

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., JUST ENERGY CORP., ONTARIO ENERGY COMMODITIES INC., UNIVERSAL ENERGY CORPORATION, JUST ENERGY FINANCE CANADA ULC, HUDSON ENERGY CANADA CORP., JUST MANAGEMENT CORP., JUST ENERGY FINANCE HOLDING INC., 11929747 CANADA INC., 12175592 CANADA INC., JE SERVICES HOLDCO I INC., JE SERVICES HOLDCO II INC., 8704104 CANADA INC., JUST ENERGY ADVANCED SOLUTIONS CORP., JUST ENERGY (U.S.) CORP., JUST ENERGY ILLINOIS CORP., JUST ENERGY INDIANA CORP., JUST ENERGY MASSACHUSETTS CORP., JUST ENERGY NEW YORK CORP., JUST ENERGY TEXAS I CORP., JUST ENERGY, LLC, JUST ENERGY PENNSYLVANIA CORP., JUST ENERGY MICHIGAN CORP., JUST ENERGY SOLUTIONS INC., HUDSON ENERGY SERVICES LLC, HUDSON ENERGY CORP., INTERACTIVE ENERGY GROUP LLC, HUDSON PARENT HOLDINGS LLC, DRAG MARKETING LLC, JUST ENERGY ADVANCED SOLUTIONS LLC, FULCRUM RETAIL ENERGY LLC, FULCRUM RETAIL HOLDINGS LLC, TARA ENERGY, LLC, JUST ENERGY MARKETING CORP., JUST ENERGY CONNECTICUT CORP., JUST ENERGY LIMITED, JUST SOLAR HOLDINGS CORP. AND JUST ENERGY (FINANCE) HUNGARY ZRT. (each, an “**Applicant**”, and collectively, the “**Applicants**”)

**COMPENDIUM OF THE MOVING PARTIES,
U.S. CLASS COUNSEL**

(Motion and Cross-Motion returnable February 9, 2022)

February 8, 2022

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Counsel to US Counsel for Trevor Jordet, in his capacity as proposed class representative in *Jordet v. Just Energy Solutions Inc.*

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**NOTICE OF MOTION AND CROSS-MOTION
(Motion for Advice and Direction)**

Wittels McInturff Palikovic, Finkelstein Blankinship, Frei-Pearson, Garber LLP, and Shub Law Firm LLP (collectively, “**Class Counsel**”), in their capacity as counsel to the plaintiff classes (the “**Class Claimants**”) in *Donin v. Just Energy Group Inc. et al.*¹ (the

¹ No. 17 Civ. 5787 (WFK) (SJB) (E.D.N.Y.).

“**Donin Action**”) and *Trevor Jordet v. Just Energy Solutions, Inc.*² (the “**Jordet Action**”, together with the Donin Action, the “**U.S. Litigation**”), will make a motion and cross-motion before the Honourable Justice McEwen of the Commercial List on February 9, 2022 at 10:00 a.m., or as soon after that time as the Motion can be heard via Zoom at Toronto, Ontario. If you intend to participate in the motion, you should send an email expressing your intention to Toronto.commercialist@jus.gov.on.ca and teleconference details will be circulated to you in the ordinary course.

PROPOSED METHOD OF HEARING: The Motion is to be heard by videoconference.

THE MOTION IS FOR THE ADVICE AND DIRECTION OF THE COURT IN RESPECT OF THE CLASS CLAIMANTS’ ROLE IN THESE PROCEEDINGS AND THE AVAILABILITY OF DUE PROCESS, INCLUDING:

1. an order, if necessary, validating the method of service, dispensing with further service, and abridging the time for filing of this motion, such that the motion is properly returnable on the date indicated above;
2. an order declaring that the Class Claimants are to be unaffected by this CCAA Proceeding;
3. in the alternative to the relief sought in paragraph 2, in the event the Class Claimants are to be affected by this CCAA Proceeding:

² No. 18 Civ. 953 (WMS) (W.D.N.Y.).

- a. an order directing the implementation of a timely schedule and process leading to the final adjudication of the Class Claims, prior to any consideration by this Court of the Applicants' Plan or other event to exit this CCAA Proceeding (the "**Claims Adjudication Process**"), in substantially the following form:
 - (1) three arbitrators from JAMS (US) with consumer class action experience shall be appointed to sit as Claims Officers in this CCAA Proceeding;
 - (2) the Claims Adjudication Process shall employ the "Expedited Procedures" in the JAMS Comprehensive Arbitration Rules;
 - (3) the Claims Adjudication Process shall employ a process for exchanging documents and conducting any necessary depositions, subject to the oversight of the Claims Officers; and
 - (4) the Class Claims shall be finally adjudicated at a hearing lasting five to seven days in February 2022;

- b. an order, substantially in the form attached hereto as **Schedule "A"**, directing the Applicants to provide the Class Claimants with access to any data room established by them in respect of these proceedings, and appointing a mediator/arbitrator (the "**Mediator/Arbitrator**") to resolve all matters pertaining to the

production of documents and access to information for restructuring purposes (as distinct from production for the purpose of the Claims Adjudication Process), together with such other procedural or substantive matters as the parties may agree of the Court may direct;

c. in the alternative to the relief sought in paragraph 3(b), above, an order:

(1) directing the specific production of the following documents and information within seven (7) days of the date of the order:

(A) a listing of creditors, the amount claimed by each creditor, whether security or other priority is claimed, and the status of the claim (i.e., allowed/contested/subject to ongoing review/etc.) and the aggregate number of creditors and claims;

(B) the DIP Term Sheet, each of its revisions, the latest current form, a conformed copy of the DIP term sheet with all revisions, any future updates, signature pages, DIP loan amount exhibits by DIP Loan participant, and definitive documents, and any other related non-privileged documents;

(C) copies of all of the Applicants' insurance policies that might respond to the Class Claims, the coverage

status, the total amount drawn against the policy to date, and a list of competing claims made against the policies;

- (D) a list and the expected timing of key events in the CCAA Proceeding, including the release of the Applicants' proposed exit plan and how such exit plan is to be put before the Court and Creditors for approval;
- (E) the restructuring, realization and/or sale or investment process related to any and all exit plans under consideration by the Applicants;
- (F) any debt capacity analyses by the company and/or its investment bank;
- (G) an updated business plan showing updates of actual results to projected results, an update showing the range of recoveries as per Texas House Bill 4492 (described below), the proceeds from the sale of ecobee Shares (defined below), and all other updates included in the business plan since it was published in May, 2021; and
- (H) a statement of the enterprise value of the company with supporting documents showing methodology,

multiples, discount rates used, and comparables relied upon;

- (2) directing the Applicants and their necessary advisors to meet with Class Counsel and their advisors within seven (7) days of the completion of production of the foregoing information, to review the information and answer questions; and
 - (3) scheduling a further case conference within 21 days of the date of the order to report on the status of its implementation and to schedule such further case conferences or hearings as may be necessary for the effective management and supervision of these proceedings;
4. the costs of this motion; and
 5. such further and other relief as to this Honourable Court may seem just, including, without limitation, if and as necessary for the purpose of giving effect to the new information exchange regime contemplated at paragraphs 3(b) and (c) above, the variation of any prior orders made in these proceedings.

THE GROUNDS FOR THE MOTION ARE:

BACKGROUND

The U.S. Litigation

6. On October 3, 2017, Fira Donin and Inna Golovan filed a proposed class action lawsuit on behalf of themselves and all other U.S. customers alleging, among other things, that the Applicants named as defendants (the “**Just Energy Defendants**”) breached their contractual obligations and implied covenant of duty of good faith and fair dealing (the Donin Action).
7. On April 6, 2018, Trevor Jordet filed class action claims on behalf of himself and all other U.S. customers in which he made similar allegations to the plaintiffs in the Donin Action (the Jordet Action).
8. The Donin Action and the Jordet Action are nationwide and encompass all states in which the Just Energy Defendants do business.
9. The Just Energy Defendants sought to have the Donin Action and the Jordet Action dismissed. They were unsuccessful because both courts ruled that the Plaintiffs’ claims were plausible, and both actions remain pending in the United States.

THE CCAA Proceeding

10. On March 9, 2021, the Court issued an Initial Order granting CCAA protection to the Applicants.

11. On September 15, 2021, the Court issued a “**Claims Procedure Order**” which, among other things, established a “**Claims Bar Date**” of 5:00 p.m. on November 1, 2021 in respect of Pre-Filing Claims (as defined in the Claims Procedure Order).
12. On November 1, 2021, prior to the expiry of the Claims Bar Date, Class Counsel filed Proofs of Claim forms in respect of the Donin Action and the Jordet Action in the aggregate, unsecured amount of approximately \$3.66 billion (reflecting a joint, composite damages claim encompassing both lawsuits).
13. In each case, Class Counsel provided Claim Documentation setting out the relevant background and merits of the U.S. Litigation.
14. Publicly filed financial statements dated September 30, 2021 indicate that Just Energy Group Inc. had approximately \$12.6 million CAD in equity on its balance sheet.
15. By virtue of the size of the claims in the Donin Action and Jordet Action, and having regard to the Applicants’ publicly filed financial statements, the Class Claimants have a significant stake in the CCAA Proceeding and ought to be treated as material stakeholders.

CLASS COUNSEL'S EFFORTS TO OBTAIN INFORMATION IN CONNECTION WITH THIS CCAA

Class Counsel's Initial Requests

16. Class Counsel has repeatedly requested that the Applicants and the Monitor provide them with access to information in connection with the CCAA Proceeding.
17. Class Counsel's requests are consistent with the type and character of information that is commonly requested and provided as between creditors and debtors in restructuring proceedings.
18. The information that Class Counsel has requested is necessary to properly evaluate and consider the ongoing CCAA Proceeding.
19. Notwithstanding repeated requests, the Applicants have largely resisted Class Counsel's requests. As a result, the flow of information has been deficient and contrary to a consensual CCAA restructuring.
20. On November 10, 2021, Steven Wittels, representing the Class Claimants, appeared on a motion before Justice Koehnen and objected to the Applicants' request for a second Key Employee Retention Plan ("**KERP**"), arguing that it was a waste of corporate assets. Mr. Wittels also alleged that the Applicants had not been forthcoming in providing Class Counsel with any information as to the Applicants' financial status.

21. On November 11, 2021, Class Counsel requested a meeting with counsel for the Monitor to discuss access to certain financial information of the Applicants.
22. On November 12, 2021, counsel for the Monitor suggested that Class Counsel direct their request to the Applicants.
23. On November 24, 2021, Class Counsel had a phone meeting with the Monitor in which Class Counsel and Tannor Capital, Class Counsel's financial advisor, requested information regarding, among other things:
 - a. the proposed capital structure of the Applicants;
 - b. creditor priorities and amounts;
 - c. a copy of the DIP Facility, along with milestones and covenants;
 - d. a potential claims adjudication process in connection with the claims of the Class Claimants; and
 - e. the Plan Term Sheet.
24. At this time, with the exception of the DIP Term Sheet and its 15th amendment, Class Counsel has still not received the requested information from the Applicants.

Class Counsel, Paliare Roland, Tannor Capital and the Applicants enter into an NDA

25. On November 30, 2021, Just Energy Group Inc., Class Counsel, Tannor Capital and Paliare Roland Rosenberg Rothstein LLP (“**Paliare Roland**”) entered into a Confidentiality, Non-Disclosure and Non-Use Agreement (the “**NDA**”).
26. The NDA was the product of negotiation between the parties and was intended to facilitate the Applicants’ disclosure of non-public information to Class Counsel.
27. Despite the execution of the NDA, the Applicants have continued to delay and resist Class Counsel’s requests for information.
28. On November 30, 2021, in response to Class Counsel’s request for a further phone meeting, counsel for the Applicants requested that Class Counsel first provide a list of questions it sought to have answered.
29. On December 2, 2021, Class Counsel provided the requested list to the Applicants.
30. On December 8, 2021, following nearly a week of delay by the Applicants, the parties had a virtual meeting. Only one hour before the meeting, the Applicants provided Class Counsel with the Applicants’ May 2021 Business Plan (which was outdated), DIP Term Sheet (together with one

amendment), and written answers to Class Counsels' December 2, 2021 question list.

31. Most of the substantive information requests contained in Class Counsel's December 2, 2021 question list remain outstanding.
32. The Business Plan provided to Class Counsel is dated May 2021. Since that time,
 - a. the Applicants have publicly filed subsequent financial statements;
 - b. the Applicants have sold assets, including an 8% equity interest in ecobee Inc. (the "**ecobee Shares**"), which sale was authorized by the Court in its order dated November 10, 2021; and
 - c. the State of Texas governor signed House Bill 4492, which provides recovery of costs by energy market participants, and pursuant to which the Applicants have filed for their recovery amounts. On December 9, 2021, the company issued a news release stating: "Just Energy Group Inc. ("Just Energy" or the " Company") (TSXV:JE; OTC:JENGQ), announced today an update of the expected recovery by Just Energy from the Electric Reliability Council of Texas, Inc. ("ERCOT") of certain costs incurred during the extreme weather event in Texas in February 2021 (the "Weather Event") as previously disclosed, which is expected to be approximately USD \$147.5 million.

33. On December 13, 2021, Class Counsel sent counsel to the Applicants an email enclosing a further list of questions regarding the Applicants' Business Plan.
34. On December 15, 2021, the Applicants advised they were not in a position to "devote additional resources" to answering Class Counsel's questions and inquiries.

The Monitor's Involvement

35. On December 17, 2021, Class Counsel advised counsel for the Monitor of the difficulties it was encountering in obtaining information from the Applicants, and requested a meeting to discuss the company's financial condition, restructuring plans, and a suitable claims resolution process for the claims of the Class Claimants.
36. On December 22, 2021, Class Counsel and counsel to the Monitor had a virtual meeting to discuss Class Counsel's information requests.
37. On December 28, 2021, Paliare Roland emailed counsel for the Monitor to request the Monitor's assistance in scheduling a Case Conference with the presiding Judge in the first week of January 2022, for the purpose of setting a timetable for the bringing of this motion.

38. On December 31, 2021, counsel to the Applicants advised Paliare Roland that they had asked the Monitor to inquire for a date in the latter half of the second week of January 2022.
39. On January 4, 2022, Paliare Roland advised that it was not consenting to a further 7 - 10 day delay in obtaining a Case Conference date to schedule a date for a motion, and reiterated that it had not received a response from the Company regarding its substantive, timeline, process, transparency and information requests.
40. On January 4, 2022, Class Counsel again met with counsel to the Monitor to discuss the process proposed by Class Counsel for the adjudication of the claims of the Class Claimants.
41. For well over a month, Class Counsel has been ready, and has repeatedly requested, to become deeply involved as a key stakeholder in this CCAA Proceeding. Unfortunately, the Applicants appear to be unwilling to engage with Class Counsel in any substantive way.
42. To date, despite requests from Class Counsel to the Monitor and the Applicants, Class Counsel has not received substantive information regarding:
 - a. the Plan Term Sheet, the size of the creditor pool or the quantum of claims in this CCAA Proceeding;

- b. whether there are any professionals representing unsecured creditors and the Class Claims in the ongoing realization discussions, given that it now appears the Applicants have equity on the balance sheet (as discussed below);
 - c. the expected timing of key events in the CCAA Proceeding, including the release of the Applicants' and/or financiers' proposed exit plan and how such exit plan is to be put before the Court and Creditors for approval; and
 - d. how and when the Class Claimants' claims will be adjudicated and/or be treated within a vote.
43. The Applicants would ordinarily have established a data room through which stakeholders can access non-public information material to the restructuring effort.
44. If such a data room exists, then Class Counsel have not received access to it.
45. Class Counsel and its advisors need access to this type of information in order to meaningfully participate in any restructuring file, including this CCAA Proceeding.
46. Without this information, Class Counsel is hampered in its ability to consider and discuss the Applicant's intended course of conduct, and to develop and

propose alternatives that may be attractive to and preserve value for the general body of unsecured creditors.

CLASS COUNSEL'S PROPOSED CLAIMS ADJUDICATION PLAN

The Notice of Disallowance

47. On January 11, 2022, the Applicants served a Notice of Revision or Disallowance with respect to both the Donin/Golovan and Jordet Proofs of Claim (the "**Notice of Disallowance**").
48. The Notice of Disallowance largely repeats the failed legal arguments that the Applicants made in their unsuccessful attempts to have the Donin Action and the Jordet Action dismissed.
49. The Notice of Disallowance takes issue with the alleged size of the Class and quantum of the alleged claim, yet the Applicants continue to refuse to provide Class Counsel with the necessary data and information to more precisely determine these issues or to verify the Applicants' unsupported claims related to class size and damages.
50. The Notice of Disallowance rejects the alleged class size and quantum without any evidence and without even addressing the comprehensive expert report prepared by Serhan Ogur.

The Class Claimants are Unaffected Creditors

51. Class Counsel seeks a determination that the Class Claimants are unaffected creditors in this CCAA Proceeding, so that they may continue to pursue the U.S. Litigation in the U.S. courts.
52. In the absence of such a determination, Class Counsel seek the prompt and efficient adjudication of the U.S. Litigation within this CCAA Proceeding.
53. In response to the suggestion of Counsel to the Applicants, and in anticipation of the disallowance of the Proofs of Claim, on December 13, 2021, Class Counsel emailed the Applicants' counsel a proposed adjudication plan for the Class Actions.
54. The proposed adjudication plan was an attempt to reach a resolution for a mutually-agreeable process for the adjudication of the U.S. Litigation in a prompt and efficient manner within the CCAA Proceeding.
55. The proposal contemplated:
 - a. the appointment of 3 arbitrators from JAMS (US) (with consumer class action experience) to sit as Claims Officers in this CCAA Proceeding;
 - b. the use of the "Expedited Procedures" in the JAMS Comprehensive Arbitration Rules;

- c. a process for exchanging documents, subject to the oversight of the Claims Officers; and
 - d. a hearing lasting 5-7 days in February 2022.
56. On December 15, 2021, the Applicants, through counsel, advised that “the Just Energy Entities anticipate further discussions with your group concerning a fair and reasonable method of adjudicating your clients’ claims at the appropriate time”.
57. To date, despite these overtures, the Applicants have not responded to Class Counsel’s December 13, 2021, letter or proposed any alternative adjudication process for the Class Actions.
58. Given the size of the claims in the Class Actions, there is a need to establish an adjudication process leading to a resolution of these claims in advance of any motion to consider approving any Plan that the Applicants may put forward (or any other exit from this CCAA Proceeding).

THERE IS EQUITY IN THE JUST ENERGY ENTITIES

59. Just Energy’s public financial reports, as filed with SEDAR and the US Securities Exchange Commission, are prepared in accordance with International Financial Reporting Standards (“**IFRS**”), as issued by the International Accounting Standards Board (“**IASB**”).

60. The September 30, 2021 financial statements indicate that Just Energy Group Inc. had approximately \$12.6 million CAD in equity on its balance sheet.
61. Just Energy's shares are listed for trading on the TSX Venture Exchange under the symbol (TSX: JE) and in the United States on the OTC Pink Exchange under the symbol (OTC: JENGQ).
62. As of January 10, 2021, Just Energy's equity market capitalization was approximately \$55.8 million CAD.
63. Sections 11, 11.02 and 18.6 of the CCAA;
64. Rules 1.04, 1.05, 2.03, 3.02, 16, 37 and Rule 57.03 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 as amended and section 106 of the *Courts of Justice Act*, R.S.O 1990, c. C. 43 as amended; and
65. Such further and other grounds as the lawyers may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

1. The Affidavit of Robert Tannor sworn January 17, 2022; and
2. Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

January 19, 2022

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TO: THE SERVICE LIST

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OF **JUST ENERGY GROUP INC. ET AL.**

ONTARIO

**SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
PROCEEDING COMMENCED AT
TORONTO**

NOTICE OF MOTION AND CROSS-MOTION

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(COMMERCIAL LIST)**

THE HONOURABLE)
)
JUSTICE MCEWEN) WEDNESDAY, THE
9th DAY OF FEBRUARY, 2022

IN THE MATTER OF THE *COMPANIES' CREDITORS
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(each, an “**Applicant**”, and collectively, the “**Applicants**”)

ORDER
(Mediation/Arbitration Order)

THIS MOTION made by Wittels McInturff Palikovic, Finkelstein Blankinship, Frei-Pearson, Garber LLP, and Shub Law Firm LLP (collectively, "**Class Counsel**"), in its capacity as counsel to the plaintiff classes (the "**Class Claimants**") in *Donin v. Just Energy Group Inc. et al.*¹ (the "**Donin Action**") and *Trevor Jordet v. Just Energy Solutions, Inc.*² (the "**Jordet Action**", together with the Donin Action, the "**U.S. Litigation**") was heard this day via Zoom conference at Toronto, Ontario.

ON READING the motion record of the moving party and on hearing the submissions of counsel for the moving party and counsel for the Applicants, no one else appearing,

1. **THIS COURT ORDERS** that the timing and method of service and filing of this motion is hereby abridged and validated such that the motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that for the purposes of this Order, the following terms shall have the following meanings:
 - a. "**CCAA Proceeding**" means the within proceedings in respect of the Applicants;
 - b. "**Data Room**" means any data room established by the Applicants by which non-public information has been made available to certain stakeholders in this CCAA Proceeding;
 - c. "**Monitor**" means FTI Consulting Canada Inc., in its capacity as the court-appointed monitor of the Applicants; and
 - d. "**Persons**" means any individual, corporation, firm, limited or unlimited liability company, general or limited partnership, association (incorporated or unincorporated), trust, unincorporated organization, joint venture, trade

¹ Case No: 17 Civ. 5787 (WFK)(SJB), before the United States District Court Eastern District of New York.

² Case No: 2:18-cv-01496-MMB, before the United States District Court for the Eastern District of Pennsylvania.

union, government authority or any agency, regulatory body or officer thereof or any other entity, wherever situate or domiciled, and whether or not having legal status, and whether acting on their own or in a representative capacity.

3. **THIS COURT ORDERS** that any capitalized term used but not defined herein shall have the meaning given to such term in the Motion Record of the moving party dated January 19, 2022.

DATA ROOM ACCESS

4. **THIS COURT ORDERS** that the Applicants shall provide the Class Claimants with access to their Data Room.

APPOINTMENT OF MEDIATOR/ARBITRATOR

5. **THIS COURT ORDERS** that [*mediator/arbitrator to be determined by the Court after the moving party, the Applicants and the Monitor consult*] is hereby appointed as an officer of the Court and shall act as a neutral third party (the “**Mediator/Arbitrator**”).
6. **THIS COURT ORDERS** that the Mediator/Arbitrator’s mandate is to resolve all matters arising from the Class Claimants’ requests for information in respect of any restructuring, realization and/or sale or investment process, and any and all exit plans of the Applicants in respect of these proceedings, together with such other procedural or substantive matters as the parties may agree or this Court may direct (the “**Mandate**”).
7. **THIS COURT ORDERS** that in carrying out the Mandate, the Mediator/Arbitrator may, among other things:
 - a. adopt processes and utilize resources which, in his/her discretion, he/she considers appropriate;
 - b. consult with all Persons as the Mediator/Arbitrator considers appropriate;and

- c. apply to this Court for advice and directions as, in his/her discretion, the Mediator/Arbitrator deems necessary.
8. **THIS COURT ORDERS** that the reasonable fees and disbursements of the Mediator/Arbitrator in relation to carrying out the Mandate shall be paid by the Applicants on a monthly basis, forthwith upon the rendering of accounts to the Applicants.
9. **THIS COURT ORDERS** that the Applicants are hereby authorized to pay to the Mediator/Arbitrator a retainer to be held by the Mediator/Arbitrator as security for payment of the Mediator/Arbitrator's fees and disbursements outstanding from time to time.
10. **THIS COURT ORDERS** that the Mediator/Arbitrator is authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Order, including dealing with any Court, regulatory body or other government ministry, department or agency, and to take all such steps as are necessary or incidental thereto.
11. **THIS COURT ORDERS** that, in addition to the rights and protections afforded as an officer of this Court, the Mediator/Arbitrator shall incur no liability or obligation as a result of his appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on his part. Nothing in this Order shall derogate from the protections afforded a person pursuant to Section 142 of the *Courts of Justice Act* (Ontario).

COMMUNICATION AND CONFIDENTIALITY PROTOCOL

12. **THIS COURT ORDERS** that the following communication and confidentiality protocol between the Court, the Mediator/Arbitrator and participants in the Mediation/Arbitration Process be and is hereby approved:
 - a. the Court and the Mediator/Arbitrator may communicate between one another directly to discuss, on an on-going basis, the conduct of the

Mediation/Arbitration Process and the manner in which it will be coordinated with the CCAA Proceedings;

- b. the Court will not disclose to the Mediator/Arbitrator how the Court will decide any matter which may come before the Court for determination;
- c. the Mediator/Arbitrator will not disclose to the Court the negotiating positions or confidential information of any of the parties in the Mediation/Arbitration Process;
- d. without-prejudice statements, discussions, and offers of any of the parties arising in the course of the Mediation/Arbitration Process shall not be subject to disclosure through discovery or any other process, shall remain confidential, and shall not be referred to in Court and shall not be admissible into evidence for any purpose, including impeaching credibility or to establish the meaning and/or validity of any settlement or alleged settlement arising from the Mediation/Arbitration Process, provided, for the avoidance of doubt, that arbitral decisions and any related reasons of the Mediator/Arbitrator may be disclosed; and
- e. any notes, records, statements made, discussions had and recollections of the Mediator/Arbitrator or any of his assistants in conducting the Mediation/Arbitration Process shall be confidential and without prejudice and protected from disclosure for all purposes, provided, for the avoidance of doubt, that arbitral decisions and any related reasons of the Mediator/Arbitrator may be disclosed;

GENERAL

13. **THIS COURT ORDERS** that the Monitor and the Applicants may apply to this Court from time to time for directions from this Court with respect to this Order, or for such further order or orders as any of them may consider necessary or desirable to amend, supplement or clarify the terms of this Order.

14. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, or abroad, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

15. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are 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.

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF **JUST ENERGY GROUP INC. ET AL.**

<p>ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST) PROCEEDING COMMENCED AT TORONTO</p>	<p>ORDER (Mediation/Arbitration Order)</p>
<p>Paliare Roland Rosenberg Rothstein LLP 155 Wellington Street West, 35th Floor Toronto ON M5V 3H1 Tel: 416.646.4300</p> <p>Ken Rosenberg (LSO# 21102H) Tel: 416.646.4304 Email: ken.rosenberg@paliareoland.com</p> <p>Jeffrey Larry (LSO# 44608D) Tel: 416.646.4330 Email: jeff.larry@paliaroland.com</p> <p>Danielle Glatt (LSO# 65517N) Tel: 416.646.7440 Email: danielle.glatt@paliaroland.com</p> <p>Counsel to US counsel for Fira Donin and Inna Golovan, in their capacity as proposed class representatives in <i>Donin et al. v. Just Energy Group Inc. et al.</i></p> <p>Counsel to US Counsel for Trevor Jordet, in his capacity as proposed class representative in <i>Jordet v. Just Energy Solutions Inc.</i></p>	

Court File No. CV-21-00658423-00CL

Just Energy Group Inc. et al.

**FIFTH REPORT OF FTI CONSULTING CANADA INC.,
IN ITS CAPACITY AS COURT-APPOINTED MONITOR**

February 4, 2022

22. HB 4492 addresses the securitization of (i) ancillary service charges above the system-wide offer cap of US\$9,000/MWh during the weather event; (ii) reliability deployment price adders charged by the Electric Reliability Council of Texas, Inc. (“**ERCOT**”) during the weather event; and (iii) non-payment of amounts owed to ERCOT due to defaults by competitive market participants, resulting in short payments to market participants, including Just Energy (collectively, the “**Costs**”).
23. The Just Energy Entities had previously advised the Monitor that they anticipated recovering at least US\$100 million of the Costs from ERCOT. The Just Energy Entities have continued to monitor and evaluate the potential benefits and impact of HB 4492 and, in a press release dated December 9, 2021, announced that their expected recovery from ERCOT of the Costs has increased to approximately US\$147.5 million based on ERCOT’s calculations filed with the Public Utility Commission of Texas, representing an increase of US\$47.5 million over the previous estimate.

UPDATE ON RESTRUCTURING EFFORTS OF THE JUST ENERGY ENTITIES

24. The Just Energy Entities with the assistance of their counsel and the Financial Advisor, in consultation with the DIP Lenders (in their capacity as such, and in their capacity as assignee of the secured Claim asserted by BP Energy Company and its affiliates, and the sponsor in connection with the Recapitalization Plan (as defined below)), the Credit Facility Lenders, Shell, the lenders under the non-revolving term loan established pursuant to the Term Loan Agreement as part of the Applicants’ 2020 balance sheet recapitalization transaction (the “**Term Loan Lenders**”), and their respective legal and financial advisors, have made significant progress in developing a recapitalization term sheet (the “**Recapitalization Term Sheet**”) that provides for the recapitalization of the Just Energy Entities and their respective businesses via a plan of compromise or arrangement (the “**Recapitalization Plan**”).
25. The Recapitalization Term Sheet and Recapitalization Plan are intended to facilitate emergence from the CCAA Proceedings, preserve the going concern value of the business, maintain customer relationships, and preserve employment and critical vendor and regulator relationships – all for the benefit of the Just Energy Entities’ stakeholders.

26. To provide sufficient time to advance these restructuring efforts, and finalize the Recapitalization Term Sheet and Recapitalization Plan, the Just Energy Entities have negotiated extensions to certain milestone deadlines provided for in the DIP Term Sheet including the following:
- (a) February 10, 2022 – deadline for delivery of the settled Recapitalization Term Sheet, which will form the basis of the Recapitalization Plan;
 - (b) February 17, 2022 – deadline for the Court to grant an order approving one or more meetings for a vote on the Recapitalization Plan and related materials (the “**Meeting Order**”), if applicable, and February 22, 2022, being the deadline to mail the meeting materials;
 - (c) March 15, 2022 – deadline for the U.S. Court to recognize the Meeting Order, if applicable;
 - (d) March 30, 2022 – deadline for the meeting(s) to vote on the Recapitalization Plan, if applicable;
 - (e) April 7, 2022 – deadline for the Court to grant an order approving and sanctioning the Recapitalization Plan, if applicable; and
 - (f) April 21, 2022 – deadline for U.S. Court to enter an order recognizing the order approving and sanctioning the Recapitalization Plan, if applicable.
27. The Just Energy Entities and the Monitor are hopeful that agreement on the Recapitalization Term Sheet and Recapitalization Plan can be reached in the near future. To this end, the Monitor understands that the Just Energy Entities intend to bring a motion before the Court returnable on March 3, 2022, to seek the authority to file the Recapitalization Plan and request that the Court grant the Meeting Order. The Monitor will comment on the Meeting Order and Recapitalization Plan in a future report to the Court. The Monitor notes that March 3, 2022 is after the milestone dates currently established for the Meeting Order. The Monitor understands that it is the intention of the Just Energy Entities to negotiate for an extension of the applicable milestone.

UPDATE ON CLAIMS PROCEDURE

Claims Procedure Overview

28. As noted in the Monitor's Third Report to the Court dated September 8, 2021 (a copy of which is available on the Monitor's Website), the Just Energy Entities, in consultation with the Monitor and the Claims Agent, developed the Claims Procedure to determine the nature, quantum, and validity of Claims against the Just Energy Entities and their Directors and Officers in a flexible, fair, comprehensive, and expeditious manner. Subject to certain exceptions, the deadline to file a Proof of Claim or a Notice of Dispute of Claim (in the case of Negative Notice Claimants) was November 1, 2021 (Toronto time) (the “**Claims Bar Date**”). For the purpose of this section, any capitalized terms not defined herein have the meanings ascribed thereto in the Claims Procedure Order.
29. The Claims Procedure Order incorporated a negative notice claims process for known and quantified Claims generally, while all other Claimants not included within the definition of “Negative Notice Claimant” were required to file a Proof of Claim. To the extent that a party received a Statement of Negative Notice Claim and failed to file a Notice of Dispute of Claim, the Negative Notice Claimant’s Claim was deemed to be the amount set forth in the Statement of Negative Notice Claim.
30. Pursuant to noticing requirements and obligations of the Monitor contained within the Claims Procedure Order, the Monitor, with the assistance of the Claims Agent and the Just Energy Entities, has:
 - (a) issued approximately 1,000 Negative Notice Claims Packages to 835 Negative Notice Claimants;
 - (b) issued approximately 15,100 General Claims Packages to: (i) each person on the Service List (except Persons that are likely to assert only Excluded Claims); (ii) any Person who has requested a Proof of Claim and was not sent a Statement of Negative Notice Claim; (iii) any Person known to the Just Energy Entities or the Monitor as having a potential Claim that is not captured in any Statement of Negative Notice Claim; and (iv) any Person with a Claim arising out of the

- restructuring, disclaimer, termination or breach on or after the Filing Date of any contract, lease or other agreement;
- (c) issued approximately 3,700 notices advising of the existence of the Claims Procedure (which contained instructions for accessing a General Claims Package) to all active vendors of the Just Energy Entities listed in their books and records but not having any known Claims against the Just Energy Entities;
 - (d) caused the Notice to Claimants to be published on September 21, 2021, in the following printed publications: (i) the Global and Mail (National Edition); (ii) the Wall Street Journal; (iii) the Houston Chronicle; and (iv) the Dallas Morning News;
 - (e) posted all relevant documents with respect to the Claims Procedure on the Monitor's Website, including, but not limited to (i) the Notice to Claimants, (ii) the General Claims Package, (iii) a blank Notice of Dispute of Claim form, (iv) a blank Proof of Claim form, and (v) a blank D&O Proof of Claim form;
 - (f) received, reviewed, recorded and categorized all Notices of Dispute of Claim and Proofs of Claim that were received before, on, or after the Claims Bar Date;
 - (g) issued several Notices of Revision or Disallowance in respect of disallowed Claims prepared by the Applicants, in consultation with the Monitor;
 - (h) notified creditors of certain Claims accepted by the Just Energy Entities in consultation with the Monitor;
 - (i) engaged in numerous discussions and correspondence with various creditors that filed duplicative, erroneous, or marker claims to have such Claims withdrawn by the Claimant, where appropriate; and
 - (j) consulted with certain of the Consultation Parties in respect of certain Claims, as authorized pursuant to paragraph 41 of the Claims Procedure Order.
31. The Monitor has also engaged with numerous stakeholders in respect of questions that have arisen in respect of their Negative Notice Claims Package and the Claims Procedure generally.

32. The Just Energy Entities, with assistance from and in consultation with the Monitor, are in the process of completing a review of the Notices of Dispute of Claim and Proofs of Claim received, and are actively working to review, investigate, and/or resolve the various Claims as applicable.

Overview of Claims

33. Statements of Negative Notice Claim were issued to 835 Claimants, of which 15 subsequently submitted a Notice of Dispute of Claim. Additionally, there were 515 Claimants who submitted a Proof of Claim.
34. A summary of the Claims segregated by Statement of Negative Notice Claim, Notice of Dispute of Claim, Proof of Claim and category of claim, is presented in the table below. Please note that the amounts presented are inclusive of potential duplicate and/or erroneous claims and represent the total Claims recorded by the Monitor.

Category	Statement of Negative Notice		Notice of Dispute of Claim		Proof of Claim		Total Claims		
	Secured	Unsecured	Secured	Unsecured	Secured	Unsecured	Secured	Unsecured	TOTAL
<i>(amounts stated in millions of CAD)</i>									
Funded Debt	\$ 331	\$ 289	-	\$ 13	-	-	\$ 331	\$ 302	\$ 633
Commodity & Financial	472	2	2	-	377	2	852	3	855
Litigation	-	-	-	-	-	10,015	-	10,015	10,015
Tax & Unclaimed Property	-	5	-	-	0	90	0	95	95
Trade & Other	-	8	-	0	26	490	26	498	524
D&O	-	-	-	-	-	1,545	-	1,545	1,545
Total Claims Pool (Exl. Withdrawn & Rescinded Claims)	804	304	2	14	403	12,140	1,209	12,458	13,667
Withdrawn & Rescinded Claims	-	0	-	0	-	994	-	994	994
Total Claims Received	\$ 804	\$ 304	\$ 2	\$ 14	\$ 403	\$ 13,134	\$ 1,209	\$ 13,452	\$ 14,661

35. The following provides an overview of the types of Claims contained within each category:
- (a) Funded Debt: Funded Debt claims total approximately \$633 million and include all aggregate claims that relate to the Credit Facility Lenders, the Term Loan Lenders, and the Claims of the Noteholders;

- (b) Commodity & Financial: Commodity & Financial claims total approximately \$855 million and include all aggregate Claims of Commodity Suppliers as well as Claims relating to financial hedges or the purchase of renewable energy certificates;
- (c) Litigation: Litigation claims total approximately \$10,015 million and include all aggregate Claims pertaining to on-going and settled litigation;
- (d) Tax & Unclaimed Property: Tax & Unclaimed Property claims total approximately \$95 million and include all aggregate Claims of various government bodies for taxes owing at the local, state/province, and/or federal level, and also includes all claims with respect to unclaimed property owed to various U.S. states. For the Just Energy Entities, unclaimed property typically represents cheques issued prior to each state's established dormancy period, which represents the date by which a payee must deposit a cheque – generally 2 or more years;
- (e) Trade & Other: Trade & Other claims total approximately \$524 million and include all aggregate Claims of trade vendors, IT vendors, former employees, commission vendors, landlords and other. In this category, it is estimated that there are approximately \$435 million of Claims that are duplicative, which could reduce the total Claims to be resolved to approximately \$89 million if such Claims are withdrawn or successfully resolved; and
- (f) D&O Claims: D&O Claims include all Claims filed against the Directors and Officers of the Just Energy Entities. Approximately 302 D&O Proofs of Claim (including 193 “marker claims”) were recorded totaling approximately \$1,545 million. The Monitor understands that all of these D&O Claims are disputed by the Just Energy Entities. In fact, approximately \$1,436 million of these claims have now been disallowed by the Just Energy Entities, in consultation with the Monitor, and pursuant to which the deadline to file a Notice of Dispute has lapsed, resulting in \$109 million of D&O Claims remaining to be resolved.

36. As of January 31, 2022, secured claims initially recorded by the Monitor total approximately \$1,209 million, which is comprised primarily of the Just Energy Entities secured funded debt obligations and other secured supplier obligations pursuant to the

Intercreditor Agreement. Based on the review of secured claims completed by the Just Energy Entities and the Monitor and subject to final resolution of all secured claims, if necessary, pursuant to the Claims Procedure Order, it is estimated that there are approximately \$309 million of secured claims that are potentially duplicative or erroneous, which would reduce the total secured claims to be resolved to approximately \$900 million if such Claims are withdrawn or successfully resolved.

37. As of January 31, 2022, unsecured claims initially recorded by the Monitor total approximately \$13,452 million. Counsel for each of the Plaintiffs in the Donin Action and the Jordet Action filed a Proof of Claim each in the amount of US\$3,662 million, or approximately \$4,615 million (together, the “**Donin/Jordet Claims**”). Based on the review of unsecured claims completed by the Just Energy Entities and the Monitor and subject to final resolution of all unsecured claims, if necessary, pursuant to the Claims Procedure Order, it is estimated that there are approximately \$6,362 million of unsecured claims recorded (including one of the contingent Donin/Jordet Claims in the amount mentioned above) that are duplicative or erroneous. Net of withdrawn and rescinded claims of \$994 million and if the estimated duplicative or erroneous Claims of \$6,362 million are withdrawn or successfully resolved, the total unsecured Claims to be resolved would be approximately \$6,096 million.
38. The Just Energy Entities, with the assistance of the Monitor, are working to facilitate the voluntary withdrawal of duplicate and erroneous Claims submitted in an expeditious manner where possible. As of January 31, 2022, approximately \$994 million of Claims have been withdrawn or rescinded. Of the \$14,661 million total Claims received less withdrawn and rescinded Claims of \$994 million, the total remaining Claims pool is \$13,667.
39. In addition to the dollar value Claims listed in the above table and D&O “marker claims”, there are an additional 275 Proofs of Claim which are recorded as “marker claims” for amounts yet to be determined. Of these “marker claims”, 261 Proofs of Claim pertain to Claims filed by individuals who have sought to assert tort and/or similar Claims against the Just Energy Entities in relation to the Texas weather event. The

Monitor understands that all of these Claims are disputed by the Just Energy Entities. The remaining 14 “marker claims” generally pertain to Claims filed by certain governmental organizations and taxation bodies. The Just Energy Entities, in consultation with the Monitor, are working to determine and resolve these Claims.

40. The Monitor received 21 Claims totaling approximately \$9 million after the applicable Claims Bar Date (the “**Late-Filed Claims**”). The Monitor and the Just Energy Entities are in the process of reviewing the Late-Filed Claims. To the extent any further late-filed claims are submitted, the Just Energy Entities, in consultation with the Monitor, will assess those claims in light of the circumstances existing at that time.
41. The Just Energy Entities, in consultation with the Monitor, continue to assess the nature, quantum and validity of the Claims with a view to either accepting or disputing each Claim based on its merits. The Monitor will provide an update regarding the status of the Claims in a future report.

UPDATE ON ECOBEE TRANSACTION

42. As discussed in the Fourth Report, it was announced on November 1, 2021 that ecobee Inc. (“**ecobee**”), a private company in which JMC owned approximately an 8% equity interest, had agreed to sell all of its issued and outstanding shares (the “**ecobee Transaction**”) to 13462234 Canada Inc. (“**Generac**”), a wholly-owned subsidiary of Generac Power Systems, Inc., which is in turn a wholly-owned subsidiary of Generac Holdings Inc. (“**Generac Holdings**”). Generac Holdings stock trades on the New York Stock Exchange under the symbol GNRC. The sale was intended to be effected pursuant to a court approved arrangement under the *Canada Business Corporations Act*.
43. As consideration for the ecobee Transaction, Generac agreed to pay to the sellers of the ecobee shares US\$200 million cash on closing, subject to customary adjustments, and US\$450 million in Generac Holdings common stock. Additionally, upon achievement of certain performance targets between closing of the transaction and June 30, 2023, the sellers may receive a further amount up to an aggregate of US\$120 million in shares of Generac Holdings common stock.

APPENDIX "B"

Cash Flow Forecast for the period ending March 12, 2022

Weeks Ending (Saturday) (CAD\$ in millions)		2/5/22 Forecast	2/12/22 Forecast	2/19/22 Forecast	2/26/22 Forecast	3/5/22 Forecast	3/12/22 Forecast	Through 3/12/22
Forecast Week		Wk 1	Wk 2	Wk 3	Wk 4	Wk 5	Wk 6	Total
RECEIPTS								
Sales Receipts	[1]	\$59.9	\$64.8	\$66.8	\$63.6	\$49.1	\$44.9	\$349.1
Miscellaneous Receipts	[2]	-	-	-	-	-	-	-
Total Receipts		\$59.9	\$64.8	\$66.8	\$63.6	\$49.1	\$44.9	\$349.1
DISBURSEMENTS								
<i>Operating Disbursements</i>								
Energy and Delivery Costs	[3]	(\$76.0)	\$49.0	(\$127.2)	(\$19.4)	(\$70.9)	(\$12.9)	(\$257.3)
Payroll	[4]	(0.0)	(3.6)	-	(4.1)	(4.6)	(3.3)	(15.7)
Taxes	[5]	(4.8)	(0.1)	-	(6.3)	-	(0.0)	(11.2)
Commissions	[6]	(1.4)	(1.1)	(2.7)	(4.3)	(1.4)	(1.0)	(12.0)
Selling and Other Costs	[7]	(3.9)	(3.2)	(3.2)	(3.2)	(2.8)	(2.8)	(19.1)
Total Operating Disbursements		(\$86.0)	\$40.9	(\$133.1)	(\$37.3)	(\$79.8)	(\$20.0)	(\$315.3)
OPERATING CASH FLOWS		(\$26.1)	\$105.7	(\$66.4)	\$26.3	(\$30.6)	\$24.9	\$33.8
<i>Financing Disbursements</i>								
Credit Facility - Borrowings / (Repayments)	[8]	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Interest Expense & Fees	[9]	(1.0)	-	-	-	(0.9)	-	(1.9)
<i>Restructuring Disbursements</i>								
Professional Fees	[10]	(0.2)	(1.0)	(0.5)	(3.6)	(1.9)	(1.2)	(8.4)
NET CASH FLOWS		(\$27.3)	\$104.7	(\$66.9)	\$22.8	(\$33.4)	\$23.7	\$23.5
CASH								
Beginning Balance		\$131.9	\$104.6	\$209.3	\$142.4	\$165.1	\$131.7	\$131.9
Net Cash Inflows / (Outflows)		(27.3)	104.7	(66.9)	22.8	(33.4)	23.7	23.5
Other (FX)		-	-	-	-	-	-	-
ENDING CASH		\$104.6	\$209.3	\$142.4	\$165.1	\$131.7	\$155.4	\$155.4
BORROWING SUMMARY								
DIP Facility Credit Limit		\$157.5	\$157.5	\$157.5	\$157.5	\$157.5	\$157.5	
DIP Draws		-	-	-	-	-	-	
DIP Principal Outstanding		157.5	157.5	157.5	157.5	157.5	157.5	
DIP Availability		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	

1. Sales Receipts include collections from the Company's residential and commercial customers for the sale of energy, which primarily consists of electricity and natural gas, inclusive of sales tax. The sales forecast is based on historical sales patterns, seasonality, and management's current expectations.

2. Miscellaneous receipts reflect forecasted tax refunds and other receipts not sent from customers.

3. Energy & Delivery costs reflect the purchase energy from suppliers and the cost of delivery and transmission to the Company's customers.

4. Payroll disbursements reflect the current staffing levels and recent payroll amounts, inclusive of payroll taxes and any payments associated with the Company's bonus programs.

5. Taxes reflect the remittance of applicable state and local taxes.

6. Commissions include fees paid to customer acquisition contractors and suppliers.

7. Selling and Other Costs include selling, general, and administrative payments.

8. The Credit Facility Borrowings / (Repayments) show borrowings and repayments under the Company's credit facilities.

9. Interest expenses & fees include interest and fees on the Company's credit and LC facilities.

10. Professional Fees include fees for the Company's counsel and investment banker, the Monitor, the Monitor's Counsel, the DIP lenders' professionals, and fees for Lender Support and Certain Commodity Support Agreements.

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December 13, 2021

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Re: *Donin et al. v. Just Energy Group, Inc., et al.*, No. 17 Civ. 5787 (WFK) (SJB) (E.D.N.Y.)
Jordet v. Just Energy Solutions, Inc., No. 18 Civ. 953 (WMS) (W.D.N.Y.)

Dear Counsel for Just Energy (Osler):

This is to follow up on our meeting this past Wednesday (December 8) during which Class Counsel in the above-captioned New York federal cases proposed that the parties agree on a plan for adjudication of the Donin and Jordet Creditor-Plaintiffs' claims (hereafter collectively "Donin claims" or "Claimants") in the pending CCAA proceeding. This letter sets forth a framework for the proposed adjudication which we believe should be scheduled for hearing the first week of February 2022 before a tripartite panel (the "Claims Officers").

This proposed schedule contemplates receipt of the Claims Officers' decision before any vote on the Recapitalization Plan or subsequent entry by the Canadian Court of approval of such a Plan under the current Claims Procedure Order. If the Claims Officers have not rendered their decision within this time frame, then Class Counsel will move the Court for an appropriate adjournment of the pertinent CCAA deadlines. To the extent Just Energy believes defense counsel in the pending New York federal class actions need to be involved in the claims adjudication process, to avoid delay we are copying them on this communication.

We are also enclosing with this letter our Financial Advisor Tannor Capital's list of questions on the Just Energy Business Plan of May 2021, together with follow-up questions arising from last week's meeting. We ask that JE counsel as well as the Monitor and JE's advisors be prepared to discuss these questions during a Zoom conference later this week.

In order to meet the fast-track adjudication timetable, the parties will need to cooperate on various pre-hearing matters concerning the claims, which we describe below. Thus please provide your feedback on this proposed framework in writing no later than Wednesday this week (Dec. 15). Please also schedule a Zoom meeting for this Thursday or Friday (Dec. 16 or 17) with Osler, the Monitor, FTI, and the Company's US counsel (if warranted) to discuss finalizing the adjudication process, as well as Tannor Capital's questions.

Pre-Hearing Framework & Plan Leading to Hearing by the Claims Officers

We propose that the parties negotiate and agree on the following:

1. Claims Officers' Selection and Authority

The parties should agree on a tripartite panel from JAMS (U.S.) with both (i) prior arbitration experience, and (ii) experience with class action consumer fraud cases. Additionally, pre-hearing discovery and the hearing would be conducted in accordance with the expedited procedures of the JAMS Comprehensive Arbitration Rules and Procedures ("Rules") governing binding Arbitrations of claims. See <https://www.jamsadr.com/rules-comprehensive-arbitration/> and "Expedited Procedures" -- Rule 16.1. Under this procedure, the Claims Officers will hear and resolve any disputes and motions concerning pre-trial disclosures and process in a manner that moves the cases forward expeditiously.

We propose that each side select one member of the tripartite panel from the JAMS pool of neutrals, with the third to be selected using the strike method set forth in Rule 15 of the JAMS Rules. *Id.*

2. Pre-Trial Disclosures

Given the limited disclosure that has occurred in the New York actions to date, what is needed now for proper adjudication of these claims is sufficient disclosure by the company of its pricing methodology and costs so all parties can access the appropriate measure of damages

In particular, both sides will need sufficient disclosure such as (i) the rates charged and usage data for Just Energy's customers in the various U.S. markets where the company supplies electricity and gas, (ii) JE's costing methodology, (iii) customer agreements utilized, and (iv) marketing materials. As discussed on our call last week, we are prepared to furnish a more detailed list of what is needed pre-hearing and intend to do so once this process is agreed to.

Depending upon the data and disclosures made, it is likely that circumscribed party depositions will be needed. Absent agreement, the Claims Officers will determine the scope of discovery and depositions in accordance with the JAMS Rules.

3. The Hearing

Under the Claims Officers' guidance the parties will work towards a speedy hearing date. We envision the hearing lasting approximately 5-7 days, and the parties presenting both live witness and expert testimony. We expect an expedited written ruling from the Claims Officers, which decision will be binding on all parties for purposes of the CCAA proceeding. This claims procedure will also allow for an appeal pursuant to the Claims Procedure Order.

We look forward to (i) your prompt response by this Wednesday (Dec. 15) as to this proposed claims adjudication procedure, and (ii) confirmation of a scheduled Zoom meeting for this Thursday or Friday (Dec. 16 or 17) with Osler, the Monitor, FTI, the company's advisors, as well as JE's U.S. counsel (if warranted), to discuss finalizing the adjudication process and responses to TCA's questions accompanying this letter.

Thank you.

Very Truly Yours,

/s/ Steven L. Wittels
Steven L. Wittels

cc:

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Jason Cyrulnik & Evelyn N. Fruchter
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File 99380

February 4, 2022

VIA EMAIL

WITH PREJUDICE

Marc Wasserman, Michael De Lellis
Jeremy Dacks, Shawn Irving

Osler Hoskin & Harcourt LLP
Box 50, 1 First Canadian Place
100 King Street West, Suite 6200
Toronto, ON M5X 1B8

Dear Counsel:

**Re: Just Energy Group Inc.
Court File No. CV-21-00658423-00CL**

We write further to the Applicants' proposal for a process for the adjudication of the *Donin* and *Jordet* claims together in the CCAA proceeding forwarded to us by you on February 1, 2022.

The Applicants' proposal is not accepted. The timelines proposed are not sufficiently expedited to ensure that the Class Claimants can meaningfully participate in the CCAA process.

The enclosed table sets forth a counter proposal in respect of the adjudication of the *Donin* and *Jordet* claims (the "**Claims**"), which has the Claims heard together pursuant to the JAMS US Expedited Procedures arbitration rules (the "**Expedited Adjudication Framework**") by a tripartite panel of two US arbitrators and one Canadian arbitrator (the "**Claims Officers**"). The Class Claimants propose that the Honourable Mr. Dennis O'Connor sit as the Canadian arbitrator.

The Expedited Adjudication Framework contemplates that the Claims Officers will have complete jurisdiction and discretion to determine the appropriate process within the JAMS US expedited rules and with consideration to an endorsement from the CCAA court that the deadline for the release of a decision on the merits shall be three days prior to the meeting of creditors (implying an outside date of March 27, 2022, as it appears as though the DIP lender is requesting a timeline that would have a vote on March 30, 2022). This deadline may be extended by the CCAA court on a motion for directions on notice to the parties and the service list. Any appeal would be to the CCAA court.

Class Counsel was prepared to send a proposal for a process that resulted in a decision of the merits in May, 2022, but it has modified its proposed timing according to the information in the Monitor's Fifth Report (which we received at approximately 3:20 pm this afternoon, before we had an opportunity to send the earlier version of our proposed Expedited Adjudication Framework). The report states that the DIP lender has demanded a timeline that would require a vote no later than March 30, 2022.

In order for the Court to accommodate the DIP lenders' request, the Class Claimants require a determination of their Claims pursuant to the Expedited Adjudication Framework on the earlier of three days before the meeting of creditors and March 27, 2022.

Neither the Monitor's Fifth Report nor the other materials filed on this motion disclose a commercial basis for the DIP lenders' timeline, but our clients have nevertheless modified their proposed schedule to consider the DIP lenders' position. If there is information that shows a commercial basis for the DIP lenders' timeline, our clients have not been provided with access to that information.

The Expedited Adjudication Framework establishes a time-sensitive process that addresses and protects the rights and interests of the parties and ensures that all questions about scope, jurisdiction, discovery or any other matter will be dealt with efficiently by the very panel that will hear the case. This process will provide a comprehensive resolution of the Class Claimants' claims in a flexible, expeditious and efficient manner.

The Expedited Adjudication Framework is conditional on the necessary parties supporting the plan confirming that the adoption of this timetable will result in the Claims being adjudicated in the first instance in time for the Class Claimants to participate in the CCAA exit plan and vote in accordance with the amount of their Claims determined at the end of the proposed adjudication.

We look forward to the Applicants' response to our proposal. We would like to work together to see if we can come to an agreement before the hearing on February 9, 2022.

Yours very truly,
PALIARE ROLAND ROSENBERG ROTHSTEIN LLP



Ken Rosenberg
KR:DG

c: Jeff Larry, Danielle Glatt – Paliare Roland LLP
Robert Thornton, Rebecca Kennedy, Puya Fesharaki – TGF LLP
Clients

Class Claimants - Expedited Adjudication Framework, February 4, 2022

Step	Description	Proposed Schedule
<p>Claims Officers selection and authority</p>	<p>The parties will agree on a tripartite panel of arbitrators to act as the Claims Officers.</p> <p>The chair of the panel shall be the Honourable Mr. Dennis O'Connor (subject to availability). If the chair of the panel is not the Honourable Mr. Dennis O'Connor, the parties will agree to another Canadian arbitrator, with prior CCAA experience</p> <p>Each party will then select one arbitrator from the JAMS (U.S.) pool of neutrals with both: (i) prior arbitration experience; and (ii) experience with class action cases.</p> <p>Pre-hearing discovery and the hearing will be conducted in accordance with the expedited procedures of the JAMS Comprehensive Arbitration Rules and Procedures governing binding Arbitrations of claims. See https://www.jamsadr.com/rules-comprehensive-arbitration/ and "Expedited Procedures" -- Rule 16.1 (hereafter the "Expedited Procedures" attached hereto).</p>	<p>February 14, 2022</p>
<p>Procedure</p>	<p>Any determinations in respect of the scope of the Class Claimants' claims (for example, what states and customers they cover and what entities it includes) will be determined by the Claims Officers in accordance with the Expedited Procedures -- Rule 16.1 and the endorsement of the Court that the Class Claimants' claims be determined three days prior to the meeting of creditors.</p> <p>All issues related to discovery, including both productions and depositions, and the determination of when and how class certification will be briefed and argued, shall also be determined</p>	

	by the Claims Officers in accordance with the Expedited Procedures and the endorsement of the Court that the Class Claimants' claims be determined three days prior to the meeting of creditors.	
Hearing	Hearing dates shall be determined by the Claims Officers in accordance with the Expedited Rules and the endorsement of the Court that this matter be determined three days prior to the meeting of creditors.	
Decision	<p>The Court will endorse that the Claims Officers shall provide an expedited written ruling, which decision will be binding on all parties for purposes of the CCAA proceeding, three days prior to the meeting of creditors (implying an outside date of March 27, 2022, as it appears as though the DIP lender is requesting a timeline that would have a vote on March 30, 2022).</p> <p>This deadline may be extended by the CCAA court on a motion for directions on notice to the parties and the service list</p>	Three days prior to the meeting of creditors (implying an outside date of March 27, 2022)
Appeals	Either party may file an appeal to the CCAA court within five (5) days of the written ruling.	Appeal to be filed within five (5) days of judgment.

Interim condensed consolidated statements of financial position

(unaudited in thousands of Canadian dollars)

	Notes	As at September 30, 2021 (Unaudited)	As at March 31, 2021 (Audited)
ASSETS			
Current assets			
Cash and cash equivalents		\$ 199,952	\$ 215,989
Restricted cash		3,265	1,139
Trade and other receivables, net	4(a)	401,633	340,201
Gas in storage		26,005	2,993
Fair value of derivative financial assets	6	461,899	25,026
Income taxes recoverable		10,626	8,238
Other current assets	5(a)	155,855	163,405
		1,259,235	756,991
Non-current assets			
Investments	16(a)	61,889	32,889
Property and equipment, net		15,732	17,827
Intangible assets, net		68,026	70,723
Goodwill		163,945	163,770
Fair value of derivative financial assets	6	115,606	10,600
Deferred income tax assets		7,599	3,744
Other non-current assets	5(b)	41,506	35,262
		474,303	334,815
TOTAL ASSETS		\$ 1,733,538	\$ 1,091,806
LIABILITIES			
Current liabilities			
Trade and other payables	7	\$ 1,024,383	\$ 921,595
Deferred revenue		9,373	1,408
Income taxes payable		3,637	4,126
Fair value of derivative financial liabilities	6	17,695	13,977
Provisions		835	6,786
Current portion of long-term debt	8	630,491	654,180
		1,686,414	1,602,072
Non-current liabilities			
Long-term debt	8	358	1,560
Fair value of derivative financial liabilities	6	13,262	61,169
Deferred income tax liabilities		6,773	2,749
Other non-current liabilities		14,155	19,078
		34,548	84,556
TOTAL LIABILITIES		\$ 1,720,962	\$ 1,686,628
SHAREHOLDERS' EQUITY (DEFICIT)			
Shareholders' capital	11	\$ 1,537,863	\$ 1,537,863
Contributed deficit		(10,607)	(11,634)
Accumulated deficit		(1,610,320)	(2,211,728)
Accumulated other comprehensive income		96,030	91,069
Non-controlling interest		(390)	(392)
TOTAL SHAREHOLDERS' EQUITY (DEFICIT)		12,576	(594,822)
TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY (DEFICIT)		\$ 1,733,538	\$ 1,091,806

Basis of presentation (Note 3)

Commitments and contingencies (Note 15)

See accompanying notes to the Interim Condensed Consolidated Financial Statements

Scott Gahn

Chief Executive Officer and President

Stephen Schaefer

Corporate Director

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF JUST ENERGY GROUP INC. ET AL.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
PROCEEDING COMMENCED AT
TORONTO

COMPENDIUM OF THE MOVING PARTIES, U.S.
CLASS COUNSEL
(MOTION AND CROSS-MOTION RETURNABLE FEBRUARY
9, 2022)

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Counsel to US counsel for Fira Donin and Inna Golovan, in their capacity as proposed class representatives in *Donin et al. v. Just Energy Group Inc. et al.*

Counsel to US Counsel for Trevor Jordet, in his capacity as proposed class representative in *Jordet v. Just Energy Solutions Inc.*