



# Public Utilities Commission

Mike DeWine, Governor  
Jenifer French, Chair

## Commissioners

Daniel R. Conway  
Dennis P. Deters  
Lawrence K. Friedeman  
John D. Williams

May 1, 2023

To the Honorable Commission:

On April 28, 2023, Spectrum applied for reconsideration of a decision made by the Underground Technical Committee ("UTC") in UTC Case No. 00799404. The UTC determined Spectrum failed to comply with R.C. 3781.29(A)(1) which requires utilities to, within 48 hours of receiving notice, review the status of its facilities within an excavation site, to locate and mark its underground utility facilities at the excavation site in such a manner as to indicate their course and report the appropriate information to the protection service for its positive response system. Applications for reconsideration are described in R.C. 4913.25 and the process by which they are considered is described in the Ohio Administrative Code (OAC) 4901:1-2-15.

Staff conducted its inquiry into the alleged violation by Spectrum following the requirements of R.C. 4913.09 "Conduct of Inquiry" and R.C. 4913.13 "Reports of Inquiries". The UTC was provided with all information submitted by both Spectrum and the complainant Stat Communications obtained in response to Staff's inquiry.

All evidence used by the UTC to decide this case, a copy of the verdict letter documenting the UTC decision, and correspondence between Staff and Spectrum are included as attachments to this memorandum.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter A. Chace", with a long horizontal line extending to the right.

Peter A. Chace  
Chief, Facility Operations & Field Division  
Service Monitoring and Enforcement Department

## Request for Reconsideration

4/28/2023

PUCO Case 00799404

I, Frank Ward, Construction Supervisor for Spectrum, do hereby officially request a reconsideration of Case 00799404. The reason given was due to adverse weather conditions. After further research, a level 1 Snow Emergency had been issued on the evening of Jan 24<sup>th</sup>. There were Highway Shutdowns, Ice Storm Pending, and many of the Dayton areas Municipalities, Schools and Govt Buildings were to be closed on the day of Jan 25<sup>th</sup>. Wright Patterson AFB was closed as well due to the weather, with 5 inches of snow and over a half inch of freezing rain. With this were strong wind gusts over 30 MPH. Please take this into consideration. I am including some snippets of news articles from the 24<sup>th</sup> and 25<sup>th</sup> which prove this.

The excavator had been contacted by USIC that marking would be delayed.

USIC has been taking steps to mark facilities on time and their locating technicians go through extensive training. On this occasion, USIC had made the determination that in order to keep their employees and equipment safe, did not roll trucks on this day. Contacted the excavators with dig tickets, per the ORC.

CODE RED WEATHER: SNOW EMERGENCY in Miami Valley

by Dayton 24/7 Now | Wed, January 25th 2023, 4:55 AM EST



Dayton 24/7 Now



DAYTON, Ohio (WKEF) - Here's the latest **SNOW EMERGENCY** weather alerts for every county in the Miami Valley.

39.89 °N, 84.4 °W

## Vandalia, OH Weather History

59° JAMES M. COX DAYTON INTERNATIONAL AIRPORT STATION | CHANGE

TODAY

HOURLY

10-DAY

CALENDAR

HISTORY

WUNDERMAP

Daily

Weekly

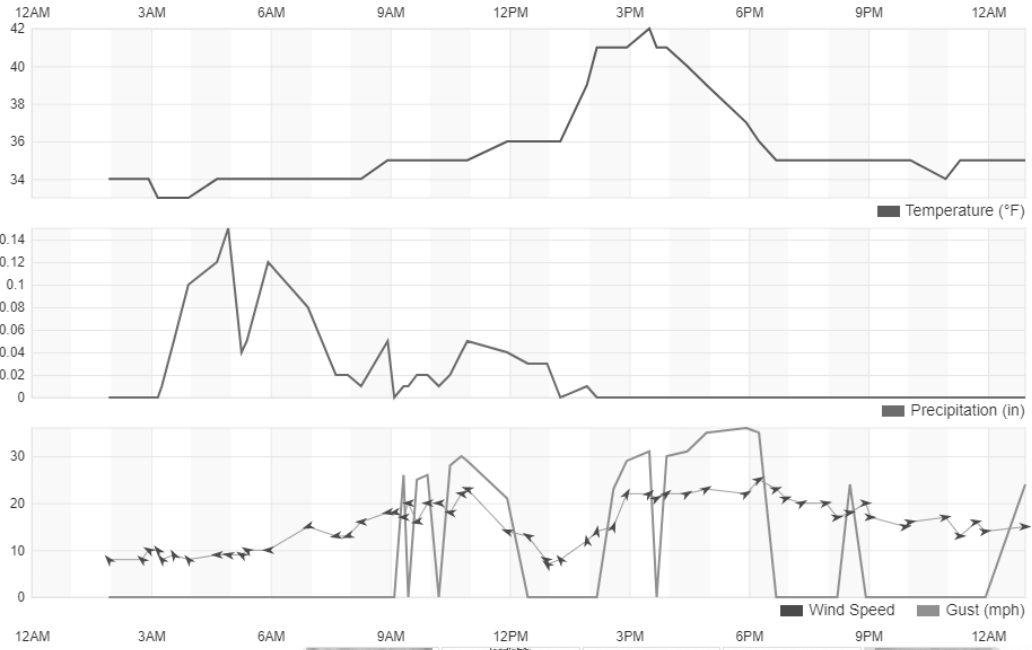
Monthly

January

25

2023

View



## January 2023 Dayton Weather

Day	High (°F)	Low (°F)	Precip. (inches)	Snow (inches)
January 1	53	38	0.00	0.0
January 2	59	49	0.00	0.0
January 3	63	57	0.37	0.0
January 4	62	40	0.00	0.0
January 5	47	35	0.00	0.0
January 6	37	30	0.00	0.0
January 7	41	24	0.00	0.0
January 8	44	24	0.00	0.0
January 9	41	24	0.00	0.0
January 10	43	31	0.00	0.0
January 11	50	33	0.01	0.0
January 12	50	37	0.86	0.0
January 13	37	29	0.01	0.0
January 14	34	23	0.00	0.0
January 15	40	19	0.00	0.0
January 16	47	26	0.24	0.0
January 17	59	40	0.02	0.0
January 18	43	38	0.46	0.0
January 19	61	38	0.45	0.0
January 20	38	33	0.00	0.0
January 21	34	28	0.00	0.0
January 22	35	27	0.40	4.0
January 23	34	27	0.02	0.3
January 24	39	25	0.00	0.0
January 25	42	33	0.67	5.0
January 26	35	22	0.05	0.5

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Jefferson Township Administrative Offices will be closed on Wednesday due to the weather. Staff will be working remotely and all emergency personnel will be on duty.

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UPDATE: Due to inclement weather, all Sinclair Community College campuses will open at noon on Wednesday, January 25, 2023. Any course that starts at noon or later will meet as scheduled.

All online courses delivered through eLearn (including those with scheduled meeting times) will meet as usual. Additionally, students and faculty should arrive at their clinical site on time.

Students are encouraged to log into eLearn and check their email for any additional information or guidance from their faculty, and to contact them via email if they have any questions or concerns.

If possible, Sinclair Community College employees will work from home/remotely during the delay.

In Moraine, the Payne Rec Center and Gerhardt Civic Center will open at 10 a.m. on January 25.

# REPORT OF INQUIRY

Case Number: 00799404  
Date Reported: 2/3/2023 10:15:01 AM

## COMPLAINANT

Thomas 'Tom' Donahue  
SURESHOT DIRECTIONAL  
BORING INC

## RESPONDENT

Frank Ward  
Time Warner Cable Information Service (Ohio), LLC

### Alleged Violations:

3781.29(A)(1) - Incorrect/Improper Marks - Utility failed to locate and mark facilities within 48 hours

### Compliance History:

\*Add\*

Date	Case Number	Violation(s)	Verdict Date	Verdict
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**Date of Alleged Violation**  
1/25/2023

**Address of Alleged Violation**  
636 High Ave, Russells Point, Ohio Zip Code 43348

# REPORT OF INQUIRY

Case Number: 00799404  
Date Reported: 2/3/2023 10:15:01 AM

## COMPLAINANT

Thomas 'Tom' Donahue  
SURESHOT DIRECTIONAL  
BORING INC

## RESPONDENT

Frank Ward  
Time Warner Cable Information Service (Ohio), LLC

### Ohio811 Ticket Number:

A302302024

### Description of Alleged Violation:

Positive Response was due at this location by Wednesday, January 25th 2023 by 1:38 pm. The location was not marked by Charter Comm until Thursday, January 26th 2023 at 10:38 am. Therefore, the positive response was late.

### Staff Notes:

*Nature, circumstance, and gravity information*





# Public Utilities Commission

Mike DeWine, Governor  
Jenifer French, Chair

## Commissioners

M. Beth Trombold  
Lawrence K. Friedeman  
Dennis P. Deters  
Daniel R. Conway

February 7, 2023

Frank Ward  
Time Warner Cable Information Service (Ohio), LLC  
10920 Kenwood Rd  
Cincinnati, Ohio 45242

Case Number: 00799404

A Request for Inquiry has been filed with the Public Utilities Commission of Ohio (PUCO) alleging that you or your company violated Ohio damage prevention law. Enclosed is a summary of the complaint filed against you. Please read it carefully.

You have until **March 9, 2023** to respond, in writing, to the PUCO. The following options are available to you:

1. Admission of the compliance failure. Your case file will be forwarded to the Underground Technical Committee (UTC) to determine if a fine and/or penalty is warranted.
2. Denial of the compliance failure. If you believe that you did not commit a compliance failure, please send us a written statement addressing the allegations and arrange to submit any other evidence you wish to be considered (e.g. OUPS ticket, pictures, etc.). Once all facts and evidence are collected, the case file will be forwarded to the UTC for a decision.
3. No Contest. If you do not wish to deny or admit to the compliance failure, you may choose to accept the decision that results from the process.

All correspondence should reference the Case Number above and can be emailed to:  
[DamagePrevention@puco.ohio.gov](mailto:DamagePrevention@puco.ohio.gov)

The decision of the UTC will be based solely on the information provided to PUCO Staff for the case file. Please provide all documentation and information that you believe to be important to the case so that the UTC can make a well informed decision. You may attend the UTC meeting when the case is decided; however, you will only be permitted to observe, thus information furnished must have sufficient explanations and stand on its own merits.

If you do not respond by the due date above, your case will still be forwarded to the UTC for a decision. If you would like a copy of the UTC meeting schedule or have questions about the enforcement process, please visit our website at [www.puco.ohio.gov](http://www.puco.ohio.gov) or contact the PUCO Call Center at (800) 686-7826, Option 4.

Sincerely,

Peter A. Chace, Chief  
Facility & Operations Field Division

Enclosure

**THE PUBLIC UTILITIES COMMISSION OF OHIO**  
**DAMAGE PREVENTION SECTION**

**COMPLAINT SUMMARY**

Case Number 00799404

Complainant Thomas 'Tom' Donahue

Company SURESHOT DIRECTIONAL BORING INC

Address 1189 RIDGE RD NE

City LANCASTER State Ohio Zip Code 43130

Respondent Frank Ward Title \_\_\_\_\_

Company Time Warner Cable Information Service (Ohio), LLC

Address 10920 Kenwood Rd

City Cincinnati State Ohio Zip Code 45242

Date of Alleged Violation 1/25/2023 12:00:00 AM

Location 636 High Ave

City Russells Point State Ohio Zip Code 43348

Twp \_\_\_\_\_ County Logan

**Code(s) Allegedly Violated:**

3781.29(A)(1) - Incorrect/Improper Marks - Utility failed to locate and mark facilities within 48 hours

**Description of Alleged Violation:**

Positive Response was due at this location by Wednesday, January 25th 2023 by 1:38 pm. The location was not marked by Charter Comm until Thursday, January 26th 2023 at 10:38 am. Therefore, the positive response was late.

THE PUBLIC UTILITIES COMMISSION OF OHIO  
DAMAGE PREVENTION SECTION

RESPONDENT RESPONSE

Case Number 00799404

Name Frank Ward Title Construction Supervisor  
Company Spectrum Cable  
Address 10920 Kenwood Rd  
City Cincinnati State Oh Zip Code 45242  
Preferred Contact Telephone Number \_\_\_\_\_  
Email Address frank.ward@charter.com

Would you prefer correspondence be sent via electronic mail? ☒ Yes ☐ No

**Please indicate whether or not you want to:**

☐ Admit to the compliance failure ☒ Deny the compliance failure ☐ Plead No Contest

**For the last 12 months please indicate:**

Number of locate requests received	<u>895399</u>	Number of excavations completed	_____
Number of locate requests responded to	_____	Number of one calls placed	_____
Number of design/development projects	_____		

Please provide a response to the allegations below.

Due to weather conditions, marks were not placed on 1/25/23. Wind and Ikey conditions were prevelent. It was marked on 1/26. This had been relayed to the excavator on that day via telephone.

Signature Frank Ward

Printed Name Frank Ward

If you have any documents that you would like to submit as evidence, please reference your Case Number in the subject line an email them to:

[DamagePrevention@puco.ohio.gov](mailto:DamagePrevention@puco.ohio.gov)

If you have questions regarding the process, please visit our website at [www.puco.ohio.gov](http://www.puco.ohio.gov) or contact our Call Center at (800) 686-7826, Option 4.

**Ticket A302302024-00A**  
**3/8/2023 8:22 AM by kareyf**

**OUPS/OUPSA**  
**Page 1**

MBRCOD 00001 OUPSa 01/23/23 13:38:07 A302302024-00A ROUT NEW POLY LREQ

Ticket : A302302024 Rev: 00A Taken: 01/23/23 01:38 PM Channel: OPR  
Old Tkt: A302302024 Taken: 01/23/23 01:34 PM

State: OH Cnty: LOGAN Place: RUSSELLS POINT  
Subdivsn:  
Lot nbrs:

Address : 636 Street: HIGH AVE  
Cross 1 : E AIKEN ST Intersection: N  
Cross 2 : Between: N  
Rail/Hwy: Milemarker(s):  
Where : ENTIRE PROPERTY AND A 25 FT RADIUS OF THE ELECTRIC TEMP LINE ON THE  
: GROUND  
: FARTHEST POINT OFF ROAD: 200 FT WEST  
: DISTANCE FROM CROSS STREET: NORTH OF  
: PLEASE MARK ALL MAIN AND SERVICES WITH PAINT AND FLAGS

WorkType: UG UTILITIES INSTALLATION  
Done for:  
Done by :  
Whitelined: N Blasting: N  
Means of Excavation: HYDRO VAC AND DIRECTIONAL DRILL

Work date: 01/25/23 01:38 PM Meet: N  
Start by : 02/06/23 01:38 PM Response Due: 01/25/23 01:38 PM

GPS lat : GPS long:  
Best Fit: 40.464870/-83.896456 40.465494/-83.895230  
: 40.463495/-83.895756 40.464119/-83.894530

Where :

Caller : AMANDA WEYAND Phone: 330-212-6617 Ext:  
Company : SURESHOT DIRECTIONAL BORING Type: CONT  
Co addr : 640 S MAPLE ST  
Co addr2:  
City : LANCASTER St: OH Zip: 43130  
Alt Tel#: 740-689-1221 Ext:  
Fax :  
Alt cont: SAME AS ABOVE Phone: Ext:  
Email: CUSTOMERSERVICE@SURESHOTBORING.COM

Grids : 4027300835330

Polygon : 40.464331/-83.894691 40.464224/-83.894705  
: 40.464121/-83.894746 40.464026/-83.894812  
: 40.463942/-83.894901 40.463874/-83.895010  
: 40.463823/-83.895135 40.463792/-83.895270

Ticket A302302024-00A  
3/8/2023 8:22 AM by kareyf

OUPS/OUPSA  
Page 2

: 40.463782/-83.895410 40.463792/-83.895550  
: 40.463823/-83.895685 40.463874/-83.895809  
: 40.463942/-83.895918 40.464026/-83.896008  
: 40.464121/-83.896074 40.464224/-83.896115  
: 40.464305/-83.896126 40.464382/-83.896199  
: 40.464480/-83.896257 40.464585/-83.896290  
: 40.464693/-83.896295 40.464799/-83.896272  
: 40.464900/-83.896223 40.464992/-83.896147  
: 40.465071/-83.896051 40.465134/-83.895937  
: 40.465179/-83.895809 40.465203/-83.895671  
: 40.465207/-83.895531 40.465190/-83.895391  
: 40.465152/-83.895259 40.465095/-83.895140  
: 40.465022/-83.895036 40.464935/-83.894954  
: 40.464837/-83.894896 40.464681/-83.894861  
: 40.464541/-83.894746 40.464438/-83.894705  
: 40.464331/-83.894691

Members:

BSDP	=BRIGHTSPEED (USIC)	DPL	=AES OHIO (FORMERLY DAYTON POWE
LWP	=LOGAN COUNTY WATER POLLUTION C	RPW	=RUSSELL POINT - VILLAGE OF
VEBP	=CENTERPOINT ENERGY / GRIDHAWK	WCOP	=CHARTER COMM(SPECTRUM/TIME WAR

RESPONSES:

Member	Response	Responded	SysID
BSDP	999	01/25/2023 01:38:01 PM	A
BSDP	001	01/26/2023 10:38:59 AM	B
DPL	004	01/25/2023 09:36:01 AM	B
DPL	001	01/26/2023 10:38:48 AM	B
LWP	002	01/25/2023 09:55:40 AM	B
RPW	002	01/24/2023 07:58:04 AM	A
VEBP	001	01/24/2023 12:14:33 PM	A
WCOP	004	01/25/2023 09:36:01 AM	B
WCOP	001	01/26/2023 10:38:48 AM	B



**This foregoing document was electronically filed with the Public Utilities  
Commission of Ohio Docketing Information System on**

**5/1/2023 3:06:36 PM**

**in**

**Case No(s). 23-0490-AU-UTC**

Summary: Application Application for Reconsideration and supporting  
documentation. electronically filed by Mr. Peter A. Chace on behalf of Public  
Utilities Commission of Ohio.