

ONTARIO ENERGY ASSOCIATION

Proposal Number 22-MGCS020 re: Consultation on an Administrative Penalties Regime for Ontario One Call

NOVEMBER 21, 2022

To shape our energy future for a stronger Ontario.



Ontario Energy Association

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.

CONTENTS

PAGE ONE
OVERVIEW

PAGE TWO
LOCATE TRANSITION STRATEGY

PAGE TWO
A) OVERVIEW

PAGE THREE
B) ROADMAP

PAGE THREE
C) STAGE 1 DETAILED DESIGN

PAGE FIVE
D) STAGE 2 DETAILED DESIGN

PAGE SEVEN
CONCLUSION

On behalf of the Ontario Energy Association (OEA) and its members¹, thank you for the opportunity to provide comments regarding the above-noted proposal. OEA members deliver safe, reliable and affordable energy that powers and heats millions of homes and businesses across Ontario.

OVERVIEW

We commend the actions taken by the Ministry of Public and Business Service Delivery (MPBSD) in supporting provincial objectives to accelerate broadband expansion, increase the supply of affordable housing and get roads/transit built. Safe and timely locating of underground energy infrastructure can help in pursuing these important initiatives.

Underground locators serve an important function to enable all types of construction. Locators must be trained, qualified, experienced and scoped to ensure safety around high-risk underground infrastructure such as electrical wires or gas pipes. Damage to electrical infrastructure has the potential to cause severe harm to people, property and essential services.

The matters under consideration in this proposal represent a significant change to the compliance regime for the *Ontario Underground Infrastructure Act, 2012* (Act). This proposal will establish the framework for administrative monetary penalties. As we have communicated in the past, we strongly recommend a transition plan to prioritize the present realities of our sector. The transition plan should be guided by the following principles:

1. **Safety** has been and must continue to be the top priority. Consideration must be given to high-risk scenarios such as significant weather events or inadequate training that will lead to unsafe working/living conditions.
2. **Labor availability** is in tight supply and difficult to attract and retain. If untrained resources are rushed into the industry without adequate training, it could cause a significant increase in damages putting public safety at risk, as well as underground infrastructure.
3. **Affordability** is an overarching concern for the people and businesses in Ontario in today's high-inflationary environment.
4. **Fairness**: the Ontario One System should be designed in a way to identify and avoid penalizing parties not at fault.
5. **Long-Term Viability**: the modernization initiatives in this space should be methodically rolled-out to create a system that ensures policy objectives are being met every step of the way and that the deleterious effects of any unintended consequences could be mitigated.

Please find our recommended '*transition roadmap*' in section II below. We endorse this strategy to promote MPBSD's desired policy outcomes on the basis of the breadth of experience across our membership and our deep understanding of the challenges that we face today.

¹ **OEA Utility Members**: Alectra Inc; Elexicon Energy; Enbridge Gas Inc.; Hydro One; Hydro Ottawa; TC Energy; Oakville Enterprises; Toronto Hydro; Utilities Kingston. Full membership list found at: energyontario.ca/oea-members

LOCATE TRANSITION STRATEGY

a) Overview

The OEA recommends the following two-stage approach to support performance under the Act. Stage 1 will launch the ‘dedicated locator model’ to support designated infrastructure projects ² (see note).

Stage 2 involves cross-functional transformation of the broader sector. This stage will leverage feedback from electricity and gas utility members of the Locate Alliance Consortium (LAC)³ that took place throughout November 2022.

The two consecutive stages in this locate transition strategy mitigate execution risk and set the conditions for a successful roll-out. The two-stage approach provides the following features:

Targeted focus on designated locator model

- If penalties are rolled out across the sector without first resolving the underlying causes of delays, standard locates will pull away limited resources from designated projects. This is because standard locates request make up a far greater proportion of total requests. In turn, the penalty regime would incentivize standard locates requests over designated locate requests through greater financial exposure.
- Failure in the dedicated locator model will ultimately delay designated projects and undermine the credibility of the penalty regime.

Resource Allocation Management

- Locate requests are all processed from the same finite resource pool of locators. A balanced approach will ensure success for both standard/dedicated models over the long-term.
- An independent competent resource pool must be scaled-up for dedicated locators to ensure resources are not drawn from standard locates for which significant staffing constraints already exist.
- Penalties imposed on standard locates may pull resources away from dedicated locator model intended to get priority infrastructure built.
- Expanding resources through recruitment and training ensure long-term success. Utilities and Ontario One Call (OOC) members are presently investing at unprecedented levels to increase the locating labor force. For example, the LAC & the Ontario Regional Common Ground Alliance (ORCGA) are developing standardized training for every sector. This program is expected to require the balance of 2023 to develop.

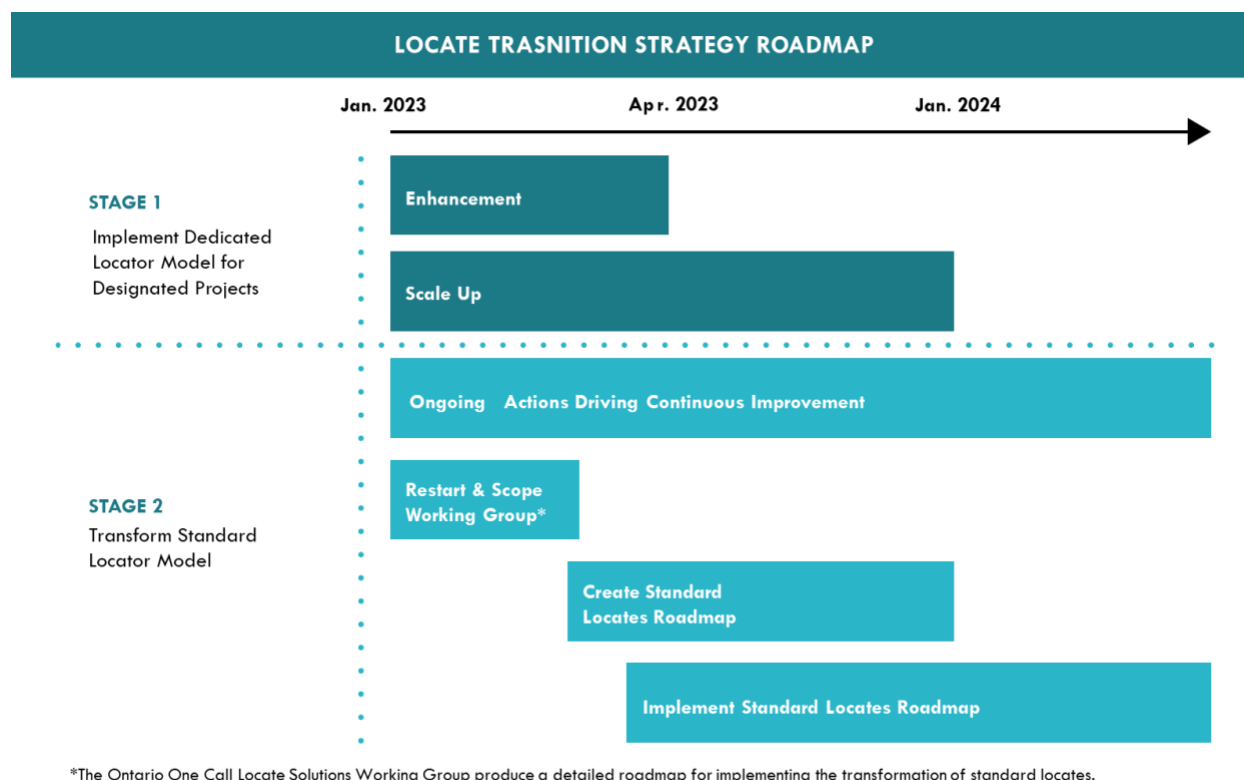
Opportunity to resolve systemic challenges in locate industry

- Locate requestors often fail to provide accurate data.
- Well-documented practice among certain proponents to file multiple, often excessive, locate requests to “cover all bases”. This floods the system with non-bona fide requests. In turn the proposed penalty regime will be ineffective and highly inefficient under these circumstances.
- Often duplicate requests are received for the same work, creating further confusion and backlog.
- The system can be inefficient and wasteful where proponents order excessive locates without the intention or ability to complete excavation before locate expiry.
- No ability to contextualize the size/complexity of locate requests (i.e., single homes have same 5-day timeline as entire neighbourhoods).
- Compliance reporting has been evolving however continues to require further piloting and improvements to allow members to use it effectively.

² “**Designated & Shovel Ready Projects**”: as prescribed by the government (i.e., Broadband & Transit Infrastructure) and “shovel-ready” projects that are prescribed by the Minister under section 7(1)(2) of the Act.

³ LAC is a group of facility owners working towards a cost efficient locate process with standardized terms and conditions and consistent quality outcomes.

b) Roadmap



c) Stage 1 Detailed Design

Stage 1 – Implement Dedicated Locator Model for Designated Projects

Scope	Priority Broadband Projects as defined in the Building Broadband Faster Act, 2021 and “shovel-ready” projects prescribed by the Minister as per 7(1)(2) of the Act
Timeline	Ongoing: Priority focus on supporting dedicated locates for designated projects and shovel ready projects[†] April 1, 2023: Dedicated locate model implementation enhancements for designated and shovel ready projects[†] January 1, 2024: Dedicated locator implementation scale-up for designated and shovel ready projects[†]
Rationale	By targeting the scope of the compliance regime to priority infrastructure, the locator industry can build capacity and gradually expand the dedicated locator model from priority projects to broader applications in future years (i.e., multi-segment project tickets) in a controlled manner (e.g., onboarding and training process for dedicated locators).

Current State

- Utilities have successfully used the existing self-locates framework (equivalent to the dedicated locator) to deliver key provincial infrastructure projects (i.e., transit).
- Utilities contributed to the creation of the dedicated locator framework and are in the final stages of implementing specific processes to support the model.

- Utilities are focused on ensuring critical provincial infrastructure projects using the dedicated locator model are successful. Until the dedicated locator model processes are fully in place and scaled up, utilities will continue to work with designated project owners to fulfill requirements in Bill-93 and give priority focus to designated projects that are received with sufficient advance notice.

Milestone 1 - April 2023: Dedicated Locate Model Implementation Enhancements for Designated and Shovel Ready Projects

*Examples of Activities Jan. 2023 to Apr. 2023 Dedicated Locator Model Enhancements
(as required/applicable at respective organizations)*

- In consultation with the Ministry and OOC members, address feedback received in Nov. 2022 consultations including finalizing regulations for AMP regime.
- Work with industry stakeholders to ensure readiness for Bill-93 designated provincial projects.
- Establish rules of engagement and legal agreements for new market entrants to dedicated locator.
- To ensure safety and asset protection finalize:
 - dedicated locator competency requirements (i.e., certification) to ensure safety and timely approvals of dedicated locator requests.
 - locating quality assurance and management processes and criteria needed to demonstrate compliance.
- Communication and engagement with stakeholders (framework, processes etc.)
- Project proponents to implement dedicated locator model, and develop/secure locate services/resources
- Ramp up of resources to support dedicated locator implementation

Milestone 2 - Jan. 2024: Dedicated Locator Implementation Scale-up for Designated and Shovel Ready Projects

Example of Activities Jan. 2023 to Jan. 2024 (as required/applicable at respective organizations)

- Infrastructure owners (utilities/municipalities etc.) to close any gaps not achievable by Apr. 2023 to ensure compliance once finalized (i.e., validation of IT systems - locator systems must talk accurately to OOC systems to ensure accurate reporting)
- Review the operations and processes for dedicated locates and resolve any outstanding actions in advance of any AMP measures being implemented
- Allow dedicated locators and service providers to build and develop an independent pool of resources to ensure the success of dedicated locates does not come at the cost of standard locates, and vice versa
- Communication and engagement with stakeholders (framework, processes etc.)
- Training programs to be developed to allow rapid onboarding of dedicated locators as proposed in compliance framework
- Finalize training and certification programs (i.e., with ORCGA) to standardize/expand industry wide locator training to ensure a competency baseline (supports resource supply improvements)
- Dedicated locator streamlined processes (safety, competency, insurance requirements, legal agreements, GIS system access etc.)
- Support mechanisms in place to make it successful (administrative processes)
- Some smaller organizations may require time to complete digitization of assets

Pilot period for reporting validation (test reporting, data validation etc.). This is important to maintain credibility and trust.

d) **Stage 2 Detailed Design**

Stage 2 - Transform Standard Locator Model

Scope	All other “standard” locate requests: homeowner requests (e.g., pool or fence etc.) and transition of a broader application of the dedicated locator model beyond designated projects for large projects (e.g., multi-segment project requests) Defined broadly under the Act to be anything other than an “emergency locate” or “a project required to use the dedicated locator model”.
Timeline	Full implementation plan/timeframe to be developed in consultation with industry. Ongoing: Actions driving continuous improvement Q1 2023: Restart Ontario One Call Locate Solutions Working Group with new scope Q4 2023: Complete creation of standard locates transformation roadmap
Rationale	Allows for comprehensive consultation on reforms to the remainder of the industry that will avoid unintended consequences while resolving systemic challenges and getting priority infrastructure built. The lessons learned and best-practices that are developed in the Dedicate Locator Model (Stage 1) could be leveraged for an efficient modernization process (Stage 2) that mitigates the risk of unintended consequences.

Current State

- Utilities are continuously focused on ensuring standard locates are completed within required timeframes.
- Utilities have worked with standard locate providers to take steps to improve and increase the resource pool.
- The most significant current state challenge is all standard locates are treated the same regardless of size and complexity and there are opportunities for this to be addressed in Stage 2 to improve the standard locates definition, model and processes to further improve performance beyond areas within the direct control of utilities and locate service providers.

Stage 2 Objectives

The overall intent of this stage is to:

1. Transform standard locates using a structured approach prior to any AMPs and avoid any impact to designated projects using the dedicated locator model. Without this managed approach, designated projects could be impacted by resource prioritization and reallocations to standard locates driven by AMPs on standard locates.
2. Utilize the OOC Locate Solutions Working Group to bring all stakeholders together and create a detailed action plan to transform standard locates.
3. Create a roadmap to address and action feedback received by the Ministry as part of Nov. 2022 consultation process.

4. Redefine standard locates and implement process changes, efficiency improvements and address any process gaps in advance of any AMP requirements.
5. Enact AMPs once regulation is finalized and opportunities to resolve systematic challenges that can achieve performance improvements and compliance are completed.
6. Invest in improvements to achieve compliance as AMPs as proposed are costly and may not achieve desired outcomes.

Stage 2 Milestones

To achieve stage 2 objectives, it is proposed to have 3 major milestones:

1. Milestone 1: Working Group Restart and Scope Definition
Assign the scope of transforming standard locates to the Ontario One Call Locate Solutions Working Group
2. Milestone 2: Standard Locates Transformation Roadmap Development
The working group to develop a roadmap to address gaps and opportunities including feedback gathered during the Ministry Nov. 2022 consultations.
3. Milestone 3: Standard Locates Transformation Roadmap Implementation
Implementation of the improvements and changes in the roadmap to achieve compliance prior to any AMPs being implemented.

Example of Activities in Stage 2 (as required/applicable at respective organizations)

1. Update the definition for standard locates (i.e., single home owner tickets versus other more complex infrastructure projects should be treated differently)
2. OOC in partnership with industry to finalize policy on application of compliance measures based on size and complexity of project. Compliance measures and AMPs to give consideration to other mechanisms that can achieve the desired outcomes (i.e., education programs etc.)
3. Ramp up application of dedicated locator for other large non-designated projects such as projects with multi-segment tickets
4. Finalize OOC guidance documents, definitions on how discretion will be applied
5. IT system integration improvements between Locate Service Providers (LSPs) and OOC
6. Create validation framework for OOC reporting for compliance
7. Opportunities to improve the intake process to reduce unjustified demand from locate abuse
8. Bring in best practices from other areas

CONCLUSION

The important policy objectives driving this proposal are vital to the social and economic progress of Ontario. Ultimately, the OEA and its members recommend the '[Locate Transition Strategy](#)' described above. Significant investments are already being made by the industry to help modernize the underground locating process. A robust transition strategy will compliment those efforts.

The OEA appreciates the opportunity to comment on this important initiative and remains available to provide further information.

energyontario.ca

CONTACT

121 Richmond Street West
Suite 202
Toronto, Ontario M5H 2K1
416.961.2339
oea@energyontario.ca
[@energyontario](https://twitter.com/energyontario)
energyontario.ca



Ontario Energy Association

Let's unravel complex energy challenges, together.