

RICHTER

Court/Estate No. 31-2943175

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
PLANET ENERGY (ONTARIO) CORP.**

**RICHTER INC.
THIRD REPORT OF THE PROPOSAL TRUSTEE**

AUGUST 14, 2023

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I. INTRODUCTION

1. On May 11, 2023 (the “**Filing Date**”), Planet Energy (Ontario) Corp. (“**Planet Energy Ontario**”) and Planet Energy (B.C.) Corp. (“**Planet Energy BC**”, and together with Planet Energy Ontario, “**Planet Energy**” or 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, R.S.C. 1985, c. B.-3, as amended (the “**BIA**”), and Richter Inc. (“**Richter**”) was appointed as Proposal Trustee under each of the NOIs (“**NOI Proceedings**”).
2. On June 14, 2023, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) issued an order, taking effect retroactively on June 8, 2023, *inter alia*:
 - (i) extending the time for the Companies to file a proposal until July 4, 2023 (the “**First Stay Extension**”); and
 - (ii) administratively consolidating the estates of the Companies.
3. In addition, on June 14, 2023 (the “**Receivership Date**”), 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. (“**KSV**”) 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**”). The Interim Receiver maintains a website at <https://www.ksvadvisory.com/experience/case/planetenergy>.
4. On July 4, 2023, the Court issued an order, (the “**Extension Order**”), *inter alia*:
 - (i) extending the time for Planet Energy Ontario to file a proposal (“**NOI Period**”) until August 18, 2023; and
 - (ii) an order authorizing the Proposal Trustee to administer claims pursuant to the *Wage Earners Protection Plan Act* (“**WEPPA**”) in relation to employees that were terminated during the NOI Proceedings or after the Filing Date.
5. Planet Energy BC was deemed bankrupt the day following the expiration of the First Stay Extension, being July 5, 2023.
6. This report is the Proposal Trustee’s third report (the “**Third Report**”) to this Court. Further background information regarding the NOI Proceedings is available in the Proposal Trustee’s first and second reports to

Court dated May 30, 2023 (the “**First Report**”) and May 30, 2023 (the “**Second Report**”), respectively. Copies of the First Report, Second Report and other materials filed in the NOI Proceedings have been made available in electronic format on the Proposal Trustee’s websites (the “**Proposal Trustee’s Websites**”) at <https://www.richter.ca/insolvencycase/planet-energy-ontario-corp/>.

II. PURPOSE OF REPORT

7. The purpose of this Third Report is to provide information pertaining to the following:
 - (i) the activities of the Proposal Trustee since the date of the Second Report;
 - (ii) the Companies’ reported receipts and disbursements for the period from June 17, 2023 to July 28, 2023, including a comparison of reported to forecast results;
 - (iii) Planet Energy Ontario’s revised cash flow forecast for the period from July 29, 2023 to October 2, 2023;
 - (iv) the Interim Receiver’s motion seeking an extension of the NOI Period to October 2, 2023.
 - (v) the Proposal Trustee’s conclusions and recommendations.

III. TERMS OF REFERENCE

8. In preparing this Third Report, the Proposal Trustee has relied upon information and documents prepared by Planet Energy Ontario and their advisors, including unaudited, draft and/or internal financial information, Planet Energy Ontario’s books and records, discussions with representatives of Planet Energy Ontario, including current and former employees, legal counsel to Planet Energy Ontario, the Interim Receiver and its legal counsel, and information from third-party sources (collectively, the “**Information**”). In accordance with industry practice, except as otherwise described in the Third Report, Richter has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided. However, Richter has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Canadian Auditing Standards (“**CAS**”) pursuant to the *Chartered Professional Accountant of Canada Handbook* and, as such, Richter expresses no opinion or other form of assurance contemplated under CAS in respect of the Information.

9. Future oriented financial information relied upon in this Third Report is based on Planet Energy Ontario's representatives' and the Interim Receiver's assumptions regarding future events; actual results achieved may vary from the information presented even if the hypothetical assumptions occur, and these variations may be material. Accordingly, the Proposal Trustee expresses no assurance as to whether the projections will be achieved.
10. Unless otherwise noted, all monetary amounts contained in this Third Report are expressed in Canadian dollars.

IV. ACTIVITIES OF THE PROPOSAL TRUSTEE

11. The Proposal Trustee's activities since the date of the Second Report have included, *inter alia*, the following:
 - (i) assisting with the preparation of Planet Energy Ontario's cash flow projections, including reviewing the underlying assumptions;
 - (ii) monitoring Planet Energy Ontario's receipts and disbursements to the Jun-23 Cash Flow Forecast (defined below);
 - (iii) establishing and maintaining the Proposal Trustee's Websites, where materials filed with the Superintendent and the Court in connection with the NOI Proceedings are available in electronic format;
 - (iv) corresponding with the Interim Receiver regarding the Receivership Proceedings and the status of the sale process being conducted by the Interim Receiver;
 - (v) responding to calls and enquiries from former employees regarding the NOI Proceedings;
 - (vi) administering claims under WEPPA; and
 - (vii) preparing this Third Report.

V. PLANET ENERGY ONTARIO'S CASH FLOW FORECAST

12. Planet Energy Ontario, with the assistance of the Proposal Trustee, prepared a forecast of its receipts and disbursements covering the period from June 17, 2023 to August 18, 2023 (the "**Jun-23 Cash Flow Forecast**"). The Jun-23 Cash Flow Forecast was filed with the Superintendent on June 30, 2023. A copy of the Jun-23 Cash Flow Forecast is attached hereto as **Appendix "A"**.
13. A comparison of Planet Energy Ontario's results for the 6-week period ended July 28, 2023 (the "**Variance Period**") to its Jun-23 Cash Flow Forecast is summarized as follows:

Planet Energy (Ontario) Corp.			
Cash Flow Forecast Variance Analysis			
(CAD; \$000)	6 weeks ended July 28, 2023		
	Actual	Forecasted	Variance
Receipts			
Customer receipts	933	897	36
Settlement receipts	121	118	3
Tax refunds	-	50	(50)
Interest	21	-	21
Total Receipts	1,075	1,065	10
Disbursements			
Payroll and benefits	171	174	3
Energy supplier payments	89	82	(7)
Operating expenses	70	136	66
Selling, general and administrative expenses	42	28	(14)
Restructuring professional fees	264	150	(114)
Contingency	-	60	60
Total Disbursements	636	630	(6)
Net Cash Flow	438	434	4
Opening Cash (unrestricted)	8,161	8,161	-
Opening Cash (restricted)	1,000	1,000	-
Closing Cash	9,599	9,595	4
Opening cash sweep account balance	4	113	(109)
Cash sweep account receipts	969	784	185
Cash swept to Canadian bank accounts	933	897	36
Closing Sweep Account balance	40	-	40

14. The Proposal Trustee notes the following in respect of the Variance Period:

- (i) net cash flow during the Variance Period was consistent with the Jun-23 Cash Flow Forecast;
- (ii) positive variances in customer receipts and interest are offset by a negative variance in tax refunds. The negative tax variance is anticipated to be a timing difference; and
- (iii) positive variances in operating expenses and unutilized contingency amounts were offset by a negative variance in restructuring professional fees.

15. The Proposal Trustee is of the view that Planet Energy Ontario is acting in a manner consistent with its cash flow projections and there have been no material adverse changes to Planet Energy Ontario's operations since the date of the First Report.

VI. PLANET ENERGY ONTARIO'S REVISED CASH FLOW FORECAST

16. In connection with the motion brought by the Interim Receiver, on behalf of Planet Energy Ontario, seeking an extension of the NOI Period to October 2, 2023, Planet Energy Ontario, with the assistance of the Proposal Trustee, has prepared an updated cash flow forecast (the "Aug-23 Cash Flow Forecast") covering the period

from July 29, 2023 to October 2, 2023 (the “**Forecast Period**”)¹. A copy of the Aug-23 Cash Flow Forecast is attached as **Appendix “B”** and is summarized below:

Planet Energy (Ontario) Corp. Cash Flow Forecast Summary For the Period July 29, 2023 to October 2, 2023 (in CAD; \$000)	
	<u>Total</u>
Receipts	
Customer receipts	746
Settlement receipts	123
Tax refunds	94
Interest	8
Total Receipts	970
Disbursements	
Payroll and benefits	299
Operating expenses	193
Energy supplier payments	166
Selling, general and administrative expenses	62
Restructuring professional fees	355
Contingency	100
Total Disbursements	1,175
Net Cash Flow	(204)
Opening cash balance (unrestricted)	8,599
Closing Cash	8,395
Restricted cash	1,000
Opening cash sweep account balance	40
Cash sweep account net cash flow	(4)
Closing Sweep Account balance	36
Total Closing Cash	9,431

17. The Aug-23 Cash Flow Forecast projects that Planet Energy Ontario will experience a net cash outflow of approximately \$204,000 over the Forecast Period, comprised of:
- (i) cash receipts of approximately \$970,000, primarily related to the sale of electricity and gas; and
 - (ii) cash disbursements of approximately \$1.175 million, primarily consisting of payroll expenses, operating expenses, energy supplier payments, costs in connection with the Receivership Proceeding and costs in connection with the NOI Proceedings.
18. Planet Energy Ontario is projected to have sufficient liquidity to fund both operating costs and the costs of the NOI Proceedings during the Forecast Period.

¹ This forecast assumes normal course operations throughout the Forecast Period. The Proposal Trustee understands that depending on the results of the sale process being conducted by the Interim Receiver, an orderly wind-down process could be commenced in the near term, in which case the forecast may vary materially.

VII. AUGUST 17 MOTION

19. The NOI Period expires on August 18, 2023. On August 17, 2023, the Interim Receiver is seeking, on behalf of Planet Energy Ontario, an extension of the NOI Period up to and including October 2, 2023 (the “**Extension**”).
20. The Proposal Trustee supports the Interim Receiver’s request for the Extension for the following reasons:
 - (i) Planet Energy Ontario is acting in good faith and with due diligence;
 - (ii) the Extension will not prejudice or adversely affect any group of creditors as Planet Energy Ontario has sufficient liquidity to fund all expenses in the ordinary course of business as contemplated in the Aug-23 Cash Flow Forecast;
 - (iii) ACN, Planet Energy Ontario’s most significant unsecured creditor, supports the extension;
 - (iv) the Extension is necessary to provide the Interim Receiver with adequate time to advance the sale of the business and/or assets as outlined in a report to be filed by the Interim Receiver;
 - (v) the Extension will preserve the value of Planet Energy Ontario’s business and/or contracts; and
 - (vi) if the Extension is not granted, Planet Energy Ontario will be deemed bankrupt on August 19, 2023 and the Interim Receiver’s ability to attract and negotiate a sale of the business and/or assets, which is uncertain at this time, would likely be negatively affected to the detriment of stakeholders.
21. While it is too early to determine whether a viable proposal will be presented by Planet Energy Ontario to its creditors, in the Proposal Trustee’s view, the Interim Receiver’s request for the Extension is appropriate in the circumstances. Based on discussions with the Interim Receiver, it is the Proposal Trustee’s understanding that Planet Energy Ontario is still expected to make a proposal to its creditors.

VIII. PROPOSAL TRUSTEE’S RECOMMENDATION

22. Based on all of the foregoing, the Proposal Trustee respectfully recommends that this Honourable Court grant the relief requested by the Interim Receiver as set out in this Third Report.

Dated this 14th day of August, 2023.

Richter Inc.
in its capacity as Proposal Trustee of
Planet Energy (Ontario) Corp.
and not in its personal capacity

Per:



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



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

Appendix “A”

Planet Energy (Ontario) Corp.

Cash Flow Forecast

For the Period ending August 18, 2023

	Forecast									Total
	Week 1 23-Jun-23	Week 2 30-Jun-23	Week 3 7-Jul-23	Week 4 14-Jul-23	Week 5 21-Jul-23	Week 6 28-Jul-23	Week 7 4-Aug-23	Week 8 11-Aug-23	Week 9 18-Aug-23	
Receipts										
Customer receipts	-	351,825	-	240,171	-	334,731	-	139,532	-	1,036,259
Settlement receipts	59,704	-	-	-	57,851	-	-	-	-	117,555
Tax refunds	-	-	-	50,000	-	-	-	50,000	-	100,000
Total Receipts	59,704	351,825	-	260,171	57,851	334,731	-	189,532	-	1,253,814
Disbursements										
Payroll and benefits	54,473	1,850	61,592	3,381	47,592	5,350	56,492	8,481	47,592	286,803
Energy supplier payments	-	-	-	82,136	-	-	-	84,875	-	167,011
Operating expenses	27,096	5,353	53,361	42,552	3,846	3,846	22,868	59,096	10,422	228,441
Selling, general and administrative expenses	6,000	91	15,860	6,000	-	91	14,460	9,045	-	51,547
Restructuring professional fees	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	225,000
Contingency	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	90,000
Total Disbursements	122,569	42,294	165,813	169,069	86,438	44,287	128,820	196,496	93,014	1,048,802
Net Cash Flow	-	62,866	309,531	91,102	28,587	290,444	128,820	6,964	93,014	205,012
Opening Cash (unrestricted)	8,095,590	8,032,724	8,342,255	8,176,442	8,267,543	8,238,956	8,529,400	8,400,580	8,393,616	8,095,590
Closing Cash (unrestricted)	8,032,724	8,342,255	8,176,442	8,267,543	8,238,956	8,529,400	8,400,580	8,393,616	8,300,601	8,300,601
Closing Cash (restricted account)	1,065,800	1,065,800	1,065,800	1,065,800	1,065,800	1,065,800	1,065,800	1,065,800	1,065,800	1,065,800
Opening Cash (sweep account)	113,015	232,420	-	105,085	-	167,366	-	69,766	-	113,015
Customer Receipts	119,405	119,405	105,085	105,085	167,366	167,366	69,766	69,766	46,511	969,754
Cash swept to unrestricted account	-	351,825	-	210,171	-	334,731	-	139,532	-	1,036,259
Closing Cash (sweep account)	232,420	-	105,085	-	167,366	-	69,766	-	46,511	46,511
Total Closing Cash	9,330,944	9,408,055	9,347,327	9,333,343	9,472,122	9,595,200	9,536,146	9,459,416	9,412,912	9,412,912

Appendix “B”

Planet Energy (Ontario) Corp.
Cash Flow Forecast
For the Period ending October 2, 2023

Week Ending	Forecast Week 1 4-Aug-23	Forecast Week 2 11-Aug-23	Forecast Week 3 18-Aug-23	Forecast Week 4 25-Aug-23	Forecast Week 5 1-Sep-23	Forecast Week 6 8-Sep-23	Forecast Week 7 15-Sep-23	Forecast Week 8 22-Sep-23	Forecast Week 9 29-Sep-23	Forecast Partial Week 10 2-Oct-23	Total
Receipts											
Customer receipts	-	139,532	-	167,874	41,291	52,293	52,293	52,293	168,160	72,327	746,065
Settlement receipts	-	-	-	64,636	-	-	-	58,061	-	-	122,697
Tax refunds	-	50,000	-	-	-	44,000	-	-	-	-	94,000
Interest	-	-	-	-	3,750	-	-	-	-	3,750	7,500
Total Receipts	-	189,532	-	232,510	45,041	96,293	52,293	110,355	168,160	76,077	970,261
Disbursements											
Payroll and benefits	56,492	8,481	47,592	3,750	51,237	14,000	51,237	-	57,487	8,900	299,176
Energy supplier payments	-	84,875	-	-	-	-	80,806	-	-	-	165,681
Operating expenses	22,868	59,096	10,422	3,846	5,353	35,846	33,672	3,846	12,776	5,353	193,029
Selling, general and administrative expenses	14,460	9,045	-	-	91	17,505	6,000	-	91	14,460	61,652
Restructuring professional fees	25,000	25,000	25,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	355,000
Contingency	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	100,000
Total Disbursements	128,820	196,496	93,014	57,596	106,681	117,351	221,715	53,846	120,304	78,713	1,174,538
Net Cash Flow	-	128,820	-	174,914	61,640	21,058	169,422	56,508	47,856	2,636	204,277
Opening Cash (unrestricted)	8,599,069	8,470,248	8,463,284	8,370,269	8,545,183	8,483,543	8,462,486	8,293,064	8,349,572	8,397,428	8,599,069
Closing Cash (unrestricted)	8,470,248	8,463,284	8,370,269	8,545,183	8,483,543	8,462,486	8,293,064	8,349,572	8,397,428	8,394,792	8,394,792
Closing Cash (restricted account)	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Opening Cash (sweep account)	39,784	89,658	-	83,937	20,645	26,147	26,147	26,147	84,080	36,163	39,784
Customer Receipts	49,874	49,874	83,937	104,583	46,792	52,293	52,293	110,227	120,244	72,327	742,444
Cash swept to unrestricted account	-	139,532	-	167,874	41,291	52,293	52,293	52,293	168,160	72,327	746,065
Closing Cash (sweep account)	89,658	-	83,937	20,645	26,147	26,147	26,147	84,080	36,163	36,163	36,163
Total Closing Cash	9,559,906	9,463,284	9,454,207	9,565,829	9,509,690	9,488,632	9,319,210	9,433,652	9,433,592	9,430,955	9,430,955