

## 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 – issuer’s circumstances generally consistent with modified procedure.

## Applicable Legislative Provisions

*Securities Act* (Alberta), section 153

**Citation: Re Zenith Energy Ltd., 2021 ABASC 133**

**Date: 20210817**

In the Matter of  
the Securities Legislation  
of Alberta (the **Jurisdiction**)

and

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

and

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

Decision

## Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (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 **Decision Sought**).

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

- (a) the Alberta Securities Commission is the principal regulator for this application, and
- (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.

## Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 or National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* have the same meaning if used in this decision, unless otherwise defined.

## Representations

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

1. The Filer is a junior oil and gas company with a primary focus on producing, exploring and developing international oil and gas assets, in particular in the Republic of Congo, Italy and Tunisia. The Filer has no operations in Canada.
2. The Filer is a corporation existing under the *Business Corporations Act* (British Columbia) and the Filer's head office is located in Calgary, Alberta.
3. The Filer's common shares (**Common Shares**) are listed and admitted to trading on the Main Market of the London Stock Exchange (the **LSE**) under the symbol "ZEN", and on the Euronext Growth Market of the Oslo Børs (the **OSE**) under the symbol "ZENA". The Filer has been trading on the LSE since 11 January 2017 and the OSE since 8 November 2018.
4. The Common Shares were listed on the TSX Venture Exchange (the **TSXV**) under the symbol "ZEE", but at the request of the Filer were voluntarily delisted (the **Delisting**) from the TSXV effective at the close of trading on 29 May 2020.
5. The Filer files periodic and timely disclosure as required by the securities laws of England and Wales and Norway and the rules of the LSE and OSE.
6. As of 14 July 2021, the Filer had 1,377,289,334 issued and outstanding Common Shares.
7. The Filer has issued multiple series of medium term notes (**Notes**), each listed and traded publicly on the Vienna Stock Exchange. The beneficial holders of the Notes are all European-resident.
8. The Filer has issued 339,123,972 share purchase warrants (**Warrants**), which are beneficially owned by four European-resident institutional investors.
9. Other than options issued pursuant to the Filer's equity-based compensation plan, the only outstanding securities of the Filer are the Common Shares, the Notes and the Warrants.
10. The Filer is not in default of any of its obligations under the securities laws of England and Wales or Norway, or the rules of the LSE or the OSE.
11. The Filer is not in default of securities legislation in any jurisdiction of Canada, except for the failure to file its annual information form, annual audited financial statements, annual management's discussion and analysis and related certifications for the year ended 31 March 2021, and the failure to file its interim unaudited financial statements, interim management's discussion and analysis and related certifications for all interim periods after 31 March 2021.
12. Verdipapirsentralen ASA (**VPS**) is the central securities depository in Norway. The VPS, through CDS and an intermediary, holds 1,008,188,914 Common Shares, which is approximately 73.2% of the Filer's Common Shares (the **VPS Position**). The VPS Position

was determined as of July 14, 2021. None of the securities laws of Norway nor the rules of the OSE require any party to maintain beneficial ownership information. As a result, there is no practical way for the Filer to identify the beneficial owners underlying the VPS Position. Although as noted below the Broadridge Enquiries (as defined below) included the VPS Position, it is the Filer's understanding that as expected, the Broadridge Intermediary (as defined below) responding with respect to the VPS Position was not able to identify beneficial owner information. Overall, the Filer is not aware of any information suggesting that there are any Canadian-resident beneficial owners underlying the VPS Position.

13. Computershare Company Nominees Limited (**Computershare**) is the registered holder for 297,880,106 Common Shares, which is approximately 21.6% of the Filer's Common Shares (the **Computershare Position**). The Computershare Position was determined as of July 14, 2021. In respect of the Filer, no party is required by the securities laws of England and Wales or the rules of the LSE to maintain beneficial ownership information. As a result, there is no practical way for the Filer to identify the beneficial owners underlying the Computershare Position. The Filer is not aware of any information suggesting that there are any Canadian-resident beneficial owners underlying the Computershare Position.
14. CDS is the principal securities depository in Canada. Excluding the VPS Position, CDS is the registered holder for 45,795,663 Common Shares, which is approximately 3.3% of the Filer's Common Shares (the **Net CDS Position**).
15. The Filer engaged Broadridge Investor Communication Solutions (**Broadridge**) to make certain enquiries (the **Broadridge Enquiries**) and provide reports as to the country of residence of certain of the beneficial owners of Common Shares. Broadridge's reports were current as of July 14, 2021.
16. The Filer understands that pursuant to its typical practice, the Broadridge Enquiries were carried out by Broadridge making inquiries of Canadian and United States intermediaries that are Broadridge clients that held Common Shares (each a **Broadridge Intermediary**). The Filer understands that the country of residence information reported by Broadridge is based on securityholder addresses of record in the information provided to Broadridge.
17. The Filer understands that the VPS Position is held by a United States intermediary and therefore was included in the Broadridge Enquiries.
18. The Broadridge Enquiries were as to 1,053,474,610 Common Shares (the **Broadridge Searched Common Shares**), and the Filer understands that subject to small discrepancies due to the date of the Broadridge Enquiries versus the date that the Filer's share register was examined, and Common Shares in transit, the Broadridge Enquiries were with respect to the VPS position and the Net CDS Position. However, as noted, the Filer understands that the Broadridge Intermediary holding for VPS was not able to determine beneficial ownership information underlying the VPS Position.
19. The Filer understands that the Broadridge Searched Common Shares were held by a small number of Broadridge Intermediaries, and that Broadridge received responses with respect

to substantially all of the Broadridge Searched Common Shares (the **Responding Broadridge Common Shares**).

20. With respect to the Responding Broadridge Common Shares,
  - (a) 4,181,603 Common Shares were beneficially held by Canadian residents, representing approximately 0.304% of the Filer's Common Shares, and
  - (b) 90 Canadian-resident beneficial owners of Common Shares were identified.
21. There are certain beneficial owners of Common Shares identifiable from the Filer's share register and other records that are not discussed above, and whose shareholdings are not referred to above (the **Other Beneficial Owners**). Three of the Other Beneficial Owners are Canadian residents, and these beneficial owners own 119,417 Common Shares, or approximately .009% of the Filer's Common Shares.
22. Based on the foregoing and to the best of the Filer's knowledge and belief, residents of Canada do not,
  - (a) beneficially own more than 2% of the Filer's Common Shares, or
  - (b) directly or indirectly comprise more than 2% of the total number of holders of Common Shares worldwide.
23. Since the Delisting, the Filer has not taken any steps that indicate there is a market for its securities in Canada, including conducting a prospectus offering in Canada, establishing or maintaining a listing on an exchange in Canada or having its securities traded on a marketplace or any other facility in Canada for bringing together buyers and sellers where trading data is publicly reported.
24. The Filer has no intention to seek financing by way of an offering of its securities in Canada.
25. On August 12, 2020 the Filer issued a news release announcing that it applied for an decision to cease to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer, and that if the decision is granted the Filer will no longer be a reporting issuer in any jurisdiction of Canada. The Filer has not received any objections from its security holders in response to this news release.
26. The Filer has provided a written undertaking to the Executive Director of the Alberta Securities Commission to deliver to its Canadian resident holders of Common Shares all disclosure materials that it is required by the laws of Norway or England and Wales or the rules of the LSE or the OSE to deliver to security holders in those jurisdictions.

**Decision**

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

The decision of the principal regulator under the Legislation is that the Decision Sought is granted.

*“original signed by”* \_\_\_\_\_

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Alberta Securities Commission