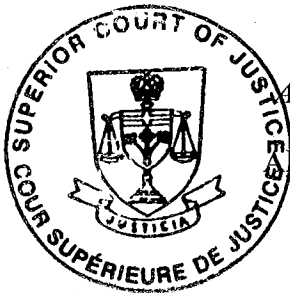


**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE MR. ) TUESDAY, THE 25<sup>TH</sup>  
)  
JUSTICE STRATHY ) DAY OF AUGUST, 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.**

**SALE PROCESS ORDER**

THIS MOTION, made by SkyPower Corp. (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Kerry Adler sworn August 24, 2009 and the exhibits thereto (the "**Adler Affidavit**"), the First Report of KPMG Inc. as monitor (the "**Monitor**"), and on hearing the submissions of counsel for the Applicant, 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) (the "**HSH Bank Syndicate**"), Lehman Brothers Holdings Inc. ("**Lehman**" and together with the HSH Bank Syndicate, the "**Secured Lenders**"), CIM Group (the "**DIP Lender**"), West LB AG, Toronto Branch, and Norddeutsche Landesbank Girozentrale, New York Branch, no one else appearing.

**SERVICE**

1. **THIS COURT ORDERS** that the time for service of this Motion and the Motion Record is hereby abridged so that this Motion is properly returnable today and hereby dispenses with further service thereof.

**MARKETING OF BUSINESS**

2. **THIS COURT ORDERS AND DIRECTS** the Applicant to commence a marketing and sale process (the “**Sale Process**”) with the oversight and supervision, but not control, of the Monitor in accordance with the proposed sale process protocol detailed in Appendix “A” attached to this Order (the “**Sale Process Protocol**”) for the purpose of offering the opportunity for potential purchasers to purchase: (a) the development business and operations of the Applicant; and (b) the Applicant’s 201 MW XLE turbines and non-turbine related equipment (collectively, the “**XLE Turbines**”).
3. **THIS COURT ORDERS** that the Applicant and Marathon (defined below) shall keep the Monitor and the Secured Lenders and/or their financial advisors informed with respect to the Sale Process and shall provide copies of all material documentation related thereto to the Monitor. The Monitor shall oversee, facilitate and supervise, but not control, the Sale Process and report regularly to the Secured Lenders and/or their financial advisors in accordance with the Sale Process Protocol and to the Court from time to time.
4. **THIS COURT ORDERS** that the Sale Process Protocol is hereby approved and the Applicant, the Monitor and Marathon are hereby authorized and directed to perform each of their obligations thereunder.
5. **THIS COURT ORDERS** that the Applicant is hereby authorized and directed to engage Marathon Capital, LLC (“**Marathon**”) to assist in the Sale Process in accordance with the terms and conditions of the engagement letter attached as Exhibit “C” to the Adler Affidavit (the “**Engagement Letter**”) and in accordance with the Sale Process Protocol.

6. **THIS COURT ORDERS** that Exhibit "C" to the Adler Affidavit be and is hereby sealed pending further Order of the Court.
7. **THIS COURT ORDERS** that Marathon shall be entitled to the benefit of and is hereby granted a charge (the "**Marathon Charge**") on all assets and property of the Applicant to secure its work fee and variable transaction fees (collectively, the "**Marathon Transaction Fee**") (as described in the Engagement Letter) and recoverable disbursements incurred in performing its obligations under the Engagement Letter but not including any indemnity or any fees or expenses incurred by Marathon in connection with any right of indemnity included in the Engagement Letter. The Applicant is directed to pay Marathon the Marathon Transaction Fee and expenses payable under the Engagement Letter promptly when due.
8. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Directors' Charge, the DIP Lender's Charge, the KERP Charge (as defined in the separate Order of this Court dated August 25, 2009), and the Marathon Charge, as among them, shall be as follows:
  - First – Administration Charge (to the maximum amount of \$1,000,000);
  - Second – Directors' Charge (to the maximum amount of \$1,250,000);
  - Third – DIP Lender's Charge
  - Fourth – KERP Charge
  - Fifth – Marathon Charge
9. **THIS COURT ORDERS** that the defined term "Charges" in paragraphs 38-42 of the Initial CCAA Order shall include the Marathon Charge.
10. **THIS COURT ORDERS** that Marathon, its affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities, except to the extent same result from the gross

negligence or wilful misconduct of Marathon in performing its obligations under the Engagement Letter.

**GENERAL**

11. **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, including the United States Bankruptcy Court for the District of Delaware, to give effect to this Order and assist the Applicant, the Monitor and their respective 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 Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.
  
12. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, including the United States Bankruptcy Court for the District of Delaware, for the recognition of this Order and for assistance in carrying out the terms of this Order.

G. Shetty J.

ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

AUG 25 2009

PER / PAR: TV

**APPENDIX "A"**  
**SALE PROCESS PROTOCOL**

**Objectives**

1. The Sale Process will be implemented to achieve the following objectives:
  - (a) a dual sale strategy for a transaction relating to the development business and operations of SkyPower (the "**Development Business**") and a separate transaction relating to all or a significant number of SkyPower's 201 MW XLE turbines and non-turbine related equipment (collectively, the "**XLE Turbines**");
  - (b) a fair and effective process to ensure certainty for all parties; and
  - (c) value maximization for the stakeholders of SkyPower.

**Selection of Marathon**

2. SkyPower confirms that it has selected Marathon and Marathon has agreed to accept its engagement in accordance with the Engagement Letter filed in the CCAA proceedings and approved in this Order.

**Monitor's Oversight**

3. The Monitor will oversee, facilitate and supervise, but not control, the Sale Process undertaken by Marathon and SkyPower, all in accordance with this Sale Process Protocol and will review and discuss on a regular basis with the financial advisors to 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) (the "**HSH Bank Syndicate**") and the financial advisors to Lehman Brothers Holdings Inc. ("**Lehman**" and collectively with the HSH Bank Syndicate, the "**Secured Lenders**"), the progress and status of the Sale Process, any material events arising thereunder and any proposed transaction relating thereto.

### **Identification of Potential Interested Parties**

4. SkyPower and Marathon will jointly develop a potential interested party list with input from the Monitor and the Secured Lenders with a view to ensuring that all parties that have expressed interest in the Development Business and/or the XLE Turbines prior to the CCAA proceedings and any potential interested party whose interest may be known to SkyPower, the Monitor, Marathon and the Secured Lenders are included on the potential interested party list.

5. Interested parties shall be encouraged to consider:

- (a) the purchase of the Development Business; and / or
- (b) the purchase of the XLE Turbines.

6. Interested parties shall be required to adhere to the Sale Process and the timetable set out herein.

7. All interested bidders must be pre-qualified by SkyPower, in consultation with the Monitor, and any ongoing participation shall be subject to having:

- (a) provided a reasonable cash deposit or letter of credit; or
- (b) been pre-qualified by the bidder's reputation in the market, as determined by SkyPower with the consent of the Monitor.

### **Dual Sale Strategy**

8. A separate sale strategy for each of the Development Business and the XLE Turbines shall be pursued, the details of which are set out below:

#### ***(i) Development Business Sale Process***

9. Bid instructions will allow bidders to bid on the Development Business and/or on all major components, including: (a) Solar Operating Assets, (b) Wind Operating Assets, (c) Solar Development Pipeline; (d) Wind Development Pipeline (including, without limitation, the separate sale of the SLE turbines), or (e) any combination thereof (including, without

limitation, the sale of the SLE turbines or the sale of non-turbine related equipment). The bid instructions shall be approved by the Monitor, in consultation with the Secured Lenders.

10. Potential purchasers shall be provided with the following documents in the form approved by the Monitor, in consultation with the Secured Lenders: (a) a summary of the Sale Process for the Development Business; (b) a form of non-disclosure agreement to be executed (to the extent they have not previously executed same); and (c) a description of the Development Business.

11. Potential purchasers who have executed non-disclosure agreements shall be given access to a full electronic data room established by SkyPower and Marathon. Potential purchasers shall have from August 25, 2009 to October 5, 2009, to conduct their due diligence.

12. Binding offers shall be submitted to SkyPower and the Monitor by no later than 9:00 p.m. (EST) on October 5, 2009, in the form of a standard purchase agreement to be provided by SkyPower which has been previously reviewed and approved by the Monitor, in consultation with the Secured Lenders.

13. SkyPower and Marathon (in consultation with the Monitor and the Secured Lenders) shall negotiate with any of the potential purchasers with the goal of executing a binding purchase agreement by no later than October 15, 2009. The Monitor shall have the ability to contact bidders directly. The purchase agreement shall be subject to Court approval, defined third party consents, any required regulatory approval and any other conditions acceptable to SkyPower, the Monitor and the potential purchaser(s).

14. Closing of a transaction in respect of the Development Business shall be completed on or before November 16, 2009, or such later date as agreed to by SkyPower and the Monitor, in consultation with the Secured Lenders.

***(ii) Turbine Sale Process***

15. The bid process shall permit the purchase of any of the XLE Turbines. The HSH Bank Syndicate is authorized to discuss the terms of any financing with any prospective

bidder of any of the XLE Turbines and the HSH Bank Syndicate shall provide the Monitor and SkyPower with updates on the progress and status of any such financing discussions with any prospective bidder. The bid instructions shall be approved by the Monitor, in consultation with the Secured Lenders.

16. Potential purchasers shall be provided with the following documents in the form approved by the Monitor, in consultation with the Secured Lenders: (a) a summary of the Sale Process for the XLE Turbines; and (b) a form of non-disclosure agreement to be executed (to the extent they have not previously executed same).

17. Potential purchasers who have executed non-disclosure agreements shall be given access to a full electronic data room established by SkyPower and Marathon. Potential Purchasers shall have from August 25, 2009 to October 5, 2009 to conduct due diligence.

18. Binding offers shall be submitted to SkyPower and the Monitor by no later than 9:00 p.m. (EST) on October 5, 2009, in the form of a standard purchase agreement to be provided by SkyPower, which has been previously reviewed and approved by the Monitor, in consultation with the Secured Lenders.

19. SkyPower and Marathon (in consultation with the Monitor and the Secured Lenders) shall negotiate with any of the potential purchasers with the goal of executing a binding purchase agreement by October 19, 2009, or such earlier or later date as may be agreed to by SkyPower and the Monitor, in consultation with the Secured Lenders. The Monitor shall have the ability to contact bidders directly. The purchase agreement shall be subject to Court approval, defined third party consents, any required regulatory approval and any other conditions acceptable to SkyPower, the Monitor and the potential purchaser.

20. Closing of a transaction(s) in respect of the XLE Turbines shall be completed on or before October 30, 2009, or such earlier or later date as may be agreed to by SkyPower and the Monitor, in consultation with the Secured Lenders.

**Reporting**

21. SkyPower and Marathon will consult with and provide updates to the Monitor and to the financial advisors to the Secured Lenders on the progress and the status of the Sale Process (including any material information related to any bids received in connection therewith, subject to confidentiality restrictions) and with respect to any proposed transaction relating to the Development Business and the sale of the XLE Turbines.

22. SkyPower and Marathon shall advise the Monitor, the Secured Lenders and/or their financial advisors forthwith with respect to any material adverse issues identified by the potential purchasers resulting from their due diligence.

23. Subject to confidentiality restrictions, SkyPower <sup>✓</sup> will consult with <sup>✓</sup> West LB AG, Toronto Branch, from time to time, with respect to any proposed transaction in respect of the equity interests held by SkyPower in Fermeuse Wind Power Corp., and will consult with Norddeutsche Landesbank Girozentrale, New York Branch, from time to time, with respect to any proposed transaction in respect of the equity interests held by SkyPower in SunE Sky First Light LP and SunE Sky GP First Light Ltd. *add the Monitor 68*

**Other**

24. SkyPower, with the consent of the Monitor, shall not be required to accept the highest and best bid in respect of any transaction but shall be entitled to proceed with the transaction(s) that maximizes value for all stakeholders.

25. SkyPower, in consultation with Marathon, may amend the Sale Process Protocol (and extend any time limits) as necessary to achieve the objectives set out in this Sale Process Protocol, with the consent of the Monitor, in consultation with the Secured Lenders, or further Order of the Court.

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.

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

Proceeding commenced at Toronto

**SALE PROCESS ORDER**

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