

Headnote

Application for relief from the requirement contained in subsection 122(1) of the *Companies Act* (Nova Scotia) that the reporting issuer's annual financial statements be prepared in accordance with Canadian GAAP – Reporting issuer intends to register its securities under the United States *Securities Act of 1934* and subsequently prepare its financial statements in accordance with U.S. GAAP – Relief granted subject to conditions.

Applicable Legislative Provisions

Companies Act, R.S.N.S. 1989, c. 81, as amended, ss. 122 and 123.

IN THE MATTER OF: The *Companies Act*, R.S.N.S. 1989, c. 81, as amended (the “Act”)

- and -

IN THE MATTER OF: Emera Incorporated and Nova Scotia Power Incorporated

ORDER

(Section 123)

UPON the application of Emera Incorporated (“Emera”) and Nova Scotia Power Incorporated (“NSPI”, and together with Emera, the “Applicants”) to the Nova Scotia Securities Commission (the “Commission”) for an order pursuant to clause 123(b) of the Act that each of the Applicants be exempt from the requirement contained in subsection 122(1) of the Act that the Applicant's annual financial statements be prepared in accordance with generally accepted accounting principles determined with reference to the Handbook of the Canadian Institute of Chartered Accountants (“Canadian GAAP”);

AND UPON reading the application and the recommendation of staff of the Commission;

AND UPON the Applicants having represented to the Commission that:

1. Each of the Applicants is a corporation governed by the Act, with its head office located in Halifax, Nova Scotia. Emera is an energy and services company whose core business is electricity. NSPI, a wholly-owned subsidiary of Emera, is an electricity generation, distribution and transmission company.

2. Each of the Applicants is a reporting issuer in all of the provinces of Canada, and neither is on any of the lists of reporting issuers in default maintained by applicable Canadian securities regulatory authorities.
3. Emera's common shares (the "Common Shares") are listed and posted for trading on the Toronto Stock Exchange (the "TSX"), and NSPI's Series D First Preferred Shares (the "Preferred Shares") are listed and posted for trading on the TSX.
4. Each of the Applicants, as a corporation governed by the Act and a reporting issuer subject to National Instrument 52-107 – *Acceptable Accounting Principles, Accounting Standards and Reportable Currency* ("NI 52-107"), currently prepares its annual financial statements in accordance with Canadian GAAP. The Applicants also currently prepare their interim financial statements in accordance with Canadian GAAP, in compliance with NI 52-107.
5. Each of the Applicants intends to become a registrant with the United States Securities and Exchange Commission (the "SEC") by filing a registration statement under the United States *Securities Exchange Act of 1934*, as amended (the "1934 Act") to register its Common Shares (in the case of Emera) and its Preferred Shares (in the case of NSPI) pursuant to Section 12(g) of the 1934 Act. As a result of the filing, each of the Applicants will have a class of securities registered under section 12 of the 1934 Act, which from a Canadian securities law perspective would permit them, as an "SEC issuer" for purposes of NI 52-107, to prepare their annual and interim financial statements in accordance with generally accepted accounting principles in the United States ("U.S. GAAP").
6. Following registration, each of the Applicants intends to report in U.S. GAAP, commencing on a date which has not yet been determined.
7. Subsection 122(1A) of the Act provides an exemption from the requirement contained in subsection 122(1) of the Act that a reporting issuer's annual financial statements be prepared in accordance with Canadian GAAP, where the reporting issuer has registered its securities under the United States *Securities Act of 1933*, as amended (the "1933 Act") and prepares its financial statements in accordance with U.S. GAAP.
8. Neither of the Applicants will be able to avail themselves of the exemption provided by subsection 122(1A) of the Act, as they intend to register their securities under the 1934 Act, as opposed to the 1933 Act.
9. The periodic and current reporting requirements under U.S. federal securities laws ("U.S. Reporting Obligations"), are provided for under the 1934 Act. An issuer can become subject to U.S. Reporting Obligations in two different ways. If the

issuer has registered a class of securities pursuant to Section 12(b) or Section 12(g) of the 1934 Act, it will become subject to U.S. Reporting Obligations pursuant to Section 13(a) of the 1934 Act. Whether or not the issuer has ever filed a 1934 Act registration statement, the issuer will become subject to U.S. Reporting Obligations under Section 15(d) of the 1934 Act as a result of filing a registration statement under the 1933 Act in connection with a public offering of securities. The U.S. Reporting Obligations imposed by Section 13(a) and 15(d) of the 1934 Act are the same.

10. From a securities law perspective, the rule under NI 52-107 which permits a reporting issuer who is also an “SEC issuer” to prepare its financial statements in accordance with US GAAP is premised on the basis that the issuer has reporting obligations under the 1934 Act, whether those reporting obligations arise because the issuer has registered a class of securities under Section 12 of the 1934 Act, or because the issuer is required to file reports under Section 15(d) of the 1934 Act because it has filed a 1933 Act registration statement.

AND UPON the Commission being satisfied that to do so would not be prejudicial to the public interest and that in the circumstances of this particular case, there is adequate justification for so doing;

IT IS ORDERED, pursuant to clause 123(b) of the Act, that each of the Applicants is exempt from the requirement contained in subsection 122(1) of the Act that the Applicant’s annual financial statements be prepared in accordance with Canadian GAAP, provided that each of the Applicants has registered any of its securities under the 1934 Act and prepared its financial statements in accordance with U.S. GAAP and NI 52-107, as it is amended from time to time, or any successor thereto.

DATED at Halifax, Nova Scotia, this 10 day of February, 2010.

“R. Daren Baxter”

“H. Leslie O’Brien”
