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June 18, 2010

Headnote

Multilateral Instrument 11-102 *Passport System* and National Policy 11-203
Process for Exemptive Relief Applications in Multiple Jurisdictions

National Instrument 52-107, s. 9.1 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* - An issuer wants relief from the requirement to audit acquisition statements in accordance with Canadian or U.S. GAAS - the issuer acquired or will acquire a business whose historical financial statements have not been audited in accordance with Canadian or U.S. GAAS; the acquired business' financial statements have been audited in accordance with International Standards on Auditing; for various reasons, it would be impractical to re-audit the business' financial statements in accordance with Canadian or U.S. GAAS; the audit report will be accompanied by a statement by the auditor that describes any material differences in the form of report as compared to a Canadian GAAS audit report, and indicates that its report would not contain a reservation if it were prepared in accordance with Canadian GAAS

National Instrument 44-101, s. 8.1 *Short Form Prospectus Distributions* – Financial Statements - An issuer wants relief from the requirement to review interim acquisition statements in accordance with Canadian or U.S. GAAS - The issuer acquired or will acquire a business whose historical financial statements have not been audited in accordance with Canadian or U.S. GAAS; the acquired business' annual financial statements have been audited in accordance with International Standards on Auditing; the review of the interim acquisition statements will be done in accordance with the International Standards for Review Engagements

Securities Act s. 169 *Confidentiality* - An applicant wants to keep an application and order confidential for a limited amount of time after the order is granted - The record provides intimate financial, personal or other information. The disclosure of the information before a specific transaction would be detrimental to the person affected. The information will be made available after a specific date

Applicable British Columbia Provisions

National Instrument 52-107, *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* ss. 6.2, 9.1

National Instrument 44-101, *Short Form Prospectus Distributions* ss. 4.3, 8.1
Securities Act, R.S.B.C. 1996, c. 418, s. 169

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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
Magma Energy Corp.
(the Filer)

Decision

Background

The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer (the Application) for a decision under the securities legislation of the Jurisdictions (the Legislation) that:

- (a) the Filer be exempted from the requirement in section 6.2 of National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (NI 52-107) that acquisition statements must be audited in accordance with Canadian generally accepted auditing standards (Canadian GAAS) or United States generally accepted auditing standards (US GAAS) with respect to certain annual financial statements of Orka (as defined below) to be included in a short form prospectus of the Filer (the Prospectus) to be filed under National Instrument 44-101 *Short Form Prospectus Distributions* (NI 44-101) and in certain business acquisition reports (the BARs) required to be filed under section 8.2 of National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) for acquisitions by the Filer of shares of Orka, including the Transactions (as defined below);
- (b) the Filer be exempted from the requirement in section 4.3 of NI 44-101 that any unaudited financial statements of Orka included in a short form prospectus be reviewed in accordance with Canadian GAAS or US GAAS with respect to certain interim financial statements of Orka

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to be included in the Prospectus (together with the relief requested in paragraph (a), the Requested Relief on Auditing Standards); and

- (c) the Application and this decision be held in confidence by the Decision Makers (the Requested Confidentiality Relief).

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 (MI 11-102) is intended to be relied on in Alberta, Manitoba, Saskatchewan, New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Northwest Territories, Nunavut and Yukon; and
- (c) this decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

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

This decision is based on the following facts represented by the Filer:

1. the Filer's head office is located at 410 – 625 Howe Street, Vancouver, British Columbia, V6C 2T6;
2. the Filer is a corporation existing under the *Business Corporations Act* (British Columbia) with a financial year end of June 30;
3. the Filer is a reporting issuer in each of the provinces and territories of Canada, except Québec; the Filer is not in default of securities legislation in any jurisdiction, except for the requirement to file a BAR for the First Transaction (as defined below) by the due date of June 15, 2010;
4. the common shares of the Filer are listed and posted for trading on the Toronto Stock Exchange under the symbol "MXY";
5. the Filer's annual financial statements are prepared in accordance with

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Canadian generally accepted auditing principles (Canadian GAAP) and are audited in accordance with Canadian GAAS;

6. on December 14, 2009, the Filer completed an acquisition (the Initial BAR Transaction) of 32.32% of the outstanding shares of HS Orka hf (Orka); following this acquisition, the Filer held an aggregate of 40.94% of the issued and outstanding shares of Orka; the Initial BAR Transaction constituted a “significant acquisition” for the Filer within the meaning of section 8.3 of NI 51-102 and the Filer filed a business acquisition report for this acquisition on March 1, 2010;
7. on March 31, 2010, the Filer acquired an additional 2.25% of Orka’s outstanding shares (the First Transaction);
8. on May 11, 2010, the Filer acquired an additional 2.99% of Orka’s outstanding shares (the Second Transaction);
9. on May 17, 2010, the Filer entered into an agreement to acquire a further 52.35% of the issued and outstanding shares of Orka; should the transactions contemplated by this agreement (the Final Transaction and, together with the First Transaction and the Second Transaction, the Transactions) be completed, the Filer would hold 98.53% of the issued and outstanding shares of Orka;
10. as the First Transaction and the Second Transaction took place in the same financial year of the Filer as the Initial BAR Transaction, the Filer is required by section 8.3(11) of NI 51-102 to include the Initial BAR Transaction when determining whether the First Transaction and the Second Transaction each constitute a “significant acquisition” for the Filer within the meaning of section 8.3 of NI 51-102; accordingly, the Filer will be required to file separate BARs in accordance with section 8.2 of NI 51-102 for each of the First Transaction and the Second Transaction;
11. the Filer expects the Final Transaction to be completed in a financial year subsequent to the year in which the Initial BAR Transaction, the First Transaction, and the Second Transaction were completed; the Filer also expects that the Final Transaction will constitute a “significant acquisition” for the Filer within the meaning of section 8.3 of NI 51-102; accordingly, the Filer will be required to file a BAR in accordance with section 8.2 of NI 51-102 for the Final Transaction;
12. Orka is a limited liability company incorporated and domiciled in Iceland, and is not a public company;

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13. Orka's auditor is KPMG hf, the Iceland affiliate of KPMG International, a global network of professional firms providing audit, tax and advisory services;
14. Orka's auditor has represented to the Filer that it has expertise and experience in International Standards on Auditing (ISA) as issued by the International Auditing and Assurance Standards Board (IAASB);
15. the Filer intends to file the Prospectus for an offering of securities in order to raise sufficient capital to complete the Final Transaction (the Proposed Offering);
16. under Item 10.2 of Form 44-101F1, certain historical audited annual financial statements and unaudited interim financial statements of Orka will be required to be included in the Prospectus;
17. under section 8.4 of NI 51-102, certain historical audited annual financial statements and unaudited interim financial statements of Orka will be required to be included in the BAR;
18. the Filer will include the financial statements required by section 8.4 of NI 51-102 and Item 10.2 of Form 44-101F1 in any BAR and Prospectus filed, for each acquisition as follows:
 - a. audited annual financial statements of Orka for the most recently completed financial year ended on or before the date of acquisition, with comparatives for the financial year immediately preceding the most recently completed financial year (the Orka Annual Financial Statements);
 - b. unaudited interim condensed financial statements of Orka for the most recently completed interim period ended after the annual audited financial statements but before the date of acquisition, with comparatives for the comparable period in the preceding financial year (the Orka Interim Financial Statements); and
 - c. pro forma financial statements;
19. the Orka Annual Financial Statements will be prepared in accordance with International Financial Reporting Standards (IFRS) as adopted by the European Union (EU), audited in accordance with ISA as issued by the IAASB and will include a reconciliation to Canadian GAAP for the most recently completed financial year prior to the acquisition, in accordance with

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the requirements of subsection 6.1(4) of NI 52-107;

20. the Orka Interim Financial Statements will be prepared in accordance with IFRS as adopted by the EU, will be reviewed by Orka's auditors in accordance with the International Standards on Review Engagements as issued by the IAASB for inclusion in the Prospectus and will include a reconciliation to Canadian GAAP for the most recently completed financial period prior to the acquisition, in accordance with the requirements of subsection 6.1(4) of NI 52-107;
21. section 6.2 of NI 52-107 and section 4.3 of NI 44-101 do not permit the Filer to file the Orka Annual Financial Statements and the Orka Interim Financial Statements audited in accordance with ISA as issued by the IAASB or reviewed in accordance with the International Standards on Review Engagements as issued by the IAASB because the Filer is not a "foreign issuer" within the meaning of NI 52-107; and
22. having the Orka Annual Financial Statements audited a second time in accordance with Canadian GAAS and having the Orka Interim Financial Statements reviewed a second time in accordance with Canadian GAAS would cause the Filer substantial additional costs and management time and delay in filing the Prospectus.

Decision

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 is that

1. the Requested Relief on Auditing Standards is granted, provided that:
 - (a) the Orka Annual Financial Statements are audited in accordance with ISA as issued by the IAASB;
 - (b) the Orka Interim Financial Statements are reviewed in accordance with International Standards on Review Engagements as issued by the IAASB; and
 - (c) the auditor's report accompanying the Orka Annual Financial Statements contains or is accompanied by a statement by the auditor that:
 - (i) describes any material differences in the form and content of the auditor's report as compared to an auditor's report prepared in

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accordance with Canadian GAAS; and

(ii) indicates that an auditor's report prepared in accordance with Canadian GAAS would not contain a reservation; and

2. the Requested Confidentiality Relief is granted until the earlier of

(a) the date the Filer publicly announces the Proposed Offering;

(b) the date that a preliminary short form prospectus is filed in respect of the Proposed Offering, and

(c) the date that is 90 days from the date of this decision.

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