



May 11, 2021

VIA RESS

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

Dear Ms. Long:

Re: Enbridge Gas Inc. (EGI)
Consultation to Review Annual Update to Five-Year Gas Supply Plan
Board File No.: EB-2021-0004

We are counsel to Anwaatin Inc. (**Anwaatin**) in above-noted consultation. Further to the Board's email correspondence dated April 29, 2021, please find enclosed Anwaatin's written comments in the above-noted consultation.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Vollmer", with a stylized, flowing script.

Daniel Vollmer

c. Joel Denomy, EGI
David Stevens, Aird & Berlis LLP
Larry Sault, Anwaatin
Don Richardson, Consultant

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 2021 annual update to
Enbridge Gas Inc.'s five-year natural gas supply plan.

EB-2021-0004

WRITTEN COMMENTS OF

ANWAATIN INC.

May 11, 2021

INTRODUCTION

1. We are counsel to Anwaatin Inc. (**Anwaatin**) in the Ontario Energy Board (the **Board**) EB-2021-0004 review of the annual update to Enbridge Gas Inc.'s (**EGI**'s) five-year natural gas supply plan (the **Annual Update**) 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 is generally supportive of EGI's Annual Update and is interested in matters including: cost-effectiveness; reliability, source, and security of supply; risk management; and execution of EGI's five-year natural gas supply plan (the **Plan**). Anwaatin's comments on the Annual Update 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 including Aroland First Nation, Animbiigoo Zaagi'igan Anishinaabek Nation, and Ginoogaming First Nation (the **Anwaatin First Nations**). 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;
 - (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>, [**Framework**].

which, among other things, supports the rights of First Nations and Indigenous Peoples;
and

- (e) **reconciliation**: reconciliation is the process of establishing and maintaining a mutually respectful relationship between Indigenous and non-Indigenous peoples in Canada.
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 that recognizes and affirms the rights of Indigenous peoples.
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 Annual Update 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, but that the Annual Update does not sufficiently address how the public policy objectives

² Framework, p. 7

that are identified will be achieved and instead states that the Annual Update and Plan are simply “responsive” to public policy.³

7. Anwaatin submits that EGI should improve the Annual Update and subsequent annual updates to the Plan, by facilitating 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**), (ii) increase the quantity of renewable natural gas (**RNG**) and “socially responsible natural gas” (**SRNG**) that is required to be in Enbridge’s natural gas supply portfolio; and (iii) advance reconciliation and the rights of Indigenous Peoples.

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. In written questions to EGI, Anwaatin requested details of expected expansion of natural gas supply to First Nation communities in Ontario, noting current expansion projects to the communities of Chippewas of the Thames First Nation, Saugeen First Nation, and Scugog Island, as well as completed expansion to Moraviantown First Nation in the Annual Update.⁴ EGI noted that the Plan is flexible enough to accommodate community expansion in accordance with the Framework and with support from the Ontario government.⁵ Anwaatin submits that EGI should provide additional detail as to expected or anticipated community

³ EB-2021-0004, Enbridge Gas Inc., “Annual Gas Supply Plan” (February 1, 2021), available online at: <https://www.rds.oeb.ca/CMWebDrawer/Record/701885/File/document>, [Annual Gas Supply Plan]; EB-2019-0137, Enbridge Gas Inc., “5 Year Gas Supply Plan” (May 1, 2019), available online at: <http://www.rds.oeb.ca/HPECMWebDrawer/Record/640773/File/document>.

⁴ Annual Gas Supply Plan, p 18.

⁵ EB-2021-0004, Transcript Enbridge Stakeholder Conference Day 1, p 103, lines 19-25. [Day 1 Transcript].

expansion plans, the sources of funding for expansion, and criteria used to evaluate communities that may be near- and mid-term candidates for expansion. Anwaatin submits that effective community expansion takes into account the unique needs and challenges faced by First Nations and addresses those needs in the spirit of reconciliation.

10. RNG offers an important means to reduce the greenhouse gas (**GHG**) emissions associated with EGI's natural gas supply and may notably also help to facilitate Enbridge Gas's corporate ESG and net-zero commitments, including its GHG emission reduction targets, reducing EGI's cost of carbon under the federal *Greenhouse Gas Pollution Pricing Act*.⁶ EGI notes that the recently launched Voluntary RNG program provides customers with the option of paying a monthly charge for the procurement of RNG. EGI anticipates procuring RNG by the end of the year and the amount to be procured will depend on participation in the program. Anwaatin submits that any process for the procurement of RNG should advance reconciliation and include Indigenous participation, take into account the rights of Indigenous peoples, and adhere to the principles of UNDRIP and the duty to consult and accommodate.
11. EGI provided details on the anticipated inclusion of "sustainable" natural gas (**SNG**) in its natural gas supply and invited feedback from stakeholders on this initiative. Anwaatin is generally supportive of the procurement of SNG but suggests that the "S" in "SNG" may be misleading. EGI notes that SNG may have a lower GHG or carbon intensity; however, this is dependent on the standard used for certification and is not necessarily a requirement for certification.⁷ Anwaatin submits that as SNG may not in fact have a lower carbon intensity than traditional natural gas, labelling it as "sustainable", which is often understood to mean decarbonized, is inconsistent with the actual production and procurement of SNG. Anwaatin notes EGI's suggested alternative to the naming of SNG may be "responsible" natural gas. "Responsible" natural gas is likely to be confused with the previously defined RNG. Anwaatin submits that to avoid confusion, "socially responsible natural gas" (**SRNG**) may be a more appropriate and descriptive term. It will be very important, however, to ensure that SRNG is true to its name through the choice of certification frameworks, and such

⁶ Day 1 Transcript, p 87, lines 23-24.

⁷ *Ibid.*, p 118, 16-28.

frameworks should include recognition of Indigenous reconciliation, opportunities for Indigenous procurement, and Indigenous investment.

12. SRNG has the potential to be an important inclusion in EGI's natural gas supply mix. Anwaatin is supportive of EGI procuring supply from producers that certify their natural gas under frameworks such as Equitable Origin's EO100 Standard (**EO100**).⁸ Anwaatin is supportive of EO100, and other similar standards, and specifically supports performance measures that measure respect for the right to free, prior, and informed consent (**FPIC**), engagement and participation, cultural impacts, use of traditional natural resources, culture-based intelligence and traditional knowledge, and voluntary isolation of First Nations and Indigenous Peoples, as well as setting performance measures with respect to land rights of affected Indigenous communities.⁹ Procuring SRNG ensures that EGI's natural gas supply advances reconciliation and complies with UNDRIP, Indigenous rights, and the aboriginal and treaty rights of First Nations and Indigenous Peoples. Importantly, standards such as EO100 ensure that natural gas producers, and as a consequence natural gas suppliers, respect the rights of First Nation and Indigenous Peoples as it relates to the production of natural gas.¹⁰ EGI noted that there is currently only one producer of SRNG which has the effect of limiting the availability of SRNG that could be procured.¹¹ In addition, EGI noted that setting targets for SRNG procurement may have an impact on the overall diversity, liquidity, and reliability of EGI's natural gas supply.¹² Anwaatin requests that the Board direct EGI to continue to engage with current and anticipated SRNG producers to gain greater insight and understanding of the role SRNG may play in EGI's gas supply portfolio.
13. Anwaatin requests that the Board direct EGI to set meaningful targets, with interim targets, in the Annual Update and subsequent annual updates to the Plan, for the procurement of SRNG in order to ensure that EGI's performance can be assessed. Anwaatin further submits that the Board should require EGI to set targets as a means of demonstrating its support of the rights of First Nation and Indigenous Peoples and as a means of indirectly

⁸ Equitable Origin, EO 100 Standard, available online at: https://energystandards.org/wp-content/uploads/2020/10/EO100-Standard-for-Responsible-Energy-Development_2017_PT.pdf.

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Day 1 Transcript, p 100, line 13-14

¹² *Ibid.*, p 95, line 11-15.

incentivizing natural gas producers to certify and produce SRNG. Anwaatin submits that this may have the effect of increasing the number of producers of SRNG and its overall supply, thereby mitigating any impacts SRNG targets may have on the diversity, liquidity, or reliability of EGI's natural gas supply portfolio.

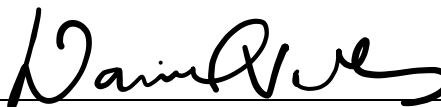
CONCLUSION

14. Anwaatin respectfully submits that the Annual Update would be improved by facilitating measures that (i) improve the adequacy of natural gas supply for Indigenous customers, in accordance with community expansion initiatives, including **Bill 32**, (ii) increase the quantity of RNG and SRNG that is required to be in Enbridge's natural gas supply portfolio; and (iii) advances reconciliation and the rights of Indigenous Peoples.

ALL OF WHICH IS RESPECTFULLY
SUBMITTED THIS 11th DAY OF MAY, 2021.



Lisa (Elisabeth) DeMarco
Resilient LLP
Counsel for Anwaatin



Daniel Vollmer
Resilient LLP
Counsel for Anwaatin