

COURT / ESTATE FILE  
NUMBERS B301-131451  
25-3131451

Clerk' Stamp



COURT COURT OF KING'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED

C10238  
COM  
Jan 13, 2025

AND IN THE MATTER OF THE NOTICE OF  
INTENTION TO MAKE A PROPOSAL OF AVILA  
ENERGY CORPORATION

DOCUMENT **APPLICATION**

ADDRESS FOR SERVICE AND CONTACT  
INFORMATION OF PARTY FILING THIS DOCUMENT  
MILLER THOMSON LLP  
Barristers and Solicitors  
525-8<sup>th</sup> Avenue SW, 43<sup>rd</sup> Floor  
Calgary, AB, Canada T2P 1G1

Attention: Dustin L. Gillanders/James W. Reid  
Phone: 306.667.5616/402-298-2418  
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File No.: 0287592.0001

### NOTICE TO RESPONDENT(S):

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the application judge / judge.

To do so, you must be in Court when the application is heard as shown below:

Date	<u>January 13, 2025</u>
Time	<u>2:00 p.m.</u>
Where	<u>Calgary Courts Center Via WEBEX</u>
Before Whom	<u>The Honourable Justice C. C. J. Feasby</u>

Go to the end of this document to see what else you can do and when you must do it.

**Remedy claimed or sought:**

1. The Applicant, Avila Energy Corporation (“**Avila**”) seeks an Order substantially in the form attached as **Schedule “A”**, seeking *inter alia*:
  - (a) abridging the time for service of this Application and the supporting materials, as necessary, and deeming service thereof to be good and sufficient;
  - (b) pursuant to section 50.4(9) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”), extending the time by which Avila may file a proposal to its creditors for a 45-day period from the date following the current deadline to do so such that Avila may file a proposal up to and including 11:59 p.m. (local Calgary time) on March 2, 2025, or such other date as this Honourable Court may order; and
  - (c) granting such further and other relief as counsel may request and this Honourable Court may deem appropriate.

**Grounds for making this Application:**General

2. Avila is a producer, explorer and developer of energy in Canada with its head office located in Calgary, Alberta.
3. Avila is insolvent and filed a Notice of Intention to Make a Proposal with the Official Receiver on September 20, 2024 (the “**NOI Proceedings**”). FTI Consulting Canada Inc. (the “**Proposal Trustee**”) consented to act as proposal trustee in the NOI Proceedings.
4. Avila seeks to restructure its affairs for the benefit of its creditors and stakeholders.

Background to Avila’s Insolvency

5. Avila along with its predecessor company, Petro Viking Energy Inc., has been in the energy production business since 2010 acquiring the bulk of its current operational assets in 2021 from 611890 Alberta and which included, amongst other things, the operational licenses for oil and gas production (the “**Licenses**”).
6. In 2023, Avila was not able to accept the conditions of the Licenses imposed by the Alberta Energy Regulator and as a result could not obtain a transfer of the Licenses. This resulted in a lack of production of its assets.

7. Avila has now amalgamated with an affiliate and is now holder of the Licenses.
8. Further, as of the date of the NOI Proceedings, certain producing assets of Avila had been contaminated by a third-party (by introducing H<sub>2</sub>S to its system) which caused a shut-down of Avila's production facility.
9. Avila has commenced the production and sale of its assets, expects to increase production from its existing wells and intends to bring another 22 wells online in the next 4-6 weeks.

#### Extension of Time to File Proposal

10. Avila is acting in good faith and with due diligence in pursuing these NOI Proceedings and working towards the preparation of a proposal that will maximize value for its creditors and other stakeholders.
11. Unless Avila receives an extension of time for filing a proposal, the deadline to file a proposal with the official receiver expires on January 16, 2025.
12. The proposed extension of time to file a proposal will give Avila the necessary time to take the necessary steps to develop a proposal to restructure its affairs.
13. No creditors will be materially prejudiced by the requested extension.
14. The NOI Proceedings are in the best interests of all stakeholders of Avila.

#### **Material or evidence to be relied on:**

15. Affidavit of Donald Benson, sworn January 3, 2025, to be filed.
16. Brief of Law, dated January 6, 2025, to be filed.
17. The Third Report of the Proposal Trustee, to be filed.
18. Such further and other materials as counsel may advise and this Honourable court may permit.

#### **Applicable rules**

19. *Alberta Rules of Court*, Alta Reg 124-2010.
20. *The Bankruptcy and Insolvency General Rules*, CRC, c. 368 section 3.

21. Such other Rules as counsel may refer to or that this Honourable Court may permit.

**Applicable Acts and regulations:**

22. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended, including Division I of Part III, and without limitation, and in particular, sections 50.4 and 183.

23. Such further and other Acts and Regulations as counsel may advise and this Honourable Court may permit.

**Any irregularity complained of or objection relied on:**

24. None.

**How the application is proposed to be heard or considered:**

25. On the Commercial List, via Webex before the Honourable Justice C. C. J. Feasby.

**WARNING**

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

**SCHEDULE "A"**

**Proposed form of Order**

COURT / ESTATE FILE NUMBER 25-3131451

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANTS IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF AVILA ENERGY CORPORATION

## DOCUMENT

**ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

MILLER THOMSON LLP  
Barristers and Solicitors  
525-8<sup>th</sup> Avenue SW, 43<sup>rd</sup> Floor  
Calgary, AB, Canada T2P 1G1

Attention: Dustin L. Gillanders /James W. Reid  
Telephone: 306.667.5616 / 403.298.2418  
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File No.: 0287592.0001

**DATE ON WHICH ORDER WAS PRONOUNCED:** January 13, 2025

**LOCATION WHERE ORDER WAS PRONOUNCED:** Calgary, Alberta

**NAME OF JUSTICE WHO MADE THIS ORDER:** The Honourable Justice C. C. J. Feasby

**UPON THE APPLICATION** by Avila Energy Corporation ("**Avila**") for an order extending the time for Avila to file a proposal pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985 c B-3 (the "**BIA**"); (the "**Application**");

**AND UPON HAVING READ** the Application, Affidavit of Donald Benson, sworn January 3, 2025 (the "**Benson Affidavit**"), the Third Report of FTI Consulting Canada Inc., in its capacity as Licensed Insolvency Trustee of Avila (in such capacity, the "**Proposal Trustee**") (the "**Third Report**"), and the Affidavit of Service of Marica Ceko sworn [●];

**AND UPON HEARING** the oral submissions of counsel for Avila and any other interested party;

**IT IS HEREBY ORDERED THAT:****SERVICE**

1. Service of notice of the Application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of the Application, and time for service of the Application is abridged to that actually given.

**EXTENSION OF TIME TO FILE A PROPOSAL**

2. Pursuant to Section 50.4(9) of the BIA, the time for Avila to file a proposal is hereby extended to March 2, 2025 (as that date may be extended by further order of the Court, the "**Proposal Extension Date**").

**MISCELLANEOUS MATTERS**

3. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Proposal Trustee will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Proposal Trustee's reports shall be filed by the Clerk of the Court notwithstanding that they do not include an original signature.
4. Each of Avila and the Proposal Trustee be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory, or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.
5. This Order is effective from the date that it is made and is enforceable without any need for entry and filing.

**SERVICE OF ORDER**

6. Service of this Order shall be deemed good and sufficient:
  - (a) by serving same on the persons who were served with notice of this Application and any other parties attending or represented at the hearing of the Application; and
  - (b) by posting a copy of this Order on the Proposal Trustee's website at: <http://cfcanada.fticonsulting.com/avilaenergy/> .

7. Service of this Order on any other person is hereby dispensed with.
8. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

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Justice of the Court of King's Bench of Alberta