

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|                           |   |                |
|---------------------------|---|----------------|
| John Fulton               | : |                |
|                           | : |                |
| v.                        | : | C-2025-3058115 |
|                           | : |                |
|                           | : |                |
| CNX Resources Corporation | : |                |

**INTERIM ORDER  
DISMISSING PRELIMINARY OBJECTIONS**

On October 14, 2025, John Fulton (Complainant) filed a formal complaint against CNX Resources Corporation (CNX or Respondent). The Commission’s docket notes that a copy of the complaint was served on CNX on October 24, 2025. No answer was filed.

By hearing notice dated December 8, 2025, this matter was assigned to me and scheduled for a telephonic hearing on January 29, 2026. On December 10, 2025, I issued an order directing CNX to secure the representation of counsel.

On January 31, 2026, Attorney Aaron Ponzo entered an appearance on behalf of CNX. He also filed a Motion for Extension of Time to file an answer, an Answer and New Matter and Preliminary Objections. The Complainant did not file a response.

By Interim Order entered January 29, 2026, the Respondent’s Motion for an Extension of Time was granted. As explained in more detail below, this order dismisses Respondent’s preliminary objection.

Preliminary objections are permitted under Commission regulations.<sup>1</sup> Preliminary objection practice before the Commission is similar to Pennsylvania civil practice

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<sup>1</sup> 52 Pa.Code § 5.101.

respecting preliminary objections.<sup>2</sup> The standard for consideration of preliminary objections has been repeated many times. In deciding the preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of the petitioners, recovery or relief is possible.<sup>3</sup> All of the non-moving party's averments in the complaint must be viewed as true for purposes of deciding the preliminary objections, and only those facts specifically admitted may be considered against the non-moving party.<sup>4</sup> Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections.<sup>5</sup>

Respondent argues that the Commission does not have jurisdiction because it is a pipeline operator as defined by the Gas and Hazardous Liquids Pipeline Act.<sup>6</sup> According to the Respondent, the subject of the complaint is a water line that Respondent allegedly installed and not a gas gathering line.

Jurisdiction generally defines an tribunal's authority to act. The Commission has the authority to enforce statutes where the General Assembly has specifically given the Commission authority.<sup>7</sup> The determination of whether the Commission has authority in a given circumstance is fact-specific. Moreover, the Respondent's status as a pipeline operator is not evident from the allegations in the complaint.

It may well be that the Complainant must seek relief in another forum. However, at this stage of the controversy it is not appropriate to dismiss the complaint without providing the Complainant. In *Carlock v. The United Telephone Company of Pennsylvania*,<sup>8</sup> the Commission held that, in the normal course, the Commission would not dismiss a complaint of a

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<sup>2</sup> *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

<sup>3</sup> *Dept. of Auditor General, et al v. SERS, et al.*, 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003); *P.J.S. v. Pa. State Ethics Comm'n*, 669 A.2d 1105 (Pa. Cmwlth. 1996).

<sup>4</sup> *Ridge v. State Employees' Retirement Board*, 690 A.2d 1312 (Pa. Cmwlth. 1997).

<sup>5</sup> *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002).

<sup>6</sup> Act 127 of 2011.

<sup>7</sup> *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1977); *Allegheny County Port Authority v. Pa. P.U.C.*, 237 A.2d 602 (Pa. 1967). See also *Department of Environmental Resources v. Butler County Mushroom Farm*, 454 A.2d 1, 4 (Pa. 1982), and *Pequea Township v. Department of Environmental Protection*, 716 A.2d 678, 686 (Pa. Cmwlth. 1998).

<sup>8</sup> Docket No. F-00163617 (Order entered July 14, 1993)(*Carlock*).

self-represented person without first providing a hearing during which self-represented complainants could further explain their position and the factual basis for their complaint. The Commission expressed the concern that, in general, complainants may find it difficult to navigate through pre-hearing motions and should be given the chance to orally describe their basic issue and supporting facts.<sup>9</sup>

In my January 28, 2026 Interim Order, I directed the parties to confer and agree on hearing dates. I also encouraged the parties to discuss the possibility of settlement to resolve their dispute and directed a status report by February 5, 2026. The parties may also wish to consider requesting the assistance of the Office of Administrative Law Judge Mediation Unit. The mediator, a neutral staff member within the Mediation Unit of the Commission's Office of Administrative Law Judge, does not give advice, represent any party, evaluate or make a decision. Instead, the mediator assists the parties in their efforts to come to an agreement thereby avoiding the time, expense and uncertainty of litigation. Mediation is an informal process where the parties can discuss a full range of settlement options beyond those which can be ordered by the Commission in the formal adjudication process.<sup>10</sup> Should the parties determine that mediation would be helpful to them, they can request a transfer in the February 5, 2026 status report.

THEREFORE,

IT IS ORDERED:

That the preliminary objections of CNX Resources Corporation are dismissed.

Date: January 29, 2026

/s/  
Mary D. Long  
Administrative Law Judge

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<sup>9</sup> See also *Richmond v. PECO Energy Company*, Docket No. F-2010-2187305 (Opinion and Order entered December 7, 2011).

<sup>10</sup> 52 Pa.Code §§ 69.391– 69.397

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*Revised 1/29/2026*

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