
OEB issues decision on a request for an accounting order to establish Generic Locates Service Variance Accounts

DECISION

On October 31, 2023, the Ontario Energy Board (OEB) issued its [Decision and Order](#) approving the establishment of a generic, sector-wide variance account, effective April 1, 2023. This account will allow natural gas and electricity utilities to track incremental costs of locates arising from the implementation of recent provincial legislation, Bill 93, the [Getting Ontario Connected Act, 2022](#).

BACKGROUND

Under the *Ontario Underground Notification System Act, 2012*, utilities with underground infrastructure are required to respond to requests to identify the location of their buried assets to ensure the safety of construction activities that involve excavation or digging. Bill 93 received Royal Assent on April 14, 2022. It included amendments to the *Ontario Underground Notification System Act, 2012* imposing a five-business-day deadline for completing standard locate requests and introducing administrative penalties for failing to comply. The implementation of the administrative penalty regime was postponed to April 1, 2024.

On May 11, 2023, a group of large Ontario natural gas and electricity distribution companies¹ (the Large Utilities) filed a letter with the OEB seeking the establishment of a generic, sector-wide variance account to track the incremental costs of locates in 2023 and future years arising from the implementation of Bill 93, and proposed an effective date of January 1, 2023 for the new account.

According to the Large Utilities, Bill 93 will result in significant incremental locates costs that are not covered by their current rates. As they explained in their May 11 letter, the stricter legislated timelines have required them to invest in “operational improvements including hiring and training more locators..., procuring equipment and vehicles, and improving IT infrastructure. Our preliminary estimates indicate that annual locates costs are likely to increase significantly and by 100% or more, in some cases.”

The OEB also received a letter requesting a similar account from the Electricity Distributors Association on behalf of its members (which include some of the Large Utilities). As an initial step, the OEB asked the Large Utilities to file evidence on costs related to locates, which they did on July 7, 2023. On August 1, 2023, The OEB initiated a proceeding on its own motion to hear the issue by way of a written hearing. The Large Utilities and the intervenors² in their most recent major rates proceedings were accepted as intervenors.

¹ Alectra Utilities Corporation, Elexicon Energy Inc., Enbridge Gas Inc., Hydro One Networks Inc., Hydro Ottawa Limited, Oakville Hydro Electricity Distribution Inc., Toronto Hydro-Electric System Limited

² The following intervenors filed submissions: Consumers Council of Canada, Energy Probe, Power Workers' Union, Quinte Manufacturers, School Energy Coalition, Vulnerable Energy Consumers Coalition

OEB FINDINGS

The OEB approved the establishment of a generic, sector-wide variance account, with an effective date of April 1, 2023, to allow all electricity and gas utilities to record the incremental costs of locates resulting from the implementation of Bill 93.

The OEB acknowledged that electricity and gas utilities may have incurred some incremental costs associated with Bill 93-related locates activities before April 1, 2023, but found that these would have been at a scale that can be managed within existing rates.

The disposition of any balance in this variance account will be subject to a prudence review and a requirement to establish that any cost incurred over and above what is provided for in current rates is an incremental cost resulting from Bill 93. The OEB expects utilities to seek approval for disposition of balances in the account at the time of their next major rates case unless unmanageable balances have accrued that may require disposition before that time.

REGULATORY TERMS

The following is a list of some of the commonly used regulatory terms that appear in this backgrounder, along with a plain language description for each one.

Deferral and variance accounts – are commonly used regulatory tools that allow a utility an opportunity to address costs that were unknown or uncertain when its rates were set.

A deferral account tracks the cost of a project or program which the utility could not forecast when its current rates were set. When the costs are known, the utility can request OEB approval to recover the costs in future rates.

A variance account tracks the difference between the forecast cost of a project or program, which has been included in rates, and the actual cost. If the actual cost is lower or higher, then the utility can request OEB approval to return the difference to customers as a credit or to recover the difference through rates.

About the OEB

The OEB is the independent regulator of Ontario's electricity and natural gas sectors. It protects the interests of consumers and supports the collective advancement of the people of Ontario. Its goal is to deliver public value through prudent regulation and independent adjudicative decision-making which contributes to Ontario's economic, social and environmental development.

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Ce document est aussi disponible en français.

This Backgrounder was prepared by OEB staff to inform Ontario's energy consumers about the OEB's decision and is not for use in legal or regulatory proceedings. It is not part of the OEB's reasons for decision; those may be found in the Decision and Order issued October 31, 2023, which is the official OEB document.