

## Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption granting relief from requirement in National Instrument 44-101 Short Form Prospectus Distributions to incorporate by reference into a short form prospectus the Joint Information Circular (as defined in the Decision)— incorporation of lengthy Joint Information Circular by reference would impose a disproportionately burdensome translation obligation upon the Issuer – information contained in the Joint Information Circular that constitutes a material fact in respect of the Issuer is set out in one or more of the Issuer's continuous disclosure documents that will be incorporated by reference into a short form prospectus of the Issuer.

## Applicable Legislative Provisions

National Instrument 44-101 Short Form Prospectus Distributions, ss. 8.1(1), 8.1(2)  
Form 44-101F1 *Short Form Prospectus*, ss. 11.1(1), 11.2

**Citation: Re Pembina Pipeline Corporation, 2021 ABASC 144**

**Date: 20210902**

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

and

In the Matter of  
the Process for Exemptive Relief Applications in Multiple Jurisdictions

and

In the Matter of  
Pembina Pipeline Corporation (the **Filer**)

Decision

## Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for an exemption (the **Exemption Sought**) from the requirement under Item 11.1(1)(7) of Form 44-101F1 *Short Form Prospectus* (**Form 44-101F1**) to incorporate by reference in any short form prospectus of the Filer, including any short form prospectus that is a base shelf prospectus pursuant to National Instrument 44-102 *Shelf Distributions* (**NI 44-102**) and any supplement thereto (each, a **Prospectus**), the joint management information circular (the **Joint Information Circular**) of the Filer and Inter Pipeline Ltd. (**Inter Pipeline**) dated June 29, 2021.

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

- (a) the Alberta Securities Commission is the principal regulator for this application;
- (b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each province of Canada, other than Ontario; and
- (c) the decision is the decision 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 decision, unless otherwise defined.

### **Representations**

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

1. The Filer is a corporation governed by the *Business Corporations Act* (Alberta). The head and registered office of the Filer is located in Calgary, Alberta.
2. The Filer is a reporting issuer in each province of Canada and is not in default of the securities legislation in any jurisdiction of Canada.
3. The common shares of the Filer (the **Common Shares**) are listed and posted for trading on the Toronto Stock Exchange under the symbol "PPL" and on the New York Stock Exchange under the symbol "PBA".
4. The Filer satisfies the basic qualification criteria as set out in section 2.2 of National Instrument 44-101 *Short Form Prospectus Distributions* (**NI 44-101**) and, as a result, is qualified to file short form prospectus that is a base shelf prospectus under section 2.2 of NI 44-102.
5. The Filer has a current AIF and current annual financial statements (each as defined in section 1.1 of NI 44-101).
6. The Filer has filed (or has been deemed to have filed) the notice required by section 2.8 of NI 44-101 and such notice has not been withdrawn.
7. The Filer has three short form prospectuses that are base shelf prospectuses that are effective as of August 4, 2021
  - (a) the short form base shelf prospectus of the Filer dated August 30, 2019 qualifying the issuance and sale of up to \$5 billion aggregate principal amount of medium term notes of the Filer,

- (b) the short form base shelf prospectus of the Filer dated August 30, 2019 qualifying the issuance and sale of up to \$3 billion aggregate initial offering price of the Filer's Common Shares, Class A preferred shares, warrants to purchase common shares and subscription receipts and units comprising any combination of the foregoing, and
- (c) the short form base shelf prospectus of the Filer dated December 30, 2020 qualifying the issuance and sale of up to \$2 billion aggregate initial offering price of Class A preferred shares of the Filer and bonds, debentures, notes or other evidence of indebtedness of any kind, nature or description of the Filer

(collectively, the **Base Shelf Prospectuses**).

8. On May 31, 2021, the Filer and Inter Pipeline entered into an arrangement agreement, as amended by a first amendment agreement dated June 29, 2021 (collectively, the **Arrangement Agreement**), pursuant to which the Filer proposed to acquire all of the issued and outstanding common shares of Inter Pipeline (the **IPL Common Shares**) in exchange for Common Shares (the **Proposed Transaction**).
9. In connection with the Proposed Transaction, the Filer was required to obtain the approval of the issuance of the Common Shares by its shareholders and Inter Pipeline was required to obtain the approval of the Proposed Transaction by its shareholders. Accordingly, the Filer called a meeting of shareholders of the Filer to be held at 1:00 p.m. (Calgary time) on July 29, 2021 (the **Shareholder Meeting**) to approve the issuance of the Common Shares in connection with the Proposed Transaction, and Inter Pipeline called a meeting of shareholders of Inter Pipeline to be held at 10:00 a.m. (Calgary time) on July 29, 2021 to approve the Proposed Transaction and normal course annual business matters, including electing the directors of Inter Pipeline, appointing the auditors of Inter Pipeline and voting on Inter Pipeline's approach to executive compensation (collectively, the **Inter Pipeline Annual Business**). In connection with the foregoing, the Filer and Inter Pipeline prepared the Joint Information Circular.

10. The Joint Information Circular includes or incorporates by reference, among other disclosure, a summary of the Arrangement Agreement and the Proposed Transaction, the reasons for and benefits of the Proposed Transaction for the Inter Pipeline and Filer shareholders (including disclosure prepared by Inter Pipeline regarding the reasons for Inter Pipeline shareholders to vote in favour of the Proposed Transaction, rather than tendering their IPL Common Shares to the outstanding hostile take-over bid for Inter Pipeline, which the Filer reviewed, but did not have any involvement in preparing), respectively, pro forma information of the Filer after giving effect to the Proposed Transaction, including pro forma financial information, and prospectus-level disclosure with respect to Inter Pipeline, including the audited consolidated financial statements of Inter Pipeline as at and for the years ended December 31, 2020 and 2019 (including the auditors' report thereon), the interim financial statements of Inter Pipeline as at and for the three months ended March 31, 2021 and 2020 and information relating to the Inter Pipeline Annual Business, including the Inter Pipeline executive compensation disclosure required by Form 51-102F6 *Statement of Executive Compensation*.
11. The Joint Information Circular was filed on the System for Electronic Document Analysis and Retrieval (SEDAR) by the Filer and Inter Pipeline on July 5, 2021 and was mailed to the respective shareholders of the Filer and Inter Pipeline on July 8, 2021.
12. On July 26, 2021, the Filer announced that it had terminated the Arrangement Agreement in accordance with its terms effective July 25, 2021 and cancelled the Shareholder Meeting. As a result of the termination of the Arrangement Agreement and the Proposed Transaction by the Filer (which was never considered or voted on by the shareholders of the Filer at the Shareholder Meeting), the disclosure in the Joint Information Circular, particularly as it relates to the Proposed Transaction and Inter Pipeline (including as described in paragraph 10 above), is no longer material, relevant or applicable to the Filer, its securityholders or potential purchasers of the Filer's securities, and, further, any material facts or information relating to the Filer contained therein has been disclosed in one or more of the Filer's other continuous disclosure documents that will be incorporated by reference in any Prospectus. Further, other than pursuant to the Exemption Sought, all information required to be included in any Prospectus will be included therein or in one or more documents incorporated by reference therein.
13. Pursuant to Item 11.1(1)(7) of Form 44-101F1, the Filer is required to incorporate by reference in any Prospectus of the Filer any information circular filed by the Filer under Part 9 of National Instrument 51-102 *Continuous Disclosure Obligations* since the beginning of the financial year in respect of which the Filer's current AIF is filed. Accordingly, the Filer is required to incorporate by reference in any such Prospectus of the Filer, including the Base Shelf Prospectuses, the Joint Information Circular from the date hereof until the Filer files an annual information form in respect of its financial year ended December 31, 2022.
14. Other than pursuant to the Exemption Sought, any Prospectus prepared by the Filer will comply with the applicable requirements of NI 44-101, NI 44-102 and Form 44-101F1, as applicable.

**Decision**

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted, provided that

- (a) at the time of filing of any Prospectus, the Filer satisfies the basic qualification criteria as set out in section 2.2 of NI 44-101,
- (b) the Filer complies with all of the other applicable requirements of NI 44-101, NI 44-102 and Form 44-101F1, as applicable, in respect of any Prospectus of the Filer (except as varied by this decision), and
- (c) the Filer discloses in each Prospectus that it has obtained exemptive relief from the requirement to incorporate by reference in such Prospectus the Joint Information Circular, and includes a statement identifying the decision and explaining how a copy of this decision can be obtained.

*“original signed by”*  
Timothy Robson  
Manager, Legal  
Corporate Finance  
Alberta Securities Commission