

Alberta Securities Commission (the Commission)

In the Matter of the Securities Act,
R.S.A. 2000, c. S-4 (the Act)

and

In the Matter of NetThruPut Inc. (the Filer)

Order
(Section 214)

Background

1. The Filer has applied to the Commission for the variation, pursuant to section 214 of the Act, of an order of the Commission dated November 26, 2004, *NetThruPut Inc.*, 2004 ABASC 1155 (the Existing Order, a copy of which is attached as an Appendix to this Order) to expand access to the electronic trading system operated by the Filer (the Trading System) to certain entities with substantial financial resources that buy, sell, trade or broker crude oil and condensate commodities.

Representations

2. This Order is based on the following facts represented by the Filer:
 - 2.1 The Filer operates the Trading System that provides trading and clearing services in Calgary, Alberta to contracting parties for crude oil or condensate contracts, crude oil or condensate commodity contracts and swap contracts related to crude oil or condensate, under the terms and conditions of the Existing Order.
 - 2.2 The Filer has operated the Trading System since August 20, 1998 in accordance with the terms and conditions of a series of prior orders of the Commission.
 - 2.3 The Filer is seeking recognition by the Commission as a clearing agency and wishes to concurrently update the Existing Order relating to access to the Trading System.
 - 2.4 The Filer is capable of complying, and will comply, with the operating principles set out in Appendix A to the Existing Order and the requirements of the Act.

Decision

3. The Commission is satisfied that to do so would not be prejudicial to the public interest.
4. It is ordered pursuant to section 214 of the Act that the Existing Order is varied by repealing section 2.3 and substituting the following:

2.3 Access to the Trading System is limited to Contracting Parties that satisfy, or act as agent to a person or company that satisfies, the following criteria:

2.3.1 they have entered into a services agreement (the Services Agreement) with the Filer and are in compliance with the Service Agreement; and

2.3.2 they are entities:

2.3.2.1 engaged in the oil and gas industry with substantial financial resources whose day-to-day operations are affected by changes in the price of oil; or

2.3.2.2 with substantial financial resources that buy, sell, trade or broker crude oil and condensate commodities, and as a consequence enter into contracts for those commodities or related commodities to offset that risk, whether or not a particular trade is effected for that purpose.

“original signed by”

Glenda A. Campbell, Q.C., Vice-Chair
Alberta Securities Commission

“original signed by”

Stephen R. Murison, Vice-Chair
Alberta Securities Commission

APPENDIX
to
Order dated 12 August 2005

Citation: NetThruPut Inc., 2004 ABASC 1155

Date: 20041126

Alberta Securities Commission (the Commission)

In the Matter of the *Securities Act*,
R.S.A. 2000, c. S-4 (the Act)

and

In the Matter of NetThruPut Inc.

Order
(Sections 144 and 213)

Background

1. NetThruPut Inc. (the Filer) has made an application to the Commission for:
 - 1.1 an order pursuant to section 213 of the Act to exempt the Filer from the prohibition in section 62 of the Act against carrying on business as an exchange in Alberta unless recognized by the Commission as an exchange;
 - 1.2 an order pursuant to section 213 of the Act to exempt the Filer from the prohibition in section 106 of the Act against trading exchange contracts on an exchange in Alberta that has not been recognized by the Commission under section 62 of the Act and the form of contract has not been accepted by the Commission; and
 - 1.3 an order under subsection 144(1) of the Act to exempt trades in crude oil or condensate contracts (Oil Contracts) and crude oil and condensate commodity contracts and swap contracts related to crude oil and condensate (Financial Contracts) by the Filer and contracting parties (Contracting Parties) through the electronic trading system (the Trading System) operated by the Filer from the registration and prospectus requirements in sections 75 and 110 of the Act;

Representations

2. This Order is based on the following facts represented by the Filer:
 - 2.1 The Filer operates the Trading System in Calgary, Alberta for trades in Oil Contracts and Financial Contracts by Contracting Parties.

- 2.2. The Filer has operated the Trading System since August 20, 1998 in accordance with the terms and conditions of prior orders of the Commission. The current Commission order dated June 7, 2003 expires on December 1, 2004.
- 2.3. Access to the Trading System is limited to Contracting Parties that satisfy, or act as agent to a person or company that satisfies, the following criteria:
 - 2.3.1 they are entities in the oil and gas industry with substantial financial resources whose day-to-day operations are affected by changes in the price of oil; and
 - 2.3.2 they have entered into a services agreement (the “Services Agreement”) with the Filer and are in compliance with the Service Agreement;
- 2.4. The Filer is capable of complying with the operating principles listed in Appendix A and will comply with the operating principles for the duration of this order.
- 2.5. The Filer has undertaken to keep trading, financial records and other records sufficient to demonstrate compliance with the operating principles listed in Appendix A, make them available and submit data promptly to the Commission on request.
- 2.6. The Filer has also made an application to the Commission for an order pursuant to section 67 of the Act recognizing the Filer as a clearing agency;

Decision

3. The Commission is satisfied that to do so would not be prejudicial to the public interest.
4. It is ordered that:
 - 4.1 pursuant to section 213 of the Act, the Filer is exempt from the prohibition in section 62 of the Act against carrying on business as an exchange in Alberta unless recognized by the Commission as an exchange;
 - 4.2 pursuant to section 213 of the Act, the Filer is exempt from the prohibition in section 106 of the Act against trading exchange contracts on an exchange in Alberta that has not been recognized by the Commission under section 62 of the Act and the form of contract has not been accepted by the Commission; and
 - 4.3 under subsection 144(1) of the Act, trades in Oil Contracts and Financial Contracts by the Filer and Contracting Parties through the Trading System operated by the Filer are exempt from the registration and prospectus requirements in sections 75 and 110 of the Act;

for so long as:

- (a) the Filer complies with the operating principles listed in Appendix A and keeps trading, financial and other records sufficient to demonstrate compliance with the operating principles listed in Appendix A;
- (b) the Filer immediately informs the Commission of any event, circumstance or situation that materially affects the Filer ability to continue to comply with the operating principles listed in Appendix A;
- (c) the Filer files with the Commission any revisions to the Service Agreement within 2 business days of the effective date of the revision;
- (d) the Filer immediately informs the Commission of any material change in the operation of the Trading System or in the beneficial ownership of the securities of the Filer.

5. It is further ordered that the effective date of this order is December 1, 2004.

Dated this 26th day of November 2004.

“original signed by”
Glenda A. Campbell, Q.C., Vice-Chair
Alberta Securities Commission

“original signed by”
Stephen R. Murison, Vice-Chair
Alberta Securities Commission

APPENDIX A

OPERATING PRINCIPLES

1. ***Financial Resources*** - Maintain adequate financial, operational and managerial resources to operate the Trading System and support its trade execution and clearing functions.
2. ***Operational information relating to trading system and contracts*** - Provide public disclosure of information about contract terms and conditions, trading conventions, mechanisms and practices, financial integrity protections and other information relevant to participants.
3. ***Market oversight*** - Establish appropriate minimum standards for participants and programs for on-going monitoring of the financial status or credit-worthiness of participants; monitor trading to ensure an orderly market; and maintain authority to collect or capture and retrieve all necessary information and to intervene as necessary to ensure an orderly market.
4. ***Rule Enforcement*** - Maintain adequate arrangements and resources for the effective monitoring and enforcement of the rules of the facility and for resolution of disputes and have the capacity to detect, investigate and enforce those rules (including the authority and ability to discipline, limit, suspend or terminate a participant's activities for violations of system rules).
5. ***System Safeguards*** - Establish and maintain:
 - a program of oversight and risk analysis to ensure automated order entry and clearing systems function properly and have adequate capacity and security, including emergency procedures and a plan for disaster recovery to ensure daily processing, clearing and settlement of transactions.
 - a program of periodic objective system testing and risk review to assess the adequacy and effectiveness of the Trading System's internal control systems and financial integrity protections, including a risk review of every new service and significant enhancement to existing services.

6. **Transparency** - Make information on settlement prices, price range, trading volume, open interest and other related market information available daily to participants.
7. **Record keeping** - Maintain records of all activities related to the trading system's business in a form and manner acceptable to the Commission for a period of five years and provide an undertaking to make books and records available for inspection by Commission representatives on request.
8. **Risk management** - Identify and manage the risks associated with clearance and settlement through the use of appropriate tools and procedures such as risk analysis tools and procedures, collateral, margin and credit limits.
9. **Settlement procedures** - Prescribe standards and procedures to protect and safeguard participants' funds and limit concentration of risk, including the safekeeping of funds in accounts in depositories or with custodians, that meet industry standards.