

ONTARIO ENERGY ASSOCIATION

24-MPBSD015: Consultation on potential Minister's regulation to exempt certain broadband projects from the requirement to use the dedicated locator mode

August 12, 2024

To shape our energy future for a stronger Ontario.



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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 Ontario Energy Association (OEA) would like to thank the Ministry of Public and Business Service Delivery and Procurement (MPBSDP) for this opportunity to comment on the Regulatory Proposal 24-MPBSD015 on the Dedicated Locator Model for Broadband Providers.

The Dedicated Locator Model is an integral part of delivering broadband services on a timely and cost-effective basis. It allows for better project planning and integration of locate activity within the scope of the broadband project vis-à-vis other project activity. It has largely proven to be a success, though there are areas for improvement.

As it stands right now, the OEA opposes the proposal to selectively weaken Dedicated Locator (DL) model for the delivery of broadband services.

Weakening the DL model will not allow for the timely delivery of broadband services and instead will lead to further delays and cost increases for the following reasons:

- **Path Dependency:** The only alternative to the DL model is going via the public locate process where the locate is assigned to the Underground Infrastructure Owner (UIO). As the OEA has repeatedly pointed out over the last year or so, UIOs currently do not have the in-house or contracted capacity to deliver locates for large projects within the stated 5-day or 10-day timelines. Depending on the location of the project, municipal permitting alone is not completed within 10 days, let alone aspects like safety management plans, traffic management plans, public notification, resource/staffing needs and then completing the locate delivery. The public model, if enforced in its current form, is set up for failure, regardless of the government intent or the penalty enforced. This will only increase the timeframe under which a locate can be successfully delivered and will interfere with the timely implementation of broadband projects.
- **Cost:** As the OEA has repeatedly pointed out, locates that should ideally be delivered by a “for profit” commercial entity, but are put through the public system, are an incremental cost to energy sector. The public locate system was designed specifically for residential and small commercial applications where the locate cost might be material to the entity requesting the locate. It is appropriate that ratepayers cover these costs. It was not designed for large commercial or construction entities to “free-ride” what should be their in-house locate related project costs by putting it into the public system. The system and program inefficiencies of the public locate system means that these locate costs are more expensive to deliver. These costs in turn are borne by the Ontario ratepayers, via increased energy costs.
- **Digital Records and Mapping Standards:** As has been noted by our members, with many of the smaller communities, accurate digital records of municipal assets do not exist, leading to challenges in issuing and executing locates. Regardless of whether it is through the public locate system or through the dedicated locator model, the lack of consistent mapping standards and digitization of records is friction that cannot be overcome.

An alternative approach: The OEA respectfully submits the following recommendations as an alternative approach to MPBSDP's regulatory proposal.

Short-term:

- **A greater role for Ontario One Call:** It has been noted that UIOs and project proponents are often at odds over who qualifies as an appropriate DL provider. This is a critical The OEA recommends that where there is conflict, but a substantial number of stakeholders align that OOC could selectively exempt member or potentially projects while keeping the overall framework of DL alive. Given that OOC has explicitly stated that its first priority is safety, this role will help mediate sectoral conflict points on issues that have safety implications.
- **Selective exemptions:** In this scenario it could be possible to exempt broadband providers from DL requirements if the project is small enough. Under such circumstances it may be appropriate to go through the public locator process, rather than a mandatory DL. Another example might be an exemption where an entity does not have access to up to date or digital records to aide in the delivery of locates. As we have frequently mentioned, the locator regulatory model needs flexibility to deal with evolving circumstances and outlier situations. This is one way flexibility could be provided and is consistent with previous recommendations on utilizing dedicated locators based on project size and duration. In all cases, we would recommend that OOC be enabled with decision-making authority to allow for such flexibility.
- **Time:** If a DL project is to be put through the public locate process then 90 day notification should be required for the UIO. DL project can be extremely large and UIOs need the time to plan for the locate delivery. In addition UIO needs significantly more than 10 days to be able to deliver the locates on large-scale projects. In general, UIOs need greater visibility into upcoming DL projects in order to be able strategically support the onboarding and training of DL providers.
- **Cost:** Any DL project that is put through the public system needs to be cost-recovered from the DL project proponent. It is not appropriate that energy ratepayers absorb the cost for what would be in-house costs for a project proponent.

Longer-term:

- **Flexibility:** The locates file has proven to be particularly challenging due to the fact that locate requests are being shoe-horned into highly constrained processes that do not take into account weather, location, geography, labour availability, mapping and documentation digitization (or lack thereof) etc. Hard-coding regulations as short-term solutions is not appropriate on a file that requires active management and adaptation. Given that OOC has been designated a regulatory agency by the province, it would be appropriate to empower OOC to actively manage problems and provide solutions without having to consistently turn to the Ministry. *This would be consistent with approaches already employed by the province, such as the Statutory Director-led process under the Technical Standards and Safety Act.*

- **Support Digitization Initiatives:** There are currently challenges with smaller municipalities where digital record for underground assets are still not available. It would be beneficial for such municipalities to get government support to aide their digitization initiatives, which in turn will better support locate initiatives.

In summary, the OEA believes government proposal is counter-productive to its stated policy goals and will likely drive up locate costs and slow down timely locate delivery. This will have a knock-on effect of driving up energy costs for Ontario ratepayers. The OEA strongly recommends alternative policy approaches that favour enabling the regulator, providing flexibility, as well as support municipalities in digitizing its locate related documentation.

We trust that our feedback will be taken in the constructive spirit it was submitted. Please do not hesitate in contacting us if you have any questions regarding our submission.

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