

ONTARIO ENERGY ASSOCIATION

# Getting Ontario Connected Act, 2022

## Proposal Number: 22-MGCS006

APRIL 7, 2022

To shape our energy future for a stronger Ontario.



# ABOUT

The Ontario Energy Association (OEA) is the credible and trusted voice of the energy sector. We earn our reputation by being an integral and influential part of energy policy development and decision making in Ontario. We represent Ontario's energy leaders that span the full diversity of the energy industry.

OEA takes a grassroots approach to policy development by combining thorough evidence based research with executive interviews and member polling. This unique approach ensures our policies are not only grounded in rigorous research, but represent the views of the majority of our members. This sound policy foundation allows us to advocate directly with government decision makers to tackle issues of strategic importance to our members.

**Together, we are working to build a stronger energy future for Ontario.**

The recommendations contained in OEA papers represent the advice of the OEA as an organization. They are not meant to represent the positions or opinions of individual OEA members, OEA Board members, or their organizations. The OEA has a broad range of members, and there may not always be a 100 percent consensus on all positions and recommendations. Accordingly, the positions and opinions of individual members and their organizations may not be reflected in this document.

The Ontario Energy Association (OEA) is pleased to provide comments on the Ontario Government's recently introduced Bill 93 - *Getting Ontario Connected Act, 2022* (the Bill). The OEA represents the full spectrum of Ontario's energy industry, including Ontario's largest utilities who have a key role to play in the Bill's implementation.

The Bill is intended to reduce barriers and bring high-speed internet infrastructure to communities and other priority infrastructure projects. The legislation is aimed at reducing delays to help meet the province's commitment to ensure all communities in Ontario have access to reliable high-speed internet by the end of 2025. In addition, the proposed legislation is intended to improve Ontario One Call's processes of determining the location of underground infrastructure like telecommunications lines, water mains and gas pipelines, known as locates.

The OEA and its members strongly support the Government's objective of improving broadband access to Ontarians. Broadband access in the modern era is critical in ensuring the socio-economic development of all regions and enabling the participation of all Ontarians in modern life.

The OEA's utility members support the objective of streamlining broadband infrastructure projects to facilitate quicker access to broadband services for Ontarians. We intend to work with the government towards that goal and help ensure that accountability, health and safety standards are maintained, and that there are not inadvertent negative impacts on electricity and natural gas ratepayers, as we develop ideas to streamline processes.

To that end, we offer the following key considerations with respect to the draft legislation:

### Dedicated Locator

**Phased Approach:** The OEA recommends that the implementation of dedicated locators (DL) proceed in two phases to ensure a smooth transition and that processing request volumes can be achieved. The first phase should be limited to government funded projects. The second phase should be designed to include excavators who choose to use a DL at a later date. A phased approach will enable the industry to get established before ramping up significantly greater volumes through all excavators and projects.

**Qualified Locators:** Where a dedicated locator is used, it is critical for safety that these locators meet minimum qualification criteria to ensure they are competent and equipped to provide locates on behalf of the infrastructure owners impacted by the proposed project. Further, in the interests of safety, members should retain the ability to designate an in-house locator where heightened protection necessitates it around high-risk assets.

**Time limits for response to locate request:** The proposed legislative changes establish absolute 5 day locate delivery timelines for standard locate requests and 2-hour timelines for emergency locate requests. The OEA believes the proposed absolute time limits are onerous and that the requirement should be that the infrastructure owner make reasonable efforts to complete standard locate requests within the prescribed timeline. This recommendation reflects the reality that demand for locates is seasonal and difficult to predict. Imposing absolute timelines for the delivery of locates without considering the volumes of locate requests received, the availability of trained locators, and other

operational or environmental circumstances beyond the control of the infrastructure owner. At the very least, parties should not be penalized for factors outside of their control and have a right of review from an independent adjudicator.

**Lack of Recourse Against Excavator Infractions:** All parties in the process should be accountable to execute on their responsibilities. However, the amendments as presently proposed place the onus on members without providing the requisite mechanisms to ensure accountability of excavators. The legislation should include provisions to enable the owners of infrastructure to recover their costs due to locate abuse caused by excavators or excavators acting unreasonably.

**Excavator responsibilities to maintain marks:** One of the proposed changes to the legislation set out in section 6.2(1) establishes that locates provided by a Member of the Corporation or a dedicated locator are valid for a period of 60 days or such longer period as prescribed. This proposed change lacks requirements for excavators to ensure surface markings remain visible throughout the excavation. The OEA recommends this provision be amended to require that if locate markings are not visible at any time, excavators may not commence an excavate or dig and are required to contact the infrastructure owner or dedicated locator to have the markings refreshed. If surface markings are removed or otherwise no longer visible, this increases the potential for line strikes and other damages to underground infrastructure.

**Hydrocarbon Transmission Pipelines:** The legislation should exclude pipelines used for the transmission of hydrocarbons (specifically non-distribution assets including but not limited to liquid oil transmission pipelines and natural gas transmission pipelines) from being located using a dedicated locator model. Instead, these locates should be completed by the infrastructure owner or their approved locate service provider within a 10-day timeframe. The reason for this is because damages to transmission pipelines, which operate at high pressures, have the potential to result in significant consequence for public safety and the environment when compared to distribution infrastructure. Therefore, it is critical that the locator be very familiar with that specific system to ensure the highest probability of an accurate locate. Further, some transmission pipelines are subject to regulation by the Canada Energy Regulator (CER). CER regulated operators and facilities (pipelines), such as Enbridge's Liquids Pipelines (LP) facilities in Ontario, already have more stringent locate delivery timeframes as set out in the CER Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies.

## CONCLUSION

The OEA and its members are eager to work with the Government to deliver on priority broadband and other infrastructure projects. We have identified some concerns in this Bill as currently drafted. We believe that we can help the government meet its objectives, expedite infrastructure projects, while maintaining and even enhancing safety standards associated with utility infrastructure. We welcome the opportunity to further discuss this submission with the Government.

energyontario.ca

## CONTACT


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121 Richmond Street West  
Suite 202

Toronto, Ontario M5H 2K1

416.961.2339

[oea@energyontario.ca](mailto:oea@energyontario.ca)

 [@energyontario](https://twitter.com/energyontario)

[energyontario.ca](http://energyontario.ca)



Ontario Energy Association

Let's unravel complex energy challenges, together.