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November 10, 2017

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

Dear Ms. Walli:

**Re: Applications by Enbridge Gas Distribution Inc. for an order approving a rate to be applied as a System Expansion Surcharge, an order granting leave to construct natural gas distribution pipelines and ancillary facilities, and an order granting a Certificate of Public Convenience and Necessity
Board File No.: EB-2017-0147**

We are counsel to Anwaatin Inc. (**Anwaatin**) in the above-referenced proceeding (the **Proceeding**). Anwaatin requested intervenor status and cost eligibility in the Proceeding on September 6, 2017.

Please find enclosed a letter from Hiawatha First Nation, which will be a member of Anwaatin for the purposes of this Proceeding if Anwaatin is granted intervenor status.

Yours very truly,

A handwritten signature in black ink, consisting of a stylized 'L' followed by a long, sweeping horizontal stroke that ends in a small arrowhead.

Lisa (Elisabeth) DeMarco



Hiawatha First Nation

Administration Office

November 10, 2017

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319, 27th Floor
2300 Yonge Street
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Re: Applications by Enbridge Gas Distribution Inc. for an order approving a rate to be applied as a System Expansion Surcharge, an order granting leave to construct natural gas distribution pipelines and ancillary facilities, and an order granting a Certificate of Public Convenience and Necessity Board File No.: EB-2017-0147

Hiawatha First Nation is in receipt of the Ontario Energy Board's October 30, 2017 Letter of Direction to Enbridge Gas Distribution Inc. (Enbridge Gas) for the Fenelon Falls Pipeline Project within Treaty 20 and the Williams Treaties, (Fenelon Falls Project). The Williams Treaties First Nations are comprised of:

- Chippewas of Georgina Island
- Chippewas of Rama First Nations
- Alderville First Nation
- Curve Lake First Nation
- Mississauga of Scugog Island
- Hiawatha First Nation
- Beausoleil First Nation

The seven Williams Treaties First Nations are the only First Nations that should be engaged by the Crown with respect to the Fenelon Falls Project. Kawartha Nishnawbe are not a Nation or a recognized First Nation. The Fenelon Falls Project is not within the territories of the Whata Mohawks or the Huron Wendat.

In early 2016, Canada, Ontario and the seven Williams Treaties First Nations began substantive exploratory discussions to see if they could find the common ground to negotiate a settlement of litigation to seek a resolution of a longstanding claim known as the *Alderville et al. v. Her Majesty the Queen et al.* proceeding before the Federal Court. Our First Nations allege that the Crown breached its fiduciary duties to them and failed to uphold the honour and integrity of the Crown in the making and

implementation of the Williams Treaties. In particular, we contend that our first Nations were not fairly compensated for our lands and should have received additional reserve lands at the time of treaty. Our First Nations also maintain that the pre-Confederation treaties we signed with the Crown protected harvesting rights and that those rights were not affected by the Williams Treaties and continue to exist.

In February 2017, the parties agreed to a process to begin formal negotiations toward a negotiated settlement of the Alderville litigation and the court case was adjourned on March 27, 2017 on joint consent of the parties. Canada and Ontario have since recognized pre-existing treaty harvesting rights of the Williams Treaties First Nations' members to hunt, trap, fish and gather for food, social and ceremonial purposes ("harvesting rights") in certain areas of pre-Confederation Treaties No. 5, 16, 18, 20 and 27-27 ½. These treaty harvesting rights are constitutionally protected. Since the Fenelon Falls Project falls in Treaty 20, the Williams Treaties First Nations need to be consulted as our constitutionally protected harvesting rights may be negatively impacted by the development proposal.

The Enbridge Gas Fenelon Falls Project may also include Crown lands in the traditional territories of the Williams Treaties First Nations in which we may have interests. The Williams Treaties First Nations may also have other considerations that may be subject to Crown consultation for the Project, including damage or destruction of cultural heritage resources, damage or destruction to ecological systems that support harvesting, and ways that the Project could be harnessed to address systemic energy poverty among Williams Treaty First Nations.

We understand that the Board routinely approves "Municipal Franchise Agreements" for natural gas infrastructure and operation projects such as Fenelon Falls Project. The Board does not appear to have a similar agreement mechanism to address treaty rights, or Indigenous lands potentially subject to a negotiated settlement with the Crown. Hiawatha First Nation considers the Board's long-standing approach to "Municipal Franchise Agreements" that exclude First Nations, as one of the reasons that so many First Nations in Ontario do not have access to natural gas infrastructure.

In this proceeding, Hiawatha First Nation is represented by Anwaatin. 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 evolving energy and climate markets. Its business focusses 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 energy and climate markets.

Anwaatin provided Notice of Intervention requesting intervenor status in the above-noted proceeding on September 6, 2017. Counsel to Anwaatin, and Hiawatha First Nation, in this proceeding is DeMarco Allan LLP, represented by Elisabeth DeMarco, Jonathan McGillvary and Cary Ferguson. Additional Williams Treaties First Nations may elect to join as part of an intervenor group.

Sincerely,



Chief Laurie Carr
Hiawatha First Nation

cc: Anwaatin Inc. c/o Larry Sault, larry@anwaatin.com
Elisabeth DeMarco - lisa@demarcoallan.com
Jonathan McGillivray - jonathan@demarcoallan.com
Cary Ferguson - cary@demarcoallan.com
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Karry Sandy-McKenzie (Williams Treaties Lawyer) - k.a.sandy-mckenzie@rogers.com