

## Headnote

Multilateral Instrument 11-102 *Passport System* and National Policy 11-203 *Process for Exemptive Relief applications in Multiple Jurisdictions* – the Filers request relief exempting them from the requirements under section 4.2 of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (**NI 52-107**) that any other financial statements filed pursuant to section 2.1(2)(e) of NI 52-107, be prepared in accordance with Canadian GAAP – Part V for the financial year that begins on or after 1 January 2011 but before 1 January 2012 (the **Voluntary Financial Statements**)(the **Exemption Sought**).

## Applicable Legislative Provisions

National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standard*, s. 5

**Citation: Enbridge Gas Distribution Inc., Re, 2012 ABASC 29**

**Date: 20120125**

In the Matter of  
the Securities Legislation of  
Alberta and Ontario (the **Jurisdictions**)

and

In the Matter of  
the Process for Exemptive Relief Applications in Multiple Jurisdictions

and

In the Matter of  
Enbridge Gas Distribution Inc.,  
Enbridge Pipelines Inc. and Enbridge Income Fund (the **Filers**)

Decision

## Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filers for a decision under the securities legislation of the Jurisdictions (the **Legislation**) exempting the Filers from the requirements under section 4.2 of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (**NI 52-107**) that any other financial statements filed pursuant to section 2.1(2)(e) of NI 52-107, be prepared in accordance with Canadian GAAP – Part V for the financial year that begins on or after 1 January 2011 but before 1 January 2012 (the **Voluntary Financial Statements**) (the **Exemption Sought**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

- (a) the Alberta Securities Commission is the principal regulator for this application;
- (b) the Filers have provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Saskatchewan, Manitoba, Québec, Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and; 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*, MI 11-102 and NI 52-107 have the same meaning if used in this decision, unless otherwise defined herein.

### **Representations**

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

#### *Enbridge Pipelines Inc.*

1. Enbridge Pipelines Inc. (**EPI**) was incorporated by Special Act of Canada on 30 April 1949 and continued under the *Business Corporations Act* (Canada) on 2 June 1980. The head office of EPI is in Calgary, Alberta.
2. EPI is a reporting issuer or equivalent in the Jurisdictions and each of the Passport Jurisdictions and is not in default of securities legislation in any jurisdiction.
3. EPI is not an SEC issuer.

#### *Enbridge Gas Distribution Inc.*

4. Enbridge Gas Distribution Inc. (**EGD**) was incorporated by Special Act of Canada in 1848. By Letters Patent dated 30 September 1954, EGD was continued under the *Corporations Act, 1953* (Ontario) and is now subject to the *Business Corporations Act* (Ontario). The head office of EGD is in Toronto, Ontario.
5. EGD is a reporting issuer or equivalent in the Jurisdictions and each of the Passport Jurisdictions and is not in default of securities legislation in any jurisdiction.
6. EGD is not an SEC issuer.

*Enbridge Income Fund*

7. Enbridge Income Fund (**EIF**) is an unincorporated open-ended trust established under the laws of Alberta. The head office of EIF is in Calgary, Alberta.
8. EIF is a reporting issuer or equivalent in the Jurisdictions and in each of the Passport Jurisdictions and is not in default of securities legislation in any jurisdiction.
9. EIF is not an SEC issuer.

*General*

10. As “qualifying entities” for the purposes of section 5.4 of NI 52-107, each of the Filers is permitted by that provision to prepare its financial statements for its financial year commencing 1 January 2011 and ending 31 December 2011 in accordance with Canadian GAAP – Part V of the Handbook. Pursuant to section 5.4 of NI 52-107, each of the Filers chose to prepare their 2011 financial statements in accordance with Canadian GAAP – Part V of the Handbook.
11. EGD and EPI have been granted exemptive relief pursuant to the legislation in *Re Enbridge Inc.* 2011 ABASC 106 and EIF has been granted exemptive relief pursuant to the legislation in *Re Enbridge Inc.* 2011 ABASC 314 (collectively, the **U.S. GAAP Relief**), which exempt the Filers from the requirement of section 3.2 of NI 52-107 that they prepare their financial statements in accordance with Canadian GAAP applicable to publicly accountable enterprises and allows the Filers to prepare their financial statements in accordance with U.S. GAAP for the financial years that begin on or after 1 January 2012 but before 1 January 2015.
12. The Filers believe that filing the Voluntary Financial Statements in advance of their first U.S. GAAP interim filing for 2012 will assist readers in understanding the transition from Canadian GAAP – Part V to U.S. GAAP.
13. The Filers will prepare the Voluntary Financial Statements in accordance with U.S. GAAP, except that the Filers will not provide the statements of income, shareholders’ equity and cash flows for the fiscal year ended December 31, 2009 (**Modified U.S. GAAP**).
14. The Filers will file the Voluntary Financial Statements on SEDAR under the “Other” documents category with an explanatory cover note.
15. The Filers will file the Voluntary Financial Statements subsequent to the filing of the Canadian GAAP – Part V annual audited financial statements for Fiscal 2011 and prior to the filing of its unaudited interim financial statements as at and for the three months ended March 31, 2012, which will be prepared in accordance with U.S. GAAP.

**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 under the Legislation is that the Exemption Sought is granted, provided that the Filers prepare the Voluntary Financial Statements in accordance with Modified U.S. GAAP.

*“original signed by”* \_\_\_\_\_

Blaine Young

Associate Director, Corporate Finance