

**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	:	
	:	

**INITIAL DECISION**

Before  
Joel H. Cheskis  
Administrative Law Judge

I. **INTRODUCTION**

This Decision approves a Joint Petition for Settlement filed on May 13, 2016 resolving a formal complaint brought by the Bureau of Investigation and Enforcement against owners of a propane pipeline distribution system that serves a residential mobile home community. The complaint alleged that the owners of the pipeline system were responsible for an explosion that occurred in the community that resulted in one fatality, injury to another person and substantial property damage. The settlement requires the owners of the pipeline system to pay a civil penalty of one million dollars (\$1,000,000). The settlement is adopted in its entirety because it is in the public interest and supported by substantial evidence.

II. **HISTORY OF THE PROCEEDING**

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. In support of its complaint, I&E provided significant detail regarding a propane gas explosion that occurred on February 14, 2014 at a residential community owned, operated and managed by Continental and Hickory Hills. More specifically, I&E averred that the explosion completely destroyed one residence and damaged other residences which resulted in one fatality and injuries to another individual. I&E averred that Continental and Hickory Hills violated several state and federal regulations that govern pipeline operators and requested that Continental and Hickory Hills be assessed a civil penalty in the amount of \$200,000 for each of the thirty-nine (39) violations up to the maximum civil penalty of \$2,000,000 allowable by the Public Utility Code.

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. Continental and Hickory Hills then denied the various averments regarding the explosion that is the subject of I&E's complaint, noting that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations. Continental and Hickory Hills also answered the individual violations of federal and state regulations that I&E averred in its complaint. In its new matter, Continental and Hickory Hills averred six affirmative defenses, including: 1) that Continental has no obligation under Act 127; 2) Hickory Hills had no duty to register with the Commission, as I&E averred; 3) Hickory Hills was not responsible for the explosion that is the subject of the I&E Complaint; 4) settlement set off; 5) estoppel and 6) that there is no basis for civil penalty on facts unrelated to the alleged violations. Continental and Hickory Hills concluded their answer and new matter by requesting that the Commission dismiss the complaint with prejudice.

Also on April 10, 2015, Continental and Hickory Hills filed preliminary objections in response to I&E's complaint. In their preliminary objections, Continental and Hickory Hills sought 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. In particular, I&E denied that Continental has never acted and operated in the past as owner of Hickory Hills. I&E also denied that Continental and Hickory Hills had no legal obligation to register with the Commission. I&E refuted the assertion by Hickory Hills that it was not responsible for the explosion that is the subject of I&E's complaint. I&E also denied the assertion that any statutorily imposed civil penalty is offset by any civil settlements or judgments or barred by the doctrine of estoppel. Finally, I&E also responded to the assertion from Continental and Hickory Hills that there is no basis for a civil penalty on facts unrelated to the alleged violations by arguing, among other things, that the explosion may have been avoided had the regulations been complied with. 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. I&E provided several attachments to its answer in support of its position that the first preliminary objection should be rejected. I&E also argued that there is a causal nexus between the explosion and the failure of Continental and Hickory Hills to comply with various state and federal pipeline safety laws. I&E added that the explosion may have been avoided had Continental and Hickory Hills been in compliance with those laws. I&E concluded its answer by requesting that the Commission dismiss the preliminary objections filed by Continental and Hickory Hills and sustain the complaint.

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.

As a result, on October 14, 2015, the Commission issued a notice establishing an Initial Prehearing Conference for this case for Thursday, December 3, 2015 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. That Motion was granted via Order dated November 30, 2015. As a result, the Commission issued a Hearing Cancellation/Reschedule Notice rescheduling the Initial Prehearing Conference for Wednesday, December 16, 2015.

The Initial Prehearing Conference convened on December 16, 2015, as scheduled. The following counsel entered their appearance: Kevin J. McKeon, Esquire, on behalf of Continental and Hickory Hills; and Adam Young, Esquire, on behalf of I&E. During the Initial Prehearing Conference, various procedural matters were discussed. A Scheduling Order dated December 17, 2015 was issued memorializing the procedural matters. The parties were reminded that Commission policy promotes settlements, 52 Pa.Code § 5.231(a), and were encouraged to commence settlement discussions as early as possible.

On April 12, 2016, the parties indicated that a settlement had been reached. A conference call was convened to discuss procedural issues pertaining to filing the settlement. In part, the parties requested that the litigation schedule be suspended pending disposition of the settlement. As a result, an Order Suspending Litigation Schedule was issued on April 15, 2016 suspending the schedule pending disposition of the settlement.

On May 13, 2016, I&E and Continental and Hickory Hills submitted a Joint Petition for Settlement (settlement). Attached to the settlement was a Joint Stipulation of Facts, Joint Proposed Conclusions of Law and Joint Proposed Ordering Paragraphs. In addition, both parties attached Statements in Support of the Settlement.

The record in this case closed on May 13, 2016, the date the settlement was filed. This matter is ripe for a decision. For the reasons discussed below, the settlement is approved in its entirety because it is in the public interest and supported by substantial evidence.

### III. FINDINGS OF FACT

1. Respondent Continental is a limited liability company formed under the laws of the State of Delaware. Continental is the sole member of Respondent Hickory Hills, a limited liability company formed under the laws of the State of Delaware that owns and operates a manufactured housing community located in Bath, PA. Joint Stipulation.

2. Continental maintains a principal business address at 2015 Spring Road Suite 600, Oak Brook, IL 60523. Joint Stipulation.

3. Respondent Hickory Hills maintains its principal place of business at 121 Hickory Hills Drive, Bath, PA 18014. Joint Stipulation.

4. On February 14, 2014, at approximately 9:15 p.m., a propane gas explosion occurred at Hickory Hills, resulting in a fatality. Joint Stipulation.

5. On February 15, 2014, the Commission's Gas Safety Division was notified by the Pennsylvania Emergency Management Agency (PEMA) about the February 14, 2014 explosion. Joint Stipulation.

6. On February 18, 2014, a Commission Gas Safety Inspector inspected the scene of the propane explosion. Joint Stipulation.

7. The explosion and resulting fire completely destroyed the residence of Hilda Parsons and William Donald Neith Sr. at 118 Hickory Hills Drive, Bath, PA, and caused damage to surrounding properties. Joint Stipulation.

8. Two properties on either side of 118 Hickory Hills Dr. were rendered uninhabitable. Joint Stipulation.

9. Mr. Neith died in the explosion. Another individual at the adjacent property 119 Hickory Hills Dr. suffered a minor head injury. Joint Stipulation.

10. Between 1999 when it purchased the property and 2014 when the explosion occurred, Hickory Hills replaced sections of the underground propane distribution system, performed leak detection surveys, and responded to complaints received about propane odor. Joint Stipulation.

11. Hickory Hills' propane distribution system was approximately three (3) miles in length, and served 301 metered customers of the mobile home park. Joint Stipulation.

12. Each residence had a separate meter/regulator to reduce the propane gas pressure to between 11 and 13 inches of water column (wci). Joint Stipulation.

13. The propane normally left the on-site, above-ground 30,000-gallon storage tank at a pressure between 10 and 15 pounds per square inch (psi). Joint Stipulation.

14. The original steel pipe installed in about 1970 was coated for corrosion resistance. Joint Stipulation.

15. The steel distribution pipe was 2" in diameter with steel service lines of 1" in diameter. Joint Stipulation.

16. As of February 2014, approximately 1/3 of the original 2" steel distribution pipe had been replaced with 2" diameter plastic pipe, and some of the 1" steel service lines had been replaced with plastic service lines. Joint Stipulation.

17. The distribution system was, at one time, protected by a cathodic protection (CP) system, which would impress a small electric current on the pipeline to prevent loss of electrons from the metal in the form of corrosion. Joint Stipulation.

18. As of February 14, 2014, the CP system was no longer working and/or not operating. Joint Stipulation.

19. During the two weeks before the explosion, the residents at 118 Hickory Drive contacted Hickory Hills' office about the odor of propane inside and outside the residence and Hickory Hills' maintenance staff responded, but no leaks in the distribution system were discovered. Joint Stipulation.

20. At approximately 9:15 p.m. on February 14, 2014, an explosion occurred, destroying the residence and killing Mr. Neith. Joint Stipulation.

21. On March 27, 2014, the distribution pipe was disconnected from the 30,000 gallon above ground propane tank, and all residences at Hickory Hills were switched to bottled gas. Joint Stipulation.

22. The distribution system was removed on April 10, 2014 and the tank was removed on May 8, 2014. Joint Stipulation.

23. Neither Continental nor Hickory Hills admit any wrongdoing or liability. Joint Stipulation.

#### IV. DISCUSSION

##### A. Legal Standard

In this case, the parties submitted a settlement of all issues. Commission policy promotes settlements. 52 Pa.Code § 5.231. Settlements lessen the time and expense the parties

must expend litigating a case and at the same time conserve administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa.Code § 69.401. The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a “burden of proof” standard, as is utilized for contested matters. Pa. Pub. Util. Comm’n, et al. v. City of Lancaster – Bureau of Water, Docket Nos. R-2010-2179103, *et al.* (Opinion and Order entered July 14, 2011) (Lancaster). The Commission must review proposed settlements to determine whether the terms are in the public interest. Pa. Pub. Util. Comm’n LBPS v. PPL Utilities Corporation, M-2009-2058182 (Opinion and Order November 23, 2009); Pa. Pub. Util. Comm’n v. Philadelphia Gas Works, M-00031768 (Opinion and Order January 7, 2004); 52 Pa. Code § 69.1201; Warner v. GTE North, Inc., Docket No. C-00902815 (Opinion and Order entered April 1, 1996) (Warner); Pa. Pub. Util. Comm’n v. CS Water and Sewer Associates, 74 Pa. PUC 767 (1991).

The Commission has historically defined the public interest as including ratepayers, shareholders and the regulated community. Pa.P.U.C. v. Bell Atlantic-Pennsylvania, Inc., Docket No. R-00953409 (Order entered September 29, 1995). What is in the public interest is decided by examining the effect of the proposed settlement on these “stakeholder” entities. Id. The public interest is best served, however, by ensuring that the underlying transaction complies with applicable law. Dauphin County Indus. Dev. Auth. v. Pa. P.U.C., 123 A.3d 1124 (Pa. Cmwlth. 2015). Furthermore, as a general rule, the interpretations of the agency charged with a statute’s administration and execution are entitled to great weight and the Legislature is presumed to favor public interests over private interests. Chappell v. Pa. P.U.C., 425 A.2d 873 (Pa. Cmwlth. 1981); 1 Pa.C.S. §§ 1921(c)(8), 1922(5).

Decisions of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm’n, 413 A.2d 1037 (Pa. 1980); Erie Resistor Corp. v. Unemployment Comp. Bd. of Review,



166 A.2d 96 (Pa.Super. 1961); and Murphy v. Comm., Dept. of Public Welfare, White Haven Center, 480 A.2d 382 (Pa.Cmwlt. 1984).

Section 69.1201 of the Commission's regulations provides a Policy Statement regarding factors and standards to be used when evaluating litigated and settled proceedings. 52 Pa.Code § 69.1201. The Policy Statement notes that "these factors and standards will be utilized by the Commission in determining if a fine for violating a Commission order, regulation or statute is appropriate, as well as if a proposed settlement for a violation is reasonable and approval of the settlement agreement is in the public interest." 52 Pa.Code § 69.1201(a). The Policy Statement notes that "when applied in settled cases, these factors and standards will not be applied in as strict a fashion as in a litigated proceeding. The parties in settled cases will be afforded flexibility in reaching amicable resolutions to complaints and other matters so long as the settlement is in the public interest." 52 Pa.Code § 69.1201(b). These factors and standards are as follows:

- (1) Whether the conduct at issue was of a serious nature. When conduct of a serious nature is involved, such as willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty.
- (2) Whether the resulting consequences of the conduct at issue were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty.
- (3) Whether the conduct at issue was deemed intentional or negligent. This factor may only be considered in evaluating litigated cases. When conduct has been deemed intentional, the conduct may result in a higher penalty.
- (4) Whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. These modifications may include activities such as training and improving company techniques and supervision. The amount of time it took the utility to correct the conduct once it was discovered and the involvement of top-level management in correcting the conduct may be considered.

- (5) The number of customers affected and the duration of the violation.
- (6) The compliance history of the regulated entity which committed the violation. An isolated incident from an otherwise compliant utility may result in a lower penalty, whereas frequent, recurrent violations by a utility may result in a higher penalty.
- (7) Whether the regulated entity cooperated with the Commission's investigation. Facts establishing bad faith, active concealment of violations, or attempts to interfere with Commission investigations may result in a higher penalty.
- (8) The amount of the civil penalty or fine necessary to deter future violations. The size of the utility may be considered to determine an appropriate penalty amount.
- (9) Past Commission decisions in similar situations.
- (10) Other relevant factors.

52 Pa.Code § 69.1201(c); *see also*, Rosi v. Bell Atlantic-Pa., Inc. and Sprint Communications Company, Docket No. C-0092409 (Final Order entered February 10, 2000) (“Rosi factors”).

B. Terms of Settlement

The parties have agreed to the following terms, with the original paragraph numbering from the settlement maintained:

27. I&E and Respondents, intending to be legally bound and for consideration given, desire, to fully and finally conclude this litigation and agree that a Commission order approving the settlement without modification shall create the following rights and obligations:
  - a. Respondents will pay a total amount of One Million Dollars (\$1,000,000) (“Settlement Amount”) to the general fund. Said payment shall be made by check or money order payable to “Commonwealth of Pennsylvania” and shall be sent to:

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

No amount in addition to the Settlement Amount shall be sought by I&E or any other bureau of the Commission, or by the Commission itself, or paid by Respondents, for liability or potential liability that arose or could have arisen out of the subject matter of the above-docketed Complaint.

b. Respondents will pay the Settlement Amount within One Hundred Twenty (120) days of the Commission's Order approving the Settlement.

c. Upon payment by Respondents of the Settlement Amount:

i. *Pennsylvania Public Utility Commission v. Continental Communities, LLC and Hickory Hills MHC, LLC*, Docket No. C-2015-2468131 (the "Matter") shall be deemed terminated and shall be marked closed.

ii. The Commission, including I&E, shall be deemed to have forever released Respondents from all past, existing and future claims that were made or could have been made for monetary and/or other relief, including civil or equitable relief, based on allegations that Respondents: failed to register with the Commission as a pipeline operator; violated state or federal statutes or regulations pertaining to pipeline operators; violated any law, regulation, or legal duty with respect to the explosion that occurred at the residence at Hickory Hills on February 14, 2014; violated any law, regulation, or legal duty with respect to Respondents' action or inaction in connection with the pipeline facilities at Hickory Hills after February 14, 2014; or took any other unlawful action related to the pipeline facilities at Hickory Hills. Nothing contained in this Settlement Agreement shall affect the

Commission's authority to receive and resolve any future formal or informal complaints filed by any affected party regarding Continental Communities and Hickory Hills' business that are unrelated to the matters addressed in the Settlement Agreement.

- d. The verified pleadings submitted in this case shall be deemed admitted into the record of this proceeding.

Settlement at 16-17.

The settlement is conditioned upon additional terms and conditions typically found in most settlements presented to the Commission for approval. For example, the settlement is conditioned upon the Commission's approval of the terms and conditions without modification and the parties reserve the right to withdraw from the settlement if any of its terms are modified. Id. at 17-18. The parties also reserve their right to continue litigation if the Commission does not approve the settlement. Id. at 18. The parties waive their right to file exceptions if the settlement is adopted without modification. Id. The parties further note, among other things, that the settlement is made without any concession or admission of fact or law and may dispute all issues of fact and law for all purposes in all proceedings that may arise as a result of the circumstances described in the settlement. Id.

C. Public Interest

1. Position of the parties

In the settlement, the settling parties averred that the settlement is in the public interest and should be approved without modification because it is fully consistent with the Commission's policy on settlements. Id. at 17. The parties further noted that the settlement is in the public interest because it effectively addresses the allegations that are the subject of I&E's complaint and avoids the time and expense of litigation, including the preparation and filing of briefs, exceptions, reply exceptions and possible appeals. Id. The parties also discussed in their

respective Statements in Support of the Settlement why they believe the settlement is in the public interest.

In its Statement in Support of the Settlement, I&E noted that Commission policy promotes settlement and that settlements lessen the time and expense parties must expend litigating a case and preserve administrative resources. I&E also noted that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. I&E then addressed each of the ten Rosi factors, as discussed further below, and noted that the Commission will not apply the standards as strictly in settled cases as in litigated cases. I&E concluded that the settlement should be approved in its entirety without modification.

Similarly, in its Statement in Support of the Settlement, Continental and Hickory Hills stated that the settlement is in the public interest because it calls appropriate attention to the need for registration and compliance by non-traditional pipelines such as the propane distribution system within the Hickory Hills' manufactured housing community at issue in this case. Continental and Hickory Hills also stated that the settlement is in the public interest because it avoids the time and expense of litigation before the Commission and possible appeals. Continental and Hickory Hills further stated that the settlement should be approved without modification because of the \$1,000,000 civil penalty, noting that Continental and Hickory Hills have already abandoned the pipeline system and no longer are subject to the Commission's regulation. Continental and Hickory Hills also addressed each of the ten Rosi factors, as discussed further below, and concluded that the settlement should be approved in its entirety without modification.

## 2. Disposition

The main term in the settlement is the agreement of Continental and Hickory Hills to pay a \$1,000,000 civil penalty. Section 3301 of the Public Utility Code grants the Commission authority to impose civil penalties. For most violations of the Public Utility Code, the Commission is authorized to impose a fine not exceeding \$1,000. 66 Pa.C.S. § 3301(a). On December 22, 2011, however, Governor Corbett signed the Gas and Hazardous Liquids Pipelines Act (Act 127) wherein

the civil penalty provisions specifically for violations of gas pipeline safety regulations was modified.

In Act 127, the General Assembly provided the Commission the authority to enforce federal pipeline safety laws as they relate to non-public utility gas and hazardous liquids pipelines and pipeline facilities within Pennsylvania. *See, Act 127 of 2011 – The Gas and Hazardous Liquids Pipeline Act; Assessment of Pipeline Operators – Jurisdiction over Class 1 Transmission*, Docket No. M-2012-2282031 (Final Order entered June 7, 2012). Act 127 requires the Commission to, among other things, develop and maintain a registry of pipeline operators within Pennsylvania. The Commission has implemented regulations designed to carry out its responsibilities under Act 127. *Act 127 of 2011 – The Gas and Hazardous Liquids Pipeline Act; Assessment of Pipeline Operators*, Docket No. M-2012-2282031 (Final Implementation Order entered February 17, 2012). In addition, with regard to the civil penalties, Act 127 modified Section 3301(c) of the Public Utility Code to provide:

**(c) Gas Pipeline safety violations.**—Any person or corporation, defined as a public utility in this part, who violates any provisions of this part governing the safety of pipeline or conduit facilities in the transportation of natural gas, flammable gas, or gas which is toxic or corrosive, or of any regulation or order issued thereunder, shall be subject to a civil penalty of not to exceed \$200,000 for each violation for each day that the violation persists, except that the maximum civil penalty shall not exceed \$2,000,000 for any related series of violations, or subject to a penalty provided under Federal pipeline safety laws, whichever is greater.

66 Pa.C.S. § 3301(c).

Substantial record evidence demonstrates that the settlement proposed by I&E and Continental and Hickory Hills is consistent with Section 3301 as well as applicable Commission precedent, is in the public interest and should be approved without modification. In particular, approval of the settlement is consistent with the factors and standards for evaluating litigated and settled proceedings.

To begin, in this case, I&E argued in its complaint that Continental and Hickory Hills violated Act 127, as well as numerous federal regulations, by failing to register with the Commission the underground propane pipeline distribution system at Hickory Hills' manufactured housing community, failing to maintain adequate operational manuals for the pipeline, failing to pay assessment fees, and failing to adhere to federal cathodic protection requirements. As a result, I&E sought findings of 39 violations alleged in the complaint, the imposition of a civil penalty of \$2,000,000 and an order directing Continental and Hickory Hills to pay an assessment fee of \$3,384 for the 2012-13 and 2013-14 fiscal years.

In the Joint Stipulation of Facts in Support of the Settlement, the parties stipulated that, on February 14, 2014, a propane gas explosion occurred at Hickory Hills, resulting in one fatality and an injury to one other person. The parties also stipulated that the explosion and resulting fire destroyed one residence and cause damage to surrounding properties. The parties further stipulated that between 1999 when it purchased the property and 2014 when the explosion occurred, Hickory Hills replaced sections of the underground propane distribution system, performed leak detection surveys and responded to complaints received about propane odor. The parties also stipulated that, during the two weeks before the explosion, the residents contacted Hickory Hills' office about the odor of propane inside and outside the residence and that Hickory Hills' maintenance staff responded, but no leaks in the distribution system were discovered.

As a result, the settlement addresses the various issues raised in I&E's complaint. Most significantly, the settlement provides that Continental and Hickory Hills will pay a civil penalty of \$1,000,000. This amount is in the public interest because it represents an even compromise between the maximum of \$2,000,000 for any related series of violations as allowed in Act 127, which I&E requested be imposed in the complaint, and \$0, the amount Continental and Hickory Hills would pay if it were not responsible for the incident that occurred on February 14, 2014. That is, to the extent that this proceeding were fully litigated, the least Continental and Hickory Hills would be expected to pay is \$0 and the most they would be expected to pay is \$2,000,000. The \$1,000,000 amount agreed to in the settlement represents an even compromise between these two possible amounts.

This amount of civil penalty is also in the public interest because it is reached without the additional expense or burden of continued litigation. As noted above, the procedural schedule for this case was suspended prior to the submission of any pre-served written testimony. Therefore, the parties entered into the settlement without the expense of not only submitting various rounds of pre-served written testimony and serving and responding to discovery, but also no need for hearings, briefs and possibly exceptions and appeals.

Furthermore, the settlement is in the public interest because it represents the unique situation where the respondent is not a public utility and will not be providing the pipeline distribution service in the future. In fact, the parties stipulated that on March 27, 2014, the distribution pipeline was disconnected from the 30,000 gallon above ground propane tank and all residences at Hickory Hills were switched to bottled gas. The distribution system was removed on April 10, 2014 and the tank was removed on May 8, 2014. Therefore, the settlement is in the public interest even though there are no remedial measures agreed to because such measures are not necessary as Continental and Hickory Hills will not be operating a pipeline distribution system in the future. This is a significant factor that supports adopting the settlement in its entirety without modification. There is no need for the inclusion of additional remedies as have been included in settlements of other similar situations.

Finally, the settlement is in the public interest and should be adopted in its entirety without modification because it is consistent with Commission precedent and is supported by substantial evidence. As noted below, although this case is unique because it occurred after the implementation of Act 127, the Commission has addressed settlements of other situations involving gas pipeline explosions. This settlement is consistent with those other cases. Additionally, the settlement is in the public interest and should be adopted in its entirety without modification because it is supported by substantial evidence. In particular, the Joint Stipulation of Facts and verified pleadings will be admitted into the record of this proceeding via this Decision.

As a result, substantial record evidence demonstrates that the settlement is in the public interest and should be adopted in its entirety without modification. Doing so is consistent with the Commission's analysis of settlements as indicated in the Policy Statement.



### 3. Application of Rosi factors

As noted above, the Commission has promulgated a Policy Statement that sets forth ten factors (“Rosi factors”) that the Commission will consider in evaluating litigated and settled proceedings and determining whether a fine for violating a Commission order, regulation or statute is appropriate, as well as whether a proposed settlement for violations is reasonable and approval of the settlement agreement is in the public interest. 52 Pa.Code § 69.1201(a). When applied in settled cases, the factors will not be applied in as strict a fashion as in a litigated proceeding. 52 Pa.Code § 69.1201(b). The parties in settled cases will be afforded flexibility in reaching amicable resolutions so long as the settlement is in the public interest. Id. A review of the factors articulated in the Policy Statement supports finding that the settlement should be adopted as being in the public interest.

#### **a. First Rosi Factor - Whether the conduct was of a serious nature**

With regard to the first Rosi factor, Section 69.1201(c)(1) states:

Whether the conduct at issue was of a serious nature. When conduct of a serious nature is involved, such as willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty.

52 Pa.Code § 69.1201(c)(1). In its Statement in Support of the Settlement, I&E stated that Continental and Hickory Hills’ failure to register with the Commission, maintain adequate operational manuals, pay assessments or adhere to certain protection requirements, while not amounting to willful fraud or misrepresentation, were more than mere technical or administrative errors. Similarly, Continental and Hickory Hills recognize the serious concerns raised by these allegations and that the Gas Safety Division of I&E must have the opportunity through pipeline operator registration and reporting to inspect and monitor regulated pipeline facilities.

Substantial record evidence demonstrates that the conduct at issue in this proceeding was of a serious nature, although it did not constitute willful fraud or misrepresentation. Certainly, the conduct was not an administrative filing or technical error. As detailed in the settlement, the Hickory Hills propane distribution system was approximately three miles in length and served 301 metered customers of the mobile home park. Each residence had a separate meter/regulator to reduce the propane gas pressure. The original steel pipe installed in about 1970 was coated for corrosion resistance and, as of February, 2014, approximately 1/3 of the original 2” steel distribution pipe had been replaced with 2” diameter plastic pipe and some of the 1” steel service lines had been replaced with plastic service lines. During the two weeks before the explosion, the residents at 118 Hickory Drive contacted Hickory Hills’ office about the odor of propane inside and outside the residence and Hickory Hills’ maintenance staff responded but no leaks in the distribution system were discovered.

The maintenance and ownership of a pipeline distribution system is a serious issue. This is true regardless of whether the consequences of such maintenance and ownership are also of a serious nature. In this case, however, as discussed below, serious consequences, including loss of life and destruction of property, have resulted from such conduct. Although Continental and Hickory Hills do not admit to any wrongdoing or liability as a result of the settlement, and there is no demonstration of willful fraud or misrepresentation by Continental and Hickory Hills, nonetheless, the conduct at issue in this proceeding was of a serious nature. The conduct at issue placed the public safety at risk. As a result, this factor warrants adopting the settlement in its entirety without modification because the conduct at issue was of a serious nature.

**b. Second Rosi Factor - Whether the resulting consequences of the conduct at issue were of a serious nature**

With regard to the second Rosi factor, whether the resulting consequences of the conduct at issue were of a serious nature, Section 69.1201(c)(2) states:

Whether the resulting consequences of the conduct at issue were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty.

52 Pa.Code § 69.1201(c)(2). In its Statement in Support of the Settlement, I&E stated that a resident of the Hickory Hills Mobile Home Community was killed in the explosion on February 14, 2014 and this is a serious consequence. I&E further submits that the settlement amount agreed to is appropriate given the serious nature of the incident. Similarly, Continental and Hickory Hills acknowledge that the death that occurred is a very serious matter and noted that the matter was also the subject of a civil settlement that directly compensated the estate of the deceased. Continental and Hickory Hills stated that the settlement amount in this proceeding acknowledges the gravity of the circumstances.

Without question, the resulting consequences of the conduct at issue in this proceeding were of a serious nature. The fatality that resulted from the incidents on February 14, 2014 is tragic and, in addition to the resulting significant damage to property and other personal injuries, serves as a reminder of the inherent danger in utility work and the need to prioritize safety by taking all necessary precautions and complying with applicable regulations. As a result, this factor warrants adopting the settlement in its entirety without modification because the resulting consequences of the conduct at issue were of a serious nature.

**c. Third Rosi factor – whether the conduct was intentional or negligent**

With regard to the third factor, whether the conduct at issue was deemed intentional or negligent, this factor is not relevant here because this factor is only evaluated in litigated proceedings. 52 Pa.Code § 69.1201(c)(3).

**d. Fourth Rosi factor – efforts to modify internal practices and procedures**

With regard to the fourth Rosi factor, efforts to modify internal practices and procedures, Section 69.1201(c)(4) states:

Whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. These modifications may include

activities such as training and improving company techniques and supervision. The amount of time it took the utility to correct the conduct once it was discovered and the involvement of top-level management in correcting the conduct may be considered.

52 Pa.Code § 69.1201(c)(4). In their respective Statements in Support of the Settlement, I&E and Continental and Hickory Hills noted that Hickory Hills has ceased operating the pipeline facilities on its premises, abandoned the propane distribution system and removed the propane tank. I&E and Continental and Hickory Hills also noted that Hickory Hills is not affiliated with any other Pennsylvania manufactured housing community that owns or operates pipeline facilities, and has no intention to own or operate pipeline facilities in the future. As a result, Continental and Hickory Hills have modified their practices and procedures by ceasing pipeline operation altogether and ensuring that similar conduct will not occur in the future.

Substantial record evidence demonstrates that Continental and Hickory Hills have modified their practices and procedures to address the conduct at issue by ceasing to operate the pipeline distribution system, abandoning the propane distribution system and removing the propane tank. It is significant that Continental and Hickory Hills can no longer violate the state and federal regulations which I&E averred in its complaint were violated because Continental and Hickory Hills no longer operate such distribution facilities. Completely abandoning the distribution system with the intention of never owning or operating pipeline facilities in the future is perhaps the greatest modification to internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. As a result, this factor also supports adopting the settlement in its entirety without modification.

**e. Fifth Rosi factor – Number of customers affected and duration of violation**

The fifth Rosi factor considers the number of customers affected and the duration of the violation. 52 Pa.Code § 69.1201(c)(5). In its Statement in Support of the Settlement, I&E noted that the Hickory Hills mobile home community has over 300 individual sites and the allegations raised in the complaint affected every resident until Continental and Hickory Hills abandoned the propane pipeline system. Continental and Hickory Hills also noted that the mobile home community has over 300 site pads and in theory all sites were affected until the propane pipeline

system was abandoned. In addition, Continental and Hickory Hills noted that they were unaware of the Commission's regulations and any alleged violations until February 15, 2014, the day after the explosion, and acted promptly thereafter to minimize and then eliminate the possibility of future potential problems.

Substantial record evidence demonstrates that each of the over 300 individual sites could have been affected by the actions alleged by I&E in its complaint. Fortunately, however, only two other properties were rendered uninhabitable by the events that occurred on February 14, 2014. The fifth Rosi factor analyzes the number of customers that were affected – not the number of customers that *could have been affected*. As a result, the number of customers affected was only a few. With regard to the duration of the violations, as I&E noted, Act 127 went into effect on February 20, 2012 and Hickory Hills operated the propane pipeline system until it abandoned the system on April 10, 2014. As a result the duration of some of the violations lasted over two years. It is possible that the events that occurred on February 14, 2014 could have occurred earlier than when they did. Therefore, the fifth Rosi factor supports adopting the settlement in its entirety and without modification because the duration of the alleged violations was long even though the number of customers affected was minimal.

**f. Sixth Rosi factor – compliance history**

With regard to the sixth Rosi factor, Respond's compliance history, Section 69.1201(c)(6) provides that, "an isolated incident from an otherwise compliant utility may result in a lower penalty, whereas frequent, recurrent violations by a utility may result in a higher penalty." 52 Pa.Code § 69.1201(c)(6). In its Statement in Support of the Settlement, I&E indicated that Continental and Hickory Hills have no history of noncompliance. Continental and Hickory Hills also indicated that this was their first and only experience with Commission regulations and noted that, to the degree that this factor applies to entities that are not regulated public utilities, this factor weighs in favor of adopting the settlement because Hickory Hills acted promptly to eliminate the possibility of future noncompliance.

Substantial record evidence demonstrates that Continental and Hickory Hills' compliance history is such that it supports adopting the settlement in its entirety without modification. Although Continental and Hickory Hills apparently did not comply with some regulations as alleged in I&E's complaint for a period of over two years, there were no compliance actions taken as a result and, therefore, no history of noncompliance to consider with regard to this factor.

**g. Seventh Rosi factor – cooperation with the Commission investigation**

With regard to the seventh Rosi factor, Section 69.1201(c)(7) analyzes “whether the regulated entity cooperated with the Commission’s investigation. Facts establishing bad faith, active concealment of violations or attempts to interfere with Commission investigations may result in a higher penalty.” 52 Pa.Code § 69.1201(c)(7). In their respective Statements in Support of the Settlement, I&E and Continental and Hickory Hills indicated that Continental and Hickory Hills cooperated with the Commission’s Gas Safety Division at all times relevant to this proceeding. Such cooperation shows a commitment consistent with the Commission’s public safety goals and objectives. As a result, this factor supports adopting the settlement in its entirety without modification.

**h. Eighth Rosi factor – amount of penalty necessary to deter future violations**

With regard to the eighth Rosi factor, the amount of civil penalty or fine necessary to deter future violations, Section 69.1201(c)(8) analyzes “the amount of the civil penalty or fine necessary to deter future violations. The size of the utility may be considered to determine an appropriate penalty amount.” 52 Pa.Code § 69.1201(c)(8). In their respective Statements in Support of the Settlement, I&E and Continental and Hickory Hills indicated that deterrence of future violations is not necessary since Hickory Hills promptly removed, and therefore no longer operates, the pipeline system and that future violations are not a concern because Continental and Hickory Hills are not affiliated with any other manufactured housing community in Pennsylvania. I&E and Continental and Hickory Hills also indicated that the civil penalty imposed in this case will act as a deterrent to other operators by encouraging registration and compliance.

Substantial record evidence demonstrates that the \$1,000,000 civil penalty is sufficient to deter future violations. Although it is clear at this time that Continental and Hickory Hills will no longer be operating the pipeline system at issue here, and do not operate other pipeline systems elsewhere in the state, the civil penalty imposed as part of this proceeding will help ensure that neither Continental nor Hickory Hills violate any Commission regulations in the future. To the extent Continental and Hickory Hills engage in conduct over which the Commission does have authority, which may be incidental to their core business, the \$1,000,000 civil penalty will deter them from violating Commission regulations in the future. It is also in the public interest that the \$1,000,000 civil penalty will act as a deterrent to other operators of similar systems throughout Pennsylvania. The civil penalty agreed to as part of this settlement is substantial and will deter future violations of Commission regulations by encouraging operators of similar pipelines to comply with Commission regulations. Although the Commission may more often craft penalties specific to the individual case and circumstances at hand, the Commission has leeway to consider the impact of its actions as a deterrent to the industry as a whole. As such, this factor supports adopting the settlement in its entirety without modification.

**i. Ninth Rosi factor – past Commission decisions in similar cases**

The ninth Rosi factor addresses past Commission decisions in similar cases. 52 Pa.Code § 69.1201(c)(9).

In its Statement in Support of the Settlement, I&E stated that there are no similar cases involving Act 127 pipeline operators in Pennsylvania as this is the first gas safety incident before the maximum civil penalty was increased. In claiming that the settlement is consistent with past Commission actions and presents a fair and reasonable outcome, however, I&E noted three cases that occurred prior to the implementation of Act 127 where similar gas safety situations have reached similar conclusions. These cases include Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. UGI Utilities, Inc., Docket No. C-2012-2308897 (Opinion and Order entered Feb. 19, 2013) (UGI Utilities); Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. UGI Utilities, Inc., Docket No. C-2012-2295974 (Order entered

May 9, 2013); and Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement UGI Penn Natural Gas, Inc., Docket No. M-2013-2338981 (Opinion and Order entered Sept. 26, 2013) wherein settlements of \$500,000, \$200,000 and \$1,000,000 respectively were approved.

In their Statement in Support of the Settlement, Continental and Hickory Hills noted other matters involving distribution pipeline safety allegations in which there has been loss of life that have resulted in penalties less than the settlement amount here. Those cases include UGI Utilities, supra; Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. Philadelphia Gas Works, Docket No C-2011-2278312 (Opinion and Order entered July 26, 2013); and Pennsylvania Public Utility Commission v. The Peoples Natural Gas Company d/b/a Dominion Peoples, Docket No. C-2009-2027991 (Opinion and Order entered Jan. 14, 2011). Continental and Hickory Hills noted, however, that these cases pre-date the implementation of Act 127 and also involved large public utilities who were familiar with Commission regulations and were rendering service that was their core business. In this case, Continental and Hickory Hills are not public utilities, were rendering a propane distribution service incidental to their core business and were unaware of the Commission's regulations and oversight.

Substantial record evidence demonstrates that this case is unique in that, although there have been other gas pipeline explosion cases before this Commission, this case has occurred after the enactment of Act 127 of 2012. The settlement is consistent with the past Commission decisions identified by the parties in their respective Statements in Support of the Settlement when considering the modifications to the civil penalty provisions in the Public Utility Code made by the General Assembly in Act 127. Although it appears that the civil penalty amount agreed to in the settlement may be higher than it would be prior to the implementation of Act 127 when comparing the facts and circumstances of this case with other similar cases, it appears that is precisely the intention of the General Assembly in enacting Act 127 – parties responsible for gas pipeline explosions should pay a higher civil penalty. As a result, the ninth Rosi factor supports adopting the settlement in its entirety without modification.



**j. Tenth Rosi factor – other relevant factors**

The tenth factor analyzes other relevant factors. 52 Pa.Code § 69.1201(c)(10). Neither I&E nor Continental and Hickory Hills identified in their Statements in Support of the Settlement any additional relevant factors.

An additional relevant factor that supports adopting the settlement in its entirety is that doing so will conserve administrative resources and the resources of the parties required to litigate this matter. Although the parties participated in preliminary matters related to litigating this case, including filing the complaint, answer, preliminary objections and answer to preliminary objections, as well as exchanging discovery and engaging in settlement discussions, the parties have avoided submitting rounds of pre-served, written witness testimony, hearings, briefs, as well as any exceptions and other post-hearing activity including appeals, by submitting the settlement. These matters would have required significant expenditure of resources. Additionally, the Commission strongly encourages settlement and has indicated that the results reached in settlements are often preferable over the results reached in fully litigated proceedings. Finally, the settlement will help promote gas safety by ensuring that all those who operate pipeline distribution systems comply with the Commission's regulations, regardless of whether they are utilities and regardless of whether the operation of the pipeline is part of their core business.

For these additional relevant factors, the settlement should be adopted in its entirety without modification. There are otherwise no relevant factors in addition to the others discussed above that are relevant to this proceeding.

**V. CONCLUSION**

In conclusion, this Decision adopts the Joint Petition for Settlement filed on May 13, 2016 in its entirety and without modification as it is in the public interest and supported by substantial evidence. The key term in the settlement of a \$1,000,000 civil penalty is consistent with Commission precedent that promotes settlement, *see, Lancaster, Warner, supra*, and the Commission's Policy Statement by which settlements are analyzed. 52 Pa.Code § 69.1201. The

settlement recognizes that both the conduct at issue and the resulting consequences of that conduct were of a serious nature. In addition, the number of customers affected and the duration of the violations warrant adopting the settlement. This is particularly true as Continental and Hickory Hills no longer operate a pipeline distribution system and have no history of noncompliance with the Commission. Finally, Continental and Hickory Hills cooperated with the Commission's investigation and the civil penalty will appropriately deter future violations of the Public Utility Code or the Commission's regulations.

While no amount of money could ever compensate a loss of life, the \$1,000,000 civil penalty adequately penalizes Continental and Hickory Hills for its actions or inactions that are the subject of this proceeding. As such, the settlement will be approved in its entirety without modification because it is in the public interest and supported by substantial evidence.

## VI. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 58 Pa.C.S. §§ 801, *et seq.*; 66 Pa.C.S. § 701.
2. Commission policy promotes settlements. 52 Pa.Code § 5.231.
3. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa.Code § 69.401.
4. The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a "burden of proof" standard, as is utilized for contested matters. Pa. Pub. Util. Comm'n, et al. v. City of Lancaster – Bureau of Water, Docket Nos. R-2010-2179103, *et al.* (Opinion and Order entered July 14, 2011).

5. The Commission must review proposed settlements to determine whether the terms are in the public interest. Pa. Pub. Util. Comm'n LBPS v. PPL Utilities Corporation, M-2009-2058182 (Opinion and Order November 23, 2009); Pa. Pub. Util. Comm'n v. Philadelphia Gas Works, M-00031768 (Opinion and Order January 7, 2004); 52 Pa. Code § 69.1201; Warner v. GTE North, Inc., Docket No. C-00902815 (Opinion and Order entered April 1, 1996); Pa. Pub. Util. Comm'n v. CS Water and Sewer Associates, 74 Pa. PUC 767 (1991).

6. The Commission has historically defined the public interest as including ratepayers, shareholders and the regulated community. What is in the public interest is decided by examining the effect of the proposed settlement on these “stakeholder” entities. Pa.P.U.C. v. Bell Atlantic-Pennsylvania, Inc., Docket No. R-00953409 (Order entered September 29, 1995).

7. The public interest is best served by ensuring that the underlying transaction complies with applicable law. Dauphin County Indus. Dev. Auth. V. Pa. P.U.C., 123 A.3d 1124 (Pa. Cmwlth. 2015).

8. As a general rule, the interpretations of the agency charged with a statute’s administration and execution are entitled to great weight and the Legislature is presumed to favor public interests over private interests. Chappell v. Pa. P.U.C., 425 A.2d 873 (Pa. Cmwlth. 1981); 1 Pa.C.S. §§ 1921(c)(8), 1922(5).

9. The Commission’s regulations provide a Policy Statement regarding factors and standards to be used when evaluating litigated and settled proceedings. 52 Pa.Code § 69.1201; *see also*, Rosi v. Bell Atlantic-Pa., Inc. and Sprint Communications Company, Docket No. C-0092409 (Final Order entered February 10, 2000).

10. The Policy Statement factors and standards will be utilized by the Commission in determining if a fine for violating a Commission order, regulation or statute is appropriate, as well as if a proposed settlement for a violation is reasonable and approval of the settlement agreement is in the public interest. 52 Pa.Code § 69.1201(a).

11. When applied in settled cases, the Policy Statement factors and standards will not be applied in as strict a fashion as in a litigated proceeding. The parties in settled cases will be afforded flexibility in reaching amicable resolutions to complaints and other matters so long as the settlement is in the public interest. 52 Pa.Code § 69.1201(b).

12. Decisions of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704.

13. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n, 413 A.2d 1037 (Pa. 1980); Erie Resistor Corp. v. Unemployment Comp. Bd. of Review, 166 A.2d 96 (Pa.Super. 1961); and Murphy v. Comm., Dept. of Public Welfare, White Haven Center, 480 A.2d 382 (Pa.Cmwlth. 1984).

14. The Commission has the authority to enforce federal pipeline safety laws as they relate to non-public utility gas and hazardous pipelines and pipeline facilities within Pennsylvania. Act 127 of 2011 – The Gas and Hazardous Liquids Pipeline Act; Assessment of Pipeline Operators – Jurisdiction over Class 1 Transmission, Docket No. M-2012-2282031 (Final Order entered June 7, 2012).

15. Act 127 requires that the Commission, among other things, develop and maintain a registry of pipeline operators within Pennsylvania. The Commission has implemented regulations designed to carry out its responsibilities under Act 127. Act 127 of 2011 – The Gas and Hazardous Liquids Pipeline Act; Assessment of Pipeline Operators, Docket No. M-2012-2282031 (Final Implementation Order entered February 17, 2012).

16. Any person or corporation, defined as a public utility in this part, who violates any provisions of this part governing the safety of pipeline or conduit facilities in the transportation of natural gas, flammable gas, or gas which is toxic or corrosive, or of any regulation or order issued thereunder, shall be subject to a civil penalty of not to exceed \$200,000 for each

violation for each day that the violation persists, except that the maximum civil penalty shall not exceed \$2,000,000 for any related series of violations, or subject to a penalty provided under Federal pipeline safety laws, whichever is greater. 66 Pa.C.S. § 3301(c).

17. The Joint Petition for Settlement submitted in this proceeding on May 13, 2016 should be adopted in its entirety because it is in the public interest and supported by substantial evidence.

## VI. ORDER

THEREFORE,

IT IS ORDERED:

1. That the Joint Petition for Settlement filed by Continental Communities, LLC and Hickory Hills MHC, LLC and the Bureau of Investigation and Enforcement at Docket Number C-2015-2468131 and dated May 13, 2016 is hereby approved in its entirety.

2. That the Joint Stipulation of Facts submitted on May 13, 2016 as Appendix A to the Joint Petition for Settlement and the verified pleadings filed in this docket are hereby admitted into the record of this proceeding.

3. That the formal complaint filed by the Bureau of Investigation on February 19, 2015 against Continental Communities, LLC and Hickory Hills MHC, LLC at Docket Number C-2015-2468131 is hereby sustained.

4. That Continental Communities, LLC and Hickory Hills MHC, LLC shall pay a civil penalty of \$1,000,000 by sending a certified check or money order payable to the Commonwealth of Pennsylvania, within 120 days from the entry of the Final Commission Order to:

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

5. That upon receipt of Continental Communities, LLC and Hickory Hills MHC, LLC's certificate of compliance with Ordering Paragraph Number 4, the Secretary's Bureau shall marked closed Docket Number C-2015-2468131.

Date: June 7, 2016

\_\_\_\_\_/s/\_\_\_\_\_  
Joel H. Cheskis  
Administrative Law Judge