

COURT / ESTATE FILE NUMBER 2501-09028

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 2501-09028

AND IN THE MATTER OF THE RECEIVERSHIP
OF CLEO ENERGY CORP.

APPLICANT UCAPITAL – ULOAN SOLUTIONS INC.

RESPONDENT CLEO ENERGY CORP.

DOCUMENT **REPLY BRIEF OF THE RECEIVER TO
ALBERTA ENERGY AND MINERALS**

ADDRESS FOR SERVICE AND
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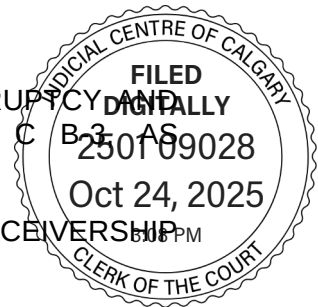


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I. INTRODUCTION

1. This Reply Brief is filed by Alvarez & Marsal Canada Inc., in its capacity as Court-appointed receiver and manager (the “**Receiver**”) of the undertakings, properties and assets of CLEO Energy Corp. (“**Cleo**”), in response to the Bench Brief of the Alberta Energy and Minerals (“**Alberta Energy**”) filed October 22, 2025.
2. Alberta Energy opposes the Receiver’s application for the reverse vesting order (“**RVO**”) contemplated by a share purchase agreement (the “**SPA**”) and its underlying transaction (the “**Transaction**”) between the Receiver and 2698902 Alberta Corp. (the “**Purchaser**”). Alberta Energy argues that the RVO structure to the Transaction “is a blatant attempt to circumvent the Crown in right of Alberta’s ability to recover its cure costs and manage public resources”¹ and that the “standard approach” to addressing the claims of Alberta Energy in insolvency proceedings is for Alberta Energy to require payment of cure costs before it will transfer mineral leases to a purchaser.²
3. Despite the alleged “standard approach”, there have been five previous transactions approved by this Court in Cleo’s Notice of Intention proceedings and these receivership proceedings.³ Each of those previous transactions were completed by asset purchase agreements and regular approval and vesting orders. In *none* of those transactions had Alberta Energy “employed its standard approach” of requiring the purchasers to pay cure costs before it transferred the mineral leases.⁴ As discussed below, this so called “standard approach” is a tactic being deployed by Alberta Energy to circumvent creditor priorities to the detriment of other stakeholders.
4. In communications between counsel for Alberta Energy and the Receiver prior to the application, Alberta Energy took no issue with the SPA or the RVO structure as *long* as either the Purchaser or the Receiver allocated payment of the Purchase Price “to satisfying liabilities owed to the Crown”.⁵ Alberta Energy’s opposition to the Transaction does not suggest there is an alternative transaction available, or better outcome for stakeholders than the RVO. Alberta Energy’s opposition to the RVO is nothing more than

¹ Bench Brief of Alberta Energy filed October 22, 2025 (the “**AE Brief**”) at para 2.

² Affidavit of Tracy Wadson filed October 22, 2025 (the “**Wadson Affidavit**”) at paras 16 and 21.

³ First Report of the Receiver dated October 6, 2025 (the “**First Report**”) at para 3.

⁴ Wadson Affidavit at para 21.

⁵ Supplemental Report of the Receiver dated October 24, 2025 (the “**Supp Report**”) at Appendix B.

“a blatant attempt” to extract payment of Purchase Price proceeds to satisfy an unsecured pre-filing claim. Such mischief should not be permitted.

5. Notably, following the Transaction and the payment of the post-filing amounts owing to Alberta Energy, as is contemplated by the SPA and RVO, there may not be any valid amounts owing to Alberta Energy. The pre-receivership royalty claim of Alberta Energy is derived from Cleo having failed to file its annual gas cost allowance forms this past May when Cleo did not have the necessary liquidity or staff to complete Alberta Energy’s audit.⁶ This resulted in royalty credit reversals that make up Alberta Energy’s pre-filing claim. Historically, when Cleo files its gas cost allowance forms, it has been in a credit position with Alberta Energy, which is likely to be the case should the Receiver complete the audit.⁷
6. The facts in this case are clear and not denied by Alberta Energy. But for the Transaction, there are no other plausible outcomes that will result in any recovery for creditors, including Alberta Energy.⁸ The Transaction provides the highest and only possibility for recoveries to stakeholders.
7. The RVO is no more prejudicial to Alberta Energy than any of the previous five transactions approved in Cleo’s insolvency proceedings. To the contrary, Alberta Energy derives significant benefits from the RVO structure of the Transaction by having its post-filing and go forward royalties paid. This will not happen if the RVO is not granted.

II. FACTS

8. The factual background is set out in the First Report of the Receiver dated October 6, 2025 (the “**First Report**”), including the Confidential Appendices thereto and the Supplement to the First Report, dated October 24, 2025 (the “**Supplemental Report**”).

III. LAW AND ARGUMENT

A. **The Transaction is Necessary**

9. While Alberta Energy had no issues with the RVO structure of the Transaction if Alberta Energy’s unsecured, pre-filing claim would have been paid, Alberta Energy now argues that the use of an RVO is only advanced because it is “more convenient or beneficial for the purchaser”.⁹ Alberta Energy provides no factual basis to support its assertions.

⁶ Supp report at para 17.

⁷ Supp Report at para 20.

⁸ Supp Report at para 30; First Report at Confidential Appendix B.

⁹ Alberta Energy Brief at para 22.

10. The RVO is being sought because it is a requirement of the SPA. The SPA is by far the highest and best offer received for the remaining properties of Cleo following a lengthy sales and solicitation process run by Cleo and its sales agent, followed by a remarketing process led by the Receiver.¹⁰
11. The other offers derived from the sales processes were highly conditional, and they would leave substantial abandonment and reclamation obligations in the estate. As a result, the Transaction is the only offer that has support from the Alberta Energy Regulator (the “AER”) and is thus the only viable offer after a lengthy and fulsome marketing process.¹¹
12. The RVO structure is not about convenience as Alberta Energy argues. The RVO is necessary. The Purchaser is not a current licensee with the AER. For it to complete an asset transaction, the purchaser would first be required to apply to the AER for a Business Associate Code (“BA Code”). If a BA Code is granted, a subsequent application would need to be made to the AER for approval to transfer Cleo’s AER licenses to the Purchaser. The entire process would take many months and would entail significant expense by the Purchaser and deteriorate the remaining estate funds, which is untenable. This process would also result in a lower purchase price, reduced asset value as the properties age and reservoirs are depleted, and it creates substantially increased risk in the transaction closing.¹²
13. For these reasons, the Purchaser is not willing to complete a Transaction under any other structure. Nor is the Receiver willing to care for and maintain Cleo’s properties for the indefinite period of time it could take to complete an asset sale in the circumstances.

B. Alberta Energy is not Prejudiced by the Transaction

14. Alberta Energy alleges it is “detrimentally impacted” under the proposed RVO.¹³ Alberta Energy has been provided with the Confidential Appendices to the First Report. It is aware of the other offers received for Cleo’s assets. Yet it provides no other viable options or alternatives to the Transaction.¹⁴

¹⁰ First Report at para 39.

¹¹ First Report at para 30.

¹² Supp Report at para 29.

¹³ Alberta Energy’s Bench Brief at para 14.

¹⁴ Supp Report at Appendix B.

15. The assertion that “Alberta Energy is worse off under the CLEO RVO” has no merit. Alberta Energy’s opposition to the Transaction is an attempt to extort sale proceeds from the Purchaser or the Receiver in priority to other creditors.
16. There are no suggestions made that the sales processes conducted were run unfairly or improvidently. Alberta Energy does not allege that there is an alternative transaction that produces a better economic result to it. Simply put, the Transaction is the best possible recovery for creditors, including Alberta Energy.
17. All other transaction proposals that were received from the sales processes would result in properties being transferred to the Orphan Well Association (“**OWA**”). These offers are contingent, at best, as license transfers for the remaining assets likely would not be supported by the AER if substantial liabilities are left behind. Any proceeds derived from these hypothetical alternative transactions would not result in proceeds going to satisfy Alberta Energy’s alleged cure costs. Instead, the proceeds would be paid to the OWA to manage the abandonment and reclamation liabilities. Alternative transactions result in zero recovery to creditors.
18. Alberta Energy refers to the insolvency proceedings of Alphabow Energy Ltd. (“**Alphabow**”) where the Court approved a reverse vesting order transaction wherein Alphabow retains responsibility for Crown liabilities. Alberta Energy claims this is the “standard approach” to addressing Crown liabilities.¹⁵ In addition to this being irrelevant given the retention of unsecured pre-filing Crown liabilities is not contemplated by any of the offers that were submitted in the sales processes, it is important to note that the Alphabow transaction has not closed despite the reverse vesting order having been granted more than 10-months ago. This is in part because the Alphabow transaction preferentially treats unsecured creditors like Alberta Energy over Alphabow satisfying its priority environmental liabilities. The AER has refused to approve any license transfers under Alberta Energy’s “standard approach”, and as a result, no stakeholders, including Alberta Energy, have benefited.¹⁶
19. Alberta Energy is no worse off from the Transaction. This is apparent from the undisputed facts of this case. The bids received in the lengthy, open, transparent and Court-approved

¹⁵ Wadson Affidavit at para 22 and Exhibits I and J.

¹⁶ The Alphabow reverse vesting order is part of a series of transactions that leaves over \$200 million in environmental liabilities in Alphabow, which has resulted in the purchaser being unable to obtain license transfers. See <https://www.ksvadvisory.com/experience/case/alphabow> for more information.

sales processes for Cleo's assets provide no better outcome to Alberta Energy. There is no prejudice to Alberta Energy with the RVO structure. Contrary to Alberta Energy's position, it significantly benefits from the RVO, which will see its post-filing and go forward claims satisfied immediately. No alternative transaction provides for this.

C. The Receiver Could Not Agree to the Payment of the Pre-Filing Claims

20. Without direction from the Court, the Receiver did not consider it appropriate to give in to Alberta Energy's demands for the payment of its pre-filing, unsecured claim.¹⁷
21. There are numerous other creditors in this proceeding that the Receiver had to consider, including secured creditors and other Crown and government claimants alleging priority to the Transaction proceeds among other estate funds. The Receiver intends to review and opine on stakeholder claims and priorities and bring a distribution application on full notice to stakeholders should the Transaction be approved.
22. In the alternative, should the Court direct the Receiver to pay Alberta Energy's pre-filing cure costs from the Purchase Price proceeds or otherwise, the Receiver still recommends the RVO be granted given the extensive benefits the Transaction has for the estate and there being no other viable alternatives.¹⁸

D. Alberta Energy's Concerns with the Purchaser

23. Alberta Energy raises concerns about having no information about the Purchaser.¹⁹ This is seemingly done to bolster its prejudice argument. Notably, Alberta Energy has never raised any questions or concerns with any other purchaser in the previous transactions, nor did it have concerns about the Purchaser if the Receiver had agreed to pay its pre-filing royalty claim.²⁰
24. The AER has met with the Purchaser to ensure it understands its regulatory obligations. The Purchaser has advised the AER it is prepared to abide by its regulatory requirements should the Transaction be approved.²¹

¹⁷ Supp Report at para 27.

¹⁸ Supp Report at para 28.

¹⁹ Wadson Affidavit at paras 28 and 29.

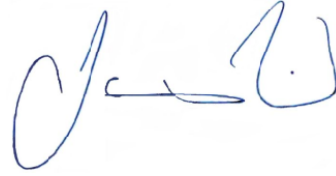
²⁰ Supp Report at Appendix B.

²¹ First Report at para 40.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 24th day of October, 2025.

MILLER THOMSON LLP

Per:

A handwritten signature in blue ink, appearing to be 'J. Reid' or 'P. Takhar', written over a horizontal line.

James W. Reid / Pavin Takhar
Counsel for Alvarez & Marsal
Canada Inc., in its capacity as
Receiver of CLEO Energy Corp.