



May 6, 2022

NOTICE OF PROBABLE VIOLATION

AT&T California
1414 Blue Ridge Trail
Waunakee, WI 53597

Agent For Service of Process
CT Corporation System
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

Case No.: 21SA01472

Address/Location of Violation: 333 Sierra St., Kingsburg, CA 93631

Date/Time of Violation: July 15, 2021

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 July 15, 2021, in Kingsburg, 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 violations are:

- 4216.3 (a) (1) Unless the excavator and operator mutually agree to a later start date and time, or 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.
- (A)

Swinerton Builders requested ticket W111700318-00W on April 27, 2021, for 333 Sierra Street in Kingsburg, with a legal start date and time of April 29 at 5:01 p.m. AT&T responded with "(080) EXTRAORDINARY CIRCUMSTANCES EXIST - NO LOCATE DUE TO WEATHER/EMERGENCY/SAFETY CONDITIONS" prior to 5:00 p.m. on the due date, then followed up with "(001) CLEAR - NO CONFLICT" 5:16 p.m., after the legal start time, in violation of Government Code Section 4216.3

(a)(1)(A). Bill Nelson Construction requested ticket X114000542-00X on May 20, 2021, with a legal start date and time of on May 24 at 5:01 p.m. AT&T did not respond until the morning of May 26, 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:

A financial penalty, the amount of which is to be determined by the Board, is being recommended at this time.

The proposed sanction is merited, as AT&T was in violation of Government Code Section 4216.3(a)(1)(A) on two separate occasions, one of which was the result of a response two days after the legal excavation start date. While AT&T cooperated with the investigation and the violation did not result in substantial injury or environment or property damage, a financial penalty is warranted as AT&T has a history of similar violations, as identified in the Board's Decision in the Matter of AT&T on September 14, 2020.

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