



November 19, 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: Consultation on evaluation of the IRP Framework
Board File No.: EB-2025-0125

We are counsel to Three Fires Group Inc. (“TFG”) and Minogi Corp. (“Minogi”) in the Ontario Energy Board (the “Board” or “OEB”) consultation to support a review and evaluation of its Integrated Resource Planning (“IRP”) Framework (the “Framework”) for Enbridge Gas Inc. (“EGI”) (the “Consultation”). TFG and Minogi appreciate the opportunity to provide the following responses and comments on OEB Staff’s Discussion Paper on the Review of the Framework (the “Discussion Paper”).

TFG and Minogi’s responses and comments

These comments are organized in accordance with and respond to the discussion questions set out in the Discussion Paper, specifically questions 1-11, and 15.

1. What implications does the current public policy environment have for an evolved IRP Framework and the OEB’s IRP-related expectations of natural gas distributors?

TFG and Minogi share concerns raised by other participants in the Consultation that despite the significant implications that IRP-related planning decisions have on First Nations and their rights, treaty lands and traditional territories, and related economic opportunities, First Nations have not been meaningfully consulted or engaged in the development of the Discussion Paper.¹ TFG and Minogi note the recent provincial and federal support for reconciliation in the context of Canada’s efforts to implement the United Nations Declaration on the Rights of Indigenous Peoples (“UNDRIP”) through the *UNDRIP Act*² and Ontario’s stated recognition in numerous policy documents of the importance of First Nation inclusion in energy system planning and projects to support electrification and the energy transition, including Ontario’s integrated energy plan: Energy for Generations (the “IEP”).

¹ TFG and Minogi have reviewed the submissions of Ginoogaming First Nation (“GFN”) and agree that this Consultation takes place in the context of growing recognition and priority of reconciliation in Ontario and Canada.

² [United Nations Declaration on the Rights of Indigenous Peoples Act](#), S.C. 2021, c. 14

First Nation involvement in the development and delivery of IRP projects also support broader Ontario public policy. For example, the IEP provides direct policy guidance for the inclusion of First Nations in energy infrastructure:

“Ontario remains committed to fulfilling its Duty to Consult, when it arises, in respect of energy infrastructure. It expects developers to engage early with Indigenous communities — both to understand potential impacts, so these can be considered, and to explore opportunities for meaningful partnerships that deliver local benefits.”

Similarly, the IEP notes that partnerships with First Nations “are essential to supporting Indigenous participation in energy planning and ensuring the province can meet growing demand through coordinated regional solutions.” Ontario has also indicated its support for increasing the involvement of First Nations in energy projects to ensure they are able to benefit from energy infrastructure in Ontario:

“Ontario is undertaking a significant expansion of energy infrastructure — creating new opportunities for Indigenous communities. This has led to a growing and evolving demand for supports that enable Indigenous communities to take up and participate in these energy opportunities and ultimately shape their own future.”

The Framework must take into account the clear direction from the provincial government to include First Nations in energy planning by recognizing the important role of First Nation partnerships in integrated energy planning and ensuring Ontario’s energy system is ready for the energy transition.

2. Which of the procedural options, if any, for updating the IRP Framework do you prefer, and why?

TFG and Minogi agree with OEB staff that an adjudicative approach (as opposed to policy guidelines) provides greater authority to set binding requirements, including time-bound requirements, on regulated distributors such as EGI.

With respect to the procedural options for updating the Framework, TFG and Minogi support an adjudicative approach, and prefer the second option identified in the Discussion Paper of an adjudicated approach as part of a generic proceeding. An adjudicated process ensures enforceability, transparency, and accountability of the Framework, which are essential for developing a responsive and fair IRP framework that will govern major system planning decisions directly affecting First Nations and their members.

An adjudicated process would also better enable the meaningful participation of First Nations in regulatory proceedings, ensuring their perspectives, experiences, and values are reflected in the development of the Framework. It would also provide the institutional support needed for First Nation membership on any working groups established as part of the process to update the Framework.

TFG and Minogi do not support a purely policy-based approach, as it would lack binding authority and constrain the ability of First Nations to meaningfully inform updates to the Framework. Such an approach is inconsistent with the Crown’s duty to consult and accommodate (“**DTCA**”) First Nations on impacts to their Aboriginal and Treaty Rights within their Treaty and Traditional Territory, and would limit their ability to fully participate in the regulatory and decision-making processes to develop and update the Framework. It would also undermine progress on achieving

First Nation partnership and benefit-sharing commitments articulated in Ontario's energy policies and is fundamentally inconsistent with the important OEB's role in advancing energy planning that recognizes First Nations as rightsholders, not stakeholders.

3. Should any updated IRP Framework be specific to EGI, or applicable to all rate-regulated gas distributors?

TFG and Minogi support a unified, province-wide approach in which the Framework applies to all rate-regulated gas distributors. A single, consistent framework is more cost-effective, efficient, and would ensure that relevant and interested First Nations are able to engage and participate in IRP planning using the same planning processes, criteria, and expectations regardless of the distributor involved.

TFG and Minogi further recommend that when updating the Framework, the OEB should consider developing it in a manner that aligns, where possible, with the IRP planning directions and policy documents that govern Ontario's rate-regulated electricity distributors. A more harmonized and consistent approach across Ontario's energy system will help reduce regulatory fragmentation, promote more coherent long-term energy planning, and create opportunities for distributors to jointly advance projects that deliver integrated benefits to Ontario ratepayers, including First Nations and their members.

4. Does the level of detail in the current IRP Framework strike an appropriate balance

TFG and Minogi believe that the existing Framework lacks sufficient detail to guide and ensure meaningful First Nation participation in IRP projects. The current framework does not address the important and integral role of First Nations in energy planning and project delivery in Ontario. As such, the development of the Framework should provide:

- an explicit requirement for consultation in accordance with the DTCA with First Nations to address impacts on Aboriginal and Treaty rights within a First Nation's Treaty and Traditional Territory;
- a requirement for First Nation-led and co-designed processes for engagement to gather input, share information, and build relationships with impacted and/or interested First Nations, including an expectation for co-development of IRP Alternatives ("IRPAs") and Facilities Alternatives ("FAs") with First Nations;
- for mandatory participation of any impacted or interested First Nation in all relevant regulatory processes, including decision-making forums, pursuant to the Framework;
- clear direction to distributors to offer equity participation to interested First Nations, where appropriate;
- disclosure obligations in IRP plans and IRPA and FA proposals of how First Nation perspectives have informed project need and identification; and
- clear documentation requirements for identifying and addressing any First Nation concerns and impacts.

5. Do you support the OEB staff proposal for an IRP Implementation Plan? What modifications, if any, to this proposal, and to the annual reporting approach, would you suggest?

With respect to the proposed IRP Implementation Plan, TFG and Minogi support the general concept but believe that the planning process must explicitly incorporate First Nation consultation, engagement, and participation in both plan development and any corresponding regulatory processes. The process for the submission of an “IRP Implementation Plan”, as proposed in the Discussion Paper, should be revised to include requirements for: (i) discharging the DTCA, including how First Nation concerns and perspectives will be determined and considered; (ii) identifying how First Nations will be engaged over the plan period; and (iii) ensuring early and ongoing involvement of First Nations in the design, assessment, and delivery of IRPAs and FAs, all in a manner consistent with the principles and standards set out in UNDRIP.

The Framework, including the proposal for the development and submission of an IRP Implementation Plan, will have material impacts on infrastructure expansion decisions that can influence economic development opportunities and system access for First Nations. As such, these considerations must be included at the planning stage, as First Nations may be uniquely impacted by such decisions. Ensuring early consultation in accordance with the DTCA and requiring engagement, where requested, would provide an opportunity for consideration of how First Nations can deliver significant and unique support for investments and projects that ultimately benefit all ratepayers, such as access to provincial and federal funding to support First Nation equity participation in Ontario’s energy system and access to lower costs of capital.³

TFG and Minogi believe that a three-year planning horizon is reasonable. However, the IRP Implementation Plan should include annual updates, with opportunities for First Nations to review and comment on updates, in a process independent of other proceedings focused on broader issues that may minimize important IRP-specific issues, especially in relation to First Nations and their unique interests and perspectives.

6. How do you see the role of the IRP Working Group evolving under an updated IRP Framework? Do you agree with OEB staff’s proposed approach? Why or why not?

TFG and Minogi wish to emphasize that the IRP Working Group (“**IRP WG**”) currently does not include any First Nation representation, which is fundamentally inconsistent with UNDRIP and reconciliation principles and the recognition of the important role of First Nations in Ontario’s energy planning. Accordingly, any update to the Framework that envisions a continued role for the IRP WG must include changes to the IRP WG that ensures it is more representative, including by requiring First Nation and Indigenous representation on the IRP WG. This requirement must also be supported by appropriate participation and capacity funding for any Indigenous members of the IRP WG.

The OEB should seek to ensure that if the IRP WG is to play a role in reviewing IRP policies, innovative pilots, and screening methodologies, then it must also reflect the perspectives of the communities often most affected by energy infrastructure development: First Nations. The OEB should consider updating the framework and terms of the IRP WG in accordance with the principle of “nothing about us without us. For example, the OEB could review approaches taken by other regulators to enhance the involvement of First Nations in revising the IRP WG, such as (i) the

³ For example, see IEP, Chapter 8, for an overview of increased provincial funding targeted at First Nation participation in energy projects.

Impact Assessment Agency of Canada's [Indigenous Capacity Support Program](#), which provides funding to Indigenous communities and Indigenous organizations to support meaningful engagement in consultations, and (ii) the Canada Energy Regulator's [Indigenous Advisory Committee](#), which advises on improving and enhancing the involvement of Indigenous peoples and organizations regarding regulated pipelines, transmission lines and offshore renewable energy projects, as well as abandoned pipelines.

TFG and Minogi wish to highlight the potential role of the Indigenous Working Group ("IWG"), which was approved by the Board and established as part of the settlement agreement between EGI and intervenors in Phase 1 of EGI's rebasing application (EB-2022-0200), in providing guidance and support for EGI as it undertakes IRP planning and in support of developing the Framework. The IWG has become a forum for First Nations to engage with EGI on issues of importance and concern to First Nations and their members and provides a mechanism to discuss opportunities and impacts with EGI, including those related to IRP. TFG and Minogi also note that IRP has become a discreet topic and focus area of discussion within the IWG, including the recent creation of an IRP sub-working group to more fully discuss identified issues and concerns, and how EGI can better develop and support IRP projects in coordination with First Nations.

TFG and Minogi recommend that the IRP WG should be encouraged to coordinate with the IWG to enable a broader inclusion of First Nation perspectives and knowledge, especially with respect to project-level decision-making that has the potential to impact First Nations or where a First Nation is a project partner and/or proponent.

7. Do you support the definition of "innovation-related IRP proposals" as proposed by OEB staff? Why or why not?

TFG and Minogi support the general definition offered by OEB staff of "innovation-related IRP proposals". However, innovation must be understood to include First Nation-led or First Nation-partnered solutions. Innovation in Ontario's energy sector includes the many First Nation-owned and -led demand-side management and local energy planning projects that are consistent with community energy security initiatives. TFG and Minogi believe that the Framework should expressly prioritize and support innovative First Nation projects and proposals, in order to advance reconciliation. Promoting First Nation-led innovative projects is also consistent with broader public policy direction to increase First Nation equity participation and ensure that energy and economic benefits of IRP projects include First Nations and their members.

8. Which, if any, of the four proposed oversight mechanisms for innovation-related proposals do you support and why?

TFG and Minogi see potential value in an oversight model in which the IRP WG plays a central role, provided that First Nation membership is a requirement in the composition of the IRP WG, as discussed above under the response to question 6. Given past challenges with consensus within the IRP WG, and the absence of any First Nation representation, the proposed oversight mechanisms should, in addition to including a First Nation member requirement, be revised to ensure more clearly defined governance structures, transparency requirements, and processes for resolving issues, including simple majority approval. Where a project is a First Nation-led innovation project, the IRP WG should consider how and to what extent it can coordinate with the IWG in discharging its oversight function and include First Nation perspectives in its decision and/or oversight functions.

9. What assessment criteria would best support value-driven innovation? Do you agree with the five considerations proposed by OEB staff? If not, what changes would you propose?

TFG and Minogi support the considerations and assessment criteria proposed by OEB staff in the Discussion Paper but believe additional criteria are needed to ensure First Nation involvement in IRP planning and projects and that IRP-related proposals more broadly advance reconciliation consistent with Ontario's stated public policy. The OEB should consider adding First Nation project and equity participation as a standalone assessment criterion to better support value-driven innovation. The inclusion of such a requirement is supported by the IEP, which identifies the benefits of early engagement with First Nations in energy planning:

"Engaging Indigenous communities early in energy planning helps reduce project delays, builds stronger partnerships, and ensures that projects reflect local interests and priorities. Early engagement gives Indigenous communities the opportunity to understand emerging system needs, participate in planning, and position themselves for potential partnership opportunities when new projects — like transmission lines — are identified."

Accordingly, the addition of a First Nation project and equity participation requirement reflects not only broad public policy, consistent with UNDRIP, but also recognizes the practical reality that First Nations are essential partners in Ontario's energy transition and energy planning. In addition, including First Nation project and equity participation as an explicit evaluation factor would create clear incentives for utilities and project proponents to work collaboratively with First Nations to develop and deliver IRPAs.

10. Are you in favour of expanding electrification as an eligible IRP Alternative beyond the current pilots? Why or why not?

TFG and Minogi support including electrification as an eligible IRPA. Ontario public policy, such as the IEP, clearly anticipates a greater role for gas and electricity integration, including an important role for the OEB in supporting greater integration and planning. Integrated energy planning benefits all ratepayers by advancing IRPAs that are cost-effective and offer more and enhanced benefits to both the gas and electricity distribution systems, ratepayers, and utilities. Electrification should not be seen as a requirement but an important consideration when developing IRPAs and seeking cost recovery from ratepayers, especially as ratepayers are often already integrated energy customers.

11. Is there value in a pilot that includes electrification as an alternative to new customer connections (which is not part of the existing Southern Lake Huron pilot or the system pruning pilot)?

TFG and Minogi support expanding electrification beyond the existing pilots, particularly where communities identify electrification IRPA projects as consistent with local planning objectives, climate goals, or economic development strategies. The OEB should consider how updates to the Framework can support electrification as an alternative to new customer connections, especially in remote or rural First Nation communities where the long-term economic viability of natural gas expansion may be limited and/or where electrification may better align with community preferences.

15. How should the OEB address the implications of approval requirements regarding potential impacts of IRP Plans on Aboriginal or treaty rights?

TFG and Minogi are deeply concerned by the limited role contemplated for First Nations in the proposals for the IRP Framework set out in the Discussion Paper. Currently, the Discussion Paper provides no meaningful mechanism for First Nation involvement in IRP planning or for them to raise concerns regarding potential impacts. In addition, the Discussion Paper does not include a forum, in all circumstances, for the OEB to assess whether the DTCA has been fulfilled. This omission is unacceptable to TFG and Minogi and is likely a direct result of the non-participation of First Nations in forums such as the IRP WG. It is also fundamentally inconsistent with the OEB's well-established role in evaluating whether the DTCA has been discharged before approving projects. Where the Crown delegates elements of both the DTCA and the determination of adequacy, the regulatory body must either possess sufficient statutory authority to carry out that responsibility or must itself provide the necessary consultation and accommodation.⁴

The OEB cannot remove itself from its constitutional obligations or narrow its role to avoid its oversight function. As a statutory decision-maker exercising delegated authority, the OEB must act in a manner consistent with the honour of the Crown and ensure that its decisions do not facilitate or enable the infringement of asserted and proven Aboriginal and Treaty Rights as protected by section 35 of the *Constitution Act, 1982* or are otherwise inconsistent with UNDRIP and the principle of free, prior and informed consent (**FPIC**).

In the event that an update to the Framework includes exemptions from adjudicated review based on project or monetary thresholds, it must provide a robust mechanism that (i) respects First Nation decision-making authority, and (ii) enables the OEB to determine whether the DTCA has been discharged, including an assessment of mutually agreed accommodation and mitigation measures. Without such a mechanism, the Framework would infringe the right of First Nations to make decisions about projects that impact their asserted and proven Aboriginal and Treaty Rights and create a regulatory void where Crown obligations could be overlooked or unaddressed. Such an outcome would be fully inconsistent with Canadian law and UNDRIP, and likely have the effect of forcing First Nations to unnecessarily use their frequently limited time and resources to protect their constitutional rights.

TFG and Minogi recommend that the OEB adopt an oversight model that recognizes First Nations as inherent rightsholders and partners in IRP planning. As part of this model, the Framework should require distributors to demonstrate the following actions, which would ultimately be reviewed and approved by the OEB:

1. **Consultation.** Identify all potentially affected or interested First Nations for any IRP proposal, IRP Implementation Plan, and IRPA/FA project in accordance with UNDRIP, and demonstrate early, meaningful, and sustained consultation with impacted First Nations that respects their decision-making authority throughout planning, design, and implementation. Describe how all concerns raised by First Nations were addressed, and demonstrate how the principle of FPIC was considered and incorporated into project design and decision-making.
2. **Engagement.** Develop, in collaboration with impacted First Nations, voluntary or policy-driven outreach policies to guide relationship-building, information-sharing, and ongoing engagement, including a description of how these policies were applied in the development of the IRP proposal or project.

⁴ See the comments of the Mississauga Nation in EB-2024-0079 and EB-2022-0011 (March 25, 2024).

3. **Equity participation.** Provide equity participation for interested First Nations where appropriate.
4. **Participation in regulatory processes.** Assess whether adequate OEB participation mechanisms exists, to enable meaningful First Nation involvement in regulatory processes, including decision-making forums and identify any gaps and propose enhancements to ensure First Nations can fully participate in OEB oversight of IRP activities.
5. **Capacity and participation funding.** The Framework must require that capacity and participation funding be provided to First Nations in order from to meaningfully participate and engage in all processes and

TFG and Minogi also feel compelled to respond directly to remarks made during the stakeholder information session that appeared to characterize the OEB's oversight of consultation with First Nations as an exercise in "efficiency". TFG and Minogi wholly reject this framing as fundamentally wrong and at odds with reconciliation. Consultation and regulatory oversight are not a procedural inconvenience – they are constitutional imperatives grounded in the honour of the Crown, affirmed repeatedly by Canadian courts, and reinforced by normative instruments such as UNDRIP. Suggesting that the OEB's responsibilities should be minimized or streamlined for efficiency fundamentally misunderstands the Board's relationship with First Nations and the nature of the DTCA. It also risks undermining ongoing efforts to advance reconciliation, particularly at the OEB. The Board's role is not about regulatory efficiency; it is about discharging constitutional responsibilities and ensuring that the rights of First Nations are respected, protected, and meaningfully incorporated into Ontario's energy decision-making. TFG and Minogi reiterate that First Nations are not simply stakeholders; they are sovereign Nations with inherent rights that are essential partners in the province's energy future.

Sincerely,



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- c. Reggie George, TFG
Don Richardson, Minogi