

**IN THE MATTER OF THE BANKRUPTCY OF
Planet Energy (B.C.) Corp.
of the City of North York in the Province of
Ontario**

**TRUSTEE'S REPORT TO THE FIRST MEETING OF CREDITORS
ON PRELIMINARY ADMINISTRATION**

BACKGROUND

Planet Energy (B.C.) Corp. ("**PEBC**" or the "**Company**") is a privately held corporation incorporated on December 19, 2006, under the *Business Corporations Act* (British Columbia).

PEBC is a wholly-owned subsidiary of Planet Energy (Ontario) Corp. ("**PEON**" and together with PEBC, the "**Companies**"). PEON is a natural gas and electricity retailer that offers fixed-price electricity and gas supply options to its residential and commercial customers in primarily in Ontario. Subsidiaries of the PEON, including PEBC, previously offered similar services to customers in other Canadian jurisdictions and in the United States. The operations of PEON's subsidiaries, including of PEBC, were wound down. PEBC's operations ceased in June 2020.

The registered office of the Company is 5775 Yonge Street, Suite 1202, Toronto, Ontario.

On May 11, 2023, the Companies each filed a Notice of Intention to Make a Proposal ("**NOI**") pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) ("**BIA**"), and Richter Inc. ("**Richter**") was appointed as Proposal Trustee under each of the NOI proceedings.

On June 14, 2023, pursuant to an application filed by the Companies' most significant unsecured creditor, All Communications Network of Canada, Co. ("**ACN**"), the Court issued an order appointing KSV Restructuring Inc. as interim receiver (the "**Interim Receiver**"), under section 47.1 of the BIA, of all of the Companies' property, assets and undertaking acquired for, or used in relation to, the business carried on by the Companies (the "**Property**") (the "**Receivership Proceeding**").

PEBC did not file a proposal within the extension period granted by the Court under the subsection 50.4(9) of the BIA. As a result, PEBC was deemed bankrupt on July 5, 2023. Richter was appointed trustee (the "**Trustee**") of PEBC's bankrupt estate by the Office of the Superintendent of Bankruptcy, subject to affirmation by the creditors at the first meeting of creditors.

CAUSES OF BANKRUPTCY

The Companies and ACN were parties to a sales agency agreement (the "**SAA**") pursuant to which ACN marketed and referred potential customers to the Companies, which expired in November 2016. Following the expiry of the SAA, in April 2018 ACN commenced an arbitration (the "**Arbitration**") alleging that Planet Energy failed to make certain commission payments to ACN. In response, the Companies delivered a counterclaim alleging, among other things, that ACN breached certain of its obligations under the SAA and was obliged to indemnify the Companies in respect of regulatory enforcement proceedings relating to ACN's sales

agents.

The Arbitration culminated in the Court upholding the arbitrator's final award in favour of ACN and awarding approximately \$29 million plus interest to ACN (the "**Arbitration Award**"). Further details regarding the Arbitration hearings are available in the Proposal Trustee's reports to Court available on Richter's website.

PEBC does not have the funds available to satisfy the Arbitration Award amount and PEBC is not able to pay its obligations as they become due.

FINANCIAL POSITION/ASSETS

As detailed in PEBC's Statement of Affairs, the estimated realizations from the PEBC's assets, as at the date of bankruptcy, are not expected to satisfy the amounts owed to Shell Energy North America (US) L.P. ("**Shell**"), PEBC's secured creditor. Both Companies, PEON and PEBC, are liable for the obligation owing to Shell. Based on currently available information, the Trustee is of the view that the amount owing to Shell is likely to be repaid in PEON's ongoing insolvency proceedings. As a result, it is unlikely that Shell will ultimately have any remaining claim against PEBC.

According to PEBC's Statement of Affairs, PEBC's only remaining asset is a bank balance of approximately \$215.

The Company does not appear to have any remaining assets and the Trustee does not anticipate any further realizations.

There does not appear to be any property exempt from execution or seizure pursuant to Section 67(1)(b) of the BIA.

SECURED CREDITORS

According to the PEBC's Statement of Affairs, as at the date of bankruptcy, the amounts owed to the Company's secured creditors are estimated as follows:

Secured Creditor	(in \$000s) Amount
Shell Energy North America (Canada)	67
Shell Energy North America (Canada)	536
Shell Energy North America (US)	4
Total	607

The Trustee understands that both PEON and PEBC are liable for the secured balance owing to Shell totaling approximately \$607,500. This balance is comprised of: (i) approximately \$536,100 for amounts owing under swap agreements, and (ii) approximately \$71,400 for amounts due for electricity and gas.

As at the date of this report, the Trustee has not obtained a legal opinion concerning the validity and enforceability of the security granted by the Company in favour of Shell (the "**Security Review**"). As noted earlier in this Report, the amount owing to Shell is likely to be settled by PEON. If the Trustee determines that a Security Review is required in the context of PEBC's bankruptcy proceedings, it is the intention of

the Trustee to discuss the Security Review with the Inspectors to be appointed at the first meeting of creditors.

SECURITY FOR UNPAID WAGES – S.81.3 CLAIMS

PEBC has not had any employees since its wind down in 2020. No amounts are owed to the Company's former employees for wages and vacation pay that would qualify as claims pursuant to section 81.3 of the BIA.

PREFERRED CREDITORS

The Company's Statement of Affairs indicates that, as at the date of bankruptcy, there were no known preferred creditors.

UNSECURED CREDITORS

The Company's Statement of Affairs indicates that there is one unsecured creditor, ACN, with claims totaling approximately \$35.2 million.

CLAIMS FILED

As at 10:00 a.m. on the date of this report, the Trustee has recorded Proof of Claims filed, as follows:

	Claims Filed (#)	Amount (CAD)	Proxies in Favour of Trustee (#)	Amount (CAD)
Secured	-	-	-	-
Preferred	-	-	-	-
Unsecured	1	28,096,588.21	-	-
TOTAL	1	28,096,588.21	-	-

PREFERENCE PAYMENTS AND TRANSFERS UNDER VALUE

The Trustee has not performed a review of the Company's books and records with respect to potential fraudulent preferences, settlements or transfers at undervalue, as defined in the BIA. It is the intention of the Trustee to discuss the scope of its review with the Inspectors, if appointed.

TRUSTEE'S FEES

In consideration for consenting to act in the proceedings of PEBC and PEON, the Companies provided a deposit to the Trustee in the total amount of \$70,000.

OTHER

Further information relating to the Company's NOI and bankruptcy proceedings may be obtained from Richter's website at: <https://www.richter.ca/insolvencycase/planet-energy-b-c-corp>

Further information relating to the Company's Receivership proceedings may be obtained from the Interim Receiver's a website at <https://www.ksvadvisory.com/experience/case/planetenergy>

Dated at Toronto, Ontario, this 26th day of July, 2023.

RICHTER INC.

in its capacity as Trustee of the estate of
Planet Energy (B.C.) Corp.
and not in its personal or corporate capacity



Karen Kimel, MAcc, CPA, CA, CPA (IL), CIRP, LIT



Jonathan Joffe, CA, CPA, CFA, CIRP, LIT