

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:

XEBEC HOLDING USA INC., *et al.*,

Debtors in a foreign proceeding.¹

Chapter 15

Case No. 22- 10934 (KBO)

Jointly Administered

Re: D.I. No.: 116

**NOTICE OF MOTION FOR ORDER (I) RECOGNIZING AND ENFORCING
CCAA VESTING ORDER; (II) APPROVING THE SALE OF CERTAIN OF DEBTOR
XBC FLOW SERVICES – WISCONSIN INC.’S ASSETS FREE AND CLEAR OF ANY
AND ALL LIENS, CLAIMS, AND ENCUMBRANCES; (III) APPROVING
ASSUMPTION AND ASSIGNMENT OF CERTAIN CONTRACTS; AND
(IV) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that on March 15, 2023, FormerXBC Inc. (f/k/a Xebec Adsorption Inc.), in its capacity as the authorized foreign representative (the “**Foreign Representative**”)² for the above-captioned debtors (collectively, the “**Debtors**”) filed the *Motion for Order (I) Recognizing and Enforcing CCAA Vesting Order; (II) Approving the Sale of Certain of Debtor XBC Flow Services – Wisconsin Inc.’s Assets Free and Clear of Liens, Claims, and Encumbrances; (III) Approving Assumption and Assignment of Certain Contracts; and (IV) Granting Related Relief* (the “**U.S. Sale Motion**”), seeking entry of an order (a) approving the sale of substantially all of Debtor XBC Flow Services – Wisconsin Inc.’s assets located in the United States (the “**Sale**”), free and clear of liens, claims, encumbrances, and interests under section 363 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “**Bankruptcy Code**”), to Total Energy Systems, LLC (“**Buyer**”); (b) authorizing the assumption and assignment of executory contracts and unexpired leases under section 365 of the Bankruptcy Code; and (c) recognizing and enforcing an order approving the Sale (the “**Vesting Order**”), entered by the Superior Court of Québec, in the Province of Québec, District of Montréal, in a proceeding commenced under Canada’s Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended.

PLEASE TAKE FURTHER NOTICE that in connection with the Sale, Seller has entered into an Asset Purchase Agreement dated as of March 11, 2023 (the “**Purchase Agreement**”) with Buyer. Pursuant to the Purchase Agreement, Buyer shall (a) purchase from XBC Flow Services – Wisconsin Inc. (“**Seller**”) substantially all of the property and assets

¹ The Debtors in the chapter 15 proceedings and the last four digits of their federal tax identification numbers are: FormerXBC Inc. (f/k/a Xebec Adsorption Inc.) (0228), 11941666 Canada Inc. (f/k/a Xebec RNG Holdings Inc.) (N/A), Applied Compression Systems Ltd. (N/A), 1224933 Ontario Inc. (f/k/a Compressed Air International Inc.) (N/A), Xebec Holding USA Inc. (8495), Enerphase Industrial Solutions Inc. (1979), CDA Systems, LLC (6293), Xebec Adsorption USA, Inc. (0821), The Titus Company (9757), Nortekbelair Corporation (1897), XBC Flow Services – Wisconsin Inc. (7493), California Compression, LLC (4752), and Xebec Systems USA LLC (4156). The location of the Debtors’ corporate headquarters and the Debtors’ foreign representative is: 730 Industriel Boulevard, Blainville, Quebec, J7C 3V4, Canada.

² Unless otherwise indicated herein, capitalized terms used by not otherwise defined in herein shall have the meanings ascribed to such terms in the U.S. Sale Motion.

owned by the Seller, free and clear of liens, claims, encumbrances, and interests, (b) assume certain of Seller's liabilities, and (c) assume certain executory contracts and unexpired leases and assign them to the Buyer. The material terms and conditions of the Purchase Agreement are as follows:³

MATERIAL TERMS OF THE PURCHASE AGREEMENT	
Seller	XBC Flow Services – Wisconsin Inc.
Buyer	Total Energy Systems, LLC
Purchased Assets	Substantially all of Seller's assets required to operate its business.
Purchase Price	The purchase price payable to Seller for the Purchased Assets, exclusive of all applicable sales and transfer taxes, shall be the total of: <ul style="list-style-type: none"> (a) the amount of \$121,000.00 in cash, plus (b) the sum of eighty percent (80%) of the Accounts Receivable as of the Closing Date, plus (c) the sum of eighty percent (80%) of the Inventory as of the Closing Date, plus (d) the amount of the Assumed Liabilities.
Purchase Price Held in Trust	The Deposit and the cash portion of the Purchase Price paid by the Buyer to the Monitor shall be held by the Monitor pending entry of the Sale and Recognition Order by the U.S. Bankruptcy Court and shall not be released until such order has entered.
Private Sale/No Competitive Bidding	The Foreign Representative seeks approval of a private sale, without an auction process. The Debtors previously conducted a competitive bidding process through the Canadian Court-approved SISF, but did not receive any higher or better offers for Seller's assets.
Closing Date	The parties intend on closing the sale within five business days of entry of the Vesting Order.

PLEASE TAKE FURTHER NOTICE that copies of the U.S. Sale Motion, which includes the Purchase Agreement as an exhibit, and related filings in these chapter 15 cases are available (a) on the Monitor's case-specific website: <https://www.insolvencies.deloitte.ca/en-ca/pages/Xebec.aspx>; (b) on the Bankruptcy Court's Electronic Case Filing System, which can be accessed from the Bankruptcy Court's website at <http://www.ecf.deb.uscourts.gov> (a PACER login and password are required) or (c) upon request to counsel to the Foreign Representative, via email (jgadhaf@mcdonaldhopkins.com), or via mail, McDonald Hopkins LLC, 300 North LaSalle Street, Suite 1400, Chicago, Illinois 60654, Attn: Josh Gadharf.

³ To the extent that there is any inconsistency between the terms of the Purchase Agreement and the summary of such terms in this Motion, the terms of the Purchase Agreement shall control. Capitalized terms used by not otherwise defined in this summary shall have the meanings ascribed to such terms in the purchase Agreement.

PLEASE TAKE FURTHER NOTICE that a hearing with respect to the Motion will be held before the Honorable Karen B. Owens at the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 6th Floor, Wilmington, DE 19801, in Courtroom No. 3, on **April 5, 2023, at 1:00 p.m. (prevailing Eastern time)** (the “U.S. Sale Hearing”).

PLEASE TAKE FURTHER NOTICE that any party in interest wishing to submit a response, answer, or objection to the U.S. Sale Motion must do so pursuant to the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, and such response, answer, or objection must (a) be in writing, (b) set forth in detail the factual and legal bases therefor, (c) be filed with the Office of the Clerk of the Court, 824 Market Street, Wilmington, Delaware 19801, and (d) be served upon counsel for the Foreign Representative, McDonald Hopkins LLC, 300 North LaSalle Street, Suite 1400, Chicago, Illinois 60654, Attn: Josh Gadharf, jgadharf@mcdonaldhopkins.com, and Bielli & Klauder, LLC, 1204 North King Street, Wilmington, Delaware 19801, Attn: David M. Klauder, dklauder@bk-legal.com, so as to be received **on or before March 29, 2023, at 5:00 p.m. (prevailing Eastern time)**.

PLEASE TAKE FURTHER NOTICE that all parties in interest opposed to the U.S. Sale Motion must appear at the U.S. Sale Hearing at the time and place set forth herein, which may be adjourned from time to time without further notice except for an “in court” announcement at the U.S. Sale Hearing or a filing on the docket of these chapter 15 cases of the date and time to which the U.S. Sale Hearing has been adjourned.

PLEASE TAKE FURTHER NOTICE THAT IF NO RESPONSES OR OBJECTIONS ARE RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE BANKRUPTCY COURT MAY GRANT THE RELIEF REQUESTED BY THE FOREIGN REPRESENTATIVE WITHOUT FURTHER NOTICE OR HEARING.

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Dated: March 15, 2023
Wilmington, Delaware

BIELLI & KLAUDER, LLC

/s/ David M. Klauder

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- and -

MCDONALD HOPKINS LLC

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