

DATE: *November 30, 2020*  
TO: Mayor and City Council  
FROM: *[Signature]* Assistant City Manager  
SUBJECT: Public Service Commission – Gas Department  
Consent Agreement



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#### RECOMMENDED ACTION

**Approve the consent agreement with the Public Service Commission (PSC) related to probable violations stemming from their comprehensive compliance inspection of February 10, 2020 and authorizing the Mayor to sign it.**

#### BUDGET IMPACT

The originally recommended civil penalty of \$15,000 plus mitigation has been reduced to \$5,000 plus commitments to provide upgraded equipment to staff and provide training exercises. The fine amount will be included in the 2021 budget.

#### DISCUSSION

During late 2018, the city's department supervisor left after twenty-four years serving in that capacity and running the gas system's compliance program. Nearing the end of his tenure, the department had been transitioning to a fully-computer based record-keeping and reporting system. It was both the turnover in personnel and transition to technology that triggered a few of the lapses identified by the PSC's facility protection staff in February of this year.

A comprehensive audit was scheduled by the PSC as the current pandemic was ramping up in February along with its distractions. At the February 10 inspection, the PSC identified probable violations in the areas of recordkeeping, inadequate test stations, isolated services, training, and calibration methods. All of these probable violations have been satisfactorily addressed by staff or are prescribed in the attached agreement according to PSC staff as of 11/23/2020. Therefore, the consent agreement seeks to maintain the letter of the regulation and the PSC is considering the following "penalties" given the city's prompt handling of the matter:

1. Execute a Consent Agreement with the Public Service Commission; and
2. Pay a **Five Thousand (\$5,000.00) dollar** penalty (to the PSC); and
3. Participate in any natural gas mock disaster drills in Gwinnett County for the next three (3) years, ending December 31, 2023. If there are not any applicable drills during this timeframe, Sugar Hill is under no obligation to extend this agreement; and
4. Sugar Hill shall purchase and distribute sufficient Personal Protective Equipment for all of its gas employees no later than March 1, 2021. Each employee shall have their own individual equipment.

Item #4 is currently being addressed in anticipation of this agreement being approved, signed, and recorded with the PSC; representing a best management practice during the current pandemic. The penalty will be paid in early 2021 upon final approval and recording of the consent agreement. As is indicated in the agreement, the city is not contesting the alleged findings neither is it stipulating to the probable violations.

Staff recommends approval of the terms of the consent agreement and authorization for the Mayor to sign and submit it to the PSC.

*Attachment – Consent Agreement*

IN THE MATTER OF: )  
 )  
 City of Sugar Hill, Respondent ) DOCKET NO. 37084  
 ) (Inspection Report No. JS20-005)  
 )  
 BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION  
 STATE OF GEORGIA

**CONSENT AGREEMENT**

**WHEREAS**, the Georgia Public Service Commission (“Commission”) Pipeline Safety Staff (“Staff”) and the City of Sugar Hill (“Sugar Hill” or “Operator” or City”) hereby jointly enter into this Consent Agreement to recommend a resolution of the issues as discussed in Inspection Report JS20-005;

**WHEREAS**, Commission Staff and Sugar Hill believe that the terms and conditions of this Consent Agreement constitutes a reasonable resolution of the issues as discussed in JS20-005;

**WHEREAS**, adoption of this Consent Agreement is in the public interest represents an efficient, effective and responsible discharge of the Commission’s responsibilities in this matter;

**NOW THEREFORE**, the Commission Staff and Sugar Hill mutually agree and propose the following Consent Agreement:

**Findings and Conclusions**

1.

The Georgia Public Service Commission (“Commission”) has jurisdiction over this matter pursuant to inter alia: 49 C.F.R. Parts 191 and 192; O.C.G.A. §§ 46-2-20, 46-2-30, 46-2-53, 46-2-90, 46-2-91, 46-4-1, 46-4-31, 46-4-34, 50-13-1 *et. seq.*; and Commission Rules 515-9-1-.01 *et. seq.*, 515-9-3.01 *et. seq.*, and 515-9-7-.01 *et. seq.*; all regarding the safe installation and operation of gas distribution systems within the State of Georgia.

2.

Pursuant to Commission Rules 515-9-1-.01 and 515-9-3-.03; the Rules and Regulations prescribed by the United States Department of Transportation applicable to the "Transportation of Natural and Other Gas by Pipeline: Minimum Safety Standards" (49 C.F.R. Parts 40, 191 192, 193 and 199) have been made the Rules and Regulations of the Commission for the safe installation and operation of all natural gas transmission and distribution facilities by companies subject to the jurisdiction of the Commission.

3.

The Facilities Protection Unit Staff (“Staff”) of the Commission has the authority to inspect the facilities of municipal natural gas providers pursuant to the legal citations contained *supra*.

4.

The Commission may propose a Compliance Order in conjunction with this Notice of

Probable Violation (“NOPV”) pursuant to the legal citations contained *supra*.

5.

The City of Sugar Hill is a natural gas distribution operator that is subject to the jurisdiction of the Commission.

6.

Pursuant to O.C.G.A. § 50-13-13(a)(4), the Commission is authorized to resolve matters by Consent Agreement.

7.

During Staff’s February 10, 2020 comprehensive inspection of Sugar Hill’s natural gas system, Staff determined that Sugar Hill had committed probable violations of the minimum federal safety standards required by 49 CFR, Part 192. (See Inspection Report JS20-005). Staff informed Sugar Hill of the probable violations during the exit interview.

8.

On June 12, 2020, an NOPV was sent by certified mail to Sugar Hill. Said NOPV alleged:

**§192.615(b)(2):**

COMMENTS: During this inspection Staff found that the Operator has not provided training to their emergency response personnel as mentioned in their emergency plan in section IX, item 2, page 19.

.....  
PROBABLE VIOLATION: The City of Sugar Hill Natural Gas System failed provide training to their appropriate personnel responsible for emergency response as required under Part 192.615(b)(2) since calendar year 2015.

**§192.625(f):**

COMMENTS: During this inspection (JS20-005) Staff found that the odorometer which was being used by the Operator was due for calibration on July 3, 2018. Subsequent to this finding, Staff reviewed the Operators odorant records and determined the Operator had been taking monthly readings at all three of their odorant stations since July 3, 2018.

.....  
PROBABLE VIOLATION: The City of Sugar Hill Natural Gas System failed to ensure that the machine that was being used to verify the odorant in their natural gas system was calibrated, as required by their Operations and Maintenance Procedures.

9.

On July 22, 2020, pursuant to Commission Rule 515-9-3-.09(i)(c), Sugar Hill requested an informal conference to discuss the probable violations noted in Inspection Report JS20-005.

10.

On September 24, 2020, Commission Staff virtually met with Sugar Hill to discuss the probable violations noted in Inspection Report JS20-005. During the informal conference, it was decided that a follow-up inspection will be required in order to clear the probable violations. In addition, the parties agreed that partial mitigation of the recommend civil penalty of \$15,000.00 was in the public interest.

11.

Violations found during recent or past inspections other than those mentioned in the previous section (8) or future violations of other Commission Utility Rules or Federal Pipeline Safety Rules in 49 C.F.R. PARTS 40, 191, 192, 193 and/or 199 are intentionally excluded from this Consent Agreement. Any such previous or future violations shall be dealt with as such violations are found by Commission inspectors or otherwise not resolved in a timely manner and come to the attention of the Commission. Moreover, Operator cannot use this Consent Agreement as a defense against violations besides those expressly covered by this Consent Agreement.

12.

Operator's conduct described *supra*, constitutes sufficient grounds for the imposition of sanctions by the Commission pursuant to *inter alia*: 49 C.F.R. §§ 40, 191, 192 and 199; O.C.G.A. §§ 46-2-20, 46-2-21, 46-2-30, 46-2-53, 46-2-90, 46-2-91, 46-4-1, 46-4-31, 46-4-34, 50-13-1 *et. seq.*; and Commission Rules 515-2-1.04, 515-9-1.01, 515-9-3.03, 515-9-3.04, 515-9-3.06, 515-9-3.07 through 515-7-9-.13.

13.

Operator makes no contest to the allegations set forth in the NOPV. Operator understands that by doing so, it is not admitting the truth of any of the allegations or acknowledging any impropriety but is agreeing that the Commission may enter an order based upon the alleged probable violations without the necessity of receiving evidence in support thereof. Operator hereby waives any further Findings of Fact and Conclusions of Law with respect to the above-styled matter.

### **Agreements Between the Parties**

1.

This Joint Consent Agreement, if approved by the Commission, shall constitute a final resolution of the alleged probable violations in JS20-005. Operator agrees that it will abide by the terms of this Joint Consent Agreement.

2.

Sugar Hill is subject to civil penalties pursuant to O.C.G.A. §46-2-91 for violation of any Commission Order or Statute or Rule administered by the Commission. Staff reviewed the circumstances surrounding Sugar Hill's probable violations of 49 C.F.R. §192.605(a)/192.625(f) and §192.615(b)(2) cited in Inspection Number JS20-005 and recommended a civil penalty in the amount of Fifteen Thousand Dollars (\$15,000.00).

3.

The Pipeline Safety Director agrees to settle this matter with Sugar Hill as follows:

1. Sugar Hill shall execute this Consent Agreement within thirty (30) days of the Commission's approval of said Consent Agreement;
2. Sugar Hill shall submit a certified check for **Five Thousand (\$5,000.00) dollars** made payable to the Georgia Public Service Commission within thirty (30) days of the Commission's approval of the Consent Agreement. The city's name, Docket Number, and Inspection Report number shall be written in the "memo" line of the certified check.
3. Sugar Hill shall mail the certified check to:  
Ms. Michelle Thebert, Director  
Facilities Protection Unit  
Georgia Public Service Commission  
244 Washington Street  
Atlanta, Georgia 30334
4. Sugar Hill shall participate in any natural gas related mock disaster drills that take place within Gwinnett County for the next three (3) years, ending December 31, 2023. If there are not any applicable drills during this timeframe, Sugar Hill is under no obligation to extend this agreement.
5. Sugar Hill shall purchase and distribute sufficient Personal Protective Equipment for all of its gas employees no later than March 1, 2021. Each employee shall have their own individual equipment.

4.

Should complications arise as to compliance with and/or implementation of this Joint Consent Agreement, Operator and Commission Staff agree to work in good faith to resolve any such complications. Any matters not resolved between the parties shall be timely presented to the Commission for consideration and final adjudication.

5.

This Joint Consent Agreement shall not become effective until and unless it is approved by the Commission. Operator enters into this Joint Consent Agreement without admission of fault or liability.

6.

The undersigned authorized representative(s) of Operator acknowledge by their respective signatures below that each has read this Joint Consent Agreement and understands its contents. The undersigned hereby further acknowledge that the City has a right to a hearing in this matter and does freely, knowingly, and voluntarily waive such right by entering into this Joint Consent Agreement. The undersigned hereby consent on the City's behalf to the resolution of this proceeding as provided for herein.

**IN WITNESS WHEREOF**, the parties hereto have executed this Consent Agreement as of the day and year first below written.

By: \_\_\_\_\_  
Steve Edwards, Mayor  
City of Sugar Hill

By: \_\_\_\_\_  
Michelle Thebert, Director  
Facilities Protection Unit  
Georgia Public Service Commission

Agreed to this \_\_\_\_ day of December 2020.