

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 securities of the issuer are beneficially owned by not more than 50 persons and are not traded through any exchange or market - The issuer is not an OTC reporting issuer; the securities of the issuer are beneficially owned by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders worldwide; no securities of the issuer are traded on a market in Canada or another country; the issuer is not in default of securities legislation except it has not filed certain continuous disclosure documents

Applicable Legislative Provisions

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

January 16, 2018

In the Matter of
the Securities Legislation of
British Columbia
(the Jurisdiction)

and

In the Matter of
the Process for Cease to be a Reporting Issuer Applications

and

In the Matter of
Sea Breeze Power Corp.
(the Filer)

Order

Background

- ¶ 1 The principal regulator in the Jurisdiction has received an application from the Filer for an order under the securities legislation of the Jurisdiction of the principal regulator (the Legislation) that the Filer has ceased to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer (the Order Sought).

Under the Process for Cease to be a Reporting Issuer Applications (for a passport application):

(a) the British Columbia Securities Commission is the principal regulator for this application, and

(b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta.

Interpretation

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

Representations

¶ 3 This order is based on the following facts represented by the Filer:

1. the Filer is incorporated under the *Business Corporations Act* (British Columbia);
2. the Filer's head office is located in Vancouver, British Columbia;
3. the Filer's authorized share capital consists of an unlimited number of common shares (the Common Shares) and 20,000,000 preferred shares, of which 43 Common Shares are issued and outstanding;
4. on December 30, 2016, the Filer and its wholly owned subsidiary, Sea Breeze Energy Inc. (together, the Proposal Companies) filed a proposal to their creditors (the Proposal) pursuant to the *Bankruptcy and Insolvency Act*;
5. the unsecured creditors of the Proposal Companies and the British Columbia Supreme Court approved the Proposal, pursuant to which Tu-Can Energy LLC, a limited liability company controlled by a secured creditor group, became the sole shareholder of the Filer;
6. the transactions contemplated by the Proposal were deemed to have occurred on May 9, 2017, and on December 14, 2017 the Common Shares were delisted from the TSX Venture Exchange;
7. the Filer is not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*;
8. the outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;
9. no securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

10. the Filer is applying for an order that the Filer has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer;
11. the Filer did not meet its obligation to file on or before May 1, 2017 its annual financial statements and management discussion and analysis for financial year ending December 31, 2016, as required under National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) and certificates as required under National Instrument 52-109 *Certification of Disclosure in Issuer's Annual and Interim Filings* (NI 52-109) (collectively, the Annual Filings);
12. the British Columbia Securities Commission issued a cease trade order on May 5, 2017 (the Cease Trade Order) because the Filer did not file the Annual Filings;
13. on May 26, 2017, the British Columbia Securities Commission issued a partial revocation of the Cease Trade Order to permit the Filer to complete the transactions contemplated by the Proposal;
14. the defaults that led to the issuance of the Cease Trade Order remain;
15. the Filer is not in default of securities legislation in any jurisdiction other than its obligation to file the Annual Filings and the obligation arising since the issuance of the Cease Trade Order to file its interim financial reports and management discussion and analysis for the periods ended March 31, 2017, June 30, 2017 and September 30, 2017 as required under NI 51-102 and certificates as required under NI 52-109 (collectively, the Interim Filings); and
16. the Filer is not eligible to use the simplified procedure under National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* as it is in default for failure to file the Annual Filings and the Interim Filings.

Order

- ¶ 4 The principal regulator is satisfied that the order meets the test set out in the Legislation for the principal regulator to make the order.

The decision of the principal regulator under the Legislation is that the Order Sought is granted.

John Hinze
Director, Corporate Finance
British Columbia Securities Commission