

May 15, 2023

*Submitted electronically.*

Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON  
M4P 1E4  
Attn: Nancy Marconi, Registrar

Dear Ms. Marconi:

Re: EDA Request for Generic DVA – **Locates Services Deferral Variance Account (LSDVA)**

The Electricity Distributors Association (“EDA”) represents local electricity distribution companies (“LDCs”) in Ontario, the part of the electricity system that is closest to customers. Ontario’s local hydro utilities are on the front lines of power and work to keep our electricity system safe, reliable, and affordable for households, small businesses, farms, commercial, and industrial customers.

Distributors across Ontario are experiencing significantly higher locate costs primarily due to labour shortages, be they internal utility staff or outsourced locate service providers, and a markedly increased demand for these services due to government priorities, e.g., transit, broadband, housing. Moreover, a new regulation, effective April 1, 2023, provides Ontario One Call (“OOC”) with the regulatory authority to issue administrative penalties for non-compliance with prescribed provisions of the Ontario Underground Infrastructure Notification System Act (“OUINSA”), including digging without locates or not delivering locates within specified timelines.

While the effective date of the implementation of monetary penalties won’t begin until April 1, 2024, per the later dated May 11, 2023, issued by the Ministry of Public and Business Service Delivery (“MPBSD”) and the Ministry of Energy (“MOE”), this locate regulation will impact the existing framework for locate delivery services across Ontario, and consequently the LDCs across the province that the EDA represents, and those who work directly with customers across Ontario for connection projects, notwithstanding the delay of implementation.

Because LDCs are so close to our customers, we are essential partners in delivering on energy policy. Electricity distributors remain highly committed to the safety and well-being of our customers while balancing the governments priorities to build infrastructure within the province of Ontario faster. Understandably we recognize that fundamentals to this goal being achieved quickly is improving compliance for timely locates and cost-effective provision of underground infrastructure locates.

We have engaged our members to evaluate financial and non-financial considerations across the province to assess the operational impacts. Our conclusion is that LDCs will incur much higher costs to provide locate services to its customers as requested by the customers, third parties and potentially other utility services within the province, than had originally been forecasted and built into distribution rates. The cost uncertainty resulting from the changes in locates should not interfere with the safe and reliable delivery of services to our customers and their motivations to practice safe procedures. LDCs encourage their customers to 'Call or Click before you Dig' for the safety of the entire public, as well as in the interest of protecting distribution assets in the ground. Distributors are obligated to connect new customers and provide the safest measures for their construction to provide safe and reliable service on an ongoing basis to existing customers and require the appropriate resources to do so.

Given the above information and on behalf of our members across the province, the **EDA is hereby formally requesting the establishment of a new generic DVA - Locates Services Deferral Variance Account (LSDVA) for the immediate use of Electricity Distributors across the province. We seek an accounting order be established by the OEB to electricity distributors demonstrating the recording and managing of locate delivery incremental costs in the future.** Our members aim to protect their customers and the addition of locate charges does satisfy the criteria of Causation, Materiality, Prudence in the OEB's *Chapter 2, Filing requirements for Electricity Distribution Rate Applications ("Chapter 2")* section 2.9.2 Establishment of New Deferral and Variance Accounts. These comments focus on how the LSDVA should be administered so that LDCs have access to resources so that they can serve existing and future customers.

**Causation:** The new locate charge is very clearly outside the base upon which prior rates were derived for LDCs. This new charge to distributors is in direct result of the regulation changes across the province, and outside of LDC business planning decision. This locates process and procedure will have an incremental impact on LDCs' pre-existing rate decisions, and operational consideration to provide resources to do so.

**Materiality:** We proactively met with OOC on behalf of our members to assess the material impacts the new proposed locate structures would have on our membership's traditional locate operations. We also hosted a membership engagement webinar with OOC on February 22, 2023, to inform LDCs of the upcoming changes, and provided a platform by which EDA members could assess impacts to their companies. Throughout these interactions we received valuable insights of the impacts to LDCs through OOC compliance reports. Using the March 2023 report, published April 17, 2023, which in terms of locate request trends is considered a low-ticket season for locates, and is expected to ramp up dramatically throughout the summer months, we were able to evaluate very significant material impacts to the province's electricity distributors and our customers.

Using the *March 2023 OOC Locate Delivery Compliance Report* and filtering for only electricity distributors in Ontario, we calculated that electricity distributors represent approximately 22% of the 282K provincially reported OOC member locates. Using this data and a very simple

mathematical calculation, our lowest risk projection to assess electricity distributors impact on an annual basis resulted in the following:

$$\begin{aligned} &282\text{K (March monthly member total)} * 12\text{months} = 3.38\text{M (Annual Member Total)} * \\ &20\% \text{ (LDC \% Contribution)} = 744\text{K (LDC Annual Projected total)}. \end{aligned}$$

744,000 represents approximately the annual locate interactions electricity distributors across the province hold with rate paying customers and by extension the consumers which the OEB protects the interest to deliver economic, social, and environmental development/public value. The OEB takes into consideration in its evaluation of section 2.0.8 Materiality Threshold in Chapter 2 that there are “threshold differences for each applicant, depending on the magnitude of the revenue requirement”.

Given the magnitude of the above customer locate interactions across Ontario’s electricity distributors during one of the slowest locate months, as well as distributors’ licence requirements to provide service quality to our customers, we assert that this impact of customer interactions is material across the province and to support and achieve the government’s priority projects.

**Prudence:** Per the OUIINSA, LDCs provide delivery locate services and request locate deliver services for their own operations and maintenance, and they do so in a prudent manner to support their customers, their safety, and the safety of public assets. LDCs will exercise skill and good judgement to meet their plans of achieving their locate compliance goals. The nature of the costs and forecasted quantum for recording will come from the improved distributor locate compliance ratings evaluated mainly by using OCC compliance reporting. The plan will be executed with caution and the benefit of overall ratepayers kept in mind to improve the rate and speed in which the customers have benefited for these incremental improvements. We recognize that the final determination of prudence will be made at the time of disposition in front of the board. Costs that are reasonably incurred will be compared against previous rate consideration.

We propose that the purpose of the LSDVA account be to record the LDC’s incremental costs incurred because of the change to locate costs. Eligible entries recorded to this account should be those incurred directly by the LDC caused by the change to the Act since rebasing so that the LDC can continue to provide safe reliable and timely customer care service.

**LSDVA Considerations:**

- **Effective date:** Immediately.
- **Type of Variance account:** Group Two DVA
- **Carrying Charges:** Attract carrying charges with the use of board prescribed interest rates for respective quarterly tracking.
- **Disposition Date:** Recovery /Disposition based on OEB approval in next COS application.
- **Cost Consideration:** Incremental costs incurred not already reflected within rate model considerations.

- Appropriate treatment of balances recorded in the account.
- **Mechanics of the new variance tracking account:** Draft Accounting Order to be determined.

It is necessary for the OEB to proceed with due attention and consideration of how customers safety and interests are affected in this new process, and how LDCs can actively support the government through improved locate service processes. We anticipate that the decisions on the LSDVA will provide LDCs with the resources they need to be financially viable, promote customer safety, and hence, be able to fulfill their existing and future responsibilities to our customers. The perspectives of other stakeholders on these critical issues and applications are appreciated; however, we recognize there is a consistent need to be addressed which should be analyzed for full and proper context so that the OEB has full and complete information and can fulfill its mandate and objectives.

Thank you for considering our request. Please do not hesitate to contact Brittany Ashby, Senior Regulatory Affairs Advisor at 416.886.4420 or at [bashby@eda-on.ca](mailto:bashby@eda-on.ca) if you require anything further in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Teresa Sarkesian", with a stylized, flowing script.

Teresa Sarkesian  
President & CEO