

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

In re:

Aspirity Energy, LLC

Debtor.

Chapter 11

BKY 17-41991 (KHS)

**INTERIM ORDER**

The Motion of Aspirity Energy, LLC (“Debtor”) for an Order granting interim use of cash collateral and to grant adequate protection came on for expedited hearing before the undersigned on the 10<sup>th</sup> day of July 2017. The Debtor and Exelon Generation Company, LLC (“Exelon”) entered into a stipulation for the use of cash collateral [Docket No. 15] (the “Stipulation”). For reasons stated orally and recorded in open court,

**IT IS ORDERED:**

1. The Debtor’s Motion for expedited hearing is granted.
2. Use of Cash Collateral. The Stipulation is approved and the Debtor is hereby authorized, on an interim basis subject to the terms and conditions of this Order, and in accordance with the Budget (as defined below), to use Exelon’s Cash Collateral in accordance with, and for the purposes, and in the amounts, set forth in the Budget.
3. Term of Use. The use of Cash Collateral as authorized herein extends through and includes the date of the Final Cash Collateral Hearing, but any use of Cash Collateral beyond such date of the Final Cash Collateral Hearing must be authorized by further order of the Bankruptcy Court.
4. Budget. Appearing below is the weekly statement of collections and disbursements of the Debtor for the three weeks encompassing the hearing date for the Cash

Collateral Motion and ending on July 28, 2017 (the “Budget”). The Debtor shall use the Cash Collateral in accordance with the Budget and this Order. The Debtor and Exelon may agree to a revised budget (a “Revised Budget”) and file such Revised Budget with the Bankruptcy Court, at which time the Revised Budget shall become the Budget for purposes of this Order. Such Revised Budget shall not provide for any payments beyond the “Term of Use” specified herein.

<i>week ending...</i>	<b>Week 1 7/14</b>	<b>Week 2 7/21</b>	<b>Week 3 7/28</b>
Payroll.....	15,950	0	15,950
OpSolve.....	82,718	0	0
Health Insurance.....	4,000	0	0
<b>Total</b>	<b>102,668</b>	<b>0</b>	<b>15,950</b>
Cash in Lockbox.....	159,386	156,718	251,718
Remittances.....	100,000	95,000	90,000
Expenditures.....	(102,668)	0	(15,950)
Ending Cash Balance.....	156,718	251,718	325,768
Billings.....	90,000	85,000	80,000
A/R Balance.....	972,546	962,546	952,546

5. Adequate Protection. As adequate protection for any diminution in the value of the Collateral resulting from the use of Cash Collateral, the imposition of the automatic stay under section 362 of the Bankruptcy Code,<sup>1</sup> or otherwise, Debtor is authorized to grant to Exelon a replacement lien in the Debtor’s assets, which replacement lien shall have the same priority, dignity and effect as the pre-petition lien held by Exelon, all pending the Final Cash Collateral Hearing. Exelon’s lack of adequate protection payments in this Order shall have no precedential effect as to Exelon’s ability to seek such payments from the Debtor when use of Cash Collateral is sought on a final basis and Exelon reserves all rights related thereto. The Debtor’s assets excluded from the replacement lien are the Chapter 5 causes of action.

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<sup>1</sup> Chapter 11 of Title 11 of the United States Code.

6. Financial Reporting. Upon request of Exelon and as otherwise required under the supply agreement and all related agreements between the Debtor and Exelon (collectively, and as defined in the Stipulation, the “Obligation Documents”), the Debtor shall provide Exelon all financial reports, budgets, forecasts, evidence of insurance, balance sheets, income statements, and all other legal or financial documentation required to be provided under the aforementioned agreements.

7. Limitation of Liability. In permitting the use of Cash Collateral or in exercising any rights or remedies as and when permitted pursuant to this Order or the Obligation Documents, Exelon shall not be deemed to be in control of the operations of the Debtor or to be acting as a “responsible person” or “owner or operator” with respect to or in connection with the Debtor’s restructuring efforts or the operation or management of the Debtor. Furthermore, nothing in this Order shall in any way be construed or interpreted to impose or allow the imposition upon Exelon of any liability for any claims arising from the prepetition or post-petition activities of the Debtor and its affiliates (as defined in section 101(2) of the Bankruptcy Code).

8. Termination of Use of Cash Collateral. The Debtor’s right to use the Cash Collateral pursuant to the terms set forth in this Order shall terminate upon the earliest to occur of any of the following (each a “Cash Collateral Termination Event”) that has not been waived by Exelon: (i.) the failure of the Debtor to comply with any term of or make any payment required under this Order; (ii.) unless the Court orders otherwise, the occurrence of July 26, 2017 without the Bankruptcy Court having held a hearing on the Debtor’s continued use of Cash Collateral; (iii.) the dismissal of the Debtor’s Chapter 11 case, the conversion of the Debtor’s Chapter 11 case to a case under chapter 7 of the Bankruptcy Code, or appointment of a chapter

11 trustee with expanded powers in the Debtor's Chapter 11 case; (iv.) any stay, reversal, vacatur, rescission or other modification of the terms of this Order not consented to by Exelon; or (v.) the failure of the Debtor to pay any post-petition local, state, or federal taxes as they become due.

9. Reservation of Debtor's Rights. Notwithstanding anything to the contrary herein, upon the occurrence of a Cash Collateral Termination Event, the Debtor may seek authority from the Bankruptcy Court to use the Cash Collateral on a non-consensual basis; provided that Exelon reserves all rights to object to such request.

10. Reservation of Rights of All Parties-in-Interest. The interests, rights, and liens of all parties-in-interest in the Debtor's Chapter 11 case, including, without limitation, Exelon, as of the Petition Date are expressly preserved. Nothing in this Order shall relieve the Debtor of any obligations under federal, state, or local police or regulatory laws or under 28 U.S.C. § 959(b).

11. Waiver of Bankruptcy Rule 6004. This Order shall take effect immediately, and there shall be no stay of execution of effectiveness of this Order. Any stay of the effectiveness of this Order under Bankruptcy Rule 6004 or otherwise is waived.

12. Retention of Jurisdiction. The Bankruptcy Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Stipulated Order.

13. A further hearing on the motion for an order authorizing the use of cash collateral shall be held on Wednesday, July 26, 2017 at 9:00 a.m.

**Dated:** July 10, 2017

/e/ Kathleen H. Sanberg

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**Kathleen H. Sanberg**  
**Chief United States Bankruptcy Judge**