



September 19, 2023

VIA EMAIL AND RESS

Ontario Energy Board
P.O. Box 2319, 27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4
Attention: Registrar

Dear Ms. Marconi:

Re: EB-2022-0200 — Enbridge Gas Inc. – 2024-2028 Natural Gas Distribution Rates

We are counsel to Three Fires Group Inc. ("**Three Fires**") in the above-referenced proceeding. Please find enclosed the written argument of Three Fires, which is filed pursuant to Procedural Order No. 6.

Sincerely,

A handwritten signature in dark ink, consisting of a large, stylized 'L' followed by a horizontal stroke that curves upwards and to the right.

Lisa (Elisabeth) DeMarco

c. Vanessa Innis, Enbridge Gas Inc.
David Stevens and Dennis M. O'Leary, Aird & Berlis LLP
Philip Lee and Don Richardson, Three Fires
Chief Mary Duckworth and Larry Sault, Caldwell First Nation

Encl.

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. B, as amended (the “**Act**”);

AND IN THE MATTER OF an Application by Enbridge Gas Inc, pursuant to section 36(1) of the *Ontario Energy Board Act, 1998*, for an order or orders approving or fixing just and reasonable rates and other charges for the sale, distribution, transmission and storage of gas as of January 1, 2024.

EB-2022-0200

SUBMISSIONS

OF

THREE FIRES GROUP INC.

September 19, 2023

I. INTRODUCTION

1. We are counsel to Three Fires Group Inc. ("**Three Fires**") in the matter of the application of Enbridge Gas Inc. (the "**Applicant**" or "**EGI**") to the Ontario Energy Board (the "**OEB**" or the "**Board**") for approval for an order or orders approving or fixing just and reasonable rates for the sale, distribution, transmission, and storage of gas commencing January 1, 2024 (the "**Application**").
2. Three Fires is an Indigenous business corporation that jointly represents the interest of Chippewas of Kettle and Stony Point First Nation ("**CKSPFN**") and Caldwell First Nation ("**Caldwell**" and, together, the "**Three Fires First Nations**") and has full intervenor status in this proceeding. The Three Fires First Nations each have traditional territory, and associated Aboriginal rights and interests protected by the *Constitution Act, 1982*, that may be impacted by the outcomes of this proceeding.

II. OVERVIEW

3. Three Fires' submissions will begin by highlighting the achievement of the creation of the Indigenous Working Group ("**IWG**"), which the Board approved as part of the settlement in these proceedings. The establishment of the IWG is a very promising and constructive step. If successful, it will provide increased opportunities for discussions on questions of economic partnership with First Nations in the province, an enhanced way to include First Nations in planning and decision-making on the important matters at issue in this proceeding and otherwise, and a potential precedent for improved engagement with First Nations moving forward.
4. The balance of Three Fires' submissions will focus on EGI's failure to properly study, respond to, and support the energy transition, including its failure to meaningfully examine:
 - (a) the likelihood of any specific decarbonization pathway being adopted;
 - (b) the viability of alternative energy transition pathways;
 - (c) the consequences for different regions and industry sectors;

- (d) the implications for vulnerable and more remote communities;
 - (e) the likelihood of stranded assets and related implications; and
 - (f) the cost implications of delay.
- 5. EGI's posture in response to the challenges of the energy transition has been strikingly passive. It has generally failed to undertake the kinds of proactive steps that one would expect from a company determined to identify the full character of the risk it faces as a necessary step towards mitigating that risk. In fact, it has generally argued for delay rather than a proactive approach, thereby generally disregarding the accelerating global trends that are already identifiable in the context of the energy transition, as well as their most likely domestic impacts and consequences.
- 6. EGI's posture of delay creates or exacerbates real risks for Ontario. In particular, it increases the risk that Ontario will face higher costs as it transitions under more condensed timeframes or otherwise fails to identify and mitigate the costs of transition in a timely manner. Anything that undermines the efficiency of or delays efforts in support of energy transition also exacerbates the risk that Ontario's decarbonization pathways will be insufficiently understood or otherwise rendered unavailable due to a decreasing amount of time available to adopt them.
- 7. EGI's approach also increases the risk that remote and/or vulnerable communities, including First Nations, will not have their unique needs examined and addressed. The company's current modelling that treats Ontario as a common unit will almost certainly obscure the consequences specific to any given community, thereby increasing the risk that there will be insufficient time or resources to mitigate negative impacts of a proposed transition pathway once they are discovered.
- 8. On the basis of the above, TFG will request that the Board:
 - (a) Note the importance and potential precedential value of the IWG;
 - (b) Note that EGI has failed to take reasonable steps in the risk analysis it has performed for the purposes of this Application;

- (c) Initiate a generic proceeding using an integrated and coordinated approach across both the gas and electricity sectors, which would examine the impacts, opportunities, and risks of climate change and the energy transition in Ontario's regulated energy system, inclusive of vulnerable and more remote communities that include First Nation ratepayers (an "**OEB Process**");
- (d) Require EGI to file updated materials relating to the issues of equity thickness and depreciation at the time of the OEB Process ("**EGI's Updated Materials**"), which should allow the OEB to update its order concerning depreciation on the basis of a better and more precise understanding of the risk that EGI and its assets face, along with the steps that EGI is taking to mitigate the identified risk;
- (e) Reject EGI's request for increased equity thickness on the basis of the increased risk it faces as a result of the energy transition, pending the OEB's review of EGI's Updated Materials; and
- (f) Make any order concerning the depreciation of EGI's assets interim and provisional, pending the OEB's review of EGI's Updated Materials.

III. SUBMISSIONS

A. The Indigenous Working Group Is a Significant Step Forward for Ontario First Nations

- 9. Three Fires wishes to begin its submissions by noting the achievement of the creation of the IWG, which the Board approved as part of Issue #4 in the settlement agreement from these proceedings.
- 10. The establishment of the IWG is a very promising and constructive step. If successful, it will provide increased opportunities for discussions on questions of economic partnership with First Nations in the province, as well as an enhanced way to include First Nations in planning and decision making on the important matters at issue in this proceeding and otherwise.

11. TFG is also hopeful that a successful IWG can serve as a precedent for improved engagement with First Nations moving forward, both within the energy sector and beyond. There is a growing recognition across Canadian society on the need improve the opportunities for ongoing and collaborative Indigenous consultation, which the IWG in many ways reflects.
12. There is ample reason why the IWG has arisen in the context of this proceeding. Ontario is at a pivotal moment on the key questions relating to the energy transition that will be necessary to support global decarbonization efforts. These changes will have immense consequences for all residents of Ontario, perhaps even more so for Ontario's First Nations, who often face vulnerabilities or other unique considerations.
13. TFG has collaborated with Ginoogaming First Nation for the purposes of these submissions, including concerning the IWG and the special considerations of First Nations in the context of the energy transition. Accordingly, TFG supports and adopts:
 - (a) the submissions of GFN on the topic of the IWG, which are located at paragraphs 3 to 6 of GFN's submissions; and
 - (b) the submissions of GFN on the topic of the special considerations of First Nations in the context of the energy transition, which are located at paragraphs 13 to 19 of GFN's submissions.

B. EGI's Response to the Energy Transition Has Been Delayed and Passive

EGI and Its Experts Acknowledge the Risks that the Energy Transition Creates for the Company

14. There is a general consensus in these proceedings that efforts across the globe to decarbonize will mean massive transformation for Ontario and worldwide. EGI acknowledges that Ontario has committed to reduce GHG emissions by 30% below 2005

levels by 2030 and the provincial government is currently developing climate policy and programs to meet this target.¹

15. EGI also acknowledges the massive scale of the energy transition and the massive changes it will bring for Ontario's energy sector. EGI has stated that it is confident in the role it "can play in supporting customers, the province, and municipalities in achieving their GHG emission reduction goals",² but it also believes that the energy transition is "unlike any other challenge that management is facing".³ In particular, EGI states that "[t]here is potential that climate change legislation, such as municipal or provincial plans to phase out the use of natural gas, could have a life-shortening effect on Enbridge Gas's system."⁴
16. EGI's only expert evidence to speak directly to the risks that EGI faces was even more express in articulating the extreme risk that the energy transition poses for EGI. In particular, Concentric argues that EGI faces risks that threaten its core business activities:

Depending on the specific pathways ultimately taken by the Canadian federal government and the province of Ontario, the Company may no longer be able to engage in the provision of its main business enterprise: the distribution of natural gas.⁵

17. Elsewhere in its materials, Concentric argues that the energy transition creates the risk of a death spiral for gas utilities like EGI:

"Death Spiral" Risks

Over the long-term, gas distribution utilities such as Enbridge Gas face the risk that they will lose customers and lead to electrification and other energy sources. However, gas distribution utilities must continue investing in the short-term to maintain the safe and reliable provision of utility service. Together, those two factors mean it is possible that gas distribution utilities face what has been termed a "death spiral" whereby an increasing amount of cost must be recovered from a continually shrinking customer base. In a death spiral scenario, the resulting rate

¹ EGI, Application, 1.2.1, para 42.

² EGI, Application, 1.10.1, para 3.

³ Evidence of Tanya Ferguson, Hearing Transcript, Day 8, page 65.

⁴ Exhibit 1, Tab 10, Schedule 4, paragraph 52.

⁵ Exhibit 5, Tab 3, Schedule 1, Attachment 1, page 41.

increases provide incentives to customers to leave the gas system, creating a negative feedback loop of rate increases and customer departures....

A future “death spiral” is far from certain, and we anticipate that the Company will work proactively to avoid such an outcome. However, it is possible. In 2020, residential customers accounted for approximately 57% of the Company’s revenues but just 32% of its sales volumes. If a meaningful portion of these customers switch to non-gas heating sources, whether due to technological advancements, environmental concerns, or policy mandates, costs will increase for the Company’s remaining customers. Such a scenario could potentially spark a so-called “death spiral.”⁶

18. Concentric also argues that EGI’s investors are aware of this risk of a death spiral, leading to concerns among the investor community that EGI relies on in these proceedings as part of its request for an increase to equity thickness:

The opposition to natural gas threatens the Company’s sales volumes through franchise renewal challenges, potential net-zero mandates, and increasingly stringent building codes or bans on new gas hook-ups. The company has deferral and variance accounts that provide a degree of short-term insulation from this risk (insulation that will improve if the Company’s SFV rate design proposal is adopted). However, in the long—term, investors are concerned that increasing costs recovered over declining volumes may create a “death spiral” scenario.⁷

19. EGI faces significant risk even in less extreme scenarios. For example, EGI’s expert Concentric has recognized the risk “that large scale retirement of assets may be required in the periods between now and 2050.”⁸
20. There is widespread agreement in these proceedings on the nature of these risks. For example, Concentric notes that there is agreement between it and OEB Staff’s expert in these proceedings, London Economics International (“LEI”), that EGI faces an increase in stranded asset risk, as well as uncertainties about the “viability of hydrogen and renewable natural gas as alternatives to natural gas for space heating, particularly with regard to their competitiveness with electric heat pumps”.⁹

⁶ Exhibit 5, Tab 3, Schedule 1, Attachment 1, page 53-54.

⁷ Exhibit 5, Tab 3, Schedule 1, Attachment 1, page 34.

⁸ Exhibit 4, Tab 5, Schedule 1, Attachment 1, section 3.2.3.

⁹ Evidence of Dan Dane, Hearing Transcript, Day 8, page 58.

A Prudent Company Would Proactively Assess and Seek to Mitigate the Risk It Faced

21. A company facing a significant threat to its business could be expected, among other things, to make efforts to identify the full extent of the threat, including potential consequences, as a necessary first step towards further efforts to mitigate the threat's potential effects.
22. Dr. Asa Hopkins states that a prudent company would be active in responding to a significant risk to its business, including by studying the nature of the risk and its potential impact:

DR. HOPKINS: ... The first step is understand where you are, understand what your options are, understand what the impact of changes, different kind of changes in the world would be on your business, understand what are the options that you can -- things you can do in response, et cetera. We have a start, right, with the [Posterity and Guidehouse] studies that are presented, but that -- they are not by any means comprehensive and complete enough to really give all the answers one might want about what steps to take now versus what steps to take in a few years, et cetera.

...

if you have an uncertain future, you want to understand where the options are, where the potential directions are that might go, and understand what you are setting yourself up for. Sometimes if you want an option to be available for you in ten years there are things you have to start doing now. So if you want -- you are trying to maintain optionality or understand that something might come, there are initial steps you need to do now. If you don't do it, then you are going to wish you had later.

There are other things where, you know, investing -- spending a bunch of money on something now is -- might set you up for -- you want to understand what situation that turns out to have been a bad idea, right, and how likely those situations are. You want to be able to sort of understand how that dynamic plays out.¹⁰

23. Dr. Hopkins confirmed that the same general approach should apply in the context of the energy transition:

There is uncertainty about what is coming and what the exact shape of the energy transition will look like. And so good planning in the face of uncertainty takes a

¹⁰ Evidence of Dr. Asa Hopkins, Hearing Transcript, Day 5, page 25-27.

range of different potential futures into account and help you evaluate what your -
- what your possible actions would be going into that range of futures.¹¹

24. Dr. Hopkins has provided a description of what proper scenario analysis should include:

A scenario analysis would develop a number of plausible future scenarios, assign those scenarios weights based on transparent assumptions about the futures they represent, and model the conduct of a prudently run utility adapting and managing itself in that scenario....¹²

25. Dr. Hopkins also explains that scenario analysis should attempt to answer a range of important questions, including questions identifying potential vulnerabilities, prudent and mitigating actions, the consequences if early assumptions prove false, risks of stranded assets on specific assets and the potential cost of efforts to mitigate that risk: specific assets:

Scenario modeling can help answer a wide range of questions to inform utility management (and regulators). For example, scenario analysis of this sort can be used to identify no- or low-regrets actions, such as actions which occur along the prudent path forward in multiple scenarios. It can identify essential choices or points where it is no longer reasonable to maintain optionality. It could identify brittleness to the availability of particular inputs (or availability at a given price point).

Sensitivity analysis is aimed at testing what happens if things go differently than expected. For example, a sensitivity analysis can capture what happens if a utility begins along one path based on assumptions about customer demand and fuel availability but discovers the world is different from its assumptions. Some approaches to managing a given scenario may be more flexible to managing such changes than others.

With respect to capital risk analysis, scenario modeling could identify which pipes or other assets are used and useful for what times, in each scenario. This modeling can also identify any barriers that may exist to fully depreciating those assets before they retire. The scenarios would also identify which assets would be able to serve their full engineering life ... Where scenario modeling identifies assets at risk of stranding, the analysis could identify, and quantify the potential cost of, mitigating actions to avoid stranding.

At the foundational level, scenario analysis of capital risk aims to answer: under what circumstances is a prudent utility manager forced to strand costs; how likely are those circumstances and what is the extent of the stranding; and are some

¹¹ Evidence of Dr. Asa Hopkins, Hearing Transcript, Day 5, page 25-27.

¹² Exhibit M8, page 36.

approaches in the near term more or less likely to create unavoidably risky situations later?¹³

EGL's Response to the Prospect of Energy Transition Has Been Strikingly Passive

26. EGL has failed to undertake the kinds of proactive measures that Dr. Hopkins recommends. In fact, EGL's response to this potentially existential threat has been strikingly passive. The company has failed to take the many of the steps that almost any prudent company would as part of efforts to identify the precise nature of and mitigate any risks it faced.
27. EGL's initial position in these proceedings expressly rejected the idea of assigning probabilities to scenarios for forecasting and planning purposes, characterizing such an exercise as speculative, highly subjective, and of limited value for forecasting and planning:

As stated as Exhibit 1, Tab 10, Schedule 5, [page 3], Enbridge Gas undertook the Energy Transition Scenario Analysis (ETSA) project to understand the impact of climate policies on the gas distribution system under a range of possible scenarios. Assigning probabilities to the scenarios was considered speculative and highly subjective. Enbridge Gas considered assignment of probabilities to be of limited value for forecasting and planning purposes and therefore did not include it in the scope of the study.¹⁴

28. In the meantime, EGL has confirmed that the efforts of EGL's experts undertaken on behalf of the company were never intended to perform the kind of deeper scenario modeling that Dr. Hopkins recommends. For example, EGL's scenario analyses make no assertion concerning the likelihood the scenario will actually materialize:

MS WADE: ... As one of the first steps in considering how energy transition could impact its business, the company commissioned two studies. Both studies were based on scenario analyses. Both studies were intended to inform Enbridge Gas of the impact of various plausible and relevant scenarios. However, they were not meant to be a prediction of the future, and a probability or a likelihood of either certain (sic) was not assigned or ever intended to be implied.¹⁵

¹³ Exhibit M8, page 36-37.

¹⁴ Exhibit I.1.10-Three Fires-5, response A.

¹⁵ Evidence of Cara-Lynne Wade, Hearing Transcript, Day 1, page 80.

...

It is important to reiterate that these two [electrification and diversified path] scenarios when defined were not intended to be used as a plan for Enbridge Gas, and they were not intended to be interpreted as the only two ways that Ontario could achieve net zero.... Each pathway chooses specific assumptions or inputs as part of their scenario definition, based on information that is available at the time of modelling and based on plausible changes to what we know today. Enbridge Gas does not believe that different assumptions made a scenario right or wrong. They are just that, different scenarios with different assumptions.¹⁶

29. EGI similarly acknowledges that it has failed to examine the consequences of any given scenario on specific aspects of EGI's system. EGI's system itself was external to Posterity's study, which instead concerned itself only with the impact of certain energy transition scenarios and assumptions on EGI's global volumes and peak demand, which Mr. Tiessen and Ms. Wade confirmed at the hearing:

MR. MONDROW: ... I just want to focus for a couple of minutes on the objectives, what they were and what they weren't, so starting with -- I think the first in time was the Posterity study, which is called the Energy Transition Scenario Analysis.

You say here that was undertaken to understand how energy transition could impact Enbridge Gas' system, and my understanding is what that analysis actually modelled what was the future load and associated customer emissions in Ontario for Enbridge's system. Is that correct, Mr. Tiessen?

MR. TIESSEN: Yes.

MR. MONDROW: Disaggregated by region, customer segment, and end uses?

MR. TIESSEN: That is correct.

MR. MONDROW: And the idea is that that study would provide inputs for considering the impacts on Enbridge's [audio dropout] Is that correct?

MS. WADE: The purpose of that was to determine -- and perhaps there should be one more word in there, the load on Enbridge's system.

MR. MONDROW: Okay. The study, itself, did not consider Enbridge's system, at all; it was all external to that system?

MS. WADE: That is correct. The study was to understand the impact on volumes and peak demand.¹⁷

¹⁶ Evidence of Cara-Lynne Wade, Hearing Transcript, Day 1, page 82.

¹⁷ Evidence of Alex Tiessen and Cara-Lynne Wade, Hearing Transcript, Day 3, page 136-137.

30. One consequence of EGI's failure to examine the potential impact of energy transition on specific elements of its system is that it has yet to assess the risk that any specific asset will be stranded, which it confirmed in its responses to interrogatories:

Q: Has EGI identified any specific assets that are at risk of becoming stranded because of the Energy Transition or other cause?

A: Enbridge Gas has not identified any specific assets that are at risk of becoming stranded because of the Energy Transition or other cause.

Q: Please identify all analyses conducted by EGI or otherwise in EGI's possession which:

- a) analyze changes in EGI's gas system operations and maintenance costs along different potential decarbonization pathways or Energy Transition Scenarios;
- b) quantify infrastructure investment on EGI's system along different potential decarbonization pathways or Energy Transition scenarios;
- c) quantify infrastructure retirements on EGI's system along different potential decarbonization pathways or Energy Transition scenarios.

A: Enbridge Gas has not completed this analysis.¹⁸

31. The failure to study the potential impact of energy transition on its assets, or constituent components of such an analysis like a regional analysis or likelihood of specific customers leaving the system, leaves EGI without any view as to any impact on the risk of early retirement, which it confirmed at the hearing:

MR. MONDROW: Okay. So let me just ask that question again, and maybe you can supplement your answer and answer that question. My question was, you don't have any work in your current energy transition plan on assets that are more likely to be underutilized sooner rather than later and the cost of retiring those are avoiding new investment in them in the first place.

MS. GIRIDHAR: I thought I'd answered that question, Mr. Mondrow. Apologies if you are not convinced I did. The first thing is we don't yet at this point have a view on what assets, if any, would be retired sooner than we are currently planning for. Our current expectations are embedded in the depreciation study in terms of asset lives that we have proposed. To the extent that we may need to pivot in terms of repair versus replace decisions, we have introduced the EDIMP deferral account. And if I may just confer for a moment.

¹⁸ Exhibit I.5.3-IGUA-35, Questions and Responses C-F. See also Exhibit I.2.6-ED-110, Responses B-C.

MS. WADE: And I would just maybe add to the end where we began with integrated energy planning, and so to be able to get to that level of granularity that you are noting in terms of which might have a shorter life or be underutilized, that really has to be done at a regional granular level in tandem with the electricity sector -- just repeat what we have said. I don't think we can contemplate the reduction in gas use without contemplating what will be replacing it.

MR. MONDROW: You haven't looked at which customers by class or by geography are more or less likely to leave the system sooner rather than later, nor the potential number of those customers that might leave the system. Is that correct?

MS. GIRIDHAR: I think it is fair to say until we understand what those customers are replacing the gaseous energy with it is hard to contemplate where that might occur.

MR. MONDROW: That is fine. But then the answer is, no, you haven't, and you have just given me the reason why. Correct?

MS. GIRIDHAR: Correct.¹⁹

32. Dr. Hopkins has confirmed that EGI's failure to study the impact of the energy transition on the key aspects of EGI's business under a range of scenarios make it impossible for the company to understand its own business risk:

EGI and Concentric have not adequately analyzed the energy transition impacts on EGI's business, and therefore have not shown that it materially increases EGI's capital-related risks.

Scenario modeling of different futures for EGI is both possible and essential in order to understand its business risk. The utility is the only entity that has the sufficient expertise in its own system, finances, and operations to conduct such modeling at the level of detail required to develop plans and guide business decisions. It would be prudent for the utility to do such analysis and to share both the methods and results in details with the Ontario Energy Board ... and its stakeholders.²⁰

EGI Accepts that Further Study Is Needed

33. EGI acknowledges that further and more granular modelling will be helpful, although it argues that such modeling should take place in coordination with the other key elements

¹⁹ Evidence of Malini Giridhar and Cara-Lynne Wade, Hearing Transcript, Day 3, page 146-147.

²⁰ Exhibit M8, page 5.

of Ontario's energy sector and following expected direction from the Ontario Government.²¹

34. In particular, EGI accepts that "moving down to that next regional level of modelling is of importance when looking at how it could impact the gas system or electric system specifically." Such modelling will be capable of examining, among other things, the consequences of energy transition on different groups within Ontario that EGI's expert reports do not capture.²²
35. EGI accepts that their failure to perform this more granular modeling makes it impossible for them to understand the range of likely impacts of the energy transition on their system:

MR. DAUBE: Now, is it fair to say that the absence of more granular modelling, sector by sector, region by region modelling, makes it a whole lot harder to determine which assets in the future might be more likely to be retired?

MS. WADE: I think that is fair, yes. So our model, as we've noted, is one-node provincial, and, in order to understand the very specific impacts on our system, we would have to get down to a more granular and regional level.²³

36. Concentric also agrees that such modelling is necessary, noting that EGI's investors have been quick to react to the risks that make the action necessary:

MR. DANE: ... We agree that further modelling of these risks will be beneficial, but just the fact that such work is necessary underscores the fundamental shift in the business environment for utilities such as Enbridge Gas, which is a clear distinction from the business environment 10 or even five years ago. An equity investor does not have to wait for the additional modelling suggested by Dr. Hopkins to understand that these risks exist, and there is no credible scenario identified where Enbridge Gas has less risk than it did in 2012 or in 2018.²⁴

EGI Argues for Delay Despite Its Recognition that Further Study Is Needed

37. EGI has had abundant time to perform the further modeling that it agrees is currently absent. The company has confirmed that they first began identifying the risk of stranded

²¹ Evidence of Malini Giridhar and Cara-Lynne Wade, Hearing Transcript, Day 3, page 138-140. See also Exhibit 1, Tab 10, Schedule 6, paragraph 75-80.

²² Evidence of Cara-Lynne Wade, Hearing Transcript, Day 4, page 53-54.

²³ Evidence of Cara-Lynne Wade, Hearing Transcript, Day 4, page 67-68.

²⁴ Evidence of Dan Dane, Hearing Transcript, Day 8, page 63.

assets as a business risk reported to senior management and their board of directors after Ontario released its climate action plan, which was in June 2016. EGI's perception of the risk strengthened in 2019, when the federal government introduced the federal carbon charge.²⁵

38. EGI has also conceded that there is currently nothing preventing EGI from performing a more granular regional level scenario analysis that could include matters such as the impact on identified groups, subject to the proviso that EGI believes that it would need to perform its work "in tandem with the electricity sector to ensure that any assumptions we have made would align".²⁶
39. EGI therefore justifies its failure to undertake a more meaningful risk analysis by arguing it must wait for further policy clarity in Ontario. EGI argued at the technical conference that such scenario work should not take place while the work of Ontario's Energy Transition Panel (the "**Panel**") remains ongoing, although it remained silent on whether the company would run further scenarios once the Panel's work was complete:

MS. MURPHY: We don't think these are, you know, this is the hard and fast way that net zero will be achieved is in one of these pathways. We believe these are just two possible scenarios.

So while I agree there are other scenarios, I'm just not sure that in this proceedings is the place for those to be modelled when we know that the government is currently undertaking a modelling exercise and ultimately is the right party to be looking at the best way for Ontario to reach net zero, and that work is under -- being undertaken right now.

But I'll let Ms. Wade -- if there's anything you'd like to add?

MS. WADE: No, I think Ms. Murphy has captured it.

I would just add that the panel is going to be looking for short-term, medium term, and long-term opportunities, and they will be looking at a Pathway similar to this.

So I think we could come up with an endless list of scenarios to run. We are just trying to determine what's of the most value to the Board in making their decision, and we believe that the Ontario Energy Transition Panel and the Pathway, that

²⁵ Evidence of Tanya Ferguson, Hearing Transcript, Day 9, page 40-41.

²⁶ Evidence of Cara-Lynne Wade, Hearing Transcript, Day 4, page 67.

report is going to provide guidance on policy and long-term planning, and that that is the best place to see the next scenario that's run.²⁷

40. EGI reiterated its position at the hearing that the company should not perform more granular modeling while the work of the Panel is ongoing, but it appeared to anticipate that it might engage in more precise assessments of the risk the company faces once the Panel's work is complete and the Ontario Government provides its policy direction:

MR. MONDROW: ... You are waiting for the energy electrification and energy transition panel, Energy Transition Electrification panel, the panel, the provincial panel, to report and get the province's policy reaction, and then you will be able to undertake that more granular work. Is that the idea?

MS. GIRIDHAR: Yes. I think, yes, that is because it is not clear yet how that coordination of gas and electricity planning would be governed. You know our -- I think Enbridge's submission is that the OEB would be the natural governing party, given that it is the regulator of the entities that need to coordinate between them, but it is not clear where the province would land in terms of governing that process.

MR. MONDROW: It is not just the coordination point; it is coordination is the government's, the Ontario's government's, policy on the future of gas heating, transportation. It is quite a broad policy direction that you are anticipating will come out of the panel's work and then the government's consideration of that work, and then you are hoping for some government direction across the board on how the energy transition will unfold in the province. Is that right?

MS. GIRIDHAR: That is correct. However, the coordinated planning between gas and electric is of specific importance to us because it governs the pace. It has been said earlier: If you are displacing one energy source, you need to understand what the capabilities are of the system that's displacing it.²⁸

41. This requirement for policy clarity that EGI effectively seeks as a precondition to conducting a meaningful assessment of the risks the company faces is an unreasonable standard, in part because the very soonest that policy clarity will arrive is when provincial policy direction has been set – not when the Panel issues its recommendations – which EGI acknowledges in its Argument in Chief:

This uncertainty will exist until provincial policy direction has been set. In late 2022, the Government of Ontario established the EETP to advise on “the highest value short, medium, and long-term opportunities for the energy sector to help Ontario’s economy prepare for electrification and energy transition, including long-term

²⁷ Evidence of Cara-Lynn Wade and Jennifer Murphy, Technical Conference, Day 1, page 170-171.

²⁸ Evidence of Malini Giridhar and Cara-Lynne Wade, Hearing Transcript, Day 3, page 138-140. See also Exhibit 1, Tab 10, Schedule 6, paragraph 30.

energy planning”. In addition, to support this work, the Government of Ontario commissioned its Pathways Study to better understand how Ontario’s energy sector can best support electrification and the energy transition. Policy direction is expected to come sometime after the government receives the EETP’s reports and the outputs from its Pathways Study.²⁹

42. More fundamentally, however, is the fact that there is no such thing as conclusive certainty when it comes to public policy, which EGI acknowledged at the hearing.³⁰ While further information concerning the Ontario Government’s policy intentions should of course (along with other factors) form part of any EGI risk analysis, the very nature of the energy transition and any policymaking process means that there will always be some degree of uncertainty, even once a government has pronounced on a matter.
43. EGI and its expert Mr. Kennedy also agreed that:
- (a) Governments can always change or reverse their policy choices;
 - (b) Governments themselves can change, which can result in policy reversals;
 - (c) It is uncertain whether a government will accept in whole or in part the recommendations of any expert panel it constitutes.³¹
44. EGI’s efforts to delay the more meaningful risk analysis that even it acknowledges will be required also obscure the nature of the energy transition as a global phenomenon. There exists an abundance of available factors that can and should inform a proper risk analysis – in addition to rather than subordinate to policy signals from the Ontario Government – as discussed in the following section.

EGI Failed to Examine the Global Context of Energy Transition and Its Likely Domestic Impact

45. EGI’s general failure to examine the global context of energy transition in any meaningful way as part of its pathway studies is a notable omission in these proceedings, both for the purposes of conducting a properly informed scenario analysis and for the purposes

²⁹ Argument in Chief of EGI, paragraph 60.

³⁰ Evidence of Larry Kennedy and Malini Giridhar, Hearing Transcript, Day 17, page 74-76.

³¹ Evidence of Larry Kennedy and Malini Giridhar, Hearing Transcript, Day 17, page 74-76.

of determining the full range of likely consequences of EGI's proposed pathways for Ontario residents and companies, including a determination of the implications that the global economic and policy transition will have implications for the viability of any domestic transition pathway.

46. There was widespread agreement in these proceedings that consideration of the global context of the energy transition is an important aspect of any analysis of how energy transition is likely to unfold in Ontario.
47. For example, the Board heard evidence from Dr. Hopkins on the importance of examining the global context of energy transition and analyzing the impact and risks that result from it. He stressed the importance of examining "the overall picture" and "everything that is going to impact ... the energy system". The analysis should include a mix of non-policy related matters, such as technological developments and market developments, in addition to federal and provincial policies and actions.³²
48. Concentric has likewise repeatedly stated in these proceedings that they believe the global context is relevant to a proper understanding of the risks that EGI faces. It listed the broad context that should be considered as part of a risk analysis as follows:

Concentric believes there is a material risk related to a "death spiral" scenario, but we are unable to quantify the probability as there are many factors that impact the future of the gas industry, and each of these factors carries its own range of potential outcomes. Among these factors are international, national, and local public policies, technological innovation, customer preferences and behavior, and the costs of competing energy sources....³³

49. Concentric's report also includes extensive references to other jurisdictions and developments in both North America and Europe, arguing that the European case study was relevant because "trends are likely to be comparable".³⁴ Consistent with this approach, Mr. Coyne explained the relevance and importance of examining the global context of energy transition:

³² Evidence of Dr. Asa Hopkins, Hearing Transcript, Day 5, page 32.

³³ Exhibit I.5.3-ED-148, response A.

³⁴ Exhibit 5, Tab 3, Schedule 1, Attachment 1, in particular the European Case Study at page 43-44

MR. DAUBE: Now, if we know to page 44 of your report, please, you included a European case study in your risk analysis. Right?

MR. COYNE: We did.

MR. DAUBE: And you included a review of developments in the United States, as well?

MR. COYNE: We did.

MR. DAUBE: And so, for you, both of those things were important elements towards a complete understanding of the risk picture as it applies to Enbridge. Is that correct?

MR. COYNE: That is right.

MR. DAUBE: And the general trends that are informing the picture of the energy transition again that Enbridge faces. Is that right?

MR. COYNE: That is right. We wanted to look to other examples of how energy transition is unfolding, the types of policies that are being implemented, and responses taken by policymakers, and the impacts on the energy market and companies like Enbridge. So that is what we were trying to piece together. It is oftentimes useful to look beyond the jurisdiction that you are looking in to see what is going on in the broader world because, as we know, energy transition is really a global issue.³⁵

50. Mr. Coyne also explained that investors inform themselves of the global context of energy transition and expect companies like EGI to take these changes into account in terms of their own planning processes:

MR. DAUBE: And this is the kind of picture or context that investors look at. Right?

MR. COYNE: We believe that they do because it is a global market for capital and energy transition is probably one of the most fundamental changes in our overall energy and economy, so investors are responding to it proactively, and they are following it with a great sense of analysis and looking to bring to bear some certainty around that which is going to be a complex and highly uncertain process.

MR. DAUBE: Do investors expect companies like Enbridge to also know and respond to that global context and picture?

MR. COYNE: They do. They expect that companies like Enbridge will take these changes into account in terms of their own planning processes and be proactive in terms of responding to the policy signals they have as they become known.

³⁵ Evidence of Jim Coyne, Hearing Transcript, Day 9, page 20-22.

MR. DAUBE: So you would consider a general risk assessment as it applies to the energy transition for a company like Enbridge to be incomplete without some sort of analysis of what is going on in places like Europe and more broadly in the United States. Is that right?

MR. COYNE: I would expect a company like Enbridge to be first focused on its own province and jurisdiction. I don't expect companies like Enbridge, as opposed to, say, us consultants, to be as on top of what is going on in other jurisdictions because of the nature of the work that we do. They are focused on running a gas company in Ontario, so I would expect them to rely on outside advisors to help provide them with that broader perspective and perhaps their own reading. But I think it is -- it would be helpful for Enbridge to understand the global context at some level, yes.³⁶

51. EGI itself also accepts the relevance of this global energy context. EGI agrees that global trends are likely to inform domestic developments, set constraints, and create incentives directly relevant to EGI and its customers:

MR. DAUBE: ... Do you agree that energy transition policy in Ontario and in Canada, more broadly, won't be set in a vacuum and is likely to be informed by international trends?

MS. WADE: Yes, we would agree with that, given our per capita emissions are high, that we would be influenced by what is happening internationally.

...

MR. DAUBE: Do you agree that international conversations and developments could potentially shed some light on what the international community views as either the likeliest or most viable path forward in energy transition?

MS. WADE: Yes, I would agree with that. And I think a good example of that is the modelling or the analysis that was done as part of the Canadian Energy Regulator. So they looked at two diversified scenarios, one where Canada just reaches net zero, and one where globally we reach net zero. And it defines the impacts to our country if, globally, it does not keep pace with Canada.

MR. DAUBE: So that is an important point and, in that sense, I think you will agree with this: What is happening internationally is going to set constraints or offer advantages with certain paths, create incentives in terms of various policy pathways. Is that fair?

MS. GIRIDHAR: We would agree with that statement, but we would also obviously be informed by what are the pre-existing conditions in terms of energy demand and energy supply in our existing energy systems in Canada.

³⁶ Evidence of Jim Coyne, Hearing Transcript, Day 9, page 20-22.

MR. DAUBE: Of course. But with that pre-existing context, it is not only that these international developments are potentially the source for ideas --

MS. GIRIDHAR: Yes.

MR. DAUBE: ...or trends. They are also shaping similarly the environment that the Ontario energy landscape is going to have to integrate into, onto, draw from and so on. Fair?

MS. GIRIDHAR: Yes....³⁷

52. Despite this widespread recognition on the importance of considering the global context of energy transition for the purposes of assessing likely paths and identifying relevant external influences in Ontario, EGI's expert analysis fails to examine global energy transition developments in any meaningful way. Most significantly, Posterity examined only a very limited number of jurisdictions in the United States (and none outside North America) for the purposes of its critical driver analysis, which is central to its analysis concerning non-price driven fuel switching.³⁸
53. Posterity's analysis also did not directly consider international policy developments and thinking as part of its analysis relating to codes and standards for retrofits and new construction, instead relying on the assumption that Canada's existing energy efficiency regulations are influenced by international policy developments.³⁹ This important question of where global policy developments are trending in this key area is simply absent from the study.
54. As a result, EGI's evidence is silent on global developments such as border carbon adjustments, which carry implications for Ontario exporters and are likely to shape Ontario's decarbonization choices. In that regard, EGI has acknowledged the following:
- (a) the European Union has started to implement border carbon adjustments in certain sectors;

³⁷ Evidence of Malini Giridhar and Cara-Lynne Wade, Hearing Transcript, Day 4, page 56-58.

³⁸ Exhibit I.1.10-Three Fires-5, response G.

³⁹ Evidence of Cara-Lynne Wade, Hearing Transcript, Day 4, page 54-55.

- (b) BCAs are a developing policy instrument that are gaining momentum internationally, attracting attention in the United States, and have the potential to be adopted increasingly around the world;
 - (c) instruments like a border carbon adjustment or other tariffs can affect the competitiveness of Ontario companies, including their ability to export to the jurisdiction that is putting them in place.⁴⁰
55. The accumulating momentum of policy measures like the European border carbon adjustments demonstrate that the requirement to decarbonize on rapid timelines may be set by domestic net-zero legislation, but it is almost certain to be influenced and reinforced by the global policy and economic context. Jurisdictions that fail to decarbonize or make decarbonization options available to their domestic actors are likely to face economic and political consequences as they engage with the broader world.
56. Nevertheless, EGI's modelling treats decarbonization as if it were a domestic policy choice like any other, unconstrained by the fixed and fast-approaching changes and deadlines that the global context imposes.
57. By failing to ask the question of what that global context means for the likelihood or feasibility, not to mention the impact of any such pathway on communities and business in Ontario, EGI provides small assurance that it has performed the diligence necessary to say that its proposed plan or "safe bet" options are in the long-term best interests of Ontario.

C. EGI's Delayed and Passive Response Creates Risks for Ontario

58. EGI's refusal to perform the scenario analyses essential to a meaningful risk assessment carries several potential categories of negative costs to the company and Ontario. These include negative long-term consequences for:

⁴⁰ Evidence of Malini Giridhar and Cara-Lynne Wade, Hearing Transcript, Day 4, page 59-60.

- (a) EGI itself, since it may be foregoing opportunities to mitigate certain types of risk it faces, producing the risk that EGI customers or Ontario more broadly will face increased costs in the future;
- (b) EGI customers who are remote and/or vulnerable, since they are the ones most likely to bear the future costs of poor energy choices in the present;
- (c) Ontario's ability to transition away from a status-quo-oriented approach, since delays in the context of the deadlines imposed by net-zero-by-2050 objectives could easily alter an otherwise existing picture concerning the costs for Ontario (as opposed to EGI) of transitioning to an alternative path.

59. We address each of these items in the sections immediately below.

Consequences of the Current Delay for EGI and Its Customers

- 60. It is within EGI's capacity to mitigate at least some of the risks arising from the energy transition, but EGI's success on this count is dependent on taking prudent and proactive action at the earliest possible date.
- 61. LEI advanced this same position. It argues that it is possible to anticipate and at least partially to mitigate the risk of stranded assets.⁴¹
- 62. LEI's analysis also supports the general proposition that the actions a company takes in response to the energy transition will have a large influence on the company's ultimate fortunes. LEI makes this point most clearly with respect to the risk of a death spiral, which it says gas companies can mitigate by being proactive:

LEI believes that a "death spiral scenario, as described by Concentric, is unlikely to happen in practice. The scenario is presented with an implicit assumption that gas LDCs such as Enbridge Gas would be powerless to address such a scenario over a timeframe of decades, which LEI considers is not a valid assumption, particularly as gas LDCs are already considering alternative zero or net zero carbon technologies to comply with the energy transition goals.

⁴¹ Exhibit M – Staff Cost of Capital, page 25 of 60.

A recent report published by the Canadian Gas Association with respect to investor expectations on North American natural gas utilities concluded that "... investors are still confident that gas utilities are valuable investments ... Because natural gas is currently a low-cost energy resource without an equally low-cost and reliable replacement, the investment community view gas utilities as a good investment target if they have a well communicated and feasible decarbonization and energy transition plan."⁴²

63. Conversely, the consequences of a company in EGI's position choosing to delay necessary action are extremely negative. Dr. Hopkins recognizes two such effects:

- Waiting makes things worse. The longer the utility waits to change its approach (in a world where building-sector customers and sales are falling toward zero), the larger the rate shock and the larger the potential amount of stranded costs to mitigate.
- Having a clear long-term plan sooner rather than later is key for successfully managing a scenario like the one we modeled, and likely for other scenarios as well.⁴³

64. In short, a major consequence of EGI's failure to take proactive steps to fully understand and mitigate the risks it currently faces may be to exacerbate rather than reduce those risks, with the potential for cascading risk and cost burden for EGI's customers and Ontario more broadly.

Consequences of the Current Delay for EGI Customers Who Are Remote and/or Vulnerable

65. EGI's failure to undertake more granular scenario analyses also means that it has yet to examine the potential consequences of the energy transition for vulnerable customers, Indigenous communities, or specific regional industry.⁴⁴

66. This gap comes notwithstanding the fact that many of these groups and communities will be at pronounced risk in the context of energy transition, since many are more at risk of

⁴² Exhibit M – Staff Cost of Capital, page 22 of 60.

⁴³ Exhibit M8, page 46.

⁴⁴ Evidence of Cara-Lynne Wade, Hearing Transcript, Day 4, page 65-67.

being the last customers on a declining system and otherwise unable to access alternative forms of energy.⁴⁵

67. In short, a second major consequence of EGI's failure to proactively and meaningfully assess its risk may be to exacerbate the risks facing vulnerable customers and remote communities. EGI accepts that a failure to model the consequences for vulnerable communities could lead to negative impacts.⁴⁶
68. TFG would support an analysis similar to what Dr. Hopkins proposed as capable of assessing the risks that remote or vulnerable communities may face as the result of the energy transition. Dr. Hopkins suggests that meaningful conclusions can generally be drawn by aggregating a community without the need to go street by street or into a similar level of detail.⁴⁷
69. TFG has reviewed and supports the more extensive submissions of GFN on this subject, which are located at paragraph 20 to 45. It has therefore kept its remarks in this section of its submissions relatively brief.

Consequences of the Current Delay for Ontario's Ability to Adopt an Alternative Energy Pathway

70. EGI has stated that the energy transition brings with it large uncertainty.⁴⁸ While this may be true, EGI's failure to weigh the likelihood that its chosen scenarios will prove themselves available, or to assess the consequences if its diversified path is pursued but proves inconsistent with net-zero targets, puts the Board at significant disadvantage in terms of its ability to promote the wellbeing of Ontario's energy future.
71. EGI's ability to source the amounts of RNG and hydrogen necessary to validate the assumptions of its diversified pathway is highly uncertain,⁴⁹ and it does not know what

⁴⁵ Evidence of Chris Neme, Hearing Transcript, Day 6, page 92 and 110-111.

⁴⁶ Evidence of Cara-Lynne Wade, Hearing Transcript, Day 4, page 67.

⁴⁷ Evidence of Dr. Asa Hopkins, Hearing Transcript, Day 5, page 129-130.

⁴⁸ See, for example, Evidence of Cara-Lynne Wade, Hearing Transcript, Day 4, page 53.

⁴⁹ Evidence of Chris Neme, Hearing Transcript, Day 6, page 41. See also Evidence of Jim Coyne, Hearing Transcript, Day 8, page 193; Evidence of Cara-Lynne Wade, Hearing Transcript, Day 14, page 105-106; Evidence of Jennifer Murphy, Technical Conference, March 22, page 121-126; Exhibit I.1.10-Staff-38, Responses A-E.

proportion of its assets may or may not require modification to be suitable to carry hydrogen,⁵⁰ but it has nevertheless confirmed that it failed to model any scenario where its assumptions from the diversified path on access to RNG or hydrogen prove overly optimistic:

MR. DAUBE: ... There is no modelling here on what happens if your assumptions specifically on access to RNG or hydrogen prove overly optimistic? Is that fair?

MS. WADE: I would say, within the modelling that we have done, we did some sensitivities on a number of the inputs or assumptions that we made. We did not model multiple sensitivities -- actually, just give me one moment. I am going to double check that. So, to confirm, we did not do any sensitivities on the volume of RNG and hydrogen. We did do a sensitivity on the cost of the electrolyzers. So, as we have noted there, there could probably be hundreds if not thousands of permutations of the study that we did, but, for those specifically that you are asking, no, we did not.⁵¹

72. EGI's response to this uncertainty is to assume that other, equally uncertain technology would provide alternative pathways to net zero, although the cost of these alternative scenarios remains unexamined:

MR. DAUBE: And I think you said to Mr. Brophy that, in the event that emission reductions aren't available through RNG -- I am paraphrasing heavily -- emission reductions available through RNG or hydrogen, that a likely solution under that pathway will be someone will need to incur the cost of abating or offsetting those emissions. Is that right?

MS. WADE: In the scenario that we defined, as Mr. Ringo noted, the demand by fuel type was set out, and so, within that specific scenario, if the RNG was not achieved, then other negative-emission technologies such as direct-air capture or nature-based solutions would have been substituted, as Mr. Ringo noted.⁵²

73. EGI has similarly failed to model the cost implications of a delayed decision to adopt an alternative pathway:

MR. DAUBE: Now, you definitely haven't modelled in that sort of universe the cost implications of a delayed decision to adopt an alternative scenario. Is that fair? So for example, we get down the diversified pathway, we get down it 5 years, 10 years, and we realize that RNG assumptions or hydrogen assumptions are

⁵⁰ Exhibit I.1.10-GEC-30; Exhibit I.1.10-GEC-36.

⁵¹ Evidence of Cara-Lynne Wade, Hearing Transcript, Day 4, page 69-70.

⁵² Evidence of Cara-Lynne Wade, Hearing Transcript, Day 4, page 70.

unrealistic. Presumably, the cost of transitioning to electrification is different at that point than it is today. Fair?

MS. WADE: I would say that is fair, and I would also say that I would assume that the costs would change, as well, if anything, that we have assumed within the electrification, so, if it can't be sited or permitted in the very aggressive timelines that we have included there, as well, that that would also change the costs. Yes.⁵³

74. EGI nevertheless generally accepts that delayed action in the context of fixed reduction targets and a shifting international context will result in increased costs to adopting a specific pathway:

MR. DAUBE: Now, moving back one point, isn't it, without modelling it, isn't it extremely likely that a delayed adoption of any pathway -- I take your point about same applying to both diversified pathways and electrified pathways or any pathway -- in the context where we do face these reduction targets and those targets are set within an international context, isn't a delayed adoption almost certainly going to be much more expensive than an adoption that takes place today or in the near future?

...

MS. WADE: Sorry. Just to restate your question, so it was: Any delay in action, would that not have an impact on the cost of a scenario? Is that correct?

MR. DAUBE: Yes.

MS. WADE: Okay. Yes, I would say so. And I think a couple of points related to that is the net zero accountability act that we reviewed last Friday has the milestone years, I think, to try to help address this. I think, without modelling it, we don't know.

But I think, yes, intuitively I think people would agree that the costs could be higher if we are delaying action continuously. And I think that that supports the safe-bet actions that we have put forward in moving ahead with options that exist in either pathway, to ensure that there is progress made as we are navigating the uncertainty.⁵⁴

75. Such delays directly benefit EGI. They increase the costs of adopting an alternative pathway by truncating the time available to implement it, while making it more difficult to conduct a comprehensive assessment of the available options in the meantime.

⁵³ Evidence of Malini Giridhar and Cara-Lynne Wade, Hearing Transcript, Day 4, page 70.

⁵⁴ Evidence of Malini Giridhar and Cara-Lynne Wade, Hearing Transcript, Day 4, page 72-73.

76. EGI declined to provide a direct response to this proposition when given an opportunity at the hearing:

MR. DAUBE: But isn't another way of thinking about that that the more any decision to adopt a new pathway is delayed, the more the deck is stacked in favour of a more or less status quo oriented model.

MS. GIRIDHAR: I think it is fair to say that delays in implementing a pathway prolong the status quo, if that is the question that you are asking. Yes.⁵⁵

D. Consequences for EGI's Proposals for Depreciation and Equity Thickness

77. EGI's failure to perform a meaningful scenario analysis including an assessment of the stranded asset risks that the company faces put the parties in this proceeding at a significant disadvantage in terms of their ability to provide informed recommendations in the areas of equity thickness and depreciation.
78. As a result, TFG's ultimate recommendation is for the Board to make an order that reflects the following principles:
- (a) Make any order concerning equity thickness and/or depreciation interim and provisional, pending the outcome of an OEB Process, which should take place at the earliest possible time;
 - (b) reject EGI's argument that it requires a greater equity thickness because of energy-transition-related capital risk until such time as EGI presents quantitative analysis of the risk it faces (and which it cannot mitigate while acting prudently), in the context of Ontario's pathway to net zero emissions. However, the OEB could choose to make such an order provisional, pending the generation and review of more thorough risk analyses as part of an OEB Process;
 - (c) Issue any such interim order concerning depreciation on the basis that the energy transition likely increases the risk of stranded assets, but that

⁵⁵ Evidence of Malini Giridhar and Cara-Lynne Wade, Hearing Transcript, Day 4, page 72-73.

additional study is required, ideally through an OEB Process, before the mechanism of an Economic Planning Horizon can be implemented in an informed and targeted way.

79. We elaborate on these positions concerning equity thickness and depreciation in the sections immediately below, and we provide details concerning our recommendation for an OEB Process in **Section “E”** of these submissions below.

Depreciation

80. A significant example of the contradictory nature of EGI's Application is its approach to depreciation, where EGI does not recognize the increased risk of stranded assets in any specific case, despite EGI's position elsewhere that the energy transition poses significant risks to the company's core business. Chris Neme described this weakness in EGI's approach to depreciation this way:

The current approach to depreciation is highly problematic because it does not address decarbonization risks at all and implicitly assumes a 0% risk of underutilized or stranded assets even long past 2050.”⁵⁶

81. It is the company itself that is the most likely source of information that would inform a depreciation analysis as to the necessity of instruments such as an economic planning horizon. EGI's expert Mr. Kennedy confirmed that the company in question must help to generate the information necessary to determine such key questions as whether an EPH is appropriate:

MR. DAUBE: ... So, some of the relevant information is coming either from the company or as a result of conversations with the company; is that right?

MR. KENNEDY: Oh, very definitely. The company knows their business much better than I know their business, so in terms of where the economic circumstances may influence the overall strategy of the company, that's the company, and we communicate that back and forth when we get into that discussion. We haven't got to that level yet here, in this circumstance. But, once we go down that path,

⁵⁶ Evidence of Chris Neme, Exhibit M9, page 5.

we will be pretty good friends with coming to Toronto to visit the company in terms of making sure that we do it in a very thoughtful way.

MR. DAUBE: And I assume part of that thoughtful approach is things like scenario modelling, thinking through what the likelihood of certain scenarios are and then asking the question of what happens to an asset group or region in the context of that scenario; is that all fair?

MR. KENNEDY: Yes, that would all be fair, sir.⁵⁷

82. As a result, a depreciation approach based on an appreciation of the stranded asset risk that specific assets face was likely impossible in the circumstances, since EGI did not provide its experts with information concerning that risk:

MR. MORAN: Right. So you weren't getting information from Enbridge along the lines of, well, we think that there is a risk that 10 percent of our assets will be stranded as a result of energy transition in the next 20 years. You weren't getting that kind of information from them. Right?

MR. KENNEDY: No. The message is they don't know and they're going to do what they can to repurpose their system.

MR. MORAN: Okay.

MR. KENNEDY: But we don't know the extent to which that can happen.⁵⁸

83. Of course, as discussed above, a significant reason why Enbridge does not have information concerning the risk of stranded assets is they have not proactively sought to perform the necessary studies.
84. The essential ingredient necessary to analyze the risk of stranded assets, as discussed in the sections above, is a granular scenario analysis, which Mr. Kennedy confirmed that would have been relevant to his depreciation analysis had one been available:

MR. DAUBE: Is it fair to said that, if Enbridge had performed scenario analyses - and, by that, I mean what the impact on their assets would be under things like a high-electrification scenario or a high-RNG and hydrogen scenario -- you would have considered that as part of the recommendations you've provided today?

MR. KENNEDY: I think we'd have to look at them and what the probability of those scenarios would be. A lot of considerations would look at a high electrification scenario and then put a probability of that. And, if that probability is 50-50 to a low-

⁵⁷ Evidence Larry Kennedy, Hearing Transcript, Day 17, page 73-74.

⁵⁸ Evidence Larry Kennedy, Hearing Transcript, Day 17, page 153-154.

electrification scenario, then we'd look at that. But we would also combine that with discussions of the company: What does that scenario mean to the assets of the organization?

Just because the gas may be moving off the system, as we've heard today, there may be other uses for the pipe that would not require its retirement. So we'd have to consider both the energy transition pathways to what the company views the impact on their assets to be in that scenario.

So I do think we understand, and we ask the company to provide us information around any pathways that they've looked at, and we then make our recommendation on depreciation in consultation with the company, those pathways, and the impact they may have on the organization.

MR. DAUBE: So you'd want to see both impact and probability of the scenarios. Is that right?

MR. KENNEDY: That's correct, sir.⁵⁹

85. This current absence of this necessary analysis puts the Board in a difficult position, in part because both EGI and Mr. Kennedy of Concentric have accepted that regional or sectoral economic planning horizons may be appropriate in the future once further information becomes available.⁶⁰ Concentric states the position directly in its report:

.... Consistent with the reduction in the utilization of the assets, it could be assumed that large scale retirement of assets may be required in the period between now and 2050.

Common depreciation practice is to deal with the anticipated large scale retirements through the introduction of an economic planning horizon within the depreciation rate calculations. However, at this time the future impacts of the relevant climate change legislation have not been sufficiently studied, nor have specific programs been put into place that would provide indications of the changes in the utilization levels. Concentric views that additional study of the changes is required before the introduction of a Life Span date for the EGI system into the depreciation rate calculations. While such an introduction will cause a significant increase in the depreciation rate, Concentric notes that future depreciation studies of the EGI system may require the introduction of an EPH into the depreciation rate calculations.⁶¹

⁵⁹ Evidence Larry Kennedy, Hearing Transcript, Day 17, page 79-80.

⁶⁰ Exhibit 1, Tab 10, Schedule 4, paragraph 53; Exhibit 4, Tab 5, Schedule 1, paragraphs 34-35; Evidence Larry Kennedy, Hearing Transcript, Day 16, page 94-95 and 102. See also Argument in Chief of EGI at paragraphs 525-526; Evidence Larry Kennedy, Hearing Transcript, Day 17, page 70; Exhibit 4, Tab 5, Schedule 1, Attachment 1, section 3.2.1: "Specifically, the changing North American marketplace for natural gas demand and the rapidly emerging trend of decarbonization legislation may have a significant impact on the estimated service lives of the EGI system."

⁶¹ Exhibit 4, Tab 5, Schedule 1, Attachment 1, section 3.2.1, section 3.2.3.

86. The challenges facing the depreciation questions in this proceeding are also highlighted by the fact that EGI expects that further depreciation studies will be necessary in the near term, once further information becomes available:

Finally, it is the expectation of the Company that a further depreciation study will be completed for the purposes of the next rebasing application. At that point, there will be further Government policy in place dealing with the energy transition and there will be a more developed sense of its impact on the Company in the future.⁶²

87. EGI's incomplete scenario picture makes it impossible to reliably assess key questions concerning depreciation, such as whether an economic planning horizon is appropriate for all or some of its assets, but waiting until the next rebasing application to answer such questions is far too long in the context of the rapidly accelerating energy transition.
88. Accordingly, TFG recommends that the OEB make any order concerning depreciation interim and provisional, pending the outcome of an OEB Process, described more fully below, which should take place at the earliest possible time. The OEB Process should include the granular scenario modelling that is missing from these proceedings and it should seek, among other things, to answer the question of whether EGI should introduce economic planning horizons to any aspect of its operations.

Equity Thickness

89. TFG submits that EGI should not be entitled to greater equity thickness on the basis of capital risk arising from the energy transition at this time. TFG has asserted throughout these submissions the position that EGI has fallen short in its efforts to identify with any degree of detail the precise nature of the risks to its business, which is a necessary precondition to efforts to mitigate any identified risk. EGI should not be entitled to benefit from any loosely defined business risk that it is contributing to through its own inaction.
90. TFG therefore supports the expert opinion of Dr. Hopkins, who has argued:

The OEB should reject EGI's argument that it requires a greater equity thickness because of energy-transition-related capital risk until such time as EGI presents

⁶² Argument in Chief of EGI, paragraph 518.

quantitative analysis of the risk it faces (and which it cannot mitigate while acting prudently), in the context of Ontario's pathway to net zero emissions. When such analysis is presented and withstands intervenor and OEB scrutiny, it can be the basis for just and reasonable decisions regarding equity thickness.⁶³

91. There appears to exist a general consensus that there is an obligation for a company to be proactive in identifying addressing risk, and that it should not be entitled to benefit from a risk that it has helped to create. Mr. Coyne confirmed that there is an expectation for a company to be efficient and economical as part of the fair return standard.⁶⁴ He similarly agreed with the following principles, consistent with the obligation of efficiency and economy:

- (a) If a company is not efficient and economical, the risks the company faces might be unnecessarily inflated.
- (b) It would be inconsistent with the regulatory compact to reward or incentivize poor management.
- (c) Gas utilities need to be making efforts today to reduce the risk of stranded assets.
- (d) Proactive planning is a necessary and helpful ingredient for management during the energy transition.⁶⁵

92. EGI's omissions are inconsistent with its obligations pursuant to the fair return standard. Accordingly, TFG recommends that the OEB reject EGI's argument that it requires a greater equity thickness because of energy-transition-related capital risk at this time. However, the OEB could choose to make such an order provisional, pending the generation and review of more thorough risk analyses as part of an OEB Process.

⁶³ Exhibit M8, page 47.

⁶⁴ Evidence of Jim Coyne, Hearing Transcript, Day 9, page 26-27. See also Exhibit 5, Tab 3, Schedule 1, Attachment 1, section 3.

⁶⁵ Evidence of Jim Coyne, Hearing Transcript, Day 9, page 26-27.

E. There Is a Need for the OEB to Lead a New Process

93. GFN's submissions at paragraphs 42 to 45 address the need for an OEB Process by setting out the position that:
- (a) Addressing and mitigating the impacts of climate change and the energy transition will necessitate an integrated approach that holistically considers the entire energy system, and provides for granular analysis inclusive of vulnerable and more remote communities; and
 - (b) The OEB should initiate a generic proceeding using an integrated and coordinated approach across both the gas and electricity sectors, which would examine the impacts, opportunities, and risks of climate change and the energy transition in Ontario's regulated energy system, inclusive of vulnerable and more remote communities that include First Nation ratepayers.
94. TFG supports and adopts GFN's submissions in this area, and TFG provides the following brief, additional comments.
95. These proceedings have provided evidence for the following central points:
- (a) Energy transition is taking place and will mean significant changes for the energy sector in Ontario;
 - (b) Time is of the essence in the context of the energy transition, and delays in the present increase the future risk that costs will increase and pathway flexibility will diminish;
 - (c) There is currently an insufficient understanding of the feasibility, risks, trade-offs, and likelihood of the various potential decarbonization pathways, with even less understanding of how these factors will impact vulnerable and more remote communities;

- (d) An integrated approach that draws on the expertise from the entire energy sector is the approach most likely to be capable of meeting the immense challenges that the energy transition presents;
 - (e) Domestic energy policy emanating from either the Ontario Government or the Federal Government is only one factor among others, albeit an important one, for how the energy transition will unfold in Ontario.
- 96. These circumstances produce a context where the OEB can play an essential, timely and efficient role towards coordinating the expertise available in the entirety of Ontario's energy sector for the purpose of comprehensively addressing the energy transition, its risks, and its impacts.
- 97. There is ample precedent for a regulator to take a constructive leadership position in the context of the system-wide coordination, as TFG and GFN propose in their submissions.
- 98. The alternative to an OEB Process is unappealing: the OEB is likely to face the same significant informational deficits that have challenged the current Application in a growing number of proceedings for as long as the energy sector's key players are not required to conduct a comprehensive and honest appraisal of the risks they face in a manner and in a forum that is subject to effective scrutiny.
- 99. It is unclear whether or when alternative processes conducted by other entities could be capable of performing such a function, but it is clear that the OEB is capable of doing so should it so choose.

IV. RELIEF REQUESTED

- 100. Therefore, Three Fires respectfully requests that the Board:
 - (a) Note the importance and potential precedential value of the IWG;

- (b) Note that EGI has failed to take reasonable steps in the risk analysis it has performed for the purposes of this Application, particularly with respect to vulnerable or more remote communities that include First Nation ratepayers;
- (c) Initiate an OEB Process using an integrated and coordinated approach across both the gas and electricity sectors, which would consist of a generic proceeding examining the impacts, opportunities, and risks of climate change and the energy transition in Ontario's regulated energy system, inclusive of vulnerable and more remote communities that include First Nation ratepayers;
- (d) Require EGI to file updated materials relating to the issues of equity thickness and depreciation at the time of the OEB Process ("**EGI's Updated Materials**"), which should allow the OEB to update its order concerning depreciation on the basis of a better and more precise understanding of the risk that EGI and its assets face, along with the steps that EGI is taking to mitigate the identified risk;
- (e) Reject EGI's request for increased equity thickness on the basis of the increased risk it faces as a result of the energy transition, pending the OEB's review of EGI's Updated Materials;
- (f) Make any order concerning the depreciation of EGI's assets interim and provisional, pending the OEB's review of EGI's Updated Materials.

V. COSTS

101. Three Fires respectfully submits that it has participated responsibly in this proceeding with a view to maximizing its assistance to the Board, and therefore requests that the Board order reimbursement of its reasonably incurred costs.

ALL OF WHICH IS RESPECTFULLY
SUBMITTED THIS

19th day of September, 2023

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