

**IN THE 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 second interim use of cash collateral and to grant adequate protection came on for hearing before the undersigned on the 26th day of July 2017. The Debtor and Exelon Generation Company, LLC ("Exelon") entered into the *Stipulation and Request for Entry of Proposed Order Authorizing Second Interim Use of Cash Collateral of Exelon Generation Company, LLC and Granting Adequate Protection* [Docket No. 25] (the "Stipulation"). Based on the motion, the stipulation of the parties, and the file,

**IT IS ORDERED:**

1. 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.

2. Term of Use. The use of Cash Collateral as authorized herein extends through and includes the date of the Third Cash Collateral Hearing (as defined in the Stipulation), but any use of Cash Collateral beyond such date of the Third Cash Collateral Hearing must be authorized by further order of the Bankruptcy Court.

3. Budget. Appearing below is the weekly expenses of the Debtor for the period encompassing the week of this hearing (the week ending July 28, 2017) and ending on

September 1, 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>	<b>Week 4 8/4</b>	<b>Week 5 8/11</b>	<b>Week 6 8/18</b>	<b>Week 7 8/25</b>	<b>Week 8 9/1</b>
Payroll.....	17,492	0	17,492	0	0	17,492		17,492
Workers Comp.....	0	0	0	0	800	0	0	0
OpSolve.....	82,718	0	0	82,718	0	1,800	0	0
Health Insurance.....	4,758	0	0	5,614	0	4,758	400	0
Bank Fees.....	2,567	0	0	2,567	0	0	0	0
<b>Total</b>	<b>107,535</b>	<b>0</b>	<b>17,492</b>	<b>90,899</b>	<b>800</b>	<b>24,050</b>	<b>400</b>	<b>17,492</b>

4. 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. 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 future basis and Exelon reserves all rights related thereto. The Debtor’s assets excluded from the replacement lien are the Chapter 5 causes of action.

5. Financial Reporting. Upon request of Exelon and as otherwise required under the supply agreement and all related agreements between the Debtor and Exelon (collectively the “Obligation Documents”), the Debtor shall provide Exelon all financial reports,

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

budgets, forecasts, evidence of insurance, balance sheets, income statements, and all other legal or financial documentation required to be provided under the aforementioned agreements.

6. 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).

7. 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 September 1, 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 Second Interim Stipulation not consented to by Exelon; (v.) entry of an order granting the *Notice of Hearing and Motion of Exelon Generation Company, LLC for Relief from the Automatic Stay and Order Finding*

*Applicability of Safe Harbor Protections* [Docket No. 21]; or (vi.) the failure of the Debtor to pay any post-petition local, state, or federal taxes as they become due.

8. 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.

9. 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).

10. 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.

11. 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 Order.

12. A further hearing on the motion for an order authorizing the use of cash collateral shall be held on Friday, September 1, 2017, or the Court's next available hearing date thereafter at 9:00 a.m.

**Dated: July 26, 2017**

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