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March 30, 2009

Delivered by Courier and E-mail

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, Suite 2700
Toronto, Ontario
M4P 1E4

Dear Ms. Walli:

**Re: OEB File No. EB-2007-0698
Brantford Power Inc. Application to the Ontario Energy Board for 2008
Electricity Distribution Rates and Charges**

We are counsel to Brantford Power Inc. ("Brantford Power") in the above-captioned matter. On February 25, 2009, we received a copy of motion material prepared on behalf of Brant County Power Inc. ("BCP"), requesting that the Board vary last year's Decision in Brantford Power's 2008 electricity distribution rate application (the "Application"), together with other relief. Among that other relief set out in the motion is the Board's leave to bring the motion.

On March 2, 2009, we wrote to you to (among other matters) advise of our receipt of the BCP material; of Brantford Power's concerns with respect to BCP's failure to first bring a motion for leave under Rule 42.02 of the Board's *Rules of Practice and Procedure* (the "Rules") prior to bringing a motion for review under Rule 42.01; and of Brantford Power's intention to make submissions on the following matters:

- The question of whether leave to bring a review motion should be granted to BCP;
- The question of whether the matter should be reviewed; and
- If leave is granted, the merits of the review motion.

In our letter of March 2nd (a copy of which accompanies this letter for your reference), we wrote: "We trust that the Board will establish a procedure that will provide for adequate time for submissions from Brantford Power. We suggest that these matters may be dealt with in writing."

We understand that Board staff are now considering scheduling an oral proceeding (it is not entirely clear at this time what that proceeding will be) for April 28, 2009. Please

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note that Bruce Bacon, our firm's Senior Utility Rate Design Consultant, who assisted Brantford Power in the preparation of its Cost Allocation Informational filing and its 2008 forward test year cost of service distribution rate application, and whose assistance will be essential to Brantford Power's preparation for this proceeding, will be out of the country from April 1st through the 17th. The Rules provide that a responding party's motion material is required only two calendar days before the hearing of a motion – in this case, the material would be required by Friday, April 24th.

Brantford Power has two concerns in this regard: first, one week will not be an adequate period of time within which to finalize its responding material; and second, Brantford Power wishes to ensure that the Board will have adequate time to review that responding material. We note that the BCP material consists of approximately 200 pages. We do not anticipate at this time that Brantford Power's response will be that lengthy, although it is also not clear what the Board's intentions are at this time with respect to the scope of the oral session. We respectfully request that the Board schedule the oral session for no earlier than the week of May 25, 2009. Brantford Power will attempt to have any responding material to the Board by Friday, May 1, 2009. We suggest that this timing will allow Brantford Power a reasonable opportunity to prepare any necessary responding material, and the Board a reasonable opportunity to review it.

Should you have any questions or require further information in this regard, please do not hesitate to contact me.

Yours very truly,

BORDEN LADNER GERVAIS LLP

Original Signed by James C. Sidlofsky

James C. Sidlofsky
JCS/dp

Copies to: G. Mychailenko, Brantford Power
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 Intervenors of Record in EB-2007-0698

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