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December 14, 2015

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street – Filing Room
Harrisburg, PA 17120

RE: Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. Continental Communities, LLC and Hickory Hills MHC, LLC, Docket No. C-2015-2468131; **PREHEARING CONFERENCE MEMORANDUM**

Dear Secretary Chiavetta:

Enclosed for filing with the Commission is the Pre-Hearing Conference Memorandum of Continental Communities, LLC and Hickory Hills MHC, LLC in the above-captioned docket. Copies of this document have been served in accordance with the attached Certificate of Service.

Thank you for your consideration in this matter. Please do not hesitate to contact me if you have any questions or concerns.

Very truly yours,

Kevin J. McKeon
Whitney E. Snyder
*Counsel for Continental Communities, LLC
and Hickory Hills MHC, LLC*

KJM/WES/das

Enclosure

cc: Honorable Joel H. Cheskis (via email and regular mail)
Per Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA FIRST CLASS MAIL AND EMAIL

Adam D. Young, Prosecutor
Wayne T. Scott, First Deputy Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265
adyoung@pa.gov
wascott@pa.gov



Kevin J. McKeon
Whitney E. Snyder

Dated: December 14, 2015

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**PREHEARING CONFERENCE MEMORANDUM OF
CONTINENTAL COMMUNITIES, LLC AND HICKORY HILLS MCH, LLC**

TO: THE HONORABLE JOEL H. CHESKIS

On October 14, 2015, a Notice was issued by the Pennsylvania Public Utility Commission (“Commission”) setting a Prehearing Conference in the above-captioned proceeding for Thursday, December 3, 2015, at 10:00 a.m. before the Honorable Joel H. Cheskis. By Order entered November 30, 2015, the Prehearing Conference was postponed to Wednesday December 16, 2015 at 10:00 a.m.

Continental Communities, LLC and Hickory Hills MHC, LLC (“Respondents”), by and through their attorneys in this matter, Hawke McKeon & Sniscak LLP, hereby submits their Prehearing Conference Memorandum.

I. ACCEPTANCE OF SERVICE

Service of paper documents in this proceeding shall be accepted on behalf of

Respondents by:

Kevin J. McKeon, Esquire
Whitney E. Snyder, Esquire
Hawke McKeon & Sniscak LLP
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II. SETTLEMENT

The parties are engaged in ongoing settlement discussions.

III. SCHEDULE

Respondents have worked with BI&E to develop the following proposed schedule:

Complainant's direct expert testimony	May 2, 2016
Respondent's answering expert testimony	July 15, 2016
Complainant's rebuttal expert testimony	August 15, 2016
Hearing	August 29-31

IV. WITNESSES

Robert M. Fitzgerald - Vice President and Chief Operating Officer of Continental Communities, LLC

Patrick Daugherty, Regional Manager, Continental Communities, LLC

John Boehm, Manager, Hickory Hills, MHC, LLC

To the extent other fact witnesses are identified Respondents will timely apprise Complainant. Respondents have not yet identified expert witnesses and will timely apprise Complainant when identified. Respondents also reserve the right to offer additional witnesses and exhibits as may be necessary to address the testimony, exhibits, or evidence that may be presented by Complainants.

V. ISSUES

Issue 1. Whether Continental Communities or Hickory Hills are subject to penalties or assessments under Act of December 22, 2011, P. L. 586, No. 127, 58 P.S. §§ 801.101-801.1101 (Act 127).

Respondent's Position: No, neither Continental Communities nor Hickory Hills are subject to penalties or assessments under Act 127.

Issue 2. Whether Continental Communities is or ever was a “pipeline operator” within the meaning of Act 127 where Continental Communities does not now and has never owned or operated “equipment or facilities in this Commonwealth for the transportation of gas or hazardous liquids by pipeline or pipeline facility regulated under Federal pipeline safety laws.” 58 P.S. § 801.102.

Respondent's Position: No, Continental Communities is not now and never was a pipeline operator within the meaning of Act 127.

Issue 3. Whether Hickory Hills is or ever was a “pipeline operator” for purposes of registration with the Commission within the meaning of the provisions of the Act 127 where Hickory Hills had previously been registered under the Act of June 19, 2002 (P.L. 421, No. 61), 35 P.S. §§ 1329.1- 1329.19, known as the Propane and Liquefied Petroleum Gas Act, and Act 127 exempts entities so registered from registration with the Commission.

Respondent's Position: No, Hickory Hills is not now and never was a pipeline operator for purposes of registration with the Commission within the meaning of Act 127.

Issue 4. Whether the civil penalty requested in the Complaint may be based on February 14, 2014 explosion where the facts surrounding the explosion and fire that have nothing to do with the violations alleged in the Complaint.

Respondent's Position: No, the civil penalty requested in the Complaint may not be based on February 14, 2014 explosion.

Issue 5. Whether Hickory Hills was responsible for the February 14, 2014 explosion and fire.

Respondent's Position: No, Hickory Hills was not responsible for the February 14, 2014 explosion and fire.

Issue 6. Whether Hickory Hills' liability for claims asserted in the Complaint, if any, should be reduced to the extent Hickory Hills has settled or will in the future settle with any person or entity for claims associated with the explosion at 118 Hickory Hills Drive on February 14, 2014.

Respondent's Position: Yes, Hickory Hills' liability for claims asserted in the Complaint, if any, should be reduced to the extent Hickory Hills has settled or will in the future settle with any person or entity for claims associated with the explosion at 118 Hickory Hills Drive on February 14, 2014.

Issue 7. Whether the claims asserted or raised in the Complaint are barred by the doctrine of estoppel where the Commission undertook efforts to advise pipeline operators of the applicability of Act 127 to their operations and to educate pipeline operators of the requirements of Act 127 but did not contact manufactured housing providers, including Hickory Hills, to advise or educate them concerning alleged duties under Act 127.

Respondent's Position: Yes, the claims asserted or raised in the Complaint are barred by the doctrine of estoppel.

VI. EVIDENCE

Respondents will present factual evidence on the issues listed above and consistent with its Answer and New Matter to show that the February 14, 2014 explosion was not caused by Respondents' negligence or lack of compliance with cited regulations.

WHEREFORE, Continental Communities, LLC and Hickory Hills MHC, LLC respectfully submit this Prehearing Conference Memorandum.

Respectfully submitted,



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*Counsel for Continental Communities, LLC
and Hickory Hills, MHC, LLC*

Dated: December 14, 2015