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Georgia Public Service Commission

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244 WASHINGTON STREET, SW
ATLANTA, GEORGIA 30334-5701

Docket No. 37066

City of Lumpkin Gas Department
P. O. Box 278
Lumpkin, GA 31815

DOCKET#	<u>37066</u>
DOCUMENT#	<u>154245</u>

ATTN: Mr. Phillip Hite

On April 24, 2014 a representative of the Georgia Public Service Commission Pipeline/Facilities Safety Office conducted an on-site inspection of your gas system and found that a previously existing probable violation has been cleared, but that another previously reported probable violation still exist. The enclosed inspection report numbered CW14-028 is provided for your information and file.

Please respond within thirty (30) days acknowledging receipt of this report, and, if necessary, update the status of any continuing violations. In your response, please refer to Docket No. 37066.

If you have any questions or comments concerning this report, please call me at (404) 463-6526.

Thank you for your continuing contribution toward increased pipeline safety.

Sincerely,

Michelle Thebert
Director, Office of Pipeline/Facilities Safety

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REPORT OF NATURAL GAS SAFETY

INSPECTION NO: CW14-028

OPERATOR: City of Lumpkin Gas Department

PERSON CONTACTED: Mr. Phillip Hite

INVESTIGATOR: Chris Welborn

INSPECTION DATE: April 24, 2014

REPORT MAILED DATE: July 10, 2014

Any questions concerning this report may be directed to the above address or by telephoning (404) 463-6526.

1. PURPOSE OF INSPECTION

To perform an inspection of the Operator's Distribution Integrity Management Program (DIMP) Plan for compliance with Part 192 of the Pipeline Safety Regulations. This inspection included a follow-up on the Operator's existing probable violations.

2. CONTINUING VIOLATIONS

Violation	Description	Inspection#	Date
192.455	"External corrosion control: Buried or submerged pipelines installed after July 31	LB10-047	5/4/2010

3. CLEARED VIOLATIONS

Cleared on 4/24/2014

Violation	Description	Inspection#	Date
192.805	Qualification Program.	LB12-024	3/22/2012

4. NEW VIOLATIONS

5. OTHER RECOMMENDATIONS/COMMENTS

On April 24, 2014 Commission Staff reported to the City of Lumpkin to perform a Distribution Integrity Management Program (DIMP) Plan inspection for compliance with the minimum federal safety standards.

During the inspection, the Operator was represented by Mr. Phillip Hite, City Administrator.

Commission Staff was represented by:
Mr. Chris Welborn, Lead Inspector
Mr. Mikel Small, Pipeline Safety Inspector

At the time of this inspection, the City of Lumpkin was under the existing probable violations of 49CFR, §192.805 which was cited under Inspection Number LB12-024 and §192.455 which was cited under Inspection Number LB10-047.

Staff reviewed the Operator's existing probable violations and determined the following:

VIOLATION CLEARED

In Inspection Number LB12-024, Staff issued a Notice of Amendment in regard to questions 1.04 and 5.01 from the PHMSA OQ Protocol Inspection form.

In regard to Question 1.04 – Does the operator's OQ program plan contain policy and criteria for the use of training in initial qualification of individuals performing covered tasks, and are criteria in existence for re-training and reevaluation of individuals if qualifications are questioned?

In the report, Staff noted that it "Advised that operator include language in the plan that describes the manner in which training methods are documented."

In regard to Question 5.01 - Does the operator's program include provisions to evaluate an individual if the operator has reason to believe the individual is no longer qualified to perform a covered task based on: covered task performance by an individual contributed to an incident or accident; other factors affecting the performance of covered tasks?

In the report, Staff noted that it "Advised that operators plan include language that describes the retraining process for individuals that demonstrate poor ability to perform a task or contribute to an incident or accident."

In Operator's response letter, dated January 28, 2013, the Operator advised that: "Lumpkin is awaiting the release of updates to the GMA Gas Section Operator Qualification Plan that will address the potential issues identified in PHMSA (OQ) Inspection Form 14, Protocols 1.04 and 5.01. Lumpkin understands that the Gas Section Executive Committee has completed the updates and is awaiting review with Pipeline Safety Staff.

Upon receipt of the updated Plan, Lumpkin will customize and implement the Plan.”

During this inspection, the Operator provided Staff with an amended process to record training and training methods; additionally, the Operator provided an amended process for retraining employees as a new employee if there is reason to believe that they may have contributed to an incident or accident. Staff determined that this probable violation can be cleared.

CONTINUING VIOLATION

In regard to the probable violation of §192.455 which was cited in Inspection Number LB10-047: In that inspection, Staff noted that “During the field review staff confirmed that operator has not identified the apparent bare steel risers in their system as recommended by staff in a previous inspection.”

Staff found no record of the Operator responding to Inspection Report LB10-047.

Staff did note that in the Operator's written response to Inspection Number LB12-024, on January 8, 2013, the Operator stated that it has identified 80 bare steel services and would have them replaced by September 30, 2013.

In the Operator's response to Inspection Number SS13-011, dated November 19, 2013, the Operator advised that: “In April, 2013, Lumpkin hired a contractor to complete bare service remediation. Approximately 47 services have been remediated to date. Lumpkin has identified some of the work, performed by the contractor, as unsatisfactory. All work completed by the contractor is now being reviewed by both parties. The unsatisfactory work and review has pushed the projected completion date back. The project will be assigned to a new contractor, but will not be completed as previously projected.”

During this inspection, Staff found that the Operator has replaced 55 bare steel services, and is currently replacing the remaining bare steel services in-house.

Staff noted that the Operator is making progress; however, 25 bare steel services remain active. Staff requested that the Operator provide an updated plan for the completion of the replacement of the remaining 25 bare steel services in their response to this inspection report. Staff determined that this violation cannot be cleared at this time.

As a result of this DIMP inspection, Staff noted no probable violations of the minimum federal safety standards in 49CFR Subpart P.

PROCESS FOR RESPONDING TO ENFORCEMENT LETTERS ISSUED BY THE GEORGIA PUBLIC SERVICE COMMISSION

Commission Rules 515-9-3-.09 and .10 provide the options available to respond to an Enforcement Letter issued by the Facilities Protection Unit Director/Pipeline Safety Director (“Director”) of the Georgia Public Service Commission (“Commission”). The following information provides Operators with the process for responding to said Enforcement Letters.

The Operator shall file its response at the following address:

Mr. Reece McAlister, Executive Secretary
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, Georgia 30334

The Operator must file **five (5)** copies of any response, as well as a CD with an electronic version of the response in Microsoft Word and/or a PDF, if applicable.

Unless otherwise noted, the Operator has thirty (30) days from the date of the Enforcement Letter to file the response with the Commission. Any Operator who chooses to request an informal conference shall request such a conference through the written response letter. Additionally, the Operator should contact the Director at michellet@psc.state.ga.us or (404) 463-2765.

A No Violation letter will be sent to the Operator by e-mail. The Operator should acknowledge receipt by responding to the Director at the above email address as soon as possible, but no later than five (5) days after receipt of the e-mail. Please note that it is the Operator’s responsibility to ensure that the GPSC has the correct email address(es) for the required recipient of Commission correspondence.

I. Types of Enforcement Letters-

- a. Notice of Probable Violation (NOPV)-The purpose of this enforcement action is to document and to provide notice concerning any probable violations of a rule or regulation. A NOPV requires a response from the Operator detailing how the issue will be addressed or corrected. A NOPV may or may not contain a proposed civil penalty.
- b. Notice of Amendment (NOA)-The purpose of this enforcement action is to document and to provide notice concerning a required plan amendment for an Operator. A NOA requires a response from the Operator detailing how the issue will be addressed or corrected.
- c. Warning Letter-The purpose of this letter is to document and to provide notice concerning any probable violations of a rule or regulation. A Warning Letter only requires a response from the Operator acknowledging receipt of the letter.
- d. Letter of Concern- The purpose of this letter is to document concerns Staff has with an Operator’s plans, programs, or facilities, which could result in a probable violation unless action is taken to address the issue.

II. Process for Responding to Enforcement Letters

a. Notice of Probable Violation with a Proposed Civil Penalty

You may request an informal conference with the Director and/or her Staff to discuss the NOPV and proposed civil penalty. The violation/proposed civil penalty may be resolved at this stage; however, if agreement cannot be reached, enforcement procedures shall continue. If you chose not to seek an informal conference, the following due process options are available:

- 1) If you are not contesting the violation alleged or the proposed civil penalty, file a written response with the Commission notifying the Director of your desire to settle this matter by paying the recommended proposed civil penalty. Upon such notification, you will be provided with a Consent Agreement that shall be fully executed by the Operator and submitted along with a certified check for the full amount of the recommended civil penalty and made payable to the Georgia Public Service Commission. You must ensure that the Operator's name and the applicable Inspection Report No. are included in the "memo" line of the certified check, and the certified check shall be mailed to:

Ms. Michelle Thebert, Director
Georgia Public Service Commission
Facilities Protection Unit
244 Washington Street, SW
Atlanta, Georgia 30334

- 2) If you are not contesting the violation alleged, but are contesting the proposed civil penalty, and wish to file written explanations, information, or other materials you believe warrant mitigation of the civil penalty, you may file such materials. The Director and/or her Staff will review the materials and provide the Operator with a draft Consent Agreement that will represent the Staff's initial settlement offer. You must either sign the draft Consent Agreement or submit a counter-offer back to the Staff within thirty (30) days.

Pursuant to Commission Rule 515-9-3-.011, the factors that the Commission shall consider include:

- (a) The appropriateness of the proposed civil penalty in relation to the size of the business of the person charged;
- (b) The gravity of the violation;
- (c) The good faith of the person charged in attempting to achieve compliance;
- (d) The Operator's history of prior violations; and
- (e) Other matters as justice may require.

If an agreement cannot be reached, the alleged violation and proposed civil penalty shall be referred to the Commission for formal resolution in either of the following manners:

- (a) The Commission may seek an injunction or mandamus in superior court in cases where immediate action is necessary; or
- (b) The Commission may issue a show cause order and/or schedule a hearing requiring the Operator to demonstrate why the Operator should not be subject to the penalties set forth by the O.C.G.A. Section 46-2-91.

3) If you are contesting both the alleged violation and the proposed civil penalty, you may request a hearing before the Commission for formal resolution as detailed below.

b. Notice of Probable Violation without a Proposed Civil Penalty

You may request an informal conference with the Director and/or her Staff to discuss the NOPV. The violation may be resolved at this stage; however, if agreement cannot be reached, enforcement procedures shall continue. If you chose not to seek an informal conference, the following due process options are available:

- 1) You may file a written statement indicating that corrective measures have achieved compliance; or
- 2) You may file a written plan of action outlining the corrective measures that will be taken to achieve compliance and when compliance is anticipated.

If the corrective measures that you present, or propose, are acceptable to the Director and/or her Staff, the violation may be closed at this point. Such acceptance shall be verified by written statement issued by the Director following a re-inspection of the Operator's facilities.

If the proposed solution as outlined is not satisfactory to the Director and/or her Staff, the violation shall be referred to the Commission for formal resolution in either of the following manners:

- (a) The Commission may seek an injunction or mandamus in superior court in cases where immediate action is necessary; or
- (b) The Commission may issue a show cause order and/or schedule a hearing requiring the Operator to demonstrate why the Operator should not be subject to the penalties set forth by the O.C.G.A. Section 46-2-91.

c. Notice of Amendment (NOA)

You may request an informal conference with the Director and/or her Staff to discuss the NOA. If you chose not to seek an informal conference, the following due process options are available:

- (1) If you are not contesting the NOA, you must file the measures taken or of your plan(s) to address the observed deficiencies identified in the NOA. If the corrective measures that you present, or propose, are acceptable to the Director and/or her Staff, the violation may be closed at this point. Such acceptance shall be verified by written statement issued by the Director following a re-inspection of the Operator's facilities;
- (2) If you are not contesting the NOA, but you wish to file written explanations, information, or other materials believed to warrant modification of the NOA in whole or in part, or if you are seeking clarification of the terms of the NOA, you may file such materials; or
- (3) If you wish to contest the NOA, you must file written explanations, information, or other materials in answer to the allegations in the NOA stating your reasons for objecting to the NOA, in whole or in part. If the information provided is acceptable to the Director and/or her Staff, the issue may be closed at this point. Such acceptance shall be verified by written statement issued by the Director.

d. Warning Letter

You must respond within thirty (30) days acknowledging receipt of the Warning Letter; however, you are not required to provide a corrective action or file a written plan of action. The Operator is warned that if appropriate action is not taken to correct the probable violation(s), enforcement action may be taken if a subsequent inspection reveals continuing or new violation(s).

e. Letter of Concern

You must respond within thirty (30) days acknowledging receipt of the LOC. The Operator is warned that if appropriate action is not taken to correct the probable violation(s), enforcement action may be taken if a subsequent inspection reveals continuing or new violation(s).

III. Procedures for Requesting a Hearing

You have the right to request a hearing to contest the alleged probable violations, recommended civil penalties, and all other proposed actions of enforcement. A request for a hearing must be filed in writing and in accordance with Commission Rule 515-2-1-.04. You must include a statement of the issues that you intend to raise at the hearing. The issues may relate to the allegations, new information, proposed compliance order, proposed civil penalty, or any other recommendation for enforcement action. Please refer to Commission Rule 515-9-3-.11 and O.C.G.A. § 46-2-91 for assessment considerations upon which civil penalties are based. An Operator's failure to specify an issue may result in a waiver of the right to raise that issue at hearing. Your request must also indicate whether or not you will be represented by counsel at the hearing.

You are advised that any material provided to the Commission, and all materials prepared by the Commission, including the Notice of Probable Violations and any Orders issued in this case, may be considered public information and subject to disclosure under the Georgia Open Records Act (O.C.G.A. § 50-18-70 et seq.).

If you believe that any portion of your response material is security sensitive, privileged, confidential, or may cause your company competitive disadvantages and would qualify for protection under the Commission's "Trade Secret Rule" (Commission Rule 515-3-1-.11), you must, along with the complete original document clearly marked "TRADE SECRET" on each page, provide a second copy of the document with the portions you believe qualify for trade secret treatment redacted, and an explanation of why you believe the redacted information qualifies for such trade secret treatment. Should the Commission receive a request for disclosure of any "TRADE SECRET" material, you will be notified, if after review, the materials and your provided justification are deemed not to meet any exemptions provided in the Georgia Open Records Act. You may appeal the Commission's decision to release material at that time. Your appeal will stay the release of those materials until a final decision is made.



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Mr. Phillip Hite, City Administrator
 City of Lumpkin Gas Department
 P. O. Box 278
 Lumpkin, GA 31815
 DN37066-154245 CW14-028

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Phillip Hite, City Administrator
 City of Lumpkin Gas Department
 P. O. Box 278
 Lumpkin, GA 31815
 DN37066-154245 CW14-028

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (*Printed Name*) C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (*Extra Fee*) Yes

2. Article Number
 (*Transfer from service label*) 7011 3500 0001 0727 4558

BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION
STATE OF GEORGIA

IN THE MATTER OF:)
)
Continuing Probable Violation and Cleared)
Violation Enforcement Report) DOCKET NO. 37066
City of Lumpkin Gas Department)
Inspection CW14-028 on April 24, 2014)

CERTIFICATE OF SERVICE

I hereby certify that the Continuing Probable Violation and Cleared Violation Enforcement Report, *City of Lumpkin Gas Department, Inspection CW14-028 on April 24, 2014*, was filed with the Commission's Executive Secretary and a copy of same was served upon all parties and persons listed below via electronic mail as indicated by an asterisk. I further certify that the City of Lumpkin Gas Department was served a hard copy of the above-stated document by U.S. Mail, certified/return receipt requested.

*Reece McAlister, Executive Secretary
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, GA 30334

*Phillip Hite, City Administrator
City of Lumpkin Gas Department
P. O. Box 278
Lumpkin, GA 31815

*Michelle Thebert, Facilities Protection Unit Director
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, GA 30334

Respectfully Submitted this 16th day of July 2014:



Lisa Taylor, Administrative Assistant
Georgia Public Service Commission
Facilities Protection Unit
244 Washington Street, SW
Atlanta, GA 30334