



Lisa (Elisabeth) DeMarco  
Senior Partner  
Bay Adelaide Centre  
333 Bay Street, Suite 625  
Toronto, ON M5H 2R2  
TEL +1.647.991.1190  
FAX +1.888.734.9459  
[lisa@demarcoallan.com](mailto:lisa@demarcoallan.com)

June 4, 2020

**VIA RESS**

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

Dear Ms. Long:

**Re: Enbridge Gas Inc.(Enbridge Gas) – Integrated Resource Planning Proposal (IRP Proposal) Application**  
**Board File No.: EB-2020-0091 (the Proceeding)**

We are counsel to Anwaatin Inc. (**Anwaatin**) in the Proceeding and file these submissions on Board Staff's Draft Issues List (the **Draft Issues List**) in accordance with Procedural Order No. 1.

Anwaatin respectfully requests that the Board ensure that Indigenous ratepayers and rightsholders have, and can exercise, their right to be heard in this Proceeding through the inclusion of draft issues 8A and 11A in the final Issues List:

**Issue 8A:**

Does Enbridge Gas' proposed two-stage screening process include adequate consideration of effective engagement and consultation with key stakeholders and First Nations, Métis communities, and Indigenous businesses?

**Issue 11A:**

Does Enbridge Gas' proposal that ratepayers would need to bear the risks of Integrated Resource Planning Alternatives (**IRPAs**) not effectively reducing forecasted demand growth adequately consider the circumstances of remote or near-remote Indigenous

ratepayers that experience distinct and unique impacts of the cost of energy?

**Direct Indigenous interests and rights.** Anwaatin submits that Indigenous peoples, including those living off-reserve who hold Treaty and Aboriginal rights which may be affected by future IRP proposals and IRPAs, (i) are rate-paying customers that experience distinct and unique impacts of the cost of energy and will be subject to potential increased costs and risks resulting from the Proceeding; (ii) have traditional Aboriginal rights in and related to land that may be impacted by IRP Proposal and IRPAs; and (iii) are rights holders having Supreme Court enshrined Aboriginal rights and title, which include economic rights<sup>1</sup> that may be negatively impacted by the access to natural gas and natural gas rates affected by the IRP Proposal and IRPAs.

**Effective consultation.** Anwaatin submits that to satisfy the duty to consult, engagement and consultation with Indigenous peoples must be reasonable and meaningful. Reasonable consultation is “not just a process for exchanging and discussing information.”<sup>2</sup> Meaningful consultation through EGI’s proposed IRP screening process necessitates engaging and consulting with Indigenous communities that may be adversely affected or bear increased risks as a means to “testing and being prepared to amend policy proposals in the light of information received, and providing feedback.”<sup>3</sup> Anwaatin respectfully submits that ensuring the appropriate principles for consultation with Indigenous communities and businesses are embedded in the IRP framework (and not merely addressed with respect to individual IRPAs) will assist EGI in meeting any constitutional duty to consult.

**Requested issues.** Anwaatin respectfully submits that as a Board-approved intervenor in this Proceeding, and pursuant to its common law right to be heard in accordance with the duty of fairness, draft issues 8A and 11A are required to ensure that Indigenous ratepayers and rights holders are permitted to examine and consider these issues.

Anwaatin therefore requests that the Board ensure that draft issue 8A and 11A are included in the final Issues List for this Proceeding.

Sincerely,



Lisa (Elisabeth) DeMarco

c. Regulatory Affairs, Enbridge Gas Inc.  
Larry Sault, Anwaatin Inc.  
Don Richardson

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<sup>1</sup> *Tsilhqot'in Nation v British Columbia*, [2014] 2 SCR 257 at para 73: “Aboriginal title confers ownership rights similar to those associated with fee simple, including: the right to decide how the land will be used; the right of enjoyment and occupancy of the land; the right to possess the land; the right to the economic benefits of the land; and the right to pro-actively use and manage the land.”

<sup>2</sup> *Tsileil-Waututh Nation v Canada (Attorney General)*, 2018 FCA 153, paras. 500-502.

<sup>3</sup> *Haida Nation v British Columbia (Minister of Forests)*, 2004 SCC 73, para. 46.