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January 15, 2010

**Delivered by E-mail**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, 27th Floor  
Toronto, Ontario  
M4P 1E4

Dear Ms. Walli:

**Re: Board Staff Submission in Brantford Power Inc.  
OEB File No. EB-2009-0063**

We are counsel to Brantford Power Inc. ("Brantford") with respect to the above-captioned matter. We are writing to request that Brantford be given the opportunity to make written submissions in reply to Board Staff's Submissions (the "Submissions") received today in respect of a new legal issue that has been raised by Board Staff that has not previously been raised by any other party in this proceeding.

Specifically, at pages 10-11 of the Submissions, Board Staff submit that the debt owed by Brant County Power Inc. to Brantford in respect of retail transmission service charges is properly governed by the *Limitations Act, 2002*. No other party to this proceeding has raised the *Limitations Act, 2002* as the legal basis of limiting Brantford's recovery of charges for retail transmission services, and Brantford should be given an opportunity to file submissions in reply in respect of this new legal issue.

If, for example, the Board was to accept Board Staff's submissions and limit Brantford's recovery for retail transmission service charges to December 1, 2007, the Board would deny Brantford recovery of charges it paid to the IESO between February 2006 and December 1, 2007 of (excluding GST) \$701,343.57 for Colborne East and \$255,835.41 for Colborne West. Board Staff's submissions in respect of the *Limitations Act, 2002* will, if accepted by the Board, have a material impact on Brantford and its customers and Brantford should be given an opportunity to respond to these submissions.

The Board's current timeline in this matter is described in Procedural Order No. 5 dated December 1, 2009. Pursuant to Procedural Order No. 5, Brant County Power Inc. was to file, and Brant County Power Inc. did file, its argument-in-chief no later than Wednesday December 30, 2009. All other parties were to file, and Brantford did file, submissions by Wednesday January 13, 2010. Brantford did not receive Board Staff's submissions until Friday January 15, 2010. Under Procedural Order No. 5, Brant County Power Inc. is to file reply argument no later than Thursday January 21, 2010.

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Brantford requests that the Board grant Brantford the opportunity to make written submissions in reply to Board Staff's Submissions, and as a result requests that the Board revise its timeline in this proceeding as follows:

1. Brantford is to file reply submissions on new issues raised by Board Staff's Submissions by Monday December 25, 2010.
2. Brant County Power Inc. is to file reply argument by no later than February 1, 2010.

This proposed schedule reflects Brantford's belief that Brant County Power Inc. should be granted a day-for-day extension to prepare and file its reply argument, so that it can adequately consider and address all of the party's submissions in respect of the new issue raised by Board Staff in addition to those already raised in the submissions filed to-date.

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

Yours very truly,

**BORDEN LADNER GERSAIS LLP**

*Original signed by John A.D. Vellone on behalf of James C. Sidlofsky*

James C. Sidlofsky  
JCS/jv

Encls.

cc: G. Mychailenko, BPI  
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Intervenors of Record (Sent by electronic copy only)

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