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HAND DELIVERED

October 29, 2007

Board of Commissioners  
of Public Utilities  
P.O. Box 21040  
120 Torbay Road  
St. John's, NL A1A 5B2

Attention: G. Cheryl Blundon  
Director of Corporate Services  
and Board Secretary

Ladies & Gentlemen:

**Re: 2008 General Rate Application**

On October 23, 2007, in response to questions of the Board's Counsel, Ms. Newman, the Company's witness Ms. Perry undertook to provide to the hearing copies of certain documentation relative to the plan to replace Canadian GAAP with international financial reporting standards (IFRS) by 2011. That information was provided to the hearing on Friday, October 26<sup>th</sup> as Undertaking U-4.

One of Ms. Newman's questions, at page 127, line 5 to page 128, line 15 of the transcript, requested copies of documentation issued by the Canadian Electricity Association relative to the matter. That documentation was inadvertently omitted from the material filed as Undertaking U-4.

Enclosed herewith are 7 copies of the following documents:

1. Joint letter dated May 30, 2007 to the Accounting Standards Oversight Council from the Canadian Energy Pipeline Association, the Canadian Gas Association and the Canadian Electricity Association; and
2. Letter dated July 10, 2007 to the Accounting Standards Board, Canadian Institute of Chartered Accountants from the Canadian Electricity Association.




Join us in the fight against cancer.

A copy of this letter has been forwarded directly to Geoffrey Young, Newfoundland and Labrador Hydro and Thomas Johnson, Consumer Advocate.

If you have any questions regarding the enclosed, please contact the undersigned at your convenience.

Yours very truly,



Gerard M. Hayes  
Senior Counsel

Enclosures

c. Geoffrey Young (2 copies)  
Newfoundland and Labrador Hydro

Thomas Johnson (4 copies)  
Consumer Advocate



Join us in the fight against cancer.

May 30, 2007

Mr. Doug Hyndman, MBA  
Chair, Accounting Standards Oversight Council  
Accounting Standards Oversight Council  
277 Wellington Street West  
Toronto ON M5V 3H2

Dear Mr. Hyndman:

**Re: Rate Regulated Operations**

The Canadian Energy Pipeline Association (CEPA), the Canadian Gas Association (CGA) and the Canadian Electricity Association (CEA) are providing this written submission for your consideration at the Accounting Standards Oversight Council meetings on May 31 and June 1, 2007.

CEPA represents Canada's major pipeline transmission companies whose members, in the aggregate, transport more than 97% of the crude oil and natural gas produced in Canada. CGA represents Canada's natural gas delivery industry. CGA members are gas distribution companies, transmission companies, related equipment manufacturers, and other service providers involved in the delivery of natural gas to almost 6 million customers in Canada. CEA is the voice of the Canadian electricity industry, promoting electricity as the critical enabler of the economy and Canadians' expectations for an enhanced quality of life. The industries represented by these three industry associations are comprised primarily of regulated companies and represent a large number of companies in Canada that use rate regulated accounting.

In 2005, the Accounting Standards Board invited companies to submit fact patterns that demonstrate how the actions of a regulator create assets and liabilities. Despite significant industry-expressed concerns (via written submissions and roundtable meetings), CEPA is concerned that the Accounting Standards Board has not yet responded to written submissions by CEPA member companies or at a minimum, made available any conclusions that the Accounting Standards Board reached as a result of their deliberations. We believe that the Accounting Standards Board should follow due process and respond to the fact pattern submissions prior to proceeding with the Exposure Draft. Alternatively, a summary should be provided in an addendum to the Background Information and Basis for Conclusions to provide assurance that business facts and underlying economics have been appropriately considered.

The Exposure Draft and the accompanying Background Information and Basis for Conclusions would allow Canadian companies to look to U.S. GAAP for guidance as a result of following the GAAP hierarchy. However, a change in Canada to use U.S. GAAP in 2009 would require some

Canadian companies to change their current practices, most notably in the area of accounting for taxes. Canadian companies will then be required to make significant accounting changes in 2011 when IFRS is adopted. CEPA believes it is confusing to implement two changes within such a short time period. It is our understanding that the Accounting Standards Board was trying to ease the transition into IFRS by not introducing major GAAP changes in the interim period. Thus, the proposals in the Exposure Draft seem contrary to that supposition.

We are also very concerned that IFRS does not currently include accounting guidance specific to rate regulated operations. If this position were to withstand the elimination of the US GAAP – IFRS reconciliation, proposed for 2009, then the elimination of accounting guidance specific to rate regulated operations would have the following real and significant economic impacts.

- Earnings could become more volatile as expenses would have to be recognized immediately rather than deferred and recognized against related toll revenue.
- This volatility could be passed through to our customers, with our regulators' approval, resulting in volatile or unpredictable tolls charged to our customers. Our regulators already have to determine how the impending change to IFRS will impact the regulation of the Canadian energy industry.
- As pipeline customers are typically companies involved in the development and production of crude oil and natural gas, unpredictable tolls on the pipelines shipping these commodities could impede the efficient development of crude oil and natural gas in Canada.
- Customers of regulated utilities could also be impacted through significant changes in their rates, if allowed by the regulator.
- If our regulators do not allow the earnings volatility to be passed through to our customers, companies would be forced to accept potentially significant swings in earnings, increasing risk premiums and the cost of capital. This makes the role of the regulator in rate setting and that of subject entities in financial and regulatory reporting that much more difficult.
- The share price of some publicly traded pipeline companies is strongly affected by earnings and such volatility could negatively impact the market capitalization of these companies.
- These earnings fluctuations could also make it more difficult or costly for pipeline companies to obtain financing, thus requiring pipelines to charge higher tolls or to scale back or delay new pipeline construction.
- New pipeline construction and stable tolls are necessary for the efficient development and transportation of Canadian crude oil and natural gas.

In summary, we believe that the elimination of accounting guidance for rate regulated operations could have significant negative economic impacts. If the financial statements of regulated companies do not reflect the economic realities of the regulators' decisions, the financial statements become virtually useless to investors and other primary users. To that end, we intend to actively pursue the inclusion of such accounting guidance in IFRS. However, if the recognition and measurement guidance is eliminated from Canadian GAAP prior to 2011, we believe that Canadian companies' ability to influence the development of such guidance in IFRS would be weakened in both Canada and the U.S. We also believe that the debate the SEC/FASB and the IASB will ultimately face with respect to FAS 71 will be strengthened in favour of the U.S. if the current recognition and measurement guidance is retained in the CICA Handbook.

Based on the above, we request that AcSOC ask the Accounting Standards Board to delay implementing the proposed change in Canadian GAAP until this issue is resolved at the International level. In light of the concerns, due process, and in the spirit of fairness, we believe it is reasonable to expect a response to the 2005 fact pattern submissions and to be afforded the opportunity to engage the Accounting Standards Board directly to ensure complete mutual understanding.

We welcome the opportunity to meet with you and the members of AcSOC to discuss the impact and rationale of the Exposure Draft on our industries. While we understand that your agenda for this week's meeting is already full, we would like to present these issues to you at the next earliest opportunity.

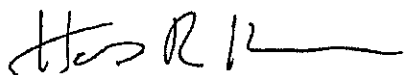
Sincerely,



David MacInnis  
President  
CANADIAN ENERGY PIPELINE ASSOCIATION (CEPA)



Michael Cleland  
President & Chief Executive Officer  
CANADIAN GAS ASSOCIATION (CGA)



Hans Konow  
President & CEO  
CANADIAN ELECTRICITY ASSOCIATION (CEA)

cc: Mr. Denis Desautels  
FCA, Vice Chair, Accounting Standards Oversight Council



Canadian Electricity Association  
Association canadienne de l'électricité

www.canelect.ca

July 10, 2007

Mr. Peter Martin, CA  
Director, Accounting Standards  
Accounting Standards Board  
The Canadian Institute of Chartered Accountants  
277 Wellington Street West  
Toronto, Ontario M5V 3H2

Dear Mr. Martin:

**RE: Exposure Draft, Rate-Regulated Operations, March 2007**

We appreciate the opportunity to respond to the Canadian Institute of Chartered Accountant's March 2007 Exposure Draft of proposed changes to accounting standards for Rate-Regulated Operations. The Canadian Electricity Association ("CEA") is the leading voice for the electricity sector in Canada. CEA members represent about 90 percent of all generation, transmission, distribution and marketing of electricity in Canada, as well as leading manufacturers and suppliers to the industry. The CEA has been the primary "voice" of the electricity industry in Canada since 1891, and advocates for its members in both Ottawa and Washington DC. The CEA's Finance and Accounting Committee includes more than 25 representatives from some of the largest member utilities having rate-regulated operations.

#### The CEA's Response to Comments Requested by the Accounting Standards Board

1. **Do you agree with the proposed elimination from Canadian GAAP of all recognition and measurement guidance relating specifically to rate-regulated operations? If not, why not?**

First of all, the CEA does not agree that the Accounting Standards Board's ("AcSB's") proposal would result in the elimination of all recognition and measurement guidance relating specifically to rate-regulated operations from Canadian GAAP. As U.S. Financial Accounting Standards Board ("FASB") Statement (SFAS) 71 "Accounting for the Effects of Certain Types of Regulation" would still be available for use under the Canadian GAAP hierarchy, this specific guidance would still be part of Canadian GAAP. The CEA believes that the AcSB's proposal would be described as a recommendation to eliminate all recognition and measurement guidance relating specifically to rate-regulated operations from the CICA Handbook, not from Canadian GAAP.

The CEA does not agree with the proposed elimination of all recognition and measurement guidance relating specifically to rate-regulated operations from the CICA Handbook. In the CEA's opinion, the removal of all recognition and measurement guidance relating to rate-regulated operations from the Handbook does not improve Canadian GAAP, and does not contribute to the CICA's overall strategic plan to converge with the International Financial Reporting Standards ("IFRS").

The CEA, however, does agree that the AcSB should remove references from the CICA Handbook where they are not consistent with the SFAS 71. Accordingly, the CEA agrees with the proposed elimination of the temporary exemption in Section 1100 of the CICA Handbook pertaining to the application of that Section to the recognition and measurement of assets and liabilities arising from rate regulation. The CEA also agrees with the proposed elimination of recognition and measurement guidance relating specifically to rate-regulated operations found in Section 3465 (i.e., the option for rate-regulated entities to follow the taxes payable method). The CEA believes, subsequent to these changes, that remaining references in the CICA Handbook would be generally consistent with SFAS 71, which can be referenced by users in need of more detailed guidance.



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The voice of Canadian Electricity

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La voix de l'électricité canadienne

The following outlines the CEA's reasoning for the above position.

*Rate-Regulated Accounting and Canadian GAAP Conceptual Framework*

The removal of recognition and measurement guidance relating to rate-regulated operations introduces room for greater subjectivity in this area, as companies reporting under Canadian GAAP will be required to apply Section 1000 of the CICA Handbook, including other sources of GAAP such as SFAS 71. The application of Section 1000 often *requires significant professional judgment, which may create inconsistent accounting practices among rate-regulated entities.* For example, one preparer may invoke SFAS 71 through an application of Section 1000 while another with identical business facts may not. This risk could be avoided by leaving CICA Handbook references that provide specific recognition and measurement guidance for rate-regulated operations intact (other than the temporary exemption in Section 1100 and the guidance in Section 3465, as discussed below).

Our interpretation is that the AcSB agrees with the consistency of rate-regulated accounting with the Canadian GAAP conceptual framework. Paragraph 30 of the Basis for Conclusions accompanying the Exposure Draft makes reference to SFAS 71 being consistent with the FASB's conceptual framework and states that "the financial concepts described in Section 1000 are substantially converged with the FASB Concepts Statements." This is further evidenced by the AcSB's suggestion in paragraph 30 that Canadian entities should apply SFAS 71, which indicates that the AcSB must be of the view that SFAS 71 is not in contradiction with the conceptual framework of Canadian GAAP.

We agree that the current application of rate-regulated accounting practices of rate-regulated entities is consistent with the conceptual framework of Canadian GAAP. Regulatory assets and regulatory liabilities clearly meet the definition of assets and liabilities outlined in Section 1000 of the Handbook. Consistent with the qualitative characteristics of information provided in the financial statements as outlined in Section 1000, rate-regulated accounting faithfully represents the economic reality for rate-regulated enterprises, as rate regulation gives rise to assets and liabilities that non-regulated entities would not necessarily recognize. Recognition of rate-regulated assets and liabilities, when accompanied by appropriate note disclosures, makes the financial statements of rate-regulated entities more relevant to their users by increasing their predictive value.

The CEA acknowledges that recognition and measurement guidance under Canadian GAAP for rate-regulated operations is not as comprehensive as it is under SFAS 71 but, in light of the planned transition from Canadian GAAP to the IFRS for publicly accountable enterprises in 2011, it may not be appropriate for the AcSB to undertake a stand-alone project in order to develop additional Canadian guidance for rate-regulated accounting at this time. However, *this set of circumstances does not justify removing already existing guidance from the Handbook as the existing guidance is not in any way misleading or subject to significant misinterpretation.* We also note that Canadian rate-regulated entities already look to SFAS 71 for assistance in the application of existing Canadian guidance as the current references in the CICA Handbook are not comprehensive.

In summary, the AcSB's proposal to remove all specific recognition and measurement guidance from the CICA Handbook and its suggestion for rate-regulated entities to apply SFAS 71 does nothing more than reduce the relatively limited guidance that is available to rate-regulated entities under the various sources of GAAP. This introduces the risk that different entities will fail to consistently apply the guidance found in SFAS 71 as there will no longer be any reference in the Canadian Handbook to indicate that rate-regulated assets and liabilities may exist under certain circumstances. However, the AcSB should remove the temporary exemption in Section 1100 because assets and liabilities created by the virtue of rate regulation are consistent with the conceptual framework of Canadian GAAP and the exception is therefore not warranted. The CEA does agree with the removal of the elimination of recognition and measurement guidance relating specifically to rate-regulated operations found in Section 3465.

*Strategic Plan to Converge with the IFRS*

It is the CEA's view that the AcSB's proposal to eliminate recognition and measurement guidance for rate-regulated operations from the CICA Handbook does not serve the purpose of converging with IFRS. As the AcSB notes in paragraph 19 of the Basis for Conclusions, the IFRS are based on the premise that entities subject to rate regulation should follow GAAP but they do not currently provide explicit guidance on rate-regulated accounting. While certain

Interpretations of the IFRS have been made on whether the recognition of rate-regulated assets and liabilities is consistent with the conceptual framework of the IFRS, the CEA is of the view that further clarity will be sought from, and provided by the International Accounting Standards Board (the "IASB"). In support of this assertion are the following items:

- An extract of the IASB October 18 2005 Board meeting held in London: *"In further consideration of the IFRIC's activities, one Board member noted a fundamental objection to the statements made in the August 2005 IFRIC Update in respect of regulatory assets. Particularly, he objected to the assertion that certain assets that would be recognized under SFAS 71 Accounting for the Effects of Certain Types of Regulation did not meet the criteria for recognition as assets under IFRSs. The Board member noted that he had yet to be presented with any valid examples of this phenomenon, and believed that all of the examples that had been suggested to date were in fact items that did not fall within the scope of SFAS 71. The Board noted that the more important point is that if you have an asset that falls within the scope of IAS 38, consideration of SFAS 71 is inappropriate because intangible assets are adequately dealt with under IFRSs. The Chairman of the IFRIC said that the items published in the IFRIC Update are not authoritative guidance, but rather are intended to be helpful without forming IFRS interpretations."*
- The European Commission Roundtable for the Consistent Application of IFRSs is currently developing a technical paper on the subject of regulatory assets and liabilities.

The CEA notes that the above items are consistent with the AcSB views as expressed in Paragraph 34 of the Basis for Conclusions accompanying the Exposure Draft where it is stated that *"the AcSB observes that, at this stage in the movement towards a single set of globally accepted standards, it is too early to tell whether IFRSs will be interpreted and applied in a manner that produces results consistent with those of SFAS 71."*

The CEA understands that this view is consistent with that of the IFRS Advisory Committee, which supports the AcSB in converging Canadian GAAP with the IFRS for publicly accountable enterprises. In December 2006, the Advisory Committee stated that "... Accounting Guideline AcG-19, *Disclosure by Entities Subject to Rate Regulation*, provides useful information ..." and that "... there might be merit in recommending to the IASB that similar disclosures be incorporated into IFRS". This suggests that the Advisory Committee believes that rate-regulated accounting may still be valid in future under the IFRS framework.

Interpretations of the IFRS made to-date suggest that there is a possibility that regulatory assets and liabilities may not be recognized under the international conceptual framework. A recommendation that all references to recognition and measurement guidance be removed from the Handbook, while simultaneously allowing continued reliance on SFAS 71, does not contribute toward ultimate convergence with IFRS as the IASB's final position is not yet known. The CEA strongly believes that the AcSB should wait until further clarity with respect to the IASB's position on rate-regulated accounting is developed, and the joint project on the conceptual framework between FASB and IFRS is completed, before making this change to the Canadian Handbook. The conclusions of the joint FASB-IASB project may determine whether assets and liabilities arising from rate regulation will continue to meet the definition of assets and liabilities under the converged framework. The CICA's strategic plan is to adopt a converged solution when such a conclusion is reached, or is expected to be reached, as a result of such a joint project. In the interim, the CEA agrees that the immediate elimination of the temporary exemption in Section 1100 is reasonable as this exemption is not sustainable, or expected to be so, under either the US or international framework.

The AcSB should also consider the U.S. Securities and Exchange Commission's ("SEC") recent announcement relating to the reconciliation requirement for certain issuers reporting under the IFRS. The SEC's rules currently require that foreign private issuers who report under the IFRS, or any other non-U.S. GAAP, provide a reconciliation of those financial statements to U.S. GAAP. On April 24, 2007, the SEC announced a planned proposal to be issued this summer that would suggest eliminating that reconciliation requirement with respect to financial statements prepared under the IFRS beginning in 2009. The proposed changes would allow the use of the IFRS in financial reports filed by foreign private issuers that are registered with the SEC. The approach in the proposed rule would be to give foreign private issuers a choice between the IFRS and U.S. GAAP. Given that SFAS 71 is a pronouncement under U.S. GAAP which has no equivalent under the IFRS, it currently appears as a reconciling item for certain foreign private issuers registered with the SEC. It is expected that the SEC's proposal to eliminate the reconciliation requirement for such issuers by 2009 will provide additional impetus to resolving this apparent inconsistency between these two major frameworks in the short run. Accordingly, the CEA is of the opinion that the AcSB should not confuse



preparers and users by removing all recognition and measurement guidance relating to rate-regulated operations from the CICA Handbook as this is not substantive given the ability to still use SFAS 71. If the IFRS framework ultimately settles on including a treatment analogous to SFAS 71, the confusion will be amplified.

Finally, the CEA would like to highlight that the development of, and conversion to the IFRS by various jurisdictions worldwide has been and continues to be a collaborative and evolving effort. The explicit recognition of the economic reality of rate regulation, resulting in assets and liabilities consistent with the conceptual framework of Canadian GAAP, clearly presents the consensus Canadian position. This position would be strengthened by the removal of the temporary exemption in Section 1100 and the proposed removal of the ability to use the taxes payable method. However, the removal of all other recognition and measurement guidance related to rate-regulated operations from Canadian GAAP could appear to represent a rejection of the concepts included in SFAS 71 and could diminish the visibility of the Canadian pre-regulatory accounting position to other standard-setting jurisdictions. This would deprive the international accounting community of an additional source of guidance in the development of harmonized accounting standards that address the economic reality of rate regulation. This would not serve the goal of developing robust harmonized accounting standards worldwide.

#### *Users of Financial Statements*

The CEA has already noted that the removal of all guidance for rate-regulated entities from the CICA Handbook creates a potential for more varied accounting practices in Canada given the application of professional judgement required for the use of another source of GAAP, such as SFAS 71. Therefore, changes in accounting by rate-regulated entities may also result for reasons other than the more restrictive definition of a "rate-regulated entity" under SFAS 71. This would further the aforementioned obstacles with which parties to the regulatory process, as users of rate-regulated entities' financial statements, would be faced in the event that the AcSB's proposal is implemented.

The CEA notes that the needs of regulators and other stakeholders to the regulatory process, as primary users of rate-regulated entities' general purpose financial statements, should be seriously considered by the AcSB. Audited financial statements including regulatory asset and liability balances provide a degree of assurance of reasonableness of these balances to regulators and other stakeholders. Since these amounts are often directly factored into rates set by regulators, any new accounting standards that may result in changes in the accounting for these amounts could create additional costs and introduce confusion into the regulatory process. The AcSB's proposal may be particularly problematic in this regard for publicly-owned regulated entities, given the more restrictive definition of "rate-regulated entities" under SFAS 71 (as pointed out by the AcSB in paragraph 32 of the Basis for Conclusions), which may result in the confusion regarding certain publicly-owned rate-regulated entities' ability to qualify for SFAS 71.

As the CEA has acknowledged above, it is uncertain how certain regulatory balances will be accounted for upon the planned adoption of IFRS for publicly accountable enterprises in 2011. However, the 2011 timeframe still gives parties to the regulatory process more time to understand the implications of such a change and to develop mechanisms to mitigate the potential higher costs associated with these accounting changes.

#### *Elimination of Income Tax Accounting Exemption*

As previously noted, the CEA agrees with the AcSB's proposal to withdraw recognition and measurement guidance from Handbook Section 3465 related to accounting for income taxes by rate-regulated operations. The current guidance provides rate-regulated entities with an option to apply the taxes payable method rather than the liability method of accounting for income taxes. This option appears to be inconsistent with the conceptual framework of Canadian GAAP and the premises of Canadian, US and international accounting standards that GAAP should apply equally to regulated and non-regulated operations. In addition, there do not appear to be sufficient differences in economic reality experience by rate-regulated entities that would justify the income tax accounting exemption. The CEA believes that this exemption will not be made available under the IFRS upon planned convergence in 2011 and, as such, the immediate elimination of this option is in line with the CICA's strategic plan.

2. **Do you agree that AcG-19 should be amended as proposed, and retained? If you do not agree that it should be retained, why not? If you do not agree with the proposed amendments, what changes would you suggest and why?**

The CEA believes that AcG-19 should be retained, whether or not the AcSB chooses to remove detailed recognition and measurement guidance from the CICA Handbook. This disclosure is still appropriate for entities that report regulatory assets or liabilities under SFAS 71. However, this illustrates the dichotomy of removing all measurement and recognition guidance from the Handbook while still retaining AcG-19. After this change was made, we would be left in the strange situation of having a Canadian Handbook guideline governing additional disclosures to be made in relation to application of a U.S. accounting standard. If the AcSB does choose to remove all recognition and measurement guidance from the Handbook, the CEA notes that it would be useful to add some contextual explanation to AcG-19 that cross references the ability to use SFAS 71.

The removal of the reference, in the Guideline's Illustrative Example, to RRO Inc. accounting for income taxes using the taxes payable method, would be consistent with the CEA's proposal to eliminate the option for rate-regulated entities to use the taxes payable method under Section 3465.

3. **Do you agree with the effective date for the proposed amendments to Sections 1100, 1600, 3061, 3465 and 3475, and that the proposals should apply to both interim and annual financial statements for periods beginning on or after that date? If not, what alternative(s) do you propose and why?**

Yes, subject to the comments provided above, the CEA agrees with the proposed effective date.

4. **Do you agree that the effect of any changes in accounting policy required as a result of the proposal to remove the temporary exemption in Section 1100 should apply prospectively, in accordance with paragraph 1100.33? If not, what alternative do you propose and why?**

Yes, the CEA agrees that any changes in accounting policy required as a result of the proposal to remove the temporary exemption in Section 1100 should apply prospectively, in accordance with paragraph 1100.33.


The CEA further submits that all changes resulting from the elimination or alteration of recognition, measurement and disclosure guidance for rate-regulated operations should be applied prospectively, including, but not limited to, the removal of the option to use the taxes payable method under Section 3465. The CEA submits that the AcSB's final position should reflect explicit provisions to this effect.

5. **Do you agree that when initially applying Section 1100 to the recognition and measurement of assets and liabilities arising from rate regulation, and when this results in a change in the accounting for such assets and liabilities, entities should be required to repeat the disclosures made in the comparative period under paragraph 8 of AcG-19, in order to assist financial statements users in performing a comparative analysis? If not, why not?**

The CEA agrees with the above proposed requirement.

Should you require additional information, the Chairman of the Finance and Accounting Committee of the CEA, Neil Brydon, would be pleased to meet with you and discuss this matter further.

Yours sincerely,



Hans R. Konow  
President and Chief Executive Officer

Cc Neil Brydon, Chair, CEA Finance & Accounting Committee