



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)

July 16, 2020

**VIA RESS**

Ms. Christine E Long  
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. – Voluntary Renewable Natural Gas Program Application  
Board File No.: EB-2020-0066**

We are counsel to Anwaatin Inc. (**Anwaatin**). Please find enclosed Anwaatin's submissions in the above-noted proceeding, filed pursuant to Procedural Order No. 3.

Sincerely,

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

Lisa (Elisabeth) DeMarco

c. Larry Sault, Anwaatin Inc.  
Don Richardson  
Brandon Ott, Enbridge Gas Inc.  
David Stevens, Aird & Berlis LLP

Encl.

**ONTARIO ENERGY BOARD**

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

**AND IN THE MATTER OF** an application by Enbridge Gas Inc. (**EGI**) for an order or orders related to its Voluntary Renewable Natural Gas Program (the **Program**);

**AND IN THE MATTER OF** an application by EGI for an order or orders amending or varying rates charged to customers sale, distributions, transmission, and storage of gas commencing as of January 1, 2021.

**EB-2020-0066**

**SUBMISSIONS**

**OF**

**ANWAATIN INC.**

**July 16, 2020**

## **A. INTRODUCTION AND OVERVIEW**

1. We are counsel to Anwaatin Inc. (**Anwaatin**) in the matter of EGI's application to the Ontario Energy Board (the **OEB** or the **Board**), pursuant to section 36 of the Act, for an order or orders enabling EGI to commence the operation of its Voluntary Renewable Natural Gas (**RNG**) Program (the **Program**) as set out in its application filed March 5, 2020 (the **Application**).
2. Anwaatin is a collective of Indigenous communities including Aroland First Nation (**Aroland**), Animbiigoo Zaagi'igan Anishinaabek Nation (**AZA**), and Ginoogaming First Nation (**Ginoogaming**) (collectively, the **Anwaatin First Nations**) and has intervenor status in this proceeding. The Anwaatin First Nations each have traditional territory, and associated Aboriginal rights and interests protected by the *Constitution Act, 1982*, that may be impacted by the outcomes of this proceeding. AZA and Ginoogaming are customers of EGI and Aroland is a prospective customer of EGI. The Anwaatin First Nations and their members are consequently potential participants in the Program for which EGI seeks approval.
3. Anwaatin is a collective of Indigenous communities generally focused on: (i) ensuring that Indigenous rightsholders have been meaningfully consulted and accommodated; (ii) alleviating energy poverty and achieving reliable, affordable, and sustainable energy for its member Indigenous communities; and (iii) ensuring that the land, water, and broader environment are sustainably managed in a manner that reflects stewardship for seven generations. The Anwaatin First Nations are exploring opportunities to produce RNG from forestry waste and are, as natural gas consumers, highly interested in opportunities to access specific RNG consumer offerings in their communities. They are also remote or near-remote Indigenous communities that experience distinct and unique impacts of the cost of energy, which may include the voluntary costs proposed as part of the Program. Anwaatin has a long-standing and well-developed interest in the prospect of RNG to provide access to affordable, reliable, sustainable, and modern natural gas service in remote and near-remote Indigenous communities.
4. The Program, if approved by the Board, would enable EGI customers to pay an incremental charge supporting reductions in the greenhouse gas (**GHG**) emissions of EGI's energy

supply portfolio. Anwaatin is generally supportive of the Program and requests that the Board encourage utilities to reduce GHG emissions through initiatives such as the Program.

5. Anwaatin moreover requests that the Board impose measures to ensure that the Program is implemented in a manner that (i) promotes fairness, efficiency and transparency, (ii) protects the interests of consumers, particularly those who are participants in the Program, in accordance with the Board's statutory mandate under section 2 of the Act; (iii) rigorously accounts for related GHG emissions reductions, ensuring no double counting, and (iv) provides a level playing field for the procurement of RNG, including from potential Indigenous suppliers.

## **B. SUBMISSIONS**

6. Anwaatin's submissions address the Board's consideration of:
  - (a) accounting oversight of environmental attributes (**EAs**) associated with the RNG procured by EGI for the Program;
  - (b) the requisite transparency with respect to potential revenue to EGI associated with the application of its non-utility injection and upgrading services to the Program;
  - (c) the treatment of the variance between the amount of the Federal Carbon Charge (**FCC**) paid to the federal government and the amount billed to customers that arises as a result of the Program; and
  - (d) the principles of RNG procurement that EGI proposes to apply in connection with the Program.
- (a) **Accounting oversight of EAs associated with RNG procured for the Program**
7. Anwaatin submits that the Board should ensure robust accounting oversight of any EAs that EGI acquires in connection with RNG procurement for the Program, and further submits that participants in the Program should be the beneficiaries of any value EGI acquires that is in addition the displacement (or substitution) value of RNG. EGI should not be permitted to enrich itself by acquiring potentially valuable EAs using funds voluntarily committed by consumers participating in the Program.

8. EGI estimates that RNG supply will result in GHG emissions reductions of approximately 1,100 tCO<sub>2</sub>e in the first year of the Program (associated with 22,000 GJ of RNG supply) and approximately 20,200 tCO<sub>2</sub>e over the ten-year forecast period (associated with 400,000 GJ of RNG supply).<sup>1</sup> EGI used an emission factor of 0.001874 tCO<sub>2</sub>e/m<sup>3</sup> obtained from a Ministry of Environment, Conservation and Parks guideline<sup>2</sup>, to calculate emissions reductions arising from the Program.<sup>3</sup> Anwaatin notes that EGI did not obtain any third-party verification with respect to its application of the selected emission factor to the calculation of GHG emissions reductions arising from the Program.<sup>4</sup>
9. **Displacement value.** EGI stated during the technical conference that it is “just looking to buy the RNG with the [EA] that is the displacement value of natural gas and [EGI] would be ensuring in the contract that that EA is being provided to [EGI] and not double counted elsewhere.”<sup>5</sup> EGI proposes that procurement contracts for the Program would stipulate that EGI is acquiring RNG bundled with EAs related to the displacement of natural gas and that the benefits of those EAs will accrue to EGI.<sup>6</sup> Anwaatin submits that the Board must ensure that there is no double counting of the displacement value of RNG supply in order to ensure the integrity of the Program and the protection of consumers.
10. **Additional value.** EGI acknowledges that additional value can be created from RNG (through, for example, the California Cap and Trade Program or the United States Renewable Fuel Standard, amongst others).<sup>7</sup> EGI states, however, that it currently intends to procure RNG bundled with associated EAs related only to the displacement value of the RNG.<sup>8</sup> It is not obvious to Anwaatin that EGI is committed to this policy for the duration of the Program. Rather, it appears that EGI may, at some future juncture, look to procure RNG bundled with associated EAs related to both the displacement value of RNG *and* some additional value (e.g., avoided methane emissions from the production of RNG). Ms. Murphy stated that “if in the future there is a change in the [federal] regulations under the [C]lean

---

<sup>1</sup> Argument in Chief (July 3, 2020), para. 24.

<sup>2</sup> Transcript, Technical Conference (June 16, 2020) at 127:2-7.

<sup>3</sup> Exhibit I.Anwaatin.8(a).

<sup>4</sup> Transcript, Technical Conference (June 16, 2020) at 127:10-14.

<sup>5</sup> Transcript, Technical Conference (June 16, 2020) at 140:10-14.

<sup>6</sup> Transcript, Technical Conference (June 16, 2020) at 69:11-17.

<sup>7</sup> Technical Conference Undertaking Response JT1.14.

<sup>8</sup> Technical Conference Undertaking Response JT 1.11.

[F]uel [S]tandard or offset regulations, [EGI] might change that.”<sup>9</sup> Mr. McGill stated “in the future, if we were to acquire EAs, or offsets, or carbon credits -- whatever they might be called at that point in time -- that that would not be related to this program.”<sup>10</sup>

11. Anwaatin submits that, as a condition of its approval of the Program, the Board should require EGI to allocate any value beyond the displacement value associated with RNG supply to participants in the Program. EGI should not, in Anwaatin’s view, be entitled to retain EAs acquired using Program participants’ funds for its own purposes, which may include compliance with corporate-wide mandatory or voluntary greenhouse gas reduction requirements.<sup>11</sup>

**(b) Requisite transparency of potential revenue from non-utility injection and upgrading services**

12. EGI provides RNG injection and upgrading services on a regulated basis under Rate 401, as well as RNG upgrading services as a non-utility activity.<sup>12</sup> It also makes Rate M13 available to RNG producers in the Union South rate zone, and has two unregulated affiliates that engage in RNG business activities.<sup>13</sup> Anwaatin submits that the Board should require, as a condition of its approval of the Program, transparent reporting from EGI with respect to any potential revenue it may realize as a result of the application of its non-utility RNG injection and upgrading services to the Program.
13. EGI was asked during the technical conference whether it could make an estimate of the reasonably anticipated revenue associated with its injection and upgrading services arising out of the Program. EGI indicated that it had “no idea” and refused a request for an undertaking to provide a more complete response.<sup>14</sup> In a subsequent undertaking response, EGI acknowledged that there may be “collateral benefits to Enbridge companies through increased use of RNG services by RNG producers.”<sup>15</sup> It further stated that “given the modest scale of the Program any benefits received will also be modest.” While the scale of the Program may be modest now, Anwaatin notes that EGI itself has stated that the

---

<sup>9</sup> Transcript, Technical Conference (June 16, 2020) at 141:8-10.

<sup>10</sup> Transcript, Technical Conference (June 16, 2020) at 142:7-11.

<sup>11</sup> See Exhibit I.SEC.19.

<sup>12</sup> See EB-2017-0319.

<sup>13</sup> Technical Conference Undertaking Response JT1.15.

<sup>14</sup> Transcript, Technical Conference (June 16, 2020) at 149:17-27.

<sup>15</sup> Technical Conference Undertaking Response JT1.15.

Program is “easily scalable given that RNG volumes introduced to the system can vary directly with customer participation in the Program”.<sup>16</sup> EGI argues that this is a benefit of the Program.<sup>17</sup>

14. Anwaatin respectfully submits that the Board should require EGI to regularly report any revenue it may realize as a result of the application of its non-utility RNG injection and upgrading services to the Program. The Board may also wish to obtain additional information from EGI, as to the collateral benefits of the Program for its unregulated affiliates that engage in RNG business activities, in order to ensure compliance with *Affiliate Relationships Code for Gas Utilities (ARC)* and the Board’s expectations.

**(c) Treatment of FCC variance**

15. EGI acknowledges that the Program will reduce the amount of the FCC otherwise payable by EGI on behalf of ratepayers under the *Greenhouse Gas Pollution Pricing Act (GGPPA)*.<sup>18</sup> EGI proposes to subtract the amount of RNG from the total customer volumes of natural gas subject to the FCC and record the variance between the amount of the FCC paid to the federal government and the amount billed to customers in a variance account.<sup>19</sup> EGI then proposes to allocate the resulting benefit to all ratepayers who pay the FCC.<sup>20</sup> EGI stated that providing the FCC reduction benefit only to Program participants would require modifications to the billing system, increasing administrative complexity and cost. EGI estimates that the amount of the FCC reduction benefit, if applied only to Program participants, would be approximately \$3 to 4 per year.<sup>21</sup>
16. Anwaatin has had the opportunity to review the submissions of Board Staff with respect to treatment of the FCC variance and agrees with Board Staff’s view that crediting reductions in the FCC arising from RNG purchases to all EGI customers who pay the FCC is appropriate because the costs of operating the Program will also be borne by all customers.<sup>22</sup> Anwaatin only wishes to submit that the Board ensure it has adequate

---

<sup>16</sup> Argument in Chief (July 3, 2020), para 37; Exhibit B, Tab 2, Schedule 1, para 19.

<sup>17</sup> Argument in Chief (July 3, 2020), para 37; Exhibit B, Tab 2, Schedule 1, para 19.

<sup>18</sup> Exhibit B, Tab 1, Schedule 1, para. 8; Argument in Chief (July 3, 2020), para. 28.

<sup>19</sup> Argument in Chief (July 3, 2020), para 28.

<sup>20</sup> *Ibid*, paras 28 and 39(v).

<sup>21</sup> Exhibit I.EP.10(d).

<sup>22</sup> Submissions of Ontario Energy Board Staff (July 16, 2020) at 7.

information on the impact of the Program on the FCC Customer Variance Accounts to facilitate appropriate disposition of those accounts.

**(d) Proposed principles of RNG procurement**

17. EGI estimates that funds available from the first year of the Program will facilitate procurement of over 22,000 GJ of RNG, increasing to reach 52,000 GJ in the tenth year of the Program.<sup>23</sup> EGI estimates that it will procure over 400,000 GJ of RNG supply over a ten-year forecast period.<sup>24</sup> EGI states that it intends to procure RNG under the same Gas Procurement Policies and Practices used to govern the purchase of traditional natural gas and will also adhere to the requirements of the ARC.<sup>25</sup>
18. Anwaatin respectfully submits that the Gas Procurement Policies and Practices used to govern the purchase of traditional natural gas may not be appropriate in the context of RNG procurement. EGI policies and practices in and around portfolio diversification, ensuring fairness to counterparties (largely through an RFP process), corporate governance, and means of procurement<sup>26</sup> may be ill-suited to EGI's activities in the RNG market.
19. Anwaatin further submits that EGI's narrow focus on procuring the lowest-cost RNG for the Program may exclude Indigenous producers and/or suppliers, if there are increased costs associated with RNG originating on Indigenous traditional territories and settlement areas. This runs counter to Enbridge Inc.'s Indigenous Peoples Policy<sup>27</sup> and EGI's statement that "[t]o the extent that RNG production facilities utilizing forest biomass produced by First Nation owned forestry companies commence operations, the Company will consider the purchase of RNG from such entities subject to its Gas Supply Procurement Policies and Practices."<sup>28</sup>
20. Anwaatin requests that the Board determine whether EGI's existing Gas Procurement Policies and Practices are sufficient and appropriate for use in the context of RNG

---

<sup>23</sup> Argument in Chief (July 3, 2020), para 23.

<sup>24</sup> *Ibid.*

<sup>25</sup> Technical Conference Undertaking Response JT1.15.

<sup>26</sup> Transcript, Technical Conference (June 16, 2020) at 153:2-158:28.

<sup>27</sup> Enbridge Inc. Indigenous Peoples Policy, available online at: [https://www.enbridge.com/~media/Enb/Documents/About%20Us/indigenous\\_peoples\\_policy.pdf?la=en](https://www.enbridge.com/~media/Enb/Documents/About%20Us/indigenous_peoples_policy.pdf?la=en). The Policy states: "We commit to working with Indigenous Peoples to achieve benefits for them resulting from Enbridge's projects and operations, including opportunities in training and education, employment, procurement, business development, and community development."

<sup>28</sup> Exhibit I.Anwaatin.3(b-f).



procurement for the Program. Anwaatin also submits that the Board may wish to consider whether the Board's Filing Guidelines for the Pre-Approval of Long-Term Natural Gas Supply (EB-2008-0280) are appropriately applied in the context of the Program.<sup>29</sup>

**C. RELIEF REQUESTED**

21. Anwaatin respectfully requests that the Board:

- (a) ensure robust accounting oversight of any EAs EGI acquires in connection with RNG procurement for the Program and that participants in the Program are the beneficiaries of any value EGI acquires that is in addition to the displacement (or substitution) value of RNG;
- (b) should require EGI to regularly report any revenue it may realize as a result of the application of its non-utility RNG injection and upgrading services to the Program;
- (c) ensure it has adequate information on the impact of the Program on the FCC Customer Variance Accounts to facilitate appropriate disposition of those accounts; and
- (d) determine whether EGI's existing Gas Procurement Policies and Practices are sufficient and appropriate for use in the context of RNG procurement for the Program.

---

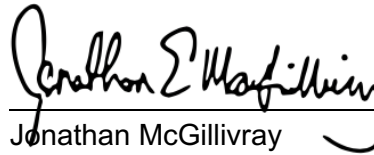
<sup>29</sup> See Exhibit I.Anwaatin.6, footnote 1.

ALL OF WHICH IS RESPECTFULLY  
SUBMITTED THIS  
16<sup>th</sup> day of July, 2020



---

Lisa (Elisabeth) DeMarco  
DeMarco Allan LLP  
Counsel for Anwaatin



---

Jonathan McGillivray  
DeMarco Allan LLP  
Counsel for Anwaatin