

**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)

Joint Administration Requested

**ORDER GRANTING RECOGNITION OF
FOREIGN MAIN PROCEEDING AND CERTAIN RELATED RELIEF**

Upon the motion (the “**Motion**”)² of Xebec Adsorption Inc., in its capacity as the duly-appointed foreign representative (the “**Foreign Representative**”) for the above-captioned debtors (the “**Debtors**”), for entry of an order pursuant to sections 105(a), 1504, 1507, 1510, 1515, 1517, 1520, 1521, and 1522 of the Bankruptcy Code: (a) granting recognition of the Canadian Proceeding as a “foreign main proceeding” pursuant to chapter 15 of the Bankruptcy Code; (b) granting recognition of the Foreign Representative as the “foreign representative,” as defined in section 101(24) of the Bankruptcy Code, in respect of the Canadian Proceeding; (c) recognizing, granting comity to, and giving full force and effect in the United States to the Canadian Proceeding and the Canadian Orders; and (d) affording the Debtors the protection of the automatic stay under section 362 of the Bankruptcy Code; and the Bankruptcy Court having held a hearing to consider the relief requested in the Chapter 15 Petitions (the “**Hearing**”); and upon the Vounassis Declaration and the

¹ The Debtors in the chapter 15 proceedings and the last four digits of their federal tax identification numbers are: Xebec Adsorption Inc. (0228), Xebec RNG Holdings Inc. (N/A), Applied Compression Systems Ltd. (N/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: 700-1130 Sherbrooke Street West, Montréal, Québec H3A 2M8.

² Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Motion.

Abitan Declaration, the record of the Hearing, and all of the proceedings had before the Bankruptcy Court; and after due deliberation and sufficient cause appearing therefor,

THE COURT HEREBY FINDS AND CONCLUDES THAT:

A. The findings and conclusions set forth herein constitute the Bankruptcy Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. The Bankruptcy Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012.

C. This is a core proceeding pursuant to 28 U.S.C. § 157(b) and the Bankruptcy Court may enter a final order consistent with Article III of the United States Constitution.

D. Venue is proper in this district pursuant to 28 U.S.C. § 1410.

E. The Debtors have property in the United States, and the Debtors are eligible to be debtors in a chapter 15 case pursuant to, as applicable, 11 U.S.C. §§ 109 and 1501.

F. This case was properly commenced pursuant to 11 U.S.C. §§ 1504, 1509, and 1515.

G. The Foreign Representative is a duly appointed "foreign representative" of the Debtors as such term is defined in 11 U.S.C. § 101(24).

H. The Foreign Representative is a corporation and, thus, an "entity" as such term is defined in 11 U.S.C. § 101(41).

I. The Foreign Representative has satisfied the requirements of 11 U.S.C. § 1515 and Bankruptcy Rule 1007(a)(4).

J. The Canadian Proceeding is a “foreign proceeding” within the meaning of 11 U.S.C. § 101(23).

K. The Canadian Proceeding is pending before the Canadian Court in Canada, where the Debtors have their “center of its main interests” as referred to in 11 U.S.C. § 1517(b)(1) and, as such, the Canadian Proceeding is entitled to recognition as a “foreign main proceeding” pursuant to 11 U.S.C. §§ 1502(4) and 1517(b)(1).

L. The Canadian Proceeding is entitled to recognition by the Bankruptcy Court pursuant to 11 U.S.C. §§ 1515 and 1517(a).

M. The Debtors and the Foreign Representative are entitled to all of the relief set forth in 11 U.S.C. § 1520, without limitation.

N. The Debtors and the Foreign Representative are entitled to all of the relief set forth herein under 11 U.S.C. §§ 1507 and 1521(a).

O. The relief granted hereby is necessary and appropriate to effectuate the objectives of chapter 15, to protect the Debtors and the interests of its creditors and other parties in interest, and is consistent with the laws of the United States, international comity, public policy, and the policies of the Bankruptcy Code.

P. Absent the requested granted herein, the efforts of the Debtors, the Canadian Court, the Foreign Representative in conducting the Canadian Proceeding and effectuating the restructuring, and Canadian law all may be frustrated by the actions of individual creditors, a result contrary to the purposes of chapter 15.

Q. Good, sufficient, appropriate, and timely notice of the filing of, and the hearing on, the Chapter 15 Petitions was given, which notice was deemed adequate for all purposes, and no further notice need be given.

R. All creditors and other parties in interest, including the Debtors, are sufficiently protected by the grant of relief ordered hereby in accordance with section 1522(a) of the Bankruptcy Code.

For all of the foregoing reasons, and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED as set forth herein.
2. The Chapter 15 Petitions are granted.
3. The Canadian Proceeding is granted recognition as a foreign main proceeding as defined in 11 U.S.C. § 101(23) pursuant to 11 U.S.C. § 1517(a).
4. The Canadian Proceeding is a collective, court-supervised proceeding governed in accordance with applicable Canadian law, as it may be amended from time to time, and is granted recognition as a foreign main proceeding pursuant to 11 U.S.C. § 1517(b)(1) and is entitled to the protections of 11 U.S.C. § 1520(a), including, without limitation, the application of the protection afforded by the automatic stay under 11 U.S.C. § 362 to the Debtors and to the Debtors' property that is within the territorial jurisdiction of the United States.
5. Xebec Adsorption Inc. is the duly appointed foreign representative of the Debtors within the meaning of 11 U.S.C. § 101(24), is authorized to act on behalf of the Debtors in the Chapter 15 Cases, and is established as the exclusive representative of the Debtors in the United States.
6. All objections, if any, to the Motion or the relief requested therein that have not been withdrawn, waived, or settled as announced to the Bankruptcy Court at the Hearing, or by stipulation filed with the Court, and all reservations of rights included therein, are hereby overruled on the merits.

7. Subject to the provisions of paragraph 8 hereof, all persons and entities subject to the jurisdiction of the United States are permanently enjoined and restrained from taking any actions inconsistent with the Canadian Orders (as may be amended, modified, or restated from time to time), including, without limitation, the Amended and Restated Initial Order entered by the Canadian Court on October 20, 2022 (the “**Amended and Restated Initial Order**”) (attached hereto as Exhibit 1), or this order, including, without limitation, commencing, continuing, or enforcing any action or legal proceeding against the Debtors based on any claims, liabilities, and/or causes of actions against the Debtors, including, without limitation:

a. taking or continuing any act to obtain possession of, or exercise control over, including, without limitation, attaching, repossessing, seizing, or disposing of, as applicable, the Debtors, or any of their property (including intangible property or any proceeds thereof, collectively, the “**Property**”);

b. transferring, encumbering, relinquishing or disposing of any Property other than to the Foreign Representative;

c. commencing, continuing, or enforcing any action or legal proceeding (including, without limitation, arbitration, mediation or any judicial, quasi-judicial, administrative or regulatory action, proceedings or process whatsoever), including, without limitation, by way of counterclaim (each individually, an “**Action**”) against the Debtors or any of the Property;

d. any judgment, wherever and whenever obtained, to the extent such judgment is a determination of a liability of the Debtors with respect to any debt or liability cancelled, discharged, or restructured as a result of Canadian law, is unenforceable in the United States;

e. commencing or continuing any act or Action to create, perfect, or enforce any lien, set-off, or other claim against the Debtors or the Property, including, without limitation, rights under any contracts with the Debtors;

f. commencing any suit, action, or proceeding against the Debtors, the Foreign Representative, or any of their respective successors, directors, officers, agents, employees, representatives, advisors, or attorneys in respect of any claim or cause of action, in law or in equity, arising out of or relating to any action taken or omitted to be taken in connection with the Chapter 15 Cases or the Canadian Proceeding;

g. declaring or considering the filing of the Canadian Proceeding or the Chapter 15 Cases a default or event of default under any agreement, contract, or

arrangement; and taking any action in contravention to or inconsistent with the Canadian Orders, including, without limitation, against the Debtors, or any of the Property; provided, however, for the avoidance of doubt, this order shall enjoin persons and entities subject to the jurisdiction of the United States from taking any actions, including, without limitation, the actions enumerated in (a) through (g) above, only to the extent such actions are inconsistent with the Canadian Orders or would otherwise interfere with the enforcement or implementation of the Canadian Orders.

8. Notwithstanding anything to the contrary herein, in accordance with the paragraph 18 of the Amended and Restated Initial Order, National Bank of Canada (“NBC”) is an unaffected creditor and is not subject to the stay of proceedings or enforcement processes that shall arise upon entry of this order and nothing in the Canadian Orders or this order shall prevent NBC from enforcing its security against the Debtors’ Property pursuant to NBC’s contractual rights, subject only to the provisions set forth in paragraph 42 of the Amended and Restated Initial Order.

9. The administration, realization, and distribution of all or part of the assets of the Debtors within the territorial jurisdiction of the United States is entrusted to the Foreign Representative, and the Foreign Representative is established as the exclusive representative of the Debtors in the United States.

10. The Foreign Representative, the Debtors, and their respective agents are authorized to serve or provide any notices required under the Bankruptcy Rules, the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), or orders of the Bankruptcy Court.

11. No action taken by the Foreign Representative, the Debtors, or their respective successors, agents, representatives, advisors, or counsel in preparing, disseminating, applying for, implementing, or otherwise acting in furtherance of or in connection with the Canadian Proceeding, this order, the Chapter 15 Cases, or any adversary proceeding herein, or any further proceeding commenced hereunder, shall be deemed to constitute a waiver of the rights or benefits afforded to such persons under 11 U.S.C. §§ 306 and 1510.

12. No later than five (5) business days after its entry or as soon as practicable thereafter, the Foreign Representative shall serve, or cause to be served, this order on the Notice Parties (as defined in the Scheduling Order) in accordance with the procedures set forth in the *Order (A) Scheduling Hearing on Chapter 15 Petitions and Recognition and (B) Specifying Form and Manner of Service of Notice* (the “**Scheduling Order**”). Such service and notice is good and sufficient service and adequate notice for all purposes.

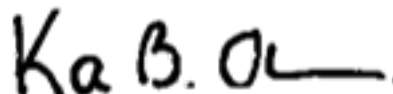
13. This order is without prejudice to the Foreign Representative requesting any additional relief in the Chapter 15 Case, including seeking recognition and enforcement by the Bankruptcy Court of any further orders of the Canadian Court.

14. The Foreign Representative is authorized to take all actions necessary to effectuate the relief granted by this order.

15. The Bankruptcy Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this order.

16. Notwithstanding any applicability of any Bankruptcy Rules or Local Rules, the terms and conditions of this order shall be immediately effective and enforceable upon its entry and shall constitute a final order within the meaning of 28 U.S.C. § 158(a).

Dated: October 27th, 2022
Wilmington, Delaware


KAREN B. OWENS
UNITED STATES BANKRUPTCY JUDGE