**IN THE UNITED STATES BANKRUPTCY COURT**
**FOR THE DISTRICT OF DELAWARE**

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| In re | § | Chapter 11 |
| CUBIC ENERGY, INC. *et al.*[1] | § | Case No. 15-12500 |
| Debtors. | § | Joint Administration Pending |

**DECLARATION OF JON S. ROSS IN SUPPORT**
**OF FIRST DAY MOTIONS**

I, Jon S. Ross, declare as follows:

1. My name is Jon S. Ross. I am over the age of 21 years of age and am competent to make this declaration.

2. I am the Executive Vice President and Corporate Secretary for Cubic Energy, Inc. ("Cubic Energy"), a Texas corporation. Cubic Energy is the parent corporation of two wholly-owned limited liability company subsidiaries, Cubic Asset Holding, LLC, a Delaware limited liability company ("Cubic Asset Holding") and Cubic Louisiana Holding, LLC, a Delaware limited liability company ("Cubic Louisiana Holding"). Cubic Asset Holding is the parent entity of a wholly-owned subsidiary, Cubic Asset, LLC, a Delaware limited liability company ("Cubic Asset", and collectively, with Cubic Asset Holding and Cubic Energy, the "Cubic Asset Debtors"). Cubic Louisiana Holding is the parent entity of a wholly-owned subsidiary, Cubic Louisiana, LLC, a Delaware limited liability company ("Cubic Louisiana", and

[1] The Debtors in these chapter 11 cases and the last four digits of each Debtor's taxpayer identification number are as follows: Cubic Energy, Inc. (2095), Cubic Asset Holding, LLC (3106), Cubic Asset LLC (7565), Cubic Louisiana Holding, LLC (0729), and Cubic Louisiana LLC (1412).

collectively, with Cubic Louisiana Holding, the "Cubic Louisiana Debtors"). A chart setting forth the Debtors' current organization structure is attached hereto as Exhibit A.

3. On November 1, 2015, (the "Petition Date"), Cubic Energy, Cubic Asset Holding, Cubic Asset, Cubic Louisiana Holding, and Cubic Louisiana (collectively, the "Debtors") filed voluntary petitions in this Court for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").

4. I am familiar with the day-to-day operations, business affairs, and books and records of the Debtors.

5. To minimize the adverse effects on the Debtors related to the filing of these chapter 11 proceedings, and to avoid irreparable harm that might be caused by the inability of the Debtors to take certain actions as a result of the filings, the Debtors are filing a number of motions requesting various types of "first day" relief (collectively, the "First Day Motions"). I am familiar with the contents of each First Day Motion, and I believe that the relief sought in each First Day Motion is necessary to prevent irreparable harm to the Debtors and is critical to the Debtors' chances for a successful reorganization.

6. I submit this declaration (the "Declaration") in support of the First Day Motions. Except as otherwise indicated, all statements set forth in the Declaration are based upon (i) my personal knowledge, (ii) documents and other information prepared or collected by other members of the Debtors' management, their employees, or their professionals, (iii) my review of relevant documents, and/or (iv) my opinion based upon my experience and knowledge of the Debtors' operations and financial condition.

7. If I were called upon to testify, I could and would testify competently to the facts set forth herein based upon my personal knowledge, review of documents, or opinion. I am authorized to submit this Declaration on behalf of the Debtors.

## OVERVIEW OF THE DEBTORS

### A. The Debtors' Business

8. The Debtors are independent energy companies engaged in the development and production of, and exploration for, crude oil, natural gas and natural gas liquids. The Debtors' oil and gas assets are located in Texas and Louisiana. The Debtors historically have strived to maintain a balanced portfolio of drilling opportunities that range from lower risk, field extension wells, to the smaller scale pursuit of appropriate, higher risk, high reserve potential prospects. The Debtors also focus on exploration opportunities that can benefit from advanced technologies designed to reduce risks and increase success rates.

9. As of the Petition Date, the Debtors have nine (9) employees, all employed by Cubic Energy. In light of their limited staff, the Debtors do not operate their oil and gas properties. Instead, such properties are operated and managed under the terms of joint operating agreements, which provide for the compensation and reimbursement of the person serving as operator for the properties. Approximately 18% of the Debtors' net acreage is operated and managed by unaffiliated third parties. The remainder of the Debtors' net acreage is operated by Fossil Operating, Inc. ("Fossil"), an affiliated non-debtor entity controlled by the Debtors' Chief Executive Officer, Calvin A. Wallen, III.

**B. Prepetition Secured Debts**

10. As of November 30, 2015, the Debtors had funded debt obligations of approximately $126.4 million, including indebtedness of approximately $96.5 million under the Prepetition Note Purchase Agreement, and $29.9 million under the WFEC Credit Agreement, as described more fully below.

**i. Prepetition Secured Notes**

11. Prior to the Petition Date, Cubic Energy issued secured notes in an aggregate principal amount of approximately $66,000,000 to various institutional purchasers (such purchasers, including their affiliates, the "Prepetition Secured Noteholders") pursuant to a Note Purchase Agreement dated October 2, 2013 (as amended, restated, supplemented or otherwise modified from time to time, the "Prepetition Note Purchase Agreement"). Specifically, pursuant to the Prepetition Note Purchase Agreement, $50,000,000 in 15.5% Senior Secured Notes due 2016 – Series A were issued ("Series A Notes"), along with $16,000,000 of 15.5% Senior Secured Notes – Series B, due 2016 ("Series B Notes", and together, with the Series A Notes, the "Prepetition Secured Notes").

12. Wilmington Trust National Association serves as noteholder agent and collateral agent for the benefit of the Prepetition Secured Noteholders (the "Prepetition Secured Notes Agent," and together, with the Prepetition Secured Noteholders, the "Prepetition Secured Notes Parties").

13. As of November 30, 2015, each Debtor believes that it was indebted and liable to the Prepetition Secured Noteholders for all of the obligations or indebtedness of

the Debtors under the Prepetition Secured Notes and other documents executed in connection therewith (collectively, the "Prepetition Secured Notes Documents"), whether for principal, interest, fees, expenses, prepayment premium, indemnification or otherwise (the "Prepetition Secured Notes Obligations"), including:

> (A) the aggregate principal amount of the Series A Notes equaling $52,147,578 (of which $50,000,000 is the original principal amount outstanding and $2,147,578 is the aggregate principal amount of additional Series A Notes issued as payment of payment-in-kind interest pursuant to the Prepetition Note Purchase Agreement);
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> (B) the aggregate principal amount of the Series B Notes equaling $16,687,220 (of which $16,000,000 is the original principal amount outstanding and $687,220 is the aggregate principal amount of additional Series B Notes issued as payment of payment-in-kind interest pursuant to the Prepetition Note Purchase Agreement); *plus*
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> (C) accrued and unpaid interest, and fees, expenses and other amounts chargeable to or otherwise reimbursable by the Debtors under the Prepetition Secured Notes Documents.

14. The Debtors believe that the Prepetition Secured Notes Obligations are unconditionally and irrevocably guaranteed by (A) Cubic Asset and Cubic Asset Holding and (B) Cubic Louisiana and Cubic Louisiana Holding.

15. The Debtors believe that the Prepetition Secured Notes Obligations owed to the Prepetition Secured Noteholders are secured by substantially all of the assets of the Cubic Asset Debtors, including (a) a first priority lien in favor of the Prepetition Secured Notes Parties on all real property, personal property and fixtures of the Cubic Asset Debtors (such security interests, including the Noteholders Cash Collateral (as defined below), and the setoff rights against the Cubic Asset Debtors as described in the Prepetition Secured Notes Documents or arising by operation of law, collectively, the "Prepetition Noteholder Collateral") and (b) a second priority lien in favor of the

Prepetition Secured Notes Parties on all of the real property, personal property and fixtures of the Cubic Louisiana Debtors (such security interests, including the WFEC Cash Collateral (as defined below) and the setoff rights against the Cubic Louisiana Debtors as described in the Prepetition Secured Notes Documents or arising by operation of law, collectively, the "Prepetition WFEC Collateral", and, together with the Prepetition Noteholder Collateral, the "Prepetition Collateral").

**ii. Wells Fargo Energy Capital Debt**

16. On the Petition Date, Cubic Louisiana was party to an Amended and Restated Credit Agreement dated October 2, 2013 executed by Cubic Louisiana, as borrower, and WFEC, as lender (the "WFEC Credit Agreement").

17. As of November 30, 2015, the Cubic Louisiana Debtors believe they were indebted and liable to WFEC for all obligations or indebtedness of the Cubic Louisiana Debtors under the WFEC Credit Agreement and other documents executed in connection therewith (collectively, the "WFEC Loan Documents") whether for principal, interest, fees, expenses, prepayment premium, indemnification or otherwise (the "Prepetition WFEC Obligations"), including:

> (A) accrued principal, unpaid interest, and fees, expenses and other amounts chargeable to or otherwise reimbursable by Debtors under the WFEC Loan Documents in an amount no less than $29,876,638.

18. The Debtors believe that the Prepetition WFEC Obligations are secured by a first priority lien on the assets constituting the Prepetition WFEC Collateral. The property of the Cubic Asset Entities, including their oil and gas properties, does not secure the Prepetition WFEC Obligations.

19. The Debtors believe that Cubic Louisiana's obligations under the WFEC

Credit Agreement are unconditionally and irrevocably guaranteed by Cubic Louisiana Holding.

**iii. Intercreditor Agreement Between the Prepetition Secured Notes Parties and WFEC**

20. The relationship among the Prepetition Secured Notes Parties and WFEC with respect to the Prepetition WFEC Collateral is subject to a First Lien/Second Lien Intercreditor Agreement, dated as of October 2, 2013, among WFEC, the Prepetition Secured Notes Agent, and the Cubic Louisiana Entities (the "Intercreditor Agreement"), which provides that, among things, the Prepetition Secured Notes Parties' liens on the Prepetition WFEC Collateral are subordinated to WFEC's liens on such collateral.

**iv. Claims of BP**

21. As of the Petition Date, certain Debtors were party to hedging arrangements (the "Hedging Arrangements") and call options (the "Call Options" and together with the Hedging Arrangements, the "Hedging and Call Option Arrangements") with BP Energy Company ("BP Energy"). In connection with the Hedging and Call Option Arrangements, the Debtors entered into various ISDA Master Agreements (the "Prepetition ISDA Master Agreements") and intercreditor agreements (the "BP Intercreditor Agreements", and together with the Prepetition ISDA Master Agreements and other ancillary documents relating to the Hedging and Call Option Arrangements, the "BP Documentation") with BP Energy.

22. The Debtors believe that under the BP Documentation BP Energy is entitled to a first lien claim against Cubic Asset, *pari passu* with the claims of the Prepetition Secured Noteholders, in respect of any amounts that would be owed under the Hedging Arrangements (i.e., if the Hedging Arrangements are "in the money" from the

perspective of BP Energy) and a second lien claim against Cubic Asset, junior to the claims of the Prepetition Secured Noteholders, in respect of amounts owed under the Call Options.

23. As of November 30, 2015, the Debtors believe that no material amounts are owed by Cubic Energy and the Cubic Asset Entities to BP Energy under the Hedging Arrangements. Because the Debtors believe that the value of the Cubic Asset Debtors' assets does not exceed the amount of first lien indebtedness owed to the Prepetition Secured Notes Parties, the Debtors also believe that to the extent any amounts are owed by Cubic Asset to BP Energy under the Call Options, any second liens by BP Energy against the Cubic Asset Debtors in respect of the Call Options have no value. As of November 30, 2015, there are no hedging, call option, or other derivative transactions in place between any Cubic Louisiana Entity and BP Energy, and accordingly, the Debtors believe that BP Energy has no claim against any Cubic Louisiana Entity.

24. As of the Petition Date, certain Debtors were party to an agreement for the purchase and sale of crude oil (the "Crude Agreement") with BP Products North America, Inc. ("BPPNA").

25. As of November 30, 2015, the Debtors believe that no material amounts are owed by Cubic Energy and the Cubic Asset Entities to BPPNA under the Crude Agreement.

**C. Equity**

26. As of the Petition Date, Cubic Energy had approximately 77,505,908 shares of common stock outstanding, which common shares are traded on a national over-the-counter market under the symbol "CBNR". In addition to common shares,

Cubic Energy also had issued and outstanding Series B Convertible Preferred Stock and Series C Redeemable Voting Preferred Stock issued and outstanding. There are also issued and outstanding Class A warrants to acquire approximately 65,834,549 shares of Cubic Energy common stock and issued and outstanding Class B warrants to acquire approximately 32,917,274 shares of Cubic Energy common stock.

**D. Events Leading to Chapter 11**

27. The Debtors, like many other independent oil and gas exploration and production companies, have been adversely impacted by the significant decline in oil and gas prices that began in 2014. The financial difficulties associated with the recent decline in oil and gas prices have been compounded by unexpected operational difficulties associated with certain of the Debtors' properties, including the failure of drilling contractors to properly complete well overhauls that should have increased the Debtors' productive capacity and the last minute withdrawal by a third party from an acquisition opportunity that the Debtors believe would have significantly enhanced the Debtors' cash flow and allowed them to take advantage of certain cost savings and production economies of scale. These financial and operational factors have materially impaired the Debtors' ability to service their significant prepetition debts owed to WFEC and the Prepetition Secured Noteholders and also significantly impaired the value of the Debtors' productive assets. In turn, these factors have prevented the Debtors from finding potential investors willing to refinance the Debtors' obligations to WFEC or the Prepetition Secured Noteholders.

28. Prior to commencing these bankruptcy cases, the Debtors retained two prominent investment advisory firms, Global Hunter Securities ("GHS") and Houlihan

Lokey Capital, Inc. ("Houlihan"), to identify potential transactions that would allow the Debtors to repay or refinance their significant prepetition indebtedness. However, neither firm was able to identify such a transaction.

29. The Debtors retained GHS midway through 2014 (at a time when prevailing oil and gas prices were significantly higher than they are today) to locate beneficial opportunities to sell the Debtors' assets or refinance their secured debts owed to the Prepetition Noteholders and WFEC. To that end, GHS reached out to hundreds of potential candidates for a sale or refinancing transaction. However, of the hundreds of parties contacted during 2014, only a small handful of such parties expressed any interest in a sale or refinancing transaction, and no parties expressed any interest in a transaction that would satisfy or refinance the Debtors' significant prepetition secured debts.

30. The Debtors resumed their efforts to identify a beneficial sale or refinancing transaction in 2015 with a new investment advisor, Houlihan. Houlihan again reached out to dozens of potential transaction partners, including parties initially identified as part of GHS' efforts and additional parties identified by Houlihan. However, at the time Houlihan undertook such efforts, prevailing oil and gas prices had fallen significantly below the levels existing during GHS' search for a restructuring transaction partner. Houlihan's efforts again yielded only a small handful of parties interested in any restructuring transaction. However, the transactions proposed by such parties were premised upon even lower valuations than those identified by GHS during 2014, which valuations were far below the amounts owed to the Debtors' prepetition secured creditors.

**E. The Plan and Plan Support Agreement**

31. Because the Debtors' year-long search for restructuring alternatives with two different investment bankers failed to identify any potential alternative transactions that would refinance or satisfy the Debtors' secured debts, the Debtors believe that the value of their assets is significantly less than the amount of their prepetition secured debts. Further, without a definitive transaction partner for repaying or refinancing their prepetition debts, the Debtors did not believe they had a viable method of restructuring their prepetition debts in light of the meaningful impairment of their asset values and cash flows. Consequently, the Debtors, in conjunction with WFEC, the Prepetition Secured Noteholders, and BP Energy developed and proposed a consensual, prepackaged chapter 11 plan of reorganization (the "Chapter 11 Plan").

32. The restructuring transactions contemplated in the Chapter 11 Plan will, among other things, convert the claims of WFEC into equity interests constituting ownership and control of Cubic Louisiana and/or Cubic Louisiana Holding and the claims of the Prepetition Secured Noteholders into new senior notes and equity interests constituting ownership and control of the other reorganized Debtors. The Plan has the support of the Debtors' primary creditors, having been approved by both WFEC and the Prepetition Secured Noteholders, as well as counterparties to all of the Debtors' hedging and other derivative contracts.

33. The Debtors believe that the Chapter 11 Plan will preserve the value of the Debtors' assets for the benefit of their creditors and prevent the destruction of "going concern" value that could occur in a disorderly liquidation. Consequently, the Debtors

commenced these cases on the Petition Date, with the goal of expediently confirming and consummating their prepackaged Chapter 11 Plan.

34. In connection with their formulation of the Chapter 11 Plan, the Debtors entered into a Plan Support Agreement with their other key creditor constituencies (the "Supporting Creditors"), including the Prepetition Secured Notes Parties, WFEC, and BP Energy (such agreement, the "Plan Support Agreement").

35. The Plan Support Agreement binds the parties thereto to implement a series of steps and transactions necessary to restructure the Debtors' prepetition debts through confirmation of the Chapter 11 Plan, which will transfer control of the applicable reorganized Debtors to each of the Prepetition Noteholders and Wells Fargo.

36. The Plan Support Agreement requires the Debtors to take or forego certain actions in order to further confirmation of the Chapter 11 Plan including, without limitation, filing these Chapter 11 Cases and accompanying First Day Motions, obtaining entry of orders approving the Cash Collateral Motion and other First Day Motions, obtaining entry of an order confirming the Chapter 11 Plan within sixty (60) days of the Petition Date, stipulating to the nature, existence and validity of the liens securing the Prepetition Secured Notes Parties and WFEC's claims against the Debtors, and taking other actions consistent with expedient confirmation of the Plan.

37. The Debtors' obligations under the Plan Support Agreement are qualified by certain provisions preserving the Debtors' ability to act in accordance with their fiduciary duties and pursue a Firm Alternative Transaction (as defined in the Plan Support Agreement) to the contemplated restructuring.

38. The Supporting Creditors are also required to take certain actions in furtherance of confirmation of the Chapter 11 Plan, including, without limitation, voting for the Chapter 11 Plan, consenting to the Debtors' use of Cash Collateral, funding certain employee severance claims, refraining from trading their claims against the Debtors to any person not party to the Plan Support Agreement, and taking other actions consistent with expedient confirmation of the Plan.

39. The Plan Support Agreement requires the Debtors to file a motion to assume the Plan Support Agreement promptly after the commencement of their bankruptcy proceedings. Assumption of the Plan Support Agreement is critical to the Debtors' success in obtaining approval of the Chapter 11 Plan and expeditiously emerging from chapter 11 to the benefit of the Debtors' creditors and their estates.

40. The Debtors entered into the Plan Support Agreement after months of intense negotiations with creditors and an exhaustive process that included input and direction from the Debtors' experienced restructuring professionals, including two prominent investment advisory firms, GHS and Houlihan. Because the Debtors' year-long search for restructuring alternatives failed to identify any potential alternative transactions that would refinance or satisfy the Debtors' secured debts, the Debtors believe that the restructuring contemplated by the Plan Support Agreement is the best possible alternative under the circumstances. Importantly, however, in the event that a better alternative to the proposed Chapter 11 Plan were to present itself, the Plan Support Agreement provides that the Debtors may pursue a Firm Alternative Transaction.

41. The Plan Support Agreement is the product of extensive, arms-length negotiations among the Debtors, the Supporting Creditors, and the other parties thereto,

each of whom had separate, sophisticated legal counsel and advisors. Assumption of the Plan Support Agreement is necessary in order to ensure that the support of the Debtors' secured creditors throughout the plan process, and thus, will help expedite and facilitate the Debtors' restructuring efforts during these Chapter 11 Cases.

## FIRST DAY MOTIONS

### F. Motion for Joint Administration

42. By the Debtors' *Motion for Joint Administration of Bankruptcy Cases* (the "Joint Administration Motion"), the Debtors seek entry of an order directing the joint administration of their Chapter 11 cases (the "Chapter 11 Cases") and the consolidation thereof for procedural purposes only.

43. The Debtors believe that joint administration of their bankruptcy cases is proper. Cubic Energy is the sole shareholder and ultimate parent company of all Debtors, holding its interest in the operating entities, Cubic Asset and Cubic Louisiana through intermediate holding companies, Cubic Asset Holding and Cubic Louisiana Holdings.

44. The Debtors seek to restructure the debt and equity positions against all of the Debtors in their prepackaged Chapter 11 Plan. As a result, the relief sought will pertain to all of the Debtors, and it will be inefficient for all parties to require the Debtors to file and serve identical motions in each of the five cases and to have interested parties file responses to those pleadings in five cases. The Debtors also believe that the entry of an order directing joint administration of the Chapter 11 Cases will serve to reduce fees and costs by avoiding the time and expense associated with multiple, duplicative docketing tasks and service.

45. The Debtors do not believe that the rights of the respective creditors of the Debtors will be adversely affected by joint administration of these cases since the relief sought in the Joint Administration Motion is purely procedural and is in no way intended to affect substantive rights. Schedules of Assets and Liabilities and Statements of Financial Affairs will be filed on a debtor-by-debtor basis to provide parties in interest information regarding the assets and liabilities of each Debtor, and the Debtors have requested that proofs of claim will also be filed on a debtor-by-debtor basis.

**G. Motion to Retain Prime Clerk LLC as Claims and Noticing Agent**

46. The Debtors request entry of an order authorizing the retention of Prime Clerk LLC (the "Claims Agent") as their claims and noticing agent in these Chapter 11 Cases. I believe that the retention of the Claims Agent is in the best interest of the Debtors and their estates, and that retention of the Claim Agent will ease the administrative burden on the clerk of the court in connection with the Debtors' bankruptcy proceedings.

**H. Agreed Motion for Cash Collateral Use**

47. The Debtors have filed their *Motion for Entry of Interim and Final Agreed Orders (I) Authorizing the Debtors to Use Cash Collateral, (II) Granting Adequate Protection, and (III) Scheduling a Final Hearing* (the "Cash Collateral Motion"). Capitalized terms not otherwise defined in this section "H" shall have the meanings ascribed to them in the Cash Collateral Motion.

48. Through the Cash Collateral Motion, the Debtors respectfully request that the Court approve, on an interim and final basis, the Debtors' use of: (i) the cash constituting Prepetition Noteholder Collateral and the proceeds, products, rents, or profits

of property of Prepetition Noteholder Collateral (collectively, the "Noteholder Cash Collateral"); and (ii) the cash constituting Prepetition WFEC Collateral and the proceeds, products, rents, or profits of property of the Prepetition WFEC Collateral (the "WFEC Cash Collateral, with the Noteholder Cash Collateral, the "Cash Collateral").

49. The Debtors' use of Cash Collateral will be conditioned on terms further set forth in the Cash Collateral Motion, including, without limitation, compliance with an approved budget. The Debtors believe that the Prepetition Secured Noteholders, WFEC, and BP Energy are the only prepetition creditors with any potential interest in Cash Collateral. All such creditors have consented to the Debtors' usage of Cash Collateral on the terms set forth in the Cash Collateral Motion. The Debtors require access to and use of the Prepetition Collateral, including the Cash Collateral, in the ordinary course of business to avoid immediate and irreparable harm to their estates. The Debtors' exclusive funding source will be cash generated from prepetition and postpetition operations.

50. Access to the Prepetition Collateral, including the Cash Collateral, is needed to fund working capital, to pay for administrative costs and for other general corporate purposes, as described in the budget attached to each of the proposed interim orders submitted with the Cash Collateral Motion. The ability of the Debtors to satisfy their expenses as and when due is essential to their ability to continue operating during the pendency of these Chapter 11 proceedings and to preserving their businesses as going concerns.

51. Through the Cash Collateral Motion, the Debtors request that each of the Prepetition Secured Noteholders and WFEC receive adequate protection, to the extent of

diminution in value in their respective Prepetition Noteholder Collateral and Prepetition WFEC Collateral, in the form of replacement liens and superpriority claims (which liens and superpriority claims will be subject to the Carve-Out, and any liens that were senior to the liens securing the respective debts owed to such parties on the Petition Date).

52. In the event the Debtors are denied access to Cash Collateral, the Debtors would have insufficient liquidity to continue their operations, forcing them to suspend business operations. Such a suspension of operations would cause the Debtors to suffer irreparable harm and reduce the value of the recovery realized by the Debtors' creditors and stakeholders.

**I. Motion to Approve Cash Management Procedures**

53. By the Debtors' *Motion for Interim and Final Orders (I) Authorizing Debtors to (A) Continue Using Existing Cash Management Procedures and (B) Maintain Existing Bank Accounts and Business Forms and (II) Granting Interim Waivers of Section 345(b) Requirements* (the "Cash Management Motion"), the Debtors seek Court approval to continue their prepetition cash management practices.

54. The Debtors maintain and utilize a master cash management system (the "Cash Management System") in the ordinary course of business to collect and transfer funds generated by their operations and to distribute funds in satisfaction of their financial obligations. The Cash Management System comprises a total of eight bank accounts (collectively, the "Bank Accounts"), the majority of which are maintained at or through the American National Bank of Texas ("ANB") as are more particularly described in the Cash Management Motion and listed on Exhibit A thereto. Within the Cash Management System, certain accounts are managed and administered for the benefit

the Cubic Asset Debtors and certain other accounts are managed and administered for the benefit of the Cubic Louisiana Debtors.

55. The majority of such Bank Accounts are maintained through ANB, in order to allow the Debtors to take advantage of a CDARS program. That program, administered by ANB, automatically allocates bank account funds among other institutions within a network in order to ensure that all funds are held in accounts in a amounts below the $250,000 maximum insurance threshold established by the Federal Deposit Insurance Corporation. Maintaining substantially all of their accounts at a single institution, ANB, also helps the Debtors simplify and streamline their cash management reporting and monitoring.

56. The Debtors' Cash Management System is designed to allow them to efficiently and effectively receive and process automated oil and gas revenues and payments with third parties that are necessary to maintain ongoing operations. Forcing the Debtors to change their Cash Management System and close and reopen new accounts could cause significant disruption to the automated revenue collections and cause funds otherwise payable to be lost or delayed in the transition.

57. I understand that the United States Trustee's operating guidelines mandate, absent intervening orders from the Court, closure of the Debtors' prepetition bank accounts, the opening of new accounts, including special accounts for the payment of taxes and segregation of cash collateral. Requiring the Debtors to close their existing Bank Accounts and open new accounts would impose a significant and unnecessary administrative burden upon the Debtors, who have already developed a fully-functioning cash management and accounting system tailored to efficiently receive and process

complex oil and gas receipts and disbursements. Such changes would also cause the Debtors to incur needless transaction fees associated with opening and closing bank accounts.

58. The Debtors believe that the continued maintenance of their accounts at ANB is in the best interests of their estates and stakeholders because (i) the Debtors earn a competitive rate of interest on the ANB accounts; and (ii) forcing the Debtors to close the ANB accounts would be costly, time consuming, and counterproductive to the expedient consummation of the Debtors' Chapter 11 Plan (which may be effective less than sixty (60) days after the Petition Date).

59. The Debtors recognize that applicable bankruptcy rules generally require debtors to either maintain all funds in an account insured or guaranteed by the United States of America (or a department or instrumentality thereof), or secure any uninsured funds with surety bonds and/or governmental securities. However, the Debtors believe that cause exists to waive such requirements in this case, and allow the Debtors to maintain balances in each of the Bank Accounts in excess of $250,000, given the relatively secure short term, interest bearing Bank Accounts used in the Debtors' Cash Management System, and the importance in expediently and efficiently consummating the Debtors' Chapter 11 Plan, which could be delayed if the Debtors were forced to abruptly re-engineer their Cash Management System.

**J. Motion Authorizing the Debtors to Pay Royalty, JIB, and Other Oil and Gas Production Obligations**

60. By the Debtors' *Motion for an Order (I) Authorizing the Debtors to Pay Prepetition and Postpetition Obligations on Account of Joint Interest Billings, Royalties, Overriding Royalty Interests, Pipeline Costs, and Severance Taxes (II) Authorizing Banks*

*to Honor and Process Related Checks and Electronic Transfers; and (III) Waiving Applicable Stays to Allow for Immediate Relief* (the "Royalty Motion"), the Debtors seek Court authorization to make certain payments crucial to maintaining their oil and gas leases and ongoing well operations.

61. To govern the relationship between the joint interest holders in a particular oil and gas lease, the persons with working interests in an oil and gas lease enter into joint operating agreements (each, an "Operating Agreement"), which memorialize the terms under which the revenues and costs from the lease will be split. An Operating Agreement will also designate the oil and gas lease's operator (an "Operator") — i.e., the party that assumes responsibility for the physical operation and control of a well. The Operator thus conducts the day-to-day business of producing oil and gas at the well site and initially covers the expenses incurred in respect of lease operations, on account of its working interest as well as the holders of the non-operating working interests, from whom the Operator then seeks repayment.

62. The other parties to an Operating Agreement each hold a non-operating working interest (a "Non-Operating Working Interest") in the leases. The Non-Operating Working Interest holders' primary obligation with respect to the lease is to pay their *pro rata* portion of the operating expenses to the Operator. The Non-Operating Working Interest Holders are billed for these "joint interest billings" (each a "JIB" and collectively, the "JIBs") on terms contained in the Operating Agreement.

63. The Debtors only hold Non-Operating Working Interests in their oil and gas leases, and the Operator for each of those leases is a non-debtor entity. As set forth above, approximately 82% of the Debtors' net acreage is operated by Fossil, a non-debtor

affiliate. The balance of the Debtors' oil and gas net acreage is operated by non-affiliated, third party operators.

64. From time-to-time, on account of their Non-Operating Working Interests, the Debtors receive invoices from Operators for the Debtors' proportionate share of JIBs for expenses like drilling and completion costs, as well as operating costs. Prior to the Petition Date, the Debtors' prepetition JIB billings typically totaled approximately $500,000 per month (of which approximately $350,000 is attributable to Cubic Asset and $150,000 is attributable to Cubic Louisiana). As of the Petition Date, the Debtors estimate that the total amount of prepetiiton JIBs outstanding is approximately $704,650 (of which approximately $604,500 is attributable to Cubic Asset and $100,150 is attributable to Cubic Louisiana) and that they will incur additional postpetition JIBs of approximately $581,100 (of which approximately $355,000 is attributable to Cubic Asset and $226,100 is attributable to Cubic Louisiana) through February 29, 2016.

65. However, many JIBs are not uniform and are not entirely predictable on a month-to-month basis. Failure to timely pay the JIBs may provide grounds for contractual lien rights or statutory lien rights in favor of the Operators against the Debtors' interest in the associated mineral lease or their pro rata portion of the production therefrom.

66. The Debtors own interests in certain oil and gas producing properties located in Louisiana and Texas (collectively, the "Leases"). Pursuant to these Leases and related agreements, the Debtors are obligated to remit to the lessors who own the oil and gas producing properties (collectively, the "Royalty Interest Owners") their share of the proceeds from the sale of the oil and gas production from the producing wells located on

their respective Leases or other Leases and properties pooled or unitized therewith, free of the expenses of production (collectively, the "Royalties").

67. Further, certain assignments of the Leases have created an interest in a share of the production from the producing wells located on the respective Leases or other Leases and properties pooled or unitized therewith, free of the expenses of production, that burden the Debtors' working interest in the Leases (collectively, the "Overriding Royalty Interests"). The Debtors are obligated to remit to the owners of the Overriding Royalty Interests (collectively, the "Overriding Royalty Interest Owners") the share of the proceeds attributable to the Overriding Royalty Interests.

68. The Debtors and the Operators are also responsible for the payment of severance taxes (the "Severance Taxes") to certain taxing authorities in Texas and Louisiana (the "Taxing Authorities") for the oil and gas production each month. Failure to pay the Severance Taxes when due could result in penalties, liens to secure payment of outstanding Severance Taxes and disruption of the Debtors' operations.

69. Certain of the Debtors' Leases (or rights to acquire Leases) relate to acreage upon which no producing well has yet been drilled. The Debtors are required to make delay rental payments and other periodic rental payments with respect to such properties that are not yet producing (and thus, not yet incurring any Royalty obligations) in order to ensure that they will retain the rights to such potentially valuable Leases, including the right to eventually drill a producing well and share in the production therefrom (such additional delay rental and retention payments, the "Lease Retention Payments"). Failure to remit such Lease Retention Payments could result in a loss of potentially valuable Lease rights.

70. Additionally, in connection with Cubic Asset's extraction of hydrocarbons from its Leases, Cubic Asset necessarily incurs certain costs associated with transporting such extracted hydrocarbons from the Leases via one or more pipelines. The costs associated with such pipeline transportation (collectively, the "Pipeline Costs") are essential to the operation and maintenance of the Leases, as without a mechanism to transport extracted oil and gas from the Leases, the Debtors could find themselves in default of Lease terms or other applicable oil and gas regulations. Further, failure to pay such Pipeline Costs could subject the Debtors' assets to one or more mechanics and materialmens' liens arising out of unpaid Pipeline Costs.

71. Amounts owed on account of the Royalties, the Overriding Royalty Interests, Lease Retention Payments, Pipeline Costs and the Severance Taxes (collectively, the "Interest Owner Payments") are paid by Debtors Cubic Asset and Cubic Louisiana, Fossil, and other third party operators, with Cubic Asset making Interest Owner Payments for certain properties located in Texas, Cubic Louisiana making certain Interest Owner Payments for certain properties located in Louisiana, and Fossil and other third party Operators making all other Interest Owner Payments.

72. Certain of the Debtors' Leases may contain termination provisions that provide for automatic termination in the event of a failure to pay required royalties or other Interest Owner Payments. Consequentially, it is essential that the Debtors remain current with their Interest Owner Payments, in order to prevent costly business disruptions or losses of any Lease rights.

73. Because of the time required to market and sell the oil and gas produced and the significant accounting process that must occur each month to ensure the accuracy

of the Interest Owner Payments, such Interest Owner Payments are generally paid more than thirty (30) days in arrears. Prior to the Petition Date, the Debtors' prepetition Interest Owner Payments typically totaled approximately $606,000 per month (of which approximately $600,000 is attributable to Cubic Asset and $6,000 is attributable to Cubic Louisiana). As of the Petition Date, the Debtors estimate that the total amount of prepetition Interest Owner Payment obligations is approximately $878,000 (of which approximately $856,000 is attributable to Cubic Asset and $22,000 is attributable to Cubic Louisiana) and that they will incur additional postpetition Interest Owner Payment obligations of approximately $656,000 (attributable to Cubic Asset) through February 29, 2016.

74. The Debtors believe that the total amount to be paid on account of the prepetition and postpetition Interest Owner Payments and JIBs is minimal compared to the importance and necessity of the Debtors' ongoing relationship with their oil and gas well operators and continued and uninterrupted receipt of operating income from the Leases. The Debtors believe payment of the Interest Owner Payments and JIBs at the early stage of these cases is warranted because the harm to the Debtors' estates and creditors that would likely result from nonpayment would exceed the amount of such claims by a significant margin.

75. Any uncertainty resulting from (or liens arising as a result of) the failure to timely remit prepetition and postpetition Interest Owner Payments could severely impair the Debtors' business operations. Such uncertainty could require the Debtors to engage in costly and time consuming litigation to resolve Interest Owner claims, even as competing liens or other relief sought by the Interest Holders could suspend or delay

Lease production payments that the Debtors need to finance their ongoing business operations.

76. Failure to timely pay prepetition and postpetition JIBs could jeopardize the Debtors' ability to receive continued service from their Operators and incoming cash flow. Because the Debtors depend on their Operators for their incoming cash flow, any disputes or interruptions in Operator service could have disastrous effects on their business operations and cash flows. Payment of the JIBs is also necessary to ensure a steady and continued revenue stream from the Operators and maintain strong working relationships with these important business contractors both during and after the pendency of the Debtors' bankruptcy proceedings.

77. Failure to timely pay JIBs owed by the Debtors could result in their well operators asserting lien rights upon the Debtors' working interests in the Leases or the production therefrom. Such operator liens could severely impair the Debtors' cash flow at a time that it is most needed.

**K. Motion to Provide Adequate Assurance to Utilities**

78. The Debtors have filed their *Motion for Entry of Interim and Final Orders (I) Prohibiting Utilities from Altering, Refusing, or Discontinuing Services on Account of Pre-Petition Invoices, (II) Deeming Utilities Adequately Assured of Future Performance, and (III) Establishing Procedures for Determining Adequate Assurance of Payment* (the "Utility Motion"), through which they seek to establish a protocol for providing adequate assurance to each of their utility providers.

79. In the ordinary course of their businesses, the Debtors regularly incur utility expenses for telephone, electric, gas, water, sewer, waste management, and other

similar services (the "Utility Services," and each a "Utility Service"). The Debtors' aggregate average monthly cost for utility services is approximately $4,500.00. The utility services are provided by approximately eight utility companies (the "Utility Providers"). A list of these Utility Providers is attached as Exhibit A to the Utility Motion.

80. Uninterrupted access to Utility Services is critical to the Debtors' ongoing operations. Should any Utility Provider refuse or discontinue a Utility Service even for a brief period of time, the Debtors' operations and administrative functions would be severely disrupted.

81. As adequate assurance of future payment to the Utility Providers, the Debtors propose to deposit cash in an amount equal to the approximate aggregate cost of two weeks of utility service from the Utility Providers calculated as an historical average for the three months most-recently billed prior to the Petition Date, or $4,500.00 (the "Adequate Assurance Deposit"), into a newly-created, segregated account (the "Utility Account") within twenty (20) days of the Petition Date, which Utility Account may be used to satisfy unpaid, postpetition Utility Provider claims. The Adequate Assurance Deposit may be reduced by any amount allocated to a given Utility Provider to the extent the Debtors and such Utility Provider agree to provide such Utility Provider with an alternate form of adequate assurance in accordance with the Adequate Assurance Procedures set forth in the Utility Motion.

82. The Debtors submit that their proposed adequate assurance constitutes sufficient adequate assurance of future payment to the Utility Providers to satisfy the requirements of Bankruptcy Code § 366. If any Utility Provider believes additional

adequate assurance is required, it may request such assurance pursuant to the procedures set forth in the Utility Motion.

### L. Emergency Motion to Restrict Equity Trading and Preserve Net Operating Losses

83. The Debtors have filed their *Motion for Entry of an Order (I) Establishing Notification Procedures and Approving Restrictions on Certain Transfers of Equity Interests in the Debtors' Estates and (II) Scheduling a Final Hearing* (the "NOL Motion"), through which they seek authority to restrict trading in the Debtors' equity interests in order to prevent an inadvertent ownership transfer that could impair the Debtors' ability to preserve and utilize potentially valuable tax net operating losses.

84. The Debtors estimate that, as of June 30, 2015, they had consolidated federal income tax net operating losses ("NOLs") of approximately $85 million.[2] Because the Internal Revenue Code permits corporations to carry forward NOLs to offset future income, thereby reducing such corporations' tax liability in future periods, the Debtors believe that their consolidated NOLs are valuable assets of their estates.

85. I have been advised that the Debtors could lose the ability to use their NOLs if they experience an "ownership change" for federal income tax purposes. I have been advised that the use of NOLs is subject to certain statutory limitations. Section 382 of the Internal Revenue Code ("IRC Section 382") limits a corporation's ability to use its NOLs and certain other tax attributes to offset future income if that corporation undergoes an "ownership change." For purposes of IRC Section 382, a change of ownership occurs when the percentage of a company's equity beneficially owned by one

[2] This amount is only an estimate and subject to revision after the Debtors have finalized their 2015 tax results.

or more "5-percent shareholders" (as defined in IRC Section 382 and the Treasury regulations promulgated thereunder) increases by more than fifty percentage points over the lowest percentage of stock beneficially owned by those shareholders at any time during a three-year rolling period.

86. Cubic Energy's common shares are publicly traded on the OTC markets. Because of the public market for such common shares, it is possible that ownership of such shares could change in a manner that would constitute an "ownership change" and jeopardize the Debtors' ability to preserve their valuable NOLs.

87. In addition to common shares, Cubic Energy also has outstanding Series B Convertible Preferred Stock and Series C Redeemable Voting Preferred Stock. These classes of preferred shares vote as a single class together with holders of common shares. Cubic Energy also has outstanding Class A Warrants and Class B Warrants, which entitle the holders to, under appropriate circumstances, acquire additional shares of Cubic Energy Common Stock, as well as to cast votes in respect of Cubic Energy Series C Redeemable Voting Preferred Stock. An "ownership change" caused by transfers of such preferred shares or warrants could also jeopardize the Debtors' ability to preserve their valuable NOLs. Absent granting the interim relief requested in the NOL Motion, the Debtors may be irreparably harmed.

**M. Motion to File Consolidated Creditor Matrix**

88. The Debtors have filed their *Motion for Entry of an Order (A) Authorizing the Debtors to File a Consolidated List of Creditors in Lieu of Submitting a Separate Mailing Matrix for Each Debtor and (B) Granting Related Relief* (the "Matrix Motion"), through which they seek authority to file consolidated creditor lists.

89. The Debtors believe that filing a single consolidated matrix of creditors (including a consolidated list of their thirty (30) largest unsecured creditors) is warranted and in the best interest of the estates. The Debtors share many common creditors and believe that consolidation will increase efficiency and decrease the administrative burden on their respective estates by reducing the need for duplicative mailings of required notices to parties in interest.

**N. Motion to Pay Prepetition Employee Wages**

90. The Debtors have filed their Motion to (I) Pay Prepetition Wages and Salaries to Employees (II) Pay Prepetition Employee Payroll Taxes, Expense Reimbursements and Benefits and Continue Benefit Programs in the Ordinary Course and (III) Direct Banks to Honor Checks for Payment of Prepetition Employee Obligations (the "Employee Motion"), through which they seek authority to pay prepetition wages, expense reimbursements, and other amounts owed to their employees.

91. The Debtors' employees are essential to the continued operation of the Debtors' business. Given their limited numbers, the loss of the services of any of the Debtors' employees would have disastrous consequences. If the checks issued and electronic fund transfers requested in payment of any of the Debtors' prepetition employee obligations have been or are dishonored, or if such obligations are not timely paid postpetition, the Debtors' employees will suffer extreme personal hardship.

92. Without the requested relief, the Debtors' stability would be undermined at the outset of these bankruptcy cases. Any delay in paying prepetition employee obligations would seriously harm the Debtors' relationship with their employees and could irreparably harm employee morale at the very time the dedication, confidence, and

cooperation of the Debtors small, but essential group of Employees is most critical. The Debtors face the imminent risk that operations may be severely impaired if they are not immediately granted authority to honor and continue to honor the employee obligations described in this Motion.

93. All of the prepetition employee obligations are individually below $12,475.

94. The Debtors believe that the relief requested in the Employee Wages Motion is in the best interest of the Debtors estates and creditors and other interested parties.

**O. Motion to Approve Disclosure Statement and Plan Solicitation Procedures**

95. The Debtors have filed their *Motion of the Debtors for Entry of an Order (A) Scheduling a Combined Disclosure Statement Approval and Plan Confirmation Hearing, (B) Establishing a Plan and Disclosure Statement Objection Deadline and Related Procedures, (C) Approving the Solicitation Procedures, (D) Approving the Confirmation Hearing Notice, (E) Directing that a Meeting of Creditors not be Convened, and (F) Establishing Procedures for the Assumption of Executory Contracts and Unexpired Leases Under the Plan* (the "Solicitation Motion"), through which they seek authority to set a hearing to confirm the Chapter 11 Plan and approve related procedures regarding soliciting acceptances of that plan.

96. The Debtors commenced solicitation of holders of claims regarding the Chapter 11 Plan prior to the Petition Date in accordance with the following Solicitation Procedures and the Bankruptcy Code. On December 10, 2015, the Debtors caused their solicitation agent, Holland & Knight LLP (the "Solicitation Agent"), to distribute

packages containing the Chapter 11 Plan, its corresponding disclosure statement (the "Disclosure Statement"), and ballots regarding the Chapter 11 Plan (the "Solicitation Packages") to all six holders of claims entitled to vote to accept or reject the Chapter 11 Plan as of the Voting Record Date (as such term is defined in the Solicitation Motion). Holders of claims to whom the Solicitation Packages were transmitted were directed in the Disclosure Statement and accompanying ballots to follow the instructions contained in the ballots (and described in the Disclosure Statement) to complete and submit their respective ballots to cast a vote to accept or reject the Plan.

97. The Solicitation Agent received all completed Chapter 11 Plan ballots prior to the Petition Date, all of which voted in favor of the Chapter 11 Plan. Because the Chapter 11 Plan is a consensual, prepackaged plan, and the Debtors believe that they have the requisite votes necessary to confirm the Chapter 11 Plan, the Debtors request that the Court approve a combined hearing to approve the Chapter 11 Plan and Disclosure Statement (as requested in the Solicitation Motion) and authorize the other procedural relief set forth in the Solicitation Motion.

98. To aid in the implementation of the Chapter 11 Plan, the Debtors also seek, through the Solicitation Motion, to establish procedures for determining amounts to be paid in satisfaction of cure obligations ("Cure Amounts") and a deadline for objections relating to executory contracts and unexpired leases that may be assumed pursuant to the Plan (such procedures, the "Assumption Procedures").

99. Though the Assumption Procedures are qualified in all respects by the more complete procedures set forth in the Solicitation Motion, briefly, the Assumption Procedures will entail mailing notice on or before January 15, 2016 of the proposed

assumption (and proposed cure associated with assumption) to all applicable counterparties to executory agreements. Such parties shall have until February 1, 2016 to file objections to the Debtors' proposed assumption and cure of such agreements. Any party failing to file a timely objection shall be deemed to have waived any object to assumption of their executory agreements on the terms set forth in the cure notice transmitted to such counterparty. The Debtors and any objecting counterparties shall attempt to resolve any cure objections consensually. If no consensual resolution can be reached, such objections will be resolved by order of the Court.

100. The Debtors believe that the relief requested in the Solicitation Motion is in the best interest of the Debtors, their creditors, and their other stakeholders because the procedures set forth therein will allow the Debtors to confirm their Chapter 11 Plan in the most expedient manner possible. A delay in confirmation of the Chapter 11 Plan would be detrimental to the Debtors' creditors and other stakeholders, as the Debtors' cash position could decline to perilously low levels absent an emergence from bankruptcy in an expeditious manner.

101. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

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Dated this 11th day of December, 2015.

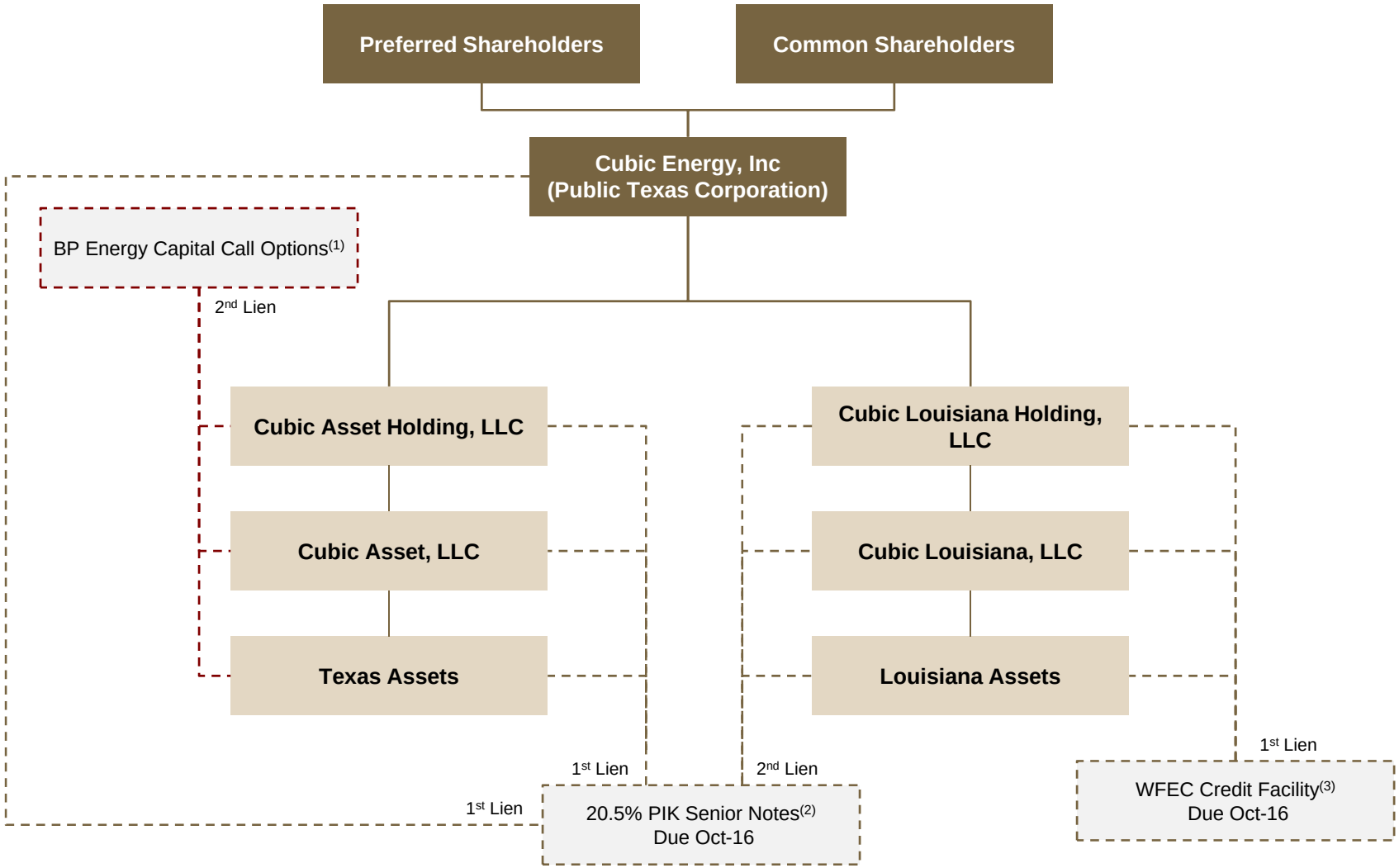
JON S. ROSS

# Exhibit A

Cubic Energy

# Organizational Structure

*Confidential, prepared at the request of Counsel*




*(1) Structured call option financing regarding production of Cubic Asset / Texas assets*
*(2) Secured by 1st lien on Cubic Energy, Cubic Asset Holding, Cubic Asset and Texas assets. Secured by 2nd lien on Cubic Louisiana Holding, Cubic Louisiana and Louisiana assets*
*(3) Composed of a $10.0 million revolver and a $20.0 million term loan. Secured by 1st lien on Cubic Louisiana Holding, Cubic Louisiana and Louisiana assets*