

Athlon Energy Inc.
Form SC TO-T/A
October 20, 2014

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE TO
(RULE 14d-100)
Tender Offer Statement Pursuant to Section 14(d)(1) or 13(e)(1)
of the Securities Exchange Act of 1934
(Amendment No. 2)

ATHLON ENERGY INC.
(Name of Subject Company)
ALENCO ACQUISITION COMPANY INC.
(Offeror)

ENCANA CORPORATION
(Parent of Offeror)
(Names of Filing Persons)

COMMON STOCK, \$0.01 PAR VALUE

(Title of Class of Securities)

047477104

(CUSIP Number of Class of Securities)

Corporate Secretary

Encana Corporation

Suite 4400, 500 Centre Street SE

Calgary, Alberta, Canada T2P 2S5

(403) 645-2000

(Name, address and telephone number of person authorized to receive notices and communications on behalf of filing persons)

With a copy to:

Andrew J. Foley

Adam M. Givertz

Paul, Weiss, Rifkind, Wharton & Garrison LLP

1285 Avenue of the Americas

New York, N.Y. 10019-6064

(212) 373-3000

CALCULATION OF FILING FEE

Transaction valuation*

\$5,818,577,427.00

Amount of filing fee**

\$676,118.70

* Estimated solely for purposes of calculating the filing fee. The transaction value calculation does not take into account the effect of any cash received or deemed received by Athlon Energy Inc. (Athlon) in connection with the exercise of any outstanding equity awards. The transaction value was determined by multiplying (a) \$58.50,

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the tender offer price, by (b) the sum of (i) 97,134,446, the number of issued and outstanding Shares (as defined below), (ii) 1,767,619 Shares (at maximum performance levels) subject to outstanding awards of Athlon restricted shares and (iii) 560,797 Shares (at maximum performance levels) subject to outstanding awards of Athlon restricted stock units. The foregoing figures have been provided by the issuer to the offerors and are as of October 6, 2014, the most recent practicable date.

** The filing fee was calculated in accordance with Rule 0-11 under the Securities Exchange Act of 1934, as amended, and Fee Rate Advisory No. 1 for Fiscal Year 2015, issued August 29, 2014, by multiplying the transaction value by 0.00011620.

x Check box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid: \$676,118.70

Filing Party: Encana Corporation
and Alenco Acquisition Company
Inc.

Form or Registration No.: Schedule TO

Date Filed: October 10, 2014

.. Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- x third-party tender offer subject to Rule 14d-1.
- .. issuer tender offer subject to Rule 13e-4.
- .. going-private transaction subject to Rule 13e-3.
- .. amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer: ..

If applicable, check the appropriate box(es) below to designate the appropriate rule provision(s) relied upon:

- .. Rule 13e-4(i) (Cross-Border Issuer Tender Offer)
- .. Rule 14d-1(d) (Cross-Border Third-Party Tender Offer)

This Amendment No. 2 (this Amendment) amends and supplements the Tender Offer Statement on Schedule TO filed by Encana Corporation, a Canadian corporation (Encana), and Alenco Acquisition Company Inc. (Purchaser), a Delaware corporation and an indirect wholly owned subsidiary of Encana, with the Securities and Exchange Commission on October 10, 2014 (together with any subsequent amendments and supplements thereto, the Schedule TO). The Schedule TO relates to the offer by Purchaser to purchase all of the shares of common stock, par value \$0.01 per share (the Shares), of Athlon Energy Inc., a Delaware corporation (Athlon), that are issued and outstanding at a price of \$58.50 per Share, net to the seller in cash, without interest, less any applicable withholding taxes, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated October 10, 2014 (the Offer to Purchase), and in the related Letter of Transmittal (the Letter of Transmittal), copies of which are attached as Exhibits (a)(1)(i) and (a)(1)(ii), respectively, to the Schedule TO (which, together with any amendments or supplements thereto, collectively constitute the Offer).

All information contained in the Offer to Purchase and the accompanying Letter of Transmittal, including all schedules thereto, is hereby incorporated herein by reference in response to Items 1 through 9 and Item 11 in the Schedule TO.

This Amendment is being filed to amend and supplement Item 11 as reflected below and to amend and supplement Item 12 with additional exhibits.

Item 11. Additional Information.

Item 11 of the Schedule TO is hereby amended and supplemented as follows:

The information set forth in Section 17 Certain Legal Matters; Regulatory Approvals Litigation of the Offer to Purchase is hereby amended and restated in its entirety to read as follows:

Following the announcement of the execution of the Merger Agreement: (i) a purported stockholder class action and derivative action challenging the Merger was filed in the District Court of Tarrant County, Texas on October 6, 2014, being *Matt Youdall, Individually and on Behalf of All Others Similarly Situated and Derivatively on Behalf of Athlon Energy Inc. v. Encana Corporation et al*, Case No. 342-274894-14 (the Youdall Complaint); (ii) a purported stockholder class action challenging the Merger was filed in the Court of Chancery of The State of Delaware on October 9, 2014, being *Gary Shayne, individually and on behalf of all others similarly situated v. Athlon Energy Inc. et al*, Case No. 10218 (the Shayne Complaint); (iii) a purported stockholder class action challenging the Merger was filed in the Court of Chancery of The State of Delaware on October 17, 2014, being *Maxine Phillips, individually and on behalf of all others similarly situated v. Athlon Energy Inc. et al*, Case No. 10246 (the Phillips Complaint); and (iv) a purported stockholder class action challenging the Merger was filed in the Court of Chancery of The State of Delaware on October 17, 2014, being *Mandle Rousseau, individually and on behalf of all others similarly situated v. Athlon Energy Inc. et al*, Case No. 10250 (the Rousseau Complaint).

The complaints name as defendants the members of the Athlon Board, Encana and us. The complaints allege that the members of the Athlon Board breached their fiduciary duties to Athlon's stockholders in connection with the Merger, and that the Merger Agreement contemplates inadequate and unfair consideration, was the product of an inadequate sales process and contains unreasonable deal protection devices that purportedly preclude competing offers. The complaints further allege that Encana aided and abetted the purported breaches of fiduciary duty. The Phillips Complaint and the Rousseau Complaint also allege that the Schedule 14D-9 filed by Athlon is materially misleading and fails to disclose material information necessary for a reasonable stockholder to make an informed decision regarding the Offer. The actions seek injunctive relief, including enjoining or rescinding the Merger, and an award of other unspecified attorneys' and other fees and costs, in addition to other relief.

The outcome of these matters cannot be predicted with any certainty. A preliminary injunction could delay or jeopardize the completion of the Offer or the Merger, and an adverse judgment granting permanent injunctive relief could indefinitely enjoin completion of the Offer or the Merger.

A copy of each of the Youdall Complaint, the Shayne Complaint, the Phillips Complaint and the Rousseau Complaint are attached to the Schedule TO as Exhibits (a)(5)(vii), (a)(5)(ix), (a)(5)(x) and (a)(5)(xi) respectively, and are hereby incorporated by reference.

Item 12. Exhibits.

Item 12 of the Schedule TO is hereby amended and supplemented by adding the following exhibits:

Index No.

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|------------|--|
| (a)(5)(x) | Complaint filed by Maxine Phillips, individually and on behalf of all others similarly situated, on October 17, 2014, in the Court of Chancery of The State of Delaware. |
| (a)(5)(xi) | Complaint filed by Mandle Rousseau, individually and on behalf of all others similarly situated, on October 17, 2014, in the Court of Chancery of The State of Delaware. |

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated: October 20, 2014

ENCANA CORPORATION

By: /s/ Jeffrey G. Paulson
Name: Jeffrey G. Paulson
Title: Vice-President, Corporate Legal
Services & Corporate Secretary

**ALENCO ACQUISITION COMPANY
INC.**

By: /s/ Andrew L. Rogers
Name: Andrew L. Rogers
Title: Vice-President

EXHIBIT INDEX

Index No.	
(a)(1)(i)*	Offer to Purchase, dated October 10, 2014.
(a)(1)(ii)*	Form of Letter of Transmittal (including Guidelines for Certification of Taxpayer Identification Number on Form W-9).
(a)(1)(iii)*	Form of Notice of Guaranteed Delivery.
(a)(1)(iv)*	Form of Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.
(a)(1)(v)*	Form of Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.
(a)(1)(vi)*	Summary Advertisement as published in <i>The New York Times</i> on October 10, 2014.
(a)(5)(i)	Joint Press Release issued by Encana and Athlon, dated September 29, 2014 (incorporated by reference to Exhibit 99.1 to the Schedule TO-C filed by Encana with the Securities and Exchange Commission on September 29, 2014).
(a)(5)(ii)	Investor Presentation, dated September 29, 2014 (incorporated by reference to Exhibit 99.2 to the Schedule TO-C filed by Encana with the Securities and Exchange Commission on September 29, 2014).
(a)(5)(iii)	Transcript of Investor Conference Call held by Encana on September 29, 2014 (incorporated by reference to Exhibit 99.1 to the Schedule TO-C filed by Encana with the Securities and Exchange Commission on September 30, 2014).
(a)(5)(iv)	Transcript of Media Conference Call held by Encana on September 29, 2014 (incorporated by reference to Exhibit 99.2 to the Schedule TO-C filed by Encana with the Securities and Exchange Commission on September 30, 2014).
(a)(5)(v)	Transcript of Video Announcing the Acquisition (incorporated by reference to Exhibit 99.3 to the Schedule TO-C filed by Encana with the Securities and Exchange Commission on September 30, 2014).
(a)(5)(vi)	Investor Presentation, dated October 1, 2014 (incorporated by reference to Exhibit 99.1 to the Schedule TO-C filed by Encana with the Securities and Exchange Commission on October 1, 2014).
(a)(5)(vii)*	Complaint filed by Matt Youdall, individually, on behalf of all others similarly situated and derivatively on behalf of Athlon, on October 6, 2014, in the District Court of Tarrant County, Texas.
(a)(5)(viii)*	Press Release issued by Encana, dated October 10, 2014.
(a)(5)(ix)*	Complaint filed by Gary Shayne, individually and on behalf of all others similarly situated, on October 9, 2014, in the Court of Chancery of The State of Delaware.
(a)(5)(x)	Complaint filed by Maxine Phillips, individually and on behalf of all others similarly situated, on October 17, 2014, in the Court of Chancery of The State of Delaware.
(a)(5)(xi)	Complaint filed by Mandle Rousseau, individually and on behalf of all others similarly situated, on October 17, 2014, in the Court of Chancery of The State of Delaware.
(d)(1)	

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Agreement and Plan of Merger, dated September 27, 2014, by and among Athlon, Encana and Purchaser (incorporated by reference to Exhibit 2.1 to the Current Report on Form 8-K filed by Athlon with the Securities and Exchange Commission on October 2, 2014).

- (d)(2)* Confidentiality Agreement, dated September 5, 2014, by and between Encana and Athlon.
- (d)(3)* Form of Tender Support Agreement, dated September 27, 2014, by and among Encana, Purchaser and AP Overseas VII (Athlon FC) Holdings, L.P., Apollo Athlon Holdings, L.P and certain directors of Athlon.
- (d)(4)* Form of Tender Support Agreement, dated September 27, 2014, by and among Encana, Purchaser and certain members of Athlon's management.
- (d)(5)* Form of Non-Exchange Agreement, dated September 27, 2014, by and among Encana, Purchaser, Athlon and certain unitholders of Athlon Holdings LP.
- (d)(6) Form of Amendment to Employment Agreement, dated September 27, 2014, by and between Athlon and Robert C. Reeves (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed by Athlon with the Securities and Exchange Commission on October 2, 2014).

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No.

- (d)(7) Form of Amendment to Employment Agreements, dated September 27, 2014, by and between Athlon and certain officers of Athlon (incorporated by reference to Exhibit 10.2 to the Current Report on Form 8-K filed by Athlon with the Securities and Exchange Commission on October 2, 2014).
- (g) Not applicable.
- (h) Not applicable.

* Previously filed.