

ORIGINAL

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

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 In re: : Chapter 11
 :
 ENTEGRA POWER GROUP LLC, *et al.*, : Case No. 14-11859 (PJW)
 :
 Debtors.¹ : (Jointly Administered)
 :
 : **Re: D.I. 12**
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INTERIM ORDER UNDER 11 U.S.C. §§ 105, 361, 362, 363, 503, 507(b), AND 552, FED. R. BANKR. P. 2002, 4001(b), 6004(h), AND 9014 AND DEL. BANKR. L.R. 4001-2 (I) AUTHORIZING THE DEBTORS TO USE CASH COLLATERAL, (II) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES, (III) SCHEDULING A FINAL HEARING PURSUANT TO FED. R. BANKR. P. 4001(b) AND (IV) GRANTING RELATED RELIEF

Upon the motion (the “Motion”),² of Entegra Power Group LLC and certain of its affiliates, each as a debtor and debtor-in-possession (collectively, the “Debtors”) in the above-captioned cases (the “Cases”) commenced on August 4, 2014 (the “Petition Date”) for interim and final orders under sections 105, 361, 362, 363, 503, 507 and 552 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (as amended, the “Bankruptcy Code”), Rules 2002, 4001(b), 6004(h), and 9014 of the Federal Rules of Bankruptcy Procedure (as amended, the “Bankruptcy Rules”), and Rule 4001-2 of the Local Rules for the United States Bankruptcy Court for the District of Delaware (as amended, the “Local Bankruptcy Rules”) seeking:

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are Entegra Power Group LLC (3825); Entegra TC LLC (2889); EPG LLC (8348); Basso TP-2 Inc. (1726); Union Power LLC (N/A); Union Power Partners, L.P. (5385); UPP Finance Co. LLC (7090); Trans-Union Pipeline LLC (N/A); Trans-Union Interstate Pipeline, L.P. (7870); Entegra Power Services LLC (3106); Union Power Employee Company LLC (0841); and Gila River Energy HoldCo LLC (3510). The address of the Debtors’ corporate headquarters is: 100 S. Ashley Dr., Suite 1400, Tampa, FL 33602.

² Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Motion.

(I) as set forth herein, authorization for the Debtors to (a) use the Cash Collateral (as defined in paragraph 5(b) below) pursuant to section 363 of the Bankruptcy Code, and all other Collateral (as defined in paragraph 4(f) below) and (b) provide adequate protection to the Prepetition Secured Parties (as defined in paragraph 4(f) below) under the Existing Agreements (as defined in paragraph 4(e) below);

(II) authorization for the Existing Collateral Agents (as defined in paragraph 4(e)(iv) below) to exercise remedies under the Existing Agreements upon the occurrence and during the continuance of a Termination Event (as defined in paragraph 9 below) on the terms set forth in this order (this “Interim Order”);

(III) subject to entry of the Final Order, the waiver by the Debtors of any right to seek to surcharge against the Collateral pursuant to sections 105(a) and 506(c) of the Bankruptcy Code;

(IV) to schedule, pursuant to Bankruptcy Rule 4001(b), an interim hearing (the “Interim Hearing”) on the Motion to be held before the Court to consider entry of this Interim Order; and

(V) to schedule, pursuant to Bankruptcy Rule 4001(b), a final hearing (the “Final Hearing”) for the Court to consider entry of a final order (the “Final Order”) approving the relief granted herein on a final basis.

The Interim Hearing having been held by this Court on August 6, 2014, and upon the record made by the Debtors at the Interim Hearing (including “Michael R. Schuyler’s Declaration in Support of the Debtors’ Chapter 11 Petitions and First Day Pleadings” filed concurrently with the Motion [D.I. 13]), and after due deliberation and consideration and sufficient cause appearing therefor;

IT IS FOUND, DETERMINED, ORDERED AND ADJUDGED, that:

1. *Jurisdiction.* This Court has core jurisdiction over the Cases, the Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. *Notice.* Notice of the Motion, the relief requested therein and the Hearing was served by the Debtors on the following parties (or their counsel): (i) the Existing Second Lien Administrative Agent (as defined in paragraph 4(a)(i) below), (ii) the Existing Third Lien Administrative Agent (as defined in paragraph 4(a)(ii) below), (iii) the United States Trustee for the District of Delaware, (iv) the holders of the thirty (30) largest unsecured claims against the Debtors' estates, and (v) all other parties entitled to notice, pursuant to Bankruptcy Rules 2002 and 4001(b) and Local Rule 4001-2(c). The Court concludes that the foregoing notice was sufficient and adequate under the circumstances and complies with Bankruptcy Rules 2002 and 4001(b) and Local Rule 4001-2(c).

3. *Approval of Motion.* The interim relief requested in the Motion is granted as described herein. Except as otherwise expressly provided in this Interim Order, any objection to the entry of this Interim Order that has not been withdrawn, waived, resolved, or settled, is hereby denied and overruled on the merits.

4. *Debtors' Stipulations.* Subject to paragraph 19 below, and after consultation with their attorneys and financial advisors, the Debtors acknowledge, admit, stipulate, and agree that:

(a) Prior to the Petition Date, one or more of the Debtors entered into each of the following prepetition credit agreements (collectively, the "Existing Credit Agreements"):

(i) That certain Credit Agreement (Second Lien) (the "Existing Second Lien Credit Agreement"), dated as of March 27, 2014, by and among Entegra TC LLC, as borrower, Entegra Power Group LLC (formerly known as Entegra Holdings LLC) as holdco, certain subsidiaries of the borrower, as

subsidiary guarantors, various financial institutions and other persons from time to time parties thereto, as lenders, and U.S. Bank National Association, as administrative agent (the "Existing Second Lien Administrative Agent"); and

- (ii) That certain Credit Agreement (Third Lien) (the "Existing Third Lien Credit Agreement"), dated as of April 19, 2007, by and among Entegra Power Group LLC, certain subsidiaries of the Borrower as subsidiary guarantors, various financial institutions and other persons from time to time party thereto, as lenders, and Wells Fargo Bank, N.A. (as successor-in-interest to Credit Suisse AG, Cayman Islands Branch), as administrative agent (the "Existing Third Lien Administrative Agent" and, together with the Existing Second Lien Administrative Agent, the "Existing Administrative Agents"), as amended from time to time.

(b) The Existing Credit Agreements are valid and binding agreements and obligations of the Debtors who are parties thereto. The Debtors' indebtedness under the Existing Credit Agreements as of the Petition Date (the "Prepetition Indebtedness") includes any and all principal amounts owing or outstanding under the Existing Credit Agreements, interest on, fees and other costs, expenses and charges owing in respect of, such amounts (including, without limitation, any reasonable fees and expenses of attorneys, accountants, and financial advisors to the extent chargeable or reimbursable pursuant to the Existing Credit Agreements or related agreements), and any and all obligations and liabilities, contingent or otherwise, owed in respect of the letters of credit or other obligations outstanding thereunder.

(c) Pursuant to the Existing Credit Agreements, the Debtors were, as of the Petition Date, indebted to the lenders under the Existing Second Lien Credit Agreement in the aggregate principal amount of \$236,903,333 (plus accrued but uncapitalized interest), and were indebted to the lenders under the Existing Third Lien Credit Agreement in the aggregate principal amount of \$1,312,841,009 (plus accrued but uncapitalized interest). The Prepetition Indebtedness, including the amounts specified in this paragraph 4(c), constitutes the legal, valid, and binding obligations of the Debtors, enforceable in accordance with its terms (other than in

respect of the stay of enforcement arising under section 362 of the Bankruptcy Code), without objection, offset, defense, or counterclaim of any kind or nature to the Prepetition Indebtedness. None of the Debtors, either collectively or individually, have or shall assert any claim, counterclaim, setoff, or defense of any kind, nature, or description that would in any way affect the validity, enforceability, and non-avoidability of any of the Prepetition Indebtedness; provided, however, the Debtors make no stipulations regarding and reserve their rights under Bankruptcy Code section 506(b) with respect to whether the Prepetition Indebtedness under the Existing Third Lien Credit Agreement is oversecured or undersecured and whether the adequate protection payments set forth in paragraph 15 related to indebtedness under the Existing Third Lien Credit Agreement constitute payments of principal, interest or fees. The Prepetition Indebtedness and any amounts previously paid to any Prepetition Secured Party pursuant to the terms of the Existing Credit Agreements on account thereof or with respect thereto are not subject to avoidance, reduction, disallowance, impairment, recharacterization, or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law, except as provided in the Existing Agreements or this Interim Order.

(d) The relative priorities of the Prepetition Indebtedness under each of the Existing Credit Agreements, and the relative rights and entitlements of the Prepetition Secured Parties, is governed by that certain Collateral Agency and Intercreditor Agreement dated as of April 19, 2007 among certain of the Debtors, the Existing Administrative Agents, and the Existing Collateral Agents, as amended from time to time (the “Existing Intercreditor Agreement”).

(e) To secure the Prepetition Indebtedness under the Existing Credit Agreements, the Debtors entered into the following prepetition collateral documents (the

“Existing Collateral Documents”, and together with the Existing Credit Agreements and the Existing Intercreditor Agreement, the “Existing Agreements”):

- (iii) That certain Second Lien Pledge and Security Agreement, dated as of March 27, 2014 (the “Existing Second Lien Security Agreement”), by and among Entegra Power Group LLC, Entegra TC LLC and certain subsidiaries of Entegra TC LLC, and U.S. Bank National Association (as successor-in-interest to Barclays Bank PLC), as collateral agent (the “Existing Second Lien Collateral Agent”);
- (iv) That certain Third Lien Pledge and Security Agreement, dated as of April 19, 2007 (the “Existing Third Lien Security Agreement”), by and among each of the guarantors party thereto and Wells Fargo Bank, N.A., as collateral agent (together with the Existing Second Lien Collateral Agent the “Existing Collateral Agents”); and
- (v) Any other agreements defined as “Security Documents” in the Existing Second Lien Credit Agreement (together with the Existing Second Lien Security Agreement, the “Existing Second Lien Collateral Documents”) or as “Security Documents” in the Existing Third Lien Credit Agreement (together with the Existing Third Lien Security Agreement, the “Existing Third Lien Collateral Documents”).
- (f) Pursuant to the Existing Second Lien Collateral Documents, the Debtors party thereto granted security interests in, and continuing liens on, certain assets of the Debtors (the “Collateral”) to and/or for the benefit of the applicable Existing Second Lien Collateral Agent or other applicable secured parties (the “Prepetition Second Lien Secured Parties”) under the Existing Second Lien Collateral Documents (such liens, the “Prepetition Second Liens”), and pursuant to the Existing Third Lien Collateral Documents, the Debtors party thereto granted security interests in, and continuing liens on, the Collateral to and/or for the benefit of the applicable Existing Third Lien Collateral Agent or other applicable secured parties (the “Prepetition Third Lien Secured Parties”) and together with the Prepetition Second Lien Secured Parties, the “Prepetition Secured Parties” and each, a “Prepetition Secured Party”) under the Existing Third Lien Collateral Documents (such liens, the “Prepetition Third Liens” and together with the Prepetition Second Liens, the “Prepetition Liens”). For the avoidance of doubt, the

Collateral includes the Cash Collateral and the assets of the Debtors in or upon which a lien or other security interest has been granted in favor or for the benefit of the Prepetition Secured Parties in connection with, pursuant to, or under the applicable Existing Agreements that existed as of the Petition Date and, subject to section 552 of the Bankruptcy Code, postpetition proceeds, products, offspring, rents, and profits.

(g) The Existing Collateral Documents are valid and binding agreements and obligations of the Debtors, and the Prepetition Liens constitute valid, binding, enforceable, and perfected security interests and “Liens”, as that term is defined in the Existing Agreements (“Liens”), which are not subject to avoidance, recharacterization, recovery, reduction, disallowance, impairment, or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law, except as provided in the Existing Agreements or this Interim Order.

(h) The Existing Collateral Agents have properly perfected their security interests and Liens in and on the Collateral by taking possession of, or obtaining control over, certain assets and/or by the filing of UCC-1 financing statements, mortgages, and other required documents against the Debtors and such Collateral with the proper state and county offices for the perfection of such security interests and Liens.

(i) Without the requirement or need to file any proof of claim with respect thereto, (i) the Prepetition Indebtedness under the Existing Second Lien Credit Agreement shall constitute allowed, secured prepetition claims for all purposes in the Cases and any subsequent proceedings under the Bankruptcy Code, including, without limitation, any chapter 7 proceeding if any of the Cases are converted to a case under chapter 7 of the Bankruptcy Code or in any proceedings related to any of the foregoing (a “Successor Case”), (ii) the Prepetition Indebtedness under the Existing Third Lien Credit Agreement shall constitute allowed secured

(to the extent of the value of the Collateral in accordance with section 506(a) of the Bankruptcy Code) prepetition claims for all purposes in the Cases and any subsequent proceedings under the Bankruptcy Code, including, without limitation, any Successor Case, (iii) the Prepetition Liens shall be deemed legal, valid, binding, enforceable, perfected, not subject to subordination (except as provided in the Existing Agreements or this Interim Order) or avoidance for all purposes in these Cases and any Successor Case, and (iv) the Prepetition Indebtedness, the Prepetition Liens, and prior payments on account of or with respect to the Prepetition Indebtedness shall not be subject to any other or further claim, cause of action, objection, contest, setoff, defense, or challenge by any party in interest for any reason, including, without limitation, by any successor to or estate representative of any Debtor, except as provided in the Existing Agreements or this Interim Order.

(j) Each of the Debtors and the Debtors' estates, on its own behalf and on behalf of its past, present, and future predecessors, successors, heirs, subsidiaries, and assigns (collectively, the "Releasors"), to the maximum extent permitted by applicable law, unconditionally, irrevocably and fully and forever releases, acquits, relinquishes, waives, and discharges each of the Prepetition Secured Parties (in their capacities as such), and each of their respective former, current, or future officers, employees, directors, agents, representatives, owners, members, partners, financial advisors, shareholders, managers, consultants, attorneys, and affiliates (in their capacities as such) (collectively, the "Releasees") of and from any and all claims, demands, liabilities, responsibilities, remedies, causes of action, indebtedness and obligations, rights, assertions, allegations, actions, suits, controversies, proceedings, losses, damages, injuries, attorneys' fees, costs, or judgments of every type, whether known or unknown, asserted, unasserted, suspected, unsuspected, accrued, unaccrued, fixed, contingent,

pending, or threatened, including all legal and equitable theories of recovery, arising under common law, statute or regulation or by contract, of every nature and description that exist on the date hereof with respect to any of the Prepetition Indebtedness, Collateral, the Existing Agreements, or the transactions contemplated under such documents, including, (i) any so-called “lender liability” or equitable subordination claims or defenses, (ii) any and all claims and causes of action arising under the Bankruptcy Code, and (iii) any and all claims and causes of action regarding the validity, priority, perfection, or avoidability of the Prepetition Liens; provided, however, the Debtors reserve their rights under Bankruptcy Code section 506(b) with respect to whether the Prepetition Indebtedness under the Existing Third Lien Credit Agreement is oversecured or undersecured. The Debtors’ acknowledgements, stipulations, and releases shall be binding on the Debtors and their respective representatives, successors, and assigns and, subject to any action timely commenced by the official committee of unsecured creditors appointed in the Cases, if any, (the “Committee”) or any other party-in-interest prior to the Investigation Termination Date (as defined in paragraph 19 below), on each of the Debtors’ estates, and all creditors thereof and each of their respective representatives, successors and assigns, including any trustee or representative appointed in these Cases.

5. *Findings Regarding the Use of Cash Collateral and the Collateral.*

- (a) Good cause has been shown for the entry of this Interim Order.
- (b) The Debtors have an immediate and critical need to use the Collateral (including cash that is property of the Debtors and that constitutes “cash collateral” as defined by section 363(a) of the Bankruptcy Code, including any and all prepetition and, subject to section 552 of the Bankruptcy Code, postpetition proceeds of any Collateral that is property of the

Debtors (“Cash Collateral”), in order to, among other things, permit the orderly continuation of their business and preserve the going concern value of the Debtors.

(c) The terms of the use of the Collateral, including the Cash Collateral, pursuant to this Interim Order are fair and reasonable, reflect the Debtors’ exercise of prudent business judgment consistent with their fiduciary duties, and constitute reasonably equivalent value and fair consideration.

(d) This Interim Order and the terms of the use of the Collateral, including the Cash Collateral, have been negotiated extensively, in good faith, and at arm’s length between the Debtors and the Prepetition Secured Parties. Pursuant to sections 105(a) and 364(e) of the Bankruptcy Code, the Prepetition Secured Parties are hereby found to be entities that have acted in “good faith” in connection with the negotiation and entry of this Interim Order, and each is entitled to the protection provided to such entities under section 364(e) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed, or modified on appeal or otherwise.

(e) The Debtors have requested immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(b)(2). Unless the interim relief set forth in this Interim Order is granted immediately, the Debtors’ estates and business will be immediately and irreparably harmed. In particular, the Debtors require immediate use of the Collateral, including the Cash Collateral, to, among other things, permit the orderly continuation of their business and preserve going concern value for the benefit of stakeholders. The use of the Collateral, including the Cash Collateral, in accordance with this Interim Order is therefore in the best interest of the Debtors’ estates.

6. *Authorization to Use Cash Collateral.*

(a) Subject to the terms, conditions, and limitations set forth in this Interim Order, the Debtors are hereby authorized to use the Cash Collateral until the Termination Date only for working capital, general corporate purposes, and administrative costs and expenses of the Debtors incurred in the ordinary course of business (including, for the avoidance of doubt, fees and expenses payable pursuant to paragraph 15(d)).

(b) Attached as Exhibit A hereto and incorporated by reference herein is the 13-week budget setting forth projected receipts and disbursements, on a cash basis, for the period beginning on the Petition Date (the "Budget"). The Required Lenders (as defined in paragraph 9) have approved the Budget. Cash Collateral used pursuant to this Interim Order shall be used in accordance with the Budget, subject to Permitted Variances (as defined in paragraph 7). The Prepetition Secured Parties shall have no obligation with respect to the Debtors' use of the Cash Collateral, and shall not be obligated to ensure or monitor the Debtors' compliance with the Budget or to pay (directly or indirectly from the Cash Collateral) any expenses incurred or authorized to be incurred pursuant to the Budget. The Prepetition Secured Parties' consent to the Budget shall not be construed as consent to the use of any Cash Collateral after the Termination Date, regardless of whether the aggregate funds shown on the Budget have been expended. Not later than one month prior to the expiration of the 13-Week Budget, the Debtors shall provide counsel to the Required Lenders, the Existing Collateral Agents, the U.S. Trustee, and counsel to any Committee appointed in these Chapter 11 Cases with an updated budget for an additional 13-week period in substantially the same format as Exhibit A hereto, which upon acceptance by the Required Lenders shall become the Budget for such period for purposes of this Interim Order (each, a "Supplemental Budget"). In the event (i) the Debtors and the Required Lenders fail to

agree on a Supplemental Budget prior to the expiration of the existing Budget or Supplemental Budget, as applicable, or (ii) any of the other Termination Events (as defined below) shall occur and be continuing, the Debtors' right to use Cash Collateral shall terminate in accordance with paragraph 9 below; provided, however, notwithstanding anything contained in this paragraph 6(b) to the contrary, the Debtors shall be permitted to seek Court approval to use the Cash Collateral.

7. *Permitted Variance.* Notwithstanding the Budget, so long as no Termination Event has occurred, the Debtors shall be authorized to use Cash Collateral in accordance with the Budget and this Interim Order in an amount that would not cause the Debtors to use Cash Collateral in an aggregate amount greater than 115% of the Budget for any two-week period (a "Permitted Variance"); provided, however, that (a) the purchase of gas required for the operation (but in no event for speculative purposes) of the Debtors' facilities (including the payment of any associated transportation costs and use taxes) and (b) the payment of variable operations and maintenance expenses of such facilities as required in the ordinary course of business to operate and maintain the Debtors' facilities shall be excluded from the calculation of Permitted Variance. If the aggregate amount of any Cash Collateral actually used by the Debtors, measured once every two weeks, is less than the aggregate amount of proceeds of the Cash Collateral available for use by the Debtors in the Budget during such period, then the Debtors may carry over any such unused amount to the future periods in the Budget.

8. *Carve-Out.* For purposes hereof, the "Carve-Out" shall mean (a) any fees payable to the Clerk of the Court and to the Office of the U.S. Trustee pursuant to section 1930(a) of title 28 of the United States Code, (b) allowed, accrued and unpaid fees and out-of-pocket expenses (regardless of when such fees and expenses become allowed by order of the Court) of

professionals retained by order of the Court (or whose application for retention is then pending, provided such application is ultimately approved), incurred on or prior to the occurrence of a Carve-Out Event (as defined below) and in aggregate accrued amounts for each such professional not in excess of the amounts set forth in the Budget for the relevant professional through the date of such Carve-Out Event, (c) up to \$3,000,000 of allowed and unpaid fees and expenses, regardless of when such fees and expenses become allowed by order of the Court, of professionals retained by the Court, incurred after the occurrence of a Carve-Out Event (and (i) in the case of any periods covered by an approved Budget, in aggregate accrued amounts for each such professional not in excess of the amounts set forth in such Budget for the relevant professional for periods following the occurrence of a Carve-Out Event and during such budgeted period and (ii) in the case of any periods when no approved Budget is in effect, in weekly accrued amounts for each such professional not in excess of the average weekly amounts set forth in the last approved Budget for the relevant professional for periods following the occurrence of a Carve-Out Event and not in a budgeted period), and (d) any and all reasonable fees and expenses incurred by a trustee under section 726(b) of the Bankruptcy Code not to exceed \$25,000. For the purposes hereof, a “Carve-Out Event” shall occur upon the occurrence and during the continuance of a Termination Event and upon delivery of a written notice thereof to the Debtors (a “Carve-Out Notice”). So long as no Carve-Out Event shall have occurred and be continuing, the Carve-Out shall not be reduced by the payment of fees, expenses, and disbursements of professionals retained by order of this Court allowed by this Court and payable under sections 328, 330, and 331 of the Bankruptcy Code, which allowed fees, expenses and disbursements shall only be paid in accordance with and subject to the Budget. Upon the delivery of a Carve-Out Notice, the right of the Debtors to pay professional fees incurred under

clause (c) above without reduction of the Carve-Out in clause (c) above shall terminate and upon receipt of such notice, and the Debtors shall provide immediate notice by email to all retained professionals informing them that a Carve-Out Event has occurred and that the Debtors' ability to pay professionals is subject to the Carve-Out; provided that (A) the Carve-Out shall not be available to pay any professional fees and expenses incurred in connection with the initiation or prosecution of any claims, causes of action, adversary proceedings, or other litigation against the Prepetition Secured Parties and (B) nothing in this Order shall impair the right of any party to object to the reasonableness of any such fees or expenses to be paid by the Debtors' estates. A waiver of a Termination Event triggering a Carve-Out Event shall constitute the cancellation of such Carve-Out Event allowing the Debtors to pay compensation and reimbursement of expenses authorized to be paid under Bankruptcy Code sections 330 and 331 or otherwise pursuant to an order of the Court, as the same may be due and payable, without reducing the Carve-Out.

9. *Termination of Use of Cash Collateral.* Subject to paragraphs 8, 10, and 11, the Debtors' right to use the Cash Collateral pursuant to this Order shall automatically terminate (the date of any such termination, the "Termination Date") without further notice or court proceedings on the earliest to occur of any of the events set forth in clauses (a) through (q) below (such events collectively referred to herein as the "Termination Events"). As used herein, "Required Lenders" means, as of any date of determination, lenders constituting "Required Lenders" pursuant to, and as defined in, each of the Existing Credit Agreements.

(a) The date that is 45 days after the entry of this Interim Order, unless a Final Order has been entered on or before such date;

(b) January 31, 2015 (unless extended with the prior written consent of the Required Lenders, which extension thereof shall be effective without further application to or approval by the Court;

(c) failure of the Debtors to make any payment authorized pursuant to paragraph 15(d) of this Order within five days of the end of the time period specified by that paragraph;

(d) five Business Days after notice from each of the Existing Collateral Agents or the Required Lenders of the failure of the Debtors to comply with a material provision of this Order;

(e) (i) any of the Cases shall be dismissed or converted to a case under chapter 7 of the Bankruptcy Code or a trustee under chapter 11 of the Bankruptcy Code or an examiner with expanded powers shall be appointed in any of the Cases, or (ii) the Debtors shall seek entry of an order accomplishing any of the foregoing;

(f) other than pursuant to an order reasonably satisfactory to the Required Lenders, the entry of an order granting relief from the automatic stay so as to allow a third party to proceed against any Collateral that has a value in excess of \$2,500,000 in the aggregate;

(g) except as authorized by an order of this Court, the payment of any prepetition claim other than a payment or series of payments of prepetition claims in an aggregate amount no greater than \$1 million;

(h) the Debtors shall create, incur, or suffer to exist any postpetition liens or security interests on any Collateral other than: (i) those granted pursuant to this Interim Order; (ii) the filing of a preliminary lien notice or similar notice by a carrier, mechanic, warehouseman, repairman, or similar party in advance of such party providing services to the Debtors, provided

that any liens created in favor of any such party for services provided shall be subject to clause (iii) of this paragraph 9(h), and provided further that any act to enforce such liens or preliminary lien notices shall be subject to the applicable provisions of this Interim Order, including, without limitation, paragraph 9(f) hereof; (iii) carriers', mechanics', warehousemen's, repairmen's, or other similar liens arising in the ordinary course of business or by operation of law in an aggregate amount no greater than \$1 million; (iv) pledges or deposits in connection with workers' compensation, unemployment insurance and other social security legislation incurred in the ordinary course of business in an aggregate amount no greater than \$1 million; (v) deposits to secure the payment of any postpetition statutory obligations, performance bonds, and other obligations of a like nature incurred in the ordinary course of business (including, without limitation, any deposits provided by the Debtors in connection with participating in the PJM Interconnect LLC capacity auction); and (vi) any other junior liens or security interests of the type and in the amounts that the Debtors are permitted to incur under the Existing Agreements;

(i) except for the Final Order, an order shall be entered granting another claim or lien *pari passu* with or senior to the Adequate Protection Liens (as defined in paragraph 13(a) below) or 507(b) Claims (as defined in paragraph 15(c) below) granted to the Prepetition Secured Parties under this Interim Order, or (ii) an order of the Court shall be entered reversing, staying for a period in excess of five Business Days, vacating or otherwise amending, supplementing, or modifying this Interim Order without the written consent of the Required Lenders;

(j) one or more judgments or decrees required to be satisfied as an administrative expense claim shall be entered after the Petition Date against the Debtors involving in the aggregate a liability (not paid or to the extent not covered by a reputable and

solvent insurance company) and such judgments and decrees either shall be final and non-appealable or shall not be vacated, discharged, or stayed or bonded pending appeal for any period of 30 days from entry thereof, and the aggregate amount of all such judgments equals or exceeds \$1 million;

(k) any Debtor shall support (by way of any motion or other pleading or paper filed with the Court or any other writing to another party-in-interest executed by or on behalf of any such Debtor) any other person's opposition to any motion made in the Court by the Prepetition Secured Parties seeking confirmation of the amount of the Prepetition Secured Parties' claims or the validity or enforceability of the Liens in favor of the Prepetition Secured Parties except with regard to (x) good faith disputes over the payment of expenses and fees or (y) whether the Prepetition Indebtedness under the Existing Third Lien Credit Agreement is oversecured or undersecured;

(l) any proceeding shall be commenced by any Debtor seeking, or otherwise consenting to, (x) the invalidation, subordination, or other challenging of the 507(b) Claims or Adequate Protection Liens or (y) subject to entry of the Final Order, any relief under section 506(c) of the Bankruptcy Code with respect to any Collateral, including the Cash Collateral, or (ii) any Debtor shall file a motion, pleading, or proceeding which could reasonably be expected to result in a material impairment of the rights or interests of the Prepetition Secured Parties, or there is a determination by a court with respect to a motion, pleading or proceeding brought by another party which results in such a material impairment;

(m) (i) any material provision of this Interim Order shall cease to be valid and binding for any reason or (ii) the Debtors shall seek any modification of this Interim Order that is

materially adverse to the Prepetition Secured Parties without the prior written consent of the Existing Administrative Agents and the Required Lenders;

(n) the Restructuring Support Agreement dated as of June 27, 2014 among the Debtors, certain Prepetition Secured Parties, and certain other parties (the “RSA”) terminates or ceases to be in full force and effect, other than a termination caused by the breach or non-performance of any Prepetition Secured Party of its obligations under the RSA;

(o) the effective date of any confirmed chapter 11 plan of reorganization or liquidation in the Cases;

(p) the expiration of the Budget, unless a Supplemental Budget has been agreed to by the Required Lenders, acting in good faith; or

(q) the payment of any employee bonuses or supplemental compensation other than ordinary course salaries, wages, and benefits, or as expressly authorized in the order granting the “first-day” employee motion (which order shall be in form and substance satisfactory to the Prepetition Secured Parties), in each case disclosed to the Prepetition Secured Parties’ counsel.

10. *Remedies After a Termination Date.* Subject to the provisions of this paragraph and paragraphs 8 and 11, the Debtors’ authority to use Cash Collateral shall automatically terminate upon the occurrence of a Termination Event unless such Termination Event is waived in writing by the Required Lenders, all without further order or relief from the Court. The automatic stay under section 362 of the Bankruptcy Code is hereby vacated and modified to the extent necessary to permit the Existing Collateral Agents and the Prepetition Secured Parties to exercise, upon five days’ prior written notice (the “Waiting Period”) to the Debtors (with a copy to counsel to the Debtors, counsel to the Committee, and the U.S. Trustee) given upon the

occurrence or during the continuance of a Termination Event, all rights and remedies against the Collateral, including the Cash Collateral, provided for in this Order, the Existing Agreements, and applicable law, unless the Court has determined that a Termination Event has not occurred and/or is not continuing. During the Waiting Period, except as may be otherwise ordered by the Court, the Debtors shall not use any Cash Collateral to pay any expenses except those which are (i) necessary to preserve the Debtors' going concern value or (ii) necessary to contest in good faith whether a Termination Event has occurred and/or is continuing. Nothing herein shall alter the burden of proof set forth in the applicable provisions of the Bankruptcy Code at any hearing on any request by the Debtors or other party in interest to re-impose or continue the automatic stay under Bankruptcy Code section 362(a), use Cash Collateral, or to obtain any other injunctive relief. In no event shall any of the Prepetition Secured Parties be subject to the equitable doctrine of "marshaling" or any similar doctrine with respect to the Collateral.

11. *Application of Collateral Proceeds.* Subject to entry of an order of this Court to the contrary, after the expiration of the Waiting Period following the occurrence of a Termination Event, the Debtors are hereby authorized and directed to (i) fund an account from which to satisfy the Carve-Out from 100% of all collections on, and proceeds of, the Collateral including but not limited to, all accounts receivable collections, proceeds of sales of inventory, fixed assets and any other assets, including sales in and outside the ordinary course of business, and all other cash or cash equivalents which shall at any time on or after the Petition Date come into the possession or control of the Debtors, or to which the Debtors shall become entitled at any time, and (ii) remit all other collections, remittances, and proceeds, as described above, to the Existing Collateral Agents, for the benefit of the Prepetition Secured Parties. Subject to entry of an order of this Court to the contrary, the automatic stay provisions of Bankruptcy Code

section 362 are hereby modified to permit the Prepetition Secured Parties to retain and apply all collections, remittances, and proceeds of the Collateral subject to and in accordance with this Interim Order and the Existing Agreements to the Prepetition Indebtedness in accordance with the provisions of the Existing Agreements (subject to the Carve-Out, as described above).

12. *Limitation on Charging Expenses Against Collateral.* Subject to and effective upon entry of the Final Order, except to the extent of the Carve-Out, no costs or expenses of administration of the Cases or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged or assessed against or recovered from the Prepetition Secured Parties or the Collateral pursuant to sections 105 and 506(c) of the Bankruptcy Code or any similar principle of law. No action, inaction, or acquiescence by the Prepetition Secured Parties, including permitting the use of Cash Collateral to fund the Debtors' ongoing operations, shall be construed as consent to a charge against the Collateral pursuant to sections 105(a) or 506(c) of the Bankruptcy Code.

13. *Limitations under Section 552(b) of the Bankruptcy Code.* The Prepetition Secured Parties shall be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, and, subject to and effective upon entry of the Final Order, the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to the Prepetition Secured Parties with respect to (i) proceeds, products, offspring, or profits of any of the Collateral, including the Cash Collateral or (ii) the extension of the Adequate Protection Liens to cover proceeds of the Collateral.

14. *Payments Free and Clear.* Any and all payments or proceeds remitted to the Prepetition Secured Parties pursuant to the Existing Agreements or (except as provided in paragraph 19 of this Interim Order) pursuant to the provisions of this Interim Order or any

subsequent order of this Court shall be received free and clear of any claim, charge, assessment, or other liability.

15. *Adequate Protection for the Existing Collateral Agent and the Prepetition Secured Parties.* The Prepetition Secured Parties are entitled, pursuant to sections 361, 363(c)(2), and 363(e) of the Bankruptcy Code, to adequate protection of their interests in the Collateral, including the Cash Collateral, in an amount equal to the diminution in value of their respective interests in the Collateral, including any such diminution on account of (i) depreciation, physical deterioration, use, sale, loss, or decline in market value, (ii) the Debtors' use of Cash Collateral and other Collateral, and (iii) the imposition of the automatic stay pursuant to section 362 of the Bankruptcy Code. As adequate protection, the Prepetition Secured Parties are hereby granted, to the extent of the aggregate diminution in the value of their interests in the Collateral, the following (collectively, the "Adequate Protection Obligations):

(a) Adequate Protection Liens. Valid, enforceable, non-avoidable, perfected security interests in and Liens on (the "Adequate Protection Liens") all property of any kind or nature whatsoever, whether now owned or hereafter acquired or existing and wherever located, of each Debtor's estate (as created pursuant to section 541(a) of the Bankruptcy Code), whether real or personal, tangible or intangible, including all cash, accounts, inventory, goods, contract rights, instruments, documents, chattel paper, intellectual property including, without limitation, patents, trademarks, copyrights and licenses, accounts receivable, receivables and receivables records, general intangibles, payment intangibles, tax, or other refunds, insurance proceeds, letters of credit, owned real estate, real property leaseholds, fixtures, vehicles, deposit accounts, commercial tort claims, securities accounts, investment property, letter-of-credit rights, supporting obligations, machinery and equipment, leases, securities including, without limitation,

all of the issued and outstanding capital stock of each subsidiary of each Debtor and other equity or ownership interests, including equity interests in non-wholly owned subsidiaries, money, and causes of action, Cash Collateral, and all cash and non-cash proceeds, rents, products, substitutions, accessions, and profits of any of the collateral described above (all such property, the "Adequate Protection Collateral"), which Liens and security interests shall be senior to any and all other Liens and security interests, subject only to (i) the Carve-Out and (ii) any Liens permitted under the Existing Agreements. For the avoidance of doubt, the Adequate Protection Liens shall be deemed to be effective and perfected automatically as of the Petition Date and without the necessity of the execution by the Debtors, or the filing of, as applicable, any mortgages, security agreements, pledge agreements, financing statements, state or federal notice, recordings, or other agreements and without the necessity of taking possession or control of any Adequate Protection Collateral. Except as provided herein, under no circumstances shall the Adequate Protection Liens be made subordinate to the lien of any other party, no matter when arising.

(b) Postpetition Interest. The Prepetition Secured Parties shall be entitled, as part of their allowed claims, to the accrual of interest after the Petition Date calculated in accordance with the terms of the Existing Credit Agreements and the RSA and to the extent permitted under section 506(b) of the Bankruptcy Code.

(c) Section 507(b) Claims. Allowed superpriority administrative expense claims pursuant to sections 503(b), 507(a), and 507(b) of the Bankruptcy Code, as provided in section 507(b) of the Bankruptcy Code (the "507(b) Claims"), which claims shall have priority in payment over any and all administrative expenses of the kinds specified or ordered pursuant to any provision of the Bankruptcy Code, including sections 105, 326, 327, 328, 330, 331, 503(a),

503(b), 506(c) (subject to entry of a Final Order), 507(a), 507(b), 552 (subject to entry of a Final Order), 726, or 1114 of the Bankruptcy Code, whether or not such expenses or claims arise in the Cases or in any subsequent case or proceedings under the Bankruptcy Code that may result therefrom, subject and subordinate only to the Carve-Out. The 507(b) Claims shall be an allowed claim jointly and severally against each Debtor. Other than the Carve-Out, no cost or expense of administration of the Cases, including any cost or expense resulting from or arising after the conversion of any such Case to one under chapter 7 of the Bankruptcy Code, shall be senior to, or *pari passu* with, the 507(b) Claims.

(d) Fees and Expenses. The Debtors are authorized and directed to pay all reasonable and documented out-of-pocket fees and expenses of the Existing Administrative Agents and the Existing Collateral Agents and the reasonable and documented fees and disbursements of Skadden, Arps, Slate, Meagher & Flom LLP as counsel to certain of the lenders constituting Required Lenders under the Existing Credit Agreements (which may be redacted for privilege or commercially sensitive information) including any special or local counsel, and the reasonable fees and expenses of consultants retained by the Required Lenders in connection with the restructuring, as set forth in section 5.8(d) of the Debtors' prepackaged chapter 11 plan of reorganization. None of the fees and expenses payable pursuant to this paragraph 15(d) shall be subject to compliance with the U.S. Trustee's fee guidelines or approval by this Court (but this Court shall resolve any dispute as to the reasonableness of such fees and expenses), and no recipient of any such payment shall be required to file any interim or final fee application with respect thereto. The Debtors shall pay the reasonable and documented fees and expenses provided for in this paragraph 15(d) within 20 days following receipt of invoices therefor by the Debtors, the counsel for any Committee, and the U.S. Trustee; provided that upon any objection

to the reasonableness of such fees, the Debtors shall pay all amounts that are not subject to such objection within 20 day period and shall pay the balance following the resolution of such objection or upon an order of this Court.

(e) Reporting Obligations. The Debtors are authorized and directed to promptly provide to counsel to the Required Lenders, and to such other advisors as directed, such information and due diligence materials as the Required Lenders reasonably request, and shall cause their management and advisors to meet with the Required Lenders and/or their advisors at reasonable times upon request of the Required Lenders. In addition, the Debtors shall deliver to the Required Lenders, in each case, in form and substance reasonably acceptable to the Required Lenders, on each Thursday following the entry of this Interim Order, an updated 13-week cash flow forecast for the succeeding 13 calendar weeks, together with a comparison of actual cash flows to the cash flows projected for the immediately preceding week and a report regarding any material variances between such projected and actual cash flows. Each updated 13-week cash flow report shall, among other things, list any and all prepetition claims paid during the immediately preceding week (with a notation indicating which order authorized such payments) and the cumulative total of all prepetition claims paid (with a notation indicating which order authorized such payments).

(f) Additional Adequate Protection. Each Prepetition Secured Party to the RSA is authorized to terminate the RSA as to itself, and to exercise all of its rights thereunder, in accordance with the terms of the RSA, irrespective of the automatic stay which, to the extent it might apply, is hereby modified to permit such termination and/or exercise of rights under the RSA by each Prepetition Secured Party thereto.

16. *Reservation of Rights of the Prepetition Secured Parties.* The Prepetition Secured Parties consent to the adequate protection provided herein. Notwithstanding any other provision hereof, the grant of adequate protection to the Prepetition Secured Parties pursuant hereto is without prejudice to, and does not constitute a waiver of, expressly or implicitly, (a) the right of the Prepetition Secured Parties to seek modification of the grant of adequate protection provided hereby so as to provide different or additional adequate protection (subject to the rights of the Debtors to object thereto), (b) the Prepetition Secured Parties' rights under the Existing Agreements, or (c) any of the rights of the Prepetition Secured Parties under the Bankruptcy Code or applicable nonbankruptcy law. Except as expressly provided herein, nothing contained in this Interim Order (including the authorization to use the Cash Collateral) shall impair or modify any rights, claims, or defenses available in law or equity to the Prepetition Secured Parties.

17. *Perfection of Adequate Protection Liens.*

(a) The Existing Collateral Agents are hereby authorized, but not required, to file or record financing statements, intellectual property filings, mortgages, notices of lien, or similar instruments in any jurisdiction, take possession of or control over, or take any other action in order to validate and perfect the Adequate Protection Liens granted to it hereunder. Whether or not the Existing Collateral Agents shall, in their respective sole discretion, choose to file such financing statements, intellectual property filings, mortgages, notices of lien, or similar instruments, take possession of or control over, or otherwise confirm perfection of the Adequate Protection Liens, such Adequate Protection Liens shall be deemed valid, perfected, allowed, enforceable, non-avoidable, and not subject to challenge, dispute, or subordination as of the date of entry of this Interim Order. A certified copy of this Interim Order may, in the discretion of the

Existing Collateral Agents, be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien, or similar instruments, and all filing offices are hereby authorized to accept such certified copy of this Interim Order for filing and recording.

(b) The Debtors shall execute and deliver to the Existing Collateral Agents all such agreements, financing statements, instruments, and other documents as the Existing Collateral Agents may reasonably request to evidence, confirm, validate, or perfect the Adequate Protection Liens.

18. *Preservation of Rights Granted Under the Order.*

(a) Except for the claims to be incurred and liens to be granted in connection with the Motion, no claim or lien having a priority senior to or *pari passu* with those granted by this Interim Order to the Prepetition Secured Parties shall be granted or allowed while any portion of the Prepetition Obligations and the Adequate Protection Obligations remain outstanding, and the Adequate Protection Liens shall not be subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under section 551 of the Bankruptcy Code or subordinated to or made *pari passu* with any other lien or security interest, whether under section 364(d) of the Bankruptcy Code or otherwise.

(b) If any or all of the provisions of this Interim Order are hereafter reversed, modified, vacated, or stayed, such reversal, stay, modification, or vacatur shall, to the extent provided in sections 364(e) of the Bankruptcy Code, not affect (i) the validity, priority, or enforceability of any Prepetition Obligations or the Adequate Protection Obligations incurred prior to the effective date of such reversal, stay, modification, or vacatur or (ii) the validity, priority or enforceability of the Adequate Protection Liens to the extent of any diminution in

value incurred prior to the effective date of such reversal, stay, modification or vacatur. Notwithstanding any such reversal, stay, modification or vacatur, any use of the Cash Collateral or any Adequate Protection Obligations incurred by the Debtors to the Prepetition Secured Parties, as the case may be, prior to the effective date of such reversal, stay, modification, or vacatur shall, to the extent provided in section and 364(e) of the Bankruptcy Code, be governed in all respects by the original provisions of this Interim Order, and the Prepetition Secured Parties shall be entitled to all of the rights, remedies, privileges, and benefits granted in section 364(e) of the Bankruptcy Code, this Interim Order, the Existing Agreements, the Adequate Protection Obligations, and uses of the Cash Collateral.

(c) Except as expressly provided in this Interim Order or in the Existing Agreements, the Adequate Protection Liens, the 507(b) Claims and all other rights and remedies of the Prepetition Secured Parties granted by this Interim Order and the Existing Agreements shall survive, and shall not be modified, impaired, or discharged by (i) the entry of an order converting any of the Cases to a case under chapter 7 of the Bankruptcy Code, dismissing any of the Cases, or (ii) the entry of an order confirming a plan of reorganization in any of the Cases and, pursuant to section 1141(d)(4) of the Bankruptcy Code, the Debtors having waived any discharge as to any remaining Adequate Protection Obligations. In any Successor Case if the Cases cease to be jointly administered, or in any superseding chapter 7 cases under the Bankruptcy Code, and the Adequate Protection Liens, the Adequate Protection Obligations, the Section 507(b) Claims, the other administrative claims granted pursuant to this Interim Order, and all other rights and remedies of the Prepetition Secured Parties granted by this Interim Order shall continue in full force and effect until all Adequate Protection Obligations are indefeasibly paid in full in cash.

19. *Effect of Stipulations on Third Parties.* The stipulations and admissions contained in this Interim Order, including, without limitation, in paragraph 4 of this Interim Order, shall be binding on the Debtors' estates and all parties in interest, including, without limitation, any Committee, unless any Committee, or another party in interest (other than any of the Debtors) with standing and requisite authority, has timely commenced a contested matter or adversary proceeding (subject to the limitations set forth in paragraph 20 hereof, including, for the avoidance of doubt, the Investigation Budget), challenging the amount, validity, or enforceability of the Prepetition Indebtedness or the perfection or priority of the Prepetition Liens, or otherwise asserting any objections, claims, or causes of action on behalf of the Debtors' estates against the Prepetition Second Lien Lenders or the Prepetition Third Lien Lenders relating to the Prepetition Indebtedness or the Prepetition Liens (such adversary proceeding or contested matter, a "Challenge"), on or before either (a) if a Committee has been appointed on or before the 30th calendar day following the Petition Date, the earlier of (i) the 60th calendar day after the date of appointment of such Committee by the U.S. Trustee or (ii) 10 calendar days prior to September 19, 2014, unless otherwise ordered by the Court, or (b) in the event no Committee is appointed on or before the 30th calendar day following the Petition Date, September 19, 2014 (the "Investigation Termination Date"). If no such Challenge is timely commenced as of the Investigation Termination Date, without further order of the Court, (x) the claims, Liens, and security interests of the Prepetition Secured Parties shall, without further order of the Court, be deemed to be finally allowed for all purposes in the Cases and any Successor Case and shall not be subject to challenge or objection by any party in interest as to validity, priority, amount, or otherwise, and (y) without further order of the Court, the Debtors and their estates shall be deemed to have relinquished, released, and waived any and all claims or causes of action against

the Prepetition Secured Parties with respect to the Existing Agreements or any related transactions. Notwithstanding anything to the contrary herein, if no Challenge is timely commenced, the stipulations contained in paragraph 4 of this Interim Order shall be binding on the Debtors' estates, any Committee, and all parties in interest. If a Challenge is timely commenced, the stipulations contained in paragraph 4 of this Interim Order shall be binding on the Debtors' estates and all parties in interest except to the extent such stipulations are specifically challenged in such Challenge, as and when originally filed (ignoring any relation back principles); provided that if and to the extent a Challenge is withdrawn, denied, or overruled, the stipulations specifically challenged in such Challenge also shall be binding on the Debtors' estates and all parties in interest.

20. *Limitation on Use of Cash Collateral and Collateral.* The Debtors shall use the Collateral, including the Cash Collateral, solely as provided in this Interim Order. Notwithstanding anything herein or in any other order of this Court to the contrary, none of the Collateral, including the Cash Collateral, may be used to (a) object, contest, or raise any defense to the validity, perfection, priority, extent, or enforceability of any amount due under the Existing Agreements or the Liens or claims granted under this Interim Order or the Existing Agreements, (b) assert any Claims and Defenses or any other causes of action against the Prepetition Secured Parties or their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys, or advisors, (c) prevent, hinder, or otherwise delay the Prepetition Secured Parties' assertion, enforcement, or realization on the Collateral in accordance with the Existing Agreements or this Interim Order, (d) seek to modify any of the rights granted to the Prepetition Secured Parties hereunder or under the Existing Agreements, in the case of each of the foregoing clauses (a) through (d), without such party's prior written consent, or (e) pay any amount on

account of any claims arising prior to the Petition Date unless such payments are (i) approved by an order of this Court and (ii) permitted under the Budget. Notwithstanding the foregoing, the Committee and its advisors may investigate the Liens granted pursuant to the Existing Agreements prior to the Investigation Termination Date and any causes of action in connection therewith at an aggregate expense for such investigation not to exceed \$20,000 (the "Investigation Budget").

21. *Order Governs.* In the event of any inconsistency between the provisions of this Interim Order, on the one hand, and the Motion or the Existing Agreements, on the other, the provisions of this Interim Order shall govern.

22. *Binding Effect; Successors and Assigns.* The provisions of this Interim Order, including all findings herein, shall be binding upon and inure to the benefit of all parties-in-interest in the Cases, including the Prepetition Secured Parties, to the extent as set forth herein, and the Debtors, any Committee appointed in these Cases, and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for any of the Debtors, an examiner with expanded powers appointed pursuant to section 1104 of the Bankruptcy Code, or any other fiduciary appointed as a legal representative of any of the Debtors or with respect to the property of the estate of any of the Debtors); provided that, except to the extent expressly set forth in this Interim Order, the Prepetition Secured Parties shall have no obligation to permit the use of the Cash Collateral or extend any financing to any chapter 7 trustee or similar responsible person appointed for the estates of the Debtors.

23. *Limitation of Liability.* Subject to and effective upon entry of the Final Order, in permitting the use of Cash Collateral or in exercising any rights or remedies as and when permitted pursuant to the Final Order or the Existing Agreements, the Prepetition Secured Parties

shall not solely by reason thereof be deemed to be in control of the operations of the Debtors or to be acting as a “responsible person” or “owner or operator” with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. §§ 9601 *et seq.* as amended, or any similar federal or state statute). Furthermore, subject to and effective upon entry of the Final Order, nothing in this Order or in the Existing Agreements shall in any way be construed or interpreted to impose or allow the imposition upon the Prepetition Secured Parties of any liability for any claims arising from the prepetition or postpetition activities of any of the Debtors.

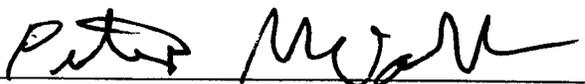
24. *Effectiveness.* This Interim Order shall constitute findings of fact and conclusions of law and shall take effect immediately upon entry hereof, and there shall be no stay of effectiveness of this Interim Order.

25. *Final Hearing.* The Final Hearing is scheduled for **September 3, 2014 at 11:00 a.m. (Eastern Daylight Time)**, before this Court.

26. *Final Hearing Notice.* The Debtors shall promptly serve copies of this Interim Order (which shall constitute adequate notice of the Final Hearing) on the parties having been given notice of the Hearing, and to any other party that has filed a request for notices with this Court and to any Committee after the same has been appointed, or Committee counsel, if the same shall have been appointed. Any party-in-interest objecting to the relief sought at the Final Hearing shall serve and file written objections, which objections shall be served upon: (i) the Office of the United States Trustee for the District of Delaware, J. Caleb Boggs Federal Building, 844 North King Street, Suite 2207, Wilmington, DE 19801 (Attn: David L. Buchbinder, Esq.); (ii) O’Melveny & Myers LLP, Times Square Tower, Seven Times Square,

New York, NY 10036 (Attn: George A. Davis, Esq., John J. Rapisardi, Esq. and Diana M. Perez, Esq.), co-counsel for the Debtors; (iii) Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, DE 19801 (Attn: Mark D. Collins, Esq. and Jason M. Madron, Esq.), co-counsel for the Debtors; (iv) U.S. Bank National Association, c/o U.S. Bank Global Corporate Trust Services, 214 N. Tryon Street, 26th Floor, Charlotte, NC 28202, as Prepetition Second Lien Agent; (v) Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, NY 10036 (Attn: Brian Kim, Esq.), counsel to U.S. Bank National Association; (vi) Wells Fargo Bank, National Association, 625 Marquette Avenue, 11th Floor, Minneapolis, MN 55402 (Attn: Entegra Third Lien Account Administrator), as Prepetition Third Lien Agent; (vii) Perkins Coie LLP, 30 Rockefeller Plaza, 22nd Floor, New York, NY 10112 (Attn: Sean Connery, Esq.), counsel to Wells Fargo Bank, National Association; and (viii) Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, NY 10036 (Attn: Kenneth S. Ziman, Esq.) and Skadden, Arps, Slate, Meagher & Flom LLP, 155 North Wacker Drive, Suite 2700, Chicago, IL 60606 (Attn: Ron Meisler, Esq. and Christopher M. Dressel, Esq.), and shall be filed with the Clerk of the Court, in each case so as to be received by 4:00 p.m. (Eastern Daylight Time) no later than seven days prior to the Final Hearing.

Dated: August 6, 2014
Wilmington, Delaware



THE HONORABLE PETER J. WALSH
UNITED STATES BANKRUPTCY JUDGE

Exhibit A

