



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

January 22, 2020

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: Cost Claim Objection Reply
Board File No.: EB-2018-0264**

We are counsel to Anwaatin Inc. (**Anwaatin**) in the above-referenced proceeding (the **Proceeding**). This letter responds to EPCOR Natural Gas Limited Partnership's (**ENGLP's**) objection to Anwaatin's cost claim in the Proceeding, wherein ENGLP raised concerns regarding the issues raised and conditions proposed by Anwaatin during the course of the Proceeding and the number of hours Anwaatin claimed for work associated with the "Issues Conference" in relation to the number of hours claimed by other intervenors in the same category.

Anwaatin notes as a general matter that it was the **only** intervenor that retained both legal counsel and a consultant to provide advice and representation in the Proceeding. Anwaatin's consultant plays an essential role in coordinating and communicating with the leadership of Anwaatin's First Nations members and preparing submissions. Anwaatin's legal fees were roughly equivalent to those claimed in the two intervenor cost claims to which ENGLP did not object.

Issues and Conditions Raised by Anwaatin

Anwaatin submits that ENGLP's claim that Anwaatin "raised issues and proposed conditions that were outside the scope of the rates application and could have been addressed in the prior leave-to-construct application" repeats an argument that ENGLP made in its Reply Argument.¹ The Board, in its November 28, 2019, Decision and Order **did not find** that the issues raised and conditions proposed by Anwaatin were beyond the scope of the Proceeding. Rather, the Board engaged in a substantive discussion of the issues and conditions in its review of Issue 11(a)² and recognized in its findings that "the duty to consult is an important constitutional principle, and that in some cases the OEB will have a role in considering the adequacy of consultation efforts" and

¹ See EB-2018-0264, EPCOR Natural Gas Limited Partnership (South Bruce), Reply Argument, October 29, 2019, para 121, available online at: <http://www.rds.oeb.ca/HPECMWebDrawer/Record/656891/File/document>.

² EB-2018-0264, Decision and Order, November 28, 2019, p. 23-25 available online at: <http://www.rds.oeb.ca/HPECMWebDrawer/Record/660496/File/document>.

“energy poverty is an issue in many Indigenous communities.”³ Anwaatin respectfully submits that it should not be open to ENGLP to relitigate arguments that the Board did not accept during the course of the Proceeding in an effort to limit Anwaatin’s recovery of its reasonably incurred costs.

Effective engagement with First Nations and Métis communities was explicitly included as Issue 11(a) in the Board-approved issues list⁴ and Anwaatin’s submissions over the course of the Proceeding were specifically directed at assisting the Board in considering and deciding upon the effectiveness of ENGLP’s engagement with First Nations and Métis communities. To suggest that the issues raised, and conditions proposed, by Anwaatin were “out of scope” is dismissive of ENGLP’s First Nations and Métis stakeholders.

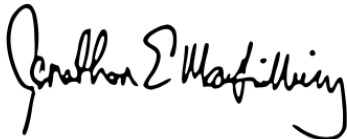
Hours Claimed in “Issues Conference” Category

Anwaatin respectfully submits that ENGLP’s concern with respect to the number of hours claimed in the “Issues Conference” category in relation to the number of hours claimed by other intervenors in the same category is simply a categorization issue. Anwaatin claimed hours related to submissions to the Board and correspondence with manifold parties on several drafts of the Issues List in the “Issues Conference” category while other intervenors appear to have claimed time for similar activities in the “ADR – Settlement Conference” or “Other Conferences” categories. Anwaatin moreover was required to invest considerable time to ensure that Issue 11(a) captured engagement with First Nations and Métis communities. Anwaatin therefore submits that ENGLP’s concern that Anwaatin has claimed more hours in the “Issues Conference” category is not relevant to the Board’s consideration of Anwaatin’s reasonably incurred costs.

Conclusion

For the foregoing reasons, Anwaatin respectfully suggests that ENGLP reconsider and withdraw its objection to Anwaatin’s cost claim and requests that the Board award Anwaatin 100% of its eligible costs in the Proceeding.

Sincerely,



Jonathan McGillivray

³ *Ibid.*, p. 24-25.

⁴ See EB-2018-0264, Decision on Issues List, August 20, 2019, p. 16, available online at: <http://www.rds.oeb.ca/HPECMWebDrawer/Record/650168/File/document>.