

California Underground Facilities Safe Excavation Board

In the Matter of
AT&T California,
Respondent

Case No. 21SA01472

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 # 21SA01472. AT&T California ("Respondent") was issued a Notice of Probable Violation (NOPV) on May 06, 2022, with an answer due June 20, 2022, 30 business days after the date of the NOPV. Respondent answered the Notice of Probable Violation with a letter that was received by the Board on July 5, 2022. Pursuant to Title 19 California Code of Regulations, division 4, section 4252(a), failure to respond within 30 business days constitutes a waiver of Respondent's right to appeal the Board's decision.

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, 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) section 4216.3(a)(1)(A) occurred.

The Board finds that an order directing Respondent to pay a financial penalty of \$1000 (one-thousand dollars) 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).

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

Respondent is ordered to pay a financial penalty of \$1000 (one-thousand dollars) and to 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 the sanction determination:

- Respondent violated 4216.3(a)(1)(A) on two occasions during this incident.
- Respondent has a history of similar violations before the Board (see the Board's Decision in the Matter of AT&T on September 14, 2020).
- Respondent cooperated with the investigation.
- The violations did not result in death or substantial injury or environment or property damage.

/s/ Marjorie Del Toro
Marjorie Del Toro, Chair

Date: August 8, 2022