

4. On February 13, 2015, Patrick Development filed a Petition for Reconsideration. Patrick indicated an amended U3C form had since been filed, and that the parties had agreed to a settlement that was not signed before the hearing. Patrick indicated it had been advised that it did not need to attend the hearing. The petition requested that the fine be rescinded, or alternatively reduced to the agreed amount of \$500.

5. On February 20, 2015, Staff filed a response in opposition to reconsideration.

III. RECONSIDERATION

6. The parties attached exhibits to their petition and response. These exhibits are not properly entered into evidence in this matter, and they are not properly before the Commission on this petition for reconsideration. If the parties wished to enter evidence into the record, this could have been done through testimony at the evidentiary hearing. The exhibits are excluded.

7. At this time, the record in this matter consists of Staff appearing at a Commission evidentiary hearing, Patrick Development not appearing at the hearing, and Staff proposing that the Commission approve, apparently in principle, a settlement agreement that had yet to be executed and presented to the Commission. The Commission declined. The Commission affirmed the penalty of \$1,000 that had already been assessed and that had been appealed. This proceeding resulted in actual costs to the Commission of \$215.40, and the Commission assessed this cost to Patrick Development. The Commission did not assess fees for Commissioner time, attorney's fees (pursuant to K.S.A. 55-162(a)(3)), or fees for Staff time. And the Commission rescinded the additional four violations of K.A.R. 82-3-400 that were issued in error, even though there was no evidence presented requiring their rescission. Instead of being doubled as alleged in the petition for reconsideration, Patrick Development's total penalty has been reduced to one-quarter of the initial penalty, and a portion of the Commission's costs will be reimbursed.

8. The Commission is not persuaded by the arguments raised in the petition for reconsideration. Settlement agreements are encouraged to efficiently dispose of dockets. Settlements that do not obviate an evidentiary hearing and that are not signed before the date of the hearing are not an efficient use of resources and will not be considered by the Commission.

9. The findings of fact and conclusions of law cited in the Commission's Order on Appeal are incorporated by reference.

THEREFORE, THE COMMISSION ORDERS:

A. The petition for reconsideration is denied.

B. This Order constitutes final agency action pursuant to K.S.A. 77-607(b)(l). The proper party to receive service of a petition for judicial review on behalf of the agency is Neysa Thomas, Acting Secretary, Kansas Corporation Commission, 266 N. Main, Ste. 220, Wichita, Kansas 67202. (K.S.A. 77-613(e)).

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order, or orders, as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Date: MAR 12 2015



Neysa Thomas
Acting Secretary

Date Mailed: March 12, 2015

LRP

CERTIFICATE OF SERVICE

I certify that on March 12, 2015, I caused a complete and accurate copy of this Order to be served via United States mail, with the postage prepaid and properly addressed to the following:

Jeff Kennedy
Martin Pringle Oliver Wallace & Bauer
100 N. Broadway, Ste. 500
Wichita, Kansas 67202
Attorney for Patrick Development Corporation

And delivered by hand to:

Jon Myers, Litigation Counsel
KCC Central Office

/s/ Lane R. Palmateer
Lane R. Palmateer
Litigation Counsel
Kansas Corporation Commission
