

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

14487893 Canada Inc.

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

August 30, 2024

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**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 14487893 CANADA INC.

APPLICANT

SEVENTEENTH REPORT OF THE MONITOR

INTRODUCTION

1. Pursuant to an Order (the “**Initial Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated March 9, 2021 (the “**Filing Date**”), Just Energy Group Inc. (“**Just Energy**”) and certain of its affiliates (collectively, the “**Original Applicants**”) were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C., c. C-36, as amended (the “**CCAA**” and in reference to the proceedings, the “**CCAA Proceedings**”).
2. Pursuant to the Initial Order, among other things: (a) a stay of proceedings (the “**Stay of Proceedings**”) was granted; (b) the protections of the Initial Order, including the Stay of Proceedings, were extended to certain subsidiaries of Just Energy that are partnerships (collectively with the Original Applicants, the “**Just Energy Entities**”); (c) FTI Consulting Canada Inc. was appointed as Monitor of the Just Energy Entities (in such capacity, the “**Monitor**”); and (d) the Court approved a debtor-in-possession interim financing facility in the maximum principal amount of US\$125 million.
3. The Initial Order was amended and restated on March 19, 2021 and May 26, 2021 (the “**Second ARIO**”).

4. On March 9, 2021, Just Energy, in its capacity as foreign representative (in such capacity, the “**Foreign Representative**”), commenced proceedings under Chapter 15 of the United States Bankruptcy Code (the “**Chapter 15 Proceedings**”) for each of the Just Energy Entities with the United States Bankruptcy Court for the Southern District of Texas (the “**U.S. Court**”). On April 2, 2021, the U.S. Court granted an Order recognizing the CCAA Proceedings as foreign main proceedings (the “**Final Recognition Order**”).

5. On November 3, 2022, the Court granted an Order (the “**Reverse Vesting Order**”) that, among other things:
 - (a) approved that certain stalking horse transaction sale agreement and the transaction contemplated thereby (the “**Transaction**”);
 - (b) ordered the following upon closing of the Transaction:¹
 - (1) that the Excluded Assets be transferred to and vested in two residual companies (together, the “**ResidualCos**”): one for Excluded Assets with respect to Acquired Entities formed or incorporated in the United States (being 11368, LLC), and one for Excluded Assets with respect to Acquired Entities formed or incorporated outside of the United States (being 14487893 Canada Inc.) (the “**Canadian ResidualCo**”);
 - (2) that all Excluded Contracts and Excluded Liabilities of the Acquired Entities be transferred to and vested in the ResidualCos, and the Acquired Entities be forever discharged and released from such Excluded Contracts and Excluded Liabilities and related claims and encumbrances;
 - (3) that the Acquired Entities be removed as Applicants in these CCAA Proceedings, and released from the Second ARIO and all other

¹ All capitalized terms used in this sub-paragraph are as defined in the stalking horse transaction agreement unless otherwise noted.

Orders granted in the CCAA Proceedings (excluding the Reverse Vesting Order);

- (4) that the ResidualCos be added as Applicants to these CCAA Proceedings (together with the Excluded Entities², the “**Remaining Entities**”);
- (c) granted certain releases and exculpations with respect to, among others, the current and former directors, officers, employees, legal counsel and advisors of the Just Energy Entities and the ResidualCos, the Monitor and its legal counsel, the Purchaser and its current and former directors, officers, employees, legal counsel and advisors;
- (d) notwithstanding the above and subject to the provisions of the Reverse Vesting Order, ordered that neither Just Energy Group Inc., Just Energy Corp. and Just Energy Ontario L.P. (together, the “**Specified JE Entities**”) nor their current and former directors would be released from any claim or potential claim existing up to the effective time of the Transaction in any way connected with the action commenced in the Ontario Superior Court of Justice on May 4, 2015 titled *Haidar Omarali v Just Energy Group Inc., Just Energy Corp. and Just Energy Ontario L.P.*, Court File No. CV-15-52749300 CP (the “**Omarali Class Action**”) solely to the extent it is necessary to maintain any insured claims and potential related recoveries as against the insurance policies of the Specified JE Entities (the “**Specified Purpose**”); and
- (e) established a \$1.9 million administrative reserve (the “**Administrative Expense Amount**”) to be held by the Monitor for the purpose of paying the reasonable and documented fees and costs of the Monitor and its professional advisors, and the professional advisors of the Just Energy Entities, for services performed prior to and after the Transaction closing date and relating directly or indirectly to the

² The “Excluded Entities” consist of: 12175592 Canada Inc., Just Holdings L.P., Just Ventures GP Corp., Just Ventures L.P., JEAS Holdings LP, Just Ventures LLC, Drag Marketing LLC, Just Solar Holdings Corp., American Home Energy Services Corp., Just Energy Connecticut Corp., Hudson Energy Holdings UK Limited, Just Energy (U.K.) Limited, Just Energy (Ireland) Limited, Just Energy Germany GmbH, Just Energy Deutschland GmbH, Db SWPro GmbH, Just Energy (Finance) Hungary Zrt and Just Energy Services Limited.

CCAA Proceedings and the Chapter 15 Proceedings, and necessary costs required to wind-down or administer the Remaining Entities. Any unused portion of the Administrative Expense Amount shall be returned to Just Energy.

6. On November 3, 2022, the Court granted the Monitor's Enhanced Powers & Other Relief Order (the "**Monitor's Enhanced Powers Order**") that, among other things, expanded the powers of the Monitor on the closing of the Transaction. Specifically, the Monitor's Enhanced Powers Order authorized and empowered, but does not require, the Monitor to, among other things:
 - (a) cause the ResidualCos to take any and all actions and steps, and execute agreements and documents on behalf of the ResidualCos;
 - (b) exercise any power which may be properly exercised by any board of directors of the ResidualCos;
 - (c) engage, retain or terminate, either directly or on behalf of the ResidualCos, services of any officer, employee, consultant, agent, or other persons or entities as the Monitor deems necessary;
 - (d) exercise any shareholder, partnership, joint venture or other rights of any of the ResidualCos;
 - (e) assign any of the ResidualCos into bankruptcy, and the Monitor is entitled (but not obligated) to act as a trustee in such bankruptcies;
 - (f) cause the dissolution or wind-down of any of the ResidualCos; and
 - (g) act as an authorized representative of the ResidualCos in respect of dealings with any taxing authority.
7. On December 1, 2022, the U.S. Court granted an Order recognizing and enforcing the Reverse Vesting Order and the Monitor's Enhanced Powers Order in the United States.
8. The Transaction closed on December 16, 2022 (the "**Closing Date**"), and the Reverse Vesting Order took effect at such time. As a result, most of the Original Applicants have now exited the CCAA Proceedings.

9. On June 22, 2023, the U.S. Court entered a final decree to close the Chapter 15 Proceedings for the Just Energy Entities with the exception of the following entities: (a) Just Energy Group Inc.; (b) Fulcrum Retail Energy LLC; (c) Hudson Energy Services LLC; and, (d) Just Energy Texas LP (collectively, the “**U.S. Remaining Cases**”). The U.S. Remaining Cases will remain open until conclusion of all litigation arising from the Texas winter storm that prompted these CCAA Proceedings, and pending entry of an additional final decree upon the resolution of such litigation.
10. On June 28, 2023, the Court granted an Order extending the Stay of Proceedings to January 31, 2024.
11. On January 25, 2024, the Court granted an Order extending the Stay of Proceedings to September 30, 2024, and amending the title of these CCAA Proceedings to reflect that the Canadian ResidualCo is the sole remaining Applicant.
12. On March 5, 2024 and April 4, 2024, the Court issued Endorsements relating to procedural matters in respect of the Omarali Class Action, including scheduling a full-day hearing on September 9, 2024 (the “**Omarali Hearing**”).
13. All references to monetary amounts in this Seventeenth Report of the Monitor (the “**Seventeenth Report**”) are in Canadian dollars unless otherwise noted.
14. Further information regarding the CCAA Proceedings, including all materials publicly filed in connection with these proceedings, is available on the Monitor’s website at <http://cfcanada.fticonsulting.com/justenergy/> (the “**Monitor’s Website**”).
15. Further information regarding the Chapter 15 Proceedings is available on the website of Omni Agent Solutions as the U.S. noticing agent of the Just Energy Entities at <https://omniagentsolutions.com/justenergy>.

PURPOSE

16. The purpose of this Seventeenth Report is to provide information to the Court with respect to the following:

- (a) the Monitor’s activities since the Monitor’s Sixteenth Report to the Court dated January 19, 2024 (the “**Sixteenth Report**”);
- (b) the relief sought by the Monitor in its proposed Order extending the Stay of Proceedings to and including January 31, 2025 (the “**Stay Extension Order**”);
- (c) the status of the Omarali Class Action;
- (d) the status of the wind-down and dissolution proceedings in respect of the Remaining Entities; and
- (e) the remaining activities that will need to be resolved prior to the anticipated termination of these CCAA Proceedings.

TERMS OF REFERENCE AND DISCLAIMER

- 17. In preparing this Seventeenth Report, the Monitor has relied upon discussions and correspondence with, among others, management of and advisors to the Just Energy Entities as well as other stakeholders and their advisors (collectively, the “**Information**”).
- 18. The Monitor has prepared this Seventeenth Report to provide information to the Court in connection with the stated purpose above. This Seventeenth Report should not be relied on for any other purpose.

MONITOR’S ACTIVITIES SINCE THE SIXTEENTH REPORT

- 19. In accordance with its duties as outlined in the Second ARIO, the Monitor’s Enhanced Powers Order and its prescribed rights and obligations under the CCAA, the activities of the Monitor since the Sixteenth Report have included the following:
 - (a) coordinating the wind-down of the Remaining Entities, including engaging and working with local counsel and trustees in respect of foreign-registered Remaining Entities;
 - (b) engaging with regulatory bodies, including the Office of the Superintendent of Bankruptcy and foreign regulatory bodies, in respect of the wind-down of the Remaining Entities;

- (c) preparing creditor lists, notices to creditors and other information and documentation relating to the wind-down and bankruptcies of certain of the Remaining Entities;
- (d) monitoring the cash receipts to and disbursements from the Administrative Reserve (as defined below);
- (e) engaging with counsel to the affected stakeholders in the Omarali Class Action in respect of the upcoming Omarali Hearing;
- (f) filing applicable tax and other returns as necessary;
- (g) responding to stakeholder inquiries regarding the CCAA Proceedings generally; and
- (h) preparing this Seventeenth Report.

ADMINISTRATIVE EXPENSE AMOUNT

20. The Administrative Expense Amount of \$1.9 million was paid to the Monitor in trust on the Closing Date for the purpose of paying the reasonable and documented fees and costs of the Monitor and its professional advisors, and the professional advisors of the Just Energy Entities, for services performed prior to and after the Transaction closing date which related directly or indirectly to the CCAA Proceedings and the Chapter 15 Proceedings, and necessary costs required to wind-down or administer the Remaining Entities. The Monitor established an administrative reserve trust account for the purposes of receiving and administering the Administrative Expense Amount (the “**Administrative Reserve**”).
21. As of August 29, 2024, the balance remaining in the Administrative Reserve was approximately \$795 thousand compared to approximately \$987 thousand as of January 5, 2024 as noted in the Sixteenth Report – a decrease of approximately \$192 thousand. During the approximate eight-month period noted, cash outflows for professional fees and other miscellaneous expenses pertaining to the CCAA Proceedings and wind-down of the Excluded Entities in various jurisdictions totalled approximately \$260 thousand,

which was offset by cash receipts for interest earned and sales tax refunds collected totalling approximately \$68 thousand.

22. The Administrative Reserve is finite in nature, and was estimated and established to fund the activities required to complete the wind-down of the Excluded Entities within a reasonable time period. Any unused portion of the Administrative Reserve shall be returned to Just Energy pursuant to the Transaction.

OMARALI CLASS ACTION

23. An overview of the relief sought by counsel to the representative plaintiff can be found in paragraphs 22 to 31 of the Fifteenth Report dated November 10, 2023, and paragraphs 22 to 30 of the Sixteenth Report. Further details can also be found within the various materials issued by counsel to the representative plaintiff and the insurers in relation to the Omarali Hearing, which are available for download on the Monitor’s Website.
24. At this time, the Omarali Class Action remains the only material outstanding item in the CCAA Proceedings.
25. The Administrative Reserve was not established for the purposes of facilitating lengthy and potentially contentious litigation processes that may take years to resolve. The Monitor is concerned that the Administrative Reserve could be exhausted before the Omarali Class Action’s adjudication is finally resolved, to the potential detriment of Just Energy as the recipient of any unused Administrative Reserve funds.

UPDATE ON WIND-DOWN ACTIVITIES BY JURISDICTION

26. The only Remaining Entities that have neither i) commenced, nor ii) commenced and completed insolvency proceedings in their respective jurisdictions to facilitate their wind-down are the Canadian ResidualCo (which is an Applicant) and Just Energy Services Limited (which is not an Applicant and is an Excluded Entity domiciled in Barbados (the “**Barbadian Entity**”).
27. Since the date of the Sixteenth Report, the Monitor engaged a local Barbadian insolvency trustee and local Barbadian counsel (collectively, the “**Barbados**

Advisors”) to petition the Barbadian Entity into bankruptcy in Barbados. In August 2024, with the assistance of the Barbados Advisors, the Canadian ResidualCo, at the direction of the Monitor filed a petition in bankruptcy against the Barbadian Entity (the **“Bankruptcy Petition”**) with the Barbados High Court of Justice, Civil Division (the **“Barbados Court”**). A date has not yet been fixed by the Barbados Court to hear the Bankruptcy Petition.

28. With respect to the Canadian ResidualCo, the Omarali Class Action represents the only material outstanding item to be resolved. Following the Omarali Hearing and issuance of the Court’s verdict in the Omarali Class Action, the Monitor intends to seek termination of the CCAA Proceedings and concurrently facilitate a bankruptcy proceeding for the Canadian ResidualCo.

REMAINING ACTIVITIES

29. Subject to the Barbados Court placing the Barbadian Entity into bankruptcy and pending the Canadian ResidualCo filing for bankruptcy in Canada upon termination of the CCAA Proceedings, the Monitor regards the following as the remaining activities required to be completed in the CCAA Proceedings:
 - (a) the resolution of the Omarali Class Action claim which, as noted, is currently impeding the termination of the CCAA Proceedings and bankruptcy of the Canadian ResidualCo;
 - (b) bringing a motion to terminate these CCAA Proceedings and to discharge the Monitor, which is anticipated to be triggered upon filing of a Monitor’s Certificate; and
 - (c) the completion of the necessary statutory and administrative steps for the termination of the CCAA Proceedings and the discharge of the Monitor, and the filing of a Monitor’s Certificate confirming such steps have been taken.

STAY OF PROCEEDINGS EXTENSION

30. As mentioned above, the existing Stay of Proceedings expires on September 30, 2024. The Monitor is now seeking a brief 4-month extension to the Stay of Proceedings up to and including January 31, 2025.
31. The reasons for extending the Stay of Proceedings are as follows:
- (a) additional time is required for the Omarali Hearing to take place, and for the Monitor to attend to any related and follow-on issues, including reporting on the verdict of the Court as required;
 - (b) additional time is required to allow the Monitor to obtain an order of the Barbados Court putting the Barbadian Entity into bankruptcy;
 - (c) the Monitor is of the view that it has sufficient funds in the Administrative Reserve to continue its oversight role for the proposed extension to the Stay of Proceedings;
 - (d) no creditor of the Remaining Entities will be materially prejudiced by an extension of the Stay of Proceedings; and
 - (e) the Applicants through the Monitor have acted in good faith and with due diligence.

CONCLUSION

32. The Monitor is of the view that the requested relief is reasonable and justified in the circumstances. Accordingly, the Monitor respectfully requests that the proposed Stay Extension Order be granted.

The Monitor respectfully submits this Seventeenth Report to the Court dated this 30th day of August, 2024.

FTI Consulting Canada Inc.,
in its capacity as Court-appointed Monitor
of 14487893 Canada Inc,
and not in its personal or corporate capacity



Per: _____

Jim Robinson
Senior Managing Director