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January 26, 2006

### Headnote

Mutual Reliance Review System for Exemptive Relief Applications - *Securities Act*, s. 171 – revocation of a previous decision - An issuer wants a previous decision revoked - Since the previous relief was granted the issuer has become subject to NI 51-102 in additional jurisdictions and continuous disclosure requirements under other national and multilateral instruments; a replacement order will update and consolidate all the issuer's continuous disclosure relief

National Instrument 51-102 *Continuous Disclosure Obligations*, s. 13.1 – all continuous disclosure requirements - An exchangeable share issuer wants an exemption from having to file continuous disclosure documents to permit it to rely on the continuous disclosure documents of its parent issuer - The issuer is an exchangeable share issuer that complies with all of the conditions for continuous disclosure relief in section 13.3 of National Instrument 51-102 *Continuous Disclosure Obligations* except that its parent issuer is not an SEC issuer; the parent issuer is a Canadian reporting issuer that will send copies of all of its documents to the securityholders of the exchangeable share issuer and explain the reasons the information sent to them relates to the parent, rather than the exchangeable share issuer; the exchangeable share issuer will remain a subsidiary of the parent issuer, and will not issue any securities other than exchangeable shares or debt instruments to certain parties

Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*, s. 4.5 – certification of annual and interim f/s - An issuer wants relief from the requirements in Parts 2 and 3 of MI 52-109 to file annual and interim certificates - The issuer has applied for and received an exemption from filing annual and interim financial statements

National Instrument 51-101 *Standards of Disclosure for Oil & Gas Activities*, s. 8.1 – annual reporting requirements/directors' & officers' responsibilities - A reporting issuer wants relief from the requirements contained in Part 2 Annual Filing Requirements and in Part 3 Responsibilities of Reporting Issuers and Directors -The issuer is a wholly owned subsidiary of a trust; the issuer and the trust are both reporting issuers; the issuer is exempt from continuous disclosure obligations on the basis that the trust's disclosure record will be filed and delivered in place of the issuer's disclosure record; the trust is subject to NI 51-101 and will provide all of the disclosure required in Parts 2 and 3 of NI 51-101

### Applicable British Columbia Provisions

*Securities Act*, R.S.B.C. 1996, c. 418, s. 171

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National Instrument 51-102, s. 13.1

Multilateral Instrument 52-109, Parts 2 and 3, s. 4.5

National Instrument 51-101, Parts 2 and 3, s. 8.1

In the Matter of  
the Securities Legislation of  
British Columbia, Alberta, Saskatchewan, Manitoba,  
Ontario, Quebec, New Brunswick, Nova Scotia,  
Newfoundland and Labrador, Yukon Territory, Northwest Territories  
and Nunavut Territory (the Jurisdictions)

and

In the Matter of  
the Mutual Reliance Review System for Exemptive Relief Applications

and

In the Matter of  
True Energy Inc. (the Filer)

### MRRS Decision Document

#### **Background**

1. The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that:
  - 1.1 Except in Yukon Territory, Northwest Territories and Nunavut, the Filer be exempted from Part 2 (Annual Filing Requirements) and Part 3 (Responsibilities of Reporting Issuers and Directors) of National Instrument 51-101 – Standards of Disclosure for Oil and Gas Activities (NI 51-101) (the NI 51-101 Relief);
  - 1.2 Except in Yukon Territory, Northwest Territories and Nunavut, the Filer be exempted from National Instrument 51-102 – Continuous Disclosure Obligations (NI 51-102) and from any comparable continuous disclosure requirements under the Legislation that has not yet been repealed or otherwise rendered ineffective as a consequence of the adoption of NI 51-102 (the Continuous Disclosure Requirements) (collectively, the Continuous Disclosure Relief);

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- 1.3 Except in Yukon Territory and Nunavut, the Filer be exempted from Multilateral Instrument 52-109 – Certification of Disclosure in Issuers' Annual and Interim Filings (MI 52-109) (the MI 52-109 Relief); and
- 1.4 Except in Nova Scotia, Northwest Territories and Saskatchewan, the exemptive relief regarding the Continuous Disclosure Relief that was previously granted to the Filer pursuant to Section 6.4 of a MRRS Decision Document dated November 11, 2004 (the Previous Decision) be revoked.
2. Under the Mutual Reliance Review System for Exemptive Relief (the MRRS):
  - 2.1 The Alberta Securities Commission is the principal regulator for this application; and
  - 2.2 This MRRS decision document evidences the decision of each Decision Maker.

### **Interpretation**

3. Defined terms contained in National Instrument 14-101 – Definitions have the same meaning in this decision unless they are defined in this decision.

### **Representations**

4. The decision is based on the following facts represented by the Filer:
  - 4.1 The Filer was amalgamated under the Business Corporations Act (Alberta) on November 2, 2005;
  - 4.2 The head office and registered office of the Filer is in Calgary, Alberta;
  - 4.3 As at November 2, 2005, all of the issued and outstanding common shares of the Filer are owned by True Energy Trust (the Trust), and 895,097 exchangeable shares (Exchangeable Shares) are issued and outstanding;
  - 4.4 Neither the common shares of the Filer nor the Exchangeable Shares are listed or quoted on any marketplace;
  - 4.5 The Filer is a reporting issuer in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador;

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- 4.6 The Trust was originally formed as TKE Energy Trust pursuant to a trust indenture dated September 27, 2004 under the laws of Alberta;
- 4.7 The head office of the Trust is located in Calgary, Alberta;
- 4.8 The Unitholders are the sole beneficiaries of the Trust. Computershare Trust Company of Canada (the Trustee) is the trustee of the Trust. The Filer is the administrator of the Trust;
- 4.9 The Trust Units are listed and posted for trading on The Toronto Stock Exchange (the TSX);
- 4.10 The Trust is a reporting issuer in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick and Nova Scotia;
- 4.11 The Exchangeable Shares are, to the extent possible, the economic equivalent of the Trust Units;
- 4.12 The Exchangeable Shares have voting attributes equivalent to those of the Trust Units;
- 4.13 Holders of Exchangeable Shares receive all disclosure materials that the Trust is required to send to holders of Trust Units under the Legislation;
- 4.14 Pursuant to the Previous Decision, the Filer was exempted from, in all of the Jurisdictions, other than Nova Scotia, Prince Edward Island, Northwest Territories and Saskatchewan, the requirements to issue a press release and file a report with the Jurisdictions upon the occurrence of a material change, file an annual report, where applicable, file interim financial statements and audited annual financial statements with the Jurisdictions and deliver such statements to the securityholders of the Filer, file and deliver an information circular or make an annual filing with the Jurisdictions in lieu of filing an information circular, file an annual information form, file a business acquisition report if required, and provide management's discussion and analysis of financial condition and results of operations, all as more particularly set out in NI 51-102;
- 4.15 MI 52-109 requires every issuer to file certain certificates at the time of filing an AIF, annual financial statements and annual MD&A. As the Filer has been exempted from continuous disclosure obligations

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under the Previous Decision and is seeking similar relief hereunder, the required certification is not useful;

- 4.16 NI 51-101 requires reporting issuers to file certain information with respect to the issuer's oil and gas activities. The Filer has applied to be exempted from the filing requirements under NI 51-101 as the Trust is required to file the same information.

### **Decision**

5. Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.
6. The decision of the Decision Makers under the Legislation is as follows:
  - 6.1 Section 6.4 of the Previous Decision is revoked;
  - 6.2 the Continuous Disclosure Relief is granted for so long as:
    - 6.2.1 the Trust is a reporting issuer in at least one of the jurisdictions listed in Appendix "B" of Multilateral Instrument 45-102 – Resale of Securities and is an electronic filer under System for Electronic Documents Analysis and Retrieval (SEDAR);
    - 6.2.2 the Filer sends, or causes the Trust to send on the Filer's behalf, concurrently to all holders of Exchangeable Shares resident in the Jurisdictions, all disclosure material that is sent to holders of Trust Units under the Continuous Disclosure Requirements in the manner and time required by securities legislation;
    - 6.2.3 the Trust files with each Decision Maker copies of all documents required to be filed by it pursuant to NI 51-102;
    - 6.2.4 concurrently with the filing of the documents required to be filed by the Trust pursuant to the Continuous Disclosure requirements and MI 52-109 (the Trust Documents), the Filer files, or causes the Trust to file on its behalf, in electronic format under the SEDAR profile of the Filer either,
      - 6.2.4.1 the Trust documents, or
      - 6.2.4.2 a notice that indicates:

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- 6.2.4.2.1 that the Filer has been granted an exemption from the Continuous Disclosure Requirements and the requirements of MI 52-109,
    - 6.2.4.2.2 that the Trust has filed the Trust Documents, and
    - 6.2.4.2.3 where a copy of the Trust Documents can be found for viewing on SEDAR by electronic means;
  - 6.2.5 the Trust is in compliance with the requirements in the securities legislation of the Jurisdictions and of any marketplace on which the securities of the Trust are listed or quoted in respect of making public disclosure of material information on a timely basis;
  - 6.2.6 the Filer issues a news release and files a material change report in accordance with Part 7 of NI 51-102 for all material changes in respect of the affairs of the Filer that are not also material changes in the affairs of the Trust;
  - 6.2.7 the Trust includes in all mailings of proxy solicitation materials to holders of Exchangeable Shares a clear and concise statement that explains the reason the mailed material relates solely to the Trust, indicates that Exchangeable Shares are the economic equivalent to the Trust Units and describes any rights associated with the Exchangeable Shares;
  - 6.2.8 the Trust remains a direct or indirect beneficial owner of all of the issued and outstanding voting securities of the Filer; and
  - 6.2.9 the Filer does not issue any securities other than Exchangeable Shares, securities issued to the Trust or its affiliates or debt securities issued to banks, loan corporations, trust corporations, treasury branches, credit unions, insurance companies or other financial institutions.
- 6.3 The NI 51-101 Relief is granted for so long as:
- 6.3.1 the Filer files with each Decision Maker, or causes the Trust to file on its behalf, copies of all documents required to be filed by

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the Trust pursuant to NI 51-101 (the 51-101 Documents) and concurrently with the filing of the NI 51-101 Documents, the Filer files, or causes the Trust to file on its behalf, in electronic form and under the SEDAR profile of the Filer either:

6.3.1.1 the NI 51-101 Documents, or

6.3.1.2 a notice that indicates:

6.3.1.2.1 that the Filer has been granted an exemption from the requirements of Part 2 (Annual Filing Requirements) and Part 3 (Responsibilities of Reporting Issuers and the Directors) of NI 51-101,

6.3.1.2.2 that the Trust has filed the NI 51-101 Documents, and

6.3.1.2.3 where a copy of the NI 51-101 Documents can be found for viewing on SEDAR by electronic means;

6.3.2 the Filer disseminates, or causes the Trust to disseminate on the Filer's behalf a news release announcing the filing by the Filer or the Trust of the information set out in Section 6.3.1 above, and indicating where a copy of the filed information can be found for viewing on SEDAR by electronic means;

6.3.3 the Filer is exempt from or otherwise not subject to Continuous Disclosure Requirements and the Filer and the Trust are in compliance with the Previous Decision;

6.3.4 if disclosure to which NI 51-101 applies is made by the Filer separately from the Trust, the disclosure includes a statement to the effect that the Filer is relying on an exemption from further requirements to file information annually under NI 51-101 separately from the Trust, and indicates where disclosure under NI 51-101 filed by the Trust (or by the Filer, if applicable) can be found for viewing on SEDAR by electronic means; and

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6.3.5 if the Trust files a material change report to which Section 6.1 of NI 51-101 applies, the Filer files the same material change report.

6.4 The MI 52-109 Relief is granted for so long as:

6.4.1 the Filer is not required to, and does not, file its own interim filings and annual filings (as those terms are defined under MI 52-109);

6.4.2 the Filer files, or causes the Trust to file on its behalf, in electronic format under the SEDAR profile of the Filer the:

- (i) certification of interim filings of the Trust required under Part 3 of NI 52-109; and
- (ii) certification of annual filings of the Trust required under Part 2 of NI 52-109

at the same time as such documents are required to be filed by the Trust under the Legislation; and

6.4.3 the Filer is exempt from or otherwise not subject to the Continuous Disclosure Requirements.

Mavis Legg, CA  
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Alberta Securities Commission