

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE PURSUANCE OF  
DEFAULTS IN ACCORDANCE WITH OHIO  
ADM.CODE 4901:1-2-14.

CASE No. 22-127-AU-UTC

## FINDING AND ORDER

Entered in the Journal on February 23, 2022

### I. SUMMARY

{¶ 1} In this Finding and Order, the Commission directs the identified respondent to pay the forfeiture amount indicated or demonstrate why it is not in default.

### II. APPLICABLE LAW

{¶ 2} R.C. 4913.09 authorizes the Staff of the Commission (Staff) to conduct an inquiry upon receiving a request by an aggrieved person made under R.C. 4913.05, which shall be limited to whether there was a compliance failure.

{¶ 3} R.C. 4913.13 authorizes the Staff to make a report of each such inquiry available to the underground technical committee.

{¶ 4} R.C. 4913.15 authorizes the underground technical committee to review every report and make a written recommendation to the Commission as to the imposition of a fine, a penalty, or a combination of fines and penalties, determine that no enforcement action should be taken and notify the Commission in writing of the determination, or request a hearing.

{¶ 5} Pursuant to Ohio Adm.Code 4901:1-2-13, within ten business days of receiving from the underground technical committee either a recommendation to impose a fine or penalty or a determination that no enforcement action should be taken, the Staff will serve upon the participants a letter notifying the participants of any fine or penalty or of a no-enforcement determination.

{¶ 6} R.C. 4913.22 requires that a person subject to a fine shall pay the fine not later than 60 days after the fine or penalty is imposed. A person subject to a penalty imposed under any of those sections or that division shall begin compliance with the penalty not later than 30 days after the penalty is imposed.

{¶ 7} Pursuant to R.C. 4913.25, if either the person that requested the inquiry or the person responsible for the compliance failure disagrees with either a finding or a no-enforcement determination made by the underground technical committee, either person may, not later than 30 days after receiving notice, file a written application with the Commission for reconsideration of the underground technical committee's finding.

{¶ 8} Pursuant to Ohio Adm.Code 4901:1-2-14, a respondent subject to a fine or penalty who fails within 60 days to pay the fine, who fails to begin compliance with the penalty within 30 days, or who fails to file an application for reconsideration within 30 days, shall be in default.

{¶ 9} A person responsible for a compliance failure in default shall be deemed to have admitted the occurrence of the violation and waived all further right to contest liability under R.C. Chapter 4913 for the fine or penalty set forth in the letter or to further contest the fine or penalty through a request for reconsideration. Ohio Adm.Code 4901:1-2-14.

{¶ 10} Pursuant to Ohio Adm.Code 4901:1-2-14, the attorney general, upon the written request of the Commission, shall bring a civil action in the court of common pleas of Franklin County to collect a fine or enforce a penalty assessed under this section.

### III. DISCUSSION

{¶ 11} The respondent listed in the attachment has been served with a letter in accordance with Ohio Adm.Code 4901:1-2-13 and has not: paid the fine indicated in the letter, complied with the penalty indicated in the letter, or filed a written application with the Commission for reconsideration of the underground technical committee's finding in

accordance with R.C. 4913.25. The respondent therefore is in default, pursuant to Ohio Adm.Code 4901:1-2-14, and is liable for the amount indicated in the attachment.

{¶ 12} Before the Commission forwards the attachment to the Ohio Attorney General's Office so that it may undertake further collection efforts against the identified respondent, the respondent will be granted a final opportunity to pay the civil forfeiture, comply with the penalty, or demonstrate why it is not in default. The respondent may serve upon Staff a response to this Finding and Order demonstrating that it was not properly served with the letter, it previously paid the civil forfeiture, it complied with the penalty, or it filed a written application for reconsideration within 30 days of receipt of the letter. This response shall be made by email to [DamagePrevention@puco.ohio.gov](mailto:DamagePrevention@puco.ohio.gov), by March 25, 2022.

{¶ 13} The Staff shall review the response, confer with the underground technical committee, and remove the case from this proceeding for which the respondent has demonstrated that it is not in default. After March 25, 2022, the Staff shall forward the respondent's name if it remains in default to the Ohio Attorney General, Collections Enforcement Section.

#### IV. ORDER

{¶ 14} It is, therefore,

{¶ 15} ORDERED, That by March 25, 2022, the respondent listed in the attachment to this Finding and Order pay the forfeiture amount indicated, comply with the penalty, or demonstrate why it is not in default. It is, further,

{¶ 16} ORDERED, That the Staff confer with the underground technical committee and remove from this proceeding the case if the respondent demonstrates that it is not in default. It is, further,

{¶ 17} ORDERED, That after March 25, 2022, the Staff submit the name of the respondent if it remains in default to the Ohio Attorney General, Collections Enforcement Section. It is, further,

{¶ 18} ORDERED, That a copy of this Finding and Order be served upon the respondent.

COMMISSIONERS:

*Approving:*

Jenifer French, Chair  
M. Beth Trombold  
Lawrence K. Friedeman  
Daniel R. Conway  
Dennis P. Deters

JRJ/mef

UTC Case Number	Account Name	Street Address	City	State	Zip	Fine Amount
20-00017	Payne Enterprises, Inc.	1219 Troy Street	Dayton	OH	45404	2500

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**Case No(s). 22-0127-AU-UTC**

Summary: Finding & Order directing the identified respondent to pay the forfeiture amount indicated or demonstrate why it is not in default electronically filed by Heather A. Chilcote on behalf of Public Utilities Commission of Ohio