

**Citation:** NetThruPut Inc., 2005 ABASC 685

**Date:** 20050812

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 67)

## **Background**

1. The Filer has applied to the Commission for an order pursuant to section 67 of the Act recognizing the Filer as a clearing agency.

## **Representations**

2. This order is based on the following facts represented by the Filer:
  - 2.1 The Filer operates an electronic trading and clearing system (the System) in Calgary, Alberta that provides clearing services for contracting parties (Contracting Parties) who enter into a services agreement with the Filer (the Services Agreement) in crude oil or condensate contracts and crude oil or condensate commodity contracts (Contracts) entered into through the System.
  - 2.2 The Filer intends in the near future to expand the System to provide clearing services for other types of energy contract entered into by Contracting Parties on the over-the-counter market on substantially the same terms as the Contracts.
  - 2.3 The Filer has operated the System since August 20, 1998 in accordance with the terms and conditions of prior orders of the Commission.
  - 2.4 The Filer will continue to provide trading services to Contracting Parties who satisfy certain eligibility requirements, in accordance with the terms and conditions of an order of the Commission dated November 26, 2004, *NetThruPut Inc.*, 2004 ABASC 1155, as varied on August 12, 2005 (*NetThruPut Inc.*, 2005 ABASC 684).
  - 2.5 The Filer is capable of complying, and will comply, with the clearing principles set out in Appendix A to this order (the Clearing Principles) and the requirements of the Act.

- 2.6 Enbridge Inc. owns 52 percent of the outstanding shares of the Filer and plays an integral role in overseeing the credit and settlement functions of the System under an administrative service agreement with the Filer.
- 2.7 The Filer has undertaken to notify the Commission:
  - 2.7.1 at least thirty days in advance of any material change in the operation of the System or the ownership of securities of the Filer, and
  - 2.7.2 promptly of any other material change.
- 2.8 The Filer has undertaken to file with the Commission any revision to the Services Agreement within two business days of the effective date of the revision.
- 2.9 The Filer has undertaken to maintain books and records sufficient to demonstrate compliance with the Clearing Principles.
- 2.10 The Filer has undertaken to inform the Commission immediately upon the occurrence of any event, circumstance or situation that materially affects the Filer's ability to continue to comply with the Clearing Principles.

**Decision**

- 3. The Commission, being satisfied that to do so would not be prejudicial to the public interest, orders pursuant to section 67 of the Act that the Filer is recognized as a clearing agency for so long as the Filer complies with the Clearing Principles, the Act and its undertakings set out in this order.

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

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

## APPENDIX A

### CLEARING PRINCIPLES

1. **Financial resources** - Maintain adequate financial, operational and managerial resources to discharge its responsibilities as a clearing organization.
2. **Participant and product eligibility** - Establish and maintain
  - appropriate minimum eligibility standards for participants and programs for on-going monitoring of the financial status or creditworthiness of those participants.
  - appropriate standards for determining eligibility of agreements, contracts or transactions submitted to the Filer for clearing.
3. **Risk management** - Identify and manage the risks associated with discharging the responsibilities of a clearing agency through the use of appropriate tools and procedures.
4. **Settlement procedures** - Have the ability to complete settlements on a timely basis under varying circumstances and maintain an adequate record of the flow of funds associated with each transaction that the Filer clears.
5. **Treatment of funds** - Establish and maintain standards and procedures designed to protect and ensure the safety of participant funds.
6. **Default rules and procedures** - Establish and maintain rules and procedures that allow for efficient, fair and safe management of events when participants become insolvent or otherwise default on their obligations to the clearing agency.
7. **Rule enforcement** - Maintain adequate arrangements and resources for the effective monitoring and enforcement of compliance with the rules of the clearing agency 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).
8. **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
  - emergency procedures, a disaster recovery plan and a program to periodically test backup facilities sufficient to ensure daily processing, clearing and settlement of transactions.
9. **Reporting** - Provide to the ASC all information necessary for the ASC to conduct the oversight function of the Filer with respect to the activities of the clearing agency.
10. **Record-keeping** - Maintain records of all activities related to the business of the Filer as a clearing agency in a form and manner acceptable to the ASC for a period of five years

and provide an undertaking to make books and records available for inspection by ASC representatives on request.

11. ***Public information relating to clearing and settlement systems*** - Provide public disclosure of information concerning the clearing and settlement systems (including default procedures).
12. ***Information sharing*** - Share information of a regulatory nature and will otherwise co-operate with the Commission and its staff and Canadian regulatory authorities responsible for the supervision or regulation of securities, subject to the applicable privacy or other laws about the sharing of information and the protection of personal information.