



May 17, 2024

**VIA RESS**

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

Dear Ms. Marconi,

**Re: Transmission Connections Review**  
**Board File No.: EB-2024-0126**

We are counsel to Minogi Corp. ("**Minogi**") in the above-noted stakeholder consultation on issues to be considered by the Ontario Energy Board (the "**OEB**" or "**Board**") as it commences a review of the Transmission System Code's ("**TSC**") connection related section (the "**Review**"). Minogi submits these comments on issues to be considered during the Review and request for cost eligibility pursuant to the Board's "Kick-off" letter dated April 24, 2024.

**About Minogi**

Minogi is an Indigenous business corporation that represents the interest of Mississaugas of Scugog Island First Nation ("**MSIFN**") and its members. The Mississaugas of MSIFN moved into southern Ontario and settled in the areas around Lake Scugog from their former homeland north of Lake Huron around 1700. MSIFN is located on Scugog Island in the Port Perry area and has over 140 members.

**Interest in the Review.** MSIFN has traditional territory, treaty rights and other associated rights and interests protected by the *Constitution Act, 1982*. Minogi and MSIFN are interested in Ontario's transmission system and ensuring First Nation participation in the Review and the issues to be considered by the Board. Ontario's transmission system traverses across First Nation land and traditionally owned territory, frequently impacting the Aboriginal and Treaty rights of First Nations, including, without limitation, the lands and water of their traditional territories and their role as custodians and stewards of those territories.

**Inputs on issues to be considered**

**Facilitating First Nation engagement.** The TSC does not include any reference to Indigenous Peoples, First Nations, or any requirement to consult specifically with First Nations and their communities. This significant absence comes notwithstanding the TSC's inclusion of consultation duties and general obligations owed towards other communities in Ontario.

Reconciliation, advancing legal obligations under the duty to consult with Indigenous peoples, and the general impact that transmission infrastructure and transmission projects can have on First Nations provide ample reasons to engage on the question of how and when the TSC should reflect the legal requirement to engage with First Nations, as well as the value and importance of doing so.

Accordingly, the Review should identify the issue of necessary updates to ensure adequate, ongoing, and meaningful engagement with Ontario's First Nations and Indigenous Peoples. The Review's consideration of the issue should be broad enough to address questions such as how to incorporate Indigenous knowledge and perspectives into the matters that the TSC addresses, including as part of connection requirements and OEB, transmitter, and/or load customer project planning and decision-making processes.

Relatedly, Minogi reiterates calls for the OEB to develop and implement an Indigenous knowledge policy framework to guide all of its work,<sup>1</sup> including the work to be undertaken as part of the Review.

Facilitating Indigenous participation in matters relating to transmission has only grown in importance in the context of Ontario's ongoing and accelerating energy transition, given the impact the transition will have on First Nations and the rights and obligations that the transition will implicate. Ontario's Electrification and Energy Transition Panel (the **Panel**), among others, recognized this general position when it recently recommended supporting meaningful Indigenous participation in the clean energy economy through consistent and enhanced capacity building support.<sup>2</sup>

**Indigenous economic participation.** The Review should also consider how to facilitate First Nation economic participation in Ontario's transmission system, especially given the anticipated volume and scale of decisions that are likely in the near future in the context of Ontario's energy transition. The Board should consider how the TSC's connection-related sections can be updated to support First Nation and Indigenous-owned entities to cost-effectively pursue economic participation and transmission connection opportunities. This could include express requirements for transmitters and customer seeking to connect to the transmission system to consider and provide First Nation participation, financial incentives, ownership, and employment opportunities, among others. In addition, the Panel recommended that economic reconciliation should be advanced through flexible financing models and mechanisms that incentivize Indigenous project ownership across small, medium, and large-scale energy projects.<sup>3</sup> Minogi supports this issue being explored and considered as part of the Review.

**Connection opportunities for First Nations.** The TSC should similarly identify the issue of how to ensure adequate, reliable, and cost-effective connection opportunities for First Nations. For example, Minogi intends to advocate for changes that encourage transmitters and load customers seeking to connect to the transmission system to determine whether the connection and general energy-access interests of local First Nations and Indigenous-owned entities are adequately considered as part of planning proposals.

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<sup>1</sup> See Anwaatin's comments dated April 29, 2022, in EB-2022-0011, *Framework Review of Intervenor Processes and Cost Award*, p. 4, available on RDS [here](#).

<sup>2</sup> Electrification and Energy Transition Panel, [Ontario's Clean Energy Opportunity: Report of the Electrification and Energy Transition Panel](#), Recommendation 19. (the "Final Report").

<sup>3</sup> *Ibid.*, Recommendation 20.

The question of how Indigenous communities may benefit from nearby connection opportunities and upgrades to transmission infrastructure as part of the connection approval process is a noteworthy absence from the TSC. Effective inclusion of these matters could serve the dual purpose of providing reliable, modern and non-emitting electricity to First Nations as well as supporting broader provincial, federal, and First Nation energy transition, electrification, and decarbonization goals.

**Advancing reconciliation.** It is important to recognize how each of the issues that Minogi has recommended for the purposes of this Review can serve broader goals relating to reconciliation. The Truth and Reconciliation Commission of Canada has issued Calls to Action<sup>4</sup> that direct all orders of government in Canada to recognize and implement the *United Nations Declaration on the Rights of Indigenous Peoples*<sup>5</sup> (UNDRIP). The OEB, in all of its processes including ones such as the Review, should continuously seek to advance reconciliation through its administrative and regulatory functions that directly and indirectly impact First Nations and Indigenous Peoples. For example, the Panel noted that “meaningful inclusion of Indigenous peoples in decision making and governance structures, going well beyond inclusion in project development, presents a significant opportunity to advance reconciliation.”<sup>6</sup> This principle should be understood to also extend to any amendments to the TSC and the Board’s related transmission connection policies, frameworks, and guidance. Minogi suggests that the Review consider how amendments to the TSC can support and advance reconciliation with Ontario’s First Nations and Indigenous Peoples.

### **Minogi’s cost eligibility and representatives**

**Minogi’s cost eligibility.** Minogi hereby requests cost eligibility for participation in the Review. Minogi is, in accordance with s. 3.03(b) of the Board’s *Practice Direction on Cost Awards*, eligible to seek an award of costs as Minogi is a party that primarily represents an interest or policy perspective that is relevant to the Board’s mandate and to the Review.

Minogi represents the interests of a unique and otherwise unrepresented set of First Nation energy customers and consumers in Ontario and is committed to ensuring that they benefit from and are served through access to affordable, reliable, sustainable, and modern energy systems. Minogi requests an award of costs on the basis that its comments and participation serve a direct interest and policy perspective that is relevant to the Board’s mandate and pressing for Ontario’s energy consumers.

Minogi therefore submits that it is appropriate for the Board to award Minogi costs in the context of this consultation, and hereby requests cost eligibility.

**Minogi’s Representatives.** Minogi hereby requests that further communications with respect to this proceeding be sent to the following:

**Minogi Corp.**

Mississaugas of Scugog Island First Nation,  
Administration Building,  
22521 Island Road,  
Port Perry, ON L9L 1B6

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<sup>4</sup> Truth and Reconciliation Commission of Canada, [Calls to Action](#), Call to Action 42.

<sup>5</sup> UN General Assembly, [United Nations Declaration on the Rights of Indigenous Peoples : resolution](#) (adopted by the General Assembly on 2 October 2007), A/RES/61/295.

<sup>6</sup> Final Report, p. 30.

Attention: Don Richardson  
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AND TO ITS COUNSEL

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Sincerely,



DT Vollmer, Resilient LLP, counsel for Minogi

c. Chief Kelly LaRocca, MSIFN  
Don Richardson, Minogi