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*Proposed Counsel to the Debtors  
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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:

AGERA ENERGY LLC, *et al.*,<sup>1</sup>

Debtors.

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)  
) Chapter 11  
)

) Case No. 19-\_\_\_\_ (\_\_\_\_)  
)

) (Joint Administration Requested)  
)

**DEBTORS' MOTION FOR ENTRY OF INTERIM  
AND FINAL ORDERS AUTHORIZING THE DEBTORS TO (I) PAY  
CERTAIN PREPETITION CLAIMS OF SERVICE PROVIDERS  
AND (II) CONTINUE SATISFYING POSTPETITION OBLIGATIONS IN THE  
ORDINARY COURSE OF BUSINESS**

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, and 363 of title 11 of the United States Code (the “Bankruptcy Code”), Rule 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 Southern

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<sup>1</sup> 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.

District of New York (the “Local Rules”), substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, (a) authorizing, but not directing, the Debtors, to (i) make payments toward the prepetition fixed, liquidated, and undisputed claims of Service Providers (as defined below), in an amount up to \$2.4 million on an interim basis and up to \$4.3 million on a final basis (the “Payment Cap”); and (ii) continue satisfying any Service Provider claims that accrue postpetition in the ordinary course of business; and (b) authorizing the Debtors’ banks and financial institutions (collectively, the “Banks”) to honor and process prepetition checks and transfers to the Service Providers. In addition, the Debtors 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”),<sup>2</sup> filed contemporaneously herewith, and the *Declaration of Thomas Buck in Support of the Debtors’ Motion for Entry of Interim and Final Orders Authorizing the Debtors to (I) Pay Certain Prepetition Claims of Service Providers And (II) Continue Satisfying Postpetition Obligations in the Ordinary Course of Business* (the “Buck Declaration”), attached to this Motion as **Exhibit C**. In further support of this Motion, the Debtors respectfully state as follows:

### **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. § 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.

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

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

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

### **BACKGROUND**

4. On the date hereof (the “Petition Date”), each of the Debtors filed a voluntary petition 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. A description of the Debtors’ business, capital structure, and the circumstances leading to the chapter 11 filings is set forth in the First Day Declaration filed contemporaneously herewith and incorporated herein by reference.

### **RELEVANT BACKGROUND**

8. The Debtors have closely examined the extent to which prepetition payments to certain service providers are necessary to avoid irreparable harm. After a review of their accounts payable and other books and records, the Debtors have identified a limited list of service providers that provide the Debtors with natural gas, electricity, transmission, distribution and related critical services, as described below. The Service Providers are critical to the Debtors’ business operations; namely, the supply and delivery of electricity and natural gas to the Debtors’ customers. As explained in more detail below, any delay in payment to the Service Providers would put the Debtors’ most valuable assets—their customer contracts—at risk and would jeopardize the sale process currently underway.

9. As set forth in greater detail in the First Day Declaration, the Debtors supply electricity and natural gas to retail customers in deregulated markets. As set forth in the Buck Declaration, as independent energy service companies, the Debtors rely on a complex Federal Energy Regulatory Commission (“FERC”) regulated network of ISOs (as defined below), pipelines, transmission entities, and utilities to coordinate the purchase, transmission, and delivery of natural gas and electricity to their customers.

10. Specifically, the Debtors enter into contractual arrangements with the Energy Suppliers (as defined below) to meet their retail customers’ varying consumption requirements or “load” rather than purchase fixed amounts of electricity or natural gas. While it is possible to forecast a customer’s anticipated consumption, the overall load that the Debtors are obligated to supply fluctuates in real time depending on customer usage, which constantly changes based on a number of factors, including weather and other factors affecting the customers’ businesses.

11. In order to obtain the electricity and natural gas commodities necessary to supply these products to their customers, the Debtors must purchase physical electricity or natural gas from one or more suppliers in the wholesale (*i.e.*, sale for resale) markets. As of the Petition Date, the Debtors purchase a majority of their natural gas and electricity supply from BP through the Senior Lien Supply Agreement and the Senior Lien ISDA Agreement and, in turn, sell this supply to their retail customers.

12. If there is a shortfall in the amounts of natural gas and electricity that BP supplies, as forecasted on an estimated basis, the Debtors purchase additional natural gas and electricity from various sources in the wholesale markets, including: (i) gas marketing companies, (ii)

utilities, and (iii) Independent System Operators (“ISOs” and, collectively, the “Energy Suppliers”).<sup>3</sup>

13. The ISOs function as the market place for purchases and sales of physical electricity in the regions where the Debtors serve retail customers. The ISOs also serve an important function in maintaining the reliability of the electric grid, which requires that the amount of electricity consumed is exactly equal to the amount of electricity generated and delivered into the ISO markets. If the Debtors’ customers consume more electricity than the Debtors anticipated and were supplied through the Senior Lien Supply Agreement and the Senior Lien ISDA Agreement, the Debtors must purchase the additional electricity from the ISO marketplace or utilities. Therefore, in order to continue to serve customers, the Debtors must continue to have the ability to purchase physical electricity from the ISOs. As a result of these purchases, the Debtors have ongoing obligations to pay these ISOs for electricity purchased, along with associated ancillary, capacity, and imbalance charges.

14. With respect to natural gas purchases, the concepts are identical except that the Debtors generally will purchase additional natural gas supplies from marketers or utilities either on a bilateral basis or through one or more trading platforms. The physical “market” is typically located on interstate natural gas pipelines or at points where interstate pipelines interconnect with other pipelines or local utility systems.

15. To deliver the electricity or natural gas products from the wholesale markets to their customers’ facilities or homes, the Debtors must utilize the wires, poles, power lines and pipes that are owned and operated by local transmission and distribution service providers and local utilities (the “Distribution Providers” and, together with the Energy Suppliers, the “Service

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<sup>3</sup> For the avoidance of doubt, the defined term “Energy Suppliers” does not include BP.

Providers”). The Distribution Providers are generally the sole source provider of distribution services in the local areas where the Debtors’ customers are located. In fact, in most instances, the Distribution Providers are regulated monopolies that charge the customers rates that are subject to public utility commission regulation.

16. The Distribution Providers retain the exclusive right to provide such services that are necessary to allow the Debtors to deliver electricity or natural gas to their customers. As part of the exclusive right to distribute electricity or gas to customers within their service territory, the Distribution Providers also retain the obligation to act as the provider of last resort, meaning that the Distribution Provider must continue to be ready to serve all customers, including customers that purchase electricity or natural gas from a retail supplier such as the Debtors.

17. In order to continue to supply electricity or natural gas to their customers, the Debtors must continue to pay the Distribution Providers for the services associated with physical delivery of electricity or natural gas to the customers that are located within the Distribution Companies’ service territories. These services are governed by utility or local distribution company tariffs, the rates for which are set forth in tariffs that are charged to all retail suppliers and typically cannot be negotiated.

18. Generally, the Debtors pay the Service Providers for supply, distribution services, fees, and related charges in arrears for costs incurred for the previous 30-60 days, depending on the agreements with each Service Provider. Therefore, although the Debtors are current on all payments owed to the Service Providers, the Debtors anticipate that there will still be amounts due as of the Petition Date for supply, distribution services, fees, and related charges prior to the Petition Date (the “Prepetition Service Provider Claims”).

19. The Debtors estimate that the aggregate amount due on account of the Prepetition Service Provider Claims as of the Petition Date (excluding amounts due to BP) is approximately \$4.3 million in the aggregate and approximately \$2.4 million on an interim basis. This interim estimate is based on the 90-day weekly average payments to certain of the Service Providers for a 3-week period multiplied by 150% as shown in the Service Provider Analysis, attached to the Motion as **Exhibit D**. The buffer is intended to compensate for (i) the increase in energy prices in recent months, (ii) the higher than anticipated demand due to the August and September heat waves in some markets, (iii) uncertainty related to the transition of the Debtors as the financially responsible party with the ISOs under the restructuring support agreement term sheet the Debtors executed with BP, and (iv) the fact that not every Service Provider is represented on **Exhibit D**, likely as a result of some Service Providers being seasonal, while others being based on the flow of electricity or natural gas to the Debtors' customers.

20. If the Debtors do not pay the Prepetition Service Provider Claims, the Service Providers may terminate the Debtors' ability to service their customers, and the customers will revert to the default electric utility or natural gas local distribution company for that area. The Debtors would then lose all of their customers in that Service Provider's area to such electric utility or natural gas local distribution company. This, in turn, would have a severe detrimental impact on the value realized from the Debtors' sale of their book of customer contracts.

### **RELIEF REQUESTED**

21. The Debtors seek entry of the Interim Order and the Final Order, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, respectively: (a) authorizing, but not directing the Debtors, in their discretion, to (i) remit and pay the Prepetition Service Provider Claims, in an amount up to \$2.4 million on an interim basis and up to the Payment Cap on a final basis; and (ii) to continue satisfying any Service Provider claims that accrue postpetition in the

ordinary course of business; and (b) authorizing the Banks to honor and process prepetition checks and transfers to the Service Providers.

22. For the reasons set forth herein, the Debtors submit that the relief requested is in the best interest of the Debtors, their estates, creditors, and other parties in interest and therefore should be granted.

### **BASIS FOR REQUESTED RELIEF**

23. The Debtors believe that the Service Providers will: (a) refuse to deliver services postpetition without payment of their prepetition claims; and (b) terminate the Debtors' ability to provide their customers with electricity or natural gas, thereby reverting those customers to their default energy provider. Once a customer reverts back to its default utility, the Debtors would lose that customer (and its revenues) permanently. There is currently no way to reverse the process. Accordingly, the Debtors request the Court's authority to pay the Prepetition Service Provider Claims because payment of such claims is necessary to maintain and maximize the value of the Debtors' estates.

#### **A. Payment to the Service Providers is Essential to the Debtors' Continued Operations During these Chapter 11 Cases**

24. The Service Providers generally provide services that the Debtors cannot obtain from other service providers. These services are integral to the Debtors' operations. Although the Debtors desire to resume normal business relationships with all vendors, and all vendors and their goods and services are important to the Debtors' business and operations, the immediate need to continue to provide uninterrupted service is the Debtors' foremost concern. Thus, the Debtors request authority to pay, in part or in full and in their discretion, the Prepetition Service Provider Claims.

25. Absent some payment of the Prepetition Service Provider Claims, the Service Providers may cease doing business with the Debtors. Accordingly, the Debtors submit that unless they are authorized to pay, in part or in full, the Prepetition Service Provider Claims, the Debtors' business operations may be severely damaged and their sale and marketing efforts may be unnecessarily impeded. The value of the Debtors' estates would severely suffer if the Service Providers ceased providing services to the Debtors. Thus, it is essential that the Debtors be permitted to pay the Service Providers in order to maximize value for all of the Debtors' stakeholders.

26. The Payment Cap represents approximately 5% of the Debtors' estimated aggregate prepetition unsecured claims, which total approximately \$82 million.

**B. Bankruptcy Code Section 105 and the Doctrine of Necessity Supports Payment of the Service Provider Claims**

27. The proposed payments to the Service Providers should be authorized pursuant to Bankruptcy Code section 105 and under the "doctrine of necessity." The Court's power to utilize the doctrine of necessity in chapter 11 cases derives from the Court's inherent equity powers and its statutory authority to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). The United States Supreme Court first articulated the doctrine of necessity over a century ago in *Miltenberger v. Logansport Ry. Co.*, 106 U.S. 286 (1882), affirming the lower court's authorization of the use of receivership funds to pay pre-receivership debts owed to employees, vendors, and suppliers, among others, when such payments were necessary to preserve the receivership property and the integrity of the business in receivership. *See id.* at 309. The modern application of the doctrine of necessity is largely unchanged from the Court's reasoning in *Miltenberger*. *See In re Lehigh & New Eng. Ry.*, 657 F.2d 570, 581-82 (3d Cir. 1981) ("[I]n order to justify payment under the

‘necessity of payment’ rule, a real and immediate threat must exist that failure to pay will place the continued operation of the [debtor] in serious jeopardy.”).

28. The doctrine of necessity “recognizes the existence of the judicial power to authorize a debtor in a reorganization case to pay pre-petition claims where such payment is essential to the continued operation of the debtor.” *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 176 (Bankr. S.D.N.Y. 1989); *see also In re Just for Feet, Inc.*, 242 B.R. 821, 826 (D. Del. 1999) (stating that where the debtor “cannot survive” absent payment of certain prepetition claims, the doctrine of necessity should be invoked to permit payment); *In re NVR L.P.*, 147 B.R. 126, 127 (Bankr. E.D. Va. 1992) (“[T]he court can permit pre-plan payment of a pre-petition obligation when essential to the continued operation of the debtor.”); *In re Eagle-Picher Indus., Inc.*, 124 B.R. 1021, 1023 (Bankr. S.D. Ohio 1991) (“[T]o justify payment of a pre-petition unsecured creditor, a debtor must show that the payment is necessary to avert a serious threat to the chapter 11 process.”).

29. The doctrine of necessity is an accepted component of modern bankruptcy jurisprudence. *See Just For Feet*, 242 B.R. at 826 (approving payment of key inventory suppliers’ prepetition claims when such suppliers could destroy debtor’s business by refusing to deliver new inventory on eve of debtor’s key sales season); *In re Payless Cashways, Inc.*, 268 B.R. 543, 546-47 (Bankr. W.D. Mo. 2001) (authorizing payment of critical prepetition suppliers’ claims when such suppliers agree to provide postpetition trade credit); *see also In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191-92 (Bankr. D. Del. 1994); *In re Ionosphere Clubs, Inc.*, 98 B.R. at 175-76.

30. As stated above, payment of the Prepetition Service Provider Claims is essential to the continued operation of the Debtors’ businesses. In turn, the maintenance of the Debtors’

businesses during these Chapter 11 Cases is crucial to the Debtors' ability to pursue a sale of their assets, the bulk of which will be the Debtors' customer contracts, for the benefit of all of the Debtors' stakeholders. Accordingly, this Court should allow the payment of the Prepetition Service Provider Claims as requested herein.

**C. Payment of the Service Provider Claims is Authorized Under Bankruptcy Code Sections 1107(a) and 1108**

31. The Debtors, as debtors in possession under Bankruptcy Code sections 1107(a) and 1108, are fiduciaries "holding the bankruptcy estate[s] and operating the business[es] for the benefit of [their] creditors and (if the value justifies) equity owners." *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002). Implicit in the duties of a chapter 11 debtor in possession is the duty "to protect and preserve the estate, including an operating business's going-concern value." *Id.*

32. Courts have noted that there are instances in which a debtor in possession can fulfill its fiduciary duty "only . . . by the preplan satisfaction of a prepetition claim." *Id.* The *CoServ* court specifically noted that preplan satisfaction of prepetition claims would be a valid exercise of a debtor's fiduciary duty when the payment "is the only means to effect a substantial enhancement of the estate," and also when the payment was to "sole suppliers of a given product." *Id.* at 498. The court provided a three-pronged test for determining whether a preplan payment on account of a prepetition claim was a valid exercise of a debtor's fiduciary duty:

First, it must be critical that the debtor deal with the claimant. Second, unless it deals with the claimant, the debtor risks the probability of harm, or, alternatively, loss of economic advantage to the estate or the debtor's going concern value, which is disproportionate to the amount of the claimant's prepetition claim. Third, there is no practical or legal alternative by which the debtor can deal with the claimant other than by payment of the claim.

*Id.* at 498.

33. Payment of the Prepetition Service Provider Claims meets each element of the *CoServ* court's standard. As described above, the Service Providers are generally sole source service providers without which the value of the Debtors' estates would be severely impacted. The harm and economic disadvantage that would stem from the failure of the Service Providers to perform is grossly disproportionate to the amount of any prepetition claim that may be paid. Therefore, the Debtors can best meet their fiduciary duties as debtors in possession under Bankruptcy Code sections 1107(a) and 1108 by paying the Prepetition Service Provider Claims.

**D. Payment of the Critical Vendor Claims is Authorized Under Bankruptcy Code Sections 363**

34. Bankruptcy Code Section 363(b) provides that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b). Under this section, a court may authorize a debtor to pay certain pre-petition claims. *See Ionosphere Clubs*, 98 B.R. at 175 (authorizing payment of pre-petition claims where the debtors articulate "some business justification, other than the mere appeasement of major creditors"); *see also In re James A. Phillips, Inc.*, 29 B.R. 391, 397 (S.D.N.Y. 1983) (pursuant to Bankruptcy Code section 363 the Court authorized a contractor to pay pre-petition claims of some suppliers who were potential lien claimants because the payments were necessary for the general contractors to release funds owed to the debtors).

35. As stated in the Buck Declaration, in many cases, the Debtors have posted collateral in the form of cash, bonds, or letters of credit with various Service Providers to secure the obligations owed to the Service Providers. Failure to pay the Prepetition Service Provider Claims would trigger an avalanche of defaults, which would allow the Service Providers exercise remedies against the collateral and require the Debtors to post additional or replacement collateral.

36. Courts in this and other jurisdictions have granted similar relief in other cases. *See, e.g., In re 1515-GEEnergy Holding Co. LLC*, Case No. 19-10303 (LSS) (Bankr. D. Del. Feb. 14, 2019) (approving payments to the prepetition claims of distribution providers and ISOs as critical vendors to avoid loss of customer base); *In re Aegean Marine Petrol. Network Inc.*, Case No. 18-13374 (MEW) (Bankr. S.D.N.Y. Dec. 6, 2018) (approving the payment of prepetition claims of shippers, warehousemen, and other critical claimants on the basis that shippers and warehousemen could refuse to deliver or return the debtors' goods if prepetition claims were not satisfied); *In re Nine West Holdings, Inc.*, Case No. 18-10497 (SCC) (Bankr. S.D.N.Y. May 7, 2018) (same); *In re Avaya Inc.*, Case No. 17-10089 (SMB) (Bankr. S.D.N.Y. Feb. 10, 2017) (same); *In re BCBG Max Azria Glob. Holdings, LLC*, Case No. 17-10466 (SCC) (Bankr. S.D.N.Y. Mar. 29, 2017) (authorizing the payment of prepetition claims of various lien claimants and foreign vendors to avoid disruption to the debtors' business operations); *In re Sabine Oil & Gas Corp.*, Case No. 15-11835 (SCC) (Bankr. S.D.N.Y. Oct. 15, 2015) (approving the payment of prepetition claims of shipper and warehousemen claimants on the basis that shippers and warehousemen could refuse to deliver or return the debtors' goods if prepetition claims were not satisfied); *In re Gridway Energy Holdings, Inc.*, Case No. 14-10833 (CSS) (Bankr. D. Del. Apr. 10, 2014) (approving payments to the prepetition claims of distribution providers and ISOs as critical vendors to avoid loss of customer base).

### **RESERVATION OF RIGHTS**

37. 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 the Court grants the relief sought herein, any payment made

pursuant to the 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 subsequently dispute such claim.

#### **THE REQUIREMENTS OF BANKRUPTCY RULE 6003 ARE SATISFIED**

38. 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.

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

39. To successfully implement the foregoing, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h).

#### **MOTION PRACTICE**

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

### **NOTICE**

41. 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; (d) counsel to Exelon Generation Company, LLC; (e) the Internal Revenue Service; (f) the United States Attorney for the Southern District of New York; and (g) 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**

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

WHEREFORE, the Debtors respectfully request that the Court enter an Interim Order and Final Order, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, (a) authorizing, but not directing, the Debtors, to (i) pay the Prepetition Service Provider Claims; and (ii) continue satisfying any Service Provider claims that accrue postpetition in the ordinary course of business; and (b) authorizing the Banks to honor and process prepetition checks and transfers to the Service Providers; and (c) granting such other and further relief as the Court deems appropriate.

Dated: October 4, 2019  
New York, NY

Respectfully submitted,

**MCDERMOTT WILL & EMERY LLP**

/s/ Darren Azman

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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> , <sup>1</sup>	)	Case No. 19-_____ (____)
	)	
Debtors.	)	(Jointly Administered)
	)	
_____	)	<b>Re: Docket No. ____</b>

**INTERIM ORDER AUTHORIZING THE DEBTORS TO PAY  
CERTAIN PREPETITION CLAIMS OF THE SERVICE PROVIDERS**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”)

(a) authorizing, but not directing the Debtors, in their discretion, to (i) remit and pay the Prepetition Service Provider Claims, in an amount up to \$2.4 million on an interim basis and up to \$4.3 million on a final basis; (ii) continue satisfying any Service Provider claims that accrue postpetition in the ordinary course of business; and (b) authorizing the Banks to honor and process prepetition checks and transfers to the Service Providers; and upon the First Day Declaration; and this Court having found that it has jurisdiction to consider the Motion pursuant to 28 U.S.C. § 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)(2); 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

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<sup>1</sup> 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.

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

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 as set forth herein.
2. The final hearing (the “Final Hearing”) on the Motion shall be held on \_\_\_\_\_, 2019, at \_\_\_\_ :\_\_ \_ .m., prevailing Eastern Time. Objections shall be served on (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, 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. The Debtors are authorized, but not directed, in their discretion, to pay the Prepetition Service Provider Claims in an aggregate amount not to exceed \$3.2 million.
4. The Debtors are authorized to continue satisfying any Service Provider claims that accrue postpetition in the ordinary course of business.

5. The authorization granted herein to pay Prepetition Service Provider Claims shall not create any obligation on the part of the Debtors or their officers, directors, attorneys, or agents to pay the Prepetition Service Provider Claims and none of the foregoing persons shall have any liability on account of any decision by the Debtors not to pay a Prepetition Service Provider Claim. Nothing contained in this Interim Order shall be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise affect the Prepetition Service Provider Claims to the extent they are not paid.

6. 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.

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

8. The Court finds and determines that the requirements of Bankruptcy Rule 6003 are satisfied and that the relief requested is necessary to avoid immediate and irreparable harm.

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

10. 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 interim and/or final orders regarding the use of cash collateral or the approval of postpetition financing (any such order, a “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).

11. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the interpretation, implementation, or enforcement of this 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**

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

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**FINAL ORDER AUTHORIZING THE DEBTORS TO PAY  
CERTAIN PREPETITION CLAIMS OF SERVICE PROVIDERS**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Final Order”) (a) authorizing, but not directing the Debtors, in their discretion, to (i) remit and pay the Prepetition Service Provider Claims, in an amount up to \$2.4 million on an interim basis and up to \$4.3 million on a final basis; (ii) continue satisfying any Service Provider claims that accrue postpetition in the ordinary course of business; and (b) authorizing the Banks to honor and process prepetition checks and transfers to the Service Providers; and upon the First Day Declaration; and this Court having found that it has jurisdiction to consider the Motion pursuant to 28 U.S.C. § 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)(2); 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

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<sup>1</sup> 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.

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

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 as set forth herein.
2. The Debtors are authorized, but not directed, in their discretion, to pay the Prepetition Service Provider Claims in an aggregate amount not to exceed the Payment Cap, without prejudice to their right to seek additional relief on an emergency basis.
3. The Debtors are authorized to continue satisfying any Service Provider claims that accrue postpetition in the ordinary course of business.
4. The authorization granted herein to pay Prepetition Service Provider Claims shall not create any obligation on the part of the Debtors or their officers, directors, attorneys, or agents to pay the Prepetition Service Provider Claims and none of the foregoing persons shall have any liability on account of any decision by the Debtors not to pay a Prepetition Service Provider Claims. Nothing contained in this Final Order shall be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise affect the Prepetition Service Provider Claims to the extent they are not paid.

5. 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 Final 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.

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

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

8. 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 interim and/or final orders regarding the use of cash collateral or the approval of postpetition financing (any such order, a "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).

9. This Court shall retain 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**

**Buck Declaration**

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

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In re:

AGERA ENERGY LLC, *et al.*,<sup>1</sup>

Debtors.

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)  
) Chapter 11  
)

) Case No. 19-\_\_\_\_ (\_\_\_\_)  
)

) (Joint Administration Requested)  
)

**DECLARATION OF THOMAS BUCK IN SUPPORT OF THE DEBTORS' MOTION  
FOR ENTRY OF INTERIM AND FINAL ORDERS AUTHORIZING THE DEBTORS  
TO (I) PAY CERTAIN PREPETITION CLAIMS OF SERVICE PROVIDERS  
AND (II) CONTINUE SATISFYING POSTPETITION OBLIGATIONS IN THE  
ORDINARY COURSE OF BUSINESS**

I, Thomas Buck, declare under penalty of perjury as follows.

**Introduction<sup>2</sup>**

1. I am a Principal of GlassRatner Advisory & Capital Group, LLC ("GlassRatner") with approximately 20 years of restructuring experience. GlassRatner is the proposed financial advisors to the above-captioned debtors and debtors in possession (collectively, the "Debtors") in these chapter 11 cases (the "Chapter 11 Cases"). GlassRatner was engaged in early May 2019 by the Debtors to serve as their financial advisor to assist the Debtors in reviewing their strategic options. I have prior related industry advisory experience with *In re 1515-GEEnergy Holding Co. LLC*, Case No. 19-10303 (LSS) (Bankr. D. Del. Feb. 14, 2019) ("Great Eastern").

2. I submit this declaration (the "Declaration") in support of the relief requested in the *Debtors' Motion for Entry of Interim and Final Orders Authorizing the Debtors to (I) Pay*

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<sup>1</sup> 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.

<sup>2</sup> All capitalized terms used but not otherwise defined herein shall have the same meanings set forth in the Motion.

*Certain Prepetition Claims of Service Providers And (II) Continue Satisfying Postpetition Obligations in the Ordinary Course of Business* (the “Motion”),<sup>3</sup> filed contemporaneously herewith. Except as otherwise indicated herein, all facts set forth in this Declaration are based upon my personal knowledge, my discussions with other members of the Debtors’ management team and the Debtors’ advisors, my review of relevant documents and information concerning the Debtors’ operations in consultation with the management team, and/or my opinions based upon my experience and knowledge. If called as a witness, I could and would testify competently to the facts set forth in this Declaration. I am authorized by the Debtors to submit this Declaration on their behalf.

#### **The Service Providers**

4. As independent energy service companies, the Debtors rely on a complex Federal Energy Regulatory Commission (“FERC”) regulated network of ISOs (as defined below), pipelines, transmission entities, and utilities to coordinate the purchase, transmission, and delivery of natural gas and electricity to their customers.

5. Specifically, the Debtors enter into contractual arrangements with the Energy Suppliers (as defined below) to meet their retail customers’ varying consumption requirements or “load” rather than purchase fixed amounts of electricity or natural gas. While it is possible to forecast a customer’s anticipated consumption, the overall load that the Debtors are obligated to supply fluctuates in real time depending on customer usage, which constantly changes based on a number of factors including weather and other factors affecting the customers’ businesses.

6. In order to obtain the electricity and natural gas commodities necessary to supply these products to their customers, the Debtors must purchase physical electricity or natural gas

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<sup>3</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Motion.

from one or more suppliers in the wholesale (*i.e.*, sale for resale) markets. As of the Petition Date, the Debtors purchase a majority of their natural gas and electricity supply from BP through the Senior Lien Supply Agreement and the Senior Lien ISDA Agreement and, in turn, sell this supply to their retail customers.

7. If there is a shortfall in the amounts of natural gas and electricity that BP supplies, as forecasted on an estimated basis, the Debtors purchase additional natural gas and electricity from various sources in the wholesale markets, including: (i) gas marketing companies, (ii) utilities, and (iii) Independent System Operators (“ISOs” and, collectively, the “Energy Suppliers”).

8. The ISOs function as the market place for purchases and sales of physical electricity in the regions where the Debtors serve retail customers. The ISOs also serve an important function in maintaining the reliability of the electric grid, which requires that the amount of electricity consumed is exactly equal to the amount of electricity generated and delivered into the ISO markets. If the Debtors’ customers consume more electricity than the Debtors anticipated and were supplied through the Senior Lien Supply Agreement and the Senior Lien ISDA Agreement, the Debtors must purchase the additional electricity from the ISO marketplace or utilities. Therefore, in order to continue to serve customers, the Debtors must continue to have the ability to purchase physical electricity from the ISOs. As a result of these purchases, the Debtors have ongoing obligations to pay these ISOs for electricity purchased, along with associated ancillary, capacity, and imbalance charges.

9. With respect to natural gas purchases, the concepts are identical except that the Debtors generally purchase additional natural gas supplies from marketers or utilities either on a bilateral basis or through one or more trading platforms. The physical “market” is typically

located on interstate natural gas pipelines or at points where interstate pipelines interconnect with other pipelines or local utility systems.

10. To deliver the electricity or natural gas products from the wholesale markets to their customers' facilities or homes, the Debtors must utilize the wires, poles, power lines and pipes that are owned and operated by local transmission and distribution service providers and local utilities (the "Distribution Providers" and, together with the Energy Suppliers, the "Service Providers"). The Distribution Providers are generally the sole source provider of distribution services in the local areas where the Debtors customers are located. In fact, in most instances, the Distribution Providers are regulated monopolies that charge the customers rates that are subject to public utility commission regulation.

11. The Distribution Providers retain the exclusive right to provide such services that are necessary to allow the Debtors to deliver electricity or natural gas to their customers. As part of the exclusive right to distribute electricity or gas to customers within their service territory, the Distribution Providers also retain the obligation to act as the provider of last resort, meaning that the Distribution Provider must continue to be ready to serve all customers, including customers that purchase electricity or natural gas from a retail supplier such as the Debtors.

12. In order to continue to supply electricity or natural gas to their customers, the Debtors must continue to pay the Distribution Providers for the services associated with physically delivery of electricity or natural gas to the customers that are located within the Distribution Companies' service territories. It is my understanding that these services are governed by utility or local distribution company tariffs, the rates for which are set forth in tariffs that are charged to all retail suppliers and typically cannot be negotiated. In my experience, Service Providers will not sign typical "critical vendor letters" for the same reason.

13. Generally, the Debtors pay the Service Providers for supply, distribution services, fees, and related charges in arrears for costs incurred for the previous 30-60 days, depending on the agreements with each Service Provider. Therefore, although the Debtors are current on all payments owed to the Service Providers, the Debtors anticipate that there will still be amounts due as of the Petition Date for supply, distribution services, fees, and related charges prior to the Petition Date (the “Prepetition Service Provider Claims”).

14. The Debtors estimate that the aggregate amount due on account of the Prepetition Service Provider Claims as of the Petition Date (excluding amounts due to BP) is approximately \$4.3 million in the aggregate and approximately \$2.4 million on an interim basis. This interim estimate is based on the 90-day weekly average payments to certain of the Service Providers for a 3-week period multiplied by 150% as shown in the Service Provider Analysis, attached to the Motion as **Exhibit D**. The buffer is intended to compensate for (i) the increase in energy prices in recent months, (ii) the higher than anticipated demand due to the August and September heat waves in some markets, (iii) uncertainty related to the transition of the Debtors as the financially responsible party with the ISOs under the restructuring support agreement term sheet the Debtors executed with BP, and (iv) the fact that not every Service Provider is represented on **Exhibit D**, likely as a result of some Service Providers being seasonal, while others being based on the flow of electricity or natural gas to the Debtors’ customers.

15. If the Debtors do not pay the Prepetition Service Provider Claims, the Service Providers may terminate the Debtors’ ability to service their customers, and the customers will revert to the default electric utility or natural gas local distribution company for that area. The Debtors would then lose all of their customers in that Service Provider’s area to such electric

utility or natural gas local distribution company. This, in turn, would have a severe detrimental impact on the value realized from the Debtors' sale of their book of customer contracts.

16. Further, in many cases, the Debtors have posted collateral in the form of cash, bonds, or letters of credit with various Service Providers to secure the obligations owed to the Service Providers. Failure to pay the Prepetition Service Provider Claims would trigger an avalanche of defaults, which would allow the Service Providers exercise remedies against the collateral and require the Debtors to post additional or replacement collateral.

### **Conclusion**

25. Based on my experience and my personal knowledge of the Debtors' commercial circumstances and the prepetition marketing process, I believe that expedite approval of the Bidding Procedures will achieve the highest or otherwise best bid for the Purchased Assets and the remainder of the Debtors' assets, and that the Bid Protections were necessary to induce a stalking horse bid for the Purchased Assets, which will ultimately maximize value to the Debtors' estates.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Dated: October 4, 2019

/s/ Thomas Buck

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Thomas Buck  
Principal

**Exhibit D**

**Service Provider Analysis**

Agera Energy Service Provider Analysis

Vendor Name	7-Jun	14-Jun	21-Jun	28-Jun	5-Jul	12-Jul	19-Jul	26-Jul	2-Aug	9-Aug	16-Aug	23-Aug	30-Aug	Grand Total
AEP Texas Central	\$ 9,170	\$ 12,950	\$ 18,711	\$ 9,606	\$ 9,278	\$ 16,664	\$ 22,551	\$ 24,281	\$ 20,351	\$ 15,723	\$ 25,863	\$ 36,017	\$ 29,001	\$ 250,165
AEP TEXAS NORTH	\$ 186	\$ 972	\$ 1,095	\$ 3,064	\$ 557	\$ 1,517	\$ 1,236	\$ 2,096	\$ 2,188	\$ 2,047	\$ 1,677	\$ 1,720	\$ 3,725	\$ 22,082
ALGONQUIN GAS TRANSMISSION, LLC			\$ 37,180				\$ 33,791				\$ 34,919			\$ 105,889
American Electric Power-OH Power Co.	\$ 65					\$ 75					\$ 45		\$ 40	\$ 225
BGE	\$ 1,673				\$ 5,292				\$ 2,327				\$ 4,466	\$ 13,757
BGE										\$ 96			\$ 47	\$ 144
BGE									\$ 1,417					\$ 1,417
Centerpoint CPE	\$ 42,755	\$ 66,121	\$ 63,634	\$ 43,056							\$ 87,820	\$ 82,211	\$ 59,157	\$ 444,754
CenterPoint Energy					\$ 44,216	\$ 63,534	\$ 90,216	\$ 44,070	\$ 73,280	\$ 58,244				\$ 373,559
Central Hudson Gas & Electric Corporation									\$ 40					\$ 40
Central Maine Power Company							\$ 202						\$ 99	\$ 301
COLUMBIA GAS TRANSMISSION, LLC				\$ 73,828			\$ 72,229				\$ 70,585			\$ 216,642
Columbia Gulf Transmission				\$ 12,201			\$ 11,789				\$ 11,755			\$ 35,745
Consolidated Edison CO. of New York	\$ 14,035													\$ 14,035
DAYTON POWER & LIGHT	\$ 45	\$ 10												\$ 55
Dayton Power & Light Co.											\$ 15			\$ 15
Dominion Energy Ohio	\$ 1,613				\$ 1,041					\$ 602			\$ 531	\$ 3,787
DOMINION TRANSMISSION, INC.		\$ 9,045	\$ 412			\$ 8,889	\$ 371			\$ 9,367	\$ 384			\$ 28,468
DTN, LLC											\$ 7,032			\$ 7,032
DUKE ENERGY											\$ 85	\$ 96		\$ 181
DUKE ENERGY OHIO	\$ 72													\$ 72
DUKE ENERGY OHIO								\$ 68			\$ 70			\$ 137
ELECTRIC RELIABILITY COUNCIL OF TX	\$ 40,000													\$ 40,000
ELIZABETH TOWN GAS		\$ 978												\$ 978
Emera Maine	\$ 36						\$ 5						\$ 7	\$ 49
Eversource				\$ 45,457				\$ 16,855			\$ 5,561			\$ 67,873
Eversource			\$ 163									\$ 364		\$ 527
ICE US OTC Commodity Markets, LLC		\$ 12,799			\$ 3,524									\$ 16,323
Iroquois Gas Transmission System			\$ 49,501					\$ 48,903				\$ 49,020		\$ 147,424
ISO New England							\$ 2,252							\$ 2,252
ISO New England											\$ 4,198			\$ 4,198
ISO NEW ENGLAND			\$ 2,379											\$ 2,379
Liberty Utilities New Hampshire	\$ 34,680										\$ 99,146			\$ 133,825
Millenium Pipeline Company, LLC				\$ 4,105			\$ 4,095				\$ 4,095			\$ 12,295
National Fuel Gas Supply Corporation				\$ 5,257				\$ 5,372				\$ 5,259		\$ 15,887
National Grid		\$ 118,586	\$ 12,500					\$ 25,386			\$ 18,354			\$ 178,652
National Grid	\$ 6,930					\$ 4,977				\$ 5,077		\$ 6,142		\$ 23,126
National Grid LI		\$ 66,612									\$ 3,569			\$ 74,366
National Grid NIMO						\$ 1,707								\$ 1,707
National Grid NY		\$ 87,954											\$ 33,660	\$ 121,613
New Jersey Natural Gas Company				\$ 218				\$ 212					\$ 212	\$ 641
NEW YORK STATE ELECTRIC & GAS CORP.				\$ 76										\$ 76
Nexus Gas Transmission, LLC			\$ 5,162					\$ 4,905			\$ 4,952			\$ 15,019
NICOR GAS			\$ 278			\$ 75	\$ 277			\$ 75	\$ 279			\$ 983
NICOR GAS	\$ 75													\$ 75
Ohio Edison			\$ 59			\$ 53				\$ 78				\$ 189
OHIO EDISON COMPANY										\$ 29				\$ 29
Olameter, DPG, LLC									\$ 1,324				\$ 1,320	\$ 2,643
Oncor	\$ 68,548	\$ 57,219	\$ 77,707	\$ 150,755	\$ 61,957	\$ 77,007	\$ 90,147	\$ 139,231	\$ 129,179	\$ 65,437	\$ 96,042	\$ 115,698	\$ 199,647	\$ 1,328,573
Pacific Gas & Electric Company				\$ 1,769										\$ 1,769
Pacific Gas & Electric Company									\$ 1,743		\$ 1,728			\$ 3,471
Panhandle Eastern Pipeline			\$ 1,270					\$ 1,247				\$ 1,228		\$ 3,745
PECO Energy Company				\$ 29				\$ 38					\$ 222	\$ 290
PENELEC						\$ 19				\$ 26				\$ 45
Pennsylvania Public Utility Commission					\$ 350	\$ 350								\$ 700
PEPCO							\$ 2,251				\$ 144		\$ 2,287	\$ 4,682
PEPCO ENERGY									\$ 140					\$ 140
PG&E Payment Processing Ctr				\$ 20,819					\$ 20,700				\$ 9,423	\$ 50,942
PJM EIS, INC.						\$ 29								\$ 29
Portland Natural Gas Transmission System			\$ 7,561					\$ 7,559				\$ 7,513		\$ 22,632
Potomac Electric Power Company		\$ 5,318												\$ 5,318
PSEG Long Island		\$ 180,663				\$ 210,888				\$ 251,507			\$ 206,879	\$ 849,937
Rockies Express Pipeline LLC			\$ 986				\$ 913				\$ 894			\$ 2,792
SBOs Unidentified	\$ 72,227	\$ 102,984	\$ 196,131	\$ 25,849	\$ 63,864	\$ 65,201	\$ 276,388	\$ 83,228	\$ 65,778	\$ 90,180	\$ 271,763	\$ 106,526		\$ 1,420,119
Southern California Edison											\$ 81			\$ 81
Tennessee Gas Pipeline Company				\$ 88,372				\$ 85,208			\$ 83,423			\$ 257,003
Texas Eastern Transmission			\$ 55,525					\$ 62,382			\$ 63,499			\$ 181,405
Texas New Mexico Power-TNMP	\$ 1,299	\$ 4,815	\$ 1,727	\$ 3,053	\$ 1,289	\$ 4,091	\$ 3,129	\$ 4,058	\$ 4,663		\$ 8,809	\$ 6,485	\$ 3,782	\$ 47,199
The Illuminating Company			\$ 112							\$ 87				\$ 199
The Illuminating Company						\$ 15	\$ 107							\$ 122
Toledo Edison			\$ 29							\$ 29				\$ 58
Toledo Edison Company							\$ 29							\$ 29
TransCanada Pipelines Limited			\$ 2,171				\$ 2,249				\$ 2,187			\$ 6,607
Transcontinental Gas Pipeline	\$ 78,520		\$ 1,875			\$ 68,417		\$ 1,441		\$ 70,735		\$ 1,218		\$ 222,206
Union Gas Limited			\$ 703				\$ 699					\$ 718		\$ 2,120
Washington Gas Light Comapny				\$ 68,093				\$ 75,875					\$ 59,559	\$ 203,527
<b>TOTAL</b>	<b>\$ 371,928</b>	<b>\$ 727,025</b>	<b>\$ 536,870</b>	<b>\$ 553,761</b>	<b>\$ 193,213</b>	<b>\$ 523,507</b>	<b>\$ 526,811</b>	<b>\$ 672,633</b>	<b>\$ 371,021</b>	<b>\$ 569,338</b>	<b>\$ 627,651</b>	<b>\$ 689,773</b>	<b>\$ 633,842</b>	<b>\$ 6,997,374</b>

Interim Relief Request	\$ 2,422,168
Final Relief Request	\$ 4,306,077