June 27, 2025

VIA RESS

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

Dear Mr. Murray

Re: Enbridge Gas Inc. ("EGI")
2024 Rebasing and IRM – Phase 2
Board File No.: EB-2024-0111

We are counsel to Minogi Corp. ("**MC**") and Three Fires Group Inc. ("**TFG**") in the above-noted proceeding (the "**Proceeding**"). We are writing further to cost claims submitted by each of MC and TFG on June 13, 2025, and in response to EGI's letter regarding intervenor cost claims dated June 20, 2025 (the "**EGI Letter**").

MC and TFG. MC is an Indigenous business corporation that represents the interest of Mississaugas of Scugog Island First Nation ("**MSIFN**"). 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 300 members.

TFG is an Indigenous business corporation that represents the interests of Chippewas of Kettle and Stony Point First Nation ("**CKSPFN**"). CKSPFN is located in southern Ontario along the shores of Lake Huron, 35 kilometres from Sarnia, Ontario and has 1,000 members who live on-reserve and 900 who live off-reserve.

Background. On May 8, 2024, Minogi filed a late Notice of Intervention and Request for Cost Eligibility, indicating its interest in the Proceeding. On May 24, 2024, EGI responded to MC's Notice of Intervention (the "**May 24 Letter**"), indicating that EGI did not object to Minogi's request. In the May 24 Letter, EGI proposed that MC combine its intervention with TFG's existing intervention, providing speculative reasons as to why, in EGI's opinion, the two intervenors representing the interest of separate First Nations should combine their intervention.

In a letter dated May 28, 2024 (the "**May 28 Letter**"), responding to the May 24 Letter, MC and TFG agreed to combine their intervention in the spirit of improving efficiencies and cost-effectiveness for all other parties in the Proceeding. However, MC and TFG **did not** agree to participate as a single intervenor or in a single intervention, as they represent distinct and unique

First Nations with separate concerns and issues. As such, the May 28 Letter set out the parameters for the combined intervention of MC and TFG, which included that MC and TFG:

- agreed to coordinate throughout the Proceeding in a responsible and efficient way to advance **each** of their interests;

- agreed to work together to provide joint interrogatories, submissions, and to test the evidence in the Proceeding; and

- noted that they **each** reserved the right to identify unique issues and interests and make separate submissions on such issues and interests.

It is important to note that MC and TFG very clearly emphasized in the May 28 Letter that they each represent the **rights and interests of two separate and distinct First Nations** and at no point agreed or even suggested that their combined intervention was to be considered as an intervention from a single intervenor. CKSPFN and MSIFN are sovereign Nations with inherent rights that are constitutionally recognized and protected. The unique nature of Indigenous intervenors was clearly recognized by OEB in Procedural Order No. 2, where the Board conveyed its understanding that MC and TFG "represent distinct First Nations".[1] The Board has also recently recognized the distinct and unique rights and interest of First Nations and Indigenous participants in OEB processes in its implementation update letter for the OEB 10-Point Action Plan dated April 23, 2025 (the "**Update Letter**"), stating that:

> "The OEB is committed to facilitating greater participation of Indigenous peoples in the regulatory process. **The OEB recognizes that the rights and interests of Indigenous peoples are distinct and unique to each Nation**."[2] (emphasis added)

We further note that "Proposed List of Typical Intervention Categories" provided in the appendix to the Update Letter expressly does not include Indigenous Peoples or First Nations among the categories of intervenors that are expected to group together by interest for determinations of cost eligibility. MC and TFG take this to mean that First Nations are not expected to combine their interventions, and are certainly not required to group together as a single intervenor to broadly represent Indigenous interests or rights.

MC and TFG have reiterated in all correspondences where they have decided to work together in OEB proceedings and processes, that they do so only to improve efficiencies and cost-effectiveness to the extent reasonable between them. MC and TFG firmly maintain that First Nations and any other Indigenous participation are not comparable to the Board-identified categories of intervenors with similar interests (industrial customers, commercial property owners, or environmental interests). MC and TFG firmly reject that First Nations should be considered similar or that they are similar to these other groups and further reject any notion of such similarities implied in both the May 24 Letter and the EGI Letter.

MC and TFG were required to submit separate cost claims. The EGI Letter notes that MC and TFG filed separate cost claims. This is a requirement of the Board's RESS as MC and TFG are recognized by the OEB as separate entities that do in fact represent separate and distinct First

[1] EB-2024-0111, Procedural Order No. 2, p. 15.
[2] OEB, *OEB 10-Point Action Plan: Implementation Update – Items #3 and #10*, (April 23, 2025), Appendix, p. 2.

Nations, regardless of whether they decided to coordinate with each other and combine their interventions, as was the case in this Proceeding.

MC and TFG coordinated significantly throughout the Proceeding and achieved significant cost efficiencies. The EGI Letter references Procedural Order No. 2, where the OEB commended MC and TFG for exploring ways to co-ordinate their participation and encouraged them to avoid duplication. The submission of joint interrogatories and joint submissions by MC and TFG clearly demonstrates that duplication was, in fact, avoided. EGI's suggestion that their coordinated intervention is not reflected in the cost claims is difficult to reconcile with the record, particularly given that both MC and TFG's cost claims are well below the average for intervenors in this Proceeding.

MC and TFG, together with their respective counsel, coordinated closely throughout the Proceeding, including in the preparation of interrogatories, testing of evidence, settlement negotiations, and written submissions. Although their interventions were combined, MC and TFG had distinct interests and concerns, requiring substantial coordination to identify common positions and resolve differences. For example, in drafting interrogatories, representatives from both MC and TFG and their counsel coordinated to discuss shared and party-specific areas of interest. Counsel then prepared draft questions, which were consolidated into a single joint set submitted to EGI. Throughout this process, both parties worked collaboratively to ensure the final interrogatories reflected their respective priorities and that each was comfortable with the result. While this approach effectively avoided duplication, it required significantly more time and coordination than would typically be required for intervenors representing the same interests or that are part of the same Board-identified category of intervenors.

As noted above, combining their intervention did not mean combining MC and TFG as a single intervenor. MC and TFG were each represented by their respective counsel at all stages of the Proceeding and each had to agree to all efforts to collaborate and coordinate throughout the Proceeding. MC and TFG reject the notion that their cost claims should be reviewed or assessed on a combined basis. Simply aggregating their hours overlooks the significant coordination required to align on joint positions and advance shared interests. Their collaboration involved considerable effort across both parties and their respective counsel, and that effort cannot be captured by simply summing their individual hours. While there may be some overlap at certain stages due to MC and TFG being represented by different counsel within the same firm, this is neither unusual nor improper. Moreover, the specifics of each party's client relationship with their counsel are privileged and not relevant to the assessment of reasonable costs.

MC and TFG note that the *Practice Direction on Cost Awards* clearly refers to overall costs (not hours) and are uncertain as to why EGI has focused on hours instead of costs as the total costs for each of MC ($53,526) and TFG ($42,547) are significantly below the average costs for all intervenors of $69,204 (including expert evidence) and $61,339 (excluding expert evidence), providing clear evidence of the cost-efficiencies achieved in this Proceeding by MC and TFG. In any event, where their hours are higher than other intervenors, it is clear that there was an effective delegation of work to professionals with the most efficient level of expertise and experience required, ensuring that total costs remained below the average costs of other intervenors. This again demonstrates the importance MC and TFG have placed on exploring and actually achieving cost-efficiency and effectiveness throughout all stages of this Proceeding.

Settlement conference and ADR. MC and TFG dedicated substantial time and resources to developing and advancing the Indigenous Participation Proposal, which is an innovative and collaborative initiative. This work required extensive engagement and negotiation not only with

each other but also with EGI, other intervenors, Indigenous participants, and members of the Indigenous Working Group. Significant effort went into crafting a proposal that was workable, responsive to the diverse interests involved, and capable of garnering broad-based support, especially with the other Indigenous intervenors and members of the IWG. These discussions occurred in parallel with negotiations on several other complex and contested issues in the Proceeding.

The time invested by MC and TFG reflects their commitment to meaningful engagement, consensus-building, and constructive participation in the settlement process. They should not be penalized for pursuing forward-looking and creative approaches to advancing the interests of First Nations and Indigenous customers. These include supporting economic development and job creation for Ontario First Nations and their members, facilitating renewable natural gas ("**RNG**") production in the province, and contributing to the reduction of EGI's emissions. As the Board itself recognized, the Indigenous Participation Proposal also meaningfully advances reconciliation objectives. The efforts of MC and TFG directly supported these goals and added value to the Proceeding as a whole.

Submissions. MC and TFG submit, consistent with the Board's approval of Minogi's intervention in Procedural Order No. 2, that they have: (i) effectively explored how to co-ordinate their participation in the Proceeding, demonstrated by the lower overall total costs of each of MC and TFG when compared to the average total costs of all other intervenors; and (ii) clearly avoided duplication to the extent possible through the filing of joint interrogatories and submissions, and by closely coordinating in the testing of evidence and their joint participation in the technical conference.

TFG therefore submits, in accordance with section 5.01 of the Practice Direction, that it: (a) participated responsibly in the Proceeding, with its overall costs well below the average range of costs submitted by other intervenors; (b) contributed to a better understanding of the issues in this Proceeding; (c) made significant efforts to coordinate its participation with MC, along with other intervenors, including Ginoogaming First Nation ("**GFN**"); and (d) made reasonable efforts to ensure that its participation in the Proceeding was not unduly repetitive and was focused only the issues most relevant and material to CKSPFN and its members.

MC therefore submits, in accordance with section 5.01 of the Practice Direction, that it: (a) participated responsibly in the Proceeding, with its overall costs well below the average range of costs submitted by other intervenors; (b) contributed to a better understanding of the issues in this Proceeding; (c) made significant efforts to coordinate its participation with TFG, along with other intervenors, including GFN; and (d) made reasonable efforts to ensure that its participation in the Proceeding was not unduly repetitive and was focused only the issues most relevant and material to MSIFN and its members.

Sincerely,

DT Vollmer

c. EGI