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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

_____)	
In re:)	Chapter 11
)	
AGERA ENERGY LLC, <i>et al.</i> , ¹)	Case No. 19-_____ (____)
)	
Debtors.)	(Joint Administration Requested)
_____)	

**DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS
AUTHORIZING DEBTORS TO CONTINUE (I) TO OPERATE THEIR CASH
MANAGEMENT SYSTEM, HONOR CERTAIN PREPETITION OBLIGATIONS
RELATED THERETO, AND MAINTAIN EXISTING BUSINESS FORMS;
AND (II) THEIR INTERCOMPANY TRANSACTIONS**

Agera Energy LLC and the above-captioned debtors, as debtors and debtors in possession (collectively, the “Debtors”) in these chapter 11 cases (these “Chapter 11 Cases”), hereby submit this motion (the “Motion”) for entry of an interim order (“Interim Order”) and a final order (“Final Order”) pursuant to sections 105, 345, 363, 364, and 503 of title 11 of the United States Code (the “Bankruptcy Code”); Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 9013-1(a) of the Local Bankruptcy Rules for the

¹ The Debtors, together with the last four digits of each Debtor’s federal tax identification number, are: Agera Energy LLC (8122); Agera Holdings, LLC (3335); energy.me midwest llc (9484); Aequis Energy, Inc. (7988); Utility Recovery LLC (4351); and Agera Solutions LLC (8749). The location of the Debtors’ corporate headquarters and the service address for all Debtors is 555 Pleasantville Road, S-107, Briarcliff Manor, NY 10510.

Southern District of New York (the “Local Rules”), substantially in the form attached hereto as **Exhibit A** and **Exhibit B**, respectively, (a)(i) authorizing, but not directing, the Debtors to operate their cash management system (the “Cash Management System”), as described herein and as illustrated on **Exhibit C** attached hereto; (ii) authorizing, but not directing the payment of certain prepetition obligations related thereto, including the fees associated with customer credit card and electronic check transactions; and (iii) authorizing, but not directing the Debtors to maintain existing business forms; (b) modifying certain operating guidelines relating to bank accounts set forth in the U.S. Department of Justice, Operating Guidelines and Reporting Requirements for Debtors in Possession and Trustees (the “U.S. Trustee Guidelines”); and (c) authorizing, but not directing the Debtors to honor intercompany transactions in the ordinary course of business on a postpetition basis.

The Debtors also request that the Court (as defined below) schedule a hearing to consider approval of this Motion on a final basis. In support of this Motion, the Debtors rely upon the *Declaration of Todd Sandford Pursuant to Rule 1007-2 of the Local Bankruptcy Rules for the Southern District of New York in Support of the Debtors’ Chapter 11 Petitions and First Day Pleadings* (the “First Day Declaration”), filed contemporaneously herewith. In further support of this Motion, the Debtors respectfully state as follows:²

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the Southern District of New York (the “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 Southern*

² Capitalized terms used but not defined herein have the meanings ascribed to such terms in the First Day Declaration.

District of New York, dated January 31, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory bases for the relief requested herein are Bankruptcy Code sections 105, 345, 363, 364, and 503, Bankruptcy Rules 6003 and 6004, and Local Rule 9013-1(a).

BACKGROUND

4. On the date hereof (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

5. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

6. No trustee, examiner, creditors’ committee, or other official committee has been appointed in these Chapter 11 Cases.

7. The factual background regarding the Debtors, including a description of the Debtors’ business, capital structure, and the circumstances leading to these Chapter 11 Cases, is set forth in the First Day Declaration, which is incorporated herein by reference.

THE CASH MANAGEMENT SYSTEM

A. Description of Cash Management System

8. The Debtors use a centralized cash management system to collect funds from and for, and to pay expenses incurred by, their operations (the “Cash Management System”) in the ordinary course of their businesses. The Cash Management System is integral to the operation and administration of the Debtors’ businesses. In this regard, the Cash Management System allows the Debtors to efficiently (a) collect outstanding receivables, (b) identify the Debtors’ cash requirements, and (c) transfer cash as needed to respond to these requirements.

9. Because of the nature of the Debtors' businesses, the volume of transactions processed through the Cash Management System on a daily basis, and the disruption to business that would result if the Debtors were forced to close their existing bank accounts, it is critical that the Court permit the Debtors to continue to utilize the Cash Management System. In short, the Cash Management System is essential to cash inflows and outflows and the efficient execution and achievement of the Debtors' strategic business objectives and, ultimately, to maximizing the value of the Debtors' estates.

10. The Cash Management System includes nineteen Debtor bank accounts, a list of which is attached to this Motion as **Exhibit D** (the "**Bank Accounts**"). The Bank Accounts are all held at JP Morgan Chase ("**JPM**") and First National Bank of Central Texas ("**FNBCT**") (collectively, the "**Banks**"). The principal components of the Cash Management System and the flow of funds through the Cash Management System are as follows:

a. Collection Accounts.

The Debtors receive payments for goods and services in the ordinary course of business. All collections flow into one of six collection accounts (the "**Collection Accounts**"), all of which are governed by blocked account control agreements between the respective account holder, the Bank, and BP Energy Company ("**BP**"). The Collection Accounts are held in the names of:

1. Agera Energy LLC (Account No. xxxxxx8762);
2. Agera Energy LLC (Account No. xxxxxx2144);
3. energy.me midwest llc (Account No. xxxxxx8852);
4. energy.me midwest llc (Account No. xxxxxx1520);
5. energy.me midwest llc (Account No. xxxxxx1580); and
6. Aequitas Energy Inc. (Account No. xxxxxx8739).

Each day, amounts held in the Collection Accounts are swept into one of three cash collateral accounts (the “Collateral Accounts”)³ over which BP has control. The funds received in the Collateral Accounts are used to pay down certain amounts owed to BP under the PSA and ISDA and fund the various operating accounts to support the Debtors’ businesses.

b. Operating and Payroll Accounts

- *Operating Accounts*

In order to facilitate the timely payment of accounts payable, the Debtors maintain four separate operating accounts (collectively, the “Operating Accounts”) in the names of:

1. Agera Energy LLC (Account No. xxxxxx0255);
2. Briarcliff Property Group, LLC (Account No. xxxxxx2136);⁴
3. energy.me midwest llc (Account No. xxxxxx2087); and
4. Aequitas Energy LLC (Account No. xxxxxx4610).

BP reviews and approves transfers from the Collateral Accounts to the Operating Accounts. The Debtors send BP disbursement approval requests on Mondays and Wednesdays on a weekly basis.

- *Payroll Accounts*

The Debtors maintain two accounts for payroll, from which the Debtors’ payroll is funded, in the names of Agera Holdings, LLC (Account No. xxxxxx8804) and Aequitas Energy Inc. (Account No. xxxxxx8945) (collectively, the “Payroll Accounts”). The Payroll Accounts are funded as needed from time to time from the Agera Energy LLC cash collateral account (Account No. xxxxxx5135) and the Aequitas Energy Inc. cash collateral account (Account No. xxxxxx0038).

c. Checking, Money Market, and Tax Accounts

- *Money Market Account*

The Debtors maintain a money market account held in the name of Agera Energy LLC (Account No. xxxxxx9791) (the “Money Market Account”). The Money Market Account is a restricted account and the money in it serves as collateral for various issued surety bonds.

³ Agera Energy LLC, Account No. xxxxxx5135; energy.me midwest llc, Account No. xxxxxx1500; and Aequitas Energy LLC, Account No. xxxxxx0038.

⁴ The Agera Energy LLC Operating Account also funds the Briarcliff Property Group, LLC Operating Account. Briarcliff Property Group, LLC is a non-Debtor, special purpose vehicle that owns the real property used for the Debtors’ headquarters in Briarcliff Manor, New York.

- *Tax Account*

The Debtors maintain an account to pay taxes, held in the name of Agera Energy Tax Account (Account No. xxxxxx 8952) (the “Tax Account”).

- *Checking Account*

The Debtors maintain a checking account, held in the name of Utility Recovery LLC (Account No. xxxxxx 0016) (the “Checking Account”). The Checking Account is a dormant account with approximately \$2,000 in it.

B. Intercompany Transactions

11. In the ordinary course of business, the Debtors engage in routine business relationships with certain other Debtor and non-Debtor entities (collectively, the “Intercompany Transactions”), which result in intercompany receivables and payables (the “Intercompany Claims”). At any given time there may be Intercompany Claims owing by one entity to another. In particular, Intercompany Claims are reflected as journal entry receivables and payables, as applicable, in the respective Debtors’ and non-Debtors’ accounting systems. The Debtors will continue to track postpetition Intercompany Transactions. Discontinuing the Intercompany Transactions would unnecessarily disrupt the accounting and Cash Management System and the Debtors’ operations to the detriment of the Debtors, their creditors, and other stakeholders. The Debtors seek authority to continue the Intercompany Transactions in the ordinary course of business on a postpetition basis, in a manner consistent with prepetition practice.

C. Compliance with U.S. Trustee Guidelines

12. JPM is designated as an authorized depository in the Southern District of New York by the Office of the United States Trustee for the Southern District of New York (the “U.S. Trustee”). The Authorized Bank is a party to a uniform depository agreement with the U.S. Trustee, and therefore the Debtors believe that JPM will be collateralized in a manner consistent with the requirements of Bankruptcy Code section 345. The Debtors maintain that JPM is well

capitalized and insured by the Federal Deposit Insurance Corporation (the “FDIC”) and, therefore, the Debtors’ maintenance of the Bank Accounts at JPM will not jeopardize any party in interest. Further, the Debtors do not believe that they have any investment accounts. However, out of an abundance of caution, if the Debtors later discover the existence of any investment accounts, the Debtors hereby seek an extension to comply with Bankruptcy Code section 345(b). Although FNBCT is a member of the FDIC, it is not included on the Authorized Depository List. The Debtors submit that, as set forth in greater detail below, good cause exists to allow the Debtors to continue their banking relationship with FNBCT.

D. Bank Fees & Processing Fees

13. In the ordinary course, the Banks charge, and the Debtors pay, honor, or allow the deduction from the appropriate Bank Account, certain service charges, lockbox fees and other fees, costs, and expenses (collectively, the “Bank Fees”). The Debtors pay approximately \$5,000 in Bank Fees each month, depending on transaction volume. The Debtors estimate that approximately \$5,000 in Bank Fees remain outstanding as of the Petition Date (the “Prepetition Bank Fees”). In addition, the Debtors accept credit card, debit card, and electronic check payments from their customers that are processed directly by American Express, Merchants Bank, and Forte Payment Systems. Because approximately five percent (5%) of the Debtors’ sales are transmitted through credit card, debit card, and electronic check transactions, the Debtors continued ability to honor or process such transactions is essential to their efforts to maximize value to their estates. Pursuant to the terms of the Debtors’ agreements and relationships with American Express, Merchants Bank, and Forte Payment Systems, the Debtors are required to pay American Express, Merchants Bank, and Forte Payment Systems certain fees (collectively, the “Processing Fees”) for their processing services, certain amounts of which may have accrued, but remain unpaid, as of the Petition Date. The Debtors’ Processing Fees average

approximately \$35,000 on a monthly basis. The Debtors estimate that approximately \$45,000 in Processing Fees remain outstanding as of the Petition Date. To maintain the integrity of their Cash Management System, the Debtors request authority to pay any Prepetition Bank Fees and Processing Fees for the prepetition transactions that are charged postpetition and to continue to pay such fees in the ordinary course on a postpetition basis.

E. Business Forms

14. As part of their Cash Management System, the Debtors use various preprinted business forms (the “Business Forms”) in the ordinary course. To minimize expenses to their estates and avoid confusion during the pendency of these Chapter 11 Cases, the Debtors request that the Court authorize their continued use of all existing preprinted correspondence and Business Forms (including, without limitation, letterhead, checks, purchase orders, invoices, envelopes, and other Business Forms), as such forms were in existence immediately before the Petition Date, without reference to the Debtors’ status as debtors in possession, rather than requiring the Debtors to incur the expense and delay of ordering entirely new Business Forms. The Debtors submit that once they have exhausted their existing stock of Business Forms, they will ensure that any new Business Forms are clearly labeled “Debtor in Possession” and, with respect to any Business Forms that exist or are generated electronically, the Debtors will ensure that such electronic Business Forms are clearly labeled “Debtor in Possession.”

RELIEF REQUESTED

15. By this Motion, the Debtors seek entry of an order (a)(i) authorizing, but not directing, the Debtors to operate the Cash Management System; (ii) authorizing, but not directing the payment of certain prepetition obligations related thereto, including the fees associated with customer credit card and electronic check transactions; and (iii) authorizing, but not directing, the Debtors to maintain the Business Forms; (b) modifying certain operating guidelines relating

to the Bank Accounts set forth in the U.S. Trustee Guidelines; and (c) authorizing, but not directing, the Debtors to honor Intercompany Transactions in the ordinary course of business on a postpetition basis.

BASIS FOR REQUESTED RELIEF

A. The Debtors Should Be Granted Authority to Maintain Their Existing Cash Management System

16. To supervise the administration of chapter 11 cases, the U.S. Trustee has established the U.S. Trustee Guidelines, which, among other things, require chapter 11 debtors to immediately: (i) close all existing bank accounts and open new debtor in possession bank accounts; (ii) establish one debtor in possession account for all estate monies required for the payment of taxes, including payroll taxes, (iii) maintain a separate debtor in possession account for cash collateral; and (iv) obtain checks that bear the designation “debtor in possession” and reference the bankruptcy case number and type of account on such checks.

17. The Debtors seek a waiver of the requirements that they close the Bank Accounts and open new postpetition bank accounts. If enforced in these Chapter 11 Cases, such requirement would disrupt the Debtors’ businesses, causing delays in payments to vendors, suppliers, administrative creditors, employees, and others, thereby impeding the Debtors’ efforts to maximize value. As described above, the Bank Accounts are central to the Cash Management System, which the Debtors need to maintain smooth collections and disbursements in the ordinary course of business. Disrupting the Cash Management System would serve no legitimate or rehabilitative purpose and would be destructive to the Debtors’ value as a going concern.

18. The Debtors request the authority to continue to use the Bank Accounts with the same account numbers, styles, and business forms as the Debtors used prepetition. The Debtors also seek authority to close existing accounts and/or open new accounts whenever needed,

provided that the Debtors give the U.S. Trustee adequate notice of any newly-opened accounts. The Debtors represent that if the relief requested in this Motion is granted, they will not pay, and will direct the Bank not to pay, any debts incurred before the Petition Date, other than as authorized by this Court.⁵

19. In connection with continuing the use of the Bank Accounts, the Debtors request the authority to pay prepetition account-related Bank fees and charges to the extent of the amount of the Debtors' cash held by the Bank. The Bank may have setoff rights with respect to any of the Debtors' cash it holds and could request that this Court lift the automatic stay to exercise those setoff rights. The Debtors seek authority to pay the prepetition account-related Bank fees and charges to the extent the Debtors determine, in their good faith business judgment, that the Bank has a valid setoff claim pursuant to Bankruptcy Code section 553 (but only to the extent of such claim). This will save the Debtors the time and expense of responding to a lift stay request and/or negotiating a stipulated order to allow the Bank to exercise setoff rights. The Debtors further submit that such relief would not prejudice the interests of any other creditors or other parties in interest.

B. The Debtors Should Be Authorized to Continue Using Debit, Wire, and Automatic Clearing House Payments

20. The Debtors should be granted further relief from the U.S. Trustee operating guidelines to the extent that they require that all receipts and disbursements of the estates' funds occur by check. The complexity of the Debtors' operations requires the Debtors to conduct transactions by debit, wire, and other similar methods. Preventing the Debtors from conducting

⁵ The Debtors have sought authority to pay certain of their prepetition obligations in various motions filed contemporaneously herewith.

transactions by debit, wire, and other similar methods would unnecessarily disrupt the Debtors' business operations and create additional and unnecessary costs.

C. The Debtors Should Be Authorized to Continue to Use Their Existing Cash Management System

21. The Cash Management System constitutes a customary and essential business practice and is similar to those used by other corporate enterprises. The Cash Management System provides significant benefits to the Debtors.

22. Compelling the Debtors to adopt a new cash management system would be expensive and create unnecessary administrative problems, impeding the Debtors' ability to maximize value. Consequently, the Debtors' ability to continue using their Cash Management System is essential and is in the best interests of the Debtors, their estates, and their stakeholders.

23. The Debtors' request for authorization to continue to use the Cash Management System is entirely consistent with Bankruptcy Code section 363(c), which allows a debtor in possession to use estate property in the ordinary course of business. *See, e.g., Med. Malpractice Ins. Ass'n v. Hirsch (In re Lavigne)*, 114 F.3d 379, 384 (2d Cir. 1997) ("Section 363(c)(1) of the Bankruptcy Code authorizes a debtor-in-possession to enter into transactions involving property of the estate within the ordinary course of business without notice or a hearing."); *In re Enron Corp.*, Case No. 01-16034 (AJG), 2003 WL 1562202, at *15 (Bankr. S.D.N.Y. Mar. 21, 2003) (stating same). Included within the purview of Bankruptcy Code section 363(c) is a debtor's ability to continue the "routine transactions" necessitated by a debtor's cash management system. *In re Frigitemp Corp.*, 34 B.R. 1000, 1010 (S.D.N.Y. 1983), *aff'd*, 753 F.2d 230 (2d Cir. 1985); *see also Amdura Nat'l Distrib. Co. v. Amdura Corp. (In re Amdura Corp.)*, 75 F.3d 1447, 1453 (10th Cir. 1996).

24. Bankruptcy courts routinely treat requests for authority to continue utilizing existing cash management systems as a relatively “simple matter.” *See In re Baldwin-United Corp.*, 79 B.R. 321, 327 (Bankr. S.D. Ohio 1987). Additionally, courts have noted that an integrated cash management system “allows efficient utilization of cash resources and recognizes the impracticalities of maintaining separate cash accounts for the many different purposes that require cash.” *In re Columbia Gas Sys. Inc.*, 136 B.R. 930, 934 (Bankr. D. Del. 1992), *aff’d in part and rev’d in part*, 997 F.2d 1039 (3d Cir. 1993). As a result, courts have concluded that the requirement to maintain all accounts separately “would be a huge administrative burden and economically inefficient.” *Id.* at 1061; *see also In re Southmark Corp.*, 49 F.3d 1111, 1114 (5th Cir. 1995) (noting that maintaining an existing cash management system allows debtors “to administer more efficiently and effectively its financial operations and assets”).

25. The Debtors respectfully request that the Court allow them to operate each of the Bank Accounts listed on **Exhibit D**. The Bank Accounts will be maintained in the ordinary course as they were before the Petition Date. As noted in the cases above, maintaining the Cash Management System and Bank Accounts allows efficient utilization of the Debtors’ cash resources and will enable the Debtors’ businesses to continue operating.

26. The Debtors’ continued use of their Cash Management System will facilitate their transition into chapter 11 by, among other things, avoiding administrative inefficiencies, expenses, and distraction associated with disrupting this system and minimizing delays in the payment of postpetition obligations. The Debtors respectfully submit that parties in interest will not be harmed by the Debtors’ maintenance of their existing Cash Management System, including maintenance of the Bank Accounts and continuance of the Intercompany Transactions,

because the Debtors have implemented appropriate mechanisms to ensure that unauthorized payments will not be made on account of obligations incurred before the Petition Date.

D. The Debtors Should Be Granted Authority to Continue Using Existing Business Forms

27. To minimize expenses to their estates, the Debtors also request authorization to continue using all correspondence and business forms (including, but not limited to, letterheads, invoices, multi-copy checks, envelopes, promotional materials, and check stock (collectively, the “Business Forms”) existing immediately prior to the Petition Date without reference to the Debtors’ status as debtors in possession.

28. The Debtors seek authority to continue using their existing Business Forms without imprinting “DIP” or “Debtor in Possession” thereon until such forms run out. Changing Business Forms in the middle of these Chapter 11 Cases, which are likely to proceed quickly, would be needlessly expensive and burdensome to the Debtors’ estates and disruptive to their business operations. Parties doing business with the Debtors undoubtedly will be aware of the Debtors’ status as debtors in possession due to the Debtors providing notice of the commencement of these Chapter 11 Cases and information circulating within the Debtors’ industry. The Debtors further submit that once they have exhausted their existing stock of Business Forms, they will ensure that any new Business Forms are clearly labeled “Debtor In Possession” and with respect to any Business Forms that are generated electronically, the Debtors will ensure that such electronic Business Forms are clearly labeled “Debtor in Possession.”

29. Courts in this district have allowed debtors to use their prepetition business forms without the “debtor in possession” label in other chapter 11 cases. *See, e.g., In re Cenveo, Inc., et al.*, Case No. 18-22178 (RDD) (Bankr. S.D.N.Y. Mar. 8, 2018) (authorizing use of existing

business forms); *In re 21st Century Oncology Holdings, Inc.*, Case No. 17-22770 (RDD) (Bankr. S.D.N.Y. June 20, 2017) (same); *In re Avaya Inc.*, Case No. 17-10089 (SMB) (Bankr. S.D.N.Y. Mar. 31, 2017) (same); *In re Aéropostale, Inc.*, Case No. 16-11275 (SHL) (Bankr. S.D.N.Y. June 3, 2016) (same); *In re Sabine Oil & Gas Corp.*, Case No. 15-11835 (SCC) (Bankr. S.D.N.Y. Sept. 10, 2015) (same).

F. The Bankruptcy Court Should Authorize the Debtors to Continue Conducting Intercompany Transactions in the Ordinary Course

30. The Debtors' funds move through the Cash Management System as described above. At any given time there may be Intercompany Claims owing by one entity to another. Intercompany Transactions are made between and among Debtor and non-Debtor affiliates in the ordinary course as part of the Cash Management System.⁶ The Debtors track all fund transfers in their accounting system and can ascertain, trace, and account for all Intercompany Transactions previously described. The Debtors will continue to maintain records of such Intercompany Transactions.

31. If the Intercompany Transactions were to be discontinued, the accounting and Cash Management System and related administrative controls could be disrupted to the detriment of the Debtors and their estates. Because these transactions represent extensions of intercompany credit made in the ordinary course of business that are an essential component of the Cash Management System, the Debtors respectfully request the authority to continue

⁶ Because the Debtors engage in Intercompany Transactions on a regular basis and such transactions are common among enterprises like them, the Debtors submit that the Intercompany Transactions are ordinary course transactions within the meaning of Bankruptcy Code section 363(c)(1) and, thus, do not require this Court's approval. Nonetheless, out of an abundance of caution, the Debtors request express authority to engage in such transactions on a postpetition basis. The continued performance of the ordinary course Intercompany Transactions is integral to ensure the Debtors' ability to operate their businesses as debtors in possession.

conducting the Intercompany Transactions in the ordinary course of business without need for further Court order.

32. Similar relief has been granted in other similarly situated chapter 11 cases in this district and other districts. *See, e.g., In re Cenveo, Inc.*, Case No. 18-22178 (RDD) (Bankr. S.D.N.Y. Mar. 8, 2018) (allowing intercompany transactions to continue); *In re 21st Century Oncology Holdings, Inc.*, Case No. 17-22770 (RDD) (Bankr. S.D.N.Y. June 20, 2017) (same); *In re Avaya Inc.*, Case No. 17-10089 (SMB) (Bankr. S.D.N.Y. Mar. 31, 2017) (same); *In re Breitburn Energy Partners LP*, Case No. 16-11390 (SMB) (Bankr. S.D.N.Y. June 15, 2016) (same); *In re NII Holdings, Inc.*, Case No. 14-12611 (SCC) (Bankr. S.D.N.Y. May 21, 2015) (same, on an interim basis).

THE REQUIREMENTS OF BANKRUPTCY RULE 6003 HAVE BEEN SATISFIED

33. Bankruptcy Rule 6003 empowers a court to grant relief within the first 21 days after the Petition Date “to the extent that relief is necessary to avoid immediate and irreparable harm.” For the reasons discussed above, granting the relief requested herein is integral to the Debtors’ ability to transition into these Chapter 11 Cases. Failure to receive such authorization and other relief during the first 21 days of these Chapter 11 Cases would severely disrupt the Debtors’ ability to administer their estates at this critical juncture. For the reasons discussed herein, the relief requested is necessary in order for the Debtors to preserve and maximize the value of the Debtors’ estates for the benefit of all stakeholders. Accordingly, the Debtors submit that they have satisfied the “immediate and irreparable harm” standard of Bankruptcy Rule 6003 to support granting the relief requested in this Motion.

34. BP has consented to the relief requested in this Motion.

WAIVER OF BANKRUPTCY RULES 6004(a) AND 6004(h)

35. To implement the foregoing successfully, the Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

RESERVATION OF RIGHTS

36. Nothing contained herein is intended or should be construed as an admission of the validity of any claim against the Debtors, a waiver of the Debtors' or any other party's rights to dispute any claim, or an approval or assumption of any agreement, contract, or lease under Bankruptcy Code section 365. If this Court grants the relief sought herein, any payment made pursuant to this Court's order is not intended and should not be construed as an admission of the validity of any claim or a waiver of the Debtors' or any other party's rights to dispute such claim subsequently.

MOTION PRACTICE

37. This Motion includes citations to the applicable rules and statutory authorities upon which the relief requested herein is predicated and a discussion of its application to this Motion. Accordingly, the Debtors submit that this Motion satisfies Local Rule 9013-1(a).

NOTICE

38. The Debtors will provide notice of this Motion to: (a) the United States Trustee; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) counsel to BP Energy Company; (d) counsel to Exelon Generation Company, LLC; (e) the Banks (f) the Internal Revenue Service; (g) the United States Attorney for the Southern District of New York; and (h) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, under the circumstances, no other or further notice is required.

NO PRIOR REQUEST

39. No prior motion for the relief requested herein has been made to this or any other court.

WHEREFORE, the Debtors respectfully request that this Court enter the Interim Order and the Final Order, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, respectively, (a)(i) authorizing, but not directing, the Debtors to operate the Cash Management System; (ii) authorizing, but not directing the payment of certain prepetition obligations related thereto, including the fees associated with customer credit card transactions; and (iii) authorizing, but not directing, the Debtors to maintain the Business Forms; (b) modifying certain operating guidelines relating to the Bank Accounts set forth in the U.S. Trustee Guidelines; (c) authorizing, but not directing, the Debtors to honor Intercompany Transactions in the ordinary course of business on a postpetition basis; and (d) granting such other and further relief as the Court deems appropriate.

Dated: October 4, 2019
New York, NY

Respectfully submitted,

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*Proposed Counsel to the Debtors
and Debtors in Possession*

Exhibit A

Proposed Interim Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

)	
In re:)	Chapter 11
)	
AGERA ENERGY LLC, <i>et al.</i> , ¹)	Case No. 19-_____ (____)
)	
Debtors.)	(Jointly Administered)
)	
)	Re: Docket No. ____

**INTERIM ORDER AUTHORIZING THE DEBTORS TO CONTINUE (I) TO OPERATE
THE CASH MANAGEMENT SYSTEM, HONOR CERTAIN PREPETITION
OBLIGATIONS RELATED THERETO, AND MAINTAIN EXISTING BUSINESS
FORMS; AND (II) THEIR INTERCOMPANY TRANSACTIONS**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (the “Debtors”), for entry of an interim order (this “Interim Order”), pursuant to Bankruptcy Code sections 105(a), 345, 363, 364 and 503 and Bankruptcy Rules 6003 and 6004, (a)(i) authorizing, but not directing, the Debtors to continue to operate their cash management system (the “Cash Management System”) as described in the Motion and illustrated on **Exhibit C** attached thereto, (ii) authorizing, but not directing the payment of certain prepetition obligations related thereto, including the fees associated with customer credit card transactions; and (iii) authorizing, but not directing, the Debtors to use existing business forms; (b) modifying certain operating guidelines relating to bank accounts set forth in the U.S. Trustee Guidelines; and (c) authorizing, but not directing, the Debtors to honor intercompany transactions in the ordinary course of business on a postpetition basis, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having found that it has jurisdiction to consider

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

the Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York* dated January 31, 2012; and this Court having found that the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b), and that the Debtors consent to entry of a final order under Article III of the United States Constitution; and this Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and this Court having reviewed the Motion and having heard statements in support of the Motion at a hearing held before this Court (the “Hearing”); and this Court having determined that the legal and factual bases set forth in the Motion and the First Day Declaration and at the Hearing establish just cause for the relief granted herein; and any objections to the relief requested herein having been withdrawn or overruled on the merits; and after due deliberation thereon and good and sufficient cause appearing therefor, it is

HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis until such time as the Court conducts a final hearing on this matter.
2. The final hearing date is scheduled for _____, 2019 at ____: _____.m. (ET). Any objections or responses to the Motion shall be filed and served so as to be received by: (1) proposed counsel for the Debtors, McDermott Will & Emery LLP, 340 Madison Avenue, New York, NY 10173 (Attn: Darren Azman and Ravi Vohra), (2) the U.S. Trustee, U.S. Federal Office Building, 201 Varick Street, Suite 1006, New York, NY 10014 (Attn: Andrea B. Schwartz, Esq. and Shannon Scott, Esq.; andrea.b.schwartz@usdoj.gov and shannon.scott2@usdoj.gov), and (3) counsel to BP Energy Company, Haynes & Boone LLP,

1221 McKinney Street, Suite 2100, Houston, TX 77010 (Attn: Kelli S. Norfleet and Kathryn Shurin) by **4:00 p.m. (ET)** on or before **seven (7) days prior to the Final Hearing Date**. In the event no objections to entry of a final order on the Motion are timely received, this Court may enter such final order without need for the final hearing.

3. Maintenance of Bank Accounts. Until such time as a final order is entered by this Court, the Debtors, in their discretion, are authorized and empowered to: (i) maintain and continue to use any and all of the Bank Accounts in existence as of the Petition Date, including, without limitation, the accounts identified on Exhibit D to the Motion, with the same account numbers, styles, and document forms as those employed prior to the Petition Date; and (ii) deposit funds into and withdraw funds from the Bank Accounts by all usual means, including, without limitation, checks, wire transfers, automated transfers, and other debits; (iii) open new accounts and close any existing Bank Accounts as they may deem necessary and appropriate, subject to BP's consent; provided, however, that the Debtors provide notice within fifteen days to the U.S. Trustee and any statutory committees appointed in these Chapter 11 Cases of any newly opened accounts; and provided further, that the Debtors shall open any such new Bank Accounts at banks that have executed a Uniform Depository Agreement with the U.S. Trustee, or at such banks that are willing to immediately execute such an agreement; (iv) treat the Bank Accounts for all purposes as accounts of the Debtors as debtors in possession; (v) pay any Bank Fees incurred in connection with the Bank Accounts, irrespective of whether such fees arose prior to the Petition Date, and otherwise perform their obligations under the documents governing the Bank Accounts; and (vi) pay any Processing Fees, irrespective of whether such fees arose prior to the Petition Date.

4. For all purposes in this Interim Order, any account opened by the Debtors on or after the Petition Date shall be deemed a Bank Account (as if it had been opened prior to the Petition Date and listed on **Exhibit D** to the Motion) and any and all banks at which such accounts are opened shall similarly be subject to the rights and obligations of this Interim Order.

5. Subject to further order of this Court, nothing in this Interim Order authorizes the Debtors to use any cash in the Bank Accounts, and all parties' rights are reserved with respect thereto.

6. Within fifteen days after the date of entry of this Interim Order, the Debtors shall (i) contact the Banks, (ii) provide the Banks with the Debtors' employer identification numbers, and (iii) identify each of their Bank Accounts held at the Banks as being held by a debtor in possession in a bankruptcy case.

7. Cash Management System. The Debtors are authorized to continue using the Cash Management System, as described in the Motion.

8. The Debtors shall maintain accurate and detailed records of all transfers, so that all transactions may be readily ascertained, traced, recorded properly, and distinguished between prepetition and post-petition.

9. The Banks at which the Bank Accounts are maintained are authorized to (i) continue to maintain, service, and administer the Bank Accounts, as such accounts were maintained prepetition, without interruption, and in the usual and ordinary course; and (ii) receive, process, honor and pay, to the extent of available funds, any and all checks, wire transfers, electronic fund transfers, or other items presented, issued, or drawn on any of the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be.

10. All Banks provided with notice of this Interim Order maintaining any of the Bank Accounts shall not honor or pay any bank payments drawn on the Bank Accounts or otherwise issued prior to the Petition Date, absent further direction from the Debtors. The Banks may rely on the representations of the Debtors with respect to whether any check or other payment order drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this Interim Order or any other order of this Court, and the Banks shall not have any liability to any party for relying on such representations by the Debtors as provided for herein.

11. Subject to the provisions of this Interim Order, (i) those certain existing deposit agreements between the Debtors and the Banks shall continue to govern the post-petition cash management relationship between the Debtors and the Bank, and that all of the provisions of such agreements, including, without limitation, the termination and fee provisions, shall remain in full force and effect, (ii) either the Debtors and the Banks may, without further Order of this Court, implement changes to the cash management systems and procedures in the ordinary course of business pursuant to terms of those certain existing deposit agreements, including, without limitation, the opening and closing of bank accounts; provided, however, the Debtors may not take any act in violation of any agreement with BP, including under the terms of any interim and/or final orders regarding the use of cash collateral or the approval of postpetition financing (any such order, a “Financing Order”).

12. Subject to the provisions of this Interim Order, the Banks are authorized to accept, honor, and rely upon all representations from the Debtors as to which checks, drafts, or wire transfers should be honored or dishonored consistent with orders entered by this Court, regardless of whether the checks, drafts, or wire transfers are dated prior to, on, or subsequent to the Petition Date and whether or not the Banks believe that payment is authorized by some other

order of this Court; *provided*, that the Banks shall not be held liable for improperly honoring or dishonoring any check, draft, or wire transfer presented, issued, drawn, or debited on the Bank Accounts on account of a claim (as such term is defined in Bankruptcy Code section 101(5)) arising before the Petition Date, which, at the direction of the Debtors was requested to be honored or dishonored, as the case may be, unless the Bank's actions were grossly negligent. The Banks are authorized to accept presentment of all checks, drafts, and wire transfers as an instruction by the Debtors to honor same, unless the Debtors instruct the Banks to dishonor a particular check, draft, or wire transfer.

13. Nothing contained herein shall permit the Banks at which the Bank Accounts are maintained to terminate any cash management services without thirty days prior written notice to the Debtors, the U.S. Trustee, BP, and any official committee appointed in these Chapter 11 Cases.

14. Use of Business Forms. The Debtors are authorized to continue using their existing Business Forms (including, without limitation, letterhead, checks, purchase orders, invoices and envelopes) without alteration or change and without the designation "Debtor in Possession" or a debtor in possession case number imprinted upon them. Once the Debtors have exhausted their existing stock of Business Forms, the Debtors shall ensure that any new Business Forms are clearly labeled "Debtor in Possession." With respect to any Business Forms that exist or are generated electronically, the Debtors shall ensure that such electronic Business Forms are clearly labeled "Debtor in Possession."

15. The Debtors shall serve a copy of this Interim Order on the Banks within forty-eight hours after the entry of this Order.

16. Subject to Bankruptcy Code section 553, the Debtors are authorized to pay any fees and expenses owed to the Banks, in each case regardless of whether such items were deposited prepetition or postpetition or relate to prepetition or postpetition items, to the extent the Debtors determine, in their good faith business judgment, that the Banks have valid setoff claims pursuant to Bankruptcy Code section 553 (but only to the extent of such claims).

17. The Debtors' time to comply with Bankruptcy Code section 345(b) is hereby extended for a period of thirty days from the date of the entry of this Interim Order; *provided, however*, that such extension is without prejudice to the Debtors' right to request a further extension or waiver of the requirements of section 345(b) in these Chapter 11 Cases.

18. Notwithstanding the Debtors' use of a consolidated cash management system, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor entity.

19. The requirement to establish separate accounts for cash collateral and/or tax payments is hereby waived.

20. Notwithstanding anything to the contrary set forth herein, the Debtors are authorized to continue Intercompany Transactions arising from or related to the operation of their businesses in the ordinary course.

21. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Interim Order in accordance with the Motion.

22. Notwithstanding the relief granted herein and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (i) an admission as to the validity or priority of any claim against the Debtors; (ii) a waiver of the Debtors' right to dispute any claim on any grounds; (iii) a promise or requirement to pay any claim; (iv) an implication or admission

that any particular claim is of a type specified or defined in this Interim Order or the Motion (including any exhibits attached thereto); (v) a request or authorization to assume any agreement, contract, or lease pursuant to Bankruptcy Code section 365; (vi) a waiver of the Debtors' rights under the Bankruptcy Code or any other applicable law; or (vii) to create any rights in favor of, or enhance the status of, any claim held by any person or entity.

23. Notwithstanding anything to the contrary contained in this Interim Order or in the Motion, any payment, obligation, or other relief authorized by this Interim Order shall be subject to and limited by the requirements imposed on the Debtors under the terms of any Financing Order, or any budget in connection therewith, approved by this Court in these Chapter 11 Cases. In the event of any conflict between the terms of this Interim Order and a Financing Order, the terms of the applicable Financing Order shall control (solely to the extent of such conflict).

24. Notice of the Motion, as provided therein, shall be deemed good and sufficient, and the requirements of Bankruptcy Rule 6004(a) and the Local Bankruptcy Rules are satisfied by such notice.

25. Notwithstanding any applicability of any of the Bankruptcy Rules, the terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry.

26. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003.

27. This Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the interpretation, implementation, or enforcement of the Interim Order.

Dated: _____, 2019
White Plains, New York

THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Proposed Final Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

AGERA ENERGY LLC, *et al.*,¹

Debtors.

)
) Chapter 11

)
) Case No. 19-____ (____)

)
) (Jointly Administered)

)
) **Re: Docket No. __**

**FINAL ORDER AUTHORIZING THE DEBTORS TO CONTINUE (I) TO OPERATE
THE CASH MANAGEMENT SYSTEM, HONOR CERTAIN PREPETITION
OBLIGATIONS RELATED THERETO, AND MAINTAIN EXISTING BUSINESS
FORMS; AND (II) THEIR INTERCOMPANY TRANSACTIONS**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (the “Debtors”), for entry of a final order (this “Final Order”), pursuant to Bankruptcy Code sections 105(a), 345, 363, 364 and 503 and Bankruptcy Rules 6003 and 6004, (a)(i) authorizing, but not directing, the Debtors to continue to operate their cash management system (the “Cash Management System”) as described in the Motion and illustrated on **Exhibit C** attached thereto, (ii) (ii) authorizing, but not directing the payment of certain prepetition obligations related thereto, including the fees associated with customer credit card transactions; and (iii) authorizing, but not directing, the Debtors to use existing business forms; (b) modifying certain operating guidelines relating to bank accounts set forth in the U.S. Trustee Guidelines; and (c) authorizing, but not directing, the Debtors to honor intercompany transactions in the ordinary course of business on a postpetition basis, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having found that it has jurisdiction to consider

¹ The Debtors, together with the last four digits of each Debtor’s federal tax identification number, are: Agera Energy LLC (8122); Agera Holdings, LLC (3335); energy.me midwest llc (9484); Aequitas Energy, Inc. (7988); Utility Recovery LLC (4351); and Agera Solutions LLC (8749). The location of the Debtors’ corporate headquarters and the service address for all Debtors is 555 Pleasantville Road, S-107, Briarcliff Manor, NY 10510.

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

the Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York* dated January 31, 2012; and this Court having found that the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b), and that the Debtors consent to entry of a final order under Article III of the United States Constitution; and this Court having found that venue of these Chapter 11 Cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having held a hearing on interim relief on _____, 2019; and this Court having entered an order granting interim relief on _____, 2019; and this Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and this Court having reviewed the Motion and having heard statements in support of the Motion at a hearing held before this Court (the “Hearing”); and this Court having determined that the legal and factual bases set forth in the Motion and the First Day Declaration and at the Hearing establish just cause for the relief granted herein; and any objections to the relief requested herein having been withdrawn or overruled on the merits; and after due deliberation thereon and good and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on a final basis as set forth herein.
2. Maintenance of Bank Accounts. The Debtors, in their discretion, are authorized and empowered to: (i) maintain and continue to use any and all of the Bank Accounts in existence as of the Petition Date, including, without limitation, the accounts identified in **Exhibit D** to the Motion, with the same account numbers, styles, and document forms as those employed prior to the Petition Date; (ii) deposit funds into and withdraw funds from the Bank Accounts by

all usual means, including, without limitation, checks, wire transfers, automated transfers, and other debits; (iii) open new accounts and close any existing Bank Accounts as they may deem necessary and appropriate, subject to BP's consent; provided, however, that the Debtors provide notice within fifteen days to the Office of the United States Trustee for the Southern District of New York (the "U.S. Trustee") and any statutory committees appointed in these Chapter 11 Cases of any newly opened accounts; and provided further, that the Debtors shall open any such new Bank Accounts at banks that have executed a Uniform Depository Agreement with the U.S. Trustee, or at such banks that are willing to immediately execute such an agreement; (iv) treat the Bank Accounts for all purposes as accounts of the Debtors as debtors in possession; (v) pay any Bank Fees incurred in connection with the Bank Accounts, irrespective of whether such fees arose prior to the Petition Date, and otherwise perform their obligations under the documents governing the Bank Accounts; and (vi) pay any Processing Fees, irrespective of whether such fees arose prior to the Petition Date.

3. For all purposes in this Final Order, any account opened by the Debtors on or after the Petition Date shall be deemed a Bank Account (as if it had been opened prior to the Petition Date and listed on **Exhibit D** to the Motion) and any and all banks at which such accounts are opened shall similarly be subject to the rights and obligations of this Final Order.

4. Subject to further order of this Court, nothing in this Final Order authorizes the Debtors to use any cash in the Bank Accounts, and all parties' rights are reserved with respect thereto.

5. Cash Management System. The Debtors are authorized to continue using the Cash Management System, as described in the Motion.

6. The Debtors shall maintain accurate and detailed records of all transfers, so that all transactions may be readily ascertained, traced, recorded properly, and distinguished between prepetition and post-petition.

7. The Banks at which the Bank Accounts are maintained are authorized to (i) continue to maintain, service, and administer the Bank Accounts, as such accounts were maintained prepetition, without interruption, and in the usual and ordinary course; and (ii) receive, process, honor and pay, to the extent of available funds, any and all checks, wire transfers, electronic fund transfers, or other items presented, issued, or drawn on any of the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be.

8. All Banks provided with notice of this Final Order maintaining any of the Bank Accounts shall not honor or pay any bank payments drawn on the Bank Accounts or otherwise issued prior to the Petition Date, absent further direction from the Debtors. The Banks may rely on the representations of the Debtors with respect to whether any check or other payment order drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this Final Order or any other order of this Court, and the Banks shall not have any liability to any party for relying on such representations by the Debtors as provided for herein.

9. Subject to the provisions of this Final Order, (i) those certain existing deposit agreements between the Debtors and the Banks shall continue to govern the post-petition cash management relationship between the Debtors and the Banks, and that all of the provisions of such agreements, including, without limitation, the termination and fee provisions, shall remain in full force and effect, (ii) either the Debtors and the Banks may, without further Order of this Court, implement changes to the cash management systems and procedures in the ordinary course of business pursuant to terms of those certain existing deposit agreements, including,

without limitation, the opening and closing of bank accounts; provided, however, the Debtors may not take any act in violation of any agreement with BP, including under the terms of any interim and/or final orders regarding the use of cash collateral or the approval of postpetition financing (any such order, a “Financing Order”).

10. Subject to the provisions of this Final Order, the Banks are authorized to accept, honor, and rely upon all representations from the Debtors as to which checks, drafts, or wire transfers should be honored or dishonored consistent with orders entered by this Court, regardless of whether the checks, drafts, or wire transfers are dated prior to, on, or subsequent to the Petition Date and whether or not the Banks believe that payment is authorized by some other order of this Court; *provided*, that the Banks shall not be held liable for improperly honoring or dishonoring any check, draft, or wire transfer presented, issued, drawn, or debited on the Bank Accounts on account of a claim (as such term is defined in Bankruptcy Code section 101(5)) arising before the Petition Date, which, at the direction of the Debtors was requested to be honored or dishonored, as the case may be, unless the Bank’s actions were grossly negligent. The Banks are authorized to accept presentment of all checks, drafts, and wire transfers as an instruction by the Debtors to honor same, unless the Debtors instruct the Banks to dishonor a particular check, draft, or wire transfer.

11. Nothing contained herein shall permit the Banks at which the Bank Accounts are maintained to terminate any cash management services without thirty days prior written notice to the Debtors, the U.S. Trustee, BP, and any official committee appointed in these Chapter 11 Cases.

12. Use of Business Forms. The Debtors are authorized to continue using their existing Business Forms (including, without limitation, letterhead, checks, purchase orders,

invoices and envelopes) without alteration or change and without the designation “Debtor in Possession” or a debtor in possession case number imprinted upon them. Once the Debtors have exhausted their existing stock of Business Forms, the Debtors shall ensure that any new Business Forms are clearly labeled “Debtor in Possession.” With respect to any Business Forms that exist or are generated electronically, the Debtors shall ensure that such electronic Business Forms are clearly labeled “Debtor in Possession.”

13. The Debtors shall serve a copy of this Final Order on the Banks within forty-eight hours after entry of this Order.

14. Subject to Bankruptcy Code section 553, the Debtors are authorized to pay any fees and expenses owed to the Banks, in each case regardless of whether such items were deposited prepetition or postpetition or relate to prepetition or postpetition items, to the extent the Debtors determine, in their good faith business judgment, that the Banks have valid setoff claims pursuant to Bankruptcy Code section 553 (but only to the extent of such claims).

15. The Debtors’ time to comply with Bankruptcy Code section 345(b) is hereby extended for a period of thirty days from the date of the entry of this Final Order; *provided, however*, that such extension is without prejudice to the Debtors’ right to request a further extension or waiver of the requirements of section 345(b) in these Chapter 11 Cases.

16. Notwithstanding the Debtors’ use of a consolidated cash management system, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor entity.

17. The requirement to establish separate accounts for cash collateral and/or tax payments is hereby waived.

18. Notwithstanding anything to the contrary set forth herein, the Debtors are authorized to continue Intercompany Transactions arising from or related to the operation of their businesses in the ordinary course.

19. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Final Order in accordance with the Motion.

20. Notwithstanding the relief granted herein and any actions taken pursuant to such relief, nothing in this Final Order shall be deemed: (i) an admission as to the validity or priority of any claim against the Debtors; (ii) a waiver of the Debtors' right to dispute any claim on any grounds; (iii) a promise or requirement to pay any claim; (iv) an implication or admission that any particular claim is of a type specified or defined in this Order or the Motion (including any exhibits attached thereto); (v) a request or authorization to assume any agreement, contract, or lease pursuant to Bankruptcy Code section 365; (vi) a waiver of the Debtors' rights under the Bankruptcy Code or any other applicable law; or (vii) to create any rights in favor of, or enhance the status of, any claim held by any person or entity.

21. Notwithstanding anything to the contrary contained in this Final Order or in the Motion, any payment, obligation, or other relief authorized by this Interim Order shall be subject to and limited by the requirements imposed on the Debtors under the terms of any Financing Order, or any budget in connection therewith, approved by this Court in these Chapter 11 Cases. In the event of any conflict between the terms of this Interim Order and a Financing Order, the terms of the applicable Financing Order shall control (solely to the extent of such conflict).

22. Notice of the Motion, as provided therein, shall be deemed good and sufficient, and the requirements of Bankruptcy Rule 6004(a) and the Local Bankruptcy Rules are satisfied by such notice.

23. Notwithstanding any applicability of any of the Bankruptcy Rules, the terms and conditions of this Final Order shall be immediately effective and enforceable upon its entry.

24. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003.

25. This Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the interpretation, implementation, or enforcement of this Final Order.

Dated: _____, 2019
White Plains, New York

THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

Exhibit C

Cash Management System

Flow of Funds



BP PSA & DSO Payables

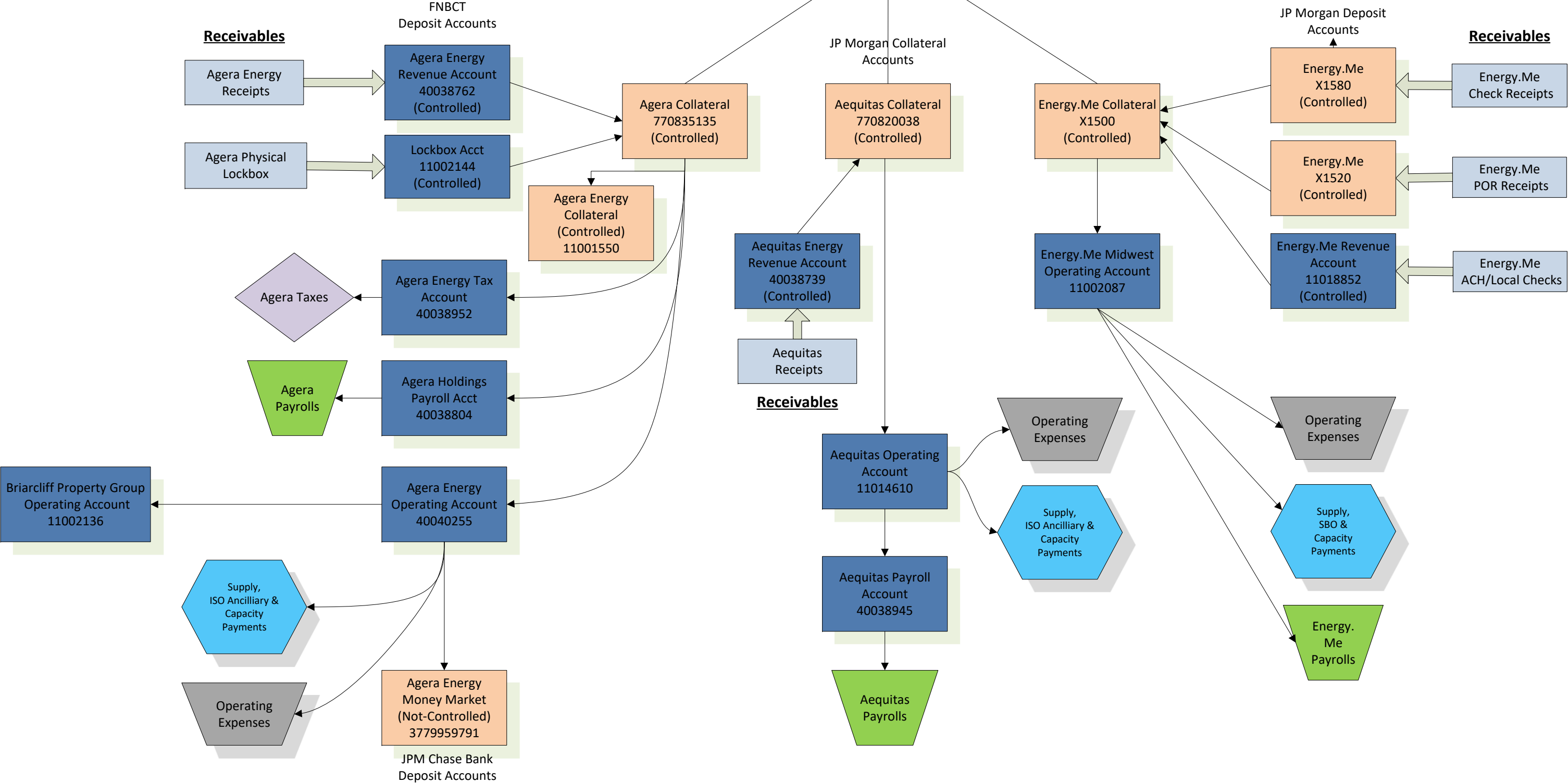


Exhibit D

Bank Accounts

Agera Holdings, LLC

Active (Yes/No)	Account Name	Account Number (last four digits)	Bank Name
Yes	Payroll	8804	

Agera Energy LLC

Active (Yes/No)	Account Name	Account Number (last four digits)	Bank Name
Yes	Operating Account	0255	FNBCT
Yes	Tax Account	8952	FNBCT
Yes	Lockbox Account	2144	FNBCT
Yes	Revenue Account	8762	FNBCT
Yes	Reserve Account	1550	FNBCT
Yes	Money-Market	9791	JPM
Yes	Collateral	5135	JPM

Briarcliff Property Group, LLC (Non-Debtor)

Active (Yes/No)	Account Name	Account Number (last four digits)	Bank Name
Yes	Operating Account	2136	FNBCT

energy.me midwest LLC

Active (Yes/No)	Account Name	Account Number (last four digits)	Bank Name
Yes	Operating Account	2087	FNBCT
Yes	Deposit Account	1580	JPM
Yes	Deposit Account	1520	JPM
Yes	Revenue Account	8852	FNBCT
Yes	Collateral Account	1500	JPM

Aequitas

Active (Yes/No)	Account Name	Account Number (last four digits)	Bank Name
Yes	Collateral Account	0038	JPM
Yes	Revenue Account	8739	FNBCT
Yes	Payroll Account	8945	FNBCT
Yes	Operating Account	4610	FNBCT

Utility Recovery LLC

Active (Yes/No)	Account Name	Account Number (last four digits)	Bank Name
Yes	Checking Account	0016	FNBCT