

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE CORRECTIVE
ACTION ORDER ISSUED TO IACONO-
SUMMER CHASE APARTMENTS, L.P. IN
ACCORDANCE WITH 26 DEL. ADMIN. C. §
8001 (FILED OCTOBER 30, 2015)

PSC DOCKET NO. 15-1599

MOTION TO AMEND CORRECTIVE ACTION ORDER

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Attorneys for Iacono-Summer Chase
Apartments, L.P.

December 2, 2015

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE CORRECTIVE
ACTION ORDER ISSUED TO IACONO-
SUMMER CHASE APARTMENTS, L.P. IN
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MOTION TO AMEND CORRECTIVE ACTION ORDER

Iacono-Summer Chase Apartments, L.P. (“Iacono” or the “Company”), by and through its counsel, hereby moves the Delaware Public Service Commission (the “Commission”) to amend Corrective Action Order No. 8813, and in support of its motion states as follows:

1. The Company is the Operator, as set forth in 26 *Del. C.* § 802(11) and 26 *Del. Admin. C.* § 8001, of the propane gas distribution system at Village of Canterbury, 9000 Rembrandt Circle, Newark, DE 19711 (the “Property”).

2. On November 3, 2015, the Commission found that the current pipeline distribution at the Property posed a threat to life and property and issued Corrective Action Order No. 8813 to the Company.

3. Corrective Action Order No. 8813 adopts the following Commission Staff recommendations:

a. Iacono shall conduct weekly leak surveys of the entire property beginning immediately and shall file the results with the Commission until the conversion of the entire complex to natural gas is complete.

b. Any leaks found during weekly surveys shall be repaired immediately, regardless of the nature or “Grade” of the leak.

c. DPL shall immediately begin the work defined in the Agreement with the Operator. DPL shall make every attempt to complete this work within four (4) months from the date of the CAO.

d. If the conversion to natural gas of this complex is not 100% completed within four (4) months, the Commission shall consider further action at that time,

including the possibility of ordering the Operator to shut down operation of the propane pipeline system.

4. Corrective Action Order No. 8813 also provides that the Company shall have an opportunity for a hearing before the Commission, or the Commission's designated hearing examiner, at its December 3, 2015 meeting. This matter is presently scheduled on the Commission's agenda for the December 3, 2015 meeting.

5. Iacono has contracted with Construction Unlimited to perform leak surveys of the Property and such surveys have begun. Iacono has also identified the alternative to make obsolete the existing pipeline sections at the Property by installing temporary propane tanks to serve buildings on the Property.

6. Iacono has identified that it may replace the current propane pipeline distribution system rather than convert to natural gas. On information and belief, replacing the pipeline can be done in a time that comes closer to the four month period stated in Corrective Action Order No. 8813 and can be done with less disruption at the Property.

7. The Company met with Commission Staff on November 30, 2015 to discuss implementation of Corrective Action Order No. 8813 and the potential replacement of the current pipeline distribution at the Property rather than conversion to natural gas.

Wherefore, Iacono respectfully requests the Commission to amend the adopted recommendations of Corrective Action Order No. 8813 to state:

a. Iacono shall conduct weekly leak surveys of all active pipelines on the property beginning immediately and shall file the results with the Commission until the replacement of the existing propane pipeline system is complete. Iacono may install temporary propane tanks to serve buildings within the facility. In order to abandon any section of pipeline, Iacono shall cut and cap each end of that pipeline. Once an existing pipeline section has been abandoned, such section may no longer be part of the leak surveys.

b. Any leaks found during weekly surveys shall be repaired immediately, regardless of the nature or "Grade" of the leak.

c. Iacono shall perform a suitable test to determine the structural integrity of the existing underground propane tank and associated appurtenances and make any necessary repairs or replacements of any deficiencies or leaks found as a result of this test. In addition, Iacono shall perform cathodic protection testing to ensure there is no active corrosion occurring. Should deficiencies be found with the current cathodic protection system, immediate repairs shall be made to obtain satisfactory results. Iacono shall file the results of all such tests with the Commission.

d. By December 15, 2015, Iacono shall submit to the Commission its final plan to replace the existing propane distribution system at the Village of Canterbury. Iacono shall make every attempt to complete this work within four (4) months from the submission date.

e. If the replacement of the existing propane pipeline system of this complex is not 100% completed within four (4) months, the Commission shall consider further action at that time, including, but not limited to, the possibilities of granting reasonable time extensions or ordering the Operator to shut down operation of the propane pipeline system.

A proposed Amended Corrective Action Order No. 8813 is attached to this motion as Exhibit A, along with a redline of the proposed amendments attached as Exhibit B.



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Attorneys for Iacono-Summer Chase
Apartments, L.P.

December 2, 2015

CERTIFICATE OF SERVICE

It is hereby certified that the Motion to Amend Corrective Action Order will be served this 2nd day of December, 2015 with the Delaware Public Service Commission using Delafile and has also been served by electronic mail to the Commission's counsel, Ms. Brenda Mayrack.

/s/ Todd A. Coomes _____

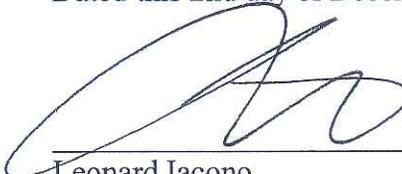
Todd A. Coomes (#4694)

STATE OF DELAWARE :
 : SS.
COUNTY OF NEW CASTLE :

Leonard Iacono, being duly sworn, hereby verifies that:

1. I am the managing partner of Iacono-Summer Chase Apartments, L.P. and am authorized to make this affidavit on its behalf.
2. Insofar as the foregoing Motion to Amend Corrective Action Order states facts, said facts are true and correct to the best of my knowledge, information and belief. To the extent any facts alleged are not in my personal knowledge, I believe them to be true and correct.

Dated this 2nd day of December, 2015.


Leonard Iacono

Sworn to and subscribed
before me this 2 day of December 2015.

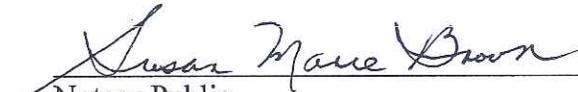

Notary Public



EXHIBIT A

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE CORRECTIVE)
ACTION ORDER ISSUED TO IACONO -)
SUMMER CHASE APARTMENTS, L.P. IN)
ACCORDANCE WITH 26 DEL. ADMIN. C.) No. 15-1599
§8001)
(Filed October 30, 2015))

AMENDED CORRECTIVE ACTION ORDER NO. 8813

AND NOW, this 3rd day of December, 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, Iacono - Summer Chase Apartments, L.P. ("Iacono") is an "Operator" as set forth in 26 Del. Admin. C. §8001-1.0 and 26 Del. C. §802(11) in that Iacono operates a gas distribution system at Village of Canterbury, 9000 Rembrandt Circle, Newark, DE 19711 and thus acts as an operator of a buried pipeline facility used in the

transportation of propane gas within the State of Delaware and therefore falls within the Commission's jurisdiction; and

WHEREAS, it is Commission Staff's understanding that Iacono has contracted with Boulden Propane for propane supply and performing certain requirements mandated by 49 C.F.R., Part 192 for Iacono's propane gas distribution system; and that Boulden Propane contracted with CUI Mechanical Contractors to prepare a Gas Leak Detection Survey of the Underground Gas Distribution System at the Village of Canterbury (the "Gas Leak Survey"); and

WHEREAS, the Commission posted notice at 3:00 p.m. on October 30, 2015 that this matter would be considered at its November 3, 2015 meeting by revising its Agenda, which was originally posted on October 27, 2015 and subsequently revised on October 28, 2015. As required by 29 Del. C. §10004(e)(3), the Commission's Revised Agenda provided an explanation as to why the public notice required by 29 Del. C. §10004(e)(2) could not be given, noting that "THIS ITEM WAS ADDED AFTER THE INITIAL AGENDA POSTING BECAUSE ITEM REFLECTS A PUBLIC SAFETY CONCERN THAT WAS UNKNOWN AND REQUIRES IMMEDIATE COMMISSION ACTION TO RESOLVE"; and

WHEREAS, Commission Staff notified Iacono on November 2, 2015 by telephone voice mail and by emailing a copy of the Memorandum, Revised Agenda, and Proposed Order that the matter would be considered by the Commission at its November 3, 2015 meeting, and Commission Staff, by telephone and by emailing a copy of the Memorandum, Revised Agenda, and Proposed Order notified Mark Prata of Daisy Construction, which is

the company Iacono has contracted with to manage Village of Canterbury and its associated propane gas distribution system; and Commission Staff provided by email a copy of the Memorandum, Revised Agenda, and Proposed Order to Delmarva Power & Light Company; and

WHEREAS, pursuant to 26 *Del. Admin. C.* §8001-8.0, the Commission has the authority to issue a Corrective Action Order, as referenced in 49 U.S.C. § 60112(d), if it "finds that a Regulated Facility is hazardous (a "Hazardous Facility") to life or property" and such Corrective Action Order may require the Operator to take "immediate corrective action," which may include: "8.1.1 Suspended or restricted use of the Hazardous Facility; 8.1.2 Physical inspection; 8.1.3 Testing; 8.1.4 Repair; 8.1.5 Replacement; or 8.1.6 Other appropriate action"; and

WHEREAS, pursuant to 26 *Del. Admin. C.* §8001-8.0, the Commission has the authority when "Staff determines there is a serious and imminent threat to life, property, or the environment" to "issue an emergency Corrective Action Order." Under such circumstances, if "the Corrective Action Order is issued without a prior hearing, the Commission shall give the Operator written notice and an opportunity for a hearing before the Commission or its designated hearing examiner as soon as possible after the issuance of the Corrective Action Order"; and

WHEREAS, a member of the Commission's staff ("Staff") performed a standard inspection of Iacono's records and facilities for the properties located at Village of Canterbury, 9000 Rembrandt Circle,

Newark, DE 19711 and noted his findings in a written Memorandum dated October 30, 2015; and

WHEREAS, during this inspection, the Gas Leak Survey, which was prepared by CUI Mechanical Contractors and provided to Boulden Propane on a date reported by Boulden Propane to be in May 2015, was provided to Commission Staff. The Gas Leak Survey found "the system to be unsafe" and recommended to "replace the system... as soon as possible"; and

WHEREAS, the current pipeline distribution system for Iacono is a propane system, and it is Staff's understanding that the heating and hot water equipment are propane-operated; and

WHEREAS, Staff has determined that the current pipeline distribution system for Iacono poses a serious and imminent threat to life and property as noted by the Gas Leak Survey, and Staff has recommended that the Commission take immediate action, as permitted by 26 *Del. Admin. C.* §8001-8.0, and issue a Corrective Action Order (the "CAO");

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

1. Pursuant to 26 *Del. Admin. C.* §8001-8.0, the Commission finds that the current pipeline distribution system for Iacono located at Village of Canterbury, 9000 Rembrandt Circle, Newark, DE 19711 poses a serious and imminent threat to life and property as noted by the Gas Leak Survey.

2. The recommendations of Staff are hereby adopted as follows in this Corrective Action Order:

- a. Iacono shall conduct weekly leak surveys of all active pipelines on the property beginning immediately and shall file the results with the Commission until the replacement of the existing propane pipeline system is complete. Iacono may install temporary propane tanks to serve buildings within the facility. In order to abandon any section of pipeline, Iacono shall cut and cap each end of that pipeline. Once an existing pipeline section has been abandoned, such section may no longer be part of the leak surveys.
- b. Any leaks found during weekly surveys shall be repaired immediately, regardless of the nature or "Grade" of the leak.
- c. Iacono shall perform a suitable test to determine the structural integrity of the existing underground propane tank and associated appurtenances and make any necessary repairs or replacements of any deficiencies or leaks found as a result of this test. In addition, Iacono shall perform cathodic protection testing to ensure there is no active corrosion occurring. Should deficiencies be found with the current cathodic protection system, immediate repairs shall be made to obtain satisfactory results. Iacono shall file the results of all such tests with the Commission.
- d. By December 15, 2015, Iacono shall submit to the Commission its final plan to replace the existing propane distribution system at the Village of Canterbury. Iacono shall make every attempt to complete this work within four (4) months from the submission date.
- e. If the replacement of the existing propane pipeline system of this complex is not 100% completed within four (4) months, the Commission shall consider further action at that time, including, but not limited to, the possibilities of granting reasonable time extensions or ordering the Operator to shut down operation of the propane pipeline system.

4. The Commission Secretary shall send copies of this Order by certified mail to Iacono, Daisy Construction, to serve as the "written notice" required by 26 Del. Admin. C. §8001-8.2.

2. 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:

/s/
Chair

/s/
Commissioner

/s/
Commissioner

/s/
Commissioner

/s/
Commissioner

ATTEST:

/s/
Secretary

EXHIBIT B

BEFORE THE PUBLIC SERVICE COMMISSION
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ACTION ORDER ISSUED TO IACONO -)
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(Filed October 30, 2015))

No. 15-1599

AMENDED CORRECTIVE ACTION ORDER NO. 8813

AND NOW, this 3rd day of ~~November~~December, 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, Iacono - Summer Chase Apartments, L.P. ("Iacono") is an "Operator" as set forth in 26 Del. Admin. C. §8001-1.0 and 26 Del. C. §802(11) in that Iacono operates a gas distribution system at Village of Canterbury, 9000 Rembrandt Circle, Newark, DE 19711 and thus acts

as an operator of a buried pipeline facility used in the transportation of propane gas within the State of Delaware and therefore falls within the Commission's jurisdiction; and

WHEREAS, it is Commission Staff's understanding that Iacono has contracted with Boulden Propane for propane supply and performing certain requirements mandated by 49 C.F.R., Part 192 for Iacono's propane gas distribution system; and that Boulden Propane contracted with CUI Mechanical Contractors to prepare a Gas Leak Detection Survey of the Underground Gas Distribution System at the Village of Canterbury (the "Gas Leak Survey"); and

WHEREAS, the Commission posted notice at 3:00 p.m. on October 30, 2015 that this matter would be considered at its November 3, 2015 meeting by revising its Agenda, which was originally posted on October 27, 2015 and subsequently revised on October 28, 2015. As required by 29 Del. C. §10004(e)(3), the Commission's Revised Agenda provided an explanation as to why the public notice required by 29 Del. C. §10004(e)(2) could not be given, noting that "THIS ITEM WAS ADDED AFTER THE INITIAL AGENDA POSTING BECAUSE ITEM REFLECTS A PUBLIC SAFETY CONCERN THAT WAS UNKNOWN AND REQUIRES IMMEDIATE COMMISSION ACTION TO RESOLVE"; and

WHEREAS, Commission Staff notified Iacono on November 2, 2015 by telephone voice mail and by emailing a copy of the Memorandum, Revised Agenda, and Proposed Order that the matter would be considered by the Commission at its November 3, 2015 meeting, and Commission Staff, by telephone and by emailing a copy of the Memorandum, Revised Agenda,

and Proposed Order notified Mark Prata of Daisy Construction, which is the company Iacono has contracted with to manage Village of Canterbury and its associated propane gas distribution system; and Commission Staff provided by email a copy of the Memorandum, Revised Agenda, and Proposed Order to Delmarva Power & Light Company; and

WHEREAS, pursuant to 26 *Del. Admin. C.* §8001-8.0, the Commission has the authority to issue a Corrective Action Order, as referenced in 49 U.S.C. § 60112(d), if it "finds that a Regulated Facility is hazardous (a "Hazardous Facility") to life or property" and such Corrective Action Order may require the Operator to take "immediate corrective action," which may include: "8.1.1 Suspended or restricted use of the Hazardous Facility; 8.1.2 Physical inspection; 8.1.3 Testing; 8.1.4 Repair; 8.1.5 Replacement; or 8.1.6 Other appropriate action"; and

WHEREAS, pursuant to 26 *Del. Admin. C.* §8001-8.0, the Commission has the authority when "Staff determines there is a serious and imminent threat to life, property, or the environment" to "issue an emergency Corrective Action Order." Under such circumstances, if "the Corrective Action Order is issued without a prior hearing, the Commission shall give the Operator written notice and an opportunity for a hearing before the Commission or its designated hearing examiner as soon as possible after the issuance of the Corrective Action Order"; and

WHEREAS, a member of the Commission's staff ("Staff") performed a standard inspection of Iacono's records and facilities for the

properties located at Village of Canterbury, 9000 Rembrandt Circle, Newark, DE 19711 and noted his findings in a written Memorandum dated October 30, 2015; and

WHEREAS, during this inspection, the Gas Leak Survey, which was prepared by CUI Mechanical Contractors and provided to Boulden Propane on a date reported by Boulden Propane to be in May 2015, was provided to Commission Staff. The Gas Leak Survey found "the system to be unsafe" and recommended to "replace the system.. as soon as possible"; and

WHEREAS, the current pipeline distribution system for Iacono is a propane system, and it is Staff's understanding that the heating and hot water equipment are propane-operated. ~~In a separate telephone conversation with a representative of Delmarva Power & Light ("DPL"), confirmation was received of an "Agreement for Installation of Facilities" (the "Agreement") between Iacono and DPL. In short, this Agreement instructs DPL to replace the entire underground pipeline system so that the Operator may convert all of its equipment from propane fueled to natural gas fueled. In the telephone conversation, a reasonable construction duration for the DPL scope of work of the Agreement was discussed;~~ and

WHEREAS, Staff has determined that the current pipeline distribution system for Iacono poses a serious and imminent threat to life and property as noted by the Gas Leak Survey, and Staff has recommended that the Commission take immediate action, as permitted by

26 Del. Admin. C. §8001-8.0, and issue a Corrective Action Order (the "CAO") ~~that should include the following:~~

- ~~1. A weekly leak survey of the entire property to begin immediately with results filed with the Commission until the conversion of the entire complex to natural gas is complete.~~
- ~~2. Any leaks found during weekly surveys shall be repaired immediately, regardless of the nature or "Grade" of the leak.~~
- ~~3. DPL shall immediately begin the work defined in the Agreement with the Operator. DPL shall make every attempt to complete this work within four (4) months from the date of the CAO.~~
- ~~4. If the conversion to natural gas of this complex is not 100% completed within four (4) months, the Commission shall consider further action at that time, including the possibility of ordering the Operator to shut down operation of the propane pipeline system.~~

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

1. Pursuant to 26 Del. Admin. C. §8001-8.0, the Commission finds that the current pipeline distribution system for Iacono located at Village of Canterbury, 9000 Rembrandt Circle, Newark, DE 19711 poses a serious and imminent threat to life and property as noted by the Gas Leak Survey.

2. The recommendations of Staff are hereby adopted as follows in this Corrective Action Order:

- a. Iacono shall conduct weekly leak surveys of all active pipelines on the entire property beginning immediately and shall file the results with the Commission until the conversion of the entire complex to natural gas is complete replacement of the existing propane pipeline system is complete. Iacono may install temporary propane tanks to serve buildings within the facility. In order to abandon any section of pipeline, Iacono shall cut and cap each end of that pipeline. Once an existing pipeline section has been abandoned, such section may no longer be part of the leak surveys.

b. Any leaks found during weekly surveys shall be repaired immediately, regardless of the nature or "Grade" of the leak.

c. Iacono shall perform a suitable test to determine the structural integrity of the existing underground propane tank and associated appurtenances and make any necessary repairs or replacements of any deficiencies or leaks found as a result of this test. In addition, Iacono shall perform cathodic protection testing to ensure there is no active corrosion occurring. Should deficiencies be found with the current cathodic protection system, immediate repairs shall be made to obtain satisfactory results. Iacono shall file the results of all such tests with the Commission.

d. ~~e.DPL shall immediately begin the work defined in the Agreement with the Operator. DPL~~ By December 15, 2015, Iacono shall submit to the Commission its final plan to replace the existing propane distribution system at the Village of Canterbury. Iacono shall make every attempt to complete this work within four (4) months from the submission date ~~of the CAO.~~

e. ~~d.~~ If the ~~conversion to natural gas~~ replacement of the existing propane pipeline system of this complex is not 100% completed within four (4) months, the Commission shall consider further action at that time, including ~~the possibility of~~, but not limited to, the possibilities of granting reasonable time extensions or ordering the Operator to shut down operation of the propane pipeline system.

~~Pursuant to 26 Del. Admin. C. §8001-8.2, Iacono and any other affected party shall have the opportunity for a hearing before the Commission or the Commission's designated hearing examiner as to this Order at its meeting on Thursday, December 3, 2015 at 1:00 PM, at 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, DE 19904.~~

4. The Commission Secretary shall send copies of this Order by certified mail to Iacono, Daisy Construction, ~~and DPL~~ to serve as the "written notice" required by 26 Del. Admin. C. §8001-8.2.

2. 5. 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:

/s/ Dallas Winslow Chair

/s/ Joann T. Conaway
Commissioner

/s/ K. F. Drexler
Commissioner

/s/ Mike Karia
Commissioner

/s/ Harold B. Gray
Commissioner

ATTEST:

/s/ Donna Nickerson
Secretary