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March 31, 2011

**VIA E-MAIL AND COURIER**

John Stevenson
Secretary
Ontario Securities Commission
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Re: OSC Staff Notice 54-701 – Regulatory Developments Regarding Shareholder Democracy Issues (the "Staff Notice")

Dear Sir:

We welcome the opportunity to contribute to the discussion in respect of the initiative of the Ontario Securities Commission (the "OSC") in considering regulatory developments regarding shareholder democracy issues. Our Board takes matters of corporate governance very seriously and Power Corporation of Canada ("Power Corporation") and its group companies are active participants in the public dialogue regarding corporate governance in Canada.

As a general comment, we are of the view that issuers should have the flexibility to adopt governance practices that they believe are the best suited for their particular needs and circumstances, subject to appropriate disclosure.

We note that the Staff Notice discloses that the OSC intends to coordinate its review and the development of regulatory proposals relating to the matters covered by the Staff Notice with other members of the Canadian Securities Administrators ("CSA"). As the matters covered by the Staff Notice necessarily reach beyond provincial borders, we support such coordination and strongly suggest that any such review and development of regulatory proposals actually be conducted at the level of the CSA from the outset. As Power Corporation and Power Financial Corporation (a subsidiary of Power Corporation) are subject to the *Autorité des marchés financiers* in Quebec as primary regulator, and Power Financial Corporation's publicly traded subsidiaries, Great-West Lifeco Inc. and IGM Financial Inc., are each subject

to the Manitoba Securities Commission as their primary securities regulator, co-ordination by the CSA in this regard is of even more significance to us.

We also note that certain of the subjects referred to directly or indirectly in the Staff Notice, such as election of directors and the duties of the board to supervise management (of which executive compensation decisions are an important part) are currently and have been historically the subject of carefully considered and well-developed corporate law, not securities law. While securities commissions play a vital role, particularly in the area of investor protection, we respectfully submit that the OSC should not regulate areas outside of its primary and historical jurisdiction and area of expertise namely, securities regulation, which, in the case of issuers, relates almost entirely to disclosure requirements.

**The Power Group**

Power Corporation, as a diversified international management and holding company, has invested many billions of dollars directly and indirectly in Canada, the United State, Europe and Asia. We are major long-term shareholders of companies, including Canadian public company subsidiaries, such as Power Financial Corporation (66.1%), Great-West Lifeco Inc.[1] and IGM Financial Inc.[2]. In addition, Power Corporation has had controlling shareholders since its beginnings in 1925 and its present controlling shareholder holds in aggregate, directly or indirectly, shares carrying 61.1% of the votes attached to our outstanding voting shares.

**Majority Voting and Slate Voting**

As both a controlled company and a controlling shareholder, it is our view that, as concerns majority voting and slate voting[3], the current regime in respect of the process for the election of directors under corporate law is appropriate and that no changes in these areas are desirable or necessary. We would respectfully point out that Canadian corporate law in this regard is the result of over a century and a half of careful consideration by the both courts and the legislatures. However, if proposals for change were forthcoming through securities law, our view is that they should recognize that controlled companies have unique governance considerations.

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[1] Power Financial Corporation and IGM Financial Inc. hold 68.3% and 4.0%, respectively, of Great-West Lifeco Inc.'s common shares, representing approximately 65% of the voting rights attached to all outstanding Great-West Lifeco Inc. voting shares.

[2] Power Financial Corporation and The Great-West Life Assurance Company, a subsidiary of Great-West Lifeco Inc., hold 57% and 3.5%, respectively, of IGM Financial Inc.'s common shares.

[3] Since 2007, our shareholders have had the ability to vote for or withhold from voting for each individual director proposed for election to our Board of Directors.

Because the controlling shareholder would necessarily cast a majority of the votes to be cast in an election of a controlled company's directors, requiring controlled companies to adopt a majority voting policy would be an illusory shareholder democracy development at best and would not serve a concrete purpose (unless it were intended as a stepping stone to the imposition of a "majority of the minority" voting requirement for director elections. Such a requirement would effectively result in the stripping out of the economic rights of the controlling shareholder without compensation.) A controlling shareholder would be expected to have an active dialogue with the controlled company through its board and nominating committee. As a practical matter, the controlling shareholder would not choose the casting of votes at a shareholder meeting as the forum for raising its displeasure with board nominees. Accordingly, imposing such a requirement on a controlled company would serve no purpose and would be misleading to shareholders (given it can have no possible practical effect). In addition, it would only serve to increase the costs and complexity of the process for electing directors and would not be in the best interests of the shareholders as a whole.

While the Power group of companies have adopted individual voting for election of directors, we believe each company and its shareholders should be able to choose the method that works best for each, as is currently the case. Ultimately shareholders have the ability, through their election of directors, the amendment of articles or bylaws, or through shareholder proposals, to give effect to individual voting.

**Advisory Vote on Executive Compensation**

Power Corporation and our Board of Directors appreciate the importance placed on effective executive compensation programs.

By law, the directors, who are elected by the shareholders, have a duty to supervise the management of the business and affairs of a corporation. It is our view that it is important to maintain clarity regarding the role of a board as distinct from the role of shareholders (indeed, if shareholders are to be encouraged to usurp the role of the Board, one is tempted to ask why such intrusion should stop with executive compensation, and not extend to other issues such as corporate strategy or capital allocation). The current approach to overseeing executive compensation appropriately recognizes that role and aligns the interests of a corporation's shareholders with the need for flexibility and certainty in structuring appropriate compensation arrangements.

One of the board's key responsibilities is to assess the performance of senior executives and approve their compensation arrangements, with the objective of generating superior long-term performance. Executive compensation

policies have become increasingly complex and must take into account many factors. Our view is that a corporation's directors are in the best position to oversee the executive compensation arrangements at a corporation. A corporation's board (or a committee thereof) has full access to the necessary information and has the benefit of external professional guidance and the relevant experience of its members to make the appropriate decisions. As well, unlike directors who are required by law to make decisions in accordance with their fiduciary duties to act with due care and with a view to the best interests of the corporation, individual shareholders have no such legal duties, to either other shareholders or to the corporation.

In addition, any proposal requiring shareholder votes on executive compensation at a controlled company would be neither effective nor efficient. Requiring a controlled company to adopt such a policy would be an illusory shareholder democracy development at best and not serve a concrete purpose since the controlling shareholder would necessarily cast a majority of the votes to be cast in respect of such a matter. A controlling shareholder would be expected to have an active dialogue with the controlled company through its board and compensation committee, and would not choose the casting of votes at a shareholder meeting as the forum for raising its displeasure with executive compensation. Accordingly, imposing such requirements on a controlled company would only serve to increase the costs and complexity of the process for setting executive compensation and would not be in the best interests of the shareholders as a whole.

**Effectiveness of the Proxy Voting System – Proxy Advisory Firms**

In our view, any review of the effectiveness of the proxy voting system should include consideration of the development of regulatory proposals in respect of **proxy advisory firms.**

The July 24, 2010 concept release of the U.S. Securities and Exchange Commission (the "SEC") sought public comment on a number of topics concerning the U.S. proxy system and noted a number of potential issues raised by the substantial increase in the use of proxy advisory firms by institutional investors over the last twenty-five years. The SEC's concept release sought comment on a variety of matters concerning development, dissemination and implementation of voting recommendations by proxy advisory firms, accountability for such recommendations, conflicts of interest, the level of control or influence over shareholder voting and corporate policy, and the potential need for further regulation.

Similarly, the September 23, 2010 report of the New York Stock Exchange Commission on Corporate Governance (the "NYSE Commission") noted an

increased level of concern regarding the impact of proxy advisory firms. In its report, the NYSE Commission expressed its view that the SEC should engage in a study of the role of proxy advisory firms to determine their potential impact on, among other things, corporate governance and behaviour and consider whether or not further regulation of these firms is appropriate. The NYSE Commission's report contained recommendations in respect of proxy advisory firms regarding minimum standards for, among other things, disclosure of policies and methodologies concerning formulation of voting recommendations, conflicts of interest, codes of conduct, and the degree of care, accuracy and fairness required in dealing with shareholders and companies.

Consequently, we would urge the CSA to formally consider the role of the different market intermediaries in Canada, and more specifically the proxy advisory firms, following the lead of the SEC and NYSE in that regard.

**Director Independence**

Although not specifically discussed in the Staff Notice, in our view, any initiative considering new regulatory requirements regarding corporate governance as they relate to "shareholder democracy" issues should not proceed until the long standing issue of the flawed independence criteria applicable to directors of controlled companies is resolved. This is a topic which is very relevant to our role as a shareholder in Canadian public companies.

At Power Corporation, it has been our practice for decades to take an active role in the oversight of our subsidiaries. For instance, officers of Power Corporation, whose full-time job is to focus and become knowledgeable about the affairs of the companies we are invested in, sit on the boards of our subsidiaries. They have no other relationship with our subsidiaries other than as directors and shareholders. We are major long term shareholders, and our interests are in seeing that our own shareholders, and indeed all our stakeholders prosper over the long term. We believe this approach works well. Indeed, in our view it is because of this approach that many shareholders invest in Power and in our publicly traded subsidiaries. And yet our representatives on subsidiary boards are deemed to be not independent.

The CSA had explicitly acknowledged the concerns expressed by reporting issuers as to whether the CSA's view of director independence was appropriate to companies such as Power Corporation and its publicly traded subsidiaries which have a majority shareholder. Thus, at the time of the implementation of 58-201 the CSA indicated it intended "to carefully consider these concerns in the context of a study to examine the governance of

controlled companies" and that it "would consider whether to change how this Policy...treat(s) controlled companies". On December 19, 2008, the CSA published "Request for Comment—*Proposed Repeal and Replacement of NP 58 201 Corporate Governance Guidelines, NI 58-101 Disclosure of Corporate Governance Practices, and NI 52 110 Audit Committees and Companion Policy 52-110 CP Audit Committees*" which included, among other things, the replacement of the current prescriptive approach, and use of deeming rules, to independence with a more principles-based approach.

Although our Board of Directors was encouraged by the new direction proposed by the CSA, the CSA subsequently decided not to proceed with its proposed revisions as then-published. The CSA indicated in Staff Notice 58-305 – *Status Report on the Proposed Changes to the Corporate Regime* that, based on the fact that "a majority of commenters expressed the view that now is not an appropriate time to introduce significant changes to the corporate governance regime in Canada". The CSA determined not to implement these proposed changes (even though there was no serious objection by any commentator to eliminating the deeming rules as they related to controlling shareholders).

Power Corporation encourages the CSA to continue its review of the "independence" definition as it relates to majority shareholders and to proceed with appropriate revisions at an early opportunity. In our view, the determination of director independence should be based upon whether or not the director is independent of the issuer's management, and whether or not the director has any other relationships with the issuer which could reasonably be expected to interfere with the exercise of the director's independent judgement. We believe that this is a question of fact that should be determined by a corporation's board of directors on a case-by-case basis without reference to any presumptions. The currently applicable regime provides that directors of a controlled corporation are automatically deemed to not be independent if they have certain relationships with the controlling shareholder, even if such directors have no other relationship with either the controlled corporation or management of the controlled corporation, other than as a director. These provisions, among other things, prevent any such directors from sitting on the audit committee of the controlled corporation and give the inappropriate and misleading impression to the marketplace that the independent judgement of such directors is somehow compromised. These provisions disenfranchise us as shareholders and we reiterate our prior requests to have this rectified.

Any concerns which may exist in a controlled company situation about conflicts of interest or self-dealing should, in our view, be resolved directly

through a committee of directors who are independent of the controlling shareholder and of management. The governance model at Power Corporation includes such a committee, the Related Party and Conduct Review Committee. Each of our publicly traded subsidiaries also has such a committee. This system works quite well.

To conclude, if, in fact the OSC is proposing new significant changes to corporate governance, it would appear to be a very appropriate time for the CSA to address the long outstanding deficiencies of the director independence deeming rules.

Representatives of Power Corporation would be pleased to discuss the foregoing with representatives of the OSC or CSA if that would be of assistance.

Yours very truly,

EJ/ms