

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

CASE No. 23-490-AU-UTC

ENTRY

Entered in the Journal on May 22, 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} Spectrum (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 3, 2023, Thomas Donahue, an employee of Sureshot Directional Boring, Inc. (Complainant), filed a complaint with the UTC alleging that Respondent had violated R.C. 3781.29(A)(1) on January 25, 2023.

{¶ 4} On April 12, 2023, UTC determined that Respondent violated R.C. 3781.29(A)(1) and ordered Respondent to pay a fine of \$1,000. 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 April 28, 2023, Respondent filed a written application for reconsideration of the decision reached by the UTC on April 12, 2023.

{¶ 7} Ohio Adm.Code 4901:1-2-15(C) directs Staff to respond within 30 days to a pending application for reconsideration. On May 1, 2023, Staff submitted various documents into the record, supplementing the record on May 12, 2023.

{¶ 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 July 25, 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 574374409# 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 July 23, 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

MJA/dmh

**This foregoing document was electronically filed with the Public Utilities
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in

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

Summary: Attorney Examiner Entry that a settlement conference shall be held on July 25, 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 574374409# when prompted electronically filed by Ms. Donielle M. Hunter on behalf of Clint R. White, Attorney Examiner, Public Utilities Commission of Ohio.