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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 AN INTERIM AND FINAL ORDER (I)
AUTHORING, BUT NOT DIRECTING, THE PAYMENT OF CERTAIN PREPETITION
TAXES AND FEES AND (II) GRANTING RELATED RELIEF**

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 (this “Motion”) for entry of an interim order (“Interim Order”) and a final order (“Final Order”) pursuant to sections 105(a), 363(b), 507(a)(8), and 541 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 Southern District of New York (the “Local Rules”), substantially in the forms attached hereto as

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.

Exhibit A and **Exhibit B**, respectively, (a) authorizing, but not directing, the Debtors, in their sole discretion, to remit and pay certain accrued and outstanding prepetition taxes, including sales and use taxes, franchise taxes, and similar taxes and fees in an amount up to \$2.3 million on an interim basis and up to \$4.3 million on a final basis (the “Taxes and Fees Cap”), absent further order of the Court; and (b) granting related relief. In addition, the Debtors also request that the Court (as defined below) schedule a hearing to consider approval of this Motion on a final basis. In addition, 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”),² filed contemporaneously herewith. In further support of this Motion, the Debtors respectfully state as follows:

JURISDICTION

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.

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. §157(b).

3. The statutory bases for the relief requested herein are Bankruptcy Code sections 105(a), 363(b), 507(a)(8), and 541, Bankruptcy Rules 6003 and 6004, and Local Rule 9013-1(a).

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

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 and 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 DEBTORS’ TAX OBLIGATIONS

8. The Debtors collect, incur, and pay sales taxes, use taxes, utility user taxes, gross receipt taxes, and income taxes, and various other governmental taxes, fees, and assessments (collectively, the “Taxes and Fees”).³ The Debtors remit the Taxes and Fees to various federal, state, and local governments, including taxing authorities (collectively, the “Governmental Authorities”). A schedule identifying the Governmental Authorities is attached hereto as **Exhibit C**.⁴ Taxes and Fees are remitted and paid by the Debtors through checks and electronic transfers that are processed through their banks and other financial institutions. The Debtors estimate that approximately \$4 million in Taxes and Fees relating to the prepetition period are or

³ The Debtors do not seek the authority to collect and remit state and federal employee-related withholding taxes by this motion. Such relief is instead requested in the *Debtors’ Motion for Entry of an Order (I) Authorizing, But Not Directing, the Debtors to (A) Pay Prepetition Employee Wages, Salaries, Other Compensation, and Reimbursable Employee Expenses and (B) Continue Employee Benefits Programs and (II) Granting Related Relief*, filed concurrently herewith.

⁴ Although **Exhibit C** is intended to be comprehensive, the Debtors may have inadvertently omitted one or more Governmental Authorities. By this motion, the Debtors request relief applicable to all taxing authorities, regardless of whether such taxing authority is specifically identified on **Exhibit C**.

will become due and owing to the Governmental Authorities after the Petition Date in the ordinary course.⁵ The Debtors further estimate that approximately \$2.3 million in Taxes and Fees relating to the prepetition period are or will become due and owing to the Governmental Authorities within 30 days after the Petition Date.

RELIEF REQUESTED

9. 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 sole discretion, to remit and pay certain accrued and outstanding prepetition taxes, including sales and use taxes, franchise taxes, and similar taxes and fees in an amount up to the Taxes and Fees Cap, absent further order of the Court; and (b) granting related relief. In addition, the Debtors request that the Court schedule a final hearing within approximately 30 days of the commencement of these Chapter 11 Cases to consider approval of this motion on a final basis.

BASIS FOR REQUESTED RELIEF

I. Certain of the Taxes and Fees Are Not Property of the Debtors' Estates.

10. Many of the Taxes and Fees are collected or withheld by the Debtors on behalf of the applicable Governmental Authorities and are held in trust by the Debtors. *See, e.g.*, I.R.C. § 7501 (stating that certain Taxes and Fees are held in trust). As such, these Taxes and Fees are not property of the Debtors' estates under Bankruptcy Code section 541. *See, e.g.*, 11 U.S.C. § 541(d); *Begier v. IRS*, 496 U.S. 53, 57–60 (1990) (holding that any prepetition payment of trust fund taxes is not an avoidable preference because funds are not the debtor's property); *In re Shank*, 792 F.2d 829, 833 (9th Cir. 1986) (finding that sales tax required by state law to be

⁵ This estimate does not include any potential prepetition tax liability that may later come due as the result of an audit.

collected by sellers from their customers is a “trust fund” tax and not released by bankruptcy discharge); *DeChiaro v. New York State Tax Comm’n*, 760 F.2d 432, 435–36 (2d Cir. 1985) (same). To the extent these “trust fund” taxes are collected, they are not property of the Debtors’ estates under Bankruptcy Code section 541(d). See *In re Am. Int’l Airways, Inc.*, 70 B.R. 102, 104-05 (Bankr. E.D. Pa. 1987). Because the Debtors may not have an equitable interest in funds held on account of such “trust fund” taxes, the Debtors should be permitted to pay those funds to the Governmental Authorities as they become due.⁶

II. Payment of the Taxes and Fees as Provided Herein Is a Sound Exercise of the Debtors’ Business Judgment.

11. The Court may authorize the Debtors to pay the Taxes and Fees under Bankruptcy Code section 363(b)(1), which 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)(1). Under this section, a court may authorize a debtor to pay certain prepetition claims. See *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (affirming lower court order authorizing payment of prepetition wages pursuant to Bankruptcy Code section 363(b)). To do so, courts require that the debtor “show that a sound business purpose justifies such actions.” *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999) (citations omitted); see also *In re Phoenix Steel Corp.*, 82 B.R. 334, 335–36 (Bankr. D. Del. 1987). Moreover, “[w]here the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.” *In re Johns-Manville Corp.*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (citation omitted); see also *In re Tower Air, Inc.*, 416 F.3d 229, 238 (3d Cir.

⁶ For the avoidance of doubt, the Debtors hereby request authority to pay the Taxes and Fees as provided herein regardless of whether such Taxes and Fees constitute trust fund obligations.

2005) (stating that “[o]vercoming the presumptions of the business judgment rule on the merits is a near-Herculean task”).

12. This standard is satisfied here. The Debtors’ payment of the Taxes and Fees is critical to maintaining the value of the Debtors’ estates. If certain Taxes and Fees remain unpaid, Governmental Authorities may seek to impose penalties on the Debtors’ directors, officers, or employees, thereby distracting them from the administration of these Chapter 11 Cases. Any collection action on account of such penalties, and any ensuing liability, would distract the Debtors and their personnel to the detriment of all parties in interest. The dedicated and active participation of the Debtors’ officers and employees is essential to the orderly administration of these Chapter 11 Cases and maximizing the value of the Debtors’ estates for the benefit of their stakeholders.

13. Furthermore, the Debtors’ liability to pay the Taxes and Fees may ultimately result in increased tax liability for the Debtors if interest and penalties accrue on the tax claims. Many of the Taxes and Fees may be entitled to priority status pursuant to Bankruptcy Code section 507(a)(8)(C). As priority claims, these obligations must be paid in full before any general unsecured obligations of the Debtors may be satisfied. To the extent that the Debtors are unable to timely pay the prepetition Taxes and Fees, they may ultimately be required to pay those amounts with additional interest and penalties. The Debtors’ failure to pay the prepetition Taxes and Fees as they come due thus may ultimately increase the amount of priority claims held by the Governmental Authorities against the Debtors’ estates to the detriment of the Debtors’ general unsecured creditors. *See* 11 U.S.C. § 507(a)(8)(C), (G). Accordingly, the Court should grant the Debtors authority to pay, in their sole discretion, the prepetition Taxes and Fees as provided herein.

14. This Court has previously authorized payment of prepetition taxes under Bankruptcy Code section 363(b). *See, e.g., In re Hollander Sleep Products, LLC*, Case No. 19-11608 (MEW) (Bankr. S.D.N.Y. July 2, 2019) (authorizing debtors to pay prepetition taxes); *In re Windstream Holdings, Inc.*, Case No. 19-22312 (RDD) (Bankr. S.D.N.Y. Apr. 22, 2019) (same); *In re FULLBEAUTY Brands Holdings Corp.*, Case No. 19-22185 (Bankr. S.D.N.Y. Feb. 7, 2019) (RDD) (same); *In re Aegean Marine Petroleum Network Inc.*, Case No. 18-13374 (MEW) (Bankr. S.D.N.Y. Dec. 6, 2018) (same); *In re Nine West Holdings, Inc.*, Case No. 18-10947 (SCC) (Bankr. S.D.N.Y. May 7, 2018) (same).

III. Processing of Checks and Electronic Fund Transfers Should Be Authorized.

15. The Debtors have sufficient funds to pay the amounts described in this Motion during these Chapter 11 Cases, through anticipated access to cash collateral. In addition, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to an authorized payment in respect of the Taxes and Fees. Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently. Therefore, the Debtors respectfully request that the Court authorize and direct all applicable banks and other financial institutions (the "Banks"), when requested by the Debtors, to receive, process, honor, and pay any and all checks or wire transfer requests in respect of the relief requested in this Motion.

THE REQUIREMENTS OF BANKRUPTCY RULE 6003 ARE SATISFIED

16. 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.

RESERVATION OF RIGHTS

17. Nothing contained in this motion or any actions taken by the Debtors pursuant to relief granted in the Final Order is intended or should be construed as: (a) an admission as to the validity of any particular claim against a Debtor entity; (b) a waiver of the Debtors' rights to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this motion; (e) a request or authorization to assume any agreement, contract, or lease pursuant to Bankruptcy Code section 365; (f) a waiver or limitation of the Debtors' rights under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to this motion are valid, and the Debtors expressly reserve their rights to contest the extent, validity, or perfection or seek avoidance of all such liens. If the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any particular claim or a waiver of the Debtors' rights to subsequently dispute such claim.

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

18. 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).

MOTION PRACTICE

19. 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

20. 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 Governmental Authorities; (g) the Internal Revenue Service; (h) the United States Attorney for the Southern District of New York; and (i) 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

21. 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 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 sole discretion, to remit and pay certain accrued and outstanding prepetition taxes, including sales and use taxes, franchise taxes, and similar taxes and fees in an amount up to the Taxes and Fees Cap, absent further order of the Court; and (b) 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> , ¹	)	Case No. 19-_____ (____)
)	
Debtors.	)	(Jointly Administered)
)	
_____	)	Re: Docket No. ____

**INTERIM ORDER (I) AUTHORIZING, BUT NOT DIRECTING,
THE PAYMENT OF CERTAIN PREPETITION TAXES
AND FEES AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² 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 to pay certain accrued and outstanding prepetition Taxes and Fees in an amount not to exceed the Taxes and Fees Cap, absent further order of the Court; and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having 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 District of New York*, dated January 31, 2012; and this Court having the power to enter a final order consistent with Article III of the United States Constitution; and this Court having found that the Debtors’ notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested

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 otherwise defined herein have the meanings ascribed to such terms in the Motion.

therein at a hearing before this Court (the “Hearing”); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT:**

1. The Motion is granted on an interim basis as set forth herein.

2. The final hearing (the “Final Hearing”) on the Motion shall be held on _____, 2019, at __:__ .m., (ET). 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 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. The Debtors are authorized, but not directed, to pay or remit, in their sole discretion, and upon reasonable notice to BP Energy Company, the Taxes and Fees accrued prior to the Petition Date that will become payable during the pendency of these Chapter 11 Cases in an amount not to exceed \$2.3 million, on an interim basis, at such time when the Taxes and Fees are payable.

4. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the

validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors' right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to Bankruptcy Code section 365; (f) a waiver or limitation of the Debtors' rights or the rights of any other Person under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the Debtors expressly reserve their rights to contest the extent, validity, or perfection or seek avoidance of all such liens.

5. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized and directed to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order.

6. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these Chapter 11 Cases with respect to prepetition amounts owed in connection with any Taxes and Fees.

7. 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).

8. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

9. 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 Rules are satisfied by such notice.

10. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

11. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

12. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and 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**

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

**FINAL ORDER (I) AUTHORIZING, BUT NOT DIRECTING,
THE PAYMENT OF CERTAIN PREPETITION TAXES
AND FEES AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of a final order (this “Final Order”): (a) authorizing, but not directing, the Debtors to pay certain accrued and outstanding prepetition Taxes and Fees in an amount not to exceed the Taxes and Fees Cap, absent further order of the Court; and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having 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 District of New York*, dated January 31, 2012; and this Court having the power to enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding 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;

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 otherwise defined herein have the meanings ascribed to such terms in the Motion.

and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on a final basis as set forth herein.
2. The Debtors are authorized, but not directed, to pay or remit, in their sole discretion, the Taxes and Fees accrued prior to the Petition Date that will become payable during the pendency of these Chapter 11 Cases in an amount not to exceed \$4.3 million, absent further order of the Court, at such time when the Taxes and Fees are payable.
3. Notwithstanding the relief granted in this Final Order and any actions taken pursuant to such relief, nothing in this Final Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors' right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Final Order or the Motion; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to Bankruptcy Code section 365; (f) a waiver or limitation of the Debtors' rights or the rights of any other Person under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the Debtors

expressly reserve their rights to contest the extent, validity, or perfection or seek avoidance of all such liens.

4. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized and directed to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Final Order.

5. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these Chapter 11 Cases with respect to prepetition amounts owed in connection with any Taxes and Fees authorized to be paid pursuant to this Final Order.

6. Notwithstanding anything to the contrary contained in this Final Order or in the Motion, any payment, obligation, or other relief authorized by this Final 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 Final Order and a Financing Order, the terms of the applicable Financing Order shall control (solely to the extent of such conflict).

7. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

8. 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 Rules are satisfied by such notice.

9. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

10. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

11. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.

Dated: _____, 2019
White Plains, New York

THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

Exhibit C

List of Governmental Authorities

Governmental Authority	Type of Tax
CA Department of Tax and Fee Administration	Sales Tax
City and County of San Francisco	Utility User Tax
City Of Albany	Utility User Tax
City of Albany (NY)	Utility User Tax
City Of Alhambra	Utility User Tax
City of Amsterdam	Utility User Tax
City Of Arcadia	Utility User Tax
City of Auburn	Utility User Tax
City of Beacon	Utility User Tax
City Of Benicia	Utility User Tax
City Of Berkeley	Utility User Tax
City of Binghamton	Utility User Tax
City of Buffalo	Utility User Tax
City of Canajoharie	Utility User Tax
City of Canandaigua	Utility User Tax
City of Catskill	Utility User Tax
City Of Ceres	Utility User Tax
City of Chestnut Ridge	Utility User Tax
City Of Chico	Utility User Tax
City Of Citrus Heights	Utility User Tax
City of Cobleskill	Utility User Tax
City of Cohoes	Utility User Tax
City Of Cortland	Utility User Tax
City Of Covina	Utility User Tax
City Of Daly City	Utility User Tax
City of Dunkirk	Utility User Tax
City of East Aurora	Utility User Tax
City Of East Palo Alto	Utility User Tax
City Of El Cerrito	Utility User Tax
City Of Elk Grove	Utility User Tax
City of Elmira	Utility User Tax
City of Elmsford	Utility User Tax
City of Emeryville	Utility User Tax
City Of Fairfield	Utility User Tax
City of Fulton	Utility User Tax
City of Glen Cove	Utility User Tax
City of Glens Falls	Utility User Tax
City of Gloversville	Utility User Tax
City of Greenwood Lake	Utility User Tax
City of Hawthorne	Utility User Tax
City Of Hayward	Utility User Tax

City Of Hercules	Utility User Tax
City of Hermosa Beach	Utility User Tax
City of Hudson	Utility User Tax
City of Huntington Park	Utility User Tax
City Of Inglewood	Utility User Tax
City Of Irvine	Utility User Tax
City of Ithaca	Utility User Tax
City of Johnstown	Utility User Tax
City of Kenmore	Utility User Tax
City of Kingston	Utility User Tax
City of Little Falls	Utility User Tax
City of Lockport	Utility User Tax
City of Long Beach	Utility User Tax
City of Long Beach - CA	Utility User Tax
City of Middletown	Utility User Tax
City Of Modesto	Utility User Tax
City Of Monterey	Utility User Tax
City of Mount Vernon	Utility User Tax
City of New Rochelle	Utility User Tax
City Of Newark	Utility User Tax
City of Newburgh	Utility User Tax
City of Niagara Falls	Utility User Tax
City of North Tonawanda	Utility User Tax
City Of Norwalk	Utility User Tax
City Of Oakland	Utility User Tax
City of Ogdensburg	Utility User Tax
City of Olean	Utility User Tax
City of Oneida	Utility User Tax
City of Oswego	Utility User Tax
City of Palm Springs	Utility User Tax
City of Peekskill	Utility User Tax
City Of Piedmont	Utility User Tax
City Of Port Hueneme	Utility User Tax
City of Port Jervis	Utility User Tax
City Of Porterville	Utility User Tax
City of Rancho Cordova	Utility User Tax
City Of Redwood City	Utility User Tax
City of Rensselaer	Utility User Tax
City Of Rialto	Utility User Tax
City Of Richmond	Utility User Tax
City of Rochester	Utility User Tax
City of Rome	Utility User Tax
City of Rye	Utility User Tax
City Of Sacramento	Utility User Tax
City Of Salinas	Utility User Tax

City of San Bernardino	Utility User Tax
City Of San Jose	Utility User Tax
City of San Leandro	Utility User Tax
City of San Luis Obispo	Utility User Tax
City Of San Pablo	Utility User Tax
City of Sands Point	Utility User Tax
City Of Santa Ana	Utility User Tax
City Of Santa Barbara	Utility User Tax
City Of Santa Cruz	Utility User Tax
City of Santa Rosa	Utility User Tax
City of Saratoga Springs	Utility User Tax
City of Scotts Valley	Utility User Tax
City Of Soledad	Utility User Tax
City of Stockton-UE	Utility User Tax
City of Stockton-UG	Utility User Tax
City of Syracuse	Utility User Tax
City of Troy	Utility User Tax
City of Utica	Utility User Tax
City of Vallejo	Utility User Tax
City of Voorheesville	Utility User Tax
City of Watertown	Utility User Tax
City of Watervliet	Utility User Tax
City of White Plains	Utility User Tax
City of Winters	Utility User Tax
City of Yonkers	Utility User Tax
Comptroller of Maryland	Sales Tax
Comptroller of Public Accounts (TX)	Sales Tax Gross Receipts Tax
County of Alameda	Utility User Tax
County of Sacramento	Utility User Tax
CT Department of Revenue Services	Sales Tax
DC Office of Tax and Revenue	Sales Tax
Delaware Division of Revenue	Sales Tax
Department of Revenue (PA)	Sales Tax Gross Receipts Tax
Department of the Treasury (NJ)	Sales Tax
Division of Taxation (RI)	Sales Tax
Georgia Department of Revenue	Sales Tax
Illinois Department of Revenue	Sales Tax
Internal Revenue Services	Income Tax
Incorporated Village of Massapequa Park	Utility User Tax
Incorporated Village of Matinecock	Utility User Tax
Los Angeles County	Utility User Tax
Maine Revenue Services	Sales Tax
Massachusetts Department of Revenue	Sales Tax

NYS Department of Taxation and Finance	Sales Tax
Ohio Department of Taxation	Sales Tax
The Village of Port Washington North	Utility User Tax
Town East Hampton	Utility User Tax
Town of Babylon	Utility User Tax
Town of Batavia	Utility User Tax
Town of Caledonia	Utility User Tax
Town of Clayton	Utility User Tax
Town of Colonie	Utility User Tax
Town of Dryden	Utility User Tax
Town of Fishkill	Utility User Tax
Town of Fort Ann	Utility User Tax
Town of Goshen	Utility User Tax
Town of Greenwich	Utility User Tax
Town of Hamburg	Utility User Tax
Town of Haverstraw	Utility User Tax
Town of Lewiston	Utility User Tax
Town of Manlius	Utility User Tax
Town of Monroe	Utility User Tax
Town of North Collins	Utility User Tax
Town of Poughkeepsie	Utility User Tax
Town of Schaghticoke	Utility User Tax
Town of Schoharie	Utility User Tax
Town of Skaneateles	Utility User Tax
Town of Southampton	Utility User Tax
Town of Tonawanda	Utility User Tax
Town of Tully	Utility User Tax
Village of Airmont	Utility User Tax
Village of Altamont	Utility User Tax
Village of Amityville	Utility User Tax
Village of Ardsley	Utility User Tax
Village of Ballston Spa	Utility User Tax
Village of Bayville	Utility User Tax
Village of Bellport	Utility User Tax
Village of Blasdell	Utility User Tax
Village of Briarcliff Manor	Utility User Tax
Village of Brightwaters	Utility User Tax
Village of Bronxville	Utility User Tax
Village of Canastota	Utility User Tax
Village of Cedarhurst	Utility User Tax
Village of Chester	Utility User Tax
Village of Croton on Hudson	Utility User Tax
Village of Depew	Utility User Tax
Village of Dobbs Ferry	Utility User Tax
Village of East Rockaway	Utility User Tax

Village of East Syracuse	Utility User Tax
Village of Ellenville	Utility User Tax
Village of Farmingdale	Utility User Tax
Village of Floral Park	Utility User Tax
Village of Fort Edward	Utility User Tax
Village of Fort Plain	Utility User Tax
Village of Fredonia	Utility User Tax
Village of Freeport	Utility User Tax
Village of Garden City	Utility User Tax
Village of Grand View-on-Hudson	Utility User Tax
Village of Great Neck	Utility User Tax
Village of Great Neck Estates	Utility User Tax
Village of Great Neck Plaza	Utility User Tax
Village of Harrison	Utility User Tax
Village of Hastings-on-Hudson	Utility User Tax
Village of Hempstead	Utility User Tax
Village of Herkimer	Utility User Tax
Village of Highland Falls	Utility User Tax
Village of Hillburn	Utility User Tax
Village of Hoosick Falls	Utility User Tax
Village of Hudson Falls	Utility User Tax
Village of Interlaken	Utility User Tax
Village of Irvington	Utility User Tax
Village of Kaser	Utility User Tax
Village of Kiryas Joel	Utility User Tax
Village of Lake George	Utility User Tax
Village of Lake Grove	Utility User Tax
Village of Lancaster	Utility User Tax
Village of Larchmont	Utility User Tax
Village of Lawrence	Utility User Tax
Village of Lindenhurst	Utility User Tax
Village of Liverpool	Utility User Tax
Village of Lowville	Utility User Tax
Village of Lynbrook	Utility User Tax
Village of Malverne	Utility User Tax
Village of Mamaroneck	Utility User Tax
Village of Medina	Utility User Tax
Village of Middleburgh	Utility User Tax
Village of Mineola	Utility User Tax
Village of Montebello	Utility User Tax
Village of Monticello	Utility User Tax
Village of Mount Kisco	Utility User Tax
Village of New Hempstead	Utility User Tax
Village of New Hyde Park	Utility User Tax
Village of New Paltz	Utility User Tax

Village of New Square	Utility User Tax
Village of North Collins	Utility User Tax
Village of North Hills	Utility User Tax
Village of Northport	Utility User Tax
Village of Norwood	Utility User Tax
Village of Nyack	Utility User Tax
Village of Ossining	Utility User Tax
Village of Patchogue	Utility User Tax
Village of Pelham	Utility User Tax
Village of Pelham Manor	Utility User Tax
Village of Philmont	Utility User Tax
Village of Piermont	Utility User Tax
Village of Pleasantville	Utility User Tax
Village of Poland	Utility User Tax
Village of Pomona	Utility User Tax
Village of Port Chester	Utility User Tax
Village of Port Jefferson	Utility User Tax
Village of Potsdam	Utility User Tax
Village of Richville	Utility User Tax
Village of Rockville Centre	Utility User Tax
Village of Rye Brook	Utility User Tax
Village of Sag Harbor	Utility User Tax
Village of Saint Johnsville	Utility User Tax
Village of Scarsdale	Utility User Tax
Village of Schenectady	Utility User Tax
Village of Scotia	Utility User Tax
Village of Sea Cliff	Utility User Tax
Village of Sharon Springs	Utility User Tax
Village of Silver Creek	Utility User Tax
Village of Sleepy Hollow	Utility User Tax
Village of Sloatsburg	Utility User Tax
Village of South Glens Falls	Utility User Tax
Village of South Nyack	Utility User Tax
Village of Speculator	Utility User Tax
Village of Springs Valley	Utility User Tax
Village of Springville	Utility User Tax
Village of Suffern	Utility User Tax
Village of Tarrytown	Utility User Tax
Village of The Branch	Utility User Tax
Village of Tuckahoe	Utility User Tax
Village of Upper Nyack	Utility User Tax
Village of Valley Stream	Utility User Tax
Village of Waddington	Utility User Tax
Village of Wappingers Falls	Utility User Tax
Village of Warwick	Utility User Tax

Village of Washingtonville	Utility User Tax
Village of Wellsville	Utility User Tax
Village of Wesley Hills	Utility User Tax
Village of West Haverstraw	Utility User Tax
Village of Westbury	Utility User Tax
Village of Westhampton Beach	Utility User Tax
Village of Williamsville	Utility User Tax
Village of Williston Park	Utility User Tax