



March 6, 2026

**VIA E-FILING**

**Jonathan P. Nase**

Direct Phone 717-773-4191

Direct Fax 215-372-2340

jnase@cozen.com

Matthew L. Homsher, Secretary  
Pennsylvania Public Utility Commission  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**Re: Application of Greater Hazleton Community Area New Development Organization Inc. t/a CAN DO, Inc. (Water Division), Pursuant to Section 1102(a) of the Pennsylvania Public Utility Code, for Approval of (1) the Right to Offer, Render, Furnish or Supply Water Service To the Public in an Additional Portion of Hazle Township, together with portions of Sugarloaf Township and West Hazleton Borough, all in Luzerne County, Pennsylvania and (2) the Abandonment of Portions of its Water Service Territory in Hazle Township, Luzerne County, Pennsylvania and East Union Township, Schuylkill County, Pennsylvania; Docket No. A-2026-3059809**

**Preliminary Objection to Protest of Jennifer Yanni**

Dear Secretary Homsher:

Enclosed for filing with the Pennsylvania Public Utility Commission is the Preliminary Objection of the Greater Hazleton Community Area New Development Organization Inc. t/a CAN DO, Inc. (Water Division) to the Protest of Jennifer Yanni. Copies have been served as shown on the attached Certificate of Service.

Thank you for your attention to this filing. If you have any questions regarding this filing, please feel free to contact me.

Sincerely,

Cozen O'Connor

By: Jonathan P. Nase

Counsel for

**Greater Hazleton Community Area New  
Development Organization Inc. t/a CAN  
DO, Inc. (Water Division)**

JPN:kmg  
Enclosures

Matthew L. Homsher, Secretary

March 6, 2026

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cc: Administrative Law Judge Emily A. Farren  
Administrative Law Judge Steven K. Haas  
Per Certificate of Service  
Joseph Lettiere, President and CEO, CAN DO  
Raina Nichols, Director of Utilities, CAN DO

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Greater Hazleton Community :  
Area New Development Organization Inc. t/a :  
CAN DO, Inc. (Water Division), Pursuant to :  
Section 1102(a) of the Pennsylvania Public : Docket No. A-2026-3059809  
Utility Code, for Approval of (1) the Right to :  
Offer, Render, Furnish or Supply Water :  
Service To the Public in an Additional Portion :  
of Hazle Township, together with portions of :  
Sugarloaf Township and West Hazleton :  
Borough, Luzerne County, Pennsylvania and :  
(2) the Abandonment of Portions of its Water :  
Service Territory in Hazle Township, Luzerne :  
County, Pennsylvania and East Union :  
Township, Schuylkill County, Pennsylvania :

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 6<sup>th</sup> day of March, 2026 served a true copy of the foregoing **Preliminary Objection to the Protest of Jennifer Yanni** upon the parties, listed below and in the manner described below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**Via E-mail and First Class Mail**

Patricia Kisenwether  
96 Mt. Laurel Trail  
Sugarloaf, PA 18249  
pkisenwether@gmail.com

Jennifer Yanni  
1278 Lakeview Dr.  
White Haven, PA 18661  
Jennifer.a.yanni@gmail.com

Lisa Logan  
293 Tomhicken Road  
Sugarloaf, PA 18249  
Lisalogan2662@gmail.com

Melissa and Jason Ritz  
3 North Prospect Park Dr.  
Sugarloaf, PA 18249  
mritz78@gmail.com  
jritz39@gmail.com

Respectfully submitted,



Jonathan P. Nase, Esq.  
Counsel for *Greater Hazleton Community Area New  
Development Organization Inc. t/a CAN DO, Inc.  
(Water Division)*

## VERIFICATION

I, Joseph Lettiere, President and Chief Executive Officer of Can Do, Inc., hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: March 6, 2026

  
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**BEFORE THE  
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Service Territory in Hazle Township, Luzerne :  
County, Pennsylvania and East Union :  
Township, Schuylkill County, Pennsylvania :

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NOTICE TO PLEAD

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YOU ARE HEREBY ADVISED THAT, PURSUANT TO THE REGULATIONS OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION AT 52 PA. CODE § 5.101(f), YOU MAY FILE AN ANSWER TO THE ENCLOSED PRELIMINARY OBJECTION WITH THE SECRETARY'S BUREAU OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION AT THE FOLLOWING ADDRESS:

Matthew L. Homsher, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street – Filing Room (2nd Floor)  
P.O. Box 3265  
Harrisburg, PA 17105-3265

AN ANSWER MAY BE FILED WITHIN TEN (10) DAYS OF THE DATE OF SERVICE OF THIS PRELIMINARY OBJECTION. FOR MORE INFORMATION REGARDING THE FILING OF AN ANSWER, PLEASE CONTACT THE SECRETARY'S BUREAU AT (717) 772-7777. A COPY OF ANY ANSWER SHOULD BE SERVED ON THE UNDERSIGNED COUNSEL.

[Signature appears on next page.]



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Jonathan P. Nase, Esq. (PA ID No. 44003)  
Dawn Kurtz Crompton (PA ID No. 311701)  
Cozen O'Connor  
17 North Second St., Suite 1410  
Harrisburg, PA 17101  
Telephone: (717) 773-4191  
E-mail: [jnase@cozen.com](mailto:jnase@cozen.com)  
E-mail: [dcrompton@cozen.com](mailto:dcrompton@cozen.com)  
Counsel for *Greater Hazleton Community  
Area New Development Organization Inc. t/a  
CAN DO, Inc. (Water Division)*

Date: March 6, 2026

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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(2) the Abandonment of Portions of its Water :  
Service Territory in Hazle Township, Luzerne :  
County, Pennsylvania and East Union :  
Township, Schuylkill County, Pennsylvania :

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**PRELIMINARY OBJECTION OF GREATER HAZLETON COMMUNITY AREA NEW  
DEVELOPMENT ORGANIZATION INC. T/A CAN DO, INC. (WATER DIVISION) TO THE  
PROTEST OF JENNIFER YANNI**

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AND NOW COMES Greater Hazleton Community Area New Development Organization Inc. t/a CAN DO, Inc. (Water Division) (“CAN DO” or “Applicant”) to file this Preliminary Objection to the Protest (“Protest”) of Jennifer Yanni (“Protestant”), which is undated and was not served on CAN DO’s counsel,<sup>1</sup> but was noted as received by the Secretary’s Bureau on February 16, 2026, and was posted on the Commission’s website on February 17, 2026.<sup>2</sup> CAN DO respectfully submits that this Protest should be dismissed with prejudice due to lack of standing.

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<sup>1</sup> The Protestant alleges that the Protest was served on CAN DO’s counsel, but does not state how or when it was served. CAN DO’s counsel became aware of the Protest when reviewing the Commission’s website on February 17, 2026.

<sup>2</sup> Preliminary objections must be filed within 20 days of the date the Protest is served. 52 Pa. Code § 5.101(d). Since the Protest was not served on CAN DO, but CAN DO gained actual notice of the filing on February 17, 2026, CAN DO submits that the twenty days starts to run on February 17, 2026. Twenty days after that date is Monday, March 9, 2026. Consequently, this Preliminary Objection is being filed timely.

Protestant is not located within the service areas proposed for expansion or abandonment, is not a customer of the Applicant, and her water service will not be impacted by the proposal in the Application. Consequently, Protestant fails to demonstrate the “direct, immediate, and substantial interest” required for standing in a Commission proceeding and the Protest should be dismissed.

In support whereof, CAN DO avers as follows:

## **I. Procedural Background**

1. The underlying proceeding involves the Application of CAN DO (the “Application”) seeking the issuance of Certificates of Public Convenience pursuant to Section 1102(a) of the Pennsylvania Public Utility Code (the “Code”), 66 Pa. C.S. § 1102(a), for: (1) the expansion of its service territory to include an additional portion of Hazle Township, together with portions of Sugarloaf Township and West Hazleton Borough, all in Luzerne County, Pennsylvania (the “Expansion”), and (2) the abandonment of portions of its service territory in Hazle Township, Luzerne County, Pennsylvania and East Union Township, Schuylkill County, Pennsylvania (the “Abandonment”).

2. CAN DO’s Application was filed on January 13, 2026, and was refiled on January 22, 2026 with an administrative amendment.<sup>3</sup>

3. On February 17, 2026, Protestant filed a Protest in this Docket.

## **II. Factual Background**

4. The Application, *inter alia*, seeks authority to provide water service to parcels of land owned by NP Hazleton Holdings 1, LLC (“NP Hazleton”) and located in Hazle Township,

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<sup>3</sup> The Application was refiled only to re-designate Exhibit 6 as Confidential rather than Confidential Security Information as directed by the Staff from the Bureau of Technical Utility Services (“TUS”).

Sugarloaf Township, and West Hazleton Borough, which is adjacent to CAN DO's existing service territory at the Humboldt Industrial Park (the "Requested Service Territory"). Application ¶ 7.

5. The Protest, in pertinent part, states as follows: "I believe this application is in the interest of supporting data center development and that expansion requires further investigation to address the impact on local residents. I respectfully request that the Commission deny the Application until the Applicant provides evidence addressing the concerns of the community."

### **III. Legal Standard**

6. The Commission's regulations permit a party to file preliminary objections in response to a pleading for certain enumerated reasons, including but not limited to lack of standing of a party to participate in the proceeding. 52 Pa. Code § 5.101(a)(7).

7. When filing a protest to an application pursuant to 52 Pa. Code § 5.52 the protest must: (1) set out clearly and concisely the facts from which the alleged interest or right of the protestant can be determined; (2) state the grounds of the protest; and (3) set forth the facts establishing the protestant's standing to protest. 52 Pa. Code § 5.52(a)(1)-(3).

8. When ruling on preliminary objections, the Presiding Officer must accept as true all well-pleaded allegations of material facts as well as all inferences reasonably deducible therefrom. *Stilp v. Cmwlth.*, 910 A.2d 775, 781 (Pa. Cmwlth. 2006) (citing *Dep't of General Serv. v. Bd. of Claims*, 881 A.2d 14 (Pa. Cmwlth. 2005)). In order to sustain preliminary objections, it must appear with certainty that the law will permit no recovery, and any doubt must be resolved in favor of the non-moving party. *Key v. Dep't of Corr.*, 185 A.3d 421, 423 n.3 (Pa. Cmwlth. 2018). However, the Presiding Officer does not need to accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion. *Id.* at 426.

9. The provision at 52 Pa. Code § 5.101(a)(7) permits the filing of a preliminary objection to dismiss a pleading for insufficient standing of a party to participate in a proceeding. To satisfy the requirement of standing, the party must be “aggrieved,” meaning that the party must have a “substantial, direct, and immediate interest in the matter.” *Markham v. Wolf*, 136 A.3d 134, 140 (Pa. 2016) (emphasis added).

- a. For an interest to be substantial, the party’s concern in the matter “must surpass ‘the common interest of all citizens in procuring obedience to the law.’” *Id.* (citations omitted). In order to be substantial, there must be some “discernible adverse effect” beyond the general duty to comply with the law. *Wm. Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269, 282 (Pa. 1975) (plurality).
- b. For an interest to be direct, the party must establish “that the matter caused harm to the party’s interest.” *Markham*, 136 A.3d at 1243 (internal quotation marks omitted). To be “direct,” a complainant must demonstrate “causation of the harm to his interest by the matter of which he complains.” *Wm. Penn Parking Garage*, 346 A.2d at 282.
- c. Finally, the concern will only be considered immediate “if that causal connection is not remote or speculative.” *Markham*, 136 A.3d at 140-41 (internal quotation marks omitted). In order to be “immediate,” the harm must be more than a mere “remote consequence.” *Wm. Penn Parking Garage*, 346 A.3d at 282-83.

10. For the reasons set forth below, Protestant fails to demonstrate an interest in the Application that is substantial, direct, and immediate, as required for standing in a Commission proceeding, and the Protest should be dismissed.

#### **IV. Preliminary Objection: The Protest Should be Dismissed for Lack of Standing.**

11. Protestant does not make any claims or include any facts that would indicate that she has a substantial, direct, and immediate interest in the Application.

##### ***A. Protestant Lacks a Substantial Interest.***

12. Protestant is neither a resident nor a property owner within the subject territories for Abandonment or Expansion, and Protestant therefore has no interest distinct from the general public.

13. Protestant states that she is a “concerned resident located at 1278 Lakeview Dr, White Haven PA 18661.”

14. Protestant’s property in White Haven is located miles away from the portions of Sugarloaf Township, Hazle Township, or West Hazleton Borough that are referenced for Expansion in the Requested Service Territory.

15. Protestant’s property located in White Haven is not located in the portions of Hazle Township or East Union Township that are referenced in the Abandonment.

16. Protestant is not an existing CAN DO customer.

17. By and through its Application, CAN DO is not seeking to serve Protestant, expand its service territory to include Protestant’s address, or abandon service to Protestant.

18. Protestant states that she is a concerned resident but has failed to allege any facts to demonstrate a substantial interest distinct from the general public. The Protestant does not claim any adverse impacts whatsoever or state any form of harm.

19. Protestant also states that she “believe[s] this application is in the interest of supporting data center development and that expansion requires further investigation to address the impact on local residents.” Protestant’s belief about data center growth is an expression of an opinion and does not qualify as personal harm. As such, the Protest does not include any facts or

information from which a finder of fact could establish a “discernible adverse effect” for the Protestant, and the Protest therefore fails to establish substantial impacts to any interest. As set forth in *Key*, discussed above, the Presiding Officer must accept as true all well-pleaded facts but does not need to accept as true argumentative allegations, or expressions of opinion.

***B. Protestant Lacks a Direct Interest.***

20. In addition to Protestant not being located within either the Expansion or the Abandonment areas, Protestant has included no facts to establish causal connection between the Commission’s approval of the Application and any harm to Protestant.

21. To establish “direct” harm, a complainant must demonstrate “causation of the harm to his interest by the matter of which he complains.” *Wm. Penn Parking Garage*, 346 A.3d at 282. Here, the Protest alleges no causal connection between the Commission’s approval of the Application and does not allege any harm to Protestant.

22. The Protestant’s water sources or service reliability will not be impacted by either the Expansion or the Abandonment. Applicant is not proposing the utilization of additional water sources, nor is it seeking increased withdrawal limits. Rather, CAN DO is proposing to utilize the existing water supply sources<sup>4</sup> at their current levels as part of its Expansion.

23. As set forth in the Application: NP Hazleton has requested service of up to 30,000 gallons per day (“gpd”) of water for domestic water and fire service;<sup>5</sup> and the Humboldt Industrial

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<sup>4</sup> CAN DO’s Humboldt Industrial Park system is a distribution system with five wells, four storage tanks, water treatment facilities, distribution mains, and associated appurtenances. Application ¶ 4. In addition, CAN DO purchases water daily through an interconnection with a neighboring system owned by the Hazleton City Authority (“HCA”). *Id.*

<sup>5</sup> Application ¶ 9. Domestic water services include providing potable water for daily needs (drinking, washing) and fire services include supplying water specifically for fire suppression, often including dedicated sprinklers and hydrants. For context, the requested 30,000 gpd for domestic water service is similar to the daily usage of CAN DO’s existing commercial and industrial customers in the Humboldt Industrial Park.

Park system has a total daily system capacity of 1,478,000 gpd<sup>6</sup> with an additional backup capacity of 3.8 million gpd available to meet customers' daily needs.

24. Accordingly, there is adequate existing system capacity in CAN DO's Humboldt Industrial Park system to offer, render, furnish, or supply 30,000 gpd of domestic water and provide fire service to the Requested Service Territory without impact to neighboring water systems or nearby wells. *See* Application ¶¶ 9-18.

25. CAN DO's existing water supply has sufficient capacity to furnish service in the Requested Service Territory (regardless of the Commission's decision on the proposed Abandonment). For avoidance of doubt, CAN DO is not proposing to tap or expand any new water sources for the Expansion or the Abandonment, CAN DO will not need to build any additional water wells or seek access to any new sources of water in order to serve the Requested Service Territory referenced in the Application, and therefore there are no physical or hydrological changes being proposed in the Application that could impact the Protestant's separate water supply.

26. Therefore, CAN DO's Expansion will have no adverse effect on the availability of water or the reliability of service furnished to Protestant who is located outside of the proposed Expansion and Abandonment service territories.

27. The Abandonment in Hazle Township and East Union Township will not have a direct adverse affect on Protestant because she is located outside of the proposed Expansion and Abandonment service territories.

28. Likewise, CAN DO's proposed expansion into additional portions of Hazle Township, and small portions of Sugarloaf Township and West Hazleton Borough, will have no

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<sup>6</sup> CAN DO's Humboldt Industrial Park system is permitted for 978,000 gpd and, through the interconnection with the neighboring system owned by the HCA, has a 200,000 gpd take-or-pay commitment and the hydraulic ability to purchase up to 500,000 gpd. Application ¶ 16.

impact on Protestant because she is located outside of the proposed Expansion and Abandonment service territories.

29. Protestant has not alleged any facts establishing a causal connection between the Application and adverse impacts to Protestant. As discussed above, the Presiding Officer must accept as true all well-pleaded facts but does not need to accept as true argumentative allegations, or expressions of opinion. *Key, supra*.

30. As such, Protestant has failed to demonstrate any direct interest in the Expansion or Abandonment set forth in the Application and the Protest fails to establish direct harm.

***C. Protestant Fails to Demonstrate Immediate Interest in the Application***

31. Protestant states that “expansion requires further investigation to address the impact on local residents” but provides no information about Protestant’s immediate interests in the Expansion or Abandonment.

32. The Pennsylvania Supreme Court held that for an interest to be “immediate,” the protection of the law must be “aimed at” the specific interest the protestant is seeking to protect. *Wm. Penn Parking Garage* at 269, 282.

33. Here, when the Protestant is located outside the proposed expansion and abandonment areas, and no new water sources are being utilized, the claims in the Protest fail the “immediate interest” test for at least the following reasons: the Protest provides no facts to establish a specific interest; the Protest fails to allege any harm; any claim of “impact on local residents” is legally remote when there is no factual basis provided for such claims; and standing cannot be based on “aspirational” concerns or generalized public benefits. *Wm. Penn Parking Garage*, 346 A.2d at 282.

34. The Protest does not allege that the Protestant has the requisite substantial, direct, and immediate interest in the Application that is required of a party to establish standing to participate in the proceeding. *See Markham*, 136 A.3d at 140.

35. The Protest entirely fails to establish that the Expansion or Abandonment is “aimed at” any immediate interest of the Protestant, and the Protestant provides no facts that would establish that she has an interest or specific concern in the matter that surpasses that of any other citizen. Even when accepting as true all well-pleaded facts, the Presiding Officer does not need to accept as true argumentative allegations, or expressions of opinion. *See Key, supra*.

36. As such, CAN DO’s proposed expansion into additional portions of Hazle Township, and small portions of Sugarloaf Township and West Hazleton Borough, and its proposed abandonment of portions of Hazle and East Union Townships, will have no immediate impact on the Protestant because she is located outside of the Expansion and Abandonment service territories.

37. Accordingly, dismissal of the Protest due to insufficient standing of a party to participate in the proceeding is warranted and CAN DO’s preliminary objection on this basis should be sustained.

**V. Conclusion and Request for Relief**

WHEREFORE, for the reasons stated above, CAN DO respectfully requests that:

- (1) the Preliminary Objection be GRANTED; and that
- (2) the Protest be DISMISSED in its entirety and with prejudice.

[Signature appears on next page.]

Respectfully submitted,



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Jonathan P. Nase, Esq. (PA ID No. 44003)

Dawn Kurtz Crompton (PA ID No. 311701)

Cozen O'Connor

17 North Second St., Suite 1410

Harrisburg, PA 17101

Telephone: (717) 773-4191

E-mail: [jnase@cozen.com](mailto:jnase@cozen.com)

E-mail: [dcrompton@cozen.com](mailto:dcrompton@cozen.com)

Counsel for *Greater Hazleton Community  
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Date: March 6, 2026