**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :

Bureau of Investigation and Enforcement :

:

v. : C-2015-2468131

:

Continental Communities, LLC and :

Hickory Hills MHC, LLC :

**ORDER**

**GRANTING CONTINUANCE**

On February 19, 2015, the Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement (I&E) filed with the Commission a formal complaint against Continental Communities, LLC and Hickory Hills MHC, LLC, Docket Number C-2015-2468131. In its Complaint, I&E averred that Continental and Hickory Hills violated various provisions of the Gas Hazardous Liquids Pipelines Act, 58 P.S. §§ 801.101, *et seq*. (Act 127), as well as the Code of Federal Regulations.

On April 10, 2015, Continental and Hickory Hills filed an Answer and New Matter. In their Answer, Continental and Hickory Hills admitted or denied the various averments made by I&E in its Complaint. In particular, Continental and Hickory Hills denied that they are pipeline operators as defined by state regulations. Continental also denied that it is subject to the Commission’s jurisdiction.

Also on April 10, 2015, Continental and Hickory Hills filed Preliminary Objections in response to I&E’s Complaint. In its Preliminary Objections, which were also accompanied by a Notice to Plead, Continental and Hickory Hills seek dismissal of all or part of the Complaint because 1) it fails to state any cause of action against Continental because Continental has never owned or operated pipeline facilities in Pennsylvania and 2) it fails to state a cause of action against either Continental or Hickory Hills because there is no basis in law or in the factual allegations to create a nexus between the explosion and the alleged statutory violations.

On April 20, 2015, I&E filed an Answer to the New Matter raised by Continental and Hickory Hills. In its Answer, I&E responded to each of the affirmative defenses raised in the New Matter. I&E concluded by requesting that the allegations raised in the New Matter be rejected and that Continental and Hickory Hills be found to be in violation of each and every count in the Complaint.

Also on April 20, 2015, I&E filed an Answer to the Preliminary Objections filed by Continental and Hickory Hills. In its Answer, I&E argued that, while Hickory Hills may be the deed holder of the real estate where the explosion occurred, Continental is the *de facto* owner and operator of Hickory Hills and the associated pipeline facility.

By Order dated September 30, 2015, the Preliminary Objections were denied. The Order directed that the Complaint filed by I&E proceed to a hearing before an Administrative Law Judge.

On October 14, 2015, the Commission issued a Notice establishing an Initial Prehearing Conference for this case for Thursday, December 3, 2015 at 10:00 a.m. in Hearing Room 3 of the Commonwealth Keystone Building in Harrisburg and assigning me as the Presiding Officer. A Prehearing Order dated October 16, 2015 was issued setting forth various rules that would govern the Initial Prehearing Conference.

On November 20, 2015, Continental and Hickory Hills filed an Unopposed Motion for Continuance of Prehearing Conference. In its motion, counsel for Continental and Hickory Hills indicated that they are currently involved in a hearing before the Federal Energy Regulatory Commission in Washington, D.C. that is not expected to conclude before December 11, 2015 and, as a result, requested that the Initial Prehearing Conference scheduled for December 3, 2015 be rescheduled until after December 11, 2015. Counsel further represented that counsel for I&E did not object to the motion.

Section 1.15 of the Commission’s regulations provides: “Except as otherwise provided by statute, requests for continuance of hearings or for extension of time in which to perform an act required or allowed to be done at or within a specific time by this title or by order of the Commission or the presiding officer, shall be by motion in writing, timely filed with the Commission, stating the facts on which the application rests.” 52 Pa.Code § 1.15(b). This Section also provides that “only for good cause shown will requests for continuance be considered.” Id. Additionally, Section 5.483(a) provides Presiding Officers the authority to regulate the course of the proceeding. 52 Pa.Code § 5.483(a). Furthermore, Section 1.2 provides that the Commission’s rules shall be “liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding.” 52 Pa.Code § 1.2(a).

In this case, Continental and Hickory Hills have demonstrated good cause for a continuance. Counsel for Continental and Hickory Hills indicated that they are currently involved in a hearing that is not expected to conclude prior to the date of the Initial Prehearing Conference. Furthermore, I&E did not object to the continuance. It is, therefore, reasonable to grant the continuance. The Initial Prehearing Conference scheduled for December 3, 2015 will be rescheduled to December 16, 2015 and Prehearing Memoranda will be due on December 1, 2015.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the request of Continental Communities, LLC and Hickory Hills MHC, LLC to continue the hearing scheduled for December 3, 2015 at Docket Number C-2015-2468131 is hereby granted.
2. That the Initial Prehearing Conference scheduled in this matter for Thursday, December 3, 2015 is hereby cancelled and rescheduled to Wednesday, December 16, 2015 at 10:00 a.m. in Hearing Room 3 of the Commonwealth Keystone Building in Harrisburg.
3. That Prehearing Memoranda due December 1, 2015 will now be due December 14, 2015.
4. That all other aspects of the Prehearing Order dated October 16, 2015 remain in effect.

Date: November 30, 2015

Joel H. Cheskis

Administrative Law Judge

**C-2015-2468131 - PUC INVESTIGATION AND ENFORCEMENT v. CONTINENTAL COMMUNITIES LLC/HICKORY HILLS MHC LLC**

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