

ALBERTA SECURITIES COMMISSION

ORDER

Citation: Re Inter Pipeline Ltd., 2021 ABASC 100

Date: 20210629

Inter Pipeline Ltd.

Background

1. The Alberta Securities Commission (the **Commission**) has received an application from Brookfield Infrastructure Partners L.P. (**BIP**), Brookfield Infrastructure Corporation (**BIPC**), Bison Acquisition Corp. (**BAC**), Brookfield Asset Management Inc. (**BAM**) and certain investment vehicles, companies, partnerships or persons which are managed, sponsored or advised, directly or indirectly, by BAM (collectively, the **Filers**) under the *Business Corporations Act* (Alberta) (the **ABCA**) for an order pursuant to section 151(a) of the ABCA exempting the Filers from the requirements of section 150(1)(b) of the ABCA in connection with the next meeting (the **Meeting**) of the shareholders of Inter Pipeline Ltd. (**Inter Pipeline**) following the issuance of this order (the **Exemption Sought**).

Interpretation

2. Terms defined in the *Securities Act* (Alberta) or National Instrument 14-101 *Definitions* have the same meaning in this order, unless otherwise defined.

Representations

3. This order is based on the following facts represented to the Commission by the Filers:
 - (a) BIP is a limited partnership organized under the laws of Bermuda. BIPC is a corporation incorporated under the laws of British Columbia. BAC is a corporation incorporated under the ABCA. BAM is a corporation incorporated under the laws of Ontario.
 - (b) Each of BIP, BIPC and BAM is a reporting issuer in each jurisdiction of Canada.
 - (c) Securities of each of BIP, BIPC and BAM are listed on the Toronto Stock Exchange and the New York Stock Exchange.
 - (d) Inter Pipeline is a corporation incorporated under the ABCA and is a reporting issuer in each province of Canada.
 - (e) The common shares of Inter Pipeline (the **Common Shares**) are listed on the Toronto Stock Exchange.
 - (f) The Filers may be considered to be acting jointly or in concert.
 - (g) The Filers own an aggregate of 41,848,857 Common Shares, representing approximately 9.75% of the 429,219,175 issued and outstanding Common Shares disclosed on the TSX website as of June 23, 2021. In addition, the Filers have

economic exposure to an aggregate of 42,492,698 Common Shares pursuant to a cash-settled total return swap. The total return swap affords economic exposure to Common Shares, but does not give the Filers any right to vote, or direct or influence the voting, acquisition, or disposition of any Common Shares.

- (h) The Filers are not in default of securities legislation in any jurisdiction of Canada.
- (i) The Filers wish to communicate with the holders of Common Shares (the **Shareholders**) in advance of the Meeting to solicit such Shareholders' proxies in respect of business to be transacted at the Meeting. The Filers wish to conduct the Public Solicitations by public broadcast, speech or publication (the **Public Solicitation**) without sending a dissident's proxy circular to each of the Shareholders.
- (j) The Filers also wish to communicate with 15 or fewer Shareholders (the **Non-Public Solicitations**) in advance of the Meeting to solicit such Shareholders' proxies in respect of business to be transacted at the Meeting. The Filers wish to conduct the Non-Public solicitation without the use of public broadcast, speech, publication or the sending of a dissident's proxy circular.
- (k) Section 150(1)(b) of the ABCA provides that no person (as defined in the ABCA) shall solicit proxies unless a dissident's proxy circular is provided to each shareholder whose proxy is solicited.
- (l) Section 150(2) of the ABCA provides that section 150(1)(b) of the ABCA does not apply to a corporation that has 15 or fewer shareholders entitled to vote at meetings of shareholders.
- (m) Paragraph 9.1(2)(b) of National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) requires that a person or company that solicits proxies from registered holders of voting securities of a reporting issuer must, in the case of a solicitation other than by management of the reporting issuer, send an information circular to each registered securityholder whose proxy is solicited.
- (n) Subsection 9.2(2) of NI 51-102 provides that paragraph 9.1(2)(b) does not apply to a solicitation if the total number of securityholders whose proxies are solicited is not more than 15 (the **15 Securityholder Exemption**). In determining the total number of securityholders, subsection 9.2(3) of NI 51-102 provides that two or more persons or companies who are joint registered owners of one or more securities are considered to be one securityholder.
- (o) Subsection 9.2(4) of NI 51-102 provides an exemption (the **Broadcast Exemption**) to a person or company other than management of a reporting issuer or a person or company acting on behalf of management, from the requirement to send an information circular to each registered securityholder of a reporting issuer if:
 - (i) the solicitation is made to the public by broadcast, speech or publication;

- (ii) soliciting proxies by broadcast, speech or publication is permitted by the laws under the reporting issuer's incorporating legislation and the person or company complies with the requirements of such laws as they pertain to the broadcast, speech or publication; and
 - (iii) the person or company has filed the information specified in paragraph 9.2(4)(c) of NI 51-102 and included the information specified in subparagraphs 9.2(4)(c)(i) to (iii) in the broadcast, speech or publication.
- (p) Subsection 9.2(6) of NI 51-102 provides that the Broadcast Exemption does not apply to a person or company that is nominating or proposing to nominate, at the time of the solicitation, an individual for election as a director, unless the person or company soliciting proxies files an information circular or other document containing the information required by Form 51-102F5 *Information Circular* in respect of the proposed nominee and the solicitation refers to that information circular or other document and discloses that the information circular or other document is available on SEDAR.
- (q) The ABCA does not contain provisions similar to the 15 Securityholder Exemption or the Broadcast Exemption.

Decision

4. The Commission orders that the Exemption Sought is granted provided that the Filers comply with all of the following:
- (a) the Public Solicitation complies with the requirements of paragraphs 9.2(4)(a), (c) and (d) and subsection 9.2(6) of NI 51-102;
 - (b) the Non-Public Solicitation is made to not more than 15 Shareholders (provided that for such purposes, two or more persons or companies who are joint registered owners of one or more Common Shares are considered to be one Shareholder); and
 - (c) a copy of this order is provided to Inter Pipeline.

“original signed by”

Timothy Robson
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Alberta Securities Commission