

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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| MUNICIPAL AUTHORITY | : | CIVIL ACTION NO. 2:16-CV-422 |
| OF WESTMORELAND COUNTY, | : | |
| on behalf of itself and all others | : | (Chief Judge Conner) |
| similarly situated, | : | |
| | : | |
| Plaintiff | : | |
| | : | |
| v. | : | |
| | : | |
| CNX GAS COMPANY, LLC, et al., | : | |
| | : | |
| Defendants | : | |

ORDER

AND NOW, this 9th day of April, 2018, upon consideration of the motion (Doc. 105) to overrule the objections of CONE Midstream Partners LP, CONE Gathering LLC, and Joseph Fink (“Fink”) (collectively, “third parties”) filed by plaintiff Municipal Authority of Westmoreland County (“MAWC”), wherein MAWC requests that the court issue an order directing the third parties to produce an unredacted copy of the email exchange between Fink and Alexander Reyes (“Reyes”), (see id. ¶ 20; see also Doc. 110 at 16), and further upon consideration of the parties’ respective briefs in support of and opposition to said motion (Docs. 106, 111), Fink’s affidavit (Doc. 110 at 18-20), wherein Fink explicitly states that Reyes is an attorney and that Fink often consulted with Reyes on legal matters, (id. ¶¶ 10-13), and, following the court’s *in camera* review of the emails, the court observing that the purpose of the attorney-client privilege “is to encourage full and frank communication between attorneys and their clients,” Upjohn Co. v. United States, 449 U.S. 383, 389 (1981), and the court further observing that federal courts should

assess the application of the privilege on an individualized, case-by-case basis, Wachtel v. Health Net, Inc., 482 F.3d 225, 230 (3d Cir. 2007), and that the protections afforded by this privilege extend to “(1) a communication (2) made between privileged persons (3) in confidence (4) for the purpose of obtaining or providing legal assistance for the client,” In re Teleglobe Commc’ns Corp., 493 F.3d 345, 359 (3d Cir. 2007) (quoting RESTATEMENT (THIRD) OF LAW GOVERNING LAW § 68 (2000)), and the court finding that the emails between Fink and Reyes, (see CONE-MAWC 01368), are privileged communications, it is hereby ORDERED that MAWC’s motion (Doc. 105) is DENIED.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania