

CONSOL Energy Inc  
Form S-8  
May 11, 2016

As filed with the Securities and Exchange Commission on May 11, 2016

Registration No. 333-

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**

**FORM S-8**  
**REGISTRATION STATEMENT**  
***UNDER***  
***THE SECURITIES ACT OF 1933***

**CONSOL Energy Inc.**

**(Exact name of Registrant as specified in its charter)**

**Delaware**  
**(State or other jurisdiction of**  
**incorporation or organization)**

**CNX Center**

**51-0337383**  
**(I.R.S. Employer**  
**Identification Number)**

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**1000 CONSOL Energy Drive**

**Canonsburg, Pennsylvania 15317**

**(Address of Principal Executive Offices)**

**CONSOL Energy Inc. Equity Incentive Plan, as Amended and Restated**

**(Full title of the plan)**

**Stephanie L. Gill**

**Vice President and General Counsel**

**CONSOL Energy Inc.**

**1000 CONSOL Energy Drive**

**Canonsburg, Pennsylvania 15317**

**(724) 485-4000**

**(Name, address, including zip code, and telephone number, including area code, of agent for service)**

*Copy to:*

**Amy I. Pandit**

**Morgan, Lewis & Bockius LLP**

**One Oxford Centre, Thirty-Second Floor**

**301 Grant Street**

**Pittsburgh, Pennsylvania 15219**

**(412) 560-3300**

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act.

Large accelerated filer   
 Non-accelerated filer

Accelerated filer   
 Smaller reporting company

### CALCULATION OF REGISTRATION FEE

Title of securities to be registered	Amount to be registered <sup>(1)</sup>	Proposed	Proposed	Amount of registration fee
		maximum offering price per share <sup>(2)</sup>	maximum aggregate offering price	
Common Stock, par value \$0.01 per share	9,129,398	\$14.81	\$135,206,384.38	\$13,615.28
Common Stock, par value \$0.01 per share	1,420,602	\$7.94	\$11,279,579.88	\$1,135.85
Total	10,550,000		\$146,485,964.26	\$14,751.13

(1) Pursuant to Rule 416(a) of the Securities Act of 1933, as amended (the Securities Act), this Registration Statement also covers such indeterminable number of additional shares of common stock of the Registrant as may become issuable to prevent dilution in the event of stock splits, stock dividends, recapitalization or similar transactions.

(2) Calculated pursuant to Rule 457(h) of the Securities Act, based upon the price at which certain outstanding options may be exercised, or with respect to other shares issuable under the CONSOL Energy Inc. Equity Incentive Plan, as amended and restated effective on May 11, 2016 (the Plan), the average of the high and low prices of the common stock of the Registrant on the New York Stock Exchange on May 4, 2016.

**PART I**

**INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS**

**Item 1. Plan Information\***

**Item 2. Registrant Information and Employee Plan Annual Information\***

\* Information required by Part I to be included in the Section 10(a) prospectus will be sent or given to employees as specified by Rule 428 of the Securities Act, and is omitted from this Registration Statement in accordance with Rule 428 under the Securities Act and the Note to Part I of Form S-8.

**PART II**

**INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

**Item 3. Incorporation of Documents by Reference**

The following documents previously filed by CONSOL Energy Inc. ( Registrant or the Company ) with the Securities and Exchange Commission (the Commission ) are incorporated by reference into this Registration Statement:

- (a) The Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2015, filed with the Commission on February 5, 2016.
- (b) The Registrant's Quarterly Report on Form 10-Q for the quarter ended March 31, 2016, filed with the Commission on April 28, 2016.
- (c) The Registrant's Current Reports on Form 8-K filed with the Commission on February 8, 2016, February 29, 2016, April 6, 2016, April 7, 2016, April 26, 2016 and May 4, 2016.
- (d) The description of the Registrant's common stock, par value \$0.01 per share, contained in the Registrant's registration statement on Form 8-A filed with the Commission on March 24, 1999 (File No. 001-14901).

To the extent that any information contained in any Current Report on Form 8-K, or any exhibit thereto, was furnished to, rather than filed with, the Commission, such information or exhibit is specifically not incorporated by reference.

All reports and other documents that the Registrant subsequently files with the Commission pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended (the Exchange Act ), after the date of this Registration Statement and prior to the filing of a post-effective amendment that indicates the Registrant has sold all of the securities offered under this Registration Statement or deregisters the distribution of all such securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date that the Registrant files such report or document.

Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document that also is, or is deemed to be, incorporated by reference herein modifies or replaces such statement. Any such statement so modified or replaced shall not be deemed, except as so modified or replaced, to constitute a part of this Registration Statement.



**Item 4. Description of Securities.**

Not applicable.

**Item 5. Interests of Named Experts and Counsel.**

Not applicable.

**Item 6. Indemnification of Directors and Officers.**

Section 145(a) of the Delaware General Corporation Law (the "DGCL") provides that a corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that the person's conduct was unlawful.

Section 145(b) of the DGCL states that a corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by the person in connection with the defense or settlement of such action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which the person shall have been adjudged to be liable to the corporation unless and only to the extent that the Delaware Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such expenses as the Delaware Court of Chancery or such other court shall deem proper.

Section 145(c) of the DGCL provides that to the extent that a present or former director or officer of a corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections (a) and (b) of Section 145, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

Section 145(d) of the DGCL states that any indemnification under subsections (a) and (b) of Section 145 (unless ordered by a court) shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the present or former director, officer, employee or agent is proper in the circumstances because the person has met the applicable standard of conduct set forth in subsections (a) and (b) of Section 145. Such determination shall be made with respect to a person who is a director or officer at the time of such determination (1) by a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a

quorum, (2) by a committee of such directors designated by majority vote of such directors, even though less than a quorum, (3) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion, or (4) by the stockholders.

Section 145(f) of the DGCL states that the indemnification and advancement of expenses provided by, or granted pursuant to, the other subsections of Section 145 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office.

Section 145(g) of the DGCL provides that a corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against such person and incurred by such person in any such capacity or arising out of such person's status as such, whether or not the corporation would have the power to indemnify such person against such liability under the provisions of Section 145.

Section 145(j) of the DGCL states that the indemnification and advancement of expenses provided by, or granted pursuant to, Section 145 shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

In addition, Section 102(b)(7) of the DGCL permits Delaware corporations to include a provision in their certificates of incorporation eliminating or limiting the personal liability of a director to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, provided that such provisions shall not eliminate or limit the liability of a director: (i) for any breach of the director's duty of loyalty to the corporation or its stockholders; (ii) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law; (iii) for unlawful payment of dividends or unlawful stock purchases or redemptions; or (iv) for any transactions from which the director derived an improper personal benefit.

The Company's Amended and Restated Bylaws also provide that any present or former director, officer, employee or agent of the Company shall be indemnified by the Company as of right to the full extent permitted by the DGCL against any liability, cost or expense asserted against and incurred by such person by reason of his or her serving in such capacity. This right to indemnification includes the right to be paid the expenses incurred in defending any action, suit or proceeding in advance of its final disposition. In addition, the Company has provided in its Restated Certificate of Incorporation that it shall eliminate the personal liability of its directors to the fullest extent permitted by the DGCL. The Company maintains policies of directors' and officers' liability insurance which insures its directors against the cost of defense, settlement or payment of a judgment under certain circumstances.

The Company also has entered into agreements that provide for the indemnification by the Company of its directors, officers, and their respective executors, administrators or assigns for damages and expenses in connection with a threatened, pending or completed claim, action, or proceeding, whether brought by or in the right of the Company or by a third party or otherwise and whether of a civil, criminal, administrative or investigative nature, in which such director or officer may be or may have been involved as a party or otherwise (including as a witness), by reason of the fact that such person is or was a director or officer of the Company by reason of any actual or alleged error or misstatement or misleading statement or omission made or suffered by the director or officer, by reason of any action taken by or any inaction on the part of the director or officer while acting as such director or officer, or by reason of the fact that the director or officer was serving at the request of the Company as a director, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, provided that a director or officer acted in good faith and in a manner, which the director or officer reasonably believed to be in or not opposed to the best interests of the Company, and, in the case of a criminal proceeding, in addition, had no reasonable cause to believe that his or her conduct was unlawful.





**Item 7. Exemption from Registration Claimed.**

Not applicable.

**Item 8. Exhibits.**

<b>Exhibit No.</b>	<b>Description</b>
5.1*	Opinion of Morgan, Lewis & Bockius LLP.
23.1*	Consent of Ernst & Young LLP.
23.2*	Consent of Morgan, Lewis & Bockius LLP (included in Exhibit 5.1).
23.3*	Consent of Netherland, Sewell & Associates, Inc.
24.1*	Power of Attorney (included on signature page).
99.1*	CONSOL Energy Inc. Equity Incentive Plan, as amended and restated effective May 11, 2016.

\* Filed herewith

**Item 9. Undertakings.**

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to the Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

*Provided, however,* that paragraphs (a)(1)(i) and (a)(1)(ii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 that is incorporated by reference in the Registration Statement shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

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**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Canonsburg, Commonwealth of Pennsylvania, on this 11th day of May, 2016.

CONSOL Energy Inc.

By: /s/ Nicholas J. DeIuliis  
 Nicholas J. DeIuliis  
 Chief Executive Officer, President and  
 Director

**POWER OF ATTORNEY**

Each of the undersigned directors and officers of CONSOL Energy Inc., a Delaware corporation, do hereby constitute and appoint Nicholas J. DeIuliis, David M. Khani, and Stephen W. Johnson, or any one of them, the undersigned's true and lawful attorneys and agents, with full power of substitution and resubstitution in each, to do any and all acts and things in our name and on our behalf in our respective capacities as directors and officers and to execute any and all instruments for us and in our names in the capacities indicated below, which said attorneys and agents, or either one of them, may deem necessary or advisable to enable said corporation to comply with the Securities Act, as amended, and any rules, regulations and requirements of the Securities and Exchange Commission, in connection with this registration statement, including specifically, but without limitation, power and authority to sign for us or any of us in our names in the capacities indicated below, any and all amendments (including post-effective amendments) hereto, and each of the undersigned does hereby ratify and confirm all that said attorneys and agents, or either one of them or any substitute, shall do or cause to be done by virtue hereof. This Power of Attorney may be executed in any number of counterparts.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<b>Signature</b>	<b>Title</b>	<b>Date</b>
/s/ Nicholas J. DeIuliis	Chief Executive Officer, President and Director	May 11, 2016
Nicholas J. DeIuliis	(Principal Executive Officer)	
/s/ David M. Khani	Chief Financial Officer and Executive Vice President	May 11, 2016
David M. Khani	(Principal Financial Officer)	
/s/ C. Kristopher Hagedorn	Controller and Vice President	May 11, 2016
C. Kristopher Hagedorn	(Principal Accounting Officer)	

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/s/ William N. Thorndike, Jr.	Chairman of the Board	May 11, 2016
William N. Thorndike, Jr.		
/s/ Alvin R. Carpenter	Director	May 11, 2016
Alvin R. Carpenter		
/s/ William E. Davis	Director	May 11, 2016
William E. Davis		
/s/ Maureen E. Lally-Green	Director	May 11, 2016
Maureen E. Lally-Green		

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<b>Signature</b>	<b>Title</b>	<b>Date</b>
/s/ Gregory A. Lanham Gregory A. Lanham	Director	May 11, 2016
/s/ Bernard Lanigan, Jr. Bernard Lanigan, Jr.	Director	May 11, 2016
/s/ John T. Mills John T. Mills	Director	May 11, 2016
/s/ Joseph P. Platt Joseph P. Platt	Director	May 11, 2016
/s/ William P. Powell William P. Powell	Director	May 11, 2016
/s/ Edwin S. Roberson Edwin S. Roberson	Director	May 11, 2016

**EXHIBIT INDEX**

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