

# 2009 BCSECCOM 180

March 13, 2009

## **Headnote**

National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions – Securities Act*, s. 88 – cease to be a reporting issuer in BC - The issuer's securities are traded only on a market or exchange outside of Canada - Canadian residents own less than 2% of the issuer's securities and represent less than 2% of the issuer's total number of security holders; the issuer does not intend to do a public offering of its securities to Canadian residents, will not be a reporting issuer in a Canadian jurisdiction, is subject to the reporting requirements of UK securities laws, and all shareholders receive the same disclosure

## **Applicable British Columbia Provisions**

*Securities Act*, R.S.B.C. 1996, c. 418, s. 88

In the Matter of  
the Securities Legislation of  
British Columbia, Alberta, Ontario and Québec  
(the Jurisdictions)

and

In the Matter of  
the Process for Exemptive Relief Applications in Multiple Jurisdictions

and

In the Matter of  
BG Group plc  
(the Filer)

Decision

## **Background**

The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the Filer is not a reporting issuer (the Exemption Sought).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a coordinated review application):

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- (a) the Alberta Securities Commission is the principal regulator for this application, and
- (b) the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

### **Interpretation**

Terms defined in National Instrument 14-101 *Definitions* have the same meaning if used in this decision, unless otherwise defined.

### **Representations**

This decision is based on the following facts represented by the Filer:

1. The Filer is a public company incorporated under the laws of England and Wales.
2. The authorised share capital of the Filer is £500,000,001 made up of 5,000,000,010 ordinary shares of 10 pence each (the Ordinary Shares).
3. The Filer is a public company and the Ordinary Shares are listed on the London Stock Exchange (the LSE). As of October 31, 2008 the Filer's market capitalization was 3,579,153,788 Ordinary Shares outstanding.
4. The Filer is a reporting issuer in the Jurisdictions.
5. The Filer is not in default of any of its obligations under the Legislation as a reporting issuer.
6. The Filer is a successor company to BG plc as a result of a corporate and capital restructuring of BG plc which took place in 1999. BG plc was known as British Gas plc prior to a demerger transaction which occurred in 1997. British Gas plc became a reporting issuer in the provinces of British Columbia, Alberta, Ontario and Québec (the Jurisdictions) as a result of a secondary public offering of its shares by Her Majesty's Government of the United Kingdom in 1986.
7. British Gas plc was granted a series of exemptive relief decisions from relevant Canadian securities regulators in the Jurisdictions in 1996 exempting it from the continuous disclosure filing requirements in the Jurisdictions. Following a corporate and capital restructuring in 1999, all of the Jurisdictions granted the Filer the necessary approval to allow the Filer to enjoy the same exemptive relief as that previously enjoyed by British Gas plc. In 2004, the Filer was also granted exemptive relief from the certification requirements of

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Multilateral Instrument 52-109 and disclosure requirements relating to oil and gas activities. In 2005, the Autorité des marchés financiers also granted the necessary exemptive relief (collectively, the Previous Decisions).

8. The Previous Decisions require the Filer to comply with SEC Securities and Exchange Commission (SEC) and New York Stock Exchange (NYSE) requirements and file all SEC and NYSE required disclosure documents in Canada.
9. On September 21, 2007 the Filer terminated the listing of its securities, including the Ordinary Shares, from the NYSE and on December 20, 2007 terminated its registration with the SEC (the Deregistration). As a result, the Filer is no longer required to prepare and file documents prepared in accordance with SEC and NYSE requirements and can no longer comply with all of the conditions of the Previous Decisions.
10. As a result of the Deregistration, the Filer became a “designated foreign issuer” as that term is defined in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (NI 71-102). Since the Deregistration, the Filer has complied with the requirements of the Legislation applicable to designated foreign issuers.
11. As of December 31, 2007 there were:
  - (a) 46,756,282 Ordinary Shares and 162,414 American Depositary Securities (ADS) (representing 812,070 Ordinary Shares) held beneficially by Canadians, directly and indirectly, representing 1.33% of the outstanding capital; and
  - (b) 1,907 securityholders (1,306 Ordinary shareholders and 601 ADS holders) identified as Canadian representing 0.26% of securityholders worldwide.
12. Securityholders resident in Canada do not:
  - (a) directly or indirectly beneficially own more than 2% of each class or series of outstanding securities of the Filer worldwide; and
  - (b) directly or indirectly comprise more than 2% of the total number of securityholders of the Filer worldwide.
13. In the last 12 months, the Filer has not conducted an offering of its securities in Canada or taken any other steps that indicate there is a market for its securities in Canada. The Filer has no plans to raise financing by way of a

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public offering of its securities in Canada or an offering under an exemption from the registration requirement and prospectus requirement of the Legislation.

14. None of the Filer's securities are traded on a marketplace in Canada. The Filer does not currently intend to have its securities listed for trading on a marketplace in Canada.
15. The Filer is subject to the laws of England and Wales and the listing rules of the United Kingdom Listing Authority (the UK Rules).
16. The Filer is subject to, and will continue to comply with, all applicable requirements of applicable UK Rules.
17. On December 1, 2008 the Filer issued and filed a news release announcing that the Filer has submitted an application to the securities regulatory authorities of the Jurisdictions to cease to be a reporting issuer in the Jurisdictions.
18. The Filer has undertaken in favour of each of the Jurisdictions that it will continue to concurrently deliver to its securityholders resident in Canada all disclosure documents it is required by the UK Rules to deliver to U.K. resident securityholders.

### **Decision**

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that the Filer continues to concurrently deliver to its securityholders resident in Canada all disclosure documents it is required by the UK Rules to deliver to U.K. resident securityholders.

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