

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
DUKE ENERGY OHIO, INC. FOR
RECONSIDERATION OF A DECISION BY
THE UNDERGROUND TECHNICAL
COMMITTEE.

CASE No. 20-1318-AU-UTC

ENTRY

Entered in the Journal on October 4, 2023

I. SUMMARY

{¶ 1} The Commission dismisses this case, with prejudice, where the parties have reached a full and comprehensive settlement of all issues raised in the application for reconsideration.

II. DISCUSSION

{¶ 2} Pursuant to Chapter 4913 of the Revised Code, the Commission has authority to enforce the Underground Utility Damage Prevention Law. Consistent with R.C. 3781.36, the Underground Technical Committee (UTC) is directed to coordinate with the Commission in carrying out its duties under Chapter 4913 and shall provide subject matter expertise when requested during inquiries conducted under R.C. 4913.09. Further, Ohio Adm.Code Chapter 4901:1-2 establishes rules regarding the UTC and the protection of underground utility facilities.

{¶ 3} Duke Energy Ohio, Inc. (Respondent) is a utility as defined in R.C. 4913.01 and R.C. 3781.25 and is therefore subject to the jurisdiction of the Commission.

{¶ 4} On February 25, 2020, Dave Coniglio, a contractor with the John R. Jurgensen Company (Complainant), filed a complaint with the UTC alleging that on December 7, 2019,

Complainant's excavation at 3540 Eden Road, Georgetown, Ohio, revealed that Respondent had violated R.C. 3781.29(A)(1).

{¶ 5} On June 30, 2020, the UTC determined that Respondent violated R.C. 3781.29(A)(1) and ordered Respondent to submit a process improvement plan within 30 days of its determination and to follow up on the plan's effectiveness subsequently. This determination of noncompliance was mailed to Respondent.

{¶ 6} Ohio Adm.Code 4901:1-2-15 provides that not later than 30 days after receiving notice pursuant to Ohio Adm.Code 4901:1-2-13, the person who requested the UTC inquiry or the Respondent may file a written application for reconsideration, stating with particularity the grounds for reconsideration.

{¶ 7} On July 28, 2020, Respondent filed a written application for reconsideration of the decision reached by the UTC on June 30, 2020.

{¶ 8} Ohio Adm.Code 4901:1-2-15(D) provides that, in all other respects, the procedural requirements set forth in Ohio Adm.Code 4901-1 et seq, shall apply to the reconsideration proceeding before the Commission.

{¶ 9} Ohio Adm.Code 4901:1-2-15(C) directs that Staff may respond within 30 days to a pending application for reconsideration. On August 20, 2020, Staff submitted various documents into the record.

{¶ 10} By Entry dated April 25, 2023, the attorney examiner scheduled a telephonic prehearing conference to be held on June 1, 2023. Present at the prehearing conference were Staff and the Respondent.

{¶ 11} On August 28, 2023, Respondent and Staff filed a joint motion to dismiss stating that the parties had reached a full settlement of the issues in this matter. Specifically, Respondent agreed to withdraw its application for reconsideration of the UTC's June 30, 2020, determination, and to submit the recommended process improvement plan within 60

days of the Commission's approval of the motion. The parties request that the Commission dismiss this case with prejudice.

{¶ 12} Upon review of the joint motion to dismiss, and the representation of the parties therein that the issues alleged in the application for reconsideration have been resolved, the Commission finds that the parties' motion to dismiss is reasonable and should be granted. Accordingly, this case should be dismissed with prejudice.

III. ORDER

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That the parties' joint motion to dismiss be granted, and that this application for reconsideration be dismissed with prejudice. It is, further,

{¶ 15} ORDERED, That Respondent comply with the terms of settlement described in Paragraph 11. It is, further,

{¶ 16} ORDERED, That a copy of this Entry be served upon all parties of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair
Lawrence K. Friedeman
Dennis P. Deters
John D. Williams

CRW/dr

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in

Case No(s). 20-1318-AU-UTC

Summary: Entry that the Commission dismisses this case, with prejudice, where the parties have reached a full and comprehensive settlement of all issues raised in the application for reconsideration electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio.