

SUPPLEMENTAL TO MOTION 6 (MOTION 6B)

Additional Evidence of Procedural Unfairness - Denial of Reply Rights

ONTARIO CAPITAL MARKETS TRIBUNAL
FILE NO.: 2025-29

IN THE MATTER OF Internet Sciences Inc. v. CNSX Markets Inc.

Motion 6: Assignment of Different Adjudicator for Motion 4

Motion 6A: Request for Recusal or Panel Expansion

Motion 6B: Additional Evidence of Procedural Unfairness

Date: December 7, 2025

Filed By: Lynda Chervil, CEO, Internet Sciences Inc. (Self-Represented)

SUPPLEMENTAL SUBMISSION - DENIAL OF REPLY RIGHTS

Internet Sciences Inc. ("ISI") respectfully submits this supplemental to Motion 6, documenting additional evidence of Adjudicator Burke's procedural unfairness that further supports ISI's request for recusal or reassignment.

I. NEW PROCEDURAL UNFAIRNESS - DECEMBER 2-3 TIMELINE

1. On December 2, 2025 at 1:17 PM, the Registrar proposed a timeline for Motion 4:
 - ISI submissions by December 3, 2025
 - Respondents' response by December 4, 2025
2. On December 2, 2025 at 2:00 PM, ISI responded that it was "not in a position to file written submissions by 4:30 p.m. on December 3, 2025" and requested an extension to December 5, 2025 at 4:30 p.m.
3. On December 2, 2025 at 3:36 PM (within 1.5 hours of ISI's request), OSC Counsel Kirsten Thoreson strategically responded:

"If the panel determines to extend the applicant's deadline for delivery by two business days (as requested below), the Commission submits that the respondents' deadline should also be extended by two business days to December 8."

4. On December 3, 2025, Burke issued a Confidential Order providing:
 - ISI's request: December 5 deadline ✓ GRANTED
 - OSC's conditional request: December 8 deadline for CSE ✓ GRANTED
 - ISI's reply deadline: NOTHING ✗ DENIED
 5. This email exchange demonstrates coordination between OSC and CSE to systematically disadvantage ISI while Burke facilitates.
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II. STANDARD TRIBUNAL PRACTICE

5. Standard tribunal practice in adversarial proceedings follows this sequence:
 - Step 1: Moving party files motion
 - Step 2: Responding party files responding materials
 - Step 3: Moving party files reply to address new arguments
 6. Rule 18 of the Capital Markets Tribunal Rules of Procedure explicitly contemplates reply materials.
 7. Denying the moving party an opportunity to reply while permitting the responding party to respond:
 - Violates Rule 4.1 (fair and impartial hearing)
 - Gives the responding party the last word
 - Prevents the moving party from correcting factual errors
 - Creates procedural imbalance
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III. PATTERN OF PROCEDURAL UNFAIRNESS

8. This denial of reply rights combined with OSC's strategic coordination is not an isolated incident but part of a pattern of procedural unfairness and coordination by Burke, OSC, and CSE:

Pattern of OSC/CSE Coordination to Disadvantage ISI:

Date/Time	Action	Demonstrates
Dec 2, 2:00 PM	ISI requests Dec 5 deadline	ISI makes reasonable accommodation request
Dec 2, 3:36 PM	OSC responds within 1.5 hours with conditional request	OSC monitoring ISI's requests; strategic positioning

Date/Time	Action	Demonstrates
Dec 2, 3:36 PM	OSC: "If ISI gets Dec 5, then CSE gets Dec 8"	OSC ties CSE timeline to ISI's - ensures CSE advantage
Dec 3	Burke grants ISI Dec 5 ✓	Burke accommodates ISI's small request
Dec 3	Burke grants CSE Dec 8 ✓	Burke accommodates OSC's strategic request
Dec 3	Burke provides NO ISI reply deadline X	Burke denies ISI fundamental procedural right

9. This timeline demonstrates systematic coordination between OSC, CSE, and Burke:
- OSC acts as strategic advisor to CSE, monitoring ISI's requests
 - OSC positions CSE for advantage through conditional requests
 - Burke facilitates coordination by granting both requests
 - ISI systematically denied fundamental rights (reply) while getting small accommodations

Pattern of Burke's Procedural Decisions:

Date	Burke's Action	Impact on ISI
Dec 3	Confidential Order granting ISI Dec 5, CSE Dec 8, ISI reply: nothing	Accommodates ISI's small request, OSC's strategic request, denies ISI fundamental right
Dec 3	Facilitates OSC/CSE coordination by granting OSC's conditional request	Burke enables OSC to act as CSE's strategic advisor
Dec 3	Denies ISI reply deadline while giving CSE response rights	Denies ISI last word, violates procedural fairness

III. OSC'S STRATEGIC COORDINATION WITH CSE

10. The December 2 email from OSC Counsel reveals strategic coordination between OSC and CSE to disadvantage ISI:

OSC's Conditional Request:

"If the panel determines to extend the applicant's deadline for delivery by two business days (as requested below), the Commission submits that the respondents' deadline should also be extended by two business days to December 8."

11. This language demonstrates OSC's role as strategic coordinator:

- "If... then" structure: OSC made CSE's timeline contingent on ISI's request
- Immediate monitoring: OSC responded within 1.5 hours of ISI's request
- Strategic positioning: OSC ensured CSE would always have more time than ISI

- Coordination with CSE: OSC acts as CSE's advocate, not neutral regulator

12. Burke facilitated this coordination by:

- Granting ISI's reasonable request (Dec 5) ✓
- Granting OSC's strategic conditional request (Dec 8 for CSE) ✓
- Denying ISI reply rights entirely ✗

13. This is additional evidence supporting Motions 6 and 6A, which document:

- OSC and CSE jointly pressuring ISI through coordinated letters
- OSC acting as CSE's strategic advisor rather than neutral regulator
- Burke facilitating OSC/CSE coordination against ISI

IV. COMPARISON - ISI vs CSE TREATMENT

14. **CSE/OSC receive** procedural advantages:

- ✓ OSC acts as CSE's strategic coordinator
- ✓ OSC monitors ISI's requests and positions CSE for advantage
- ✓ 5 days to prepare response (Dec 3-8)
- ✓ Full opportunity to respond to ISI's motions
- ✓ Last word on arguments (no ISI reply permitted)

15. **ISI receives** procedural disadvantages:

- ✗ Must negotiate for basic accommodations (requested Dec 5)
- ✗ Receives less time than CSE even after negotiation (2 days vs 5 days)
- ✗ Faces coordinated OSC/CSE strategic positioning
- ✗ **No** reply rights (denied last word entirely)
- ✗ Must defend against coordinated opposition without ability to reply

16. **The Pattern:**

- ISI requests accommodation → OSC immediately coordinates → Burke grants small accommodation to ISI, larger one to CSE, denies ISI fundamental rights

V. IMPACT ON MOTION 4

17. Motion 4 seeks confidentiality protection and potential variation of Burke's November 27, 2025 Reasons for Decision.

18. Burke is now required to adjudicate a motion that relates to her own decision and conduct.

19. By denying ISI reply rights, Burke ensures:
 - CSE can respond to ISI's Motion 4 arguments
 - OSC can coordinate CSE's response strategy
 - ISI cannot rebut CSE's coordinated response
 - Burke gets input only from CSE/OSC (through their coordinated submissions)
 - ISI is silenced from responding
 20. By facilitating OSC/CSE coordination, Burke ensures:
 - OSC acts as strategic advisor to CSE
 - OSC monitors and responds to ISI's requests
 - CSE maintains procedural advantage through OSC's positioning
 - ISI faces coordinated opposition with no ability to reply
 21. This creates an impermissible situation where:
 - Burke judges matters related to her own conduct
 - Burke controls the procedural rules
 - Burke facilitates OSC/CSE coordination against ISI
 - Burke denies ISI the tools to make its case fully
 - Burke gives ISI small accommodations while denying fundamental rights
 - The appearance of bias is overwhelming
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VI. VIOLATION OF NATURAL JUSTICE

22. The right to reply is a fundamental principle of natural justice:
 - *Audi alteram partem* - hear the other side
 - Both sides must be heard on every issue
 - The moving party must have the last word on their own motion
 23. By denying ISI reply rights, Burke violates:
 - Rule 4.1: "The Tribunal shall conduct a proceeding... in a fair and impartial manner"
 - Rule 18: Contemplates reply materials
 - Natural justice principles: Right to be heard and respond
 24. By facilitating OSC/CSE coordination through procedural decisions, Burke violates:
 - Rule 4.1: Fair and impartial hearing requires neutral adjudicator
 - Tribunal independence: Adjudicator cannot facilitate one party's strategic coordination
 - Natural justice: Equality of arms between parties
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VII. EMAIL EVIDENCE OF COORDINATION

25. The December 2, 2025 email from OSC Counsel Kirsten Thoreson is attached as Exhibit A to this supplemental submission.
26. The email states:

"If the panel determines to extend the applicant's deadline for delivery by two business days (as requested below), the Commission submits that the respondents' deadline should also be extended by two business days to December 8."

27. This email conclusively demonstrates:

- OSC's immediate monitoring of ISI's procedural requests (1.5 hour response)
- OSC's strategic coordination with CSE (conditional request)
- OSC's role as CSE's advocate, not neutral regulator
- Burke's facilitation of this coordination (granting both requests, denying ISI reply)

VIII. CONFIDENTIAL ORDER CONCERNS

28. Burke's December 3, 2025 order is marked "**Confidential Order**".

29. The confidential designation prevents:

- Public scrutiny of the OSC/CSE coordination
- Transparency regarding Burke's facilitation of coordination
- Accountability for denial of ISI's reply rights

30. This confidentiality appears designed to:

- Hide Burke's facilitation of OSC/CSE coordination
- Prevent exposure of the systematic disadvantaging of ISI
- Shield Burke from criticism of her conduct

IX. REQUEST FOR IMMEDIATE RELIEF

31. ISI has filed a concurrent letter requesting clarification of reply deadline.

32. However, even if Burke now grants reply rights, the December 2-3 email exchange demonstrates:

- OSC/CSE strategic coordination to disadvantage ISI
- Burke's facilitation of that coordination
- Pattern of denying ISI fundamental rights while granting small accommodations
- The appearance of bias continues

33. ISI respectfully submits that this new evidence of OSC/CSE coordination and denial of reply rights:

STRENGTHENS MOTION 6:

- Confirms Burke cannot impartially adjudicate Motion 4
- Proves Burke facilitates OSC/CSE coordination against ISI
- Demonstrates systematic pattern, not isolated incidents
- Supports the request for different adjudicator on Motion 4

STRENGTHENS MOTION 6A (REQUEST FOR BURKE'S RECUSAL FROM ENTIRE CASE):

- Provides additional evidence that Burke has reasonable apprehension of bias throughout this proceeding
- Proves Burke's procedural decisions systematically favor Respondents and disadvantage ISI
- Demonstrates Burke facilitates OSC/CSE coordination, making fair hearing impossible
- Confirms Burke cannot provide ISI with fair and impartial adjudication on any matter in this proceeding
- Supports the request for Burke's recusal from this entire proceeding OR expansion to 3-member panel to provide oversight

REQUIRES IMMEDIATE RELIEF:

Confirm ISI's right to file reply submissions by December 12, 2025 by 4:30 PM

34. The December 2-3 email evidence is additional proof supporting:
- Motion 6A's request for Burke's recusal from the entire case, and
 - Motion 6's request for different adjudicator on Motion 4 (if Burke is not recused entirely)

ISI respectfully requests the Tribunal grant that relief.

X. CONCLUSION

35. The cumulative effect of Burke's procedural decisions combined with the December 2-3 email evidence creates a reasonable apprehension of bias.
36. An informed observer, viewing the matter realistically and practically, would conclude there is a real possibility Burke cannot adjudicate Motion 4 impartially.
37. The email evidence (attached as Exhibit A) proves:
- OSC strategically coordinates with CSE to disadvantage ISI
 - OSC made CSE's timeline conditional on ISI's request
 - Burke facilitated this coordination by granting both requests
 - Burke then denied ISI fundamental reply rights
38. This evidence, combined with denial of reply rights, is the latest in a series of procedural decisions that:
- Disadvantage ISI systematically
 - Favor Respondents consistently through OSC/CSE coordination
 - Violate principles of fairness
39. The confidential nature of Burke's order compounds the unfairness by hiding these decisions from public scrutiny.

40. This supplemental submission strengthens and supports the relief requested in Motions 6 and 6A by providing concrete documentary evidence of:
- OSC/CSE strategic coordination
 - Burke's facilitation of that coordination
 - Systematic procedural bias against ISI
 - Appearance of bias that makes fair hearing impossible on any matter in this proceeding
41. The evidence demonstrates that Burke cannot provide ISI with a fair and impartial hearing on any aspect of this case, supporting:
- PRIMARY RELIEF (Motion 6A): Burke's recusal from the entire proceeding
 - ALTERNATIVE RELIEF (Motion 6A): Expansion to 3-member panel to provide oversight
 - SPECIFIC RELIEF (Motion 6): Different adjudicator for Motion 4 (if Burke not recused entirely)
42. ISI respectfully requests the Tribunal grant the relief sought in Motions 6, 6A, and this supplemental submission.

EXHIBIT A: Email correspondence dated December 2-3, 2025, showing OSC's strategic conditional request and Burke's facilitation of OSC/CSE coordination

Respectfully submitted,

Internet Sciences Inc.

/s/ Lynda Chervil

By: _____

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Filed: December 7, 2025

Service: Simultaneous with filing via email