

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE NOTICE OF)
POTENTIAL VIOLATIONS OF 26 DEL. ADMIN.)
C. §8001 AND ASSOCIATED CIVIL PENALTIES) PSC DOCKET NO. 15-0955
ASSESSED TO LEA BLVD. 2007, LLC)
(OPENED APRIL 27, 2015))

ORDER NO. 8769

AND NOW, this 18th day of August, 2015, the Delaware Public Service Commission ("Commission") determines and orders the following:

WHEREAS, the Commission has qualified for federal certification to operate a state pipeline safety compliance program pursuant to 49 U.S.C. §60105(a) and has the authority pursuant to 26 Del. C. §821 to make and enforce rules required by the federal National Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. Chapter 601); and

WHEREAS, the Commission is authorized by the Federal Pipeline Safety Regulations, 49 C.F.R., Parts 190-193 and 198-199, to order remedial actions and impose civil penalties where appropriate; and

WHEREAS, Lea Blvd. 2007, LLC ("Lea Blvd. 2007") is an "Operator" as set forth in 26 Del. Admin. C. §8001-1.0 and 26 Del. C. §802(11) in that Lea Blvd. 2007 acts as an operator of a buried pipeline facility used in the transportation of natural gas within the State of Delaware and therefore falls within the Commission's jurisdiction; and

WHEREAS, a member of the Commission's staff ("Staff") performed a standard inspection of Lea Blvd. 2007's records and facilities for the properties otherwise known as "Lea Boulevard Apartments" and "Greenbank Manor Apartments," which are located in Wilmington, Delaware, and noted his findings in a written report dated March 6,

2015 (the "Report"), which findings included failure to exercise key/critical sectionalizing valves and to monitor the cathodic protection system for either of the apartment complexes in calendar year 2014 (and the period between these tasks was longer than 15 months) and failure to follow Lea Blvd. 2007's O&M Manual; and

WHEREAS, Lea Blvd. 2007's failure to exercise the key/critical sectionalizing valves represents two potential violations of 49 C.F.R. §192.747(a);¹ and

WHEREAS, Lea Blvd. 2007's failure to monitor the cathodic protection system also represents two potential violations of 49 C.F.R. §192.465(a);² and

WHEREAS, Lea Blvd. 2007's failure to perform duties in a timely fashion pursuant its O&M Manual also represents one potential violation of 49 C.F.R. §192.605(a);³ and

¹ 49 C.F.R. §192.747(a) deals with "Valve maintenance: Distribution systems," and requires the following: "Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year."

² 49 C.F.R. §192.465(a) deals with "External corrosion control: Monitoring" and requires the following: "Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of 192.463...."

³ 49 C.F.R. §192.605(a) deals with "Procedural manual for operations, maintenance, and emergencies" and states the following: "General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted."

WHEREAS, based on the findings in the Report, on April 21, 2015,⁴ the Program Manager of the Pipeline Safety Program for the State of Delaware (who is also a member of the Commission Staff) sent a written letter of the Notice of Potential Violations ("NOPV") and a copy of the Report to Mr. Chaim Moses, an owner of Lea Blvd. 2007, and to Corporation Service Company as the Delaware registered agent of Lea Blvd. 2007. Copies of the NOPV and Report are attached to the Proposed Consent Agreement (defined below); and

WHEREAS, the Commission Staff ("Staff") recommended in the NOPV⁵ that the Commission impose a civil penalty of \$200.00 for each potential violation of 49 C.F.R. §192.747(a), a civil penalty of \$200.00 for each potential violation of 49 C.F.R. §192.465(a), and a civil penalty of \$200.00 for the potential violation of 49 C.F.R. §192.605(a). Thus, the total amount of recommended civil penalties made by Staff was \$1,000.00 (the "Civil Penalties"); and

WHEREAS, Lea Blvd. 2007 and Staff entered into settlement negotiations and agreed to resolve the potential violations and the Civil Penalties by entering into a consent agreement (the "Proposed

⁴ On May 6, 2015, Mr. Platt subsequently sent a slightly revised NOPV to both Mr. Moses and Lea Blvd. 2007's Delaware registered agent to correct a mathematical error in the amount of the total fines (changed from \$900.00 to \$1,000.00).

⁵ The NOPV further indicated because valve maintenance/exercising and cathodic protection monitoring had recently been completed in calendar year 2015 with no problems found, Staff did not require Lea Blvd. 2007 to take any remedial action at that time. Staff did recommend, however, that within 30 days of the date of the NOPV, Lea Blvd. 2007 should correct its Operator ID information with the U.S. DOT Pipeline and Hazardous Materials Safety Administration (PHMSA). In addition, Staff recommended that within 30 days of the date of the NOPV, Lea Blvd. 2007 should become a member of Miss Utility of Delaware, Inc. Lea Blvd. 2007 failed to take these additional steps within 30 days; however, the company did complete both tasks at a later date. Hence, Staff is not recommending any action be taken for the company's untimely follow-up on these two items.

Consent Agreement") which is attached as Attachment "A". Both Staff and Lea Blvd. 2007 agree that the Proposed Consent Agreement is subject to the Commission's review and final approval; and

WHEREAS, Staff and Lea Blvd. 2007 submit that resolving this matter through a negotiated compromise and without the need for a formal evidentiary hearing serves the public interest and yields a reasonable result. In addition, both parties assert that the Civil Penalties are within the bounds of allowable civil penalty amounts based on circumstances unique to Lea Blvd. 2007, and this settlement will avoid further administrative and hearing costs;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. Pursuant to 26 *Del. C.* §512(c), the Commission finds that the Proposed Consent Agreement is in the public interest for the reasons set forth above and, therefore, approves such agreement in full.
2. Pursuant to 26 *Del. Admin. C.* §8001-7.1.2, 49 U.S.C. §60122(a), and subpart B of Part 190 of the Federal Regulations, the Commission assesses a civil penalty against Lea Blvd. 2007 in the amount of \$1,000.00 payable within 20 days of the date of this Order.
3. The Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Chair

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Secretary

ATTACHMENT "A"

Proposed Consent Agreement

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE NOTICE OF)
POTENTIAL VIOLATIONS OF 26 *DEL. ADMIN. C.*)
§8001 AND ASSOCIATED CIVIL PENALTIES) PSC DOCKET NO. 15-0955
ASSESSED TO LEA BLVD. 2007, LLC)
(OPENED APRIL 27, 2015))

PROPOSED CONSENT AGREEMENT

THIS PROPOSED CONSENT AGREEMENT is made this 15th day of May, 2015, between Lea Blvd. 2007, LLC, a Delaware limited liability company ("Lea Boulevard"), and the Delaware Public Service Commission Staff ("Staff").

WHEREAS, Lea Boulevard is a Delaware limited liability company with mailing address of P.O. Box 737, Lakewood, New Jersey 08701 and with a Delaware registered agent listed as Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808; and

WHEREAS, Lea Boulevard is an "Operator" as set forth in 26 *Del. C.* §802(11)¹ and 26 *Del. Admin. C.* §8001-1.0² in that such company acts as an operator of a buried pipeline facility used in the transportation of gas, such as propane and natural gas, within the State of Delaware; and

WHEREAS, the Delaware Public Service Commission (the "Commission") has qualified for federal certification of a state pipeline safety compliance program under 49 U.S.C. §60105(a), which relates to the regulation of intrastate gas pipeline transportation; and

WHEREAS, 26 *Del. C.* §821 provides, in pertinent part, that the Commission "shall have the authority to make and enforce rules required by the federal Natural Gas Pipeline Safety

¹ 26 *Del. C.* §802(11) defines an "underground pipeline facility operator" as an operator of a buried pipeline facility used in the transportation of gas, such as propane and natural gas, subject to the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. §1671 et seq.) [repealed by Act July 5, 1994, P.L. 103-272], or used in the transportation of hazardous liquid subject to the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. § 2001 et seq.) [repealed by Act July 5, 1994, P.L. 103-272]; underground pipeline facility operators include, without limitation, natural gas, propane gas, master meter, LP gas and interstate and intrastate gas and liquid distribution facility operators as defined by these acts. **NOTE:** P.L. 103-272 amended and transferred to a new section of the U.S. Code the "Natural Gas Pipeline Safety Act of 1968" and the "Hazardous Liquid Pipeline Safety Act of 1979." See P.L. 103-272; 108 Stat. 745; 49 U.S.C. §§60101 through 60128.

² Under 26 *Del. Admin. C.* §8001-1.0, an "Operator" means an "underground pipeline facility operator" as defined in 26 *Del. C.* §802(11).

Act of 1968, as amended (49 U.S.C. Chapter 601), to qualify for federal certification of a state pipeline safety compliance program under 49 U.S.C. § 60105(a)...,"³ and

WHEREAS, as part of its duties as a certified state pipeline safety compliance program, Mr. Robert Schaeffgen, a member of Staff and pipeline safety inspector, performed a standard inspection on March 6, 2015, of the records and facilities for the properties otherwise known as "Lea Boulevard Apartments" and "Greenbank Manor Apartments," which are located in Wilmington, Delaware; and

WHEREAS, Mr. Schaeffgen prepared a written report (dated March 6, 2015) which noted that Lea Boulevard had failed to exercise key/critical sectionalizing valves for either of the apartment complexes in calendar year 2014 (and the period between these tasks was longer than 15 months). Mr. Schaeffgen also noted that Lea Boulevard had failed to monitor the cathodic protection system for either of the apartment complexes in calendar year 2014 (and the period between these tasks was longer than 15 months); and

WHEREAS, Lea Boulevard's failure to exercise the key/critical sectionalizing valves represents two potential violations of 49 C.F.R. §192.747(a);⁴ and

WHEREAS, Lea Boulevard's failure to monitor the cathodic protection system also represents two potential violations of 49 C.F.R. §192.465(a);⁵ and

WHEREAS, Lea Boulevard's failure to exercise the key/critical sectionalizing valves also represents one potential violation of 49 C.F.R. §192.605(a);⁶ and

WHEREAS, based on Mr. Schaeffgen's written report and findings, on April 21, 2015,⁷ Mr. Gerald D. Platt, Program Manager of the Pipeline Safety Program for the State of Delaware, sent a written letter of the Notice of Potential Violations ("NOPV") to Mr. Chaim Moses, an owner of Lea Boulevard, and to Corporation Service Company as the Delaware registered agent.

³ 26 *Del. C.* §821 further provides, in pertinent part, that such rules shall incorporate the safety standards and penalty provisions (including injunctive and monetary sanctions) established under the federal Natural Gas Pipeline Safety Act of 1968, as amended [49 U.S.C. § 60101 et seq.], that are applicable to intrastate gas pipeline transportation and will apply to underground pipeline facility operators, as defined under 26 *Del. C.* §802(11).

⁴ 49 C.F.R. §192.747(a) deals with "Valve maintenance: Distribution systems," and requires the following: "Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year."

⁵ 49 C.F.R. §192.465(a) deals with "External corrosion control: Monitoring" and requires the following: "Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of 192.463...."

⁶ 49 C.F.R. §192.605(a) deals with "Procedural manual for operations, maintenance, and emergencies" and states the following: "General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted."

⁷ On May 6, 2015, Mr. Platt subsequently sent a slightly revised NOPV to both Mr. Moses and the property owner's Delaware registered agent to correct a mathematical error in the amount of the total fines (changed from \$900.00 to \$1,000.00).

Copies of the NOPV that Staff sent to both Mr. Moses and to the Corporation Service Company are attached as Exhibit "A"; and

WHEREAS, the NOPV indicated that the Commission is authorized by the Federal Pipeline Safety Regulations, 49 C.F.R., Parts 190-193 and 198-199 (the "Regulations"), to order remedial actions and to impose civil penalties. The NOPV further indicated because valve maintenance/exercising and cathodic protection monitoring had recently been completed in calendar year 2015 with no problems found, Staff did not require Lea Boulevard to take any remedial action at that time; and

WHEREAS, Staff did recommend, however, that within 30 days of the date of the NOPV, Lea Boulevard should correct its Operator ID information with the U.S. DOT Pipeline and Hazardous Materials Safety Administration (PHMSA). In addition, Staff recommended that within 30 days of the date of the NOPV, Lea Boulevard should become a member of Miss Utility of Delaware, Inc.; and

WHEREAS, Staff also recommended in the NOPV that the Commission impose a civil penalty of \$200.00 for each potential violation of 49 C.F.R. §192.747(a), a civil penalty of \$200.00 for each potential violation of 49 C.F.R. 192.465(a), and a civil penalty of \$200.00 for the potential violation of 49 C.F.R. §192.605(a). Thus, the total amount of recommended civil penalties made by Staff was \$1,000.00; and

WHEREAS, Lea Boulevard and Staff thereafter entered into settlement negotiations and hereby propose to resolve all of the issues in this proceeding without recourse to a formal administrative hearing by entering into this Proposed Consent Agreement under the terms and conditions set forth herein; and

WHEREAS, Lea Boulevard has been informed that it is entitled to an administrative hearing and to be represented by counsel but has decided to waive its right to an administrative hearing;

NOW, THEREFORE, upon the mutual consent and agreement of Lea Boulevard and Staff (individually, a "Party," and collectively, the "Parties"), the Parties hereby propose a complete settlement of all issues in this proceeding as follows:

1. The Parties have conferred and have agreed to enter into this Proposed Consent Agreement on the terms and conditions contained herein because they believe that resolving the matter by stipulation will serve the interests of the public. The Parties also agree that the terms and conditions of this Proposed Consent Agreement will be presented to the Commission for the Commission's final approval.

2. Lea Boulevard waives its right to an administrative evidentiary hearing for this proceeding and makes such waiver as a free and voluntary act.

3. Lea Boulevard states it fully understands all of the violations alleged by Staff, the facts relating to above-referenced potential violations, and all of the consequences of its consent to this Proposed Consent Agreement.

4. Lea Boulevard admits to all of the facts as set forth above and admits that it failed to exercise key/critical sectionalizing valves and to monitor cathodic protection systems in calendar year 2014, which represents potential violations of 49 C.F.R. §192.747(a), 49 C.F.R. §192.465(a), and 49 C.F.R. §192.605(a).

5. Pursuant to 26 *Del. Admin. C.* §8001-7.1.2, Lea Boulevard agrees to pay a civil penalty in the amount of \$1,000.00 within 20 days of the date of a final Commission order that approves this Proposed Consent Agreement. This sum is the total of a civil penalty in the amount of \$200.00 for each of the two violations of 49 C.F.R. §192.747(a), \$200.00 for each of the two violations of 49 C.F.R. §192.465(a), and \$200.00 for one violation of 49 C.F.R. §192.605(a). Pursuant to 26 *Del. C.* §116(b)(2), these civil penalties will be payable to and deposited into the General Fund of the State of Delaware.

6. If Lea Boulevard fails to pay the sum of \$1,000.00 in civil penalties within 20 days of the date of a final Commission order approving this Proposed Consent Agreement, Lea Boulevard agrees that it shall pay interest at the current annual rate in accordance with 31 U.S.C. §3717, 31 C.F.R. §901.9, and 49 C.F.R. §89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be assessed if payment is not made within 110 days of service of a Notice of Late Payment. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Delaware Attorney General for appropriate action.

7. The terms of this Proposed Consent Agreement are binding upon Lea Boulevard, its successors and assigns, and may be admitted into evidence in any judicial or administrative proceeding that may be required against Lea Boulevard in order to enforce its terms.

8. This finding of violations will be considered a prior offense in any subsequent enforcement action against Lea Boulevard.

9. Nothing in this Proposed Consent Agreement affects or relieves Lea Boulevard of its responsibility to comply with all applicable requirements of the federal Pipeline Safety Laws, 49 U.S.C. §60101, et seq., and the regulations and administrative orders issued thereunder. Nothing in this Agreement alters Staff's right of access, entry, inspection, and information gathering or Staff's authority to bring enforcement actions against Lea Boulevard pursuant to the federal Pipeline Safety Laws, the regulations and administrative orders issued thereunder, Delaware's law or regulations, or any other provision of Federal or State law.

10. No change, amendment, or modification to this Proposed Consent Agreement shall be effective or binding unless it is in writing and is dated and signed by the Parties.

11. If Staff or the Commission fails to act on any one or more defaults by Lea Boulevard, such failure to act shall not be a waiver of any rights hereunder on the part of the

Staff or the Commission to declare Lea Boulevard in default and to take such action as may be permitted by this Proposed Consent Agreement or by law.

12. This agreement shall survive Lea Boulevard and be enforceable against its successors or assigns.

13. The provisions of this Proposed Consent Agreement are not severable.

14. The Parties agree that this Proposed Consent Agreement may be submitted to the Commission for its consideration and final decision and that no Party will oppose such a determination. Except as expressly set forth herein, neither of the Parties waives any rights it may have to take any position in future proceedings regarding the issues in this proceeding, including positions contrary to positions taken herein or in previous cases.

15. This Proposed Consent Agreement will become effective upon the Commission's issuance of a final order approving it and all of its terms and conditions without modification. After the issuance of such final order, the terms of this Proposed Consent Agreement shall be implemented and enforceable notwithstanding the pendency of any legal challenge to the Commission's approval of this Proposed Consent Agreement or to actions taken by another regulatory agency or Court, unless such implementation and enforcement is stayed or enjoined by the Commission, another regulatory agency, or a Court having jurisdiction over the matter.

16. The Parties may enforce this Proposed Consent Agreement through any appropriate action before the Commission or through any other available remedy. Any final Commission order related to the enforcement or interpretation of this Proposed Consent Agreement shall be appealable to the Superior Court of the State of Delaware, in addition to any other available remedy at law or in equity.

17. If a Court grants a legal challenge to the Commission's approval of this Proposed Consent Agreement and issues a final non-appealable order that prevents or precludes implementation of any material term of this Proposed Consent Agreement, or if some other legal bar has the same effect, then this Proposed Consent Agreement is voidable upon written notice by either Party to the other Party.

18. This Proposed Consent Agreement resolves all of the issues specifically addressed herein and precludes the Parties from asserting contrary positions during subsequent litigation in this proceeding or related appeals; provided, however, that this Proposed Consent Agreement is made without admission against or prejudice to any factual or legal positions which any of the Parties may assert (a) if the Commission does not issue a final order approving this Proposed Consent Agreement without modifications; or (b) in other proceedings before the Commission or another governmental body so long as such positions do not attempt to abrogate this Proposed Consent Agreement. This Proposed Consent Agreement is determinative and conclusive of all of the issues addressed herein and, upon approval by the Commission, shall constitute a final adjudication as to the Parties of all of the issues in this proceeding.

19. This Proposed Consent Agreement contains all of the terms and conditions agreed to by the Parties and constitutes the final agreement between Lea Boulevard and Staff.

20. This Proposed Consent Agreement is expressly conditioned upon the Commission's approval of all of the specific terms and conditions contained herein without modification. If the Commission fails to grant such approval, or modifies any of the terms and conditions herein, this Proposed Consent Agreement will terminate and be of no force and effect, unless the Parties agree in writing to waive the application of this provision. The Parties will make their best efforts to support this Proposed Consent Agreement and to secure its approval by the Commission.

21. It is expressly understood and agreed that this Proposed Consent Agreement constitutes a negotiated resolution of the issues in this proceeding.

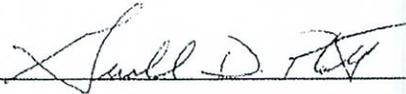
22. Each of the undersigned representatives of the Parties certifies that he or she is fully and legally authorized by the Party represented to enter into the terms and conditions hereof and to execute and legally bind that Party to it.

23. This Proposed Consent Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. If either Party sends the other Party a signature on this Proposed Consent Agreement by facsimile transmission or by e-mail as a ".PDF" format file, such signature shall create a valid and binding obligation of the Party executing it (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".PDF" signature page were an original thereof. Lea Boulevard agrees that an uncertified copy hereof shall be valid as evidence in any proceeding that may be required for purposes of enforcement.

[SIGNATURE PAGE TO FOLLOW]

The undersigned Parties, intending to bind themselves and their successors and assigns, have caused this Proposed Consent Agreement to be signed by their duly-authorized representatives and hereby agree to all of the conditions and terms set forth in this Proposed Consent Agreement.

DELAWARE PUBLIC SERVICE COMMISSION STAFF

By:  Date: 5/15/15
Printed Name: Gerald D. Platt
Title: Pipeline Safety Program Manager

LEA BLVD. 2007, LLC

By:  Date: May 12, 2015
Printed Name: Chaim Moses
Title: President

EXHIBIT "A"

COPIES OF WRITTEN NOTICE OF POTENTIAL VIOLATIONS
OF 26 *DEL. ADMIN. C.* §8001 DATED APRIL 21, 2015, AND MAY 6, 2015,
FROM THE DELAWARE PUBLIC SERVICE COMMISSION STAFF
TO CHAIM MOSES WITH COPY TO CORPORATION
SERVICE COMPANY (AS DELAWARE REGISTERED AGENT)



STATE OF DELAWARE
PUBLIC SERVICE COMMISSION
861 SILVER LAKE BLVD.
CANNON BUILDING, SUITE 100
DOVER, DELAWARE 19904

TELEPHONE: (302) 736-7500
FAX: (302) 739-4849

April 21, 2015

Lea Boulevard 2007, LLC
ATTN: Chaim Moses
PO Box 737
Lakewood, NJ 08701

Corporation Service Company
2711 Centerville Road, Suite 400
Wilmington, DE 19808

RE: Written Notice of Potential Violation of 26 Del. Admin. C. §8001 – Lea Boulevard Apartments, 608 W. Lea Blvd., #A4, Wilmington, DE 19802, and Greenbank Manor Apartments, 221 Greenbank Road, Wilmington, DE 19808

Dear Mr. Moses:

This letter serves as notice to Lea Boulevard 2007, LLC (the "Operator") of potential violations of the State of Delaware's Rules to Establish an Intrastate Gas Pipeline Safety Compliance Program, 26 Del. Admin. C. §8001 (the "Regulations"). The Regulations, at a minimum, enforce the standards set forth in the Federal Pipeline Safety Regulations, Title 49, U.S. Code of Federal Regulations, Parts 190-193 and 198-199.

On March 6, 2015, Mr. Robert Schaeffgen, a member of the Commission Staff, performed a Standard Inspection of the records and facilities of the Operator for Lea Boulevard Apartments and Greenbank Manor Apartments, both in Wilmington, DE. Mr. Schaeffgen noted the following:

The records of the maintenance/exercising of the key/critical sectionalizing valves of the distribution system of each apartment complex indicated that this occurred on August 23, 2013, and January 26, 2015. In addition, records indicated that the cathodic protection system monitoring for each apartment complex had been completed on August 23, 2013, and January 26, 2015. Thus, there was no maintenance/exercising of the key/critical sectionalizing valves or monitoring of the cathodic protection system for either apartment complex in CY 2014, and in addition, the period between these tasks at each complex was longer than 15 months.

This represents the following potential violations:

- 1) Two (2) potential violations of 49 C.F.R. §192.747(a): Valve maintenance: Distribution systems, which requires the following:

"Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year."

- 2) Two (2) potential violations of 49 C.F.R. §192.465(a): External corrosion control: Monitoring, which requires the following:

"Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of §192.463..."

- 3) This also represents a potential violation of 49 C.F.R. §192.605(a): Procedural manual for operations, maintenance, and emergencies. These sections state the following:

"General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted."

The Commission is authorized by the Regulations to order remedial actions and to impose civil penalties. Since valve maintenance/exercising and cathodic protection monitoring has recently been completed (in CY 2015) with no problems found, there is no further action to be taken on these matters at this time. However, further investigation indicates the Operator's ID information is incorrect, and the Operator is not a member of Miss Utility of Delmarva. In this case, the Commission Staff is recommending the following actions and civil penalties:

- 1) Within 30 days of this letter, the Operator should correct its Operator ID information with the *US DOT Pipeline and Hazardous Materials Safety Administration (PHMSA)*. This can be done by going to <http://www.phmsa.dot.gov/resources/e-forms> and following the link to "New Operator Registration". Currently, the Operator ID for these facilities is 38613, and the Owner/Operator is listed as "Central Management Systems". The ID number can stay the same, but the Owner/Operator name needs to be changed to "Lea Boulevard 2007, LLC". If you have any problems, contact the PHMSA helpline at 202-366-8075.
- 2) Within 30 days of this letter, become a member of *Miss Utility of Delmarva*. Use the contact information at <http://www.missutilitydelmarva.com/> in order to accomplish this task.
- 3) Civil penalties should be assessed in the amount of \$200.00 for each potential violation of 49 C.F.R. §192.747(a), \$200.00 for each potential violation of 49 C.F.R. §192.465(a), and \$200.00 for the potential violation of 49 C.F.R. §192.605(a). Thus, the total amount of recommended civil

Mr. Chaim Moses, Lea Boulevard 2007, LLC
April 21, 2015
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penalties is \$900.00. Additional penalties may also be imposed for any additional violations found in any ensuing investigations or hearings.

The Commission Staff is referring this matter to the Commission for a formal hearing so that the Commission can rule on this matter. A docket will be opened for this matter, and a notice of a hearing date will be sent to the Operator as soon as possible.

If you have questions regarding this matter, please don't hesitate to contact me at 302-736-7526.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerald D. Platt". The signature is stylized and written in cursive.

Gerald D. Platt, Program Manager

Enclosure: Copy of Violation Report for 3/6/15

cc: Julie Donoghue, Deputy Attorney General
Robert Schaeffgen, DE PSC Pipeline Safety Inspector

UNITED STATES DEPARTMENT OF TRANSPORTATION
 RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
 OFFICE OF PIPELINE SAFETY
 GAS PIPELINE SAFETY VIOLATION REPORT

1. <u>Inspector Name</u> Robert Schaeffgen	2. <u>Date of Inspection</u> 03/06/15	3. <u>CPF #</u>
4. <u>Pipeline Operator/Owner</u> Lea Boulevard 2007 LLC		
5a. <u>Headquarters Address</u> 608 West Lea Boulevard, Wilmington, DE 19802	5b. <u>Telephone No.</u> (302) 762-2651	
6. <u>Inspection Location</u> Lea Boulevard Apartments and Greenbank Manor Apts.	7. <u>Inspection Unit</u> No. <u>1</u> of <u>2</u>	
8. <u>Portion of System Inspected</u> (Describe location & facility)		
9. <u>Nature and Size of Operator</u>		
9a. <u>Type of Operator</u>	9b. <u>Type of Pipe in System</u>	
<input type="checkbox"/> LNG (interstate)	<input type="checkbox"/> Cast Iron	
<input type="checkbox"/> LNG (intrastate)	<input checked="" type="checkbox"/> Steel	
<input type="checkbox"/> LPG	<input type="checkbox"/> Plastic	
<input checked="" type="checkbox"/> Master Meter	<input type="checkbox"/> Other -	
<input type="checkbox"/> Other Distribution	9c. <u>Size of Operator</u> (No. of	
<input type="checkbox"/> Gathering	Miles/Customers/Storage	
<input type="checkbox"/> Transmission (interstate)	Capacity <u>0.58 miles/146/0</u>	
<input type="checkbox"/> Transmission (intrastate)		
10. <u>Nature of Probable Violations</u> (Check as many as applicable)		
<input type="checkbox"/> 1. Problem in Design/Materials		
<input type="checkbox"/> 2. Problem in Construction		
<input type="checkbox"/> 3. Welding or Joining		
<input type="checkbox"/> 4. Problem in LNG Equipment		
<input type="checkbox"/> 5. Test Requirements or MAOP Qualification		
<input type="checkbox"/> 6. Corrosion Control		
<input type="checkbox"/> 7. Pressure Control		
<input checked="" type="checkbox"/> 8. Other Maintenance/Monitoring		
<input type="checkbox"/> 9. Personnel Qualifications & Training		
<input type="checkbox"/> 10. Fire Protection		
<input type="checkbox"/> 11. Security		
<input type="checkbox"/> 12. Anti-Drug Program		
<input type="checkbox"/> 13. Other Operations		
<input type="checkbox"/> 14. Reporting Requirements		
<input type="checkbox"/> 15. Other _____		
<input type="checkbox"/> 16. Inadequate/No Procedures		
<input type="checkbox"/> A. Construction	<input type="checkbox"/> D. Training	
<input type="checkbox"/> B. Corrosion Control	<input type="checkbox"/> E. Maintenance	
<input type="checkbox"/> C. Operations		

Violation No. 1

Violated: 192.605 (a) Procedural Manual for Operations, Maintenance, and Emergencies

11b. Summarize what the regulation requires that operator did not do:

Operator did not follow their manual of written procedures for conducting Operations and Maintenance Activities, specifically pertaining to valve maintenance and cathodic protection testing.

12. Provide detailed information about violation:

Operator has procedures for performing valve maintenance and cathodic protection testing within certain time intervals, and this was not accomplished. These tasks were not performed in CY 2014.

13. Public and/or environmental concerns in area of violation:

By not adhering to O&M Procedures, this caused unnecessary risk to the residents of Lea Boulevard Apts. and Greenbank Manor Apts.

14a. Person Interviewed: Charles Nachem Title: Property Manager

14b. Comments of person interviewed: Did not seem to be aware that O & M Procedures required valve maintenance and cathodic protection testing on a regular basis within certain time intervals.

Continuation Sheet

Violation No. 2

11a. CFR Violated: 192.747 (a) Valve maintenance; Distribution systems

11b. Summarize what the regulation requires that operator did not do:
Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year.

12. Provide detailed information about the violation:
Operator had not checked (exercised) and serviced the key valves which are necessary for the safe operation of their gas distribution system in CY 2014 for Lea Blvd. Apts. and Greenbank Manor Apts.

13. Public and/or environmental concerns in area of violation: By not performing this task, the Operator could not confirm the operability of critical valves in the event of an emergency.

14a. Person Interviewed: Charles Nachev Title: Property Manager

14b. Comments of person interviewed: He indicated that he had a lot of procedures, records and documentation, but had not seemed aware that the key valves had to be exercised at intervals not exceeding 15 months, but at least once a year.

Continuation Sheet

Violation No. 3

11a. CFR Violated: 49 CFR 192.465(a) External Corrosion Control: Monitoring

11b. Summarize what the regulation requires that operator did not do:
Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of §192.463

12. Provide detailed information about the violation:
Operator failed to test the cathodic protection system on their private gas distribution pipeline in CY 2014 for Lea Boulevard Apartments and Greenbank Manor Apartments.

13. Public and/or environmental concerns in area of violation: By not performing this task, the Operator could not confirm the integrity of the pipeline distribution system, thus causing unnecessary risk to the residents of each apartment complex.

14a. Person Interviewed: Charles Nachem Title: Property Manager

14b. Comments of person interviewed: Did not seem familiar with the requirement to test the cathodic protection system at least once a calendar year and at an interval not exceeding 15 months.

15. Supporting Documents/Materials			
Item No.	Description (Include date)	Source of Documents	Remarks
1	Pipeline Safety Regulations Part 192	OPS/PHMSA	

16. Inspector's Signature: *Robert Schaeffer* Date: 04/17/15



STATE OF DELAWARE
PUBLIC SERVICE COMMISSION
861 SILVER LAKE BLVD.
CANNON BUILDING, SUITE 100
DOVER, DELAWARE 19904

TELEPHONE: (302) 736-7500
FAX: (302) 739-4849

May 6, 2015

Lea Blvd. 2007, LLC
ATTN: Chaim Moses
PO Box 737
Lakewood, NJ 08701

Corporation Service Company
2711 Centerville Road, Suite 400
Wilmington, DE 19808

RE: REVISED Written Notice of Potential Violation of 26 Del. Admin. C. §8001 – Lea Boulevard Apartments, 608 W. Lea Blvd., #A4, Wilmington, DE 19802, and Greenbank Manor Apartments, 221 Greenbank Road, Wilmington, DE 19808

Dear Mr. Moses:

This letter serves as notice to Lea Blvd. 2007, LLC (the "Operator") of potential violations of the State of Delaware's Rules to Establish an Intrastate Gas Pipeline Safety Compliance Program, **26 Del. Admin. C. §8001** (the "Regulations"). The Regulations, at a minimum, enforce the standards set forth in the Federal Pipeline Safety Regulations, Title 49, U.S. Code of Federal Regulations, Parts 190-193 and 198-199.

On March 6, 2015, Mr. Robert Schaeffgen, a member of the Commission Staff, performed a Standard Inspection of the records and facilities of the Operator for Lea Boulevard Apartments and Greenbank Manor Apartments, both in Wilmington, DE. Mr. Schaeffgen noted the following:

The records of the maintenance/exercising of the key/critical sectionalizing valves of the distribution system of each apartment complex indicated that this occurred on August 23, 2013, and January 26, 2015. In addition, records indicated that the cathodic protection system monitoring for each apartment complex had been completed on August 23, 2013, and January 26, 2015. Thus, there was no maintenance/exercising of the key/critical sectionalizing valves or monitoring of the cathodic protection system for either apartment complex in CY 2014, and in addition, the period between these tasks at each complex was longer than 15 months.

This represents the following potential violations:

- 1) Two (2) potential violations of **49 C.F.R. §192.747(a): Valve maintenance: Distribution systems**, which requires the following:

"Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year."

- 2) Two (2) potential violations of **49 C.F.R. §192.465(a): External corrosion control: Monitoring**, which requires the following:

"Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of §192.463..."

- 3) This also represents a potential violation of **49 C.F.R. §192.605(a): Procedural manual for operations, maintenance, and emergencies**. These sections state the following:

"General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted."

The Commission is authorized by the Regulations to order remedial actions and to impose civil penalties. Since valve maintenance/exercising and cathodic protection monitoring have recently been completed (in CY 2015) with no problems found, there is no further action to be taken on these matters at this time. However, further investigation indicates the Operator's ID information is incorrect, and the Operator is not a member of Miss Utility of Delmarva. In this case, the Commission Staff is recommending the following actions and civil penalties:

- 1) Within 30 days of this letter, the Operator should correct its Operator ID information with the *US DOT Pipeline and Hazardous Materials Safety Administration (PHMSA)*. This can be done by going to <http://www.phmsa.dot.gov/resources/e-forms> and following the link to "New Operator Registration". Currently, the Operator ID for these facilities is 38613, and the Owner/Operator is listed as "Central Management Systems". The ID number can stay the same, but the Owner/Operator name needs to be changed to "Lea Boulevard 2007, LLC". If you have any problems, contact the PHMSA helpline at 202-366-8075.
- 2) Within 30 days of this letter, become a member of *Miss Utility of Delmarva*. Use the contact information at <http://www.missutilitydelmarva.com/> in order to accomplish this task.
- 3) Civil penalties should be assessed in the amount of \$200.00 for each potential violation of 49 C.F.R. §192.747(a), \$200.00 for each potential violation of 49 C.F.R. §192.465(a), and \$200.00 for the potential violation of 49 C.F.R. §192.605(a). Thus, the total amount of recommended civil

Mr. Chaim Moses, Lea Blvd. 2007, LLC
May 6, 2015
Page 3

penalties is \$1,000.00. Additional penalties may also be imposed for any additional violations found in any ensuing investigations or hearings.

The Commission Staff is referring this matter to the Commission for a formal hearing so that the Commission can rule on this matter. A docket will be opened for this matter, and a notice of a hearing date will be sent to the Operator as soon as possible.

If you have questions regarding this matter, please don't hesitate to contact me at 302-736-7526.

Sincerely,



Gerald D. Platt, Program Manager

Enclosure: Copy of Violation Report for 3/6/15

cc: Julie Donoghue, Deputy Attorney General
Robert Schaeffgen, DE PSC Pipeline Safety Inspector

UNITED STATES DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
OFFICE OF PIPELINE SAFETY
GAS PIPELINE SAFETY VIOLATION REPORT

1. <u>Inspector Name</u> Robert Schaeffgen	2. <u>Date of Inspection</u> 03/06/15	3. <u>CPF #</u>
4. <u>Pipeline Operator/Owner</u> Lea Boulevard 2007 LLC		
5a. <u>Headquarters Address</u> 608 West Lea Boulevard, Wilmington, DE 19802	5b. <u>Telephone No.</u> (302) 762-2651	
6. <u>Inspection Location</u> Lea Boulevard Apartments and Greenbank Manor Apts.	7. <u>Inspection Unit</u> No. <u>1</u> of <u>2</u>	
8. <u>Portion of System Inspected</u> (Describe location & facility)		
9. <u>Nature and Size of Operator</u>		
9a. <u>Type of Operator</u>	9b. <u>Type of Pipe in System</u> <u>Inspected</u>	
<input type="checkbox"/> LNG (interstate)	<input type="checkbox"/> Cast Iron	
<input type="checkbox"/> LNG (intrastate)	<input checked="" type="checkbox"/> Steel	
<input type="checkbox"/> LPG	<input type="checkbox"/> Plastic	
<input checked="" type="checkbox"/> Master Meter	<input type="checkbox"/> Other -	
<input type="checkbox"/> Other Distribution	9c. <u>Size of Operator</u> (No. of Miles/Customers/Storage Capacity <u>0.58 miles/146/0</u>	
<input type="checkbox"/> Gathering		
<input type="checkbox"/> Transmission (interstate)		
<input type="checkbox"/> Transmission (intrastate)		
10. <u>Nature of Probable Violations</u> (Check as many as applicable)		
<input type="checkbox"/> 1. Problem in Design/Materials		
<input type="checkbox"/> 2. Problem in Construction		
<input type="checkbox"/> 3. Welding or Joining		
<input type="checkbox"/> 4. Problem in LNG Equipment		
<input type="checkbox"/> 5. Test Requirements or MAOP Qualification		
<input type="checkbox"/> 6. Corrosion Control		
<input type="checkbox"/> 7. Pressure Control		
<input checked="" type="checkbox"/> 8. Other Maintenance/Monitoring		
<input type="checkbox"/> 9. Personnel Qualifications & Training		
<input type="checkbox"/> 10. Fire Protection		
<input type="checkbox"/> 11. Security		
<input type="checkbox"/> 12. Anti-Drug Program		
<input type="checkbox"/> 13. Other Operations		
<input type="checkbox"/> 14. Reporting Requirements		
<input type="checkbox"/> 15. Other _____		
<input type="checkbox"/> 16. Inadequate/No Procedures		
<input type="checkbox"/> A. Construction	<input type="checkbox"/> D. Training	
<input type="checkbox"/> B. Corrosion Control	<input type="checkbox"/> E. Maintenance	
<input type="checkbox"/> C. Operations		

Revised 12/3/08

Violation No. 1

Violated: 192.605 (a) Procedural Manual for Operations, Maintenance, and Emergencies

11b. Summarize what the regulation requires that operator did not do:

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12. Provide detailed information about violation:

Operator has procedures for performing valve maintenance and cathodic protection testing within certain time intervals, and this was not accomplished. These tasks were not performed in CY 2014.

13. Public and/or environmental concerns in area of violation:

By not adhering to O&M Procedures, this caused unnecessary risk to the residents of Lea Boulevard Apts. and Greenbank Manor Apts.

14a. Person Interviewed: Charles NACHEM Title: Property Manager

14b. Comments of person interviewed: Did not seem to be aware that O & M Procedures required valve maintenance and cathodic protection testing on a regular basis within certain time intervals.

Continuation Sheet

Violation No. 2

11a. CFR Violated: 192.747 (a) Valve maintenance: Distribution systems

11b. Summarize what the regulation requires that operator did not do:

Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year.

12. Provide detailed information about the violation:

Operator had not checked (exercised) and serviced the key valves which are necessary for the safe operation of their gas distribution system in CY 2014 for Lea Blvd. Apts. and Greenbank Manor Apts.

13. Public and/or environmental concerns in area of violation: By not performing this task, the Operator could not confirm the operability of critical valves in the event of an emergency.

14a. Person Interviewed: Charles Nachem Title: Property Manager

14b. Comments of person interviewed: He indicated that he had a lot of procedures, records and documentation, but had not seemed aware that the key valves had to be exercised at intervals not exceeding 15 months, but at least once a year.

Continuation Sheet

Violation No. 3

11a. CFR Violated: 49 CFR 192.465(a) External Corrosion Control: Monitoring

11b. Summarize what the regulation requires that operator did not do:
Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of §192.463

12. Provide detailed information about the violation:
Operator failed to test the cathodic protection system on their private gas distribution pipeline in CY 2014 for Lea Boulevard Apartments and Greenbank Manor Apartments.

13. Public and/or environmental concerns in area of violation: By not performing this task, the Operator could not confirm the integrity of the pipeline distribution system, thus causing unnecessary risk to the residents of each apartment complex.

14a. Person Interviewed: Charles Nagem Title: Property Manager

14b. Comments of person interviewed: Did not seem familiar with the requirement to test the cathodic protection system at least once a calendar year and at an interval not exceeding 15 months.

15. Supporting Documents/Materials			
Item No.	Description (Include date)	Source of Documents	Remarks
1	Pipeline Safety Regulations Part 192	OPS/PHMSA	
16. Inspector's Signature:		Date:	
<i>Robert Schaeffer</i>		<i>04/17/15</i>	