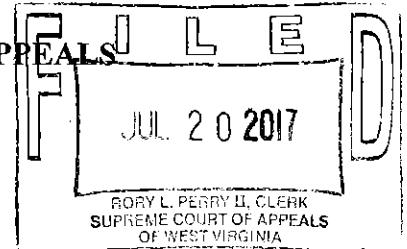


BEFORE THE WEST VIRGINIA SUPREME COURT OF APPEALS



**CNX GAS COMPANY, LLC,**  
**Petitioner,**

**v.**

**Civil Action No. 16-AA-4**  
**Judge Alan D. Moats**

**THE HONORABLE DALE W. STEAGER,**  
**State Tax Commissioner,**  
**THE HONORABLE JOHN M. CUTRIGHT,**  
**Assessor of Barbour County,**  
**THE COUNTY COMMISSION OF BARBOUR COUNTY,**  
**Respondents.**

---

**OBJECTION OF  
WEST VIRGINIA STATE TAX DEPARTMENT  
AND THE HONORABLE JOHN M. CUTRIGHT  
TO CNX GAS COMPANY'S  
MOTION TO REFER CASE TO BUSINESS COURT DIVISION**

---

**Respectfully Submitted By:**

**L. Wayne Williams (W.Va. Bar No. 4370)**  
**Assistant Attorney General**  
**1900 Kanawha Boulevard, East**  
**Building 1, Room W-435**  
**Charleston, West Virginia 25305**  
**Telephone: (304) 558-2522**  
**Email: L.Wayne.Williams@wvago.gov**  
***Counsel for the Respondent Dale W.***  
***Steager, State Tax Commissioner and John***  
***M. Cutright, Assessor of Barbour County***

BEFORE THE WEST VIRGINIA SUPREME COURT OF APPEALS

CNX GAS COMPANY, LLC,  
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v.

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THE HONORABLE DALE W. STEAGER,  
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OBJECTION OF  
WEST VIRGINIA STATE TAX DEPARTMENT  
AND THE HONORABLE JOHN M. CUTRIGHT  
TO CNX GAS COMPANY'S  
MOTION TO REFER CASE TO BUSINESS COURT DIVISION

---

COMES NOW Dale W. Steager, State Tax Commissioner, and the Honorable John M. Cutright, Assessor of Barbour County, by counsel, in order to Object to the *Motion to Refer Case to the Business Court Division* filed by CNX Gas Company, LLC, in the above-referenced appeal. The State Tax Commissioner and Assessor Cutright (collectively hereinafter, sometimes Tax Department or Tax Commissioner) state as follows.

**PROCEDURAL BACKGROUND**

CNX Gas Company protested the valuation of its mineral interests in numerous producing gas wells located in Barbour County, West Virginia, as calculated by the Property Tax Division of the State Tax Department for the 2016 TY. CNX Gas has similarly challenged the valuations in Harrison County, Doddridge County, Lewis County and McDowell County, for the

2016 tax year. In addition, CNX Gas has filed separate motions to refer the *ad valorem* property tax appeals in the other four counties to the Business Court Division.

The State Tax Department and Assessor Cutright calculated the true and actual value of CNX Gas Company's gas wells located in Barbour County for the 2016 TY at \$71 million under the legislative rule. *See CNX Gas's Complaint* at Paragraph 17.

The Property Tax Division conducts a survey of operating expenses as reported by the producers of oil and gas wells every five years as required by the legislative rule. The Property Tax Division calculates the "average annual industry operating expenses per well". According to the legislative rule, the "average annual industry operating expenses per well" must be deducted from the working interest gross receipts of the individual gas well in order to value the well under the Yield Capitalization Model. *See* W. Va. Code St. R. § 110-1J-4.3. The legislative rules do not authorize the Property Tax Division to utilize any substitute value based on an individual taxpayer's request in calculating the value of operating gas wells in this State for *ad valorem* property tax purposes.

CNX Gas argued that it should be allowed to use a substitute value for the expense deduction in calculating the value of its interest in the gas wells; CNX Gas wants to deduct its allocated operating expenses to calculate the value of CNX's gas wells in Barbour County and throughout the State. CNX Gas has objected to the use of the "average annual industry operating expenses per well" which is the value used by the Property Tax Division to value every operating gas well in this State.

Based on CNX Gas's alternative expense deduction, CNX Gas argued that the true and actual value of its property should be \$40 million for the 2016 TY in Barbour County. *See CNX Gas's Complaint* at Paragraph 17.

**OBJECTION**  
**CNX GAS COMPANY FAILED TO TIMELY PERFECT**  
**THE UNDERLYING APPEAL TO THE CIRCUIT COURT**

The Tax Department and Assessor Cutright have filed a *Motion to Dismiss for Failure to Timely Perfect the Appeal* before the Honorable Judge Moats on May 26, 2017. The basis for the motion to dismiss is that CNX Gas failed to timely perfect the appeal as required by statute. According to W. Va. Code § 11-3-25(b), the petitioner must have the record from the hearing before the County Commission of Barbour County sitting as a Board of Assessment Appeals certified to the Clerk of the Circuit Court within thirty (30) days of appealing to the circuit court. Although CNX Gas filed the *Complaint* timely in the Circuit Court of Barbour County, CNX Gas did **not** have the record from the hearing certified by the County Clerk of Barbour County. See *Motion to Dismiss for Failure to Timely Perfect the Appeal* in Exhibit A.

CNX Gas proffered an “original record” to the Circuit Court. See CNX Gas’s *Complaint* at Paragraph 18. According to W. Va. Code § 58-3-4, the “original record” must include a certified copy of the order being appealed to the circuit court. The order for the 2016 TY filed by CNX Gas with the Circuit Court is **not** a certified copy of the order being protested.

The failure to timely perfect the appeal from the county commission is a jurisdictional bar to prosecuting the appeal. See *In re Tax Assessment Against O.V. Stonestreet*, 147 W. Va. 719, 131 S.E. 2d 52 at Syll. Pt. 1 (1963); *Rawl Sales & Processing Company, Inc., v. County Commission of Mingo County*, 191 W. Va. 127, 443 S.E. 2d 595 (1994) at Syll. Pts. 3 & 4 (1994)(citing *In re Stonestreet*); and *In re Tax Assessment Against Purple Turtle, LLC*, 223 W. Va. 755, 679 S.E.2d 587 at Syll. Pts. 4 & 5 (2009).

The Tax Department has filed a similar motion to dismiss the appeal of CNX Gas Harrison County for Civil Action No. 17-C-142.

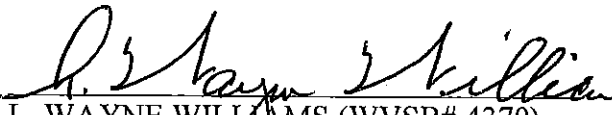
Since the Circuit Court of Barbour County does not have jurisdiction to hear the underlying tax appeal, the Supreme Court should deny the *Motion to Refer Case to the Business Court Division* filed by CNX Gas Company, LLC.

Respectfully submitted,

DALE W. STEAGER,  
STATE TAX COMMISSIONER  
OF WEST VIRGINIA, THE HONORABLE  
JOHN M. CUTRIGHT, ASSESSOR OF  
BARBOUR COUNTY

By counsel,

PATRICK MORRISEY  
ATTORNEY GENERAL



L. WAYNE WILLIAMS (WVSB# 4370)  
ASSISTANT ATTORNEY GENERAL  
1900 Kanawha Boulevard, East  
Building 1, Room W-435  
Charleston, West Virginia 25305  
304-558-2522



State of West Virginia  
Office of the Attorney General  
Tax & Revenue, Court of Claims and Transportation Division  
State Capitol, Building 1, Room W-435, 1900 Kanawha Boulevard East  
Charleston, WV 25305

Patrick Morrissey  
Attorney General

(304) 558-2522  
Fax (304) 558-2525

May 26, 2017

Honorable Gerald M. Fogg, Circuit Clerk  
Barbour County Circuit Clerk's Office  
26 N. Main Street  
Philippi, WV 26416

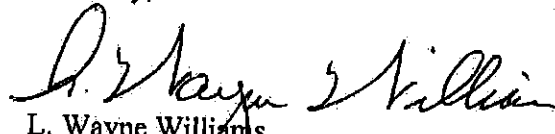
*Via Facsimile & U.S. Mail*

Re: *CNX Gas Company, LLC, v. Mark W. Matkovich, State Tax Commissioner, John M. Cutright, Assessor of Barbour County, County Commission of Barbour County, Sitting as a Board of Assessment Appeals*  
Civil Action No.: 16-AA-4

Dear Mr. Fogg:

Enclosed please find the *Motion Of West Virginia State Tax Department And Assessor Joseph R. Romano To Dismiss For Failure To Timely Perfect Appeal* to be filed in the above-referenced matter. A copy of the same has been provided to counsel for the Petitioner and to the Defendant as evidenced in the attached certificate of service. Thank you for your attention to this matter.

Sincerely,

  
L. Wayne Williams  
Assistant Attorney General

LWW/dbt  
Enclosure

cc: Honorable Judge Alan Moats  
Craig A. Griffith, Esq.  
John J. Meadows, Esq.  
John M. Cutright, Assessor of Barbour County  
County Commission of Barbour County



IN THE CIRCUIT COURT OF BARBOUR COUNTY, WEST VIRGINIA

CNX GAS COMPANY, LLC,

Petitioner,

v.

CIVIL ACTION NO. 16-AA-4  
THE HONORABLE ALAN MOATS

THE HONORABLE DALE W. STEAGER<sup>1</sup>,  
State Tax Commissioner,  
THE HONORABLE JOHN M. CUTRIGHT,  
Assessor of Barbour County, and  
THE COUNTY COMMISSION OF BARBOUR COUNTY,

Respondents.

---

MOTION OF  
WEST VIRGINIA STATE TAX DEPARTMENT  
AND ASSESSOR JOHN CUTRIGHT  
TO DISMISS FOR FAILURE TO TIMELY PERFECT APPEAL

---

COME NOW Dale W. Steager, State Tax Commissioner of the State of West Virginia and the Honorable John Cutright, Assessor of Barbour County, (hereinafter, collectively referred to as "Tax Commissioner" or "Tax Department"), by counsel, in order to file this *Motion to Dismiss for Failure to Timely Perfect the Appeal* and state as follows.

1. CNX Gas filed the instant appeal on or about November 23, 2016, in the Circuit Court of Barbour County seeking judicial review of the ad valorem property tax assessment for

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<sup>1</sup> On January 16, 2017, Governor Justice appointed Dale W. Steager, Esquire, to be the WV State Tax Commissioner. Tax Commissioner Steager is substituted as party in place of the previous Tax Commissioner, Mark W. Matkovich, pursuant to Rule 25(d) of the West Virginia Rules of Civil Procedure.

the 2016 tax year. *See Complaint of Petitioner CNX Gas Company, LLC.*, at Paragraph 19 (sometimes hereinafter, *Complaint*).

2. CNX Gas protested the valuation of its gas wells before the Barbour County Commission sitting as a Board of Equalization and Review in February 2016. CNX Gas requested that its appeal be heard by the Board of Assessment Appeals in October 2016 pursuant to W. Va. Code § 11-3-24(f). *See Complaint* at Paragraph 18.

3. The jurisdictional basis cited in the *Complaint* by CNX Gas for the appeal to Circuit Court is W. Va. Code § 11-3-25. *See Complaint* at Paragraph 18.

4. The applicable statutory provision states in pertinent part:

(b) The right of appeal from any assessment by the Board of Equalization and Review or order of the **Board of Assessment Appeals** as provided in this section may be taken either by the applicant or by the state, and in case the applicant, by his or her attorney, or in the case of the state, by its prosecuting attorney or other attorney representing the Tax Commissioner. **The party desiring to take an appeal from the decision of either board shall have the evidence taken at the hearing of the application before either board, including a transcript of all testimony and all papers, motions, documents, evidence and records as were before the board, certified by the county clerk and transmitted to the circuit court as provided in section four, article three, chapter fifty-eight of this code,** except that, any other provision of this code notwithstanding, the evidence shall be certified and transmitted within thirty days after the petition for appeal is filed with the court or judge, in vacation.

W. Va. Code § 11-3-25(b) (emphasis added).

5. The appeal provisions of the statute expressly reference W. Va. Code § 58-3-4 (emphasis added) which states:

In any case in which an appeal lies under section one of this article on behalf of a party to a controversy in a county court, such party may present to the circuit court of the county in which the judgment, order or proceeding complained of was rendered, made or had, or in the vacation of such court, to the judge of such court, the petition of such party for an appeal. Such petition shall be presented within four months after such judgment, order or proceeding was rendered, had or made, and shall assign errors. It shall be accompanied by the original record of the proceeding in lieu of a transcript thereof. Such original record shall be



understood as including all papers filed in the proceeding, certified copies of all orders entered in the proceeding, copies of which are not in the files, and all matters included in bills of exceptions, or certificates in lieu thereof, as provided in section three of this article. The record may likewise include and the court may consider an agreed statement of facts, and, in case the testimony in the proceeding below was not stenographically reported and preserved, a certificate of facts made by such commissioners, or a majority of them.

6. Therefore, in order to perfect the appeal to the Circuit Court, CNX Gas was required to have the a transcript of all testimony and all papers, motions, documents, evidence and records as were before the board, certified by the county clerk and transmitted to the circuit court within 30 days of filing the appeal in the Circuit Court. *See* W. Va. Code § 11-3-25(b).

7. In addition, W. Va. Code § 58-3-4 requires that the original record must include certified copies of all orders entered by the Board of Assessment Appeals in this matter.

#### **FACTS SUPPORTING DISMISSAL**

8. Petitioner CNX Gas filed the instant appeal with the Circuit Court of Barbour County on or about December 20, 2016.

9. Thirty days from December 20, 2016, would be January 19, 2017.

10. On May 2, 2017, counsel for the Tax Department personally reviewed the record filed with the Clerk of the Circuit Court by Petitioner CNX Gas. Based upon that review, the record filed with the Clerk of the Circuit Court has not been certified by the County Clerk of Barbour County as required by W. Va. Code § 11-3-25(b).

11. In addition, the record filed with the Clerk of the Circuit Court does not include any request from CNX Gas to the County Clerk that the record be certified as required by W. Va. Code § 11-3-25(b).

12. Furthermore, the "original record" on file with the Clerk of the Circuit Court does not include a copy of the order issued by the Board of Assessment Appeals denying the relief requested by CNX Gas. The original record must include a certified copy of the order being appealed as required by W. Va. Code § 58-3-4.

13. Finally, counsel for the Tax Department obtained a docket sheet in this matter on May 25, 2017. The docket sheet for Civil Action No. 16-AA-4 does not include any indication that the record from the Board of Assessment Appeals has been certified by the County Clerk for Barbour County to the Circuit Court as required. See attached Exhibit 1.

14. According to the on record file with the Clerk of the Circuit Court, it appears that CNX Gas has failed to timely have the record certified by the County Clerk and has also failed to file a certified copy of the decision of the County Commission for Barbour County sitting as a Board of Assessment Appeals as required by law.

### **ARGUMENT**

Under West Virginia law, the requirements to perfect the appeal are jurisdictional and must be strictly construed. The procedures to appeal a decision of the Board of Equalization and Review were settled long ago. In 1963 the West Virginia Supreme Court determined that the certified record from the county court, now the county commission, must be timely filed with the Circuit Court in order to perfect the appeal.

The provisions of Section 25, Article 3, Chapter 11, Code, 1931, as amended, governing appeals from the county court to the circuit court of the county from an assessment made by the county court, in which there was a hearing and an appearance by the property owner, and requiring that the application for an appeal be represented in the circuit court within thirty days from the adjournment of the county court by which the order complained of was rendered, and the provisions of Section 4, Article 3, Chapter 58, Code, 1931, requiring that the petition be accompanied by the original record of the proceeding in the county court in lieu

of a transcript of such proceeding, are mandatory and will be read and considered together; and when it appears upon review in this Court that the petition, though presented within the thirty day period, **was not accompanied by the original record of the proceeding in the county court** and that no record of such proceeding was filed in the circuit court within the limitation of thirty days prescribed by Section 25 of the statute, **the appeal applied for must be refused by the circuit court and the writ of error awarded by this Court to the judgment of the circuit court refusing such appeal will be dismissed.**

*In re Tax Assessment Against O.V. Stonestreet*, 147 W. Va. 719, 131 S.E. 2d 52 at Syll. Pt. 1 (emphasis added). *Stonestreet* is particularly instructive for the appeal from CNX Gas. The Supreme Court observed in *Stonestreet* that W. Va. Code §§ 11-3-25 and 58-3-4 must be read *in pari materia*. In *Stonestreet*, the Petitioners argued that the certified record was not necessary until the Circuit Court had set a date for a hearing the merits of the appeal. *See Stonestreet* at 722, 54. However, the Supreme Court rejected this argument and reaffirmed the requirement that the original record included certified copies of all orders from the county court and must be filed timely. *See Stonestreet* at 725, 56. More recently, the Supreme Court reaffirmed the decision from *Stonestreet* in the case of *Rawl Sales & Processing Company, Inc., v. County Commission of Mingo County*, 191 W. Va. 127, 443 S.E. 2d 595 (1994) at Syll. Pts. 3 & 4 (1994)(citing *In re Stonestreet*). The Supreme Court specifically stated that the procedures to appeal as set forth in W. Va. Code §§ 11-3-25 and 58-3-4 are mandatory jurisdictional requirements. *See Rawl Sales* at 131, 599.

As recently as 2009, the Supreme Court affirmed once again that the certified record must be timely filed in order to perfect the appeal. In the case *In re Tax Assessment Against Purple Turtle, LLC.*, 223 W. Va. 755, 679 S.E.2d 587 at Syll. Pts. 4 & 5 (2009), the Supreme Court noted the importance of providing the certified record to the Circuit Court. Furthermore, the Court stated that the failure to timely perfect the appeal does not necessarily prejudice the assessor; the failure to timely perfect the appeal means that the reviewing court does not have

access to the record. Admittedly, in *Purple Turtle*, the Taxpayer failed to file the record from the Board of Equalization and Review. See *Purple Turtle* at 759, 591. However, in the CNX Gas case before the Circuit Court of Barbour County, the voluminous record filed by CNX Gas is deficient as noted above. First, the record filed by CNX Gas is not certified by the County Clerk to Circuit Court as specifically required pursuant to W. Va. Code § 11-3-25. Second, the copy of the order from the County Commission sitting as a Board of Equalization and Review is not certified as required pursuant to W. Va. Code § 58-3-4. Therefore, the purported original record filed by CNX Gas in this case is deficient and does not comply with the clear statutory language.

In the decision in *Purple Turtle*, the Supreme Court noted that the filing requirements to appeal the decisions of the boards of equalization and review are absolutely clear.

The Assessor asserts that the statutory framework for the appeal and review of decisions of the Board is absolutely clear. Indeed, as this Court stated in *Helton v. Reed*, 219 W.Va. 557, 638 S.E.2d 160 (2006), "filing requirements established by statute ... are not readily susceptible to equitable modification or tempering." 219 W.Va. at 561, 638 S.E.2d at 164; see also *Concept Mining, Inc. v. Helton*, 217 W.Va. 298, 617 S.E.2d 845 (2005) (Tax Commissioner's intent was irrelevant and procedural error prohibited consideration of Commissioner's appeal); *Solution One Mortg., LLC v. Helton*, 216 W.Va. 740, 613 S.E.2d 601 (2005) (tax statutes requiring bond as prerequisite to prosecution of appeal are strictly construed); *State ex rel. Clark v. Blue Cross Blue Shield of W. Va., Inc.*, 195 W.Va. 537, 466 S.E.2d 388 (1995) (strict deadlines in insurance insolvency cases); *Bradley v. Williams*, 195 W.Va. 180, 465 S.E.2d 180 (1995) (taxpayer's failure to abide by express procedures established for challenging decision of Tax Commissioner precludes taxpayer's claim for refund or credit).

*Purple Turtle* at 761-762, 593-594. Based upon the critical importance of perfecting the appeal from the boards of equalization and review, the Supreme Court refused to deviate from the appeal methodology set forth in *Rawl Sales* and *In re Stonestreet*. See *Purple Turtle* at 762, 594.

The methodology to appeal a decision from the board of assessment appeals to the circuit court is clearly established by statutes. The West Virginia Supreme Court has long ago determined that express statutory procedures to appeal are mandatory and constitute a

jurisdictional requirement. The failure to timely perfect an appeal creates a jurisdictional bar and prevents the Circuit Court from acquiring jurisdiction in the first place.

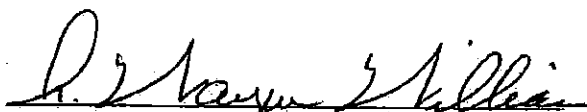
WHEREFORE, Dale W. Steager, State Tax Commissioner of the State of West Virginia, and the Honorable John Cutright, Assessor of Barbour County, pray the Honorable Court to DISMISS the instant appeal with prejudice.

Respectfully submitted,

DALE W. STEAGER,  
STATE TAX COMMISSIONER  
OF WEST VIRGINIA,  
HONORABLE JOHN CUTRIGHT, the  
ASSESSOR OF BARBOUR COUNTY

By counsel,

PATRICK MORRISEY  
ATTORNEY GENERAL



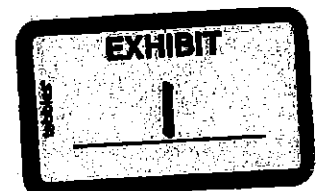
L. WAYNE WILLIAMS (WVSB# 4370)  
ASSISTANT ATTORNEY GENERAL  
1900 Kanawha Boulevard, East  
Building 1, Room W-435  
Charleston, West Virginia 25305  
304-558-2522

CNX GAS COMPANY, LLC

VS. MARK MARKOVICH, TAX COMM'R, ET

LINE DATE ACTION

1 11/23/16 CASE FILED  
2 11/23/16 ATTORNEY FILING LETTER, CIVIL CASE INFO STATEMENT  
3 11/23/16 COMPLAINT  
4 11/23/16 EXHIBIT A: COMPLETE EXHIBIT WITH CASE FILE-ONLY PARTLY SCANNED  
5 11/23/16 RETURN OF SERVICE, SUMMONS & COMPLAINT GIVEN TO BC SHERIFF FOR  
6 SERVICE ON JOHN CUTRIGHT & BARBOUR CO. COMMISSION  
7 11/23/16 SUMMONS & COMPLAINT FOR MARK MATKOVICH RETURNED TO DELIVERY  
8 PERSON FOR SERVICE  
9 11/23/16 RECEIPT FOR FILING OF CIVIL CASE FILED  
10 11/28/16 RETURN: PERS SERV ON JOHN M CUTRIGHT, ASSESSOR BC 11/28/16 (JB)  
11 11/28/16 RETURN: PERS SERV ON BARBOUR CO COMM 11/28/16 (JB)  
12 12/08/16 NOTICE OF APPEARANCE - L. WAYNE WILLIAMS COUNSEL FOR MARK W.  
13 MATKOVICH & JOHN CUTRIGHT WNC  
14 12/15/16 RETURN OF SERVICE; SERVED SUMMONS & COMPLAINT UPON MARK MATKOVIC  
15 TAX COMMISSIONER (JB)  
16 12/20/16 ANSWER OF WV STATE TAX DEPT TO COMPLAINT, FILED



IN THE CIRCUIT COURT OF BARBOUR COUNTY, WEST VIRGINIA

CNX GAS COMPANY, LLC,

Petitioner,

v.

Civil Action No. 16-AA-4  
Honorable Alan Moats

THE HONORABLE MARK W. MATKOVICH,  
State Tax Commissioner,  
THE HONORABLE JOHN M. CUTRIGHT,  
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THE COUNTY COMMISSION OF BARBOUR COUNTY,

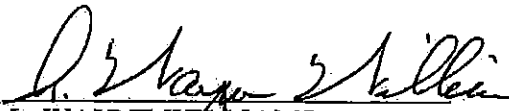
Respondents.

CERTIFICATE OF SERVICE

I, L. Wayne Williams, Assistant Attorney General, do hereby certify that the foregoing  
"Motion Of West Virginia State Tax Department And Assessor John Cutright To Dismiss For  
Failure To Timely Perfect Appeal" was served upon the following by depositing a copy of the  
same in the United States Mail, via first-class postage prepaid, this 26<sup>th</sup> day of May, 2017,  
addressed as follows:

Craig A. Griffith, Esq.  
John J. Meadows, Esq.  
Stephoe & Johnson, PLLC  
P.O. Box 1588  
Charleston, WV 25326-1588  
Counsel for Petitioner

County Commission of Barbour County  
26 N. Main Street  
Philippi, WV 26416

  
L. WAYNE WILLIAMS



STATE OF WEST VIRGINIA  
OFFICE OF THE ATTORNEY GENERAL  
STATE CAPITOL  
BUILDING 1, ROOM W-435  
CHARLESTON 25305

PATRICK MORRISEY  
ATTORNEY GENERAL

(304) 558-2522  
FAX (304) 558-2525

**FACSIMILE COVER SHEET**

**DATE:** May 26, 2017

**NUMBER OF PAGES (Including cover sheet):** 11

**RECIPIENT**

**NAME:** Gerald M. Fogg, Barbour County Circuit Clerk

**FAX NO:** 304-457-2790

**SENDER**

**NAME:** Delea B. Thomas on behalf of L. Wayne Williams, Esq.

**DIVISION:** Tax

**DESCRIPTION OF FACSIMILE MESSAGE:**

**IMPORTANT**

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MODE	STANDARD



STATE OF WEST VIRGINIA  
OFFICE OF THE ATTORNEY GENERAL  
STATE CAPITOL  
BUILDING 1, ROOM W-435  
CHARLESTON 25305

PATRICK MORRISEY  
ATTORNEY GENERAL

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**FACSIMILE COVER SHEET**

DATE: May 26, 2017

NUMBER OF PAGES (Including cover sheet): 11

**RECIPIENT**

NAME: Gerald M. Fogg, Barbour County Circuit Clerk

FAX NO: 304-457-2790

**SENDER**

NAME: Delea B. Thomas on behalf of L. Wayne Williams, Esq.

DIVISION: Tax

BEFORE THE WEST VIRGINIA SUPREME COURT OF APPEALS

CNX GAS COMPANY, LLC,  
Petitioner,

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Civil Action No. 16-AA-4  
Judge Alan D. Moats

THE HONORABLE DALE W. STEAGER,  
State Tax Commissioner,  
THE HONORABLE JOHN M. CUTRIGHT,  
Assessor of Barbour County,  
THE COUNTY COMMISSION OF BARBOUR COUNTY,  
Respondents.

CERTIFICATE OF SERVICE

I, L. Wayne Williams, Assistant Attorney General, do hereby certify that the foregoing *Objection of West Virginia State Tax Department and the Honorable John M. Cutright to CNX Gas Company's Motion to Refer Case to Business Court Division* was served upon the following by depositing a copy of the same in the United States Mail, via first-class postage prepaid, this 20<sup>th</sup> day of July, 2017, addressed as follows:

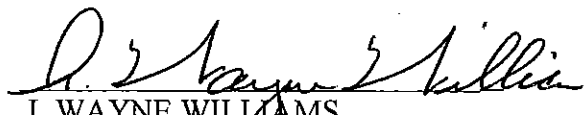
Craig A. Griffith, Esq.  
John J. Meadows, Esq.  
Step toe & Johnson, PLLC  
P.O. Box 1588  
Charleston, WV 25326-1588  
*Counsel for Petitioner*

Honorable Alan D. Moats, Judge  
Taylor County Courthouse  
214 West Main Street  
Grafton, WV 26354

Gerald M. Fogg, Circuit Clerk  
Barbour County Circuit Clerk's Office  
26 N. Main Street  
Philippi, WV 26416

Lekta L. Poling, Esq.  
Prosecuting Attorney of Barbour County  
P.O. Box 38  
Phillipi, WV 26416  
*Counsel for Barbour County Commission*

The General Office of the  
Business Court Division  
Berkeley County Judicial Center  
380 W South Street, Suite 2100  
Martinsburg, WV 25401

  
L. WAYNE WILLIAMS