



Ontario One Call Operations Committee  
**INTERNAL MEMORANDUM**

TO: Ontario One Call Board of Directors

FROM: Ontario One Call Operations Committee

DATE: October 16, 2020

RE: **Feedback on Proposed By-Law and Fee-Schedule Changes 2020**

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The Ontario One Call Operations Committee would like to thank the Ontario One Call Board of Directors for the opportunity to provide feedback on the proposed by-law changes and fee schedule as presented by Ontario One Call on September 30, 2020.

The Operations Committee agrees in principle with many of the changes proposed to modernize the language with respect to compliance, and remove outdated sections and references to the operations of Ontario One Call. Below you will find our feedback as it relates to the proposed changes to the by-law and schedules as well as our general comments.

### **General Comments**

The Operations Committee feel that the opportunity to provide feedback while positive, should have extended to a minimum 30 day consultation period. The two week timeframe provided has not allowed Members and limited stakeholders to adequately engage with respective organizations to provide constructive feedback. Secondly, participation has been restrictive by not including stakeholders such as TSSA, ESA, MOL and various government and industry organizations earlier in the process.

The September 30<sup>th</sup> By-Law Review Consultation presentation outlined that by-laws should describe the governance of an organization, including; *who constitutes the Members of the organization, how the Board of Directors will be formed, its roles and responsibilities, and how meetings of Members are conducted.* The Operations Committee finds that in limiting by-law changes to internal matters only, many current issues will remain unresolved. External-facing by-law additions are also needed to clearly outline responsibilities between Members and excavators.

A second concern for the existing by-laws is the primary focus on the organization's notification system outputs. To address this, external facing by-law changes are also necessary to adopt and enable improvements for the input requirements of locate requests. More prescriptive rule-making for requestors is required to capture information that will:

- address ticket dumping;
- advance subsurface utility engineering scoring and risk management;
- support dedicated locator approaches for projects;
- establish prerequisites for valid locate requests;
- address the unique demands of design/build projects;
- allow joint decision options for 'life of project locates' (successful in Quebec); and
- enable the collection of project information to support Members to properly fund locates as capital expenses.

These items will be discussed in further detail in the sections below.

The amount of information and effort for improved locate request would be dependent and separated by the type of request (projects, maintenance/repair, homeowner and emergency requests).

### **By-Law #2 Comments**

The by-law changes proposed to reduce the current 45 day consultation period to a 30 day notice period is too limited. As presented in our introduction, this consultation period was found to be inadequate, and a reduction to 30 days is therefore not supported.

The Operations Committee feels there are missed opportunities to address vagueness, interpretation differences and lack of some definitions within the By-Law. Below are the recommendations which the Operations Committee believes would allow for better inputs

into the locate process and which would in-turn limit delays due to lack of information, permit the utility owner and/or LSP to start the locates earlier, and better plan for workload.

**Valid Locate Request:** Currently there is no definition of what would constitute a valid locate request. Data input was captured as a key area of focus during the Late Locates Symposium. A definition of a valid locate request for excavators and the data requirements would improve the locate process and turn-around time for utility owners.

**Project Locates:** A definition of a project locate, and required data input parameters for a project locate request to be deemed valid. The parameters could include information such as project numbers and permit numbers.

A further recommendation of the Operating Committee is the opportunity to limit the number of unnecessary requests or submissions to Ontario One Call:

- Enable province-wide exemption options for types of work which would be defined as very low risk, such as hand digging at the base of a utility pole to a shallow depth.
- Establishing utility-specific excavation parameters which such as different depths for different utilities that would apply province-wide.

## **Schedule 2 Comments**

The comments for this schedule are categorized by section.

### *Information To Be Provided by Members*

It is recommended that project details be provided to Ontario One Call for a project is in the design phase, or as early as is practical, to enable proper regional forecasting for Members and their Locate Service Providers (LSPs) for any upcoming project tickets on a seasonal basis.

### *Website and Social Media*

The Operations Committee was unable to determine the concern associated with by-law changes related to the Ontario One Call web-site and social media, specifically not allowing Members any right, title or interest. A general sentiment is processes can be established to allow the Board and/or Committees of the organization to identify and use these communication tools in the interests of safe digging, and within the objects of the corporation.

### *Investigation/Compliance*

The process for compliance and appeals needs to be fully outlined. Clarity is required to understand how the findings from an investigation leads to a non-compliance and how this moves to the Compliance Committee and the Appeals Committee.

Annex I – Compliance Committee – Membership and Voting section speaks to voting, however, the Board is *selecting* mediators, arbitrators and legal professionals for this role; this needs to be corrected.

The roles and accountabilities with respect to compliance needs to be clearly stated for Ontario One Call Compliance, Members, Compliance Committee, Appeals Committee and the Board of Directors. Schedule 2 Part II Enforcement - Section 10 speaks to working with other organizations “to ensure co-ordination of efforts in dealing with enforcement issues”. It appears this collaboration has not occurred during the review and consultation process.

### *Appeals/Arbitration*

The Arbitration and Mediation Section allows an alternative option to the compliance process, however what is not clear is whether a mediator or arbitrator must be selected from the Compliance Committee. This needs to be clarified.

Alternatively, the Operations Committee recommends that as part of the enforcement process, a Member may appeal a finding to a Tribunal rather than moving to mediation or arbitration. This process is consistent with other Provincial agency practices and should be explored. The costs of either mediation or arbitration are high for both the

Member and Ontario One Call whereas the cost for the Tribunal process are significantly less and a result rendered more quickly.

As per the most recent Ministry of Government and Consumer Services – Ontario One Call Memorandum of Understanding, all efforts should be made to coordinate enforcement activities with related authority organizations. The Operations Committee determines this agreement includes matters involving investigation, compliance, appeals and arbitration.

The Operations Committee respectfully requests voting for this schedule to be deferred until such time that changes can be jointly developed with the provincial regulation updates, and in further consultation with the industry.

### **Schedule 3 Comments**

The Operations Committee agrees with the changes proposed in this schedule.

### **Schedule 4 Comments**

By-Law 2-Schedule 4 is being removed in its entirety however, it includes reference to ORCGA/CCGA Best Practices. The Operations Committee believes reference to the ORCGA as well as the Best Practices guide should be maintained either by retaining Schedule 4 Section 7 or including this section in a new section in Schedule 2 to By-Law 2.

### **Fee Schedule**

The Operations Committee agrees with the new fee structure proposal.