

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S.O. 1998, c.15, Schedule. B, as amended;

AND IN THE MATTER OF a generic proceeding
commenced by the Ontario Energy Board on its own motion
to consider the cost of capital parameters and deemed
capital structure to be used to set rates.

EB-2024-0063

NOTICE OF INTERVENTION

CALDWELL FIRST NATION

AND

MISSISSAUGAS OF THE CREDIT FIRST NATION

June 19, 2024

A. Application for Intervenor Status

1. Caldwell First Nation (“**CFN**”) and Mississaugas of the Credit First Nation (“**MCFN**”), hereby seek to participate in the Ontario Energy Board’s (the “**OEB**” or “**Board**”) generic proceeding on cost of capital and other matters (the “**Proceeding**”). This notice of intervention is filed pursuant to Rule 22 of the Board's *Rules of Practice and Procedure*.

B. About CFN and MCFN

2. CFN’s traditional lands and territories include lands and water in Southern Ontario from the Detroit River along the north shore of Lake Erie to Long Point, including Point Pelee and Pelee Island.
3. MCFN is part of the Ojibwe (Anishinaabe) Nation. The Mississaugas of MCFN were the original owners of the territory commencing at Long Point on Lake Erie, eastward along the shore of Lake Erie to the Niagara River, down to Lake Ontario, northward along the shore of Lake Ontario to the Rouge River east of Toronto, up to the dividing ridges to the head waters of the Thames River, then southward back to Long Point. MCFN membership is now comprised of roughly 2,570 people, with nearly two-thirds living off reserve.

C. Reasons for Late Intervention

4. CFN and MCFN only recently became aware of the Proceeding and have worked together to seek the necessary approvals to participate in the Proceeding. CFN and MCFN have each determined that participation in the Proceeding is essential to ensure that the views and issues that matter to their respective Nations and members is included in the Proceeding. They have decided to work together to ensure that their participation is cost-effective and cost-efficient. CFN and MCFN wish to highlight the limited resources available to many of Ontario’s First Nations in seeking to participate and be aware of OEB proceedings that may impact their rights, lands, culture, heritage, and members. CFN and MCFN request that their late intervention be accepted to ensure that they are able to participate and contribute to the work of the OEB as the Proceeding is likely to have significant impacts on their respective Nations and members.
5. CFN and MCFN are conscious of the Board’s current timelines and do not wish to delay the Proceeding and accept the current record. CFN and MCFN submit that granting intervenor status for the Proceeding will not prejudice the Board or other intervenors nor will it

disadvantage any of the parties, given that the proceeding remains at its early stages. CFN and MCFN submit that their participation will assist the Board to better understand the unique interests of their Nations and respective members.

D. Interest in the Proceeding

6. CFN and MCFN's Aboriginal and Treaty rights, land use, cultural heritage, and other rights and interests are potentially affected by the Proceeding. CFN and MCFN both have traditional territory, and associated rights and interests protected by the *Constitution Act, 1982*, that may be impacted by the outcomes of this Proceeding.
7. CFN was an active Board-approved intervenor by the Board in the following OEB proceedings: EB-2022-0086 and EB-2022-0157. MCFN has participated in prior Board consultations including EB-20224-0079.

E. Nature and Scope of Intended Participation

8. CFN and MCFN intend to participate in the Proceeding to address the following:
 - (i) impact and consequences for their respective members, interests, and energy ratepayers;
 - (ii) First Nations equity in energy projects and related board regulated returns in major energy projects;
 - (iii) ensuring cost of capital methodologies and parameters support and do not inhibit First Nation equity participation;
 - (iv) improved cost recovery mechanisms for First Nations;
 - (v) exclusion of First Nations from energy planning and deliberations;
 - (vi) the constitutional duty to consult and accommodate; and
 - (vii) any other matters that promote or otherwise represent the interests of the First Nations more generally.
9. CFN and MCFN intend to be an active participant in this Proceeding, and both commit to acting responsibly to coordinate with other intervenors, where common issues may arise

and may be addressed. CFN and MCFN intend to coordinate with other intervenors to reduce duplications and support time and cost efficiencies.

F. Costs

10. CFN and MCFN hereby requests cost eligibility in the Proceeding. CFN and MCFN are, in accordance with s. 3.03(b) of the Board's *Practice Direction on Cost Awards*, eligible to seek an award of costs as each are a party that primarily represents an interest or policy perspective that is relevant to the Board's mandate and to the Proceeding.
11. CFN and MCFN represent the interests of a unique and otherwise unrepresented set of First Nations energy consumers in Ontario and are both committed to ensuring that they are served through access to an affordable, reliable, sustainable, and modern energy services, ensuring they benefit from energy investments throughout their traditional territory and lands. CFN and MCFN hereby requests an award of costs in this Proceeding on the basis that their comments and participation serve a direct interest and policy perspective that is relevant to the Board's mandate and pressing for Ontario's First Nation energy consumers. The Board has granted CFN cost eligibility in several Board proceedings, including those referred to above in paragraph 7.

G. Party Representatives

12. CFN and MCFN hereby requests that further communications with respect to this Proceeding be sent to the following:

Chief Mary Duckworth

Caldwell First Nation
14 Orange Street
Leamington, ON N8H 1P5

Email: ChiefMaryDuckworth@caldwellfirstnation.ca

Chief Claire Sault

Mississaugas of the Credit First Nation
2789 Mississauga Road R.R. #6
Hagersville, Ontario N0A 1H0

Email: claires@mncfn.ca

Larry Sault

Mississaugas of the Credit First Nation
2789 Mississauga Road R.R. #6
Hagersville, Ontario N0A 1H0

Email: larrys@mncfn.ca

AND TO ITS COUNSEL

Resilient LLP
119 Baby Point Road
Toronto, ON M6S 2G7

Attention: DT Vollmer
Tel: 647-993-6338
Fax: 1-888-734-9459
Email: daniel@resilientllp.com

ALL OF WHICH IS RESPECTFULLY
SUBMITTED THIS 19th day of June, 2024

A handwritten signature in black ink, appearing to read "Dain Vollmer", is written over a horizontal line.

DT Vollmer
Resilient LLP
Counsel for CFN and MCFN