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January 25, 2018

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
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 written submissions, filed pursuant to Procedural Order No. 9 dated December 7, 2017.

Yours very truly,

A handwritten signature in black ink, appearing to be "Lisa DeMarco", with a long, sweeping horizontal line extending to the right.

Lisa (Elisabeth) DeMarco

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 Applications to serve the Municipality of Arran-Elderslie, the Municipality of Kincardine and the Township of Huron-Kinloss with natural gas distribution services.

EB-2016-0137 / EB-2016-0138 / EB-2016-0139

Anwaatin Inc.

SUBMISSIONS

January 25, 2018

INTRODUCTION

1. We are counsel to Anwaatin Inc. (**Anwaatin**) in Union Gas Ltd.'s (**Union's**) and EPCOR Southern Bruce Inc.'s (**EPCOR's**) applications to serve the Municipality of Arran-Elderslie, the Municipality of Kincardine, and the Township of Huron-Kinloss with natural gas distribution services (the **Applications**).
2. Anwaatin is an Indigenous business corporation that works with Indigenous communities in linked energy markets that include Ontario, Quebec, California, and Manitoba. Anwaatin's mission is to ensure that Indigenous communities are part of the dialogue and the solution in addressing energy poverty in Indigenous communities, fighting climate change, and leading integrated energy and climate markets. Anwaatin is focused on: (i) alleviating energy poverty through pragmatic solutions; (ii) territorial climate change; (iii) readiness for emerging cap-and-trade markets; (iv) strengthening biodiversity and resilience in the face of climate change; and (v) creating productive dialogue and partnerships to facilitate efficient and reliable energy for Indigenous communities.
3. Anwaatin member First Nations for this proceeding include:
 - (a) Aroland First Nation (**Aroland**), a First Nation that is developing business plans for the provision of natural gas services to currently unserved First Nations across Ontario, potentially including other Indigenous communities, including the other Anwaatin's member for this Proceeding; and
 - (b) Saugeen Ojibway Nation (**SON**, and together with Aroland, the **Anwaatin First Nations**), which consists of Saugeen Ojibway First Nation and the Chippewas of Nawash Unceded First Nation, and whose traditional territories and treaty lands

include the Municipality of Kincardine and the Township of Huron-Kinloss, — a directly affected natural gas customer in the proposed Southern Bruce natural gas franchise area.

4. Anwaatin provides these submissions with the aim of assisting the Ontario Energy Board (the **Board**) in understanding the interests of the Anwaatin First Nations in accessing low-carbon, low-cost natural gas for home, business, industrial/institutional heating, power generation, and reducing the need for First Nations to rely on the electrical grid to provide baseload heat energy.
5. These submissions are provided in an overarching policy and pragmatic context for First Nations living in Ontario. That context includes:
 - (a) **energy poverty**: a disproportionate number of Ontario's First Nations live in energy poverty and are saddled with increasing and unmanageable energy costs;
 - (b) **pre-existing sovereignty**: Ontario's First Nations have pre-existing sovereignty that must be respected by all government and cannot be ceded by treaty;
 - (c) **duty to consult and accommodate**: the duty to consult with and accommodate First Nations on decisions and major government discussions has been enshrined in the Constitution and affirmed by the Supreme Court of Canada; and
 - (d) **United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)**: Canada has become a signatory to, and is in the process of adopting, the UNDRIP, which, among other things, supports the First Nations rights and Anwaatin asks the Board to consider and read these submissions in this overarching context to assist it and others in addressing the energy needs of First Nations set out herein.

6. The First Nations supporting Anwaatin's submissions are directly affected by energy poverty. Natural gas promises an alternative, low-carbon, low-cost source of heat energy that will have the additional benefit of opening local transmission grids to harness renewable energy sources such as solar, wind and hydro-electricity.

OVERVIEW

7. Anwaatin's submissions address the Board's consideration of:
 - (a) the applicant's approach to consultation and relationships with Anwaatin First Nations and Indigenous communities; and
 - (b) the adequacy of each applicant's services for its Indigenous customers.

SUBMISSIONS

(a) The Board should consider each applicant's approach to consultation and relationships with Anwaatin First Nations and Indigenous communities.

8. Anwaatin submits that the Board should consider each applicant's approach to, and success with, its Indigenous rights-holders as part of its decision-making process. Specifically, the Board should consider the Indigenous policies of each of the applicants and how each of the applicants have engaged with and consulted the Anwaatin First Nations. The Board should consider whether and how the applicants have determined, interpreted, and applied their own procedural requirements, the Crown's procedural requirements, and the Board's procedural requirements in assisting the Crown to fulfill its duty to consult and accommodate affected Anwaatin First Nations, including the SON, which is a directly affected natural gas customer in the Southern Bruce natural gas franchise area. Specifically, Anwaatin notes

that one of the applicants attempted to prevent participation of a directly affected First Nation in the Applications.

9. Anwaatin submits the Board must ensure that the applicants, as parties interested in entering Municipal Franchise Agreements with municipalities adjacent to or surrounding the Anwaatin First Nations should, together with the Province, have discharged their duty to consult prior to the selection of a successful applicants and the commencement of leave-to-construct (LTC) proceedings. Further, consultation should include discussion of any relevant treaty rights and interests relating to affected First Nations territory.

(b) The Board should consider the adequacy of each applicant's services for its Indigenous customers.

10. 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 EB-2016-0004.
11. Anwaatin submits that the Board should also assess and ensure the adequacy of each applicant's services for its First Nations customers, including the SON.
12. Anwaatin submits that expanding reliable and affordable natural gas distribution service to the Anwaatin First Nations should be a priority in the Board's consideration of the Applications.

REQUESTED RELIEF

13. Anwaatin requests that the Board take the following steps prior to and through its decision on the Applications:

- (a) ensure that each applicant has adequately consulted with the Anwaatin First Nations, including the SON;
- (b) ensure that each applicant has fully executed the procedural duties of consultation delegated to it by the Crown, especially with respect to cultural heritage, archaeology, socio-economic, and environmental rights and interests; and
- (c) consider which applicant best ensures access to reliable and affordable natural gas services for Indigenous communities and the Anwaatin First Nations, including the SON.

**ALL OF WHICH IS RESPECTFULLY
SUBMITTED THIS**

25th day of January, 2018



Lisa (Elisabeth) DeMarco
DeMarco Allan LLP
Counsel for Anwaatin



Jonathan McGillivray
DeMarco Allan LLP
Counsel for Anwaatin