

**A RESOLUTION BY  
CITY UTILITIES COMMITTEE**

**A RESOLUTION TO AUTHORIZE THE MAYOR TO ENTER INTO A CONSENT AGREEMENT AND TO AUTHORIZE PAYMENT PURSUANT TO THE CONSENT AGREEMENT AS REQUESTED BY THE GEORGIA PUBLIC SERVICE COMMISSION OF THE STATE OF GEORGIA IN THE AMOUNT OF TWO THOUSAND DOLLARS AND NO CENTS (\$2000.00) TO RESOLVE AN ALLEGED VIOLATION OF THE GEORGIA UTILITY FACILITY PROTECTION ACT; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Atlanta ("City") is responsible for maintaining and servicing the City's water system; and

**WHEREAS**, the City of Atlanta is a Georgia municipal corporation, subject to the jurisdiction of the Georgia Utility Facility Protection Act; and

**WHEREAS**, the City is responsible for the maintenance and servicing of water mains as a part of the City's water system; and

**WHEREAS**, the Georgia Public Service Commission has the power to enforce provisions of the Georgia Utility Facility Protection Act ("the Act" or "GUFPA"); and

**WHEREAS**, the Georgia Public Service Commission ("the Commission") received a Notice of Probable Violation alleging that on 2/15/07, the City violated Commission Rule 515-9-4.05, as authorized by O.C.G.A. §25-9-1, *et seq.*, which requires that each facility owner or operator, whose utility facilities have been damaged as a result of a probable violation of the Act, shall conduct an investigation to examine the relevant facts regarding such probable violation of the GUFPA and provide the Commission with the results within 30 days; and

**WHEREAS**, Georgia Public Service Commission has proposed a Consent Agreement attached herewith as "Exhibit A" ("Proposed Consent Agreement"); and

**WHEREAS**, the Proposed Consent Order shall not constitute a finding or adjudication of violations of any State law nor does the City, by its consent, agree to any violation of state law or admit any liability to any party or parties; and

**WHEREAS**, the Commission and the City desire to resolve the matter of an alleged violation; and

**WHEREAS**, it is in the City's best interest to execute the proposed Consent Agreement while admitting no violation of the GUFPA by the City.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY RESOLVES** that the Mayor or her designee is authorized to execute the proposed Consent Agreement and to pay the amount of Two Thousand Dollars and No Cents (\$2,000.00) to the Georgia Public Service Commission to resolve an alleged violation of the Georgia Utility Facility Protection Act, as set forth in the Consent Agreement.

**BE IT FURTHER RESOLVED**, that the Chief Financial Officer of the City is authorized to issue a check in the amount of Two Thousand Dollars and 00/100 (\$2,000.00) payable to the Georgia Public Service Commission as penalties imposed pursuant to the Consent Agreement attached herewith as "Exhibit A."

**BE IT FINALLY RESOLVED** that the said payment will be charged to Fund Account and Center Number 2J21 529017 Q65001.

**COMMISSIONERS:**

ROBERT B. BAKER, JR., CHAIRMAN  
STAN WISE  
CHUCK EATON  
H. DOUG EVERETT  
ANGELA ELIZABETH SPEIR



DEPARTMENT OF WATERSHED  
MANAGEMENT

DEBORAH K. FLANNAGAN  
EXECUTIVE DIRECTOR

DANNY L. McGRIFF  
PIPELINE/FACILITIES SAFETY MANAGER

2007 APR 30 AM 8:58

OFFICE OF COMMISSIONER

## Georgia Public Service Commission

(404) 463-6526  
(800) 282-5813

244 Washington Street, SW  
Atlanta, Georgia 30334-5701

FAX: (404) 463-6532  
[www.psc.state.ga.us](http://www.psc.state.ga.us)

4/26/2007

Hon. Shirley Franklin, Mayor  
City of Atlanta  
Atlanta City Hall  
55 Trinity Ave., SW  
Atlanta, GA 30303

**Date of Incident:** 2/15/2007  
**Investigation #:** RP07-017  
**Case #:** PSC 07-02314  
**Incident Location:** GA 400 South of Holcomb Bridge Road, Sandy Springs

To Whom It May Concern:

On April 19, 2007, a representative of the Georgia Public Service Commission Pipeline/Facilities Safety Office completed an investigation for probable violation(s) of the Georgia Utility Facility Protection Act.

Based upon the information obtained during this investigation, the following probable violation was determined:

**O.C.G.A. 515-9-4-.05 Facility owner or operator whose utility facilities have been damaged by probable violation of the GUFPA shall investigate and provide the Commission with the results within 30 days.**

Violations of the Act are punishable by penalties up to \$5,000.00 per violation. Staff recommends a penalty of \$2,000.00.

If you should agree with Staff's recommendation, please sign and return the enclosed consent agreement. If you should disagree with Staff's recommendation, please do so in writing within 15 days of the date of this letter, and your case will be placed on the next Advisory Committee docket. Failure to respond either by executing the consent agreement or requesting a hearing before the Advisory Committee will result in the issuance of a Rule NISI to be heard before the Georgia Public Service Commission.

If you have any questions, please call me at (404) 463-9784.

Sincerely,

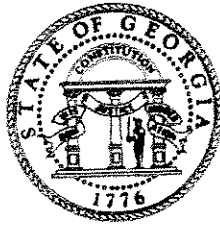
Gary Mason  
GUFPA Case Manager

cc: John P. Tucker, GPSC Staff Attorney

Mr. Robert Hunter, Commissioner  
Department of Watershed Management

**COMMISSIONERS:**

STAN WISE, CHAIRMAN  
ANGELA ELIZABETH SPEIR  
ROBERT B. BAKER, JR.  
DAVID L. BURGESS  
H. DOUG EVERETT



DEBORAH K. FLANNAGAN  
EXECUTIVE DIRECTOR

DANNY L. McGRUFF  
PIPELINE/FACILITIES SAFETY MANAGER

**BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION  
STATE OF GEORGIA**

**IN THE MATTER OF:**

**City of Atlanta  
Respondent**

**CASE NUMBER: PSC 07-02314**

**CONSENT AGREEMENT**

City of Atlanta Water, ("Respondent" or "the City"), hereby agrees to presentation of the following proposed disposition of the above named matter to the Georgia Public Service Commission ("Commission"):

**FINDINGS AND CONCLUSIONS:**

**1.**

The Commission has the power and authority to enforce the provisions of the Georgia Utility Facility Protection Act, ("the Act" or "the GUFPA"), O.C.G.A. 25-9.

**2.**

Respondent City of Atlanta is a Georgia municipal Corporation and subject to the jurisdiction of the Commission under the GUFPA, O.C.G.A. Chapter 25-9.

**3.**

The Commission received a Notice of Probable Violation ("NOPV") alleging that on 2/15/2007, Respondent violated O.C.G.A. 25-9. The Staff has recommended to the Commission that the NOPV be resolved pursuant to the terms set forth in this Consent Agreement.

**4.**

The Incident Report attached hereto as Exhibit A was filed with the Commission by the Respondent, the Commission reporting damages to the Respondent's water utility facilities; however, despite receipt of the notice from the Commission to do so and contrary to the Commission's Utility Rules, the Respondent failed to investigate such reported incident and to file with the Commission a report of the results of Respondent's investigation in a timely manner.

**5.**

The Commission Staff conducted its own investigation into the incident involving Respondent's facilities that occurred on 2/15/2007, and the reported results of such investigation are delineated in attached Exhibit B.

**6.**

The Commission Staff sent an NOPV to the Mayor of the City of Atlanta and to the supervisory personnel at the City of Atlanta Water Department requesting a response within thirty (30) days, but the City failed to respond within such time period.

**7.**

While admitting no wrongdoing on its part by entering into this Consent Agreement, by its signature below and in consideration of the Commission's resolution of this matter as prescribed herein, Respondent hereby waives its rights to a hearing and to contest the alleged violation(s) of the GUFPA described in attached Exhibit B and in this Consent Agreement.

**AGREEMENT**

**By signing below**, Respondent hereby agrees that this matter should be resolved as follows:

**1.**

This Consent Agreement, if approved by the Commission, shall constitute a final resolution of this proceeding. Respondent agrees that it will abide by the terms of this Consent Agreement.

**2.**

Respondent agrees that it will comply with all applicable provisions of the GUFPA.

**3.**

Respondent recognizes and agrees that, if Respondent should fail to comply with this Consent Agreement, it may thereby, after further hearing, be subject to the Commission's assessment of additional civil penalties of up to \$15,000.00 per incident, plus \$10,000.00 per day for everyday that such violation continues, pursuant to O.C.G.A. § 46-2-91.

**4.**

Respondent agrees that it will pay to the Commission a penalty of \$ 2,000.00 within thirty (30) days after the date of an Order issued by the Commission approving of this Consent Agreement. Payment must be forwarded to:

Georgia Public Service Commission  
Attention: Mr. Gary Mason, GUFPA Case Manager  
244 Washington Street, S.W.  
Atlanta, Georgia 30334-5701

**All payment of penalties must be remitted in certified funds.**

**5.**

Respondent understands that failure to comply with the terms of this Consent Agreement could subject it to additional penalties.

**6.**

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

**Z.**

The undersigned authorized representative of the Respondent acknowledges that he/she has read this Consent Agreement and understands its contents. The undersigned representative acknowledges that the undersigned party freely, knowingly and voluntarily enters into this agreement. The undersigned representative hereby consents to the resolution of this proceeding as provided herein.

This \_\_\_\_\_ day of \_\_\_\_\_ 2007.

**Consented to:**  
***(Sign, date and mail or fax)***

**City of Atlanta**

**By:** \_\_\_\_\_  
**PSC 07-02314**

\_\_\_\_\_  
Printed name and Title of Official Signing for the City

**ATTEST:**

\_\_\_\_\_  
City Clerk (City Seal)



**GEORGIA PUBLIC SERVICE COMMISSION  
GEORGIA UTILITY FACILITY PROTECTION ACT**

**INCIDENT REPORT**

**Mail, Fax or e-mail to:**

Georgia Public Service Commission  
Facilities Protection Unit  
244 Washington Street, SW  
Atlanta, Georgia 30334

**GUFPA Case Manager:**

Mr. Gary Mason                      404 463-9784  
Fax Number:                              404 463-6532

**E-mail:**

[www.psc.state.ga.us](http://www.psc.state.ga.us)

**Report Number:**

RP07-017

**Case Number:**

PSC 07-02314

**Investigator:**

Rob Pace

**Work Number:**

404 463-6526

**Report Date:**

04/16/2007

**Incident Date:**

2/15/2007

**Facility Owner:**

City of Atlanta

**Facility Owner Phone:**

404-235-2020

**Locator:**

Arcadis

**Locator Phone:**

770-431-8666

**Excavator:**

City of Atlanta Water

**Contact:**

Bahman Firoozi

**Address:**

651 14th Street NW

**City, State, Zip**

Atlanta, GA 30318

**Incident Location:**

GA 400 South of Holcomb Bridge Road

**Incident City:**

Sandy Springs

**Incident County:**

Fulton

**Jurisdiction:**

NOT REPORTED

**UTILITY LINE IMPACT**

**Facility Type:**

Water

**Material Type:**

Other

**Size (Diameter/Voltage/Pairs/etc.):**

48

**Pressure (PSIG/Inches):**

NOT REPORTED

**Utility Line Function:**

Main

**Number of Customers Affected:**

0

**Repair Cost:**

0.00

**INCIDENT IMPACT**

**Injury (# of outpatient care):**

0

**Injury (# of inpatient care):**

0

**Fatalities:**

0

**Fire Department Response:**

Unknown

**Police Department Response:**

Unknown

**EXCAVATION ACTIVITIES:**

**Utility Ticket Number(s):**

01297-501-425

**Equipment Involved:**

325 Cat

**Nature of Excavation:**

Installing Sound Wall

**Direction of Excavation Relative to Damaged Utility Line:** Parallel

**PROVIDE DETAILED EXPLANATION OF THE CIRCUMSTANCES AND CAUSE OF THE INCIDENT.**

**SYNOPSIS**

Staff investigated an incident in response to telephonic notice from the City of Atlanta that a 48" ductile iron water main had been damaged by Archer Western Contractors on February 15th, 2007 along GA 400 South of Holcomb Bridge Road, Sandy Springs.

**INVESTIGATION:**

Staff searched the UPC website to determine if any locate tickets were requested by Archer Western Contractors prior to excavating along GA 400 in Sandy Springs. Staff's investigation revealed locate ticket #01297-501-425 was obtained to install sound walls along GA 400.

Staff's investigation also revealed that ticket #01297-501-425 was good from February 1, 2007 through February 19, 2007 and the location of the excavation was identified as being: "Starting from Holcomb Bridge Road, locate on the northbound side of GA 400 on the east side of the road. This is wall 1-B at station 133 plus 70.75 going to station 153 plus 46.57."

Staff interviewed Don Cowan (Project Manager, Archer Western Contractors), Napolean Hightower (Asst Project Manager, Archer Western Contractors) and Steve Barr (Supervisor, Archer Western Contractors) at the damage site on February 19th, 2007. According to Mr. Barr, the water main was never marked at the site and Archer Western was unaware the facility was in conflict at the area of excavation. Mr. Barr also stated it was company policy for Archer Western to provide their crews with a copy of the locate ticket and corresponding positive response at the job site. Mr. Barr stated a 325 Cat with an articulating boom arm and a 24" auger were being used to install sound wall poles along GA 400 on February 15th, 2007 when they struck and damaged an unmarked water main.

Staff physically located and measured the DOT station marks at the site and determined the locate ticket accurately described the proper station marks. In addition, documentation provided by Mr. Cowan (Archer Western Contractors) and Mr. Hightower (Archer Western Contractors) revealed "Wall 1-B" fell within those station marks and accurately described the area of excavation.

Staff interviewed Bahman Firoozi (City of Atlanta-Department of Watershed Management) at the site of the damage on February 19th, 2007. According to Mr. Firoozi, Arcadis was the contract locator responsible for locating the water lines for the City of Atlanta. Mr. Firoozi concurred with staff that no locate marks or pipeline markers were evident at the damage site that would have indicated the presence of a water facility for anyone planning excavation at this location.

Staff interviewed Mr. Barron Saussy (Arcadis, Locate Supervisor) at the damage site on February 19th, 2007. Mr. Saussy stated Chris Roby was the Arcadis locator who was responsible for locating the water main for locate ticket #01297-501-425. Mr. Saussy also stated Mr. Roby had checked with Archer Western Contractors in October, 2006 along GA 400 north of Holcomb Bridge Road installing sound walls and apparently had not followed up with any visits at the site since that time. Mr. Saussy agreed with staff that there were no locate marks at the site of the damage and that none had been placed by Arcadis prior to the damage.

**CONCLUSION:**

The Pipeline/Facilities Safety Staff found **City of Atlanta Water** in violation of :

**515-9-4-.05 Facility owner or operator whose utility facilities have been damaged by probable violation of the GUFPA shall investigate and provide the Commission with the results within 30 days.**