

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

In re:	)	Chapter 11
	)	
SOUTHCROSS ENERGY PARTNERS, L.P.,	)	Case No. 19-10702 (MFW)
<i>et al</i> ,	)	
	)	Jointly Administered
	)	
Debtors. <sup>1</sup>	)	Hearing Date: November 13, 2019 at 10:30 a.m. (ET)
	)	Obj. Deadline: November 6, 2019 at 4:00 p.m. (ET)

**MOTION OF DEBTORS FOR ENTRY OF AN ORDER FURTHER EXTENDING  
THE DEADLINE BY WHICH THE DEBTORS MAY REMOVE CIVIL ACTIONS**

Southcross Energy Partners, L.P. (“**Southcross**”), Southcross Energy Partners GP, LLC, and Southcross’s wholly owned direct and indirect subsidiaries, each of which is a debtor and debtor in possession (collectively, the “**Debtors**”) in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”), hereby file this *Motion of Debtors for Entry of an Order Further Extending the Deadline by Which the Debtors May Remove Civil Actions* (this “**Motion**”). In support of this Motion, the Debtors respectfully state as follows:

### Relief Requested

1. By this Motion, and pursuant to 28 U.S.C. § 1452 and Rules 9006 and 9027 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), the Debtors seek entry of an

<sup>1</sup> The debtors and debtors in possession in these chapter 11 cases, along with the last four digits of their respective Employer Identification Numbers, are as follows: Southcross Energy Partners, L.P. (5230); Southcross Energy Partners GP, LLC (5141); Southcross Energy Finance Corp. (2225); Southcross Energy Operating, LLC (9605); Southcross Energy GP LLC (4246); Southcross Energy LP LLC (4304); Southcross Gathering Ltd. (7233); Southcross CCNG Gathering Ltd. (9553); Southcross CCNG Transmission Ltd. (4531); Southcross Marketing Company Ltd. (3313); Southcross NGL Pipeline Ltd. (3214); Southcross Midstream Services, L.P. (5932); Southcross Mississippi Industrial Gas Sales, L.P. (7519); Southcross Mississippi Pipeline, L.P. (7499); Southcross Gulf Coast Transmission Ltd. (0546); Southcross Mississippi Gathering, L.P. (2994); Southcross Delta Pipeline LLC (6804); Southcross Alabama Pipeline LLC (7180); Southcross Nueces Pipelines LLC (7034); Southcross Processing LLC (0672); FL Rich Gas Services GP, LLC (5172); FL Rich Gas Services, LP (0219); FL Rich Gas Utility GP, LLC (3280); FL Rich Gas Utility, LP (3644); Southcross Transmission, LP (6432); T2 EF Cogeneration Holdings LLC (0613); and T2 EF Cogeneration LLC (4976). The debtors' mailing address is 1717 Main Street, Suite 5300, Dallas, TX 75201.



order, substantially in the form attached hereto as Exhibit A (the “**Proposed Order**” and, if entered, the “**Order**”), granting a 120-day extension of the period, currently set to expire October 29, 2019, during which the Debtors may file notices of removal under Bankruptcy Rules 9027(a)(2) and 9027(a)(3) (collectively, the “**Removal Deadline**”) to February 26, 2020. The requested extension would be without prejudice to the rights of the Debtors to seek further extensions of the Removal Deadline.

### **Jurisdiction and Venue**

2. The United States Bankruptcy Court for the District of Delaware (the “**Court**”) has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012.

3. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2) and, pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

4. Venue of the Chapter 11 Cases and related proceedings is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

### **Background**

5. On April 1, 2019 (the “**Petition Date**”), each of the Debtors filed a voluntary petition with this Court for relief under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”). The Debtors continue in possession of their property and have continued

to operate and manage their businesses as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

6. No request has been made for the appointment of a trustee or examiner, and no official committee has been appointed in the Chapter 11 Cases.

7. Additional information about the Debtors' businesses and affairs, capital structure, and prepetition indebtedness, and the events leading up to the Petition Date, can be found in the *Declaration of Michael B. Howe in Support of Debtors' Chapter 11 Proceedings and First Day Pleadings* [D.I. 2], which is incorporated herein by reference.

8. The Chapter 11 Cases are being jointly administered pursuant to Bankruptcy Rule 1015(b) and the *Order Directing Joint Administration of Chapter 11 Cases* [D.I. 48] entered by the Court on April 2, 2019, in each of the Chapter 11 Cases.

9. On June 28, 2019, the Debtors filed the *Motion of Debtors for Entry of an Order Extending the Deadline By Which the Debtors May Remove Civil Actions* [D.I. 350], seeking entry of an order extending the period during which the Debtors may file notices of removal under Bankruptcy Rules 9027(a)(2) and 9027(a)(3) from July 1, 2019 to October 29, 2019. The Court granted this relief pursuant to the *Order Extending the Deadline by Which the Debtors May Remove Civil Actions* [D.I. 375] (the "**Extension Order**").

#### **Basis For Relief**

10. Bankruptcy Rule 9027, in conjunction with 28 U.S.C. § 1452, governs the removal of civil actions in bankruptcy.<sup>2</sup> Bankruptcy Rule 9027(a)(2) provides, with respect to civil actions pending on the Petition Date:

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<sup>2</sup> See 28 U.S.C. § 1452(a) ("A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental (...continued)

If the claim or cause of action in a civil action is pending when a case under the [Bankruptcy] Code is commenced, a notice of removal may be filed [in the bankruptcy court] only within the longest of (A) 90 days after the order for relief in the case under the [Bankruptcy] Code, (B) 30 days after entry of an order terminating a stay, if the claim or cause of action in a civil action has been stayed under § 362 of the [Bankruptcy] Code, or (C) 30 days after a trustee qualifies in a chapter 11 reorganization case but not later than 180 days after the order for relief.

Accordingly, the initial deadline for removal was July 1, 2019, under Bankruptcy Rule 9027(a)(2)(A), and the deadline was extended to October 29, 2019 by the Extension Order.

11. With respect to actions commenced post-petition, Bankruptcy Rule 9027(a)(3) provides that a notice of removal may be filed:

[O]nly within the shorter of (A) 30 days after receipt, through service or otherwise, of a copy of the initial pleading setting forth the claim or cause of action sought to be removed, or (B) 30 days after receipt of the summons if the initial pleading has been filed with the court but not served with the summons.

12. However, all deadlines under Bankruptcy Rule 9027(a) may be extended pursuant to Bankruptcy Rule 9006(b), which provides that the Court may extend unexpired time periods, such as the Debtors' Removal Deadline, without notice:

[W]hen an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion . . . with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order . . . .

13. It is well-settled that this Court is authorized to extend, for cause, the removal period provided under 28 U.S.C. § 1452 and Bankruptcy Rule 9027. *See Pacor, Inc. v. Higgins*, 743 F.2d 984, 996 n.17 (3d Cir. 1984) (holding that the bankruptcy court's power to grant an

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unit's police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.").

extension of the removal period pursuant to Bankruptcy Rule 9006(b) is “clear”), *overruled on other grounds by Things Remembered, Inc. v. Petrarca*, 516 U.S. 124, 134-35 (1995); *see also Caperton v. A.T. Massey Coal Co., Inc.*, 251 B.R. 322, 325 (S.D. W. Va. 2000) (explaining that Bankruptcy Rule 9006 provides authority to enlarge time periods for removing actions under Bankruptcy Rule 9027); *Raff v. Gordon*, 58 B.R. 988, 990 (E.D. Pa. 1986) (finding that an expansion of time to file notices of removal is authorized under the Bankruptcy Rules); *In re Jandous Elec. Constr. Corp.*, 106 B.R. 48 (Bankr. S.D.N.Y. 1989) (concluding that the period in which to file a motion to remove may be expanded pursuant to Bankruptcy Rule 9006); *In re World Fin. Servs. Ctr., Inc.*, 81 B.R. 33, 39 (Bankr. S.D. Cal. 1987) (providing that the United States Supreme Court intended to give bankruptcy judges the power to enlarge the filing periods under Bankruptcy Rule 9027(a) pursuant to Bankruptcy Rule 9006(b)).

14. In the Chapter 11 Cases, cause exists to extend the Removal Deadline to February 26, 2020. Since the Petition Date, the Debtors have focused their efforts on stabilizing their businesses, maintaining active lines of communication with their employees, commercial counterparties, lenders, and other stakeholders, negotiating limited stay relief with certain litigation adversaries, pursuing the marketing and sale process for the Debtors’ assets,<sup>3</sup> prosecuting and resolving the adversary proceedings commenced by the Debtors during the Chapter 11 Cases,<sup>4</sup> and negotiating, drafting, and filing the Plan and Disclosure Statement.<sup>5</sup>

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<sup>3</sup> A description of the marketing and sale process for the Debtors’ assets can be found in the *Supplemental Declaration of Stephen Hannan in Support of (A) Sale of Debtors’ Assets Free And Clear of Liens, Claims, Interests, and Encumbrances, (B) Authorizing Assumption and Assignment of Executory Contracts and Unexpired Leases, and (C) Granting Related Relief* [D.I. 589].

<sup>4</sup> A description of the adversary proceedings and the settlement thereof can be found in the *Declaration of Stephen Hannan in Support of Motion of Debtors For Entry of an Order (I) Approving the Settlement by and Among Debtors and the Southcross Holdings Entities and (II) Granting Related Relief* [D.I. 485].

<sup>5</sup> On October 4, 2019, the Debtors filed the *Debtors’ Chapter 11 Plan for Southcross Energy Partners, L.P. and its Affiliated Debtors* [D.I. 519] (as amended, the “**Plan**”) and the *Disclosure Statement for Chapter 11 Plan for* (...continued)

15. Accordingly, although the Debtors may remain party to a number of civil actions in various jurisdictions (collectively, the “**Civil Actions**”), they have been unable to thoroughly analyze the Civil Actions and make an informed decision as to whether it is appropriate to file notices of removal with respect to the Civil Actions. Therefore, the Debtors believe that it is prudent to seek an extension of the time prescribed under Bankruptcy Rule 9027(a) to February 26, 2020, to protect their right to remove the Civil Actions as necessary. The extension sought will afford the Debtors a reasonable additional amount of time to determine whether to remove any additional pending Civil Action and will assure that the Debtors do not forfeit valuable rights under 28 U.S.C. § 1452. Further, the rights of the Debtors’ adversaries will not be prejudiced by such an extension because any party to an action that is removed may seek to have the action remanded to the state court pursuant to 28 U.S.C. § 1452(b).

16. The Debtors further request that the order approving this Motion be without prejudice to (a) any position the Debtors may take regarding whether Bankruptcy Code section 362 applies to stay any given Civil Action pending against the Debtors and (b) the right of the Debtors to seek further extensions of the Removal Deadline.

17. For the foregoing reasons, the Debtors submit that the relief requested herein is essential, appropriate, and in the best interests of the Debtors’ estates and stakeholders.

**Automatic Extension Under Local Rule 9006-2**

18. Pursuant to Local Rule 9006-2, the Removal Deadline shall automatically be extended until the Court acts on this Motion, without the necessity for the entry of a bridge order.

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*Southcross Energy Partners, L.P. and Its Affiliated Debtors* [D.I. 520] (as amended, the “**Disclosure Statement**”). The Debtors intend to file amended versions of the Plan and the Disclosure Statement in the coming days.

**Notice**

19. Notice of this Motion will be provided to the following parties or, in lieu thereof, their counsel, if known: (a) the Office of the United States Trustee for the District of Delaware; (b) each of the Debtors' 20 largest unsecured creditors on a consolidated basis; (c) (i) Arnold & Porter Kaye Scholer LLP and (ii) Duane Morris LLP, as counsel to Wilmington Trust, N.A., the administrative agent under Southcross's prepetition secured revolving credit facility, prepetition secured term loan facility, and post-petition credit facility; (d) (i) Willkie Farr & Gallagher LLP and (ii) Young Conaway Stargatt & Taylor, LLP, as counsel to the post-petition lenders and an ad hoc group of prepetition lenders; (e) Debevoise & Plimpton LLP, as counsel to Southcross Holdings LP; (f) any party that has requested to be provided notice under Bankruptcy Rule 2002; and (g) counsel to parties to the Civil Actions.

20. A copy of this Motion and any order approving it will also be made available on the Debtors' case information website located at <http://www.kccllc.net/southcrossenergy>. Based on the nature of the relief requested herein, the Debtors respectfully submit that no further notice is required.

**No Prior Request**

21. The Debtors have not previously sought the relief requested herein from the Court or from any other court.

WHEREFORE, the Debtors respectfully request entry of the Proposed Order, substantially in the form attached hereto as Exhibit A, granting the relief requested herein and such other and further relief as the Court deems just and proper.

Dated: October 28, 2019  
Wilmington, Delaware

Respectfully submitted,  
MORRIS, NICHOLS ARSHT & TUNNELL LLP

/s/ Eric W. Moats  
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Andrew R. Remming (No. 5120)  
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-and-

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*Counsel to the Debtors and Debtors in Possession*



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

**Obj. Deadline: November 6, 2019 at 4:00 p.m. (ET)**

**NOTICE OF MOTION OF DEBTORS FOR ENTRY OF AN ORDER  
FURTHER EXTENDING THE DEADLINE BY WHICH  
THE DEBTORS MAY REMOVE CIVIL ACTIONS**

PLEASE TAKE NOTICE that today, the above-captioned debtors and debtors-in-possession (the “Debtors”) filed the **Motion of Debtors for Entry of an Order Further Extending the Deadline by which the Debtors May Remove Civil Actions** (the “**Motion**”).

PLEASE TAKE FURTHER NOTICE that objections, if any, to approval of the relief sought in the Motion must be (a) in writing and served on or before **November 6, 2019 at 4:00 p.m. (ET)** (the “Objection Deadline”); (b) filed with the Clerk of the Bankruptcy Court, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801; and (c) served as to be received on or before the Objection Deadline by the undersigned counsel.

PLEASE TAKE FURTHER NOTICE THAT only objections made in writing and timely filed and received, in accordance with the procedures above, will be considered by the Bankruptcy Court at such hearing.

PLEASE TAKE FURTHER NOTICE THAT, IF AN OBJECTION IS RECEIVED BY THE OBJECTION DEADLINE, A HEARING ON THE MOTION WILL BE HELD ON **NOVEMBER 13, 2019 AT 10:30 A.M. (ET)** BEFORE THE HONORABLE

<sup>1</sup> The debtors and debtors in possession in these chapter 11 cases, along with the last four digits of their respective Employer Identification Numbers, are as follows: Southcross Energy Partners, L.P. (5230); Southcross Energy Partners GP, LLC (5141); Southcross Energy Finance Corp. (2225); Southcross Energy Operating, LLC (9605); Southcross Energy GP LLC (4246); Southcross Energy LP LLC (4304); Southcross Gathering Ltd. (7233); Southcross CCNG Gathering Ltd. (9553); Southcross CCNG Transmission Ltd. (4531); Southcross Marketing Company Ltd. (3313); Southcross NGL Pipeline Ltd. (3214); Southcross Midstream Services, L.P. (5932); Southcross Mississippi Industrial Gas Sales, L.P. (7519); Southcross Mississippi Pipeline, L.P. (7499); Southcross Gulf Coast Transmission Ltd. (0546); Southcross Mississippi Gathering, L.P. (2994); Southcross Delta Pipeline LLC (6804); Southcross Alabama Pipeline LLC (7180); Southcross Nueces Pipelines LLC (7034); Southcross Processing LLC (0672); FL Rich Gas Services GP, LLC (5172); FL Rich Gas Services, LP (0219); FL Rich Gas Utility GP, LLC (3280); FL Rich Gas Utility, LP (3644); Southcross Transmission, LP (6432); T2 EF Cogeneration Holdings LLC (0613); and T2 EF Cogeneration LLC (4976). The debtors' mailing address is 1717 Main Street, Suite 5300, Dallas, TX 75201.

MARY F. WALRATH, AT THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 MARKET STREET, 5TH FLOOR, COURTROOM #4, WILMINGTON, DELAWARE 19801.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: October 28, 2019  
Wilmington, Delaware

Respectfully submitted,  
MORRIS, NICHOLS ARSHT & TUNNELL LLP

/s/ Eric W. Moats  
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-and-

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**EXHIBIT A**

**Proposed Order**

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

In re:	)	
	)	Chapter 11
	)	
SOUTHCROSS ENERGY PARTNERS, L.P.,	)	Case No. 19-10702 (MFW)
<i>et al.</i> ,	)	
	)	Jointly Administered
Debtors. <sup>1</sup>	)	
	)	<b>Re: D.I. ____</b>
	)	

**ORDER FURTHER EXTENDING THE DEADLINE  
BY WHICH THE DEBTORS MAY REMOVE CIVIL ACTIONS**

Upon the motion (the “**Motion**”)<sup>2</sup> of Southcross Energy Partners, L.P. (“**Southcross**”), Southcross Energy Partners GP, LLC, and Southcross’s wholly owned direct and indirect subsidiaries, each of which is a debtor and debtor in possession in the Chapter 11 Cases (collectively, the “**Debtors**”), for entry of an order, pursuant to 28 U.S.C. § 1452 and Bankruptcy Rules 9006 and 9027, further extending the deadline by which the Debtors may remove Civil Actions, as more fully described in the Motion; and the Court having jurisdiction to consider the matters raised in the Motion pursuant to 28 U.S.C. § 1334 and the *Amended*

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<sup>1</sup> The debtors and debtors in possession in these chapter 11 cases, along with the last four digits of their respective Employer Identification Numbers, are as follows: Southcross Energy Partners, L.P. (5230); Southcross Energy Partners GP, LLC (5141); Southcross Energy Finance Corp. (2225); Southcross Energy Operating, LLC (9605); Southcross Energy GP LLC (4246); Southcross Energy LP LLC (4304); Southcross Gathering Ltd. (7233); Southcross CCNG Gathering Ltd. (9553); Southcross CCNG Transmission Ltd. (4531); Southcross Marketing Company Ltd. (3313); Southcross NGL Pipeline Ltd. (3214); Southcross Midstream Services, L.P. (5932); Southcross Mississippi Industrial Gas Sales, L.P. (7519); Southcross Mississippi Pipeline, L.P. (7499); Southcross Gulf Coast Transmission Ltd. (0546); Southcross Mississippi Gathering, L.P. (2994); Southcross Delta Pipeline LLC (6804); Southcross Alabama Pipeline LLC (7180); Southcross Nueces Pipelines LLC (7034); Southcross Processing LLC (0672); FL Rich Gas Services GP, LLC (5172); FL Rich Gas Services, LP (0219); FL Rich Gas Utility GP, LLC (3280); FL Rich Gas Utility, LP (3644); Southcross Transmission, LP (6432); T2 EF Cogeneration Holdings LLC (0613); and T2 EF Cogeneration LLC (4976). The debtors’ mailing address is 1717 Main Street, Suite 5300, Dallas, TX 75201.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

*Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and the Court having authority to hear the matters raised in the Motion pursuant to 28 U.S.C. § 157; and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and consideration of the Motion and the requested relief being a core proceeding that the Court can determine pursuant to 28 U.S.C. § 157(b)(2); and due and proper notice of the Motion and opportunity for a hearing on the Motion having been given to the parties listed therein, and it appearing that no other or further notice need be provided; and the Court having reviewed and considered the Motion; and the Court having the opportunity to hold a hearing on the Motion; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and the Court having found that the relief granted herein being in the best interests of the Debtors, their creditors, their estates, and all other parties in interest; and upon all of the proceedings before the Court; and after due deliberation, and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The relief requested in the Motion is hereby granted as set forth herein.
2. The Removal Deadline is extended to February 26, 2020.
3. The relief granted herein is without prejudice to the rights of the Debtors to request further extensions of the Removal Deadline.
4. The relief granted herein shall be without prejudice to any position the Debtors may take regarding whether Bankruptcy Code section 362 applies to stay any litigation pending against the Debtors.
5. The Debtors are authorized to take all such actions as are necessary or appropriate to implement the terms of this Order.

6. Proper, timely, adequate, and sufficient notice of the Motion has been provided in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Rules, and no other or further notice of the Motion or the entry of this Order shall be required.

7. The Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: \_\_\_\_\_ 2019  
Wilmington, Delaware

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THE HONORABLE MARY F. WALRATH  
UNITED STATES BANKRUPTCY JUDGE