

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 April 25, 2023

{¶ 1} 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.

{¶ 2} 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.

{¶ 3} 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).

{¶ 4} 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.

{¶ 5} 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.

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

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

{¶ 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} Pursuant to Ohio Adm.Code 4901-1-26, the attorney examiner finds that the parties should participate in a prehearing teleconference to discuss settlement of the matter and explore the parties' willingness to negotiate a resolution in lieu of an evidentiary hearing. All parties participating in the conference shall be prepared to discuss settlement of the issues raised and shall have authority to settle those issues.

{¶ 10} Accordingly, a settlement conference shall be held on June 1, 2023, at 10:00 a.m. The conference shall be held using remote access technology and the parties shall participate by dialing (614) 721-2972 and entering passcode 473194424# when prompted. In accordance with Ohio Adm.Code 4901-1-26, any statements made in an attempt to settle this matter without the need for an evidentiary hearing will not generally be admissible to prove liability or invalidity of a claim. As is the case in all applications for reconsideration of UTC decisions, the respondent has the burden of proving why the decision should be reconsidered.

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That the prehearing conference be scheduled for June 1, 2023, as discussed in Paragraph 10. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Clint R. White

By: Clint R. White
Attorney Examiner

PAS/dr

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in

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

Summary: Attorney Examiner Entry scheduling a telephonic prehearing conference for June 1, 2023, as discussed in Paragraph 10 electronically filed by Debbie S. Ryan on behalf of Clint R. White, Attorney Examiner, Public Utilities Commission.