

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
H.M. MILLER CONSTRUCTION CO. FOR
RECONSIDERATION OF A DECISION BY
THE UNDERGROUND TECHNICAL
COMMITTEE.

CASE NO. 17-1233-AU-UTC

ENTRY

Entered in the Journal on June 2, 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} H.M. Miller Construction Co. (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} Previously, in UTC Case No. 16-00024, the UTC determined that Respondent violated R.C. 3781.30(B)(3) and ordered Respondent to pay a fine. This determination of noncompliance was mailed to Respondent.

{¶ 4} 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.

{¶ 5} On May 10, 2017, Respondent filed a written application for reconsideration of the decision reached by the UTC, resulting in the matter being assigned to this case docket.

{¶ 6} Ohio Adm.Code 4901:1-2-15(C) states Staff may respond within 30 days to a pending application for reconsideration. On June 9, 2017, Staff filed a motion for waiver owing to the novelty of the case and its need for more time to formulate a response. By Entry issued June 9, 2017, the attorney examiner granted Staff's unopposed motion.

{¶ 7} 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.

{¶ 8} 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.

{¶ 9} Accordingly, a settlement conference shall be held on July 6, 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 867523927# 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.

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That the prehearing conference be scheduled for July 6, 2023, as discussed in Paragraph 9. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Jesse M. Davis

By: Jesse M. Davis
Attorney Examiner

JSA/dmh

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

6/2/2023 4:29:59 PM

in

Case No(s). 17-1233-AU-UTC

Summary: Attorney Examiner Entry that a settlement conference shall be held on July 6, 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 867523927# when prompted electronically filed by Ms. Donielle M. Hunter on behalf of Jesse M. Davis, Administrative Law Judge, Ohio Power Siting Board.