

**UNITED STATES DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT**

TITLE VIII

CONCILIATION AGREEMENT

Between

U.S. Department of Housing and Urban Development

Assistant Secretary for Fair Housing and Equal Opportunity

(Complainant)

And

Huntsville Utilities

(Respondent)

HUD CASE NUMBER: 00-12-0006-8

A. PARTIES

Complainant

John D. Trasviña
Assistant Secretary for Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
451 7th Street, SW, Room 5100
Washington, DC 20140-2000

Respondent

Huntsville Utilities
William C. Pippin, President and CEO
112 Spragins Street
Huntsville, AL 35801

B. PARTIES' POSITION STATEMENTS

1. Complainant's Position

On January 12, 2012, the Assistant Secretary for Fair Housing and Equal Opportunity ("Assistant Secretary") of the U.S. Department of Housing and Urban Development ("HUD" or "Department") filed a timely complaint against Respondent Huntsville Utilities, pursuant to authority granted under Section 810 (a)(1)(A)(i) of the Fair Housing Act [42 U.S.C. §3601 et seq.]. The most recent alleged date of violation is December 16, 2011. The Assistant Secretary's complaint alleges that the Respondent discriminates against applicants for residential utility (water, natural gas, and electric) service based on their national origin in violation of Sections 804(a), 804(b), and 818 of the Fair Housing Act. Respondent Huntsville Utilities is a publicly owned municipal provider of residential water, natural gas, and electric services to occupants of residential dwellings situated in the Respondent's designated service area, Madison

County, Alabama, but operates under the name of Huntsville Utilities as an administratively discrete entity from the municipality it serves. HUD therefore asserts that Respondent Huntsville Utilities is an entity that is subject to the prohibitions of the Act.

Section 804(a) of the Act makes it unlawful: "...to otherwise make unavailable or deny, a dwelling to any person because of national origin". HUD's implementing regulation at 24 C.F.R. §100.50(b)(3) states that: "It shall be unlawful to...engage in any conduct relating to the provision of housing which otherwise makes unavailable or denies dwellings to persons because of...national origin."

Section 804(b) of the Act makes it unlawful: "to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of . . . national origin." HUD's implementing regulation at 24 C.F.R. §100.70(b) states that: "It shall be unlawful, because of...national origin, to engage in any conduct relating to the provision of housing or of services or facilities in connection therewith that otherwise makes unavailable or denies dwellings to persons."

Section 818 of the Act makes it unlawful for any person "...to...interfere with any person in the exercise or enjoyment of...any right granted or protected by section 804...of this title." HUD's implementing regulation at 24 C.F.R. Part 100, §100.400(c)(2) prohibits "...interfering with any person in his or her enjoyment of a dwelling because of the...national origin of such persons, or of visitors or associates of such persons."

2. Respondents' Positions

Respondent, Huntsville Utilities, denies the Complainant's allegations, denies any discrimination with regard to customers or applicants for service, and contends that Huntsville Utilities' attempt to conduct its residential utilities service operations in compliance with applicable TVA contracts, city ordinances, and laws, including State law, did not result in any violation of the Fair Housing Act. Respondent denies that there has been any formal complaint by a customer of Huntsville Utilities alleging violations of the Fair Housing Act.

3. Conciliation

It is understood that the execution of this Conciliation Agreement does not constitute an admission by the Respondent of any Fair Housing Act violations alleged in the Assistant Secretary's complaint, and only relates to Respondent's customer-service related activities.

C. DURATION OF AGREEMENT

This Conciliation Agreement (hereinafter "Agreement") shall be in effect for a term of three (3) years from the effective date of the Agreement.

Any time limits for performance imposed under this Agreement may be extended by mutual written consent of the Respondent and of the Assistant Secretary or his designee.

D. EFFECTIVE DATE OF AGREEMENT

The parties expressly agree that this Agreement shall constitute neither a binding contract under State or Federal law, nor a Conciliation Agreement pursuant to the Fair Housing Act, unless and until such time as this Agreement is approved by HUD, through the Assistant Secretary or his designee.

This Agreement shall become effective as of the date on which it is approved by the Assistant Secretary or his designee.

E. GENERAL PROVISIONS

1. The parties acknowledge that this Agreement is a full and voluntary settlement of the disputed complaint. The parties affirm that they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened, or in any manner compelled to become a party to this Agreement.

2. The Respondent acknowledges that Section 818 of the Fair Housing Act makes it unlawful to intimidate, coerce, threaten, retaliate against, or otherwise interfere with any person who has made a complaint, testified, assisted, or participated in any manner in a proceeding under the Act. The Respondent further acknowledges that such conduct shall constitute both a material breach of this Agreement, and a statutory violation of the Act.

3. The parties agree that after this Agreement has been approved by the Assistant Secretary or his designee, it is binding upon the Respondent the Respondent's agents, employees, contractors engaged in customer service activities, heirs, successors and assigns; and upon all others in active concert with the Respondents in the ownership, management, or operation of Respondent Huntsville Utilities.

4. It is understood that, pursuant to Section 810(b)(4) of the Fair Housing Act, upon approval of this Agreement by the Assistant Secretary or his designee, this Agreement shall become a public document.

5. It is understood that this Agreement in no way limits or restricts HUD's authority to investigate any other complaint involving the Respondents made pursuant to the Fair Housing Act, or any other complaint within HUD's statutory jurisdiction.

6. No amendment to, modification of, or waiver of any provision of this Agreement shall be effective unless: (a) all signatories or their successors to the Agreement agree in writing to the amendment, modification or waiver; and (b) the amendment, modification or waiver is in writing; and (c) the amendment, modification or waiver is approved and signed by the Assistant Secretary or his designee.

7. The parties agree that the execution of this Agreement may be accomplished by separate execution of consents to this Agreement, and that the original executed signature pages attached to the body of the Agreement shall constitute one document.

F. RELIEF IN THE PUBLIC INTEREST

Notice to the Public of Nondiscrimination Policies

1. Within *sixty (60)* calendar days after the effective date of this Agreement, Respondent Huntsville Utilities shall take the following steps to notify the public of its nondiscriminatory residential utility service policies:

- A. Include a nondiscrimination statement, in all residential utilities customer-service related advertising that may be developed and disseminated by Respondent Huntsville Utilities, its agents, employees, or contractors, in newspapers, flyers, handouts, telephone directories and other written materials; on radio, television, the Internet or other media broadcasts; and on all billboards, signs, pamphlets, brochures and other promotional literature, during the effective term of this Agreement. It is understood that this Agreement does not compel Respondent Huntsville Utilities to advertise in any of the above-referenced media; however, it does require compliance with this provision whenever Respondent Huntsville Utilities, its agents, employees, or contractors shall so advertise. The nondiscrimination statement shall be prominently placed, easily legible, and shall read as follows:

“Huntsville Utilities is an equal opportunity residential utility service provider. We do not discriminate in the terms, conditions, or provision of services based on race, color, religion, sex, disability, familial status, or national origin.”

3. The Respondents shall publish the nondiscrimination notice and statement in the following languages:

English

Spanish

Other languages indentified in the Huntsville Utilities Limited English Proficiency Plan, to be described later in this Agreement.

G. RELIEF FOR AGGRIEVED PERSONS

1. Within *thirty (30)* calendar days after the effective date of this Agreement, Respondent Huntsville Utilities hereby agrees to pay the sum of Five Thousand Dollars (\$5,000.00) to a local group or organization, such as the Huntsville Madison County Hispanic Latino Advisory Committee, or a similar organization, which supports the interests of the Hispanic Latino community in the north Alabama area.

2. Within *thirty (30)* calendar days after the effective date of this Agreement, Respondent Huntsville Utilities hereby agrees not to require different terms, conditions, documents, or eligibility standards on the basis of national origin from persons inquiring about or applying for utility service by telephone, online, in person or by mail. Specifically, the Respondent agrees that in implementing any level of government-imposed service eligibility requirements for determining the citizenship status of inquirers or applicants for service, that it will screen all applicants in the same manner with the same criteria irrespective of national origin or perceived national origin.

H. RELIEF IN THE PUBLIC INTEREST

Limited English Proficiency (LEP) Standards

1. Within ninety (90) calendar days of the effective date of this Agreement, Respondent Huntsville Utilities agrees to develop or adopt a Limited English Proficiency Plan (LEPP) that shall be applicable the Respondents' utility service area. The proposed LEPP shall be submitted to HUD for review and approval. The LEPP shall include, at a minimum, provision for translation, interpretation, and outreach service.

Civil Rights Compliance Training

1. Within ninety (90) calendar days after the effective date of this Agreement, each individual involved in Respondent Huntsville Utilities' management, and all agents, employees, and contractors participating in, and/or responsible for implementing Respondent Huntsville Utilities' residential utility customer service operations shall receive in-person training on the requirements of the federal Fair Housing Act, including the Act's prohibitions against discrimination based upon considerations of race, color, religion, sex, disability, familial status, or national origin.

2. The civil rights compliance training required under this Agreement shall be conducted by an independent, qualified third party, selected through the normal procurement process, approved in advance by HUD. HUD also reserves the right to review and approve the format, curriculum/content of the proposed training course(s). The Respondent shall bear any costs associated with the development and presentation of the civil rights compliance training program.

3. At a minimum, the civil rights compliance training required under this provision of the Agreement shall consist of the following elements:

- a. Instruction on the requirements of applicable federal housing discrimination laws; and
- b. Applicability of Fair Housing Act prohibitions to providers of services associated with and essential to the use and enjoyment of a residential dwelling.

4. Respondent Huntsville Utilities shall provide HUD with objective evidence of the successful completion of all Mandatory Civil Rights Compliance Training, in the form of a Certificate or a letter from the entity conducting the training, together with a list of participants, within thirty (30) business days of the completion of such training, as evidence of compliance with this provision of the Agreement.

5. Respondent Huntsville Utilities shall obtain written training certifications executed by each individual who successfully completed the civil rights compliance training course, in a form acceptable to HUD. The training certification shall include the name, title, and telephone number of the trainee; the course title; the date(s) of attendance, and the date on which the trainee successfully completed the course.

Revision, Correction or Clarification of Information Regarding Eligibility Criteria for Residential Electric, Water, and Natural Gas Service

1. Within ten (10) business days from the effective date of this Agreement, Respondent Huntsville Utilities shall provide complete copies of all documents relating to current residential electric, water, and natural gas customer service policies, practices and procedures to HUD for review. HUD will review, comment, and recommend revision(s) to the policies, practices and procedures that are inconsistent with the protections provided in the Fair Housing Act.

2. In order to reduce the likelihood that individuals without Social Security Numbers will be discouraged from applying for or denied residential electric, water, or natural gas service, Respondent Huntsville Utilities shall develop, publish and disseminate a list of alternative identification documents that may be submitted by an individual who is applying for residential electric, water, or natural gas service, and revisions to eligibility information intended for potential residential electric, water, or natural gas service applicants and current residential electric, water, or natural gas service. Within ten (10) business days from the effective date of this Agreement, Respondent Huntsville Utilities shall provide copies of its currently published eligibility criteria for residential electric, water, and natural gas service to HUD for review.

3. Within thirty (30) business days from the effective date of this Agreement, Respondent Huntsville Utilities shall develop proposed revisions, corrections, and clarifications of information regarding eligibility criteria currently displayed on Respondent Huntsville Utilities' Internet Customer Service Web Site for residential electric, water, and natural gas service applicants and customers. All proposed revisions, corrections or clarifications of customer

service information shall be submitted to HUD and subject to prior review and approval by HUD.

4. This provision shall apply to Respondent Huntsville Utilities' Internet Web Sites well as to all public access areas of the Respondent's business offices and/or residential electric, water, and natural gas customer service centers. All residential utility customer service information published and displayed in accordance with this provision shall be published, displayed, and disseminated in both English and Spanish and other languages as identified in the Limited English Proficiency Plan.

Civil Rights Compliance Revisions of Internal Procedures & Policy Guidance

Within twenty (20) business days from the effective date of this Agreement, Respondent Huntsville Utilities shall provide HUD with copies of all current residential electric, water, and/or natural gas customer service procedures and/or policy guidance, including both internal records and information designed and disseminated to the general public. HUD will review these submissions in order to identify any policies and procedures that may be inconsistent with the requirements of the Fair Housing Act and recommend appropriate changes.

Mandatory Internal Compliance Testing Program

1. Within one hundred eighty (180) calendar days from the effective date of this Agreement, Respondent Huntsville Utilities shall initiate internal compliance testing of its residential utility customer service operations. Respondent Huntsville Utilities shall bear any costs associated with the internal compliance testing program.

2. The internal compliance testing shall be conducted at least twice each year during the term of this Agreement, and HUD shall review the results of all internal compliance testing conducted under the terms of this Agreement. The parties agree that Respondent Huntsville Utilities will develop a testing methodology and provide to HUD for review and approval. *The parties further agree that HUD will not file Fair Housing Act complaints against Respondent*

Huntsville Utilities based on the results of the Respondent's internal compliance testing program.

Appointment of a Conciliation Agreement Administrator

1. Within ten (10) business days from the effective date of this Agreement, Respondent Huntsville Utilities shall designate an individual to serve as the Conciliation Agreement Administrator (CA Administrator), and shall promptly notify HUD in writing of the identity of the designee. The CA Administrator shall serve for a time period equal to the term of this Agreement.
2. The CA Administrator shall report directly to The President and CEO or the Chief Operating Officer for Huntsville Utilities.
3. Respondent Huntsville Utilities agrees to allocate such resources as may be necessary to facilitate the successful performance of the CA Administrator's duties under this Agreement.
4. The CA Administrator shall perform the following duties under this Agreement:
 - a. Coordination and verification of all compliance activities required under this Agreement, including but not limited to, training, compliance testing, procedural and/or policy revisions, affirmative marketing, and outreach activities; and
 - b. Collection, retention, and preservation of all relevant records required under this Agreement; and
 - c. Preparation of all monitoring reports, notices, and records required under this Agreement.

In the event that the CA Administrator resigns, or is otherwise terminated prior to the expiration of this Agreement, Respondent Huntsville Utilities shall designate an Acting CA Administrator within five (5) business days of such resignation or termination, and shall promptly notify HUD in writing of the identity of the individual designated to serve as Acting CA Administrator. Within thirty (30) days of the resignation or termination of the CA Administrator, Respondent

Huntsville Utilities shall designate a successor CA Administrator, and shall promptly notify HUD in writing of the identity of the individual designated to serve as the successor CA Administrator.

I. MONITORING REQUIREMENTS

It is understood that HUD shall determine compliance with the terms of this Agreement. At any time during the term of this Agreement, HUD may review the Respondent's compliance with this Agreement. During the course of a review, HUD may interview witnesses, and, upon reasonable notice, may inspect and copy pertinent records of Respondent Huntsville Utilities. The Respondent agrees to fully cooperate with all monitoring reviews that HUD may conduct for the purpose of verifying the Respondent's compliance with the provisions of this Agreement.

J. REPORTING AND RECORDKEEPING REQUIREMENTS

1. For the duration of this Agreement, the Conciliation Agreement Administrator shall retain all records relating to the Respondent's obligations under the terms of the Agreement. HUD shall have the right to review and copy such records upon request.
2. During the first year of the term of this Agreement, Respondent Huntsville Utilities shall make quarterly reports of its progress in fulfilling its obligations under the Agreement. Each quarterly report shall contain a detailed description of the Respondent's actions to comply with each requirement of the Agreement since the preceding report period; an objective assessment of the extent to which each individual requirement was completed; an explanation of why any particular requirement, element or component was not completed or fully implemented; and any recommendations for additional actions necessary to achieve compliance with this Agreement.
3. During the second (2nd) and third (3rd) year of the term of this Agreement, Respondent Huntsville Utilities shall prepare semi-annual reports of its progress in fulfilling its obligations under the Agreement. The semi-annual report shall contain a detailed description of the Respondent's actions to comply with each requirement of the Agreement since the preceding

report period; an objective assessment of the extent to which each individual requirement was completed; an explanation of why any particular requirement, element or component was not completed or fully implemented; and any recommendations for additional actions necessary to achieve compliance with this Agreement.

4. Respondent Huntsville Utilities shall submit all required reports, notifications, certifications, and verifications of compliance with the terms of this Agreement directly to:


George D. Williams, Sr., Director
Civil Rights Compliance and Disability Rights
Office of Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
451-7th Street, SW, Room 5230
Washington, DC 20410-2000

J. BREACH OF CONCILIATION AGREEMENT

Whenever HUD has reasonable cause to believe that a Respondent has breached this Agreement, HUD shall, after notice to the Respondent to comply, promptly refer the matter to the United States Attorney General with a recommendation that a civil action be filed in the United States District Court for the Northern District of Alabama pursuant to sections 810(c) and 814(b)(2) of the Fair Housing Act, for enforcement of this Agreement.

K. SIGNATURES

WHEREFORE, the parties hereto have duly executed this Agreement:

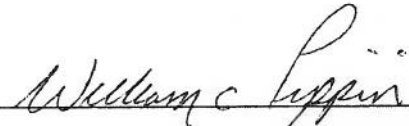


John P. Trasviña, Assistant Secretary for
Fair Housing and Equal Opportunity

[COMPLAINANT]

7-11-12

DATE



William C. Pippin, President and CEO

[RESPONDENT]

6/26/12

DATE