AGL bill for its services?

8 A. We have an internal billing system. It is  
9 located in Atlanta. It handles billing for the entire  
10 nation, all of our properties.

11 The bills would be just like any other utility  
12 bill. It would have the amount, what the service was,  
13 and the dates, and contact information if they have to  
14 ask questions about it.

15 Q. Do you maintain a customer care operation if  
16 someone wants to call in and question their bill?

17 A. Yes. Customer care operation is on the 14th  
18 floor of our building, 10 Peach Tree Place, Atlanta,  
19 Georgia. It is going to be available -- since it is  
20 national, it is available and I'll give you eastern time,  
21 five days a week, 8:00 to 6:00 p.m. and customers can  
22 call in on an 800 number.

23 They will be able to ask questions associated  
24 with, you know, what their bill looks like, you know, is  
25 there a problem with that bill.

1           If there is any non-emergency they need to take  
2 care of, or if they want to buy something new, they will  
3 be transferred to a sales person which will help them  
4 with just a straight tariff, provision of service and/or  
5 an ICB type service.

6           Q.   How will AGL handle service outages and  
7 emergency maintenance requests?

8           A.   We also have a NOC which is a network operation  
9 center. It is on the 8th floor of our building, and it  
10 is a national type of facility. It monitors all of our  
11 networks, also the one in Arizona.

12           Any kind of emergency that is alarmed, either  
13 equipment or a cut line, because our fiber is actually  
14 monitored for cuts also, would alarm there, or if a  
15 customer called in, there is an 800 number they could  
16 select to go to the emergency response center, and from  
17 there a ticket could be developed or created so that the  
18 customer can track what is going on with his emergency,  
19 and also then from that point they will know where the  
20 damage is and they will dispatch individuals in whatever  
21 part of town it is to go correct the damage.

22           Our SLAs, our Service Level Agreements, are  
23 typically two hours or less to be on site and four hours  
24 to restore service.

25           Q.   Four hours is essentially a temporary repair?

1 A. Or permanent.

2 Q. It may take longer?

3 A. Could be, yes.

4 Q. Is service available on a 7-24-365 basis?

5 A. That is a good question. Yes. At the NOC it is  
6 an emergency center. It is 7-24-365.

7 Q. And there is also a toll free number for that,  
8 correct?

9 A. Yes. Thank you. Correct.

10 Q. I will ask the question, and then defer to the  
11 Court on this one.

12 Has AGL and/or any of its officers, directors,  
13 partners or managers been or are currently involved in a  
14 formal or informal complaint proceeding pending before  
15 any state or federal regulatory commission,  
16 administrative agency, or law enforcement agency?

17 There were some matters before the Missouri  
18 Public Service Commission which are detailed at length in  
19 the application. If that is sufficient, we can move on.  
20 If not, we are perfectly prepared to discuss them.

21 ALJ KINSEY: I was going to ask him to just go  
22 ahead and discuss them and put it on the record, and if  
23 there are any additional updates that we need to be aware  
24 of.

25 MR. GERRY: I'll address that the matters are

1 closed in Missouri and he certainly is at liberty to  
2 discuss it.

3 THE WITNESS: Back in January of 2004, the  
4 Missouri Public Service Commission pointed out to us that  
5 we had not filed our 2002 Annual Reports, and they had  
6 directed in June of 2004 a general counsel to seek  
7 penalties against us.

8 Once our general counsel met with their general  
9 counsel, they discussed the matter and they realized that  
10 we had never exercised our rights under the certificate  
11 to provide telecommunications services in Missouri, and  
12 they also found that those entities that had not -- or  
13 companies that had not ever exercised that right were not  
14 required to submit reports, so the matter was dropped.

15 Then in January of 2005 our certificate was null  
16 and void because we had not submitted a tariff and  
17 obviously had not supplied any services.

18 Since then, though, in March of 2008, we  
19 re-applied and since then have received our certificate  
20 and we have submitted our reports for 2008.

21 Q. BY MR. GERRY: Again, has AGL and its officers,  
22 directors, partners, managers, etc., been or are  
23 currently involved in a civil or criminal investigation  
24 or have judgements entered in any civil matter,  
25 judgements levied by any administrative or regulatory

1 agency or been convicted of any criminal acts within the  
2 last ten years?

3 Again, Your Honor, if you would like, everybody  
4 is aware of the Tempe situation. It is detailed, but we  
5 are happy to put it on the record if Your Honor so  
6 wishes.

7 ALJ KINSEY: Same thing. Let's just go ahead  
8 and put it on the record. When I said "update"  
9 Mr. Gerry, I was referring to if there has been anything  
10 else additional since the filing of the revised  
11 application.

12 MR. GERRY: Correct.

13 ALJ KINSEY: Amended application.

14 THE WITNESS: Southwest Gas Corporation back in  
15 December of 2008 has filed a petition in court, I  
16 believe, alleging that they had damages associated with a  
17 waterline break in Tempe.

18 I think that they addressed AGL Networks, AGL  
19 Networks' contractor, several other entities, but also  
20 City of Tempe, and in that the Commission, the Arizona  
21 Corporation Commission, has investigated and their  
22 findings were that our contractor, AGL Networks'  
23 contractor had followed all of the rules, laws, and  
24 standards associated with underground construction,  
25 telecommunications facilities, but in this case, the City

1 of Tempe had mis-located its facilities.

2 So their findings were that the City of Tempe  
3 did not look at their facilities correctly. As far as I  
4 know, it is still pending and there are no new events  
5 associated with that.

6 Q. BY MR. GERRY: Does AGL intend to post a  
7 performance bond in connection with its services?

8 A. We don't believe it is necessary given our  
9 financial backing first individually from our  
10 corporation's standpoint of them having net assets of 35  
11 million dollars and annual revenues of 20 million, plus  
12 also the backing of our company that has revenues each  
13 year of 2.8 billion dollars.

14 Our organization's parents have been in business  
15 for 150 years and we have never really had any trouble  
16 with this. So given our financial backing and the fact  
17 that we have not really had any problems in the past, we  
18 don't think that it is necessary.

19 Also, we are not really doing any switched  
20 service. We are not asking for that, nor are we going to  
21 individuals to do that.

22 Q. To the extent that you have a deposit policy for  
23 new customers, is it detailed in your tariff?

24 A. It is.

25 Q. Could you advise us where in your tariff it was?

1           A.     Actually, I don't recall the exact location and  
2 section.  However, I believe it is somewhere between zero  
3 and two and-a-half months is the deposit.  But I don't  
4 recall.

5           Q.     Let me ask it a different way.  Are those  
6 provisions contained in section 2.13 of your tariff  
7 number one commencing on page 26?  Might that be the  
8 case?

9           A.     That sounds correct.

10          Q.     Okay.  That is good.  As a matter of course  
11 given the nature of the customers that you serve at the  
12 present time and contemplate serving in the immediate  
13 future, do you even request deposits?

14          A.     No.

15          Q.     Has AGL Network published a legal notice of its  
16 application in all counties where AGLN is requesting  
17 authority to provide service and submitted copies of  
18 affidavits and publications of AGL and has done so as  
19 required?

20          A.     Yes.

21          Q.     Will AGLN act as a switchless re-seller of the  
22 type of communication, telecommunication service, that  
23 AGLN will or intends to re-sell in Arizona?

24          A.     Possibly.  We do not have an interconnection  
25 agreement with Quest at the present time, but if that is

1 the way, you know, the demand is, we would look into it,  
2 but not at this time.

3 Q. So those decisions, as are most of your network  
4 decisions, typically driven not by build it and they will  
5 come, but if you have customers --

6 A. Customer demand.

7 Q. At the present time you have entered into no  
8 interconnection agreements for resale in the State of  
9 Arizona?

10 A. No.

11 Q. Or any interconnection agreements period in  
12 Arizona?

13 A. No.

14 Q. Would you please list the states in which AGL  
15 Networks has had an application approved or denied to  
16 offer telecommunication services similar to those that  
17 AGL will or intends to offer in Arizona?

18 A. Georgia, Nevada, Missouri, and North Carolina,  
19 all of which have been approved, and none have been  
20 denied.

21 Q. No other states have denied any application of  
22 AGL to provide service?

23 A. That is correct.

24 Q. Could you please list the states where AGL  
25 Networks currently offers telecommunication services

1 similar to those that AGL Networks would offer in  
2 Arizona?

3 A. The same states. Georgia, Nevada, Missouri, and  
4 North Carolina.

5 Q. Does AGLN wish to adopt as its petition a  
6 statement that the service that it intends to offer has  
7 already been classified as competitive by Commission  
8 decision?

9 A. No. It wishes to be classified under article  
10 11, and we just don't believe that our organization is  
11 going to be large enough to affect the marketplace and  
12 could not adversely affect the marketplace competitively.

13 Q. So you want all of your services and you to be  
14 classified as competitive pursuant to the Commission's  
15 Article 11 Rules?

16 A. Yes.

17 Q. Has AGL Networks submitted its last two years of  
18 financials?

19 A. Yes.

20 Q. Will AGL Networks rely on the financial  
21 resources of its parent AGL Resources?

22 A. We do and have in the past. We have enough  
23 revenue and also resources to do it on our own, but when  
24 large companies come to us with large projects, we do  
25 look to our parent and they willingly help us and that is

1 why they have us in business.

2 Q. Is AGL Networks currently selling  
3 facilities-based long distance telecommunication services  
4 and/or facilities-based local exchange telecommunication  
5 service in Arizona?

6 A. No. No, we do not, and don't plan to provide  
7 switched services now.

8 Q. Is AGL Networks prepared to comply with Arizona  
9 law and all applicable Commission rules and regulations  
10 including the Quality of Service standards that were  
11 approved by the Commission in Decision Number 59421?

12 A. Yes. We plan to abide by all standards and laws  
13 and rules associated with that.

14 Q. To the extent they are applicable to what you  
15 are doing?

16 A. Yes.

17 Q. In your opinion is the granting of AGL Networks'  
18 application in the public interest?

19 A. I really believe it is. We are a highly  
20 qualified organization that is a truly facility based  
21 provider.

22 We believe competition is important to the  
23 public interest, and to that end, we plan on providing  
24 efficient performance of our services. We bring -- our  
25 size allows us to be innovative and flexible for our

1 customers.

2 We are responsive to market demand. That is why  
3 we have been successful here in Arizona and all of the  
4 other states we have been in.

5 I believe that we'll bring, even though we are  
6 smaller, a set of competition to the marketplace that  
7 will help lower prices for our customers.

8 Q. Again, in your opinion does AGL Networks possess  
9 the financial and technical capability to provide the  
10 services it proposes to offer in the State of Arizona?

11 A. Yes, I believe it does.

12 Q. Does this conclude your testimony?

13 A. It does.

14 MR. GERRY: Thank you, Your Honor.

15 ALJ KINSEY: Any questions for this witness,  
16 Ms. Mitchell?

17 MS. MITCHELL: Yes. Thank you, Judge Kinsey.

18

19 CROSS-EXAMINATION

20 BY MS. MITCHELL:

21 Q. Good morning.

22 A. Good morning.

23 Q. Just a couple of questions. You testified  
24 concerning what would happen if there were a service  
25 problem here in Arizona.

1 Do you have any local employees based in  
2 Arizona?

3 A. We do. We have technicians and also we have  
4 sales people that can go service a customer.

5 Q. I think that you also indicated that you would  
6 also dispatch technicians to review the problem.

7 Are those your own technicians, or do you  
8 contract with another service?

9 A. We do both. We have our own technicians and  
10 they also supervise contractors.

11 Q. I believe that you testified that you will not  
12 be offering switched service; is that correct?

13 A. Not at this time.

14 Q. Have you reviewed the Staff Report in this  
15 matter?

16 A. Yes.

17 Q. Are you familiar with the Staff recommendations?

18 A. I believe I heard it this morning that they did  
19 recommend it, yes.

20 Q. Do you find everything in the Staff Report  
21 acceptable to AGL?

22 A. I do.

23 Q. You went over the Complaint that was lodged  
24 against the Company in Missouri.

25 A. Yes.

1 Q. You also indicated that you were responsible for  
2 recordkeeping. Do you have procedures in place so that  
3 kind of situation won't happen again here in Arizona?

4 A. Thank you. That is a good question. Yes, we  
5 do, and we'll make sure that does not happen.

6 Ms. Mitchell: I believe that is all that I  
7 have. Thank you.

8 MR. GERRY: Do you mind if I redirect on that  
9 last point?

10 ALJ KINSEY: Certainly. And I have a couple of  
11 questions, Mr. Gerry, and it may generate a couple more  
12 after I ask my questions.

13

14

EXAMINATION

15 BY ALJ KINSEY:

16 Q. Mr. Harrison, can you describe for me this Metro  
17 Ethernet Virtual Private Line Service that is described  
18 in your application?

19 A. Yes. It is a managed service of whatever data  
20 or voice or information system, information that our  
21 companies -- that our customer are, and it transports it  
22 from one location to another.

23 Some companies like to do it at a point-to-point  
24 configuration, and that medium would just mean that it is  
25 only going one route. In that case it is more

1 susceptible to failure because if it's cut, then it is  
2 cut and it is down.

3           However, others prefer to have a ring based  
4 Ethernet product.

5           Q.    Ring, r-i --

6           A.    As in a circle. Southern draw. In that case,  
7 if there are two laterals and a ring, if one side of the  
8 network is down, this product automatically will switch  
9 seamlessly to the other side fast enough that there is no  
10 data loss.

11          Q.    Describe for me who your business customers  
12 are.

13          A.    Very good.

14          Q.    Who are they?

15          A.    Very good. They are -- there is multiples, so  
16 let me start with first off, telecommunication providers,  
17 large phone companies, for slang, if you will, that don't  
18 have network where we have it and choose to use us  
19 instead of building for themselves. That is one.

20                Large enterprise customers. Could be financial  
21 institutions or any other -- you know, big enough. A law  
22 firm, for instance, that just needs to have its data  
23 transported from one place to another place in the city.

24                Since we are in data centers, there are people  
25 that need to backup their -- like, accounting firms or

1 law firms that want to backup their data.

2 Then also schools systems, municipalities, all  
3 of which have been and are our customers.

4 Q. If the Company's request for certificate is  
5 granted, when will the Company begin this additional  
6 business in Arizona?

7 A. We would start selling it as soon as that were  
8 to happen, and so just as quickly as we could.

9 Q. Okay. You mentioned in your application that  
10 you currently, I believe, have three employees in  
11 Arizona.

12 Will the granting of the CC&N add any additional  
13 employees?

14 A. Potentially, it will. Depends on the growth  
15 rate and the more customers we have, we'll need more  
16 technicians for implementation, so that is based upon our  
17 success.

18 Q. I believe you already testified that there are  
19 no additional states where you have been authorized since  
20 the filing of the Staff Report to do the proposed  
21 services?

22 A. No, that is correct.

23 Q. Is there any direct contact with residential end  
24 users?

25 A. No.

1 Q. Only commercial based businesses?

2 A. Yes.

3 Q. I just wanted to get it on the record.

4 A. We are not set up for that. Not yet.

5 Q. Describe for me what this process is that you  
6 put in place for recordkeeping that will keep the  
7 situation that occurred with the Missouri PCU or Public  
8 Service Commission from happening again?

9 A. Okay. It is twofold. We purchased a contracts  
10 management system and we have implemented that. That  
11 system allows us not only to help create contracts, but  
12 also manage them.

13 So each contract has all of the pertinent dates  
14 of starting and ending, and also in the case of  
15 municipalities, if there are reports to do, there will be  
16 dates in the system that will then tell us in our Outlook  
17 System and we are alerted through an alarm in our Outlook  
18 System.

19 On a daily basis we get alarms, hey, we have a  
20 report to submit to any number of municipalities.

21 Q. Is there a particular person that manages that  
22 aspect of it or --

23 A. Yes.

24 Q. You oversee that person?

25 A. Yes.

1 ALJ KINSEY: All right. Those were all of the  
2 questions that I have. Go ahead Mr. Gerry.

3

4

REDIRECT EXAMINATION

5 BY MR. GERRY:

6 Q. In connection with Missouri, is it not the case  
7 that AGL applied for a certificate in anticipation of  
8 providing service, and then never provided any service?

9 A. That is correct.

10 Q. Is it also not the case that the law firm that  
11 handled this for you at the time, not me, neglected  
12 during the first 12 months after the issuance of the  
13 Certificate to comply with the Commission's orders that  
14 they file a tariff or lose your Certificate?

15 A. That is correct.

16 Q. Is it not true that essentially AGL internally  
17 nobody thought that you were doing any business in  
18 Missouri, so you did not know the need for any reports?

19 A. That is correct.

20 Q. In solving the problem in the states that you do  
21 provide service, did you not retain us to prepare you on  
22 a state-by-state basis a detailed matrix of all of your  
23 filings with time intervals and content that you use in  
24 your electronic system to keep you advised -- we told you  
25 what you are supposed to do and you put it in your system

1 and it tells you what to do?

2 A. That is correct.

3 MR. GERRY: Thank you. That is all.

4 ALJ KINSEY: Thank you. If there are no other  
5 witnesses, right, Mr. Gerry?

6 MR. GERRY: That is correct.

7 ALJ KINSEY: Staff will present their witness.

8 MS. MITCHELL: Staff would call Lori Morrison.

9

10 LORI MORRISON

11 called as a witness on behalf of Staff, having been first  
12 duly sworn by the Certified Reporter to speak the whole  
13 truth and nothing but the truth, was examined and  
14 testified as follows:

15

16 DIRECT EXAMINATION

17 BY MS. MITCHELL:

18 Q. Will you please state your name and business  
19 address for the record?

20 A. Yes. My name is Lori Morrison. My business  
21 address is 1200 West Washington Street, Phoenix, Arizona  
22 85007.

23 Q. For whom are you employed and in what capacity?

24 A. I'm employed by the Arizona Corporation  
25 Commission as a Utilities Consultant in the Utilities

1 Division.

2 Q. Could you briefly describe your job duties as a  
3 Utilities Consultant?

4 A. Yes, I provide information and analysis to the  
5 Commission on telecommunication tariff filings, major  
6 industry issues, and matters pertaining to CC&N  
7 applications.

8 Q. In the course of your employment were you  
9 assigned to evaluate the application by AGL Networks,  
10 LLC?

11 A. Yes.

12 Q. Was a Staff Report prepared by you or under your  
13 direction in the course of handling this matter?

14 A. Yes.

15 Q. You have before you what has been marked as  
16 Staff exhibit S-1. Could you please identify this item  
17 for the record?

18 A. This is the Staff Report that was filed under my  
19 direction or in this subject matter.

20 Q. Do you have any additions, corrections, or  
21 modifications to make to S-1 at this time?

22 A. No.

23 Q. Do you adopt S-1 as part of your sworn testimony  
24 here today?

25 A. Yes, I do.

1 MS. MITCHELL: Your honor, at this time I would  
2 like to move for the admission of Staff exhibit S-1.

3 ALJ KINSEY: Any objection, Mr. Gerry?

4 MR. GERRY: No, Your Honor.

5 ALJ KINSEY: S-1 is admitted.

6 Q. BY MS. MITCHELL: Ms. Morrison, does the  
7 applicant have the technical capabilities and the  
8 financial capabilities to provide the services  
9 requested?

10 A. I believe they do.

11 Q. In this matter Staff is not requesting a  
12 Performance Bond or an Irrevocable Sight draft Letter of  
13 Credit; is that correct?

14 A. Yes.

15 Q. That is normally not or at least in my  
16 experience, not Staff's normal recommendation. Why was  
17 that recommendation made in this case?

18 A. Well, because private line services are  
19 non-switched and does not serve residential customers,  
20 and this is a very highly competitive market, high speed  
21 data is, high speed private lines.

22 Q. Thank you. Based on your review of the  
23 application, is it your opinion that AGL Networks is a  
24 fit and proper entity?

25 A. I believe so.

1 Q. Based on your review of the application, do you  
2 believe that the granting of their application would be  
3 in the public interest?

4 A. Yes, I do.

5 Q. Do you have anything else that you would like to  
6 add?

7 A. No, I don't.

8 MS. MITCHELL: Thank you, Ms. Morrison. I have  
9 no further questions. She is available for  
10 cross-examination.

11 MR. GERRY: No questions.

12 ALJ KINSEY: Just a couple, Ms. Morrison.

13

14 EXAMINATION

15 BY ALJ KINSEY:

16 Q. Explain for me on the record Staff's position in  
17 a little bit more detail on why a Performance Bond and  
18 Irrevocable Sight draft or an Irrevocable Sight Draft  
19 Letter of Credit would not be proper in this particular  
20 matter?

21 A. Well, the bonds or the Irrevocable Sight Draft  
22 Letters are intended to protect the customers, and that  
23 is generally why it is required for services that are  
24 provided to residential and small businesses.

25 In this instance, this is a very highly

1 competitive service and there is always going to be  
2 somebody to pick up the ball should they not be able to  
3 provide it. So, we are not seeing a need to protect the  
4 customer.

5 Q. Because they are typically larger customers?

6 A. They are larger customers, that is correct.

7 Q. And probably have the ability to create  
8 contracts that would provide the protection that a bond  
9 may serve when we are dealing with smaller customers or  
10 residential customers?

11 A. That is a good assessment of it.

12 Q. I just wanted to make sure that I was clear on  
13 that.

14 And regarding the two Complaints that the  
15 witness for the Company talked about, does Staff have any  
16 concerns regarding those complaints and the Company's  
17 ability to serve and abide by the rules here in Arizona?

18 A. I do not have any concerns about that.

19 ALJ KINSEY: I believe that will solve the  
20 questions that I have. Any redirect, Ms. Mitchell?

21 MS. MITCHELL: No, Your Honor.

22 ALJ KINSEY: Thank you very much, Ms. Morrison.

23 Would you like to make a closing statement,

24 Mr. Gerry?

25 MR. GERRY: Yes, Your Honor.

1           In light of the evidence presented at this  
2 hearing, we believe that AGL Networks will be a valuable,  
3 competitive provider of the services it offers in the  
4 state based on its history in other municipalities and  
5 areas and its dark fiber network here. They clearly have  
6 the technical capability of managing these facilities.

7           Because AGL is providing these services over its  
8 own network, we believe that it can offer substantial  
9 opportunities to business customers to acquire the  
10 broadband width that they need at considerably lower  
11 prices than the ILEC offer, and also it provides an  
12 opportunity for the ILEC and municipalities in fact where  
13 we have done transactions to swap networks or swap  
14 facilities to enhance and expand their networks without  
15 incurring capital costs which then wind up back here  
16 being added into the rate base since it will be on a  
17 lease basis and probably a capital lease obviously would  
18 be part of the rate, and they have the capability to  
19 manage it.

20           The addition of LIT services should provide no  
21 difficulty.

22           All services and fiber are monitored on a  
23 computer basis, and they do have both dedicated Staff  
24 here and experienced contractors like Speedy Gonzales who  
25 are used to the build network of the city and the area

1 and we feel that it would be a benefit and of public  
2 interest to the community to allow AGL to provide these  
3 services.

4 ALJ KINSEY: Thank you very much. Ms. Mitchell?

5 MS. MITCHELL: I have no closing. But Staff has  
6 recommended approval of the application and believes it  
7 is in the public interest.

8 ALJ KINSEY: Just so you are aware, Mr. Gerry  
9 and Mr. Harrison, what will happen is I will, once we get  
10 the transcript, I will write a recommended opinion and  
11 order to the Commissioners for the Commissioners'  
12 approval, and it will appear on a future Open Meeting.

13 At that point we do ask that the Company or a  
14 representative for the Company appear at the Open Meeting  
15 in case there are any questions, and that should be  
16 sometime, I would imagine, after the first of the year,  
17 very close after the first of the year.

18 MR. GERRY: If I might be so presumptuous, does  
19 Your Honor have any idea of, you know, are we talking  
20 January, February, March?

21 ALJ KINSEY: I would think February, Open  
22 Meeting. The deadline for the February Open Meeting, I  
23 believe, is around mid January.

24 So after the holiday sometime you should see a  
25 Recommended Opinion and Order, and then it will appear on

1 the February Open Meeting, barring any other major  
2 catastrophe.

3 MS. MITCHELL: Which can be known to happen  
4 here.

5 ALJ KINSEY: The Legislature may be going back  
6 into special session. Very good point.

7 So, if there is nothing further, we'll end our  
8 session here today and thank you all for coming.

9 MR. GERRY: We appreciate it. Thank you for all  
10 of your time and effort.

11 (The hearing was concluded at 10:55 a.m.)

12

13

\* \* \*

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF ARIZONA )  
2 COUNTY OF MARICOPA ) SS.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I, SHERYL BARKER, Certified Reporter No. 50185 for the State of Arizona, do hereby certify that the foregoing printed pages constitute a full, true and accurate transcript of the proceedings had in the foregoing matter, all done to the best of my skill and ability.

WITNESS my hand this 27th of December, 2009.



SHERYL BARKER  
Certified Reporter  
Certificate No. 50185