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April 15, 2020

**VIA RESS**

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

Dear Ms. Long:

**Re: Enbridge Gas Inc. 2020 Federal Carbon Pricing Program (FCPP) Application – Board response to Anwaatin Inc. (Anwaatin)  
Board File No.: EB-2019-0247**

We are in receipt of the Board's April 3, 2020 correspondence responding to Anwaatin's March 27, 2020 letter.

We understand that the Board intends to defer its consideration of the applicability of the FCPP charges to Indigenous ratepayers covered by the *Indian Act* and section 35 treaty rights (the **Deferred Issues**) until after the Supreme Court of Canada (**SCC**) has heard and decided upon the constitutional *validity* of the *Greenhouse Gas Pollution Pricing Act* (GGPPA), anticipated in late 2020 or 2021. In the interim, it is unclear whether the Board intends to *de facto* decide the Deferred Issues in the absence of submissions, or have all such charges applicable to the above-mentioned entities placed in a deferral and variance account pending the Board's consideration and decision. We again note that the SCC is not seized of the Deferred Issues — the *applicability* of the GGPPA as raised by Anwaatin and others. The SCC appeals are confined to the sole issue of whether the GGPPA is constitutionally valid, and do not include any consideration of whether FCPP charges, when calculated by a natural gas distributor and included in natural gas charges, are constitutionally applicable in light of the *Indian Act*, relevant treaties, and section 35 of the Constitution.

We hereby ask that the Board clarify its intended procedures to consider the Deferred Issues and the proposed treatment of the charges applicable to Indigenous entities covered by the *Indian Act*

and section 35 treaty rights in the intervening period. Specifically, Anwaatin requests that all such charges be placed in a deferral and variance account pending the Board's due consideration of the Deferred Issues in accordance with procedural fairness, the rules of natural justice, and the resulting decision.

Sincerely,

A handwritten signature in black ink, appearing to be 'Lisa (Elisabeth) DeMarco', with a long horizontal flourish extending to the right.

Lisa (Elisabeth) DeMarco

- c. Adam Stiers and Tania Persad, Enbridge Gas Inc.  
Kathleen Padulo, Chiefs of Ontario  
Larry Sault, Anwaatin Inc.  
Don Richardson  
All Parties of Record