BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Greater Hazleton Community Area New Development Organization Inc. t/a CAN DO, INC., Pursuant to Section 1102(a) of the Code, for Approval of (1) the Right to Offer, Render, Furnish or Supply Waster 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) Abandonment of Portions of its Water Service Territory in Hazle Township, Luzerne County, Pennsylvania and East Union Township, Schuylkill County, Pennsylvania	:	A-2026-3059809

INTERIM ORDER #10
STAYING PROCEEDING

This Interim Order stays the instant proceeding, pending land use approval for the Requested Service Territory, as that outcome appears to directly impact the Applicant's ability to demonstrate the present need for the expansion of its water service territory.

HISTORY OF THE PROCEEDING

On January 13, 2026, Greater Hazleton Community Area New Development Organization Inc., t/a CAN DO, INC. (CAN DO), filed an Application with the Pennsylvania Public Utility Commission (Commission), pursuant to Section 1102(a) of the Public Utility Code (Code), 66 Pa.C.S § 1102(a), 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)

abandonment of portions of its water service territory in Hazle Township, Luzerne County, Pennsylvania and East Union Township, Schuylkill County, Pennsylvania (Application).

On January 22, 2026, CAN DO filed an Amended Application to correct an administrative error related to Exhibit 6.[1]

Notice of the Application was published in the January 31, 2026 edition of the *Pennsylvania Bulletin*, 56 Pa.B. 737. The notice specified a protest deadline of on or before February 16, 2026.

On February 13, 2026, Lisa Logan (Ms. Logan) filed a protest in opposition to the Application.

On February 25, 2026, the Commission issued an Initial Telephonic Prehearing Conference Notice to alert the parties that a prehearing conference would be held on March 25, 2026. Also on February 25, 2026, the undersigned Administrative Law Judges (ALJs) issued a Prehearing Order.

On March 5, 2026, CAN DO filed a preliminary objection to Ms. Logan's protest.

On March 9, 2026, Ms. Logan filed an answer to CAN DO's preliminary objection.

On March 20, 2026, CAN DO's preliminary objection to Ms. Logan's protest was denied by Interim Order #3.[2]

[1] The practical result of the Amended Application withdrew CAN DO's request to abandon a portion of its service territory in East Union Township, Schuylkill County, Pennsylvania, previously identified as overlapping service territory.

[2] Various other timely protests were filed and later withdrawn prior to or at the March 25th prehearing conference. *See* Interim Order Nos. 1, 2, 6, 7.

On March 23, 2026, CAN DO and Ms. Logan each filed prehearing memorandum.

On March 25, 2026, the telephonic prehearing conference convened as scheduled.

On March 27, 2026, Interim Order #8 was issued, setting forth the agreed upon litigation schedule.

On May 26, 2026, CAN DO filed direct testimony.

On June 18, 2026, CAN DO filed a motion for summary judgment, requesting that we grant its motion; find that Ms. Logan lacks standing; and that we return this matter to the Commission's Bureau of Technical Utility Services (TUS) "for processing as an uncontested matter." Motion at 1.

On June 24, 2026, Ms. Logan filed direct testimony.

On July 7, 2026, two telephonic public input hearings were held, during which thirteen (13) members of the public provided sworn testimony, summarized below.

Nate Eachus provided testimony that he finds it inappropriate that 30,000 gallons a day of water would be pulled from Hazle and East Union Townships to support a data center that Hazle Township Board of Supervisors denied, with a 3-0 vote. Mr. Eachus testified that there were 250 residents in attendance at the Hazle Township Board of Supervisors during the meeting wherein the 3-0 vote was cast. Tr. at 32-36.

Erika Cook provided testimony that she is directly affected by "Project Hazlenut." Tr. at 38. Ms. Cook explained that an eminent domain suit was filed against her property in Sugarloaf Township by PPL Electric, "for a high voltage transmission line to power Project Hazlenut." Tr. at 38-39. Ms. Cook asserted that NP Hazleton Holdings, LLC lost its land use appeal of the Hazle Township Board of Supervisors' decision at the Luzerne County Court of

Common Pleas and now sought a Commonwealth Court appeal. Ms. Cook expressed concern that the appeal before the Commonwealth Court could take years. Tr. at 39. Ms. Cook additionally highlighted concerns regarding the area impacted by CAN DO's Application, explaining that she is a licensed insurance agent, and upon review of the "PA mine map by Penn State and DEP," she determined that the area was previously mined for coal. *Id.* Ms. Cook urged the Commission and DEP to investigate this further. *Id.*

Ed Negra provided testimony that he doesn't see a need for CAN DO's Application at this time, because they do not have a customer to serve yet. Tr. at 55.

Ed Parks provided testimony that he agrees with Mr. Negra's comments, and shared additional concerns regarding the proximity of the proposed data center to his home. He urged the PUC to table CAN DO's Application. Tr. at 63-65.

Joan Falatovich provided testimony that she is concerned about how CAN DO's proposed use of 30,000 gallons per day will affect her community's ability to maintain their wells. Ms. Falatovich asserted that the Hazleton area has seen at least 12 large-scale warehouse and distribution centers built. She testified that she has lived in her community for 23 years, and she received a drought declaration in or about November 2024. Tr. at 68-71.

Susan Abazly testified, "But I'd just like to say that in our state constitution, we have the right to clean air, pure water, and the preservation of natural, historic, scenic and aesthetic values of our environment. And just because these billion dollar corporations think that they can just come in here and run roughshod over us, there's a bigger person that they're going to have to answer to later on. That's not a threat. I'm referring to the creator of this God's green earth." Tr. at 75-76.

John Zola provided testimony that Project Hazlenut is dead. Mr. Zola shared concerns about water availability for his home and the existing homes, businesses, hospitals and schools in his community. Mr. Zola questioned where the water for this project would come from and expressed doubts that there would be enough water for the proposed project. He

expressed that deciding on CAN DO's application before knowing what NorthPoint Development is going to eventually build would be a bad decision. Tr. at 79-82.

Joan Gallagher provided testimony that she is a water customer of the City of Hazleton Water Authority and received three drought emergency notices in early 2026. Ms. Gallagher explained that, while she does not live in Eagle Rock or Sugarloaf, she is "sandwiched in between." Ms. Gallagher testified that she received two solicitations in the mail from NorthPoint and for Project Hazlenut, that she doesn't want their bribes, elaborating, "I think they could shove it where the sun doesn't shine." She has lived at her home for 45 years and had not, until 2026, ever remembered receiving a drought notice. Tr. at 85-87.

Ashley Bahrt provided testimony and offered exhibits that were entered into the record in this proceeding. Ms. Bahrt testified that NorthPoint's initial request from CAN DO was for 24,000 gallons of water per day and expressed her concern of whether CAN DO's asserted plan to provide 30,000 gallons of water per day was a 6,000 gallons per day increase, or if the intended total for this project is 54,000 gallons of water per day. Tr. at 93; Bahrt Exhs. 1, 2. Ms. Bahrt expressed her shared concerns others testified about: CAN DO's Application is premature without land development plan approval. She requested that the Commission deny the Application due to CAN DO's failure to satisfy the burden of proving need or public service. Tr at 92-101.

Ann Vinatieri expressed her concerns regarding CAN DO's attempt to remove Ms. Logan as a protestant to the Application. Ms. Vinatieri stated CAN DO's position regarding Ms. Logan "seems baseless … once you understand that this case does not exist in a vacuum." She explained that she believes the entire project is being piecemealed through public utility application approval processes. Ms. Vinatieri believes CAN DO's application is premature. Tr. at 104-108.

Diane Baysit provided testimony regarding her belief that CAN DO's Application is premature and expressed concerns regarding the unknown impact CAN DO's proposal to provide 30,000 gallons per day on water availability in her area. Tr. at 115-116.

Michael Daly provided testimony regarding his 17-year experience as a volunteer firefighter and shared that fire hydrants are very few and far between in the Eagle Rock community. He expressed concerns about water availability in the area CAN DO proposes to serve. Tr. at 120.

Margaret Daly provided her concurrence with Mr. Daly's testimony, as well as all who testified before him at the 6:00 PM hearing. Tr. at 125.

On July 24, 2026, the parties filed rebuttal testimony.

On August 5, 2026, interim order #9 was issued, clarifying the remainder of the litigation schedule.

DISCUSSION

Land use planning approval

When reviewing an application for a certificate of public convenience to extend water service to a new area, the Commission must consider how granting the application may impact local comprehensive plans and zoning ordinances. *See Application of 52 Pa. Code § 3.501 to Certificated Water and Wastewater Utility Acquisitions, Mergers, and Transfers*, Docket No. L-2020-3017232 (Final Rulemaking Order entered Oct. 25, 2024), *see also* 52 Pa. Code § 69.1101 (relating to local land-use plans and ordinances in issuing certificates of public convenience).

To assist the Commission with understanding an application's possible impact, pursuant to Section 3.514 of Commission regulations, a certificated water public utility seeking to extend a main to provide service to a property beyond its certificated service territory shall provide, in relevant part:

> Applicable requirements of any officially adopted Act 537 Plan, county, multi-municipal or municipal comprehensive plans, and applicable zoning designations and ordinances, including evidence of preliminary plan approval for the anticipated planning subdivision and final plan approval whenever such approval is granted or necessary amendments.

52 Pa. Code § 3.514(a)(4)(ii)(E).

Indeed, Commission precedent demonstrates that land use planning approval is an essential factor for a main extension application approval. This is because the Commission's consideration of the existence or lack of planning approval allows the Commission to examine, with a reasonable degree of certainty, information such as the number of customers and their water usage needs.

In *NAWC 2003*, the Commission denied a protest the Newtown Artesian Water Company's application where conditional township approval to develop the tract to be served was granted. *Application of Newtown Artesian Water Co.*, Docket No. A-212070F0003 (Opinion and Order entered June 26, 2004) (*NAWC 2003*). The issuance of a certificate of public convenience and the extension of the utility's service area was permitted, and the protest could not prevent NAWC from extending water service to an area with a demonstrated need for water service. *Id.*

In *NAWC 2004*, the Commission upheld an Initial Decision denying an application for additional authority to provide water service for a proposed development where the township had not issued zoning approval or approval of even a preliminary subdivision plan for the applied for service area. *Application of Newtown Artesian Water Co.*, Docket No. A-212070F000 (Final Order entered July 13, 2004) (*NAWC 2004*). The ALJ noted, "[t]here is no question that the Commission in numerous cases has determined that probative weight is not to be given to testimony that established a future or potential need for service, rather than a present need for service to be supplied in the future." *NAWC 2004*, Initial Decision at 23.

Most recently, in the *Application of Pennsylvania-American Water Company to Furnish or Supply Water Service to the Public in an Additional Portion of Derry Township, Dauphin County, Pennsylvania*, the Commission denied an application because the applied for service territory overlapped with the existing service territory of another utility and was not in the public interest. Docket No. A-2024-3048364 (Opinion and Order entered June 5, 2025) (*PAWC 2025*). In reaching this conclusion, the ALJ first analyzed the scope of the application at issue and determined that Derry Township gave conditional land-use planning approval for only 7% of the applied-for service territory. *PAWC 2025*, Initial Decision at 21. Thus, the ALJ limited the scope of any approval or denial of the application to the portion of the applied-for service territory with which there was conditional land-use planning approval. *Id.* The Commission agreed with the ALJ's limitation of the scope of the application to only the area where a public need has been proven to exist, concluding that, without a demonstrated need for over ninety (90) percent of the applied-for territory, it was appropriate to limit the scope concerning the project that carried conditional land-use planning approval from the township. *PAWC* 2025, Opinion and Order at 39.

CAN DO's proposed water main extension

Here, through its Amended Application, CAN DO seeks Commission authority to provide water service to an approximately 1,345-acre parcel of land owned by NP Hazleton Holdings 1, LLC (NP Hazleton), located in Hazle Township, Sugarloaf Township and West Hazleton[3] Borough, Luzerne County, Pennsylvania (Requested Service Territory). Amended Application ¶ 7. The Requested Service Territory is adjacent to CAN DO's existing service territory at Humboldt Industrial Park. *Id.*

According to the Amended Application, NP Hazleton is constructing a data center campus in the Requested Service Territory. *Id.* ¶ 8. CAN DO asserts there is a need for public water service, because NP Hazleton requested CAN DO provide a data center campus with up to 30,000 gallons per day of water for domestic water and fire service. *Id.* ¶¶ 8, 9. To provide this water service, a 12" ductile iron main extension from CAN DO's existing territory to a point

[3] Though the Application denotes "West Hazletown Borough." Amended Application ¶ 7.

within the Requested Service Territory, along with the construction of the water service infrastructure, *i.e.*, a valve pit and customer-owned service line, are needed. *Id.* ¶ 13.

Analysis

CAN DO's Amended Application contemplates providing water service to one (1) customer: NP Hazleton. Amended Application ¶ 9. CAN DO asserted that NP Hazleton needs to be able to show that it can receive domestic water and fire protection services to obtain approval of its plans for the data center campus. *Id.* ¶ 30.

Yet, in several responses to TUS Data Request Set 1, CAN DO asserted:

> CAN DO is not involved in the Developer's efforts to obtain municipal approval of subdivision and land use plans. Nevertheless, based on newspaper reports and court filings, it is CAN DO's understanding that the Developer is currently involved in litigation with Hazle Township regarding municipal approval of the Development.
>
> [CAN DO] has no information regarding its [Developer's] timeline for requesting and receiving municipal approvals.
>
> [CAN DO], other than what was provided above, has no information regarding the status of municipal approvals.

CAN DO Responses to TUS Data Request Set 1, Answers at A-14, A-15, A-16, A-17.

As to land use approval of NP Hazleton's desire to erect a data center, on June 24, 2026, Ms. Logan filed direct testimony, which included several exhibits. Turning to the exhibit pre-marked as Exhibit 2, is an Order of Luzerne County Court of Common Pleas, dated May 26, 2026, denying the Land Use Appeal filed by NP Hazleton Holdings 1, LLC, against Hazle Township Board of Supervisors, at Docket No. 2025-13744. Although exhibits attached to pre-served written testimony, in the ordinary course of Commission proceedings are not considered evidence unless and until moved into the record at an evidentiary hearing or by stipulation of the

parties, we may, and do so here, take judicial notice of the existence of the docket and the procedural status therein.

We further take judicial notice of the Notice of Appeal filed by NP Hazleton Holdings 1, LLC, v. Hazle Township Board of Supervisors, in the Commonwealth Court of Pennsylvania, at Docket No. 827 CD 2026. The Notice of Appeal was filed on June 10, 2026.

Disposition

Given the ongoing land use litigation before the Commonwealth Court and the uncertainty surrounding the denial or approval of NP Hazleton's land development plan, we find it prudent to conserve the parties', as well as the Commission's, resources in any further review of the instant Application. Thus, until CAN DO is able to show the need for water service to the Requested Service Territory is a present need, we determine that it is necessary to stay this proceeding and suspend the litigation schedule.

Additionally, as CAN DO's Motion for Summary Judgment has not yet been ruled upon, it is further necessary to hold the Motion in abeyance until litigation at this docket resumes.

The Applicant is to file a status report, either: after resolution of the pending land use appeal for the Requested Service Territory, or six months from the date of this Order, whichever occurs first.

After receiving a status report, a status conference and/or further prehearing conference may be scheduled, and a litigation schedule may be reestablished, if necessary. Any request to resume litigation at this docket shall include a proposed litigation schedule.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Application of CAN DO, INC. is stayed, pending land use approval for the Requested Service Territory.

2. That the litigation schedule established by Interim Order #8, issued on March 27, 2026, and further clarified by Interim Order #9, issued on August 5, 2026, respectively, is suspended.

3. That the Motion for Summary Judgment, filed by CAN DO, INC. on June 28, 2026, will be held in abeyance until litigation at this docket resumes.

4. That the Applicant is directed to file a status report if the underlying land use approval necessary to support CAN DO, INC.'s Application to serve the Requested Service Territory is granted, or six months from the date of this Order, whichever occurs first.

5. That a status conference and/or further prehearing conference may be scheduled, if necessary.

Date: August 11, 2026

/s/
Emily A. Farren
Administrative Law Judge

/s/
Steven K. Haas
Administrative Law Judge

A-2026-3059809 - APPLICATION OF GREATER HAZLETON COMMUNITY AREA NEW DEVELOPMENT ORGANIZATION INC. T/A CAN DO, INC., PURSUANT TO SECTION 1102(A) OF THE CODE, FOR APPROVAL OF (1) THE RIGHT TO OFFER, RENDER, FURNISH OR SUPPLY WASTER 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) ABANDONMENT OF PORTIONS OF ITS WATER SERVICE TERRITORY IN HAZLE TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA AND EAST UNION TOWNSHIP, SCHUYLKILL COUNTY, PENNSYLVANIA
(Revised 3/27/2026)

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