

SUPERIOR COURT OF CALIFORNIA

County of San Diego

DATE: April 18, 2006 **DEPT. 71** **REPORTER A:** **CSR# 6614**
PRESENT HON. RONALD S. PRAGER **REPORTER B:** **CSR#**
JUDGE

CLERK: K. Sandoval

BAILIFF: **REPORTER'S ADDRESS: P.O. BOX 120128**
SAN DIEGO, CA 92112-4104

JUDICIAL COUNSEL
COORDINATION PROCEEDINGS
NO. JCCP 4221
1,11,111, AND 1V

TITLE [Rule 1550(b)]
NATURAL GAS CASES

INDEXING

FINAL RULING-EnCANA MOTION TO QUASH

This matter was taken under submission on April 12, 2006. The Court has reviewed the papers, the arguments of counsel and the applicable law and affirms it's tentative ruling of April 12, 2006. The Court hereby rules as follows.

The Motion of EnCana Corporation to Quash Service of Summons and Complaint is DENIED. (CCP section 418.10) The Court grants the parties' respective requests for judicial notice. The Court denies EnCana's request to seal documents.

"California courts may exercise jurisdiction on any basis that is not inconsistent with the state and federal Constitutions. (Citations) By imposing only these constitutional limitations, our Legislature has authorized the broadest possible exercise of jurisdiction. (Citations)" (*In re Automobile Antitrust Cases I & II* (2005) 135 Cal. App. 4th 100)

The Court finds EnCana has maintained sufficient minimum contacts with California such that the exercise of jurisdiction over it is fair and just. The Court recognizes that exercise of jurisdiction over a non-resident defendant of a foreign country may be rare, but under the circumstances of this case and based on the evidence supporting opposition to the motion to quash, the policies expressed in *In re Automobile Antitrust Cases* are outweighed by the interests of California and its citizens.

EnCana purposely availed itself of the benefits of California by doing business in California through its various entities. EnCana's predecessor, Alberta Energy Company Ltd. was the parent of Wild Goose Storage, Inc., a California natural gas storage site until the merger to form EnCana in 2002. Wild Goose was under the jurisdiction of CPUC and was required to seek permission from CPUC to transfer control from Wild Goose to EnCana. The CPUC discussed EnCana's financial strength in decisions concerning Wild Goose. Although EnCana argues it had nothing to do with the CPUC's decision concerning Wild Goose, the CPUC decision discusses EnCana and the effects resulting from the merger. This tends to evidence EnCana's intention to insert itself into California and therefore benefit from its presence in California. (Plaintiffs' Exs. F, V, and W)

In addition, the Court was persuaded that EnCana is also subject to personal jurisdiction based on the control it exercised over WD Energy, who has consented to this Court's jurisdiction, and the representative services doctrine. The evidence tends to establish EnCana's involvement in WD's day to day operations sufficient to establish applicability of the Representative Services Doctrine. The evidence shows EnCana's applications to the CPUC and EnCana's involvement in CPUC matters; employees of WD routinely report to EnCana; EnCana's risk management policies apply to WD; many of EnCana's policies and objectives are common to WD; EnCana has a Transfer Pricing Agreement with WD that abdicates any control from WD over its pricing of gas sold to EnCana; WD holds pipeline commitments for the benefit of EnCana; and EnCana and WD have the same employee compensation programs with EnCana controlling each. (See Plaintiffs' Exhibits in support of opposition to the motion to quash)

The out-of-state federal cases cited by the parties are not controlling, and thus the Court was unpersuaded by the arguments based on those decisions.