

## Negotiation Is The Route AT&T Claims Takes To Settle Facility Damage Claims

Submitted by

John Visi

AT&T Corporate Claims Director

AT&T Corporate Security & Claims

White Plains, New York 10601

December 2001

### Abstract

In an effort to recover monetary losses associated with damages to AT&T telecommunications facilities, AT&T Claims has successfully implemented a recovery process that emphasizes negotiation as its most important tool. The negotiation tool requires a two-way communication between AT&T Claims and the involved contractor. Although AT&T Claims can undertake a legal action to recover damage expenses, this tactic can add unnecessary expenses. It is the belief of AT&T Claims that settlements can be beneficial to both parties when a process involving cooperation between the two is utilized. AT&T Claims will continue to employ this cooperative damage expense recovery process in an effort to achieve fair and equitable settlements when there is an intrusion on its facilities. In the following article, the recovery process used by AT&T Claims is explained.

### Introduction

I have been with AT&T for thirty-two years. I have managed AT&T's uninsured claims process for over twelve years. During that time, AT&T Claims has recovered all appropriate direct damages incurred as a result of a facility intrusion caused by the proven negligence of the damaging party. I have stressed with all my Claims Associates the need to establish liability first and negotiate with the damaging party second. By employing this method, we have successfully recovered the associated expenses to repair our facility and establish a process of open communication with the involved contractor, which has proven to be beneficial to both. AT&T has a right to pursue restitution when it is damaged. I have found that the most effective way to pursue damages is through negotiation.

## Negotiation Is The Route AT&T Claims Takes To Settle Facility Damage Claims

AT&T is making sincere attempts to partner with excavators in order to reduce and ultimately eliminate damages to underground facilities. To prove this sincerity, one needs only to look at AT&T's claim efforts over the last ten years. During this time, the AT&T Claims group was able to negotiate out of court settlements on all but two facility damage claims. Negotiation and not legal action is the preferred way to settle facility damage disputes. However, AT&T does file court actions when there is no response from the damaging parties or their representatives. AT&T will also file a court action when the damaging party refuses to negotiate a settlement. AT&T Claims will initiate the court action to protect the company's right to pursue damages. Nevertheless, it is AT&T's

primary objective to reach a mutual agreement that compensates for the damage expenses incurred to repair its facilities through negotiation.

AT&T Claims is centrally located in White Plains, New York. AT&T Claims is a constituent of the AT&T Financial organization and reports into the Internal Auditing and Corporate Security Directorate. AT&T Claims is also a charter and participating member of the National Telecommunications Claims Managers Association (NTCMA). The AT&T Claims office handles all uninsured claims on behalf of AT&T. All AT&T Claims Associates can be reached through a toll-free 800 number. Our number is 800 634 3962. When you call the 800#, you will reach a small group of ten full-time Claims Associates who will discuss a specific claim and handle the negotiation of a formal settlement. Our office is manned from 7 am to 7 pm on most business days. Messages can be left for general review or for specific Claims Associates. Each claim opened is assigned to a specific associate. It is his/her responsibility to perform the following tasks:

- Investigate the claim
- Compile all pertinent facts and information
- Determine the cause to the damage
- Determine who has liability
- Negotiate a settlement with the damaging party
- Support legal actions when necessary

The AT&T Claims Associates have an average of 27 years of experience in the telecommunications industry with AT&T. These associates also have experience in outside plant as well as small business practices. It is their primary responsibility to utilize this experience to obtain a reasonable settlement that fairly compensates AT&T for all expenses incurred as a result of the damage and demonstrates the obliging accountability of the contractor.

In accomplishing our goal to negotiate a fair settlement with recoveries of all confirmed direct damages, AT&T Claims has engaged two primary methods. A two-way street that allows for traveling in two directions is an excellent way to illustrate the first method. The two-way street symbolizes the critical two-way communication and cooperation between the involved contractor and the respective AT&T Claims Associate. The benefits of this two-way communication include continued good business relations, minimizing addition time and expenses and avoidance of costly legal actions. The second method, illustrated by a one-way street, depicts AT&T Claims' efforts to establish communications without receiving a response from the contractor. If AT&T Claims reaches the point where the involved contractor is ignoring all billing letters and attempts to open communication, then the Claims Associate will pursue damage expenses, loss of use dollars and all other expenses allowed by state laws through a legal action. This one-way non-cooperative approach will only lead to increased expense payouts for both companies and a hostile business environment for all involved parties.

Negotiations with the contractor and their Insurance representative are the key to AT&T's settlements. During negotiations, AT&T Claims will take into account the contractor's compliance with the respective one call law, the cooperative nature of the contractor and the contractor's communication with the AT&T outside plant representatives at the damage site. It is important to remember that in a proactive mode, AT&T Claims organization also fully supports the one call process and the National Dig Safely program to prevent damages. When there is a facility damage, the first item that

AT&T Claims seeks is the one call ticket. Noncompliance with the one call law and proper dig safely practices will support contractor liability. When issues of liability are clear or even questionable, it is important for the contractor to recognize their responsibility to participate in negotiations and present all relevant facts. Both sides have a duty to settle the claim, minimize additional expenses, and continue working within a productive business environment.

When an AT&T facility is damaged, AT&T Claims will respond with a letter of intent to bill. This is the first notification to be sent to the contractor or representative insurance company if known. A complete itemized bill for all temporary expenses, permanent repair costs, claims expenses and loss of use dollars will follow when the facility is made whole. The Claims Associate will also begin a complete and thorough investigation at the time of the damage. The involved One Call center will be contacted and the One Call ticket reviewed for accuracy of location. Information regarding the mark-out locations will also be compiled. Conversations about what happened will be held with the AT&T on-site employees and contractors. It is extremely important that the damaging contractor contact the assigned Claims Associate to discuss the cause of the damage from the contractor's perspective. The actions and cooperation of the involved contractor will ultimately determine how AT&T Claims will respond going forward with the claim.

## Conclusion

To avoid a facility damage situation, it is important that the contractor follow all preventative measures available to insure a successful excavation and no loss of a utility's service. Every contractor should consider the following practices before they dig:

- Follow the State One Call Laws
- Call and communicate before you excavate
- Cooperate with the AT&T representatives on site
- Consider negotiations as a tool for claims settlements

It is most important for contractors to keep in mind the illustrations of the one-way and two-ways streets. You cannot turn around on a one-way street without taking a chance on incurring unnecessary expenses. You can on a two-way street! AT&T Claims has traveled a lot of two-way streets and has found the experience to be a reliable and productive drive. AT&T will always guarantee a sincere environment to reach an equitable settlement, when the involved contractor is willing to negotiate.