

California Underground Facilities Safe Excavation Board

In the Matter of
Frontier Communications,
Respondent

Case No. 22LA01484

DECISION REGARDING NOTICE OF PROBABLE VIOLATION(S)

On July 11, 2022, The Office of Energy Infrastructure Safety, California Underground Facilities Safe Excavation Board (the "Board") considered Case # 22LA01484. Frontier Communications ("Respondent") was issued a Notice of Probable Violation on May 06, 2022. Respondent answered the Notice of Probable Violation with a written explanation.

Board members Bianchini, Del Toro, Johns, Munoz, and Voss participated in the decision. Board members Charland and Johnson recused themselves and did not participate in the decision.

FINDINGS

Having considered the investigation report and the Respondent's written explanation, the Board finds that a violation of Title 1, division 5, chapter 3.2, article 2 of the California Government Code¹ (the "Dig Safe" law) sections 4216.3(a)(1)(A) and 4216.3(c)(1)(A) occurred.

The Board finds that an order directing Respondent to pay a financial penalty and take the Board's education course is an appropriate sanction.

VIOLATION SUMMARY

Respondent failed to timely respond to a locate-and-mark request.

Respondent failed to provide a required operator response before the legal excavation start date and time pursuant to section 4216.3(a)(1)(A).

Respondent failed to timely supply an electronic positive response.

Respondent failed to provide an accurate electronic positive response through the regional call center before the legal excavation start date and time pursuant to 4216.3(c)(1)(A).

¹ All further statutory references are to the Government Code unless otherwise indicated.

JURISDICTION

The Board is the appropriate enforcement authority.

Section 4216.6(e) authorizes the Board to enforce provisions of the Dig Safe law on persons such as Respondent that are not under the jurisdiction of other enforcement agencies as listed in subdivisions (c) or (d) of section 4216.6.

SANCTIONS

The Board Orders Respondent to pay a financial penalty of \$5000 (five-thousand dollars) and take the Board's education course.

Section 4216.19(e) provides that sanctions shall be graduated and may include notification and information letters, direction to attend relevant education, and financial penalties. The following factors were considered relevant to this sanction determination:

- Respondent did not respond to the excavator until after the excavator made a "no response" notification to the one-call center.
- Respondent provided incorrect electronic positive responses.
- Respondent failed to cooperate with the investigation.
- The violation did not result in substantial injury or environment or property damage.
- Respondent does not have a history of similar violations before the Board.

/s/ Marjorie Del Toro
Marjorie Del Toro, Chair

Date: August 8, 2022