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Headnote

Mutual Reliance Review System for Exemptive Relief Applications - exemption from the requirement contained in Multilateral Instrument 45-102 *Resale of Securities* for a qualifying issuer to have a current annual information form filed on the system for electronic document analysis and retrieval – issuer relying on reverse takeover information circular as an alternative form of annual information form

Applicable British Columbia Provisions

Multilateral Instrument 45-102 *Resale of Securities*, subsections 1.1 and 4.1

IN THE MATTER OF THE SECURITIES LEGISLATION OF ALBERTA AND BRITISH COLUMBIA

AND

IN THE MATTER OF THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF DELPHI ENERGY CORP.

MRRS DECISION DOCUMENT

1. WHEREAS the local securities regulatory authority or regulator (collectively, the “Decision Makers”) in each of Alberta and British Columbia (the “Jurisdictions”) has received an application from Delphi Energy Corp. (“Delphi”) for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that for the purposes of Multilateral Instrument 45-102 *Resale of Securities* (“MI 45-102”), Delphi be temporarily exempt from the requirement contained in the definition of qualifying issuer to have a current AIF filed on the system for electronic document analysis and retrieval (“SEDAR”);
2. AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the “System”), the Alberta Securities Commission is the principal regulator for this application;
3. AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 *Definitions*;
4. AND WHEREAS Delphi has represented to the Decision Makers that:

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- 4.1 Delphi was incorporated pursuant to the *Business Corporations Act* (Alberta) on June 8, 1995, as 657334 Alberta Ltd. (“657334”). On November 14, 1995, 657334 amended its Articles of Incorporation by changing its name from 657334 to Rise Energy Ltd. (“Rise”). On August 17, 2001, Rise amalgamated with Red Raven Resources Inc. On June 19, 2003, Rise and DT Energy Ltd. (“DTE”) completed a plan of arrangement under which Rise changed its name to Delphi;
- 4.2 The head office of Delphi is located at 1500, 444 – 5th Avenue S.W., Calgary, Alberta T2P 2T8 and the registered office of Delphi is located at 4500, 855 – 2nd Street S.W., Calgary, Alberta T2P 4K7;
- 4.3 Delphi is a reporting issuer under the Legislation in each of the Jurisdictions and is not in default of any of its obligations under the Legislation;
- 4.4 Delphi's authorized share capital consists of an unlimited number of common shares and an unlimited number of preferred shares;
- 4.5 As at December 2, 2003, 23,928,183 Delphi common shares were issued and outstanding and no other shares were outstanding;
- 4.6 Delphi's common shares have been listed on the TSX Venture Exchange (the “Exchange”) since August 17, 2001;
- 4.7 Pursuant to an amended and restated Arrangement Agreement dated as of March 18, 2003, Delphi and DTE agreed to an arrangement, pursuant to which Delphi acquired all of the shares of DTE and subsequently amalgamated with DTE (the “Arrangement”). After the completion of the Arrangement the former shareholders of DTE controlled approximately 87.5% of the common shares of Delphi;
- 4.8 The Arrangement constituted a reverse take-over (“RTO”) under Exchange Policy 5.2 *Changes of Business and Reverse Take-overs* (“Exchange Policy 5.2”). The disclosure requirements of Exchange Policy 5.2 are substantially the same as the requirements in Exchange Policy 2.4 *Capital Pool Companies* (“Exchange Policy 2.4”). An information circular filed pursuant to Exchange Policy

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2.4 that has been reviewed and accepted by the Exchange is one of the items defined as a current AIF in MI 45-102;

- 4.9 A joint information circular in the form required by Exchange Policy 5.2, was delivered to all security holders of Rise and DTE, on May 21, 2003, in connection with the Arrangement (the “Circular”);
- 4.10 The Circular contains financial statement disclosure similar to that which is typically required to obtain a final receipt for a prospectus:
- (a) audited financial statements of Rise as at and for the year ended December 31, 2002, the nine months ended December 31, 2001 and the year ended March 31, 2001;
 - (b) audited financial statements of DTE as at and for the years ended December 31, 2002 and 2001 and for the period from incorporation on September 20, 2000 to December 31, 2000;
 - (c) audited statement of revenue and expenses of the Fontas Properties acquired by DTE in 2002; and
 - (d) pro forma financial statements for Delphi for the year ended December 31, 2002 accompanied by a compilation report;
- 4.11 The Circular was filed with the Exchange and was reviewed and approved by the Exchange pursuant to Exchange Policy 5.2;
- 4.12 A Special Meeting of security holders of Rise and DTE was held on June 18, 2003 at which time the securityholders of Rise and DTE approved the Arrangement;
- 4.13 By Final Order of the Court of Queen's Bench of Alberta granted on June 19, 2003, the Arrangement was approved and, upon filing of Articles of Arrangement, was made effective;
- 4.14 Delphi intends to issue approximately 1.1 million common shares on a flow-through basis (the “Shares”) at a price of \$2.20 per share (the “Private Placement”) before the end of 2003;

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- 4.15 Delphi has satisfied the definition of “qualifying issuer” in MI 45-102 except that it does not have a current AIF and technical reports and certificates prepared in accordance with NP 2-B *Guide for Engineers and Geologists Submitting Oil and Gas Reports to Canadian Provincial Securities Administrators* (the “Technical Reports”) filed on SEDAR, as it:
- (a) is a reporting issuer in Alberta and British Columbia, both being jurisdictions listed in Appendix B of MI 45-102;
 - (b) is an electronic filer under NI 13-101; and
 - (c) has met the listing requirements of and has its common shares listed on the Exchange.
- 4.16 Delphi will file the Technical Reports on SEDAR prior to closing the Private Placement;
- 4.17 Delphi is relying on statutory exemptions from the prospectus and registration requirements of the Legislation in order to distribute the Shares under the Private Placement;
- 4.18 Delphi has received conditional approval from the Exchange for the listing of the Shares under the Private Placement;
- 4.19 Delphi does not have a current AIF, as defined in MI 45-102, filed on SEDAR, and as such it is not a qualifying issuer under MI 45-102;
- 4.20 The Circular contains substantially all of the information that is prescribed by Form 44-101F1 – AIF of National Instrument 44-101 *Short Form Prospectus Distributions* except as modified by the Exchange in respect of certain matters;
- 4.21 The Circular complies substantially with the form required by the Exchange for an RTO, which contains substantially all of the information contained in a CPC information circular;
5. AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the “Decision”);

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6. AND WHEREAS 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;
7. THE DECISION of the Decision Makers under MI 45-102 is that:
 - 7.1 under section 4.1(1) of MI 45-102, Delphi is exempt from the requirement contained in the definition of qualifying issuer to have a current AIF filed on SEDAR provided that:
 - 7.1.1 Delphi files a Form 45-102F2 on or before the tenth day after the date the Shares are issued certifying that it is a qualifying issuer except for the requirement that Delphi have a current AIF;
 - 7.1.2 at the distribution date of any securities, Delphi has filed a notice on SEDAR advising that it has filed the Circular as an alternative form of AIF and identifying the SEDAR project number under which the Circular was filed; and
 - 7.1.3 Delphi files the Technical Reports prior to the closing of the Private Placement;
 - 7.2 this order will expire 140 days after Delphi's financial year end.

DATED this 16th day of December, 2003

Glenda A. Campbell, Q.C., Vice-Chair

Stephen R. Murison, Vice-Chair