

**Headnote**

Multilateral Instrument 11-102 *Passport System* and National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* – National Instrument 51-102, s. 13.1 - *Continuous Disclosure Obligations* - An issuer wants relief from the requirements to file and/or deliver financial statements for a particular period – A compulsory acquisition procedure pursuant to corporate legislation has been undertaken, prior to the filing deadline, in relation to the issuer and its shareholders pursuant to which all of the issuer's securities will be acquired by the offeror by a fixed date

National Instrument 52-109, s. 8.6 - *Certification of Disclosure in Issuers' Annual and Interim Filings* – An issuer wants relief from the requirements in Part 5 of NI 52-109 to file interim certificates – The issuer has applied for and received an exemption from filing interim financial statements

**Applicable Legislative Provisions**

National Instrument 51-102, s. 13.1

National Instrument 52-109, s. 8.6

April 29, 2013

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  
Western Wind Energy Corp.  
(the Filer)

Decision

**Background**

- ¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (the 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 exempt from the requirements:

- (a) under National Instrument 51-102 - *Continuous Disclosure Obligations* (NI 51-102) to prepare, file and, where required, deliver to shareholders annual financial statements and related management's discussion and analysis as at and for the financial year ended December 31, 2012 (the Annual Statements);
  - (b) under National Instrument 52-109 - *Certification of Disclosure in Issuer's Annual and Interim Filings* (NI 52-109) to file annual certificates (the Annual Certificates) in connection with the filing of the Annual Statements;
  - (c) under NI 51-102 to prepare, file and, where required, deliver to shareholders interim financial statements and related management's discussion and analysis as at and for the interim period ended March 31, 2013 (the Interim Statements); and
  - (d) under NI 52-109 to file interim certificates (the Interim Certificates) in connection with the filing of the Interim Statements,
- (the Exemptive Relief 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* 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 if 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 corporation validly existing under the *Business Corporations Act* (British Columbia) (the BCBCA), is a reporting issuer in the Jurisdictions and is not in default of the securities legislation in any of the Jurisdictions;
  2. the Filer's head office is located at Suite 1326 – 885 West Georgia Street, Vancouver, British Columbia;

3. the Filer's authorized capital consists of an unlimited number of common shares and an unlimited number of preferred shares, of which only common shares (Shares) are currently outstanding; the Shares are listed on the TSX Venture Exchange under the trading symbol "WND";
4. the Filer has no other outstanding securities, including debt securities, other than share purchase warrants (Warrants) to purchase 400,374 Shares; there are two holders of Warrants (each, a Warrantholder) as follows:
  - (a) one holder (Warrantholder A) beneficially owns 400,000 Warrants with an exercise price of \$2.50; and
  - (b) one holder (Warrantholder B) beneficially owns 374 Warrants with an exercise price of \$2.00;
5. Brookfield Renewable Energy Partners L.P. (Brookfield Renewable), through WWE Equity Holdings Inc. (the Offeror), an indirect subsidiary of Brookfield Renewable, made an offer (the Offer), under an offer and take-over bid circular dated November 26, 2012 (the Circular), as amended by a notice of variation and extension dated January 28, 2013, a notice of extension dated February 11, 2013 and a notice of extension dated February 21, 2013, to purchase all of the issued and outstanding Shares (other than Shares owned by the Offeror, Brookfield Renewable or any subsidiary of Brookfield Renewable), and Shares that became issued and outstanding after the date of the Offer upon the exercise of options under the Filer's stock option plan or upon the exercise of the Warrants, at a price of \$2.60 per Share;
6. the Offer expired at 5:00 p.m. (Toronto time) on March 7, 2013;
7. shareholders of the Filer holding, in the aggregate, approximately 91.48% of the issued and outstanding Shares (on a fully diluted basis other than Shares owned by the Offeror, Brookfield Renewable or any subsidiary of Brookfield Renewable) accepted the Offer;
8. the Offeror took up 35,443,025 Shares on February 21, 2013 (which were paid for on February 25, 2013), and after extending the expiry time of the Offer, took up an additional 21,174,384 Shares on March 7, 2013 (which were paid for on March 11, 2013);
9. in the Circular, the Offeror disclosed that if the Offer was accepted by shareholders of the Filer who, in the aggregate, held at least 90% of the issued and outstanding Shares (on a fully diluted basis and other than Shares owned by the Offeror, Brookfield Renewable or any subsidiary of Brookfield Renewable), the Offeror intended, to the extent possible, to acquire the Shares not tendered to the Offer under the compulsory acquisition provisions of section 300 of the BCBCA;

10. on March 20, 2013, under section 300 of the BCBCA, the Offeror sent to those shareholders of the Filer who have not accepted the Offer (the Remaining Shareholders) notice that the Offeror will acquire the Shares held by the Remaining Shareholders (the Acquisition Notice);
11. section 300 of the BCBCA provides that once the Acquisition Notice has been sent, the Offeror is entitled and bound to acquire all of the Shares held by the Remaining Shareholders for the same price and on the same terms contained in the Offer;
12. a Remaining Shareholder is entitled to make an application to the court and the court may by order set the price and terms for payment of the Shares, make consequential orders and give such directions as the court considers appropriate; as of April 22, 2013, none of the Filer, Brookfield Renewable or the Offeror have received notice of any such application by a Remaining Shareholder, nor are they aware that any Remaining Shareholder intends to make any such application;
13. if a Warrantholder exercises its Warrants for Shares, the Offeror will offer to purchase such Shares for the same price as contained in the Offer; based on discussions with the Warrantholders, the Filer understands that:
  - (a) Warrantholder A intends to exercise its Warrants shortly before the Acquisition Date (as defined below); and
  - (b) Warrantholder B does not intend to exercise its Warrants and obtain the cash consideration for the underlying Shares under the compulsory acquisition as the amount is immaterial;
14. a Warrantholder is entitled to make an application to the court and the court may by order set the price and terms for payment of the Shares, make consequential orders and give such directions as the court considers appropriate; as of April 22, 2013, none of the Filer, Brookfield Renewable or the Offeror have received notice of any such application by a Warrantholder, nor are they aware that any Warrantholder intends to make any such application or is otherwise opposed to the compulsory acquisition or the Exemptive Relief Sought;
15. provided the court has not ordered otherwise, under the provisions of section 300 of the BCBCA, the Offeror intends to deliver to the Filer on or about May 20, 2013 (the Acquisition Date) a copy of the Acquisition Notice and payment for the Shares held by the Remaining Shareholders;
16. section 300 of the BCBCA provides that such delivery and payment by the Offeror may not be made for a period of at least two months after the date the Acquisition Notice is sent to the Remaining Shareholders;
17. section 300 of the BCBCA also provides that, upon receipt of the Acquisition Notice and the payment to which the Remaining Shareholders are entitled, the Filer must

register the Offeror as the shareholder with respect to the Shares held by the Remaining Shareholders; the Remaining Shareholders will continue as shareholders of the Filer until the Acquisition Date;

18. in a news release dated March 7, 2013, Brookfield Renewable announced that it will cause the Filer to cease to be a reporting issuer under applicable securities laws as soon as possible, and in a news release dated March 20, 2013, the Filer announced that the Offeror has mailed the Acquisition Notice and the Filer has applied to securities regulatory authorities in the Jurisdictions to request exemptive relief from the requirement to prepare, file and send the Annual Statements, Interim Statements and related materials to the Filer's shareholders, pending the completion of the compulsory acquisition;
19. immediately after the Acquisition Date, the Filer intends to file with the British Columbia Securities Commission a notice to surrender its status as a reporting issuer in British Columbia and to make an application for a decision that it is not a reporting issuer in Alberta and Ontario; the Filer also intends to apply to the TSX Venture Exchange to have the Shares de-listed and anticipates that the de-listing will occur on or about May 22, 2013;
20. on April 10, 2013, the Filer filed a Form 15F with the U.S. Securities and Exchange Commission to terminate the registration of its Shares under the U.S. Securities Exchange Act of 1934, as amended (the U.S. Exchange Act); the Filer's duty to file reports under Section 13(a) and Section 15(d) of the U.S. Exchange Act was suspended immediately upon filing the Form 15F; the termination of the Filer's registration under the U.S. Exchange Act is expected to become effective 90 days after filing the Form 15F;
21. absent the Exemptive Relief Sought being granted, the Filer is required to:
  - (a) prepare and file the Annual Statements on or before April 30, 2013 with the securities regulatory authorities of the Jurisdictions;
  - (b) file the Annual Certificates concurrently with the filing of the Annual Statements;
  - (c) prepare and file the Interim Statements on or before May 30, 2013 with the securities regulatory authorities of the Jurisdictions; and
  - (d) file the Interim Certificates concurrently with the filing of the Interim Statements; and
22. the Offeror has advised the Filer that it has no need to obtain, in the form of the Annual Statements, the Interim Statements, the Annual Certificates and the Interim Certificates, the information to be set out in the Annual Statements, the Interim Statements, the Annual Certificates and the Interim Certificates.

**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 Exemptive Relief Sought is granted.

Peter Brady  
Director, Corporate Finance  
British Columbia Securities Commission