

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) WEDNESDAY, THE 1ST
)
JUSTICE OSBORNE) DAY OF NOVEMBER, 2023

B E T W E E N:

MACQUARIE EQUIPMENT FINANCE LIMITED

Applicant

- and -

**VALIDUS POWER CORP., IROQUOIS FALLS POWER CORP., BAY
POWER CORP., KAP POWER CORP., VALIDUS HOSTING INC.,
KINGSTON COGEN LIMITED PARTNERSHIP AND KINGSTON COGEN
GP INC.**

Respondents

IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED;
AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43,
AS AMENDED

ORDER

(Increase of Receiver's Borrowing Limit)

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the court-appointed receiver (in such capacity, the "**Receiver**") of all the property, assets and undertakings of Validus Power Corp., Iroquois Falls Power Corp., Bay Power Corp, Kap Power Corp., Validus Hosting Inc. and Kingston Cogen GP Inc., (collectively, the "**Companies**") and Kingston Cogen Limited Partnership ("**Kingston LP**" and together with the Companies, the "**Validus Entities**") for an order approving the increase of the Receiver's borrowing limit under the Receiver's Borrowing Charge (as defined in the Order of the Court dated August 10, 2023 (the

“**Receivership Order**”)) from \$1 million to \$1.5 million, was heard this day at 330 University Ave, Toronto, Ontario.

ON READING the Motion Record, the second report of KSV Restructuring Inc. in its capacity as monitor within the proceedings of the Validus Entities under the *Companies’ Creditors Arrangement Act*, and on hearing the submissions of counsel to the Receiver and those other parties present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service of Katie Parent sworn October 26, 2023, filed:

SERVICE

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

INCREASE OF RECEIVER’S BORROWING LIMIT

2. THIS COURT ORDERS that Paragraph 23 of the Receivership Order is amended as follows:

THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow from the Applicant by way of a credit facility, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed ~~\$1,000,000~~ \$1,500,000 (or such greater amount that is acceptable to the Applicant and as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest, fees and charges thereon, in priority to all security interests, trusts (including,

without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

GENERAL

3. 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 and to assist the Receiver 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 Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

MACQUARIE EQUIPMENT FINANCE LIMITED v. VALIDUS POWER CORP., et al.

Court File No. CV-23-00703754-00CL

IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

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Proceeding commenced at TORONTO

**ORDER
(Increase of Receiver's Borrowing Limit)**

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