

November 23, 2011

Robert B. Warren
T: 416-947-5075
rwarren@weirfoulds.com

File 10606.00062

Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2701
2300 Yonge Street
Toronto ON M4P 1E4

Dear Ms Walli:

Re: Consumers Council of Canada (“CCC”) Reply Submissions Regarding Motion for Further and Better Responses to Interrogatories/EB-2011-0120

We acknowledge receipt of a letter dated November 22, 2011, from Ms Klein.

Ms Klein correctly observes that the interrogatory response to which Mr. Labricciosa refers in footnote 8 of his affidavit does contain the word “unauthorized”. In reading the interrogatory response, we had simply overlooked the presence of the word. For that we apologize.

However, Ms Klein’s letter misses the larger point that we were trying to make in paragraph 16 of the CCC’s Amended Reply Submissions. That larger point is that the use of the word “unauthorized” suggests, at least to this reader, that the applicants for wireless attachments supplied misleading information to THESL. In other words, the use of the word “unauthorized” appears, again to this reader, to suggest that THESL, in turn, is suggesting that the members of CANDAS have engaged in inappropriate behaviour. In our view, if that is THESL’s position, that assertion should have been made as part of THESL’s pre-filed evidence, so that, among other things, the basis for the assertion could have been explored in interrogatories.

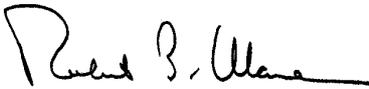
We note that, in the Affidavit of Mary Byrne, sworn September 1, 2011, filed as part of THESL’s pre-filed evidence, Ms Byrne refers to the applications for wireless attachments processed by THESL. However, we cannot see any reference in Ms Byrne’s affidavit to an allegation that the applications for wireless attachments were based on misleading or incomplete information, and that the resulting approvals are “unauthorized”. We suggest, with respect, that Ms Byrne’s affidavit was the place where that apparently serious allegation should have been made.

Ms Klein’s letter also gives rise to another apparent anomaly. We have to presume that THESL’s apparent allegation that some of the wireless attachments were approved on the basis of incomplete or misleading information had to have been based on a line-by-line analysis of

each of those applications. If that is the case, we wonder why THESL claims that providing information about those applications is so onerous and argues that, on the principle of proportionality, it should not be required to produce either the applications or information about them? In that respect, Ms Klein's letter serves to undermine the arguments about proportionality on which THESL so heavily relies in responding to the CCC motion.

Yours very truly,

WeirFoulds LLP



Robert B. Warren

RBW/dh

cc: Amanda Klein
J. Mark Rodger
Helen Newland
Michael Schafler
All Parties