

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 November 30, 2023

I. SUMMARY

{¶ 1} The Commission closes this case, where the parties have reached a full and comprehensive settlement of the issues raised in the application for reconsideration.

II. DISCUSSION

{¶ 2} 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.

{¶ 3} 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.

{¶ 4} 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.

{¶ 5} On April 12, 2023, the 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.

{¶ 6} 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.

{¶ 7} On April 28, 2023, Respondent filed a written application for reconsideration of the decision reached by the UTC on April 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} 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.

{¶ 10} By Entry dated May 22, 2023, the attorney examiner scheduled a telephonic prehearing conference to be held on July 25, 2023. Present at the prehearing conference were Staff and the Respondent.

{¶ 11} On September 22, 2023, Respondent and Staff filed a joint motion to modify the UTC's findings and recommendations. The joint motion asks the Commission to modify the UTC's April 12, 2023 finding and recommendation to conclude: (a) Spectrum did not violate or fail to comply with R.C. 3781.29(A)(1), (b) UTC should not impose any monetary penalty, and (c) UTC will not pursue any other enforcement actions regarding UTC Case No. 00799404. The parties also recommend that the allegations underlying the April 12, 2023 finding and recommendation will not be included on Spectrum's one-call history or compliance history. Finally, the parties ask that this case be closed.

{¶ 12} Upon review of the joint motion, the Commission finds that the motion is reasonable and should be granted. Accordingly, the April 12, 2023 finding and recommendation should be modified as described in Paragraph 11 and this case should be closed of record.

III. ORDER

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That the parties' joint motion to modify the April 12, 2023 finding and recommendation in accordance with Paragraph 11 above be granted, and that this case be closed of record. It is, further,

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

COMMISSIONERS:

Approving:

Jenifer French, Chair
Daniel R. Conway
Lawrence K. Friedeman
Dennis P. Deters
John D. Williams

CRW/dr

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in

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

Summary: Entry that the Commission closes this case, where the parties have reached a full and comprehensive settlement of the issues raised in the application for reconsideration electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio.