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By Courier

The Alberta Energy and Utilities Board
Facilities Applications, Applications Branch
640 – 5th Avenue, S.W.
Calgary, Alberta T2P 3G4



Attention: Mr. J. Richard McKee, Board Counsel

Dear Sir:

Subject: S. 40 Review Request by EnCana Corporation on Devon Canada Corporation's
Application Nos: 1380004, 1379743, 1379746, 1379737, 1379763, 1378730,
1383129 and 1379726
Our file no. 507548-4

This will acknowledge your letter of June 27, 2005 and enclosed request, made on behalf of EnCana Corporation, that seeks a review and variance of the decision of the Alberta Energy and Utilities Board dated May 26, 2005 that granted to Devon Canada Corporation licences to drill wells for coal bed methane. We appreciate this initial opportunity to comment on the request made for a suspension of the licences issued to Devon pending the disposition of the review request by the Board.

In our submission, the request by EnCana should be rejected. The request does not make out a reasonable case for a suspension to be ordered and particularly not in advance of the Board determining whether it will even undertake the review requested. The stay requested by EnCana is equivalent to a request for interlocutory injunctive relief. To justify such injunctive relief, EnCana, if it were before a Court, would be required to demonstrate:

1. That a serious issue has been identified for determination;
2. That irreparable harm will occur absent the granting of a stay; and
3. That the balance of convenience lies in favour of the Board granting the stay request by EnCana.

In our submission, the test that should be imposed by the Board for whether a stay should be granted should be no less onerous than that required for injunctive relief as established by the Courts. EnCana's application fails to substantively address any of the matters required by the tests that would entitle it to injunctive relief if it had brought its application before a Court.

Whether a serious issue is determined should, at minimum, be required to await the Board's determination as to whether it agrees with the assertions made by EnCana and more particularly whether it is prepared to undertake the review requested. The request for a stay also fails to substantiate that EnCana will suffer any material much less any irreparable harm. Other than for EnCana's entirely subjective qualitative assertions there is no loss identified by EnCana that cannot be reasonably mitigated by a monetary award of damages, if indeed, such a loss is ever demonstrated by EnCana. EnCana's submissions are entirely one-sided and fail to recognize the business loss and impact on ongoing investment and operations that would be occasioned to Devon if a stay were granted. There is in none of EnCana's request any basis established for the Board to reasonably reach a conclusion that the balance of convenience should favour granting the stay requested by EnCana. To the contrary, resource development is clearly in the Alberta public interest and Devon's well licences are entirely consistent with that public interest as evident by the issuance of the well licences. The efforts by EnCana to constrain timely resource development to satisfy its corporate purposes has no objective public interest component.

As significant to the Board, it appears EnCana's application for and entitlement to a stay is predicated entirely on its subjective assertions, most of which were advanced on behalf of EnCana in the context of EnCana's initial objections. The Board, for purposes of its decision, obviously did not find those arguments compelling on its initial consideration and they should be considered no stronger in the justification of the collateral relief now sought. Unless unreasonableness is to be assumed and attributed to the Board and to its decision, no reasonable basis has been made out for the Board to grant the stay requested by EnCana. As an expert tribunal, the Courts would accord to the Board a significant degree of deference on a matter decided within its jurisdiction. It would be anomalous for the Board to attach less deference to its own decision, and the more so prior to considering arguments as to the merits of the issues EnCana seeks the opportunity to raise.

For all of the foregoing reasons, we submit that no reasonable basis has been established for the Board to grant a stay at this time and the application for a stay made on behalf of EnCana should be rejected.

Yours truly,

FRASER MILNER CASGRAIN LLP



fn: A.L. McLarty
ALM/aw

cc: Mr. Christian J. Popowich
Code Hunter LLP