

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – issuer deemed to be no longer a reporting issuer under securities legislation.

Applicable Legislative Provisions

Securities Act, RSA, 2000 cS-4, section 153

Citation: Re Cequence Energy Ltd., 2020 ABASC 174

Date: 20201104

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

and

In the Matter of
the Process for Cease to be a Reporting Issuer Applications

and

In the Matter of
Cequence Energy Ltd. (the **Filer**)

Order

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filer for an order under the securities legislation of the Jurisdictions (the **Legislation**) that the Filer has ceased to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer (the **Order Sought**).

Under the Process for Cease to be a Reporting Issuer Applications (for a dual application):

- (a) the Alberta Securities Commission is the principal regulator for this application,
- (b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Saskatchewan, Manitoba, Québec, New Brunswick, Prince Edward Island, Nova Scotia, Newfoundland and Labrador, Yukon, Northwest Territories, and Nunavut; and
- (c) this order is the order 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 order, unless otherwise defined.

Representations

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

1. The Filer is a corporation amalgamated under the *Business Corporations Act* (Alberta).
2. The Filer's head office is located in Calgary, Alberta.
3. The Filer is a reporting issuer in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories, and Nunavut (collectively, the **Reporting Jurisdictions**).
4. The Filer is applying for an order that the Filer has ceased to be a reporting issuer in the Reporting Jurisdictions.
5. On May 29, 2020, the Filer obtained an order from the Court of Queen's Bench of Alberta (the **Court**), as amended and restated by further order of the Court on June 10, 2020, granting the Filer protection under the *Companies' Creditors Arrangement Act* (Canada) (the **CCAA**) and allowing the Filer, upon further order of the Court, to file with the Court a plan of compromise or arrangement pursuant to the CCAA (collectively, the **CCAA Proceedings**).
6. Prior to the commencement of the CCAA Proceedings, the Filer's common shares (the **Common Shares**) were listed for trading on the Toronto Stock Exchange (the **TSX**). Following the commencement of the CCAA Proceedings, the TSX de-listed the Common Shares on July 8, 2020 in accordance with its standard procedures for listed issuers going through proceedings under the CCAA.
7. On August 24, 2020, the Filer filed a plan of compromise and arrangement pursuant to the CCAA (the **CCAA Plan**) with the Court and obtained an order authorizing the Filer to convene a meeting of creditors for the purposes of voting on the CCAA Plan (the **Meeting**). On the same day, the Filer issued a press release announcing the Meeting and summarizing the key aspects of the CCAA Plan.
8. On September 15, 2020 the Filer convened the Meeting, at which over 90% of the creditors of the Filer eligible to attend and vote at the Meeting voted to approve the CCAA Plan.
9. On September 17, 2020, the Court granted an order sanctioning the CCAA Plan. On September 18, 2020, the Filer issued a press release announcing the approval and sanction of the CCAA Plan by the Filer's creditors and the Court, respectively, and the Filer's intention to become a privately held corporation following the implementation of the CCAA Plan.
10. The CCAA Plan was implemented on September 28, 2020 (the **Implementation Date**) in accordance with its terms, at which time the Filer issued a press release announcing that the CCAA Plan had been implemented, that the Filer would be immediately submitting an application to cease to be a reporting issuer in the Reporting Jurisdictions, and that upon

the issuance of an order to that effect, the Filer would no longer be a reporting issuer in the Reporting Jurisdictions.

11. Among other things, the CCAA Plan provided that all of the equity securities of the Filer issued and outstanding immediately prior to the Implementation Date, including the Common Shares and all securities exercisable or convertible into, or to be satisfied through the issuance of, Common Shares, be cancelled and extinguished for no consideration, and that a new class of common shares be created and issued to new shareholders of the Filer.
12. The outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide.
13. The Filer is not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*.
14. No securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported.
15. The Filer has no current intention to seek public financing by way of an offering of its securities in Canada.
16. The Filer is not in default of any of its obligations as a reporting issuer under the securities legislation of the Reporting Jurisdictions, except in Alberta, Saskatchewan, Ontario and New Brunswick for the failure to file (the **Defaults**) (i) interim unaudited financial statements and related management's discussion and analysis for the interim period ended June 30, 2020, as required by National Instrument 51-102 *Continuous Disclosure Obligations*, and (ii) the related certification of such interim filings, as required by National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (collectively, the **Second Quarter Financials**), which were required to be filed no later than September 28, 2020 in accordance with: (A) in Alberta, ASC Blanket Order 51-519 *Temporary Exemption from Certain Corporate Finance Requirements with Deadlines during the Period from June 2 to August 31, 2020*; (B) in Saskatchewan, General Order 51-503 *Temporary Exemption from Certain Corporate Finance Requirements with Deadlines during the Period from June 2 to August 31, 2020*; (C) in Ontario, Blanket Order 51-505 *Temporary Exemption from Certain Corporate Finance Requirements with Deadlines during the Period from June 2 to August 31, 2020*; and (D) in New Brunswick, Blanket Order 51-509 *Temporary Exemption from Certain Corporate Finance Requirements with Deadlines during the Period from June 2 to August 31, 2020*.
17. Accordingly, the Second Quarter Financials were not required to be filed until the Implementation Date of the CCAA Plan, being the same date the Filer filed the application. The Filer did not file the Second Quarter Financials prior to such date because the CCAA Proceedings were commenced on May 29, 2020, and as a result the Second Quarter Financials would have had to be prepared on a liquidation basis, rather than a going concern

basis, until the completion of the CCAA Proceedings. In the months leading up to the Implementation Date, the Filer was working towards exiting the CCAA Proceedings as a going concern, and therefore determined that the Second Quarter Financials, if prepared on a liquidation basis, would not have been an accurate representation of the Filer. The Filer was not able to prepare the Second Quarter Financials on a going concern basis for filing on the Implementation Date as a result of the significant work load required to complete the CCAA Proceedings and implement the CCAA Plan. In addition, on the Implementation Date the Filer became a privately held corporation with fewer than 15 securityholders.

18. The Filer is not eligible to use the simplified procedure set out in National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* because of the Defaults.
19. The Filer, upon granting of the Order Sought, will no longer be a reporting issuer in any of the Reporting Jurisdictions.

Decision

Each of the Decision Makers is satisfied that the order meets the test set out in the Legislation for the Decision Maker to make the order.

The decision of the Decision Makers under the Legislation is that the Order Sought is granted.

“original signed by” _____

Timothy Robson
Manager, Legal
Corporate Finance
Alberta Securities Commission