

**Proceeding 434**

September 11, 2023

By email only

**Dennis G. Jones**

**Re: Regulatory Appeal 1943516  
Regulatory Appeal 1943521  
Decision on Request to Participate – Jones, Auten and Broska**

**Calgary Head Office**  
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[www.aer.ca](http://www.aer.ca)

Dear Mr. Jones,

We are the Alberta Energy Regulator (AER) panel of hearing commissioners presiding over this proceeding (the panel). This letter provides our decision on the request to participate in this proceeding that you filed for yourself, Melvin Auten and Doreen Broska. For the reasons provided below, we have denied your request to participate.

### **Background**

On August 16, 2023, the AER issued a notice of hearing for regulatory appeals of the AER's Compliance and Liability Management Group's (CLM) decisions to issue AlphaBow Energy Ltd. (AlphaBow) a Reasonable Care and Measure Order dated March 30, 2023, and a Suspension Order dated June 5, 2023. The purpose of the hearing is to determine whether to confirm, vary, suspend, or revoke the decisions to issue both orders.

The notice of hearing explained how to file a request to participate in the hearing and set a filing date of August 30, 2023. The notice also set a deadline of September 7, 2023, for responses to any request to participate. Under section 1(j)(ii) of the *Alberta Energy Regulator Rules of Practice*, AlphaBow and CLM are parties to the regulatory appeals and could respond to any requests to participate.

On August 21, 2023, the AER received a request to participate from you, filed for yourself, Mr. Auten and Ms. Broska. The request stated that AlphaBow has not paid production royalties for mineral leases to Computershare Trust and that you, Mr. Auten and Ms. Broska own units of participation with Computershare Trust. It indicated that efforts have been made to resolve the non-payment issues with

AlphaBow since 2019, including several phone calls to AlphaBow's Calgary office. The request suggested that AlphaBow be forced to cease operations and then subsequently be put into receivership.

On September 7, 2023, the AER received responses to your request to participate from both AlphaBow and CLM. CLM took no position on whether you, Mr. Auten and Ms. Broska should be allowed to participate in this hearing.

AlphaBow stated that we should deny your request to participate because your concerns about compensation and breaches of leases are outside of the AER's jurisdiction. They also indicated that matters of receivership rest with the Alberta Court of King's Bench, not the AER.

AlphaBow stated that you have not shown that you, Mr. Auten and Ms. Broska may be directly and adversely affected by any decision that would be made in these regulatory appeals, because of the AER's lack of jurisdiction over your claim of outstanding payments. AlphaBow also stated that, because the AER cannot grant the outcome you seek, your participation in the hearing would delay the proceedings and would not materially assist us in deciding the regulatory appeals.

### **Participation Decision**

Section 32.1 of the *Alberta Energy Regulator Rules of Practice* sets the requirements for requests to participate in regulatory appeals and the criteria that panels apply in deciding participation requests. We have the discretion to grant participation status to persons who show that they may be directly and adversely affected by the AER's decision in a regulatory appeal and persons (i) whose participation will materially assist us in deciding the matter that is the subject of the regulatory appeal, (ii) who have a tangible interest in that matter, (iii) whose participation will not unnecessarily delay with regulatory appeal, and (iv) who will not repeat or duplicate evidence.

We have considered your request to participate, and the responses provided by AlphaBow and CLM. We are not convinced that you, Mr. Auten and Ms. Broska may be directly and adversely affected by our decision to confirm, vary, suspend, or revoke the Reasonable Care and Measure Order and the Suspension Order issued to AlphaBow because you have not provided us with enough supporting information. AlphaBow has extensive operations across Alberta that are affected by the orders. While your request to participate mentions mineral leases and production royalties, it does not provide specific details of the locations and nature of those leases, the AlphaBow operations related to those leases, nor of the amounts of unpaid royalties. We are also unclear about the connection between yourselves, Computershare Trust, and AlphaBow.

We understand the concerns you raise about non-payment of royalties. The record for this proceeding contains a wide range of evidence, including evidence about AlphaBow's outstanding debts. Based on your request to participate, we believe that evidence you might provide would duplicate what is already on the record, rather than adding new information, and would not materially assist us in deciding these regulatory appeals.

For these reasons, we deny your request to participate in the hearing of these regulatory appeals. You will not receive further direct correspondence from the AER on this proceeding but can monitor the proceeding through the AER's public record, accessible at [Proceeding Search \(aer.ca\)](#).

If you have any questions, please contact Andrew Lung, Hearing Coordinator, at [Hearing.Services@aer.ca](mailto:Hearing.Services@aer.ca).

Yours truly,

C.L.F. Chiasson, Hearing Commissioner (presiding)

M.A. (Meg) Barker, Hearing Commissioner

S.F. Mackenzie, Hearing Commissioner

cc: Keely Cameron, Bennett Jones LLP  
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