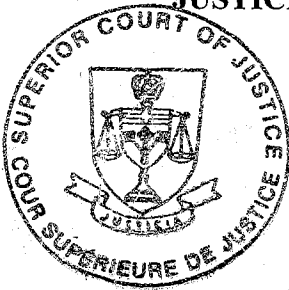


**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**THE HONOURABLE MR.)
)
JUSTICE MORAWETZ)**

**FRIDAY, THE 20th
DAY OF NOVEMBER, 2009**



**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SKYPOWER CORP.**

Applicant

APPROVAL AND VESTING ORDER

THIS MOTION, made by SkyPower Corp. (the "**Debtor**") for an order approving the sale transaction (the "**Transaction**") contemplated by a purchase agreement (the "**Purchase Agreement**") between the Debtor and Elemental Energy Inc. (the "**Purchaser**") made as of November 6, 2009, attached as Exhibit "B" to the Affidavit of Kerry Adler sworn November 13, 2009, and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Purchase Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Fourth Report of KPMG Inc., as monitor (the "**Monitor**"), dated November 16, 2009 (the "**Report**"), the Affidavit of Kerry Adler sworn November 13, 2009, and on hearing the submissions of counsel for the Debtor, the Purchaser, the Monitor, HSH Nordbank AG, New York Branch, as administrative agent and collateral agent on behalf of itself, Bayerische Landesbank, New York Branch and Union Bank of California, Canada Branch (n/k/a Union Bank, Canada Branch), Lehman Brothers Holdings Inc., CIM Group, West LB AG, Toronto Branch and Norddeutsche Landesbank Girozentrale, New York Branch, no one appearing for any other person on the service list,

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved. The execution of the Purchase Agreement by the Debtor is hereby authorized and approved, and the Debtor is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Monitor's Certificate**"), which shall be delivered upon payment of the Purchase Price by the Purchaser and upon the Monitor's receipt of the confirmation specified in the Monitor's Certificate, all of the Debtor's right, title and interest in and to the Purchased Assets described in the Purchase Agreement and listed on Schedule B hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by an Order or Orders of the Ontario Superior Court of Justice in these proceedings; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "**Encumbrances**"), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets. This Court further orders that the term "Encumbrances" or "Claims" shall not include the "**Permitted Encumbrances**", as defined in the Purchase Agreement and/or listed on Schedule D.

3. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place

and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

4. THIS COURT ORDERS AND DIRECTS the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

5. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

6. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

7. THIS COURT ORDERS that the Purchase Price (as defined in the Purchase Agreement) be and is hereby sealed pending further Order of the Court.

8. THIS COURT ORDERS that the Monitor's summary analysis of the terms of competing bids, offers to purchase or expression of interest for any of the assets/operations as referenced in paragraphs 29 and 39 of the Report be and is hereby sealed pending further order of this Court.

9. THIS COURT ORDERS that nothing in this Order limits, affects or prejudices in any manner the rights of West LB in respect of the Transaction pursuant to paragraph 8(a) of the Share Pledge Agreement between the Debtor and West LB dated as of September 3, 2008, paragraph 8.2(l)(ii) of the Loan Agreement between Fermeuse Wind Power Corp. and West LB dated as of September 3, 2008, as amended, and any related security documentation, and paragraph 11 of the Order of Mr. Justice Strathy dated August 25, 2009, and all such rights are reserved.

10. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order, including without limitation, the United States Bankruptcy Court for the District of Delaware, and to assist the Monitor and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

ENTERED AT / INSCRIT A TORONTO

ON / DANS LE REGISTRE NO.:

NOV 20 2009

PER / PAR:

[Handwritten signature]

[Handwritten note:] There shall be no waiver of West LB's consent rights in respect of the transaction without further order of the Court. In the event that the Debtor and/or the Purchaser intend to seek such an order of the Court, a 9:30 appointment shall be booked, in consultation with counsel for West LB, in order to schedule a motion to address the matter.

Schedule A – Form of Monitor’s Certificate

Court File No. 09-8321-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

**IN THE MATTER OF THE *COMPANIES’ CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SKYPOWER CORP.**

Applicant

MONITOR’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Court dated November 18, 2009, the Court approved the purchase agreement made as of November 6, 2009 (the “**Purchase Agreement**”) between SkyPower Corp. (the “**Debtor**”) and Elemental Energy Inc. (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; and (ii) that the conditions to Closing as set out in Article 6 of the Purchase Agreement have been satisfied or waived by the Debtor and the Purchaser.

B. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Purchase Agreement.

THE MONITOR CERTIFIES the following:

1. The Debtor and the Purchaser have each independently informed the Monitor that:
 - (a) The Purchaser has paid the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Purchase Agreement; and
 - (b) The conditions to Closing as set out in Article 6 of the Purchase Agreement have been satisfied or waived by the Debtor and the Purchaser.

2. This Certificate was delivered by the Monitor at ● [TIME] on ●, 2009.

**KPMG Inc., in its capacity as Monitor of
SkyPower Corp., and not in its personal
capacity**

Per: _____

Name:

Title:

Schedule B – Purchased Assets

All of the issued and outstanding shares in the capital of Fermeuse Wind Power Corp. and all of the rights, title and interests of SkyPower Corp. under the administrative services agreement between SkyPower Corp. and Fermeuse Wind Power Corp. dated June 30, 2009

Schedule C – Claims to be deleted and expunged

Any security interest, lien, prior claim, charge, hypothec, hypothecation, reservation of ownership, pledge, encumbrance, mortgage or adverse claim of any nature or kind other than licenses of intellectual property, including but not limited to, those security interests held by the Secured Lenders and any charges granted by the CCAA Court.

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

All capitalized terms herein have the meaning given to those terms in the Purchase Agreement.

- (i) Encumbrances in favour of the lenders referred to in Schedule 1.1(yy) of the Purchase Agreement;
- (ii) Encumbrances given by the Seller or the Purchased Business as security to a public utility or any Governmental Authority when required in the ordinary course of the business but only insofar as they relate to any obligations or amounts not due as at the Closing Date;
- (iii) reservations, limitations, provisos and conditions, if any, expressed in any original grants of land by a Governmental Authority and any statutory limitations, exceptions, reservations and qualifications on real property;
- (iv) statutory liens for current Taxes, assessments or other governmental charges not yet due and payable or those being contested in good faith;
- (v) discrepancies in the legal description of the Real Property or any adjoining real or immovable property which would be disclosed in an up-to-date survey which do not Materially Adversely affect the use or value of Real Property used by the Purchased Business (based on the current use of such affected property) affected thereby, and any registered servitudes, easements, restrictions or covenants that run with the Real Property;
- (vi) applicable municipal by-laws, development agreements, subdivision agreements, site plan agreements, servicing agreements, cost sharing reciprocal agreements and building and zoning restrictions and other similar agreements which do not materially impair the use of Real Property used by the Purchased Business (based on the current use of such affected property) affected thereby and provided the same are complied with in all material respects to the Closing Date including the posting of any required security for performance of obligations thereunder;

- (vii) any easements, servitudes, rights-of-way, licenses, agreements, restrictions that run with the land and other Encumbrances (including easements, rights-of-way and agreements for railways, sewers, drains, gas and water mains or electric light and power or telephone, telecommunications or cable conduits, poles, wires and cables) which do not materially impair the use, the operation or the marketability of Real Property used by the Purchased Business (based on the current use of such affected property) affected thereby and provided the same are complied with in all material respects up to the Closing Date;
- (viii) defects or irregularities in title to Real Property used by the Purchased Business which are of a minor nature and do not in the aggregate materially impair or are not anticipated to materially impair in the future the use of the Real Property (based on the current use of such affected property) affected thereby;
- (ix) Encumbrances of mechanics, labourers, workmen, builders, contractors, suppliers of material or architects or other similar Encumbrances incidental to construction, maintenance or repair operations which have either been registered or filed pursuant to Applicable Laws against the Seller or the Purchased Business, or not yet registered or filed and which, in any such case, relate to obligations not due and payable or which are being contested in good faith by appropriate proceedings diligently conducted; and
- (x) any privilege in favour of any lessor, licensor or permitter for rent to become due or for other obligations or acts, the performance of which is required under Contracts of the Purchased Business so long as the payment of or the performance of such other obligation or act is not delinquent and provided that such Encumbrances or privileges do not materially affect the use or the operation of the assets affected thereby.

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED
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**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

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