



Response Draft

June 20, 2023

VIA E-MAIL

enforcement.dig@energysafey.ca.gov

Dear Sir / Madam:

Please confirm receipt of this email and attachment at your earliest convenience.

We are writing in connection with Case No. D223400004. Pursuant to the CONTEST IN WRITING option, please see the response attached.

Please note that Pacific Bell Telephone Company dba/AT&T California new contact information is written below. Please update your records with the following:

Paul Bagneschi
4051 Newton Road
Stockton, California 95205
650-703-1616

pb1419@att.com



June 20, 2023

Office of Energy Infrastructure Safety
Underground Safety Board
715 P Street 20th Floor
Sacramento, CA 95814

Re: Case Number D223400004

RESPONSE TO NOTICE OF PROBABLE VIOLATION CONTEST IN WRITING

TO: California Underground Safety Board:

We are writing in connection with Case Number D223400004 and the Notice of Probable Violation dated May 10, 2023, issued by the Underground Safety Board ("Board"), please find a copy of the Notice of Probable Violation ("NPOV") attached for your convenience.¹

Pursuant to the response instructions, that document is attached with the "Contest in Writing" option checked.² Please note that A&T also wishes to reserve all appeal rights before the Board and Enforcement Agency, if necessary.

AT&T has investigated the NPOV and wishes to include AT&T's understanding of the events in the record of this Board.

Our understanding of the facts surrounding the April 29, 2021, violation, Ticket Number W111700318, are as follows:

On December 6, 2022, Sacramento County Regional Parks was conducting stump grinding activities on county land at approximately 11:00 a.m. when they struck a subsurface facility at which time an investigation was open by the Board.

On January 11, 2023, an email was sent to 12 operators including AT&T requesting that the operators determine whether they owned the facility were damaged by Sacramento County Regional Parks.

AT& Transmission and Pacific Bell Telephone Company, two separately run companies that were notified in one email, responded "this is not a AT&T /T line, "but did not state how they came to that Determination."

¹ Exhibit A: *Notice of Probable Violation; May 10, 2023*

² Exhibit B: *Response to a Notice of Probable Violation*



The Notice of Probable Violation indicates that the California Underground Safety Board investigator concluded that the violation occurred on December 6, 2022, at approximately 3860 Branch Center Road in grassy strip between residential area and gravel yard directly behind residences on Moonbeam Drive.

Cal. Code Regs., title 19, § 4151(c): Refusal to cooperate with the investigation

The Notice of Probable Violation states: "On January 11, 2023, the investigator emailed an information request letter to AT&T /Pacbell requesting that AT&T/ Pacbell determine whether they owned the facility struck by Sacramento County Regional Parks and for AT&T /Pacbell to state how they came to that determination.

AT&T/Pacbell responded "this is not a AT&T /T line," but did not state how they came to that determination."

Even though two separate emails should have been sent to AT&T Transmission and Pacific Bell, AT&T did respond to the request for information. There was an error in response by not including the reason why the line does not belong to AT&T Transmission or Pacific Bell, AT&T has voluntarily provided additional training of management employees and training to additional employees in the network organization.

AT&T notes that there were responses from other companies that were also incomplete that have not been served with an NOPV:

- In the communication from Comcast, it was stated that the cable appeared to be a 12-wire sprinkler irrigation cable that should belong to the homeowner.
- MCI Worldcom/Verizon did not respond at all.
- SMUD responded that they thought the pictures showed a six pair underground phone line, but they did not respond as to whether the facilities were theirs, so they did not respond to both parts of your request for information. Since a communication provider (Comcast) thought that the cable might be related to irrigation, there should have been enough doubt about what type of facility was present to follow up with SMUD to completely verify that the facilities did not belong to them.
- The Air Force (AF) responded that "It is not an AF utility. The utility damaged is unknown to us." The initial response from the AF was 002 – CLEAR NO CONFLICT BUT PRIVATELY OWNED UTILITY ON PORPERTY, but the AF stated that the response should have been 001 – CLEAR NO CONFLICT. The AF response was similar to AT&T's response. The AF responded that there was no conflict, but the AF did not state why there was no conflict.

It would be unfair for the California Underground Safety Board to find a violation against AT&T unless all parties who either did not reply or who did not completely reply are treated in the same manner.

AT&T wishes to contest the violation and the penalty with explanations about the circumstances surrounding the incident. We respectfully request that the Board review and carefully consider the



information herein at the public meeting on July 10, 2023, or the next public meeting where a quorum is present, prior to making any determination with respect to the violations, corrective action, or financial penalty.

The Notice of Probable Violation states that “Board staff are recommending the below corrective action and penalty:”

1. Mandatory completion of the Underground Safety Board’s education course. - At the time of this writing, the employees have been trained and additional employees have been put in place.

2. A financial penalty, the amount to be determined by the Board. – AT&T respectfully requests that any financial penalty be waived for several reasons:

- 1) AT&T Transmission and Pacific Bell Telephone Company are two separate entities, and notices should have been separately to each entity.
- 2) the additional employees have been put in place and trained; and
- 3) that other companies who were not served an NOPV did not completely respond to the request for information.

AT&T did not knowingly or willfully refuse to cooperate with the investigation and violate **Cal. Code Regs., title 19, § 4151(c)**.

AT&T is implementing procedures that will increase supervision and oversight of network employees to ensure full compliance going forward and has added employees to ensure training is ongoing.

Sincerely,

Paul Bagneschi