



January 28, 2025

VIA RESS

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

Dear Ms. Marconi,

**Re: Enbridge Gas Inc. ("EGI")
2026-2030 DSM Plan Application
Board File No.: EB-2024-0198**

We are counsel to Minogi Corp. ("**Minogi**") and Three Fires Group Inc. ("**TFG**" or "**Three Fires**") in the above-noted proceeding (the "**Proceeding**"). We acknowledge EGI's letter dated January 21, 2025 (the "**EGI Letter**"), in which EGI seeks various forms of relief, including direction from the Board stipulating that Minogi and TFG "combine their interventions into one".¹

Three Fires and Minogi's response is divided into the following three sections, with full details set out below:

1. Three Fires and Minogi are open to coordinating their interventions on the same basis as in EB-2024-0063 (the "**Capital Review**") and EB-2024-0111 (Phase 2 of the EGI "**Rebasing Proceeding**"), subject to the same provisos that they asserted in the Rebasing Proceeding, which the Board recognized and endorsed. This would mean working together to provide joint interrogatories, submissions, and testing of evidence, subject to the qualifier that Three Fires and Minogi represent distinct First Nations whose ability to pursue their own distinct interests should not be foreclosed at this (or any) stage of proceedings. If facts, issues or interests come to light that call for separate submissions or approaches from these two intervenors representing distinct First Nations, Three Fires and Minogi would reserve the right to advance those separately as appropriate;
2. Three Fires and Minogi's openness to such collaboration and efforts to avoid duplication should come as no surprise to EGI. The Notices of Intervention for both Minogi and TFG (the "**Notices**") clearly state their intention to closely coordinate their participation in the Proceeding, in part by signalling their intention to follow the same collaborative approach as in the Capital Review and the Rebasing Proceeding;

¹ Minogi and Three Fires take no position on the other forms of relief that EGI seeks in its letter, so those issues are not addressed in this response.

3. In circumstances where Three Fires and Minogi have already expressed an intention to closely collaborate, the EGI Letter as it applies to the two Indigenous intervenors is effectively redundant, running counter to the letter's purported objective of efficiency in these proceedings. Any lingering uncertainty or ambiguity could easily have been resolved through communications between the parties, rather than recourse to the Board and the exchange of submissions that such an approach entails.

Furthermore, by asserting a position that could deter Minogi, Three Fires, or other future First Nation intervenors from asserting their own, distinct interests, the EGI Letter acts directly counter to EGI's expressed support for "the full participation of Ontario's Indigenous communities and members in its proceedings". This is especially troubling to Minogi and Three Fires in circumstances where the Board's active proceedings likely face the challenge of a shortage of participation on the part of affected Indigenous communities, rather than the opposite.

We provide short elaboration on each of these points immediately below.

Minogi and Three Fires Agree to Combine Their Intervention on the Same Basis as in the Capital Review and the Rebasing Proceeding

Three Fires and Minogi are agreeable to combining their interventions on the same basis as in the Capital Review and the Rebasing Proceeding, subject to the same provisos as in the Rebasing Proceeding, which the Board recognized and endorsed.

In the Rebasing Proceeding, Minogi and Three Fires agreed in a letter to the Board to combine their interventions on the following basis, which Three Fires and Minogi adopt and propose for the purposes of this Proceeding:

We emphasize that Minogi and Three Fires represent the rights and interests of two separate and distinct First Nations. However, in the interest of limiting any delay and ensuring the Proceeding continues cost-effectively and efficiently for all parties, Minogi and Three Fires agree to combine their interventions for this Proceeding.

Three Fires and Minogi will coordinate throughout this Proceeding in a responsible and efficient way to advance each of their interests and will work together to provide joint interrogatories, submissions, and testing of evidence. Three Fires and Minogi each reserves the right to identify unique issues and interests and make separate submissions on such issues and interests. For added clarity, as part of the combined intervention, Three Fires and Minogi will indicate whether a specific issue, interrogatory, or submission etc. is supported by Minogi, Three Fires, or both.

In addition to the above, Minogi and Three Fires each reserves the right to intervene separately in future proceedings and their decision to combine interventions in this Proceeding or any other current or future proceeding should not be construed as limiting this right.

The Board approved Minogi and Three Fires' proposed approach with the following endorsement:

The OEB understands that Minogi and Three Fires represent distinct First Nations and commends them for exploring how to co-ordinate their participation and encourages them to avoid duplication wherever possible.²

Minogi and Three Fires respectfully request that the Board provide the same endorsement in this Proceeding, which would apply in response to the same proposed approach to collaboration as in the Rebasing Proceeding.

Minogi and Three Fires' Proposed Collaboration Has Been Clear from the Outset

Three Fires and Minogi's intention to undertake such collaboration should have been evident to EGI. Their Notices state:

Minogi and TFG intend to coordinate their participation in this proceeding in a manner similar to their coordination in the Board's cost of capital proceeding (EB-2024-0063) and Phase 2 of Enbridge Gas's rebasing proceeding (EB-2024-0111).

Both Minogi and Three Fires will collaborate with other intervenors as appropriate and as opportunities arise.

Their Notices also specifically anticipate that they will collaborate for the purposes of the retainer of any potential expert:

[Minogi] and Three Fires are currently considering whether they wish to file expert evidence, either on their own or in collaboration with other intervenors. Minogi and Three Fires will undertake and conclude the necessary conversations at the earliest possible date to determine their position. In the event Minogi and Three Fires wish to file evidence, they will seek Board approval at the earliest opportunity.

Furthermore, Minogi and Three Fires have a demonstrated history of seeking ways to collaborate and achieve efficiencies where possible, both in active Board proceedings and in the context of the Indigenous Working Group, which the EGI Letter appears to cite as a recent example of positive collaborative conduct.

Notwithstanding the above, any lingering uncertainty or ambiguity relating to Minogi and Three Fires' intention to collaborate in a fashion similar to the Capital Review and the Rebasing Proceeding could easily have been resolved by communications between counsel, rather than recourse to the Board with the resulting demand on the time and resources of the parties, the Board, and its staff.

The EGI Letter Runs Counter to Goals of Efficiency and Indigenous Participation

In circumstances where Three Fires and Minogi had already expressed an intention to closely collaborate in a manner similar to two recent proceedings, the EGI Letter as it applies to the two Indigenous intervenors is effectively redundant, running counter to the letter's purported objective of efficiency in these proceedings in terms of unnecessary demands on the time and resources of counsel, the Board, and Board staff.

The EGI Letter is also counterproductive to goals of increasing Indigenous participation in Board proceedings and Ontario's energy sector more generally, notwithstanding the letter's professed

² See EB-2024-0111, Decision on Issues List and Procedural Order No. 2, page 14-15.

support for similar goals. EGI makes clear its desire to establish a default position that limits the ability for Indigenous peoples to participate in Board proceedings in the manner that most aligns with their distinct goals in the following statement:

Given the fact that there is a large number of Indigenous groups in Ontario, Enbridge Gas believes, consistent with Minister's Renewed Directive, that the OEB should begin considering the appropriateness of combining such interventions such that they are required to coordinate their efforts through the same counsel and to participate as a single intervenor to the extent practical.³

These statements, which extend beyond the current Proceeding, send the clear message to First Nations that EGI will seek to limit their ability to assert the unique circumstances, needs, and perspectives of their Nation, even if they have already asserted a willingness and intention to collaborate in a manner that the Board has already endorsed.

In this way, the EGI Letter directly undermines the objective of mitigating the historical underrepresentation of Indigenous participation in Ontario's energy sector, which continues today in the form of, among other things, a relative underrepresentation of Indigenous intervenors in OEB proceedings.

Minogi and Three Fires respectfully submit that the Board should reject EGI's efforts to this end.

Concluding Remarks

On the basis of the above, Minogi and Three Fires respectfully request that the Board endorse their proposed collaborative approach in the same manner as the Board did in the recent Rebasing Proceeding.

Minogi and Three Fires further request that the Board's endorsement include language that the EGI Letter, as it pertains to Minogi and Three Fires, runs counter to the objectives of efficiency and support for Indigenous participation that the letter purports to advance.

We thank the Board in advance for its consideration of these positions.

Sincerely,

Nicholas Daube

Nicholas Daube

c. Minogi and Three Fires

³ EGI Letter, page 6.