

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

In re:

AEI WINDDOWN, INC.,<sup>1</sup>

Debtor.

Chapter 11

Case No. 17-10500 (KJC)

**NOTICE OF (I) CONDITIONAL APPROVAL OF  
DISCLOSURE STATEMENT; (II) HEARING TO CONSIDER CONFIRMATION  
OF THE PLAN; (III) DEADLINE FOR FILING OBJECTIONS TO CONFIRMATION  
OF THE PLAN; (IV) DEADLINE FOR VOTING ON THE PLAN; AND (V) BAR DATE  
FOR FILING ADMINISTRATIVE CLAIMS ESTABLISHED BY THE PLAN**

To: (a) the Office of the United States Trustee for the District of Delaware; (b) the Debtor's known creditors on their creditor matrix, including, among others, all of their trade creditors, taxing authorities, any governmental authority with whom the company conducts business, bonding companies, banks, UCC-1 lien holders, other secured creditors, litigants, counterparties to contracts; (c) the Securities and Exchange Commission; (d) the Internal Revenue Service; (e) the holders of equity interests; and (f) any part requesting special notice pursuant to Bankruptcy Rule 2002

**PLEASE TAKE NOTICE OF THE FOLLOWING:**

1. On March 8, 2017 (the "Petition Date"), the above captioned debtor and debtor in possession (the "Debtor") commenced its case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor has continued in the possession of its property and has continued to operate and manage its businesses as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Additional information regarding the Debtor and this case, including the Debtor's businesses, corporate structure, financial condition, and the reasons for and objectives of this case, are set forth in the *Declaration of Suzanne Roski, Chief Restructuring Officer, in Support of First Day Motions* (the "First Day Declaration"), filed on the Petition Date [Docket No. 15]. The First Day Declaration is fully incorporated herein by reference.

**THE PLAN AND DISCLOSURE STATEMENT**

2. On October 19, 2017, the Debtor filed the *Debtor's Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*, [Docket No.397] (including all exhibits thereto and as amended, supplemented or otherwise modified from time to time, the "Plan")<sup>2</sup> and the

<sup>1</sup> The Debtor in this chapter 11 case and the last four digits of the Debtor's U.S. tax identification number is AEI Winddown, Inc. (f/k/a Aquion Energy, Inc.) (1370). The Debtor's headquarters is located at AEI Winddown, Inc. (f/k/a Aquion Energy, Inc.) c/o Suzanne Roski, 1051 East Cary Street, Suite 602, Richmond, VA 23219.

<sup>2</sup> Capitalized terms used but not defined herein shall have the meaning as  
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*Disclosure Statement with Respect to Debtor's Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 398] (including all exhibits thereto and as amended, supplemented or otherwise modified from time to time, the "Disclosure Statement") providing information with respect to the Plan.

### CONDITIONAL APPROVAL OF DISCLOSURE STATEMENT

3. By an Order dated November 7, 2017, (the "Conditional Disclosure Statement Order"), the Bankruptcy Court conditionally approved the Disclosure Statement as containing adequate information within the meaning of section 1125 of Bankruptcy Code. The Conditional Disclosure Statement Order expressly reserves all parties' rights to raise objections to the adequacy of information in the Disclosure Statement.

4. By the Conditional Disclosure Statement Order, the Court established **December 12, 2017 at 4:00 p.m. (prevailing Eastern Time)** (the "Voting Deadline") as the deadline by which ballots accepting or rejecting the Plan must be received. To be counted, your original ballot must actually be **received** on or before the Voting Deadline by the Voting Agent at the following address:

Aquion Energy, Inc. Ballot Processing Center  
c/o KCC  
2335 Alaska Ave.  
El Segundo, CA 90245

### DISCLOSURE STATEMENT AND PLAN CONFIRMATION HEARING

5. On **December 19, 2017, at 11:00 a.m. (prevailing Eastern Time)**, or as soon thereafter as counsel may be heard, a hearing will be held before the Honorable Kevin J. Carey in the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 5<sup>th</sup> Floor, Courtroom 5, Wilmington, DE 19801 to consider final approval of the Disclosure Statement and confirmation of the Plan, as the same may be amended or modified (the "Combined Hearing").

6. The Combined Hearing may be adjourned from time to time. If the Combined Hearing is adjourned, the Debtor will file a notice of adjournment on the docket and serve it by email if available, otherwise by first class or overnight mail, on the parties who have requested notice pursuant to Bankruptcy Rule 2002 and on any parties that have filed objections to approval of the Disclosure Statement or confirmation of the Plan. The Plan may be modified in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Plan, and other applicable law, without further notice, prior to or as a result of the Combined Hearing.

### ADMINISTRATIVE CLAIM BAR DATE

7. Article II.B of the Plan sets a Bar Date for the filing of Administrative Claims arising on or after August 2, 2017 as sixty (60) days after the Effective Date.

## INJUNCTIONS, RELEASES, AND DISCHARGE

8. Articles VIII. D, E and F of the Plan contain the release and exculpation provisions set forth below:

**Exculpation.** The Debtor, the Committee and each of their respective officers, directors, shareholders, members, managers, employees, agents, advisors, accountants, attorneys, and representatives and their respective property (collectively, the “Exculpated Parties”), will neither have nor incur any liability to any entity for any action in good faith taken or omitted to be taken after the Petition Date in connection with or related to the Chapter 11 Case, the sale of the Debtor’s assets or the formulation, preparation, dissemination, implementation, Confirmation, or Consummation of the Plan, the Disclosure Statement, or any agreement created or entered into in connection with the Plan; provided, however, that this limitation will not affect or modify the obligations created under this Plan, or the rights of any Holder of an Allowed Claim to enforce its rights under the Plan, and shall not release any action (or inaction) constituting willful misconduct, fraud, or gross negligence (in each case subject to determination of such by final order of a court of competent jurisdiction); provided that any Exculpated Party shall be entitled to reasonably rely upon the advice of counsel with respect to its duties and responsibilities (if any) under this Plan, and such reasonable reliance shall form an absolute defense to any such claim, Cause of Action, or liability. Without limiting the generality of the foregoing, each Exculpated Party shall be entitled to and granted the protections of Section 1125(e) of the Bankruptcy Code. Except as specifically set forth in Section VIII.E of the Plan, no provision of this Plan or the Disclosure Statement shall be deemed to act to or release any claims, Causes of Action, Litigation claims or rights, or liabilities that the Liquidating Trust or the Estate may have against any Entity or person for any act, omission, or failure to act that occurred prior to the Petition Date, nor shall any provision of this Plan be deemed to act to release any Causes of Action, Litigation, or Litigation claims.

**Injunction.** In implementation of the Plan, except as otherwise expressly provided in the Confirmation Order or the Plan, and except in connection with the enforcement of the terms of the Plan or any documents provided for or contemplated in the Plan, all entities who have held, hold or may hold Claims against or Interests in the Debtor, the Liquidating Trust, or the Estate that arose prior to the Effective Date are permanently enjoined from: (a) commencing or continuing in any manner, directly or indirectly, any action or other proceeding of any kind against the Debtor, the Estate, the Liquidating Trust, or any of the Liquidating Trust Assets, the Debtor, or the Estate with respect to any such Claim or Interest; (b) the enforcement, attachment, collection, or recovery by any manner or means, directly or indirectly, of any judgment, award, decree, or order against the Debtor, the Estate, the Liquidating Trust, or any of the Liquidating Trust Assets, the Debtor, or the Estate with respect to any such Claim or Interest; (c) creating, perfecting, or enforcing, directly or indirectly, any Lien or encumbrance of any kind against the Debtor, the Estate, or the Liquidating Trust, or any of the Liquidating Trust Assets, the Debtor, or the Estate with respect to any such Claim or Interest; and (d) any act, in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan with respect to such Claim or Interest. Nothing contained in this Section shall prohibit the Holder of a timely filed Proof of Claim from litigating its right to seek to have such Claim declared an Allowed Claim and paid in accordance with the distribution provisions of this Plan, or enjoin or

prohibit the interpretation or enforcement by the Claimant of any of the obligations of the Debtor or the Liquidating Trust under this Plan.

**Debtor Release.** Pursuant to section 1123(b) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan, for good and valuable consideration, on and after and subject to the occurrence of the Effective Date, the Debtor and its estate shall release each Released Party,<sup>3</sup> and each Released Party is deemed released by the Debtor and the estate from any and all claims, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims, asserted or assertable on behalf of any of the Debtor or its estate, as applicable, whether known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, matured or unmatured, determined or determinable, disputed or undisputed, liquidated or unliquidated, or due or to become due, existing or hereinafter arising, in law, equity, or otherwise, that the Debtor or the estate would have been legally entitled to assert in its own right, or on behalf of the Holder of any Claim or Interest or other entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtor, the Debtor's liquidation, the Chapter 11 Case, the purchase, sale, transfer of any security, asset, right, or interest of the Debtor, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests prior to or in the Chapter 11 Case, the negotiation, formulation, or preparation of the Plan or related agreements, instruments, or other documents, any other act or omission, transaction, agreement, event, or other occurrence taking place on and before the Petition Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes fraud, willful misconduct, or gross negligence; provided, that the foregoing Debtor Release shall not operate to waive or release any obligations of any party under the Plan or any other document, instrument, or agreement executed to implement the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained herein, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (a) in exchange for the good and valuable consideration provided by the Released Parties; (b) a good faith settlement and compromise of the Claims released by the Debtor Release; (c) in the best interests of the Debtor and all Holders of Claims and Interests; (d) fair, equitable, and reasonable; (e) given and made after due notice and opportunity for hearing; and (f) a bar to any of the Debtor or its estate asserting any Claim or Cause of Action released pursuant to the Debtor Release.

**Third Party Release.** On and after and subject to the occurrence of the Effective Date, except as otherwise provided in the Plan, each Claimant (collectively, the "Releasing Parties") who affirmatively votes to accept the Plan and who does not elect to "opt-out" by marking the

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<sup>3</sup> "Released Party," as defined in the Plan, means: (a) the Debtor, (b) the Debtor's post-petition officers (including the Chief Restructuring Officer), directors and managers; (c) the Committee and the individual members thereof in their capacity as such, and (d) each of such Entities' respective successors and assigns, and respective current and former shareholders, affiliates, subsidiaries, principals, employees, agents, officers, directors, managers, trustees, partners, members, professionals, representatives, advisors, attorneys, financial advisors, accountants, and consultants.

appropriate box on such Releasing Party's respective Ballot, for themselves and their respective successors, assigns, transferees, and such Claimants' officers and directors, agents, members, financial and other advisors, attorneys, employees, partners, affiliates, and representatives (in each case in their capacity as such), shall release (the "Third Party Release") each Released Party, and each of the Debtor, its estate, and the Released Parties shall be deemed released from any and all claims, interests, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims asserted or assertable on behalf of any of the Debtor or its estate, as applicable, whether known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, matured or unmatured, determined or determinable, disputed or undisputed, liquidated or unliquidated, or due or to become due, existing or hereinafter arising, in law, equity, or otherwise, that such Entity would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtor, the Debtor's liquidation, the Chapter 11 Case, the purchase, sale, transfer of any security, asset, right, or interest of the Debtor, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests prior to or in the Chapter 11 Case, the negotiation, formulation, or preparation of the Plan or related agreements, instruments, or other documents, any other act or omission, transaction, agreement, event, or other occurrence taking place on and before the Petition Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes fraud, willful misconduct or gross negligence. Notwithstanding anything to the contrary in the foregoing, the Third Party Release shall not release any obligations of any party under the Plan or any other document, instrument, or agreement executed to implement the Plan.

#### **DEADLINE FOR OBJECTIONS TO APPROVAL OF THE DISCLOSURE STATEMENT OR CONFIRMATION OF THE PLAN**

9. Objections, if any, to approval of the Disclosure Statement or confirmation of the Plan, including any supporting memoranda, must be in writing, be filed with the Clerk of the Court, United States Bankruptcy Court, District of Delaware, 824 North Market Street, Wilmington, DE 19801 together with proof of service **on or before December 12, 2017, at 4:00 p.m. (prevailing Eastern Time)** (the "Objection Deadline"), and shall (a) state the name and address of the objecting party and the amount of its claim or the nature of its interest in the Debtor's chapter 11 case; (b) state with particularity the provision or provisions of the Plan objected to and for any objection asserted, the legal and factual basis for such objections; and (c) be served on the following parties: (i) the Office of the United States Trustee; (ii) the Debtor; (iii) the Committee; and (iv) any party that has requested notice pursuant to Bankruptcy Rule 2002.

#### **COPIES OF THE PLAN AND DISCLOSURE STATEMENT**

10. If you wish to receive copies of the Plan and/or Disclosure Statement, they will be provided, as quickly as practicable, upon request to the Voting Agent, Kurtzman Carson Consultants LLC, by writing to AEI Winddown Inc. (f/k/a/ Aquion Energy, Inc.), c/o KCC, 2335 Alaska Ave., El Segundo, CA 90245 or by phone at 866-381-9100 (310-823-9000 for

international calls). Copies of the Plan and Disclosure Statement will be available online at [www.kccllc.net/aquion](http://www.kccllc.net/aquion). Copies of the Plan and Disclosure Statement are also on file with the Clerk of the Bankruptcy Court for the District of Delaware, and may be reviewed during the regular hours of the Bankruptcy Court or online through the Bankruptcy Court's internet website at <http://www.deb.uscourts.gov>.

IF YOU HAVE ANY QUESTIONS REGARDING YOUR CLAIM OR THE VOTING PROCEDURES, OR IF YOU NEED A BALLOT OR ADDITIONAL COPIES OF THE DISCLOSURE STATEMENT OR OTHER ENCLOSED MATERIALS, PLEASE CONTACT THE VOTING AGENT AS SET FORTH ABOVE.

Dated: November 9, 2017

**PACHULSKI STANG ZIEHL & JONES LLP**

*/s/ Laura Davis Jones*

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