

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
MONTE CONSTRUCTION FOR
RECONSIDERATION OF A DECISION BY
THE UNDERGROUND TECHNICAL
COMMITTEE.

CASE No. 22-259-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 R.C. 4913, 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 R.C. 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} Monte Construction (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 November 15, 2021, Dominion Energy Ohio (Complainant) filed a complaint with the UTC alleging that Respondent had violated R.C. 3781.29(A)(1) on October 12, 2021.

{¶ 5} On February 3, 2022, the UTC determined that Respondent violated R.C. 3781.28(A). As a result, Respondent was ordered to complete mandatory training and submit documentation of training and attendance. 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, Complainant or Respondent may file a written application for reconsideration, stating with particularity the grounds for reconsideration.

{¶ 7} On March 24, 2022, Respondent filed a written application for reconsideration of the decision reached by the UTC on February 3, 2022.

{¶ 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 April 20, 2022, and April 21, 2022, Staff submitted various documents into the record.

{¶ 10} By Entry dated June 2, 2023, the attorney examiner scheduled a telephonic prehearing conference to be held on July 10, 2023. Present at the prehearing conference were Staff, Complainant, and Respondent.

{¶ 11} On August 28, 2023, Respondent and Staff filed a joint motion to dismiss stating that Respondent no longer wished to pursue its application for reconsideration. 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 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

JMD/mef

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in

Case No(s). 22-0259-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.