



September 2, 2022

**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. Marconi,

**Re: Framework for Energy Innovation: Distributed Resources and Utility Incentives  
Board File No.: EB-2021-0118**

We are counsel to Anwaatin Inc. (**Anwaatin**) in connection with the Framework for Energy Innovation (**FEI**) Distributed Resources and Utility Incentives consultation (the **Consultation**).

**Anwaatin**

Anwaatin is an Indigenous business corporation that works with Indigenous communities in linked energy markets that include Ontario, Quebec, California, and Manitoba. Anwaatin's mission is to ensure that Indigenous communities are afforded reliable and affordable energy and have a central role in the transition of the energy sector to address climate change. Anwaatin's interests are focused on ensuring that Indigenous communities and businesses (i) have access to efficient electricity and natural gas energy solutions for Indigenous communities; (ii) are provided with reliable energy transmission and distribution in order to meet basic health, safety and security needs and facilitate economic development; (iii) address poor electricity reliability and the disparate and adverse impacts that it has on Indigenous communities and Aboriginal rights; and (iv) strengthen distributed energy resources in Indigenous communities to facilitate their resilience, reconciliation, and efficient electrification solutions to address climate change.

Anwaatin's Indigenous membership for the Consultation includes Aroland First Nation, Animbiigoo Zaagi'igan Anishinaabek Nation, and Ginoogaming First Nation (collectively, the **Anwaatin First Nations**). The Anwaatin First Nations each have traditional territory, and associated rights and interests protected by the Constitution Act, 1982, that may be impacted by the outcomes of the Consultation

Anwaatin is generally supportive of the important work already undertaken by the FEI Working Group (**FEIWG**) and was an active participant in the FEIWG through its representative, Don Richardson. Anwaatin notes that many of its views have already been reflected in the FEIWG's report (the **Report**), including the three sub-group reports appended thereto. Anwaatin appreciates the opportunity to provide the following general comments offering additional context

for its support for DER adoption and the recommended policy and regulatory approaches provided in the Report.

### **Reliability Improvements**

Indigenous communities continue to be disproportionately affected by unreliable electricity transmission and distribution services throughout Ontario. The negative impacts resulting from unreliability and outages are acutely and frequently experienced in many northern First Nations, including the Anwaatin First Nations, causing numerous negative health and safety outcomes. Evidence of the historic and present challenges faced by remote and near-remote Indigenous communities can be found in numerous proceedings before the Board, including many of which Anwaatin has advocated on behalf of the Anwaatin First Nations and other Indigenous communities. Remote and near-remote First Nations and Indigenous communities rely heavily on unreliable energy systems for the most fundamental human needs including heating and drinking water. The effects on critical health and safety infrastructure are exacerbated in many Indigenous communities by chronic underfunding by government and utilities and the limited resources available to improve power reliability in their communities.

Anwaatin believes that the potential for reliability improvements from increased regulatory clarity supporting the wider and cost-effective adoption of DERs in remote and near-remote communities cannot be underestimated. Significant improvement in reliability for communities currently underserved or facing serious reliability issues is among the most important benefits offered through wider DER adoption. Encouraging wider DER adoption will require the Board to provide enhanced institutional and regulatory clarity on the why, how, and when of DER adoption. Accordingly, the scope of any proposed BCA Framework should include a clear mandate to consider the benefits associated with reliability and the potential to improve access to modern energy infrastructure and generation, especially for many remote and near-remote Indigenous communities. In addition, developing and implementing utility incentives should be secondary to ensuring fair and equal access to energy by all Ontarians.

### **Indigenous Rights and Reconciliation**

The Board must remain taken with the issues and impacts of ongoing energy poverty and unreliability issues affecting many First Nations and Indigenous Communities across Ontario. The inequitable outcomes experienced by many Indigenous ratepayers and communities would likely be ameliorated, in part, by Board policies and direction that support the understanding and recognition that DER adoption is likely to be customer/consumer led and aimed at improving services, reducing relative higher energy costs, ensuring adequacy and quality of power, increasing reliability, and obtaining access to cleaner technologies with fewer GHG emissions. The Report briefly notes the varied and different interests of Indigenous energy consumers in Ontario, as compared to non-Indigenous consumers. Anwaatin recommends that the Board and the FEIWG continue to explore these interests as it continues to advance the policy goals of the Consultation and undertake a consideration of the FEIWG's recommended next steps.

Anwaatin supports the BCA Subgroup's inclusion of Indigenous rights and reconciliation as a metric for understanding the societal benefits of DER adoption as part of a BCA Framework. It is imperative that the importance of advancing Indigenous reconciliation and affirming Indigenous rights, especially as they pertain to energy equity and fairness, is not diminished or discounted as merely a "societal benefit" to be outweighed by other economic considerations. The numerous benefits noted in the BCA report are likely to have a disproportionately positive impact on many of Ontario's Indigenous communities — this should be properly understood and promoted as part

of any BCA framework or approach of assessing the benefits and costs of DERs. Anwaatin recommends that supporting DER integration and adoption should be facilitated through programs and regulatory direction that encourage Indigenous economic and equity participation and/or ownership of DER-related reliability solutions and infrastructure.

### **Regulatory Certainty**

OEB staff have indicated that it is “reasonable to expand options considered for reliability improvement beyond traditional wires investments given the emergence of new technology options such as storage, which can also be effective at improving reliability for specific customers,”<sup>1</sup> and that “distributor ownership and operation of BTM [behind-the-meter] storage assets constitute a distribution activity when the purpose is to improve reliability for a customer such that it is more in line with that of the distributor’s other customers in the same rate class.”<sup>2</sup> Anwaatin submits that the FEIWG and all stakeholders would benefit from clear regulatory certainty from the Board regarding ownership and operation of BTM storage assets. Anwaatin notes that the Report briefly touches on the potential for important benefits to accrue to Indigenous communities; however, it does not adequately address the unique challenges and opportunities that would need to be considered as the Board further develops its regulatory policy and proposals in support of DER adoption and integration. Anwaatin recommends that the Board, in a new process or through next steps of the FEIWG, provide the much-needed regulatory clarity on the Board’s position regarding the ownership and operation of BTM energy storage assets for remediating reliability of service, especially as it relates to facilitating the adoption of DER-related reliability improvement solutions in remote and near-remote First Nations and Indigenous communities.

Sincerely,



Lisa (Elisabeth) DeMarco

c. Larry Sault, Anwaatin  
Don Richardson

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<sup>1</sup> OEB Staff Bulletin “Ownership and operation of behind-the-meter energy storage assets for remediating reliability of service” (6 August 2020), p. 3, available: <https://www.oeb.ca/sites/default/files/OEB-Staff-Bulletin-ownership-of-BTM-storage-20200806.pdf>

<sup>2</sup> *Ibid.*, p. 4.