



November 21, 2024

**VIA ELECTRONIC DELIVERY TO:** enforcement.dig@energysafety.ca.gov

Office of Energy Infrastructure Safety  
Brittney Branaman, Acting Executive Officer  
Underground Safety Board  
715 P Street, 20<sup>th</sup> Floor  
Sacramento, CA 95814

**Re:** Case No: D22343O002  
Address: 1990 Diamond Street, San Francisco, CA 94131

Dear Ms. Branaman,

Comcast of Northern California (“Comcast”) is in receipt of the Notice of Probable Violation (“NOPV”) dated October 18, 2024, issued by the Office of Energy Infrastructure Safety (“OEIS”) in the above-referenced matter. Comcast reserves all rights in connection with the NOPV.

The NOPV concerns an incident that occurred on December 9, 2022 near 1990 Diamond Street in San Francisco. The NOPV alleges that Comcast failed to locate and field mark subsurface installations in violation of Government Code Section 4216.3(a)(1)(A); failed to remark subsurface installations prior to the legal excavation start date and time in violation of Government Code Section 4216(b); and refused to cooperate with the investigation in violation of California Code of Regulations, title 19, Section 4151(c). We plead “**No Contest**,” but for the reasons discussed below, we urge the OEIS to impose only a training requirement and not to impose a monetary penalty.

While the initial investigation conducted by Comcast’s contractor that evaluates outside plant damage (Project Resources Group) concluded that our facilities were not properly marked by our locate vendor (Utiliquet), a subsequent comprehensive investigation by Utiliquet determined that (1) the digging occurred more than 300 feet outside of the marked area and (2) Utiliquet had properly marked the area that was delineated by the excavator prior to the legal start date of the ticket. We recognize that these conflicting reports may have caused confusion and since the time of the alleged incident in 2022, Comcast has been working with its contractors to improve communications and processes to prevent inconsistent reporting.

These conflicting reports also may have led to a misunderstanding between Comcast representatives and OEIS’s investigator. While Comcast believes it cooperated with the investigator, Comcast recognizes that there were issues surrounding the investigation, but we do not agree that we “knowingly misrepresented” information to the investigator or that there was a “refusal to cooperate [that] obstructed the investigation.”



As noted above, we believe our facilities were properly marked and that the excavation occurred outside the area the excavator identified for marking on the ticket. That said, in light of the conflicting reports from Comcast's vendors and the potential misunderstanding these conflicting reports caused with OEIS's investigator, we conclude that it is appropriate to plead "**No Contest**" to the NOPV."

Comcast does not believe financial penalties are warranted and respectfully requests that the Board does not issue a fine, or in the alternative, Comcast requests the fine not exceed \$1,000. Comcast remains committed to underground safety and agrees to complete the Board's education course. Comcast has contacted OEIS to schedule the course.

Comcast believes the corrective action and improved communications and processes with its contractors will prevent future incidents. Thank you for your consideration of this matter.

Sincerely,

Matt Silvey

Director, Network Maintenance



## RESPONSE TO A NOTICE OF PROBABLE VIOLATION

**Case Number:** D223430002

**Name:** Comcast- Northern California

The provisions of California Code of Regulations, Title 19, Division 4, Chapter 3, governs the Notice of Probable Violation (Notice) proceeding before the California Underground Safety Board (Board). Specifically, 19 CCR § 4252 provides your response options upon the receipt of a Notice.

Be advised that all material submitted by you in response to a Notice are subject to public disclosure.

Please select from one of the response options listed below. You have 30 business days to submit your written response to the Underground Safety Board. Failure to submit a written response will be considered by the Board as a "No Contest" response. Please attach this form with your selection to your response. If you choose "Contest in Writing" or "Contest in Writing and Request Informal Hearing," please also include your written explanation and any documents that may be referenced in your written explanation or informal hearing. For all options, with the exception of an Office of Administrative Law hearing, Board investigators may present the basis for your probable violation on the date of the public meeting as provided in your Notice, the Board will review your case, and Board members will vote to determine whether a probable violation exists and issue a penalty at the meeting.

### Response Options

**No Contest**

You do not contest the violations or the penalty. If you choose to not contest the violations or the penalty, you will waive your right to request the Board to reconsider its decision or recommendation issued.

**Contest in Writing**

You wish to contest either the violation, the penalty, or both by providing the Board with written explanations and other records supporting the explanation. You will submit the written explanations and records, if any, with your written response within 30 business days of receiving this Notice. Your response must not exceed 10 pages (excluding exhibits) in length and must be on 8.5" x 11" white paper, double-spaced, and in a font size no smaller than 11-point. You must submit the original and 12 physical copies of the written explanation and records to the address below or submit one (1) copy electronically to [enforcement.dig@energysafety.ca.gov](mailto:enforcement.dig@energysafety.ca.gov). You may request an extension to the page limit by submitting a request to the Board staff within 5 days of receiving this Notice. The Board staff will notify you of its determination with respect to the page limit extension request, within 10 days of you submitting the request. The Board will review and vote on your case on the date of the public meeting provided in the Notice.

**\_\_\_ Contest in Writing and Request Informal Hearing**

You wish to contest either the violation, the penalty, or both with oral argument at an informal hearing during a public Board meeting. You will submit with your written response, written explanations, information, or other materials you wish to reference in your oral hearing. Your response must not exceed 10 pages (excluding exhibits) in length and must be on 8.5" x 11" white paper, double-spaced, and in a font size no smaller than 11-point. You must submit the original and 12 physical copies of the written explanation and records to the address below or submit one (1) copy electronically to [enforcement.dig@energysafety.ca.gov](mailto:enforcement.dig@energysafety.ca.gov).

Your hearing would be during the public meeting noted in the Notice, on December 9, 2024, 1:00 p.m. The location of the meeting will be in Sacramento.

Warren Alquist State Energy Building  
Rosenfeld Hearing Room  
1516 9th Street  
Sacramento, CA 95814

Please note that your oral hearing may not start exactly at the time provided as there may be multiple hearing during one Board meeting. You may request to reschedule your hearing no later than 15 business days from your hearing date. Your request to reschedule a hearing may be granted no more than once and only for good cause.

You may participate in person or through a virtual meeting platform. You will have 15 minutes to present your reasons for contesting the allegation or reasons that may support a modification or elimination of the penalty or corrective action. During your hearing, conducted pursuant to Section 4253 of Title 19 of the California Code of Regulations, Board investigators may present the basis for your Notice of Probable Violation. You will be granted up to 15 minutes to respond to the Notice and up to 5 minutes to respond to any Board staff rebuttal. You may arrange, at your expense, for a stenographer or court reporter to transcribe the informal hearing. You must provide a copy of any transcription to the Board.

The Board will issue a decision at;

- The informal hearing;
- Thereafter within 45 business days of the informal hearing; or
- At a subsequent Board public meeting where a quorum of the Board is present.

The Board will adopt the issued written decision at the hearing or a subsequent public meeting. The Board's decision is effective upon the adoption of the written decision.

**\_\_\_ Request A Formal Hearing Before the Office of Administrative Law**

You wish to contest either the violation, the penalty, or both in a hearing before the Office of Administrative Law rather than before the Board. The hearing shall be conducted pursuant to chapters 4.5 and 5 of part 1 of division 3 of title 2 of the Government Code (commencing with sections 11400 and 11500) and California Code of Regulations, title 1, section 1000 *et seq.* The Board shall act on the administrative law judge's proposed decision in accordance with Government Code section 11517, subdivision (c).

**Board Contact Information:**

Please direct all formal correspondence, including your written response to the Notice, to the Board either via email at [enforcement.dig@energysafety.ca.gov](mailto:enforcement.dig@energysafety.ca.gov) or via mail to the following address:

Office of Energy Infrastructure Safety  
Underground Safety Board  
715 P St., 20<sup>th</sup> Floor  
Sacramento, CA 95814

Please provide your written response within 30 business days of receiving this Notice. If a response is provided via mail, the mailed response must be received by the Board within 30 business day.

**Penalties**

Any penalties, including corrective actions, are only proposals by Board investigator(s), and do not require any current corrective action or payment at this time. The Board will provide the final determination to and instructions for any penalty. Please do not include any proof of compliance with proposed corrective actions or payment of a proposed penalty with your written response.

**ADA Compliance**

The California Underground Safety Board complies with the Americans with Disabilities Act ("ADA") by ensuring that the facilities are accessible to persons with disabilities, and providing this Notice and information given to the members of the California Underground Safety Board in appropriate alternate formats when requested. If you need further assistance, including disability-related modifications or accommodations, you may contact the Underground Safety Board no later than seven (7) calendar days before a scheduled hearing at (916) 902-6000. California Relay Service is available by dialing 711.