



State of California – A Natural Resources Agency

OFFICE OF ENERGY INFRASTRUCTURE SAFETY
UNDERGROUND SAFETY BOARD
715 P Street, 20th Floor | Sacramento, CA 95814
916.902.6000 | www.energysafety.ca.gov

Marjorie Del Toro, Chair

May 6, 2022

NOTICE OF PROBABLE VIOLATION

Charter Communications
12405 Powerscourt Drive
Saint Louis, MO 63131

Agent For Service Company Which will do Business in California as
CSC – Lawyers Incorporating Service
251 Little Falls Drive
Wilmington, DE 19808

Case No.: 22LA01484

Address/Location of Violation: Noble Creek Park, Beaumont, CA 92223

Date/Time of Violation: January 10-11, 2022

Dear Sir or Madam:

You are receiving this Notice of Probable Violation (Notice) as a result of an investigation pursuant to Government Code sections 4216 *et seq.* The California Underground Safety Board (Board) investigator has concluded an investigation of an incident on January 10-11, 2022, in Beaumont, and found that there is a probable violation of Article 2 of Chapter 3.1 of Division 5 of Title 1 of the California Government Code. The probable violation is:

- 4216.3 (a) (1) Unless the excavator and operator mutually agree to a later start date and time, or (A) otherwise agree to the sequence and timeframe in which the operator will locate and field mark, an operator shall do one of the following before the legal excavation start date and time: (i) locate and field mark within the area delineated for excavation and, where multiple subsurface installations of the same type are known to exist together, mark the number of subsurface installations, (ii) to the extent and degree of accuracy that the information is available, provide information to an excavator where the operator's active or inactive subsurface installations are located, or (iii) advise the excavator it operates no subsurface installations in the area delineated for excavation.

On January 5, 2022, Merlin Johnson Construction was issued ticket B220050037-00B by DigAlert. Spectrum, a brand of Charter Communications, did not confirm that it did not have subsurface installations in the excavation area until January 11, 2022, after the legal excavation start date and time of January 10, 2022, in violation of Government Code Section 4216.3 (a)(1)(A).

Hearing

The Board will hear and vote on your case at its next public meeting on July 11, 2022, at 1:00 p.m. in Sacramento.

During the meeting, the Board will review and consider the Investigation Report and exhibits, this Notice, and any other explanation or records you submit, and the Board will determine whether a violation exists and whether the penalty (such as corrective action, education course, or monetary penalty) proposed by the Board investigator is appropriate. At this meeting, you may contest the violation, proposed penalty noted in the below section, and any new or adjusted penalty issued during the meeting by the Board. This will be your only opportunity to contest the violation and any penalty.

Should the Board determine that a violation occurred, the Board will make a final determination on your case with either the proposed penalty below, or a new or adjusted penalty.

The Board will notify you of its final determination following its public meeting.

Proposed Penalty

Any penalties provided in this Notice, including corrective actions, are only proposals by Board investigator and do not require any corrective action or payment at this time. The Board will provide the final determination to and instructions for any penalty after the above-referenced public meeting.

Pursuant to Government Code section 4216.6, violation of Government Code, Title 1, Article 2, Chapter 3.1, Division 5 (Sections 4216 *et seq.*) may be subject to a maximum penalty of \$10,000 for negligent violation, or \$50,000 for knowing and willful violation. Knowing and willful violation of Article 2 that results in damage to a gas or hazardous liquid pipeline subsurface installation and that results in the escape of any flammable, toxic, or corrosive gas or liquid may be subject to a maximum penalty of \$100,000.

The Board investigator is recommending the below corrective action and penalty:

Mandatory completion of the Underground Safety Board's education course is being imposed. Please see <https://energysafety.ca.gov/what-we-do/underground-safety-board/education-course/> for more information.

The proposed sanction is merited, as Spectrum did not respond to the excavator until after the excavator made a "no response" notification to the one-call center. Corrective action is available, as the violation did not cause death or substantial injury, environment or property damage and the respondent doesn't have a history of similar violations.

Response to this Notice

Enclosed as part of this Notice is a document titled *RESPONSE TO A NOTICE OF PROBABLE VIOLATION*. Please carefully review this document and note the response options. All material you submit in response to this enforcement action are subject to public disclosure.

You have 30 business days from the date of this Notice to submit your written response to the Board. Your response to this notice must be received by the Board no later than June 20, 2022.

If you do not respond within 30 business days, this constitutes a waiver of your right to contest the Board's final determination on whether there is a probable violation and to impose a penalty in this case.

Sincerely,

Jason Corsey

Jason Corsey
Chief of Investigations

Proposed hearing date: July 11, 2022