



**OFFICE OF ENERGY INFRASTRUCTURE SAFETY
UNDERGROUND SAFETY BOARD**

715 P Street, 20th Floor | Sacramento, CA 95814
916.902.6000 | www.energysafety.ca.gov

MEMBERS

Amparo Munoz, Chair
Bill Johns, Vice Chair
Randy Charland
Dave Sorem
Marshall Johnson

By U.S. mail to the addresses below and electronic mail

EXECUTIVE OFFICER

Tony Marino

December 23, 2024

NOTICE OF PROBABLE VIOLATION

AT&T

Paul Bagneschi

4051 Newton Road

Stockton, California 95205

Pb1419@att.com

Agent of Service

Amanda Garcia C/O AT&T

330 North Brand Boulevard

Glendale, California 91203

Case No.: D223430002

Location of Violation: 1990 Diamond Street in San Francisco, California 94131

Date of Violation: December 9, 2022

Dear AT&T California:

You are receiving this Notice of Probable Violation (Notice) as a result of an investigation conducted pursuant to Government Code sections 4216 *et seq.* The California Underground Safety Board (Board) investigator has concluded an investigation of an incident on December 9, 2022, near 1990 Diamond Street San Francisco, California 94131, and found the following violations of Government Code section 4216.3(b) and California Code of Regulations, title 19, section 4151(c):

Government Code § 4216.3(b): Failure to remark subsurface installations prior to the legal excavation start date and time.

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

AT&T refused to field mark the work area after receiving the locate request associated with ticket number X225902277-06X based on claims that the manner of delineation was incorrect. During the investigation AT&T refused to provide information to the investigator and refused to make witnesses available to be interviewed by the investigator. The evidence establishing these facts is attached to the enclosed report of investigation.

Hearing

During the Board's public meeting on **February 10, 2025, at 1:00 p.m.**, the Board will determine whether the violations occurred and whether the penalties proposed in this Notice are appropriate. You may contest the violations and proposed penalties noted in the below section at this meeting. The location of the meeting will be in Sacramento.

May Lee State Office Complex
Auditorium
651 Bannon Street
Sacramento, CA 95811

The Board will determine whether the violation occurred and whether the penalty proposed in this Notice is appropriate. During the hearing, the Board may decide to impose a different penalty. You may contest at the violation, the proposed penalty noted in this Notice, and any new or adjusted penalty the Board may decide to impose during the meeting on February 10, 2025.

Proposed Penalty

The penalty recommended in this Notice, including any corrective actions, are only proposals by Board staff 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 § 4216.6, violation of Government Code § 4216 *et seq.* by an operator or excavator may be subject to a maximum penalty of \$10,000 for negligent violation, or \$50,000 for knowing and willful violation. Knowing and willful violations 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 staff are recommending the below corrective action and penalties:

Mandatory completion of the Underground Safety Board's education course. Please see <https://energysafety.ca.gov/what-we-do/underground-safety-board/education-course/> for more information.

A financial penalty, the amount to be determined by the Board.

The proposed penalties are merited, as AT&T refused to field mark the work area after receiving the locate request associated with ticket number X225902277-06X based on claims that the manner of delineation was incorrect. During the investigation AT&T refused to provide information to the investigator and refused to make witnesses available to be interviewed by the investigator.

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 December 23, 2024, to submit your written response to the Board. Your response to this Notice must be received by the Board no later than February 6, 2025.

If you do not respond before February 6, 2025, you will waive your right to contest the Board's final determination regarding the violation and the penalty to be imposed.

Sincerely,

/s/ Brittny Branaman

Brittny Branaman
Acting Executive Officer | Underground Safety Board
Proposed hearing date: February 10, 2025



RESPONSE TO A NOTICE OF PROBABLE VIOLATION

Case Number: D223430002

Name: AT&T 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. 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.

Your hearing would be during the public meeting noted in the Notice, on February 10, 2025, 1:00 p.m. The location of the meeting will be in Sacramento.

May Lee State Office Complex
Auditorium
651 Bannon Street
Sacramento, CA 95811

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 or via mail to the following address:

Office of Energy Infrastructure Safety
Underground Safety Board
715 P St., 15th 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.