

**Request for an Accounting Order to establish
Generic Locates Services Variance Accounts beginning
January 1, 2023**

Submissions of the Power Workers' Union

1. On May 11, 2023, a group of large Ontario electricity distributors and Enbridge (the "Large Utilities") filed a letter with the OEB seeking the establishment of generic variance accounts to track the incremental costs of locates arising from Bill 93 and other legislation. The Power Workers' Union ("PWU") supports the request to establish generic variance account. The generic variance accounts should be approved so LDCs can recover the prudently incurred locates costs they have incurred and continue to incur arising from Bill 93 and other legislation, and to avoid the regulatory burden of each LDC requesting their own locates variance account.
2. Amendments to the *Underground Infrastructure Notification System Act, 2012* set out in Bill 93 require locates to be completed within five days. This new requirement causes costs including hiring and training more locators, procuring equipment and vehicles, and improving IT infrastructure. This cost is incremental to cost of locates currently included in base rates.
3. LDCs are required by law to perform locates to ensure public safety. The level of locates work performed by LDCs has increased substantially due to other recent legislation to increase broadband, transit, and housing projects.¹

¹ Bill 171 – Building Transit Faster Act, Bill 257 – Building Broadband Faster Act, and Bill 23 – More Homes Built Faster Act

4. The PWU submits that the requested variance accounts satisfy the three criteria necessary for the establishment of a deferral or variance account: causation, materiality, and prudence:

- a. Causation: the cause of the incremental costs is unforeseen legislation set out in Bill 93, in addition to other legislation that has increased the volume of locates.
- b. Materiality: the sample of LDCs that have submitted locates cost information to date, as requested by the OEB, demonstrate the incremental locates costs are above the materiality thresholds of those LDCs. There is no reason to assume smaller LDCs have not experienced proportionately similar locates volume requests and cost increases. The PWU submits the Large Utilities cost information is sufficient for the purposes of meeting the materiality criterion for establishing a generic variance account.
- c. Prudence: the incremental costs are prudent because LDCs are legally required to provide locates services and comply with new legislation that has caused the incremental costs to be incurred.

5. The new legislation includes administrative monetary penalties (“AMPs”) to LDCs should locates not be completed within the new five day timeframe. This amount cannot be recovered from ratepayers. LDCs must receive the appropriate level of locates funding through rates (or rate riders associated with these variance accounts in advance of embedding those costs in cost of service applications) to perform its legally required services without a reasonable expectation of financial penalty.

6. LDCs have incurred incremental locates costs since 2020 following the enactment of legislation to increase transit, broadband, and housing projects.² The incremental costs are outside of an LDC’s control and, since the costs are not included in base rates, the costs since 2020 may be material for some LDCs.

² Bill 171 – Building Transit Faster Act (July 2020), Bill 257 – Building Broadband Faster Act (April 2021), Bill 23 – More Homes Built Faster Act (November 2022).

7. These incremental costs are now compounded by the increased requirements of locates set out in Bill 93. In the PWU's view, a reasonable effective date for the generic variance account is April 14, 2022, the date Bill 93 was enacted. Incremental costs may not be material for all LDCs in 2022, but this proposed generic variance account is the appropriate account to track locates variances for review and potential disposal in a future cost of service proceeding for LDCs with material variances. In the PWU's view January 1, 2023, the date proposed by the Large Utilities, is the latest reasonable date the generic variance account should be effective.

8. The PWU submits that the establishment of generic variance accounts to track the incremental costs of locates arising from Bill 93 and other legislation since January 2023 is appropriate.

All of which is respectfully submitted.