



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

December 14, 2015

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission, Bureau of Investigation and
Enforcement v. Continental Communities, LLC and Hickory Hills MHC,
LLC
Docket No. C-2015-2468131

Dear Ms. Chiavetta:

Enclosed for filing is the original copy of the Pre-Hearing Conference Memorandum on behalf of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission in the above-referenced case. Copies have been served on the parties of record in accordance with the Certificate of Service.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam D. Young", is written over the typed name and title.

Adam D. Young, Esq.
Senior Prosecutor
Attorney ID No. 91822

Enclosure

cc: As per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2015-2468131
	:	
Continental Communities, LLC	:	
And	:	
Hickory Hills MHC, LLC	:	

**PRE-HEARING CONFERENCE MEMORANDUM OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

TO ADMINISTRATIVE LAW JUDGE JOEL H. CHESKIS:

The Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission) respectfully submits the following Prehearing Conference Memorandum in the above-captioned proceeding pursuant to the Prehearing Conference Order of the presiding Administrative Law Judges dated August 8, 2014.

A. Service:

All service on and communications to the Bureau of Investigations and Enforcement in this proceeding should be addressed to:

Adam D. Young
Senior Prosecutor
adyoung@pa.gov

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-5000
(717) 783-3458 (fax)

B. Proposed litigation schedule:

I&E proposes that in the interests of expediency that pre-filed direct testimony be used in lieu of live direct testimony for expert witnesses, and that such witnesses be available for cross-examination at the time of the hearing. I&E requests, however, that non-expert witnesses testify live in person. The following schedule is a suggestion, and I&E is willing to work with the other parties in this proceeding to arrive at a litigation schedule that is mutually convenient.

Complainant's Pre-filed Direct Expert Testimony:	May 2, 2016
Respondent's Rebuttal Expert Testimony:	July 15, 2016
Complainant's Rebuttal Expert Testimony:	Aug. 15, 2016
Hearing:	Aug. 29-31, 2016
Briefs:	Thirty (30) days from receipt of transcript

C. Names and addresses of witnesses to be presented and proposed subject matter of testimony:

I&E intends to call the following witnesses, although not necessarily in this order. I&E also reserves the right to call additional witnesses as may be necessary.

Expert Witnesses:

Michael Chilek
Pennsylvania Public Utility Commission
Gas Safety Division
P.O. Box 3265
Harrisburg, PA 17105
(717) 787-3416

Mr. Chilek is a gas safety inspector for the Pennsylvania Public Utility Commission. It is expected that Mr. Chilek's testimony will primarily focus on the state and federal regulatory pipeline violations committed by Respondents Continental Communities and Hickory Hills. Moreover, Mr. Chilek will discuss the actions taken by PUC personnel at the scene of the catastrophic propane explosion as well as in the months thereafter.

Tpr. Barton F. Josefowicz III
Pennsylvania State Police Bethlehem Crime Unit
PSP Hazelton
250 Dessen Dr.
West Hazelton, PA 18202
(570) 459-3890

Trooper Barton was the State Police Office tasked with conducting an investigation into the fatal propane explosion on February 14, 2014. Tpr. Barton was assisted in his investigation by Corporal Shawn Hilburt, also of PSP Hazelton. I&E reserves the right to call Cpl. Hilburt if necessary.

Kenneth M. Garside, P.E. CFEI (Certified Fire and Explosion Investigator)
Engineering Consultant
Affiliated Engineering
P.O. Box 3300
Edison, NJ 08818
(732) 429-1200

Dhyana R. Pattanayak, Ph.D.
Chief Metallurgist
Affiliated Engineering
P.O. Box 3300
Edison, NJ 08818
(732) 429-1200

The two witnesses above will testify about the testing conducted on June 19, 2014, consisting of non-destructive and destructive testing of the regulator assembly, lateral pipe, and meter, removed from the scene of the incident occurring at 118 Hickory Hills Dr., Bath, PA on February 14, 2014.

Lay Witnesses:

Hilda M. Parsons
222 East High Steet
Nazareth, PA 18064
(610) 759-3281

Ms. Parsons was the decedent's longtime girlfriend until the time of his death, and also resided at 118 Hickory Hills Drive until the incident destroyed her home. Ms. Parson's testimony will largely consist of her interactions with Hickory Hills' management in the weeks leading up to the explosion, including her reports of propane gas odor, and management's responses thereto.

John William Boehm
7 Valley Drive
Bath, PA 18014
(610) 972-7428

Dale Robert Smith
19 Hickory Hills Drive
Bath, PA 18014
(610) 573-0340

William Gordon Noble
114 Hickory Hills Drive
Bath, PA 18014
(610) 509-2409

The above three witnesses are, in order, (1) the Community Manager, (2) maintenance man, and (3) local handyman. I&E reserves the right to call these witnesses as if on cross, if necessary, as their actions / inactions in the weeks leading up to the fatal propane explosion may be of critical importance to this case.

Jesse and Amy Lynne Hodge
117 Hickory Hills Dr.
Bath, PA 18014
(610) 365 8997

Thomas Richard Bollar
113 Hickory Hills Dr.
Bath, PA 18014
(610) 614-0935

Dennis Barry Schall, Jr.
1 Fieldcrest Ct.
Bath, PA 18014
(484) 557-6520

The above three witnesses are local residents of Hickory Hills Mobile Home Community that will testify about the odor of propane gas they witnessed in the weeks leading up to the fatal explosion. I&E intends these witnesses to testify regarding prior incidents of propane leaks and the responses thereto by Hickory Hills' / Continental Communities' management/employees.

D. Issues to be Addressed:

- (A) To determine the number and extent of state and federal statutory and regulatory violations that were committed by Continental Communities and Hickory Hills, its employees, agents, or representatives.
- (B) To determine an appropriate civil penalty to be paid by Continental Communities and Hickory Hills for such statutory and regulatory violations.

E. Statement of I&E's Position on the Issues:

I&E's position on the issues in this case is largely set forth in its Formal Complaint. To briefly summarize, however, I&E believes that the actions or inactions of Continental Communities and Hickory Hills directly resulted in a catastrophic propane explosion that took the life of William Neith Sr. Continental communities and Hickory Hills operated an underground pipeline system 2+ miles in length, subject to Act 127, that served propane to approximately 300 residents. At one time the pipeline system was cathodically protected (CP) bare steel, but the replacing of various pipe segments over the years with plastic pipe interrupted the circuit rendering it useless. As a direct result, over the years the unprotected bare steel pipe began to corrode and deteriorate and leaks began becoming more common and severe.

In the 3-4 weeks leading up to the explosion, the residents of 118 Hickory Hills Drive made several calls to Hickory Hills' management about the odor of propane. At this same time, the neighbors also smelled the strong odor of propane at various times. Both the community maintenance man, and the local handyman (both unlicensed and not Operator Qualified) that were sent to find and repair the leak smelled the strong odor of propane at 118 Hickory Hills Drive, but were unable to find a leak. Thus, the leak persisted until sufficient quantities had accumulated underneath and inside the house to cause the residence to explode, sending debris as much as 100 feet in all directions, and causing one fatality.

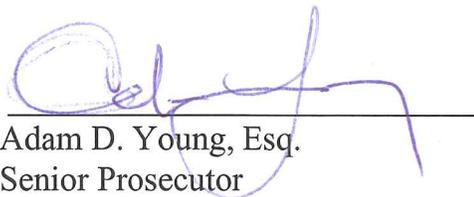
Hickory Hills and Continental Communities failed to register its pipeline system with the Commission as required under Act 127, which would have subjected the pipeline system to inspection by PUC gas safety inspectors. Not only did Continental Communities and Hickory

Hills fail to comply with the provisions of Act127, but they also failed to have their pipeline system in compliance with virtually every provision of 49 CFR Chapter 192.

F. Evidence I&E proposes to present at hearing:

In addition to the witness testimony proposed above, I&E will present as evidence numerous photographs of the scene of the explosion, and the pipeline/meter/riser testing results from the 6/19/2014 inspection performed by Affiliated Engineering, as well as accompanying photographs.

Respectfully Submitted,



Adam D. Young, Esq.
Senior Prosecutor
Attorney ID: 91822

Michael L. Swindler, Esq.
Deputy Chief Prosecutor
Attorney ID: 43319

Counsel for the Bureau of Investigation
and Enforcement

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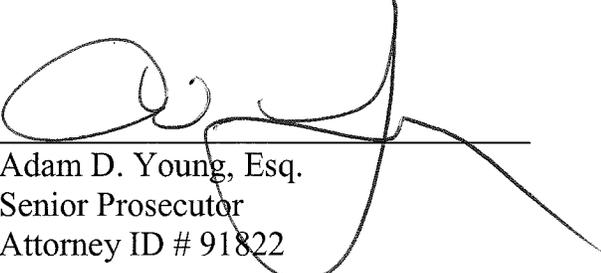
Date: December 14, 2015

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing documents in accordance with the requirements of 52 Pa. Code § 1.54 *et seq.* (relating to service by a participant).

Notification by first class mail addressed as follows:

Kevin J. McKeon, Esq.
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101



Adam D. Young, Esq.
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Attorney ID # 91822

P.O. Box 3265
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(717) 772-8582

Dated: December 14, 2015