



Jonathan McGillivray
Associate
Bay Adelaide Centre
333 Bay Street, Suite 625
Toronto, ON M5H 2R2
TEL +1.647.208.2677
FAX +1.888.734.9459
jonathan@demarcoallan.com

October 22, 2019

VIA RESS AND COURIER

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

Dear Ms. Long:

Re: Consultation to Review Enbridge Gas Inc.'s Natural Gas Supply Plan (the Plan)
Board File No.: EB-2019-0137

We are counsel to Anwaatin Inc. (**Anwaatin**). Please find enclosed Anwaatin's written comments on the Plan, filed pursuant to the Board's letter dated September 27, 2019.

Sincerely,

A handwritten signature in black ink that reads "Jonathan McGillivray". The signature is fluid and cursive, with the first name being particularly prominent.

Jonathan McGillivray

- c. Brandon Ott, Enbridge Gas Inc.
David Stevens, Aird & Berlis LLP
Larry Sault, Anwaatin Inc.
Don Richardson, Shared Value Solutions Ltd.

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S.O. 1998, c. 15, Sched. B, as amended;

AND IN THE MATTER OF the consultation with respect to
Enbridge Gas Inc.'s five-year natural gas supply plan.

EB-2019-0137

WRITTEN COMMENTS OF

ANWAATIN INC.

October 22, 2019

INTRODUCTION

1. We are counsel to Anwaatin Inc. (**Anwaatin**) in the Ontario Energy Board (the **Board**) EB-2019-0137 consultation to review Enbridge Gas Inc.'s (**Enbridge's**) five-year natural gas supply plan (the **Plan**) in keeping with the gas supply plan assessment process contemplated in the *Report of the Board: Framework for the Assessment of Distributor Gas Supply Plans* (the **Framework**).¹
2. Anwaatin strongly supports the Board's consultation on the Plan and is interested in matters including the cost-effectiveness, reliability and security of supply, risk management, and execution of the Plan. Anwaatin's comments on the Plan are informed by a strong Indigenous perspective and potential impacts on aboriginal title and Indigenous rights, including economic rights that may be adversely affected by the Plan.
3. These comments 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 that are not addressed by government programs;
 - (b) **pre-existing sovereignty**: Ontario's First Nations have pre-existing sovereignty that must be respected by all governments 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,

¹ EB-2017-0129, "Report of the Ontario Energy Board: Framework for the Assessment of Distributor Gas Supply Plans", available online at: <https://www.oeb.ca/sites/default/files/Report-of-the-Board-Gas-Supply-Plan-Framework-20181025.pdf> [the **Framework**].

which, among other things, supports the rights of First Nations and Indigenous peoples.

4. Anwaatin seeks to advance First Nations' access to energy through the above material policies and the opportunity for natural gas expansion programs in Ontario. Natural gas promises an alternative, lower-carbon, lower-cost source of heat energy that will have the additional benefit of providing available capacity on local transmission grids and thereby enhancing the potential for renewable energy sources such as solar, wind and hydro-electricity. The Anwaatin First Nations are directly affected by energy poverty, and are seeking ways and means to access affordable natural gas for both on-reserve and off-reserve community members.
5. Anwaatin provides these comments with the aim of assisting the Board and parties in understanding the interests of Indigenous communities in accessing lower-carbon, lower-cost natural gas for home, business, industrial/institutional heating, power generation, and reducing the dependence of First Nations on the electrical grid as the sole or preponderant source of baseload heat energy.

OVERVIEW

6. The Framework sets out three guiding principles for natural gas supply plans: natural gas supply should be delivered in a manner that is (1) cost-effective, (2) reliable (secure), and (3) achieves public policy objectives.² Anwaatin's comments are predominantly focused on the public policy objectives that the Plan supports and the balance of public policy objectives with the other guiding principles set out in the Framework. Anwaatin respectfully submits that the three guiding principles set out in the Framework are of equal relevance in this consultation, but that the Plan, in its current form, does not sufficiently address how the public policy objectives that are identified will be achieved and instead states that the Plan is simply "responsive" to public policy.³
7. Anwaatin submits that the Plan should therefore be amended in order to:

² Framework, p. 7

³ EB-2019-0137, Enbridge Gas Inc., "5 Year Gas Supply Plan" (May 1, 2019), available online at: <http://www.rds.ontario.ca/HPECMWebDrawer/Record/640773/File/document> [the Plan].

- (a) facilitate measures that (i) improve the adequacy of natural gas supply for Indigenous customers, in accordance with community expansion initiatives, including the *Access to Natural Gas Act, 2018*, SO 2018, c. 15 (**Bill 32**), and (ii) increase the quantity of renewable natural gas (**RNG**) that is required to be in Enbridge's natural gas supply portfolio; and
- (b) provide a foundation and clear and accessible mechanism for natural gas rate assistance for all low-income Indigenous customers.

COMMENTS

8. There is a serious need to address energy poverty in First Nations communities through access to affordable, reliable, sustainable, and modern energy resources. The expense of transporting diesel, heating oil and propane fuels, heating with electricity, and securing wood supplies for supplemental wood stove heating can be cost-prohibitive for First Nations. First Nations in northern Ontario, for example, commonly pay eight to ten times more than southern Ontarians to heat their homes and other buildings. Natural gas is not available to many First Nations across Ontario. Similarly, the cost of electricity as a primary source of home heat is regularly prohibitive for First Nations.
9. The Board noted the importance of energy poverty existing in First Nations communities, in its Decision with Reasons in the generic proceeding on natural gas expansion (EB-2016-0004), 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* (emphasis added).
10. The majority of First Nations in Ontario do not have access to natural gas and rely on electricity with poor to modest reliability in the north for basic home heating as well as lighting. Many First Nations are therefore interested in accessing lower-cost natural gas in order to allow for energy cost savings and lower-emission heating when compared to other fossil fuels. The Government of Ontario has committed to expanding natural gas with Bill 32. Bill 32 provides a regulatory framework to deliver rate protection for certain consumers with respect to natural gas distributor investment costs when access to a

natural gas distribution system can be facilitated by reducing rates that would otherwise apply. This is expected to allow access to natural gas for up to 78 communities.

11. At present, Enbridge does not have access to a material local natural gas supply within its franchise area (less than 1% of its annual gas supply produced within Ontario). However, Enbridge confirms that RNG is an alternative to conventional gas supply and can be stored, transmitted, and distributed when connected to existing natural gas infrastructure. RNG is produced by capturing methane that results from the decay of organic matter at places including farms, sewage treatment plants, and landfill sites.⁴
12. The Government of Ontario's Made-in-Ontario Environment Plan includes a requirement for natural gas utilities to offer voluntary RNG to customers and Enbridge is currently in the process of developing a voluntary RNG program in response to this policy. Anwaatin submits that the Plan should therefore be amended to facilitate access to low-emission RNG and other sources of natural gas in Enbridge's supply portfolio in Ontario's Indigenous communities.
13. Enbridge operates one liquefied natural gas (LNG) facility at Hagar, near Sudbury. A LNG facility is proposed for operation and supply from Nipigon in association with the proposed North Shore LNG Project (EB-2018-0329). LNG from the Hagar facility is not supplied to First Nations. The North Shore LNG Project includes four municipal pipelines/distribution systems, with no service proposed for First Nations in the same region. Enbridge's Plan does not indicate how it plans to use the RNG, Hagar facility, or any future LNG facilities, for providing access to natural gas to First Nations.
14. Similarly, Enbridge's Plan does not indicate how it plans to provide meaningful and enhanced access to applications for low-income rates for Indigenous customers (both on- and off-reserve, as applicable). Anwaatin submits that the Plan should also be amended in order to outline how Enbridge will assess and ensure access to, and the affordability of, its services for its First Nations customers. Anwaatin submits that expanding reliable natural gas distribution service at affordable rates to Indigenous communities should be a

⁴ Plan, p. 39.

priority in the consideration of the Plan. Specifically, the Plan should provide one-window, enhanced access to applications for low-income rates for Indigenous customers (both on- and off-reserve, as applicable) through a process coordinated directly by Enbridge (not by a third-party community organization) that provides rate assistance to all low-income Indigenous customers and is not constrained to emergency financial assistance for customers who are in arrears.

15. Anwaatin submits that the Board should facilitate meaningful access to RNG and natural gas and streamline processes for access to low-income natural gas rates for low-income First Nations customers. This will assist the Anwaatin First Nations' entities in addressing First Nation energy poverty, improving proponent consultation and relationships with Indigenous communities for the life of each project, and extending services to unserved or underserved First Nation community members living on- or off-reserve. Anwaatin therefore requests that the Board facilitate an amendment to the Plan in order to address Enbridge's plans to both improve natural gas supply for Indigenous customers, in accordance with community expansion and RNG initiatives and affordability mechanisms and processes for First Nations customers.

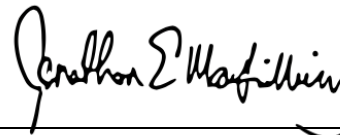
CONCLUSION

16. Anwaatin respectfully submits that access to and affordability of natural gas in first nations communities are of primary importance to the board in satisfying its statutory mandate in and around the plan. Anwaatin submits that the Plan should therefore be amended or enhanced in order to:
 - (a) facilitate measures that (i) improve the adequacy of natural gas supply for Indigenous customers, in accordance with community expansion initiatives, including Bill 32, and (ii) increase the quantity of RNG that is required to be in Enbridge's natural gas supply portfolio; and
 - (b) provide a foundation and clear and accessible mechanism for natural gas rate assistance for all low-income Indigenous customers.

ALL OF WHICH IS RESPECTFULLY
SUBMITTED THIS 22nd DAY OF OCTOBER,
2019.



Lisa (Elisabeth) DeMarco
DeMarco Allan LLP
Counsel for Anwaatin



Jonathan McGillivray
DeMarco Allan LLP
Counsel for Anwaatin