resilient LLP

August 2, 2024

VIA RESS

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

Dear Ms. Marconi,

Re: Generic Proceeding – Cost of Capital and Other Matters
Board File No.: EB-2024-0063

We are counsel to Three Fires Group Inc. ("**TFG**") and Minogi Corp. ("**Minogi**") in the above-noted proceeding. Pursuant to Procedural Order No. 1, please find attached the interrogatories from TFG and Minogi on the evidence prepared by (i) London Economics International LLC, (ii) Concentric Energy Advisors, Inc., and (iii) Dr. Cleary.

Sincerely,

Nick Daube

c. All parties.
Reggie George, TFG
Dr. Don Richardson, Minogi

ONTARIO ENERGY BOARD

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

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

INTERROGATORIES

OF

THREE FIRES GROUP INC.

("TFG")

AND

MINOGI CORP.

("MINOGI")

August 2, 2024

Question: **M2-12-TFG/Minogi-1.**

Reference: LEI Report, pp. 134-140

Preamble: In considering Issue 12, which addresses the Fair Return Standard and its application to capital structures, LEI considers Ontario regulatory assets only on a class or group basis: i.e., “electricity transmitters, electricity distributors, natural gas utilities, and OPG”.

Indigenous groups and/or First Nations are increasingly becoming participants in Ontario’s regulated utilities through partial equity ownership of individual regulated assets (such as individual transmission lines or electricity generating stations).

While large regulated utilities have many assets of varying risk attributes which average to a certain overall level, investments by Indigenous groups and/or First Nations are on a single-asset basis and do not benefit from such risk averaging. Yet if the Fair Return Standard is applied only on a class basis or from a large utility perspective, unique risks faced by Indigenous groups and/or First Nations investors may be obfuscated.

a) Did LEI consider the implications of the Fair Return Standard for the capital structure of such single asset regulated entities rather than traditional multi-asset regulated utility companies?

b) Did LEI consult with any Indigenous groups and/or First Nations with respect to this issue?

Question: **M1-21-TFG/Minogi-2.**

Reference:

- London Economics International LLC ("**LEI**") report: "Independent expert report for the Generic Proceeding on cost of capital and other matters" ("**LEI Report**"), pp. 166-168

Preamble: LEI recommends the continuation of the status quo with respect to the prescribed rate of interest applicable to the CWIP account for regulated utilities in Ontario.

a) Did LEI review the practice with respect to prescribed interest rate for CWIP in the relevant jurisdictions considered elsewhere in the LEI Report?

b) Do any of the relevant jurisdictions considered in the LEI Report have prescribed rates of interest for CWIP that are based exclusively on indices of debt rates of interest, similarly to the existing OEB policy that relies on a specific debt interest rate index?

c) Which relevant jurisdictions otherwise addressed in the LEI Report currently rely on WACC calculations to set the prescribed rate of interest for CWIP accounts?

d) Did LEI investigate the commercial logic, implied by the exclusive reliance on a debt rate interest index to set the prescribed rate of interest for CWIP, of assuming that all construction projects – regardless of size, complexity or longevity – will be 100% financed by debt, and will only be financed by equity investment after entering operation?

e) Did LEI determine that it is practically feasible, in all cases regardless of the size and longevity of utility construction projects, to finance them during construction exclusively with debt capital?

f) Did LEI consider the recent practice in Ontario among regulated utilities to invite the equity participation of Indigenous groups and/or First Nations into large capital projects, and how the prescribed interest rate for CWIP affects the viability and timing of such participation?

g) Did LEI consult with any Indigenous groups and/or First Nations with respect to this issue?

Question: **M2-1-TFG/Minogi-3.**

Reference:
- Concentric Energy Advisors ("**Concentric**") report on "Ontario General Cost of Capital" (the "**Concentric Report**"), pp. 20-21

Preamble: Concentric recommends that that the approach to determining the authorized ROE or capital structure should not be differentiated by ownership type and notes that according to "financial theory", the cost of capital depends on the use of funds, not the source of funds.

a) Did Concentric consult with any Indigenous groups and/or First Nations in preparing the Concentric Report?

b) Given the varied ownership structures (including Indigenous partnerships), what specific considerations were made in the Concentric Report and/or Concentric's analysis for Indigenous groups and/or First Nations seeking to partner with utilities regarding the source of capital and developing recommendations for the cost of capital and capital structure methodologies?

c) Did Concentric consider the implications of different deemed equity ratios on utilities that include Indigenous groups and/or First Nations as equity partners compared to other utilities? If not, please identify and discuss possible implications and how the recommendations of the Concentric Report may mitigate or address any identified issues.

d) Are there adjustments to ownership structure and related OEB methodologies that can be made that would increase the likelihood of Indigenous equity participation and, if so, what are they?

e) What does Concentric mean by "financial theory"?

f) How, if at all, has traditional "financial theory" considered the goals of reconciliation and the history of colonization in Canada or elsewhere?

g) Do the sources regarding "financial theory" that Concentric relies on include any chapters or sections addressing issues relating to Indigenous groups and/or First Nations participation in utility ownership structures and other equity participation scenarios?

h) Would a stated policy or goal of supporting Indigenous groups and/or First Nations equity participation have an impact on Concentric's opinion and the "financial theory" that the use of funds and not the source of funds should determine the cost of capital. In your response, please discuss how such a policy might impact the cost of capital and the development of methodologies for determining the cost of capital.

Question: **M2-2-TFG/Minogi-4.**

Reference: Concentric Report, pp. 22-27, 112-120

Preamble: Concentric notes that the energy transition affects nearly every aspect of existing utilities' businesses and that it has already increased both business and policy-related risks for all Ontario utilities and is inevitably going to continue to do so.

Concentric further notes that other business risks should be considered when evaluating the appropriate cost of capital.

c) What are the most likely early indicators that could occur in the near to medium term related to the energy transition that would cause you to reconsider and/or revisit your conclusions and recommendations in the Concentric Report?

d) In your opinion, should the cost of capital analysis incorporate the quality of a utility's efforts to address energy transition. If yes, how is this reflected in the Concentric Report's recommendations. If no, how would the Concentric Report's recommendation change if the quality of a utility's efforts to address energy transition was integrated into the cost of capital analysis.

e) Were there any commonalities in relation to (i) climate risk and/or (ii) energy transition?

f) Please provide your analysis on the quality of each of the utilities downgraded by S&P Global in relation to their efforts to address energy transition. If no such analysis was undertaken, please explain why not and provide your opinion on the quality of their respective efforts.

g) How and to what extent should (i) effective or ineffective Indigenous engagement, (ii) Indigenous groups and/or First Nations participation and (iii) Indigenous groups and/or First Nations equity partnership in a project be considered to impact or affect risks? In your response, please discuss how this should or could be made part of a risk framework?

Question: **M2-12-TFG/Minogi-5.**

Reference: Concentric Report, pp. 129-133

Preamble: Concentric addresses sector specific risk assessments and their relationship to the Fair Return Standard in determining cost of capital and capital structure.

Indigenous groups and/or First Nations have been increasingly participating in the Ontario regulated utility sector through partial investments into individual regulated utility assets (such as individual transmission lines or electricity generating stations). Such investments do not benefit from the multi-asset risk-averaging that applies to a large utility company.

a) Did Concentric consider the implications of the Fair Return Standard for cost of capital and capital structure as they relate to the single-asset entities in which Indigenous groups and/or First Nations have been invited to invest?

b) In the view of Concentric, is it appropriate for the cost of capital and capital structure applicable to large utilities to be applied to single-asset regulated utilities, in which Indigenous groups and/or First Nations may be investors?

c) Should the nature of the individual asset (i.e., its potentially unique business and financial risks) be taken into account when determining the appropriate application of the Fair Return Standard to the cost of capital and capital structure?

d) Did Concentric consult with any Indigenous groups and/or First Nations with respect to this issue?

Question: **M4-1-TFG/Minogi-6.**

Reference: Evidence of Dr. Sean Cleary, "2024 Review of Cost of Capital Parameters and Deemed Capital Structure" (the "**Cleary Report**"), p. 17-18

Preamble: The Cleary Report recommends maintaining existing OEB policy of not considering ownership structure in determining cost of capital parameters.

a) Did Dr. Clearly consult with any Indigenous groups and/or First Nations in preparing the Cleary Report?

b) Given the varied ownership structures (including Indigenous partnerships), what specific considerations were made in the Cleary Report and/or Dr. Cleary's analysis for Indigenous groups and/or First Nations seeking to partner with utilities regarding the source of capital and developing recommendations for the cost of capital and capital structure methodologies?

c) Did Dr. Cleary consider the implications of different deemed equity ratios on utilities that include Indigenous groups and/or First Nations as equity partners compared to other utilities? If not, please identify and discuss possible implications and how the recommendations of the Cleary Report may mitigate or address any identified issues.

d) Are there adjustments to ownership structure and related OEB methodologies that can be made that would increase the likelihood of Indigenous groups and/or First Nations equity participation and, if so, what are they?

Question: **M4-2-TFG/Minogi-7.**

Reference: Cleary Report, pp. 19-20, 114

Preamble: The Cleary Report recommends maintaining the OEB's current policy of reviewing business and financial risk factors, including the following business risk categories: energy transition risk; volumetric risk; operational risk; regulatory risk; and, policy risk.

a) What are the most likely early indicators that could occur in the near to medium term related to the energy transition that would cause you to reconsider and/or revisit your conclusions and recommendations in the Cleary Report?

b) In your opinion, should the cost of capital analysis incorporate the quality of a utility's efforts to address energy transition. If yes, how is this reflected in the Report's recommendations. If no, how would the Cleary Report's recommendation change if the quality of a utility's efforts to address energy transition was integrated into the cost of capital analysis.

c) How and to what extent should (i) effective or ineffective Indigenous engagement, (ii) Indigenous groups and/or First Nations participation and (iii) Indigenous groups and/or First Nations equity partnership in a project be considered to impact or affect risks? In your response, please discuss how this should or could be made part of a risk framework?

Question: **M4-20-TFG/Minogi-8.**

Reference: Cleary Report, p. 57

Preamble: The Cleary Report recommends maintaining the OEB’s current policy with respect to the prescribed rate for CWIP.

a) Did Dr. Cleary review the practice with respect to prescribed interest rate for CWIP in jurisdictions comparable to Ontario?

b) Do any comparable jurisdictions have prescribed rates of interest for CWIP that are based exclusively on indices of debt rates of interest, similarly to the existing OEB policy that relies on a specific debt interest rate index?

c) Which comparable jurisdictions currently rely on WACC calculations to set the prescribed rate of interest for CWIP accounts?

d) Did Dr. Cleary investigate the commercial logic, implied by the exclusive reliance on a debt rate interest index to set the prescribed rate of interest for CWIP, of assuming that all construction projects – regardless of size, complexity or longevity – will be 100% financed by debt, and will only be financed by equity investment after entering operation?

e) Did Dr. Cleary determine that it is practically feasible, in all cases regardless of the size and longevity of utility construction projects, to finance them during construction exclusively with debt capital?

f) Did Dr. Cleary consider the recent practice in Ontario among regulated utilities to invite the equity participation of Indigenous groups and/or First Nations into large capital projects, and how the prescribed interest rate for CWIP affects the viability and timing of such participation?

g) Did Dr. Cleary consult with any Indigenous groups and/or First Nations with respect to this issue?

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS
2nd day of August, 2024

Nicholas Daube
Resilient LLP
Counsel for TFG and Minogi