Out of gas: How the Conifer-Razor dispute became moot

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The recent Court of Appeal decision in Conifer Energy Inc v Razor Energy Corp., 2025 ABCA 14, has brought to light important issues surrounding contractual obligations, insolvency law, and the operational complexities of the oil and gas industry. Here's a breakdown of certain key developments and the legal ramifications that follow.

Background

Conifer Energy Inc. (Conifer) and Razor Energy Corp. (Razor) entered into an ownership and operating agreement, whereby Conifer processed gas for Razor at its Judy Creek Gas Conservation Plant facility. In December 2023, Conifer sought to lock Razor out of the gas plant and terminate its ability to access the facility due to Razor's failure to meet financial obligations. However, due to the configuration of the gas gathering system, Conifer had to process at least one-third of Razor's gas production.

This complicated scenario set the stage for a determination of whether Conifer's actions were permissible under the terms of their agreement, particularly in light of Razor's financial difficulties.

Razor Energy's bankruptcy filing

In January 2024, Razor Energy filed a Notice of Intention to Make a Proposal under section 69(1)(a) the *Bankruptcy and Insolvency Act* (BIA) thereby triggering a statutory stay of proceedings that prevented creditors from taking enforcement action against the company. Despite the stay of proceedings, Conifer continued to lockout Razor arguing that it was necessary to protect its financial interests, citing concerns about providing services on credit, which the BIA prohibits.

By February 2024, a court order determined that Conifer had breached the statutory stay by continuing its lockout after Razor's bankruptcy filing. Conifer appealed this decision, arguing that the lockout was a "completed step" rather than a continuing remedy, and that forcing it to reconnect Razor without upfront payment was akin to extending credit, which it claimed was not allowed under the BIA.

A change in Razor’s bankruptcy status

Following the February 2024 ruling, Razor converted its bankruptcy proceeding into one under the *Companies’ Creditors Arrangement Act* (CCAA). This led to a sale transaction on December 11, 2024, where Razor became fully owned by a third party, resolving the dispute over its financial obligations. This acquisition meant that Razor was no longer a reporting issuer in Canada and was no longer subject to CCAA proceedings. Particularly, the Transaction Approval Order effectively transferred and vested certain assets, contracts and liabilities of the corporation that were not a part of the transaction in a newly incorporated entitled (Residual Co) which is anticipated to remain in CCAA proceedings.

The Court of Appeal's decision: Mootness and the Appeal’s dismissal

In advance of the appeal hearing, the Court of Appeal raised the question of whether the case was still relevant, given the significant changes that had occurred. More specifically, that Razor’s restructuring had rendered the original conflict moot, as the ownership of Razor was transferred to a third party, and the court could no longer offer practical relief.

In determining whether the claim was moot, the court turned to the test set out by *Borowski v. Canada (Attorney General)* which stands for the proposition of the courts to decline to decide a case based on hypothetical and abstract questions. Given that Razor had completed its bankruptcy proceedings and had undergone a sale, the Court of Appeal determined there was no longer a tangible controversy between the parties.

The final ruling

In the end, the appeal was dismissed. The Court of Appeal reaffirmed Borowski in concluding that the matter had become moot, and the changing circumstances meant that resolving the legal issues would no longer have a practical effect. While Conifer’s desire for clarification of its rights as an operator was acknowledged, the Court of Appeal emphasized the importance of having a full and adversarial debate on such legal matters before setting precedent.

Key takeaways

The dispute between Conifer and Razor illustrates the intricate legal dynamics that can arise when one party defaults on financial obligations within the context of energy production agreements. While the Court of Appeal ultimately dismissed the appeal as moot, this case serves as a reminder of the importance of understanding both the contractual terms and the broader legal landscape when dealing with complex commercial relationships, especially during bankruptcy proceedings.

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