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April 27, 2017

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319, 27th Floor
2300 Yonge Street
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: EB-2016-0137 / EB-2016-0138 / EB-2016-0139
Phase One Submissions on Draft Issues List and Draft Filing Requirements
Southern Bruce Expansion Applications to serve the Municipality of Arran-
Elderslie, the Municipality of Kincardine and the Township of Huron-Kinloss with
natural gas distribution services**

We are counsel to Anwaatin Inc. (**Anwaatin**) in the above-mentioned proceeding. Please find enclosed Anwaatin's Phase One submissions on the draft Issues List and Filing Requirements.

Yours very truly,

A handwritten signature in black ink, consisting of a stylized cursive 'L' followed by a long horizontal stroke that tapers to a point on the right.

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Dear Ms. Walli:

**Re: Board File Nos.: EB-2016-0137 / EB-2016-0138 / EB-2016-0139
Phase One Submissions on Draft Issues List and Draft Filing Requirements
South Bruce Expansion Applications – Applications to serve the Municipality of
Arran-Elderslie, the Municipality of Kincardine and the Township of Huron-Kinloss
with natural gas distribution services**

We are counsel to Anwaatin Inc. (**Anwaatin**) in the above-mentioned proceeding (the **Proceeding**). Pursuant to Procedural Order No. 5 (**PO5**), dated April 20, 2017, Anwaatin hereby files its submissions on the Preliminary Issues as they appear in Schedule B to PO5 and the draft Filing Requirements as they appear in Schedule C to PO5.

Issue 1: Keeping in mind the principles set out in the Decision with Reasons for the generic community expansion proceeding (EB-2016-0004), what should the process for selecting a proponent look like when there are competing proposals for serving a community?

Anwaatin generally supports Board Staff's submissions on this issue with the following noteworthy exceptions:

- (i) The Board noted the importance of energy poverty existing in First Nations communities and indicated that it would respond to any proposal brought forward in the new framework with due consideration to the needs of the intended customers in its Decision with Reasons in the generic proceeding on community expansion (EB-2016-0004) issued on November 17, 2016. The Board's process for approving franchise agreements and finding the best value for customers should reflect these EB-2016-0004 principles.
- (ii) The procedural fairness that must be afforded to customers is not conducive to a Board Staff-discretionary "vetting process" for interrogatories. The interrogatory

process should ensure that each and all intervenors, who have already been granted the right to fully participate, should have the right to be heard and replied to on relevant areas of inquiry. Interrogatories are an important means of fully probing a proponent's application and can serve to clarify the evidence, simplify issues, permit a full and satisfactory understanding of the matters to be considered, and expedite the proceeding. They are a vital part of each intervenor's ability to help the OEB fulfil its statutory objectives under section 2 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. B (the **OEB Act**) and in particular to protect the interests of consumers with respect to prices and the reliability and quality of service through the rational expansion of natural gas distribution systems. While Anwaatin is respectful of Board Staff concerns regarding fairness symmetry of and consistent interrogatories being asked to each applicant, Anwaatin submits that there are less intrusive means to achieve these ends. Specifically, Anwaatin recommends that the Board consider allowing intervenors to first ask their interrogatories to the relevant applicant, then at a later date allow Board Staff to ask interrogatories in order to, among other things, fill in the gaps and ensure symmetry in interrogatories asked to each applicant.

Similarly, Anwaatin does not object to the applicants' normal procedure of consolidating responses to interrogatories for convenience. Failure to allow intervenors to exercise their full right to examine the evidence is inconsistent with the right to participate granted, procedural fairness of the Board, the rules of natural justice and the principal of *audi alteram partem*.

- (iii) Intervenors should be granted the right to cross examine any witnesses and experts. Anwaatin respectfully submits that intervenors should be provided with the right to test the evidence, possibly by way of an oral hearing. Concerns about inequality between the applicants may be addressed by proceeding in camera in the absence of the other applicant.

Issue 2: Should the funding of this process be treated as a business development cost or a regulatory expense, recoverable from future ratepayers? What other approaches should the OEB consider?

Anwaatin supports Board Staff's submission that the costs of preparing the applications pursuant to this Proceeding should be considered a business development cost, and separated from the regulated business of the applicants.

Issue 3: In its Decision with Reasons for the generic community expansion proceeding (EB-2016-0004), the OEB introduced the idea of a rate stability feature for its framework for natural gas expansion:

A minimum rate stability period of 10 years (for example) would ensure that rates applied for are representative of the actual underpinning long-term costs. The utility would bear the risk for that 10-year period if the customers they forecast did not attach to the system.

- **How should a rate stability period be implemented for the South Bruce areas?**
- **Is a 10-year rate stability period too long or too short?**

- **Should proponents have the opportunity to update costs during the rate stability period? If so, what types of costs?**

Anwaatin supports the implementation of a rate stability period that maximizes rate stability for natural gas customers in the South Bruce areas. Anwaatin suggests implementing a rate stability period of a length that minimizes rates for energy-poor Indigenous communities, while maximizing the stability of those rates. Further, Anwaatin submits that an additional rate class, consistent with the need for low-cost natural gas service in Indigenous communities, should be created for the small number of extremely vulnerable energy customers experiencing energy poverty both on and off reserve.

Issue 4: In expanding natural gas service to new areas, the OEB expects to approve franchise agreements following the results of a certificate competition. The selection process is primarily about finding the best value for consumers over the long term, after analyzing the supply plans and associated costs.

- **Is there a need for a common format for applications to be able to appropriately assess and compare the value propositions of different proponents – for example through establishing filing requirements?**
- **If so, please provide comments on the draft filing requirements attached at Schedule C.**
- **Should the OEB use a Reference Plan based on a set of working assumptions such as long term system demand?**
- **What other parameters should be set in a Reference Plan?**
- **Should applicants have the opportunity to create their own proposals by applying their own demand forecasts, construction phasing, etc. as opposed to a Reference Plan?**

Anwaatin supports Board Staff's submission that there is a need for a common format for applications and generally supports Board Staff's revisions to the draft filing requirements, subject to Anwaatin's further additions, as set out below employing Board Staff's numbering scheme:

- 1.4** The applicant must demonstrate that it has the capacity necessary to engage with Indigenous customers whose natural gas needs are affected and consult with and accommodate Indigenous communities whose rights are or may be infringed. The applicant shall provide the following: (i) evidence that it has the resources and staff sufficient to demonstrate the above capacity and (ii) description of the proponent's standard Indigenous or Aboriginal consultation programs and procedures and policies, and copies of its Indigenous or Aboriginal stakeholder engagement policies, procedures and guidance documents.
- 3.4** Evidence that the applicant's business practices and Aboriginal and/or Indigenous engagement policies and procedures are consistent with good utility practices and that it possesses or can obtain all the required licenses and permits to function as a gas distribution utility.
- 5.9** Identification of municipal, Indigenous and or community support, if any, and provision of any resolutions passed by the relevant municipality or council.

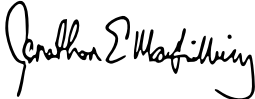
- 5.11 A description of the proponent's consultation and engagement with and accommodation of the needs, rights and interests of the Indigenous communities, including in respect of (i) the development, construction, operation and maintenance of safe and reliable service on the traditional territories of First Nations and in a manner that infringes on or otherwise affects Indigenous rights and (ii) the extension of natural gas service to energy-poor Indigenous communities.

- 6.5 Budget for developing and constructing the line, with transmission and distributions aspects of the expansion costed separately. Cost per kilometer of line constructed and operations, maintenance and administration cost per customer must be included.

Yours very truly,



Lisa (Elisabeth) DeMarco



Jonathan McGillivray