



# Improving Ontario's One Call System: **UTILITY LOCATES**

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**C**onstruction contractors face long delays in waiting for utilities to provide complete and reliable locate information. The delays are compounded by the fact that utility locates have a relatively short validity period, and once expired a request must be resubmitted.

If utilities do not respond within a set period, construction contractors cannot commence any excavation and must contend with starting

from scratch with a fresh set of locate requests. Not only can this result in downtime costs of \$10,000 or more per day per crew, it can trigger delay penalties against the contractor by the municipality or other owner.

Tardy response times of weeks or months, instead of the mandatory five business days, are hindering progress on the building of homes, roads, water-mains; infrastructure that is of critical importance to the residents and businesses of Ontario.

Not only do apparent violations of the One Call Act **for late locates** go unpunished, there is real doubt whether penalties of up to a maximum of \$10,000 under the One Call Act would be a significant deterrent to a large utility with tens of thousands of customers and billions of dollars in assets.

Enforcement of that statute is problematic in terms of:

a) the resources available to investigate and enforce violations by both utilities and excavators;

- b) the low level of fines and penalties as compared to other statutes regulating locates for natural gas lines and buried electrical lines and;
- c) the inherent bias and conflict of interest in an organization that is expected to investigate and prosecute its own members.

Ontario's One Call system could be improved by the following changes:

**1 A Memorandum of Understanding** among all Ontario enforcement agencies to provide a clear understanding of which agencies will take the lead for responding in order to avoid duplication and delays in investigation and enforcement.

**2 Adequate Enforcement Resources for the One Call Act** to ensure that there is some tangible enforcement of the law. Without active enforcement, stakeholders, particularly operators of underground infrastructure, will have little incentive to provide timely and reliable locates.

**3 Consistent Penalties Among All Ontario Laws Governing Locates** will help to ensure that response times improve. The failure of a utility to respond with timely and reliable locate information should have similar consequences regardless of whether the utility is natural gas, electrical energy, telecommunications or water-related.

**4 Eliminating the Potential for Bias and Conflict of Interest** will result in a system that is not only impartial but is seen by all stakeholders as being impartial. In other enforcement agencies such as the Ministry of Labour, the TSSA and the ESA, the investigators and enforcement personnel are totally independent of their respective regulated communities. Consideration should be given to delegating all investigation and enforcement of the One Call Act to an independent and unbiased agency or replacing the compliance committee with an independent body.

**5 Escalated Sanctions for Repeat Violators** will provide

My construction company is routinely handcuffed by late utility locates.

### LATE LOCATES DRAINS MY FINANCES

Late locate delays can cost anywhere from \$12K to \$15K per day by sidelining a standard crew. Furthermore, our projects regularly contain penalties for late completion - up to \$1500.00 per day!

Late locates add to the already strenuous constraints given to us by Mother Nature. Projects are sometimes pushed into the next calendar year, due to locate delays, but my contract prices must remain firm, even though labour and material costs rise year-over-year.

### LATE LOCATES MAKES ME LOOK BAD

Client/owners regularly perform excavator evaluations which include project delivery times. Late locates can unfairly impact our reputation, even though we undertook all necessary measures on our end.

### LATE LOCATES WASTES RESOURCES

There is an increasing amount of paperwork that must be managed and coordinated in the field. Field staff are regularly reviewing up to 40 pages of locate-related paperwork, per locate ticket. My staff resources and time are constantly being wasted with long wait times, on hold, to find out our locate status in the queue.

Ontario One Call has changed into Ontario Ten Call!

– A Concerned Contractor

further incentives to locate providers to deliver timely and accurate information. Significantly higher penalties (fines) should be put in place for chronic or repeat offenders.

### 6 Sufficient Resources to Respond to Locate Requests.

Owners of all underground infrastructure, whether it is electrical distribution, regional water or local municipal traffic control systems, to name a few, must establish sufficient resources to respond to all locate requests in a timely manner. The obligation to respond to locate requests is a legislated safety requirement and agencies, including municipalities, need to ensure that sufficient resources are in place to contribute to public safety.


### 7 Clarify and Codify Civil Consequences from Violation of One Call Act.

Confirming civil consequences if there is a lack of adherence to the One Call Act and other One Call laws and regulations could be an effective form of deterrence, particularly if a utility knows that they could be liable

to a contractor for delays caused by a late or inaccurate locate.

**8 Higher Fines for Corporations in all One Call Laws.** Higher fines for corporations vs. individuals is an enforcement tool that is used in other Ontario statutes including the Environmental Protection Act, the Occupational Health and Safety Act, and the Technical Standards and Safety Act, 2000. This tool is absent in the One Call Act.

**9 Publication of Convictions.** Not only must justice be done, it must be seen to be done. Publishing convictions of Ontario's One Call laws on the Internet will likely have an added deterrence impact.

Improvements to the current investigation and enforcement elements, as listed above, will result in greater infrastructure safety and business outcomes. 

*Excerpted from the Residential and Civil Construction Alliance of Ontario (RCCAO) report with permission. See here for the full report: <http://rccao.com/research/other.asp>*