



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 Caldwell First Nation (“**CFN**”) in the above-noted proceeding. Pursuant to Procedural Order No. 1, please find attached the interrogatories from CFN on the evidence prepared by London Economics International LLC.

Sincerely,

DT Vollmer

- c. All parties.
Chief Mary Duckworth, CFN
John Wladarski, Northwind Business Development Inc., CFN

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
CALDWELL FIRST NATION
("CFN")

August 2, 2024

Question: **M1-1-CFN-1.**

Reference:

- Independent expert report for the Generic Proceeding on cost of capital and other matters (the “**Report**”) prepared by London Economics International LLC (“**LEI**”), pp. 45-53
- Report, pp. 178-187

Preamble: LEI recommends that the OEB maintain its status quo policy regarding the source of funding and the ownership type.

- a) Did LEI consult with any Indigenous groups and/or First Nations in preparing the Report?
- b) Please provide details and discuss all analysis undertaken by LEI that specifically considered ownership structures that include Indigenous groups and/or First Nations partnerships. In your response, please discuss the disadvantages of not considering types of ownership structure in a determination of cost of capital methodologies and what advantages arise from a model that does include ownership structures such as Indigenous ownership partnerships.
- c) Given the varied ownership structures (including Indigenous partnerships), what specific considerations were made in the Report and/or LEI’s analysis for (i) Indigenous groups and/or First Nations seeking to partner with utilities regarding the source of capital and (ii) developing recommendations for the cost of capital and capital structure methodologies?
- d) The Report recommends maintaining the current approaches to setting cost of capital based on ownership structures. Please discuss how the recommendations and conclusions:
 - (i) apply to an Indigenous groups and/or First Nations partnering with a utility;
 - (ii) may result in any anticipated financial impacts on such Indigenous groups, First Nations, and/or utilities;
 - (iii) may impact Indigenous groups and/or First Nations’ ability to secure favorable financing terms;
 - (iv) may impact Indigenous groups and/or First Nations that rely on government funding (e.g., Infrastructure Ontario) as a source of capital compared to those accessing private capital markets; and
 - (v) would change if there was an identified priority to promote Indigenous groups and/or First Nations equity participation and explain.

- e) 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?
- f) Did LEI 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 Report may mitigate or address any identified issues.
- g) Please discuss whether and/or how the jurisdictional review considered approaches that address or fail to address the unique needs of utilities with Indigenous groups and/or First Nations partnerships? In your answer, please discuss whether LEI is aware of any jurisdictions where there is a policy or requirement to support Indigenous groups and/or First Nations equity participation and what this means for developing cost of capital determination.
- h) Did LEI consider whether the proposed recommendations could impact Indigenous groups and/or First Nations' ability to access capital at lower or higher rates. If yes, please provide LEI's analysis and discuss. If no, please explain why not.

Question: **M1-2-CFN-2.**

Reference: • Report, pp. 44, 53-62

Preamble: LEI's review and recommendations considers the impacts of various macroeconomic conditions. LEI states that energy transition is bringing drastic changes to the energy sector as a whole, but there is neither a change in the volatility of net cash flows or an increased risk of inability to attract capital or recover associated investments.

LEI's jurisdictional review also identified other risks such as Indigenous rights and engagement risk as a risk factor.

- a) As part of LEI's review and analysis undertaken in preparing the Report, did LEI determine or identify any other Indigenous-related risks. If yes, please discuss how the identification of such risks is addressed in LEI's recommendation and the best way to mitigate these risks as part of determining the cost of capital parameters and capital structure. If no, please discuss why not and/or why no such risks were addressed as part of LEI's recommendation.
- b) In your opinion, what are the reasons that the OEB would not include in some way recognition of Indigenous Peoples in terms of the framework and methodologies being considered and developed as part of this proceeding?
- c) How were the risk factors identified by LEI as part of its review weighted in determining LEI's recommendations, particularly in relation to projects involving Indigenous groups and/or First Nations partnerships, and are there any specific risks unique to Indigenous groups and/or First Nations that were identified and considered by LEI in preparing the Report?
- d) Did LEI consider and analyze the business and financial risks specific to long-term projects that involve Indigenous groups and/or First Nations, such as access to capital and financial stability? If yes, please discuss. If no, please discuss why not and whether there are any unique risks related to such partnerships.
- e) How and to what extent does (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 impact or effect risks related to the cost of capital? In your response, please discuss how this should or could be made part of a risk framework?
- f) What are the most likely early indicators that could occur in the near to medium term future related to the energy transition and that would cause LEI to reconsider or revisit its conclusion?

Question: **M1-3-CFN-3.**

Reference: Report, pp. 62-76

Preamble: LEI recommends that any regulatory mechanism that can significantly impact the stability of future cash flows must be considered for review as part of regulatory risks and recommends the OEB maintain its current approach.

- a) Does the regulatory and rate-setting mechanisms recommendation identified in the Report consider and address any specific business risks identified in relation to impacts on utilities with Indigenous groups and/or First Nations partnerships?
- b) Are there specific regulatory barriers faced by Indigenous groups and/or First Nations which are not fully discussed in the Report? Please provide examples and how such barriers and/or risks are best mitigated in the context of this proceeding.
- c) Are there any mechanisms available to specifically mitigate the regulatory risks that may impact the cost for capital for Indigenous groups and/or First Nations seeking to partner with utilities and for projects with Indigenous equity participation? If yes, how effective are these mechanisms? If no, in LEI's view, what would need to be considered to develop such mechanisms?

Question: **M1-5-CFN-4.**

Reference: Report, pp. 79-82

Preamble: LEI notes that the average CRA (3-month CORRA futures) determined over the relevant forward-looking 12-month period is more representative of investor expectations of short-term rates over the next year, in line with potential Bank of Canada policy rate reduction expectations.

- a) The Report proposes an alternative methodology for short-term debt rates. How might such an alternative methodology impact the financial planning and participation of Indigenous groups and/or First Nations with utilities?
- b) Does LEI's recommendation consider and/or address the unique financial constraints of many Indigenous groups and/or First Nations, and are there any expected benefits for utilities that partner with Indigenous groups and/or First Nations as a result of LEI's recommended change?

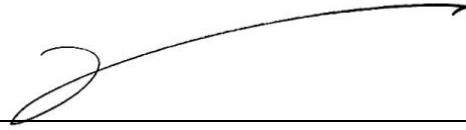
Question: **M1-8-CFN-5.**

Reference: • Report, pp. 93-96


Preamble: The Report discusses and provides recommendations for the inclusion of transaction costs in setting long-term debt rates.

- a) Are there specific issues related to transaction costs that may impact Indigenous groups and/or First Nations that participate and partners with and utilities related to the raising of debt and equity capital? If yes, did LEI consider these impacts when developing its recommendation?
- b) How should transaction costs associated with Indigenous groups and/or First Nations equity participation be considered when setting long-term debt rates?
- c) Are there recommended practices for managing transaction costs that could be particularly beneficial for partnerships with Indigenous groups and/or First Nations?

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



Lisa (Elisabeth) DeMarco
Resilient LLP
Counsel for CFN



DT Vollmer
Resilient LLP
Counsel for CFN