

# 2011 BCSECCOM 401

August 18, 2011

## Headnote

Multilateral Instrument 11-102 *Passport System* and National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* – National Instrument 52-107 - An issuer that is not an SEC issuer wants to file financial statements prepared in accordance with U.S. GAAP - the Filer does not currently intend to become a SEC registrant; the Filer has activities subject to rate regulation; U.S. GAAP has standards that apply to activities subject to rate regulation; the Filer will prepare its financial statements in accordance with U.S. GAAP for its financial years that begin on or after January 1, 2012; the relief is temporary, ending for financial periods that begin on or after January 1, 2015

## Applicable Legislative Provisions

National Instrument 52-107, s. 5.1 *Acceptable Accounting Principles and Auditing Standards*

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  
Pacific Northern Gas Ltd.  
(the Filer)

## Decision

## Background

- ¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (the Decision Maker) have received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) exempting the Filer

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from the requirements under section 3.2 of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (NI 52-107) that financial statements be prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises (the Exemption Sought) to permit PNG to prepare its financial statements in accordance with U.S. GAAP for its financial years that begin on or after January 1, 2012 but before January 1, 2015.

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, Saskatchewan, Manitoba, Québec, Nova Scotia, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Yukon Territory, the Northwest Territories and Nunavut; 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*, MI 11-102 and NI 52-107 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 existing under the laws of British Columbia; the head and registered offices of the Filer are in Vancouver, British Columbia;
  - 2. the Filer is a reporting issuer or equivalent in each jurisdiction; the Filer is not in default of securities legislation in any jurisdiction;
  - 3. the Filer is not an SEC issuer;
  - 4. the Filer has activities subject to rate regulation as defined in the Handbook;
  - 5. as a qualifying entity for the purposes of section 5.4 of NI 52-107, the Filer is permitted by that provision to prepare its financial statements for its financial year commencing January 1, 2011 and ending December 31, 2011 in accordance with Canadian GAAP - Part V of the Handbook; and

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6. if the Filer were an SEC issuer, it would be permitted by section 3.7 of NI 52-107 to file its financial statements prepared in accordance with U.S. GAAP, which accords treatment of activities subject to rate regulation - similar to that under Canadian GAAP – Part V.

### **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 Maker under the Legislation is that the Exemption Sought is granted provided that:

- (a) for its financial years commencing on or after January 1, 2012 but before January 1, 2015 and interim periods therein, the Filer prepares its financial statements in accordance with U.S. GAAP; and
- (b) information for comparative periods presented in the financial statements referred to in paragraph (a) is prepared in accordance with U.S. GAAP.

The Exemption Sought will terminate in respect of the Filer's financial statements for annual and interim periods commencing on or after the earlier of:

- (a) January 1, 2015; and
- (b) the date on which the Filer ceases to have activities subject to rate regulation as defined in the Handbook as at the date of this decision.

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