

TRANSPORTATION

PORT OF VANCOUVER'S CARGO VOLUMES DROP 5.9 PER CENT

Cargo traffic at the Port of Vancouver fell 5.9 per cent in the first half of the year as a result of the weaker loonie, a tepid global economy and the shift of some cargo back to U.S. ports following a lengthy labour disruption last year. “The slight decrease in cargo volumes in the first half of 2016 is expected, given the record year we experienced in 2015 and the softening global economy,” Robin Silvester, chief



executive of the Vancouver Fraser Port Authority, said Friday. Some of the most dramatic volume declines were in fertilizers, down 15.8 per cent year over year, and coal, down 14.5 per cent. Both commodities have been hit by a drop-off in demand from key Asian markets. Crude petroleum exports, meanwhile, plunged 53.3 per cent as a result of the fall in global oil prices. Kristine Owram, Financial Post

LEGAL

Catalyst to appeal lawsuit dismissal

Lengthy legal battle continues over share of Wind Mobile

EMILY JACKSON

TORONTO • Private equity firm Catalyst Capital Group Inc. will appeal an Ontario court ruling that tossed out its claim for a chunk of Wind Mobile, continuing its extensive legal battle for a share of the wireless startup now owned by Shaw Communications Inc.

The Ontario Superior Court of Justice dismissed in its entirety Catalyst’s lawsuit that alleged rival Bay Street firm West Face Capital Inc. used confidential information from a former Catalyst employee to buy a stake in Wind Mobile, a deal both firms were chasing in 2014.

West Face and a consortium of buyers ultimately bought Wind from Amsterdam-based telecom VimpelCom that fall, less than a month after Catalyst’s exclusive negotiations failed. Catalyst argued West Face couldn’t have landed the deal without confidential information from analyst Brandon Moyses, who was working on Catalyst’s telecom file before he quit in May 2014 and joined West Face in June. It asked the court to order West Face

to hold its ownership of Wind in a trust for Catalyst.

But Justice Frank Newbould ruled this week that Moyses did not provide any information to West Face that enabled it to offer a better deal than Catalyst.

The judge believed Moyses’s assertion that he never discussed Wind with his new employer, which assigned him to other files before he was placed on leave after three and a half weeks in light of Catalyst’s non-compete clause.

Moyses did email West Face confidential memos unrelated to Wind during the hiring process, but the judge ruled it was an error and did not indicate he revealed details about Wind. The junior analyst also wiped his BlackBerry before returning it to Catalyst and deleted his browser history before turning his computer over to lawyers, but the judge said his intent was simply to get rid of personal information.

The judge went on to chastise Catalyst owner Newton Glassman, stating he had “considerable difficulty” accepting his evidence as reliable.

“He was aggressive, argumentative, refused to make concessions that should have been made and contradicted his own statements made contemporaneously in emails,” Newbould wrote.

On the other hand, he praised the West Face witnesses as



TYLER BROWNBIDGE / THE WINDSOR STAR

Wind Mobile, now owned by Shaw Communications, is at the centre of a lawsuit between Catalyst Capital and West Face Capital.

“straightforward” and “impressive.” He stated they “did not engage in overstatement.”

After Catalyst filed its initial lawsuit against West Face, Shaw bought Wind Mobile for \$1.6 billion in late 2015. In June 2016, Catalyst sued West Face and the consortium of buyers including Globalive for \$750 million, the amount it estimates it would have made if it had owned Wind at the time of the sale.

Catalyst will continue to pursue the second lawsuit as it appeals this decision, a spokesperson said Friday. Additional evidence has come out since the Moyses litigation that supports the new case that alleges conspiracy and breach of contract, the spokesperson said.

“We are deeply disappointed by the decision and the severe indications of possible bias displayed by Judge Newbould. We believe that he did not give fair consideration to all of the evidence presented,

ignored contradictory statements made by the defendants that are part of the court record and delivered a judgement containing clear misstatements of fact,” Catalyst said in a written statement.

“Among other things, we are particularly concerned that the decision selectively ignores or discounts key testimony as it relates to the critical issue of possible destruction of evidence.”

West Face is “grateful for the vindication” the judge provided, according to a news release that highlighted the judge’s conclusions about the witnesses.

“The reasons for the complete dismissal of the case make clear that the lawsuit launched by Catalyst was without merit. We are confident that Catalyst’s other lawsuits against West Face and various other parties face similar obstacles,” chief executive Greg Boland said in a statement.

Financial Post

TELECOM

CRTC orders U.S. ads during Super Bowl

TORONTO • Canada’s broadcast regulator has officially changed its rules to prevent broadcasters from swapping out U.S. commercials for local ads during the Super Bowl despite an ongoing legal dispute over its right to block Canadian adver-

tising during the country’s most-watched television event.

The Canadian Radio-television and Telecommunications Commission (CRTC) issued a distribution order Friday to stop simultaneous substitution during the National Football League championship event as of 2017. Simsub, as it’s known, temporarily replaces the signal of an American channel rebroadcast in Canada with a local channel showing the same program and is used to show local commercials.

This could mean Canadians will be able to watch U.S. ads — the CRTC dubbed these an “integral element of the event” — during the Super Bowl for the first time next year.

But it’s not clear whether the CRTC’s new rule will last until the big game. Bell Media and the NFL challenged the simsub ban in Federal Court of Appeal, which is expected to rule on the matter in the next few months.

Financial Post

LEGAL

For advertising information call: (416) 386-2811 or 1-800-668-5617 x 2811 | Fax (416) 386-2642

CONCENTRA FINANCIAL SERVICES ASSOCIATION LETTERS PATENT OF CONTINUANCE

Notice is hereby given, pursuant to 34(1) of the Bank Act (Canada) (the “BA”), that subject to approval by special resolution of its members and shareholders, Concentra Financial Services Association (the “Association”), an association governed by the Cooperative Credit Associations Act (Canada) (the “Act”), intends to file with the Superintendent of Financial Institutions, on or after September 28, 2016, an application for the Minister of Finance to issue letters patent continuing the Association as a bank pursuant to the BA, under the name Concentra Bank in the English form and Banque Concentra in the French form. Its head office will be located in Saskatoon, Saskatchewan. The board of directors of the Association may, however, without further approval of the members and shareholders, withdraw the application for continuance before it is acted on, in accordance with subsection 32(3) of the Act.

Any person who objects to the proposed continuance may submit an objection in writing to the Office of the Superintendent of Financial Institutions, 255 Albert Street, Ottawa, Ontario K1A 0H2, on or before September 27, 2016.

Note: The publication of this Notice should not be construed as evidence that letters patent will be issued to continue the Association as a bank. The granting of the letters patent will be dependent upon the normal BA application review process and the discretion of the Minister of Finance.

Saskatoon, August 6, 2016

CONCENTRA FINANCIAL SERVICES ASSOCIATION

Notice of Application and Directions on Procedure Application to Export Electricity to the United States New Brunswick Energy Marketing Corporation

By an application dated August 20, 2016, New Brunswick Energy Marketing Corporation (the Applicant), has applied to the National Energy Board (the Board) under Division II of Part VI of the National Energy Board Act (the Act) for authorization to export up to 9,846,000 MW.h of combined firm and interruptible energy annually for a period of 10 years. The Applicant, or its affiliates, has an interest in the following generation or transmission facilities in Canada:

- Belledune Generating Station, Belledune, NB
- Coleson Cove Generating Station, Saint John, NB
- Mactaquac Generating Station, Mactaquac, NB
- Beechwood Generating Station, Beechwood, NB
- Sisson Generating Station, Sisson, NB
- Grand Falls Generating Station, Grand Falls, NB
- Tobique Generating Station, Tobique, NB
- Nepisiguit Falls Generating Station, Bathurst, NB
- Millbank Generating Station, Miramichi, NB
- Grand Manan Generating Station, Grand Manan, NB
- Ste. Rose Generating Station, Ste. Rose, NB
- Point Lepreau Generating Station, Point Lepreau, NB
- NB Power Transmission Network within the Province of New Brunswick

The Board wishes to obtain the views of interested parties on this application before issuing a permit or recommending to the Governor in Council that the application be designated for a licensing procedure. The Directions on Procedure that follow explain in detail the procedure that will be used.

1. The Applicant shall deposit and keep on file, for public inspection during normal business hours, copies of the application at its offices located at:

New Brunswick Energy Marketing Corporation  
515 King Street, 2<sup>nd</sup> Floor, P.O. Box 2040  
Fredericton, NB E3B 5G4  
Phone: (506) 458-4465  
Fax: (506) 458-4000  
Email: NBEnergyMarketing@nbem.ca

and provide a copy of the application to any person who requests a copy. A copy of the application is available for viewing during regular business hours, by appointment, in the Board’s library (2<sup>nd</sup> Floor 517 Tenth Avenue SW, Calgary, Alberta). To make an appointment, please call 1-800-899-1265. The application is also available online at [www.neb-one.gc.ca](http://www.neb-one.gc.ca).

2. Submissions that any party wishes to present shall be filed with the Secretary of the Board, 517 Tenth Avenue SW, Calgary, Alberta T2R 0A8, fax: (403) 292-5503, and served on the Applicant by September 20, 2016.
3. Pursuant to Section 119.06(2) of the Act, the Board is interested in the views of submitters with respect to:
  - (a) the effect of the exportation of the electricity on provinces other than that from which the electricity is to be exported; and
  - (b) whether the Applicant has: (i) informed those who have declared an interest in buying electricity for consumption in Canada of the quantities and classes of service available for sale; and (ii) given an opportunity to purchase electricity on terms and conditions as favourable as the terms and conditions specified in the application to those who, within a reasonable time of being so informed, demonstrate an intention to buy electricity for consumption in Canada.
4. Any answer to submissions that the Applicant wishes to present in response to items 2 and 3 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the party that filed the submission by October 5, 2016.
5. For further information on the procedures governing the Board’s examination, contact the Secretary of the Board, at (403) 292-4800, fax: (403) 292-5503.



Sheri Young  
Secretary of the National Energy Board