



COURT FILE NUMBER

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COURT

COURT OF QUEEN'S BENCH OF ALBERTA
CALGARY

JUDICIAL CENTRE

IN THE MATTER OF THE *COMPANIES'*
CREDITORS ARRANGEMENT ACT, R.S.C.
1985, c. C-36, AS AMENDED

APPLICANT

AND IN THE MATTER OF THE *BUSINESS*
CORPORATIONS ACT, R.S.A. 2000, c. B-9

DOCUMENT

AND IN THE MATTER OF FAIRWEST
ENERGY CORPORATION.

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

FIFTH REPORT OF THE MONITOR
PRICEWATERHOUSECOOPERS INC.

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INTRODUCTION

- 1) On December 12, 2012, FairWest Energy Corporation (the “Applicant” or “FEC” or the “Company”) applied to this Court for an order under the *Companies’ Creditors Arrangement Act* (the “CCAA”). This Honourable Court made an order on that day granting the relief requested by the Applicant (the “Initial Order”), including:
 - a) an interim stay of proceedings and restraint of certain rights and remedies against the Applicant until and including January 11, 2013, or such later date as this Court may by subsequent order direct (the “Stay Period”);
 - b) a declaration that the Applicant is a company to which the CCAA applies, and authorizing the Applicant to file with the Court, on a date to be set upon further application to this Honourable Court, a Plan of Compromise or Arrangement under the CCAA (the “Plan”); and
 - c) the appointment of PricewaterhouseCoopers Inc. as an officer of the Court to monitor the business and affairs of the Applicant (the “Monitor”).
- 2) Paragraph 24(b) of the Initial Order directs the Monitor to:

“report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein and immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of the Applicant.”
- 3) On March 19, 2013 the following changes were made to the Initial Order:

The following paragraph was added to the Initial Order as Paragraph 6A:

“The Applicant shall not make any disbursements unless the Monitor has confirmed to the Applicant, in accordance with paragraph 24(k) hereof, that such disbursements are consistent with the cash flow forecasts prepared by the Monitor, provided that in the event that the Applicant believes reasonably and in good faith after consultation with the Monitor that the failure to make any disbursement not contemplated by the cash flow forecasts would (i) have a material adverse effect on the value of its business assets, or (ii) pose material risk to public health or safety, then the Applicant shall be permitted to make such disbursement notwithstanding that it is inconsistent with the cash flow forecast.”

Paragraph 24 of the Initial Order was amended for the following:

“The Monitor shall review all future disbursements by the Applicant to confirm that such disbursements are made in accordance with the cash flow forecasts prepared by the Monitor.”

- 4) This Honourable Court has issued multiple extensions since the date of the Initial Order. On April 26, 2013 this Honourable Court issued an order extending the Stay Period to May 31, 2013.
- 5) This constitutes the Monitor’s Fifth Report (the “Fifth Report”) to this Honourable Court contemplated by such provision of the Initial Order. Updates of the proceedings as well as the Monitor’s Report will be posted on the Monitor’s website, www.pwc.com/car-fec.
- 6) It is recommended that this report be read in conjunction with the Monitor’s prior reports. Capitalized words in this Fifth Report not otherwise defined carry the same meaning as in the prior reports.
- 7) Certain information contained in this report is based on information obtained from the Applicant’s books and records and discussions with management and staff. The Monitor has not independently verified the accuracy or completeness of such information; accordingly the Monitor does not express an opinion thereon.

MONITORING OF BUSINESS AND FINANCIAL AFFAIRS

- 8) As required by the Initial Order, the Applicant has provided the Monitor with access to its property and to its books, records, data and financial information to enable the Monitor to oversee and assess the Applicant’s business and financial affairs.
- 9) The Monitor has, with the cooperation of management, implemented a number of procedures to monitor the Applicant’s business and financial affairs and its compliance with the provisions of the Initial Order regarding its property and the carrying on of its business. These procedures include:
 - a) review of all disbursements made by the Applicant;

- b) review of cash receipts; and
- c) comparison of actual results to the Applicant's financial forecasts.

UPDATE ON THE ACTIVITIES OF THE APPLICANT

10) This Honourable Court approved a Sales and Investment Solicitation Process (the "SISP") on March 19, 2013. The Company and its assets were marketed through an advertisement in the Daily Oil Bulletin and the distribution of an information package to approximately 400 potential buyers. Interested parties were instructed to submit their bids to acquire, restructure or recapitalize FEC on or before April 12, 2013.

11) On the bid deadline of April 12, 2013, the Applicant received six bids for various property interests. No single bid contemplated the purchase of all of FEC's assets. Of the six bids, only two were material enough to consider:

- i) A cash bid (the "Cash Bid") for the Neutral Hills property.
- ii) A credit bid (the "Credit Bid") by the secured lender, SGI, for the majority of FEC's property interests – including the Neutral Hills property.

The Cash Bid did not meet the criteria of a Qualified Bid as set out in the Sales Process Order because it was a non-binding expression of interest, included a significant environmental due diligence provision and did not include a deposit. The Financial Advisor contacted the party that submitted the Cash Bid and requested that they submit a bid which was compliant with the Sales Process Order. No compliant bid was received. In addition, if the Cash Bid was successful, the Credit Bid would have either been withdrawn or materially altered leaving the majority of properties unsold. For this reason, the Cash Bid was not accepted and the Credit Bid was deemed successful by the Financial Advisor in consultation with the Company and the Monitor. SGI is currently in the process of drafting a definitive acquisition agreement. For additional details surrounding the Sales Process, please refer to the Confidential Supplemental To The Fifth Report of the Monitor.

12) The Applicant remains in Low Risk Non-Compliance status with the ERCB as it has failed to post the required security deposit of \$2.7 million as requested on May 4, 2013 under the

revised LLR requirements. The Monitor expects the Applicant to receive future assessments for additional material security deposit amounts and further escalation of non-compliance status. The ERCB security deposits, abandonment issues and reclamation costs will be addressed in conjunction with the approval of a sales transaction.

13) Given the Company's insufficient cash flow and the uncertainty surrounding the surface rental amounts, current surface rental costs continue to not be paid. The Applicant has estimated that as at July 3, 2013, the surface rental cost owing in arrears will total approximately \$405,000:

- a) \$222,000 relating to Pro-rated Post-CCAA Portion of Outstanding 2012 Leases; and
- b) \$183,000 relating to Outstanding 2013 Leases.

14) The outstanding surface rental costs for assigned leases will be dealt with in conjunction with the approval of a sales transaction.

CHIEF RESTRUCTURING OFFICER AND ENHANCED POWERS OF THE MONITOR

15) The Board of Directors indicated that they are not willing to approve Supreme Group Inc.'s ("SGI") credit bid which contemplates the acquisition of the majority of FEC's property interests.

16) In order to trigger the Director and Officer run-off insurance prior to the expiry of the current policy on May 30, 2013, the Board requested that SGI appoint a Receiver. In the event SGI does not appoint a Receiver, the Board has indicated that they will assign FEC into bankruptcy on May 28, 2013. The Company and their counsel are currently in the process of negotiating the terms of the run-off insurance policy presently in place.

17) Or the Board of Directors may resign prior to this application or they may be removed by SGI's application.

18) If the Board of Directors resigns or is removed, the Monitor understands that Marion Mackie, previously the Chief Financial Officer, has agreed to accept the appointment as the Chief Restructuring Officer (the “CRO”) of FEC. The CRO will act as an officer of this Honourable Court and will be responsible for carrying on the Company’s operations and performing other duties deemed necessary by this Honourable Court.

19) To facilitate the completion of the Sales Process, the Applicant and SGI are requesting that the powers of the Monitor as provided in prior Court Orders, be enhanced to allow the Monitor to perform the following duties:

- a) Select the successful bid (the “Successful Bid”) if the Board of Directors do not approve the Successful Bid before resigning or being removed; and
- b) Oversee and facilitate the completion of the transaction contemplated by the Successful Bid.

ROYALTY INVESTMENT LIMITED PARTNERSHIP

20) As at December 31, 2012, FEC had an account receivable balance due from RILP of \$545,000. The Applicant has been withholding RILP’s share of revenues and offsetting these revenues against the receivable due from RILP.

21) At the March 15 and 19, 2013 court hearings, RILP raised concerns regarding FEC’s Sales Process as all of its property interests are held in trust by FEC. RILP asserted that several of its property interests were at risk of being represented as FEC’s interests.

22) After a Special Chambers application heard over two days, this Honourable Court rendered a decision on April 26, 2013 relating to the property interest dispute that was substantially in favor of FEC. RILP was awarded a working interest in one property where FEC was unable to produce a written agreement supporting its position. However, all other disputed properties were confirmed to be owned by FEC.

23) At the March 15 and 19, 2013 court hearings, RILP asserted that FEC did not have a right to offset RILP’s share of revenues against its payable due to FEC. As security for this revenue

claim made by RILP, this Honourable Court ordered that \$40,000 be placed in trust on March 25, 2013 and April 25, 2013.

24) On April 26, 2013, this Honourable Court ordered that \$40,000 be placed in trust each month pending the outcome of the revenue dispute between RILP and the Company (the “Revenue Application”). As of May 17, 2013, \$80,000 is held in trust by the Applicant’s counsel, Burnet Duckworth & Palmer LLP. After the Special Chambers application, the parties submitted some additional written arguments regarding the Revenue Application and a decision by this Honourable Court is anticipated to be received in early June 2013.

CASH FLOWS

25) The table below summarizes the Applicant’s cumulative cash flows from December 12, 2012 to May 17, 2013:

Post- CCAA Cash Flow from Dec 12 - May 17		TOTALS
OPERATIONS		\$
Oil & Gas Revenue		1,551,890
Operating Expenses		(955,849)
CASH FLOW FROM OPERATIONS		<u>596,042</u>
CASH EXPENSES		
G&A		(921,320)
Interest		(72,770)
Reorganization Expenses paid by FEC		(304,000)
Court ordered trust re: RILP dispute		(80,000)
TOTAL CASH EXPENSES		<u>(1,378,090)</u>
Change in Cash		(782,049)
December 12, 2012 Opening Cash Position		94,951
DIP draws forwarded to FEC for opex		741,113
May 17, 2013 Cash Position		54,015
DIP draws forwarded to FEC for opex		741,113
DIP Draws for Reorg. costs paid by SGI		278,443
DIP Balance May 17, 2013		1,019,556

26) Attached as Exhibit "A" is a summary of the Applicant's actual cash flow for the period April 13, 2013 to May 17, 2013, compared to the forecasted cash flows filed with this Honourable Court. The forecasted cash flows are comprised of "Weeks 5 - 6" and "Weeks 1 - 3" from the forecasted cash flows which were filed as an exhibit to the Fourth Monitor's Report dated April 24, 2013. A summary of the variance to the forecasted cash flows is provided in the table below:

<u>April 13 - May 17</u>	<u>Actual</u>	<u>Forecast</u>	<u>Variance</u>
	\$	\$	\$
Receipts	305,007	285,844	19,162
Disbursements	(412,666)	(449,308)	36,642
Net Change in cash	(107,660)	(163,464)	55,804
Opening Cash	11,675		
April 30, 2013 DIP Draw	120,000		
May 15, 2013 DIP Draw	30,000		
Ending Cash	54,015		

27) Primary reasons for the variance between the forecast and actual cash flows include:

- a) receipts (positive variance of \$19,162):
 - i) Selling prices and volumes were marginally greater than forecast.
- b) disbursements (positive variance of \$36,642):
 - i) Operating costs were lower than expected by approximately \$35,000 due to timing differences and lower weather related expenditures.
 - ii) Less DIP financing was necessary which lead to lower interest costs than expected.

CASH FLOW FORECAST

28) Attached as Exhibit "B" is a copy of the Applicant's cash flow forecast for the period May 18, 2013 to July 3, 2013 (the "Fifth Revised Cash Flow Forecast").

- 29) The collections and disbursements included in the Fifth Revised Cash Flow Forecast appear to be reasonable estimates based on the discussions with management and the Applicant's current production levels.
- 30) Supreme Group Inc. (the "DIP Lender") has agreed to fund reorganization costs directly to the Applicant's counsel and the Monitor as advances under the DIP facility. The total additional DIP draws are estimated to be approximately \$740,000 and are comprised of:
- a) Reorganization costs of \$495,000
 - i) Forecasted reorganization costs have increased due to the RILP applications and the enhanced powers of the Monitor.
 - b) Operational costs of \$245,000
 - i) Operational costs have increased due to falling production and the court ordered trust funds relating to the RILP dispute.
- 31) The following table summarizes the Cash Flow Forecast for the period from May 18, 2013 to July 3, 2013. Based on the Cash Flow Forecast, the DIP requirement (which is currently only authorized to \$1,600,000) is expected to be approximately \$1,765,000.
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<u>May 18 to July 3, 2013</u>	<u>TOTALS</u>
	\$
OPERATIONS	
Oil & Gas Revenue	456,688
Operating Expenses	(315,000)
CASH FLOW FROM OPERATIONS	<u>141,688</u>
CASH EXPENSES	
G&A	(343,137)
Interest	(20,976)
Court order trust re: RILP dispute	(80,000)
TOTAL CASH EXPENSES	<u>(444,113)</u>
Change in Cash	(302,424)
Opening Cash	54,015
Ending Cash Balance	<u>(248,409)</u>
REORGANIZATION COSTS	<u>(495,000)</u>
Additional DIP required	(743,409)
Beginning DIP position	(1,019,556)
TOTAL DIP REQUIREMENT	<u>(1,762,965)</u>

32) The Cash Flow forecast includes approximately \$25,000 for employee's accrued vacation. The amount was not originally included in the Cash Flow attached to the Monitor's Fourth Report, but SGI has been notified of this planned payment.

DIP FINANCING

33) The Amending Order dated April 26, 2013, authorized the Applicant to borrow under a credit facility from the DIP Lender up to a limit of \$1,600,000 (the "DIP Funds"). Based on the Cash Flow Forecast, the Applicant requires its DIP facility to increase by \$165,000 to \$1,765,000.

34) As of May 17, 2013, \$1,019,556 of DIP funds have been advanced.

CREDITOR COMMUNICATIONS

35) The Monitor continues to respond to various enquiries from creditors and other stakeholders.

FEC'S REQUEST FOR AN EXTENSION OF THE STAY

- 36) FEC is seeking an extension of the Stay Period up to and including July 3, 2013 (the "Stay Extension"). The Stay Extension is necessary to allow FEC sufficient time to complete the sale of the Company's assets.
- 37) It is the view of the Monitor that FEC is acting in good faith and with due diligence and the requested Stay Extension is reasonable.

CONCLUSION

- 38) The Monitor supports the Applicant's request that this Honourable Court:
- extend the stay period to July 3, 2013;
 - in the event the Board of Directors resigns, confirm the appointment of Marion Mackie as the CRO;
 - provide enhanced powers to the Monitor to facilitate the closing of a sales transaction; and
 - approve the amended commitment letter with an increase to the DIP facility from \$1,600,000 to \$1,765,000.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

this 28th day of May, 2013



PRICEWATERHOUSECOOPERS INC.

Court Appointed Monitor of
FairWest Energy Corporation

EXHIBIT A - Variance Analysis

FAIRWEST ENERGY CORPORATION

VARIANCE ANALYSIS: April 13 - May 17

	ACTUAL	FORECASTED	VARIANCE
	APR 13 - MAY 17	APR 13 - MAY 17	
OPERATIONS			
Oil & Gas Revenue	305,007	285,844	19,162
Operating Expenses	(196,403)	(230,951)	34,548
CASH FLOW FROM OPERATIONS	108,603	54,893	53,710
CASH EXPENSES			
G&A	(158,247)	(156,068)	(2,179)
Interest	(18,016)	(22,288)	4,272
RILP trust funds	(40,000)	(40,000)	-
TOTAL CASH EXPENSES	(216,263)	(218,357)	2,094
Change in Cash	(107,660)	(163,464)	55,804

EXHIBIT B - Fifth Revised Cash Flow Forecast

FAIRWEST ENERGY CORPORATION
CASH FLOW SUMMARY (to July 3, 2013)

	Notes	FIFTH STAY PERIOD		SIXTH STAY PERIOD				TOTAL MAY 18 - JUL 3
		WEEK 4 MAY 18 - 24	WEEK 5 MAY 25 - 31	WEEK 1 JUN 1 - 7	WEEK 2 JUN 8 - 14	WEEK 3 JUN 15 - 21	WEEK 4 JUN 22 - JUL 3	
OPERATIONS								
Oil & Gas Revenue	1	2,606	223,239	15,000	-	2,606	213,239	456,688
Operating Expenses	1	(18,500)	(95,000)	(14,000)	(11,000)	(14,000)	(162,500)	(315,000)
CASH FLOW FROM OPERATIONS		(15,894)	128,239	1,000	(11,000)	(11,394)	50,739	141,688
CASH EXPENSES								
G&A	2	-	(160,068)	(10,000)	(3,000)	-	(170,068)	(343,137)
Interest	3	-	(20,976)	-	-	-	-	(20,976)
RILP trust money		-	(40,000)				(40,000)	(80,000)
TOTAL CASH EXPENSES		-	(221,044)	(10,000)	(3,000)	-	(210,068)	(444,113)
Change in Cash		(15,894)	(92,806)	(9,000)	(14,000)	(11,394)	(159,330)	(302,424)
Opening Cash		54,015	38,121	(54,685)	(63,685)	(77,685)	(89,079)	54,015
ENDING CASH BALANCE		38,121	(54,685)	(63,685)	(77,685)	(89,079)	(248,409)	(248,409)
REORGANIZATION COSTS		(319,000)	-	-	(71,000)	-	(105,000)	(495,000)
Additional DIP Required		(280,879)	(92,806)	(9,000)	(85,000)	(11,394)	(264,330)	(743,409)
Beginning DIP Position		(1,019,556)	(1,300,435)	(1,393,241)	(1,402,241)	(1,487,241)	(1,498,635)	(1,019,556)
TOTAL DIP REQUIREMENT		(1,300,435)	(1,393,241)	(1,402,241)	(1,487,241)	(1,498,635)	(1,762,965)	(1,762,965)

Notes

Management of FEC have prepared this Projected Cash Flow Statement based on probable and hypothetical assumptions detailed in Notes 1-4.

Consequently, actual results will likely vary from performance projected and such variations may be material.

The projections have been prepared solely for the Company's CCAA filing. As such, readers are cautioned that it may not be appropriate for other purposes.

1. FEC operates the majority of its working interests. Depending on the area, the monthly receipts and operating costs are disclosed as net of partnership interests or on a gross basis.
2. Estimated based on historical trends.
3. Per the DIP financing agreement and the existing credit facility.