

# 2010 BCSECCOM 556

September 10, 2010

## **Headnote**

Multilateral Instrument 11-102 *Passport System* and National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* – National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*, section 9.1 - An issuer wants relief from the requirement to audit acquisition statements in accordance with Canadian or U.S. GAAS - An issuer wants relief from the requirement to audit acquisition statements in accordance with Canadian or U.S. GAAS; the issuer acquired or will acquire a business whose historical financial statements have not been audited in accordance with Canadian or U.S. GAAS; the acquired business' financial statements have been audited in accordance with International Standards on Auditing; for various reasons, it would be impractical to re-audit the business' financial statements in accordance with Canadian or U.S. GAAS; the audit report will be accompanied by a statement by the auditor that describes any material differences in the form of report as compared to a Canadian GAAS audit report, and indicates that its report would not contain a reservation if it were prepared in accordance with Canadian GAAS

## **Applicable British Columbia Provisions**

National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*, section 9.1

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

and

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

and

In the Matter of  
Zongshen PEM Power Systems Inc.  
(the Filer)

Decision

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### Background

- ¶ 1 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 be exempted from complying with the requirement in section 6.2 of National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (NI 52-107), under which the financial statements of an acquired company that are included in a business acquisition report filed under section 8.2 of National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) must be audited in accordance with Canadian or United States generally accepted auditing standards (the Exemption Sought).

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

- (a) the British Columbia Securities Commission is the principal regulator for this application;
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* ("MI 11-102") is intended to be relied upon in Alberta; and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

### Interpretation

- ¶ 2 Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning as is used in this decision, unless otherwise defined.

### Representations

- ¶ 3 This decision is based on the following facts represented by the Filer:
- 1. the Filer is a company incorporated under the laws of British Columbia;
  - 2. the Filer's registered and head office is in Vancouver, British Columbia;
  - 3. the Filer manufactures gas and electric motorcycles and electric bicycles in China for the Chinese domestic and international markets;
  - 4. the Filer is a reporting issuer in British Columbia, Alberta and Ontario, and is not in default of securities legislation in any jurisdiction;

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5. the Filer's common shares are listed on the Toronto Stock Exchange under the symbol "ZPP";
6. the Filer's annual financial statements are prepared in accordance with Canadian GAAP and are audited in accordance with Canadian GAAS;
7. as disclosed in a news release dated January 4, 2010 and a material change report dated January 4, 2010, the Filer entered into an agreement to acquire 49% of the equity interest of Chongqing Zongshen Automobile Industry Co., Ltd. (Automobile Industry) and 100% of the equity interest of Chongqing Zongshen Automobile Air Intake System Manufacturing Co., Ltd. (Air Intake);
8. as part of the acquisition, the parties also agreed to enter into a series of agreements which would permit the Filer to (a) fully administer Automobile Industry, (b) obtain the economic benefit from the remaining 51% of the equity of Automobile Industry not acquired by the Applicant (the Remaining Equity), and (c) acquire such Remaining Equity for nominal consideration at such time as is legally permissible (the entering into of such agreements and the acquisition of the equity of Automobile Industry and Air Intake, the Transaction);
9. as disclosed in a news release dated July 5, 2010 and a material change report dated July 9, 2010, the Transaction was completed on July 2, 2010;
10. both Automobile Industry and Air Intake are corporations incorporated under the laws of the People's Republic of China, domiciled in China and are not public companies;
11. the auditor of Automobile Industry and Air Intake is PricewaterhouseCoopers Zhong Tian CPAs Limited Company (the Auditor), which is based in China;
12. the Auditor has represented to the Filer that it has expertise and experience in International Standards on Auditing (ISA) issued by the International Auditing and Assurance Standards Board (IAASB);
13. the combined annual financial statements of Automobile Industry and Air Intake have been prepared in accordance with International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB) and audited in accordance with ISA issued by the IAASB;
14. the Transaction was a "significant acquisition" for the Filer, within the meaning of section 8.3 of NI 51-102, for which the Filer is required to file a

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business acquisition report (BAR) in accordance with section 8.2 of NI 51-102;

15. under section 8.4 of NI 51-102, certain historical audited annual financial statements and unaudited interim financial statements of Automobile Industry and Air Intake are required to be included in the BAR;
16. the Filer will include the following financial statements of Automobile Industry and Air Intake in the BAR:
  - (a) audited annual combined financial statements and notes for Automobile Industry and Air Intake for the financial year ended December 31, 2009, together with the auditor's report (the Audited Financial Statements); and
  - (b) unaudited interim combined financial statements and notes of Automobile Industry and Air Intake for the six months ended June 30, 2010;
17. the Audited Financial Statements have been prepared in accordance with IFRS issued by the IASB and audited in accordance with ISA issued by the IAASB;
18. section 6.2 of NI 52-107 does not permit the Filer to file the Audited Financial Statements audited in accordance with ISA as the Filer is not a "foreign issuer" within the meaning of NI 52-107; and
19. the Filer will include in the BAR clear disclosure as to the basis of presentation of the Audited Financial Statements and that they have been audited in accordance with ISA issued by the IAASB.

### **Decision**

- ¶ 4 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:

- (a) the Audited Financial Statements are audited in accordance with ISA issued by the IAASB;
- (b) the auditor's report accompanying the Audited Financial Statements contains or is accompanied by a statement by the auditor that:

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- (i) describes any material differences in the form and content of the auditor's report prepared in accordance with ISA as compared to an auditor's report prepared in accordance with Canadian GAAS; and
- (ii) indicates that an auditor's report prepared in accordance with Canadian GAAS would not contain a reservation.

Martin Eady, CA  
Director, Corporate Finance  
British Columbia Securities Commission