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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re	:	
	:	Chapter 11
WESTINGHOUSE ELECTRIC	:	
COMPANY LLC, et al.,	:	Case No. 17-_____ (____)
	:	
Debtors.¹	:	(Joint Administration Pending)
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¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, if any, are: Westinghouse Electric Company LLC (0933), CE Nuclear Power International, Inc. (8833), Fauske and Associates LLC (8538), Field Services, LLC (2550), Nuclear Technology Solutions LLC (1921), PaR Nuclear Holding Co., Inc. (7944), PaR Nuclear, Inc. (6586), PCI Energy Services LLC (9100), Shaw Global Services, LLC (0436), Shaw Nuclear Services, Inc. (6250), Stone & Webster Asia Inc. (1348), Stone & Webster Construction Inc. (1673), Stone & Webster International Inc. (1586), Stone & Webster Services LLC (5448), Toshiba Nuclear Energy Holdings (UK) Limited (N/A), TSB Nuclear Energy Services Inc. (2348), WEC Carolina Energy Solutions, Inc. (8735), WEC Carolina Energy Solutions, LLC (2002), WEC Engineering Services Inc. (6759), WEC Equipment & Machining Solutions, LLC (3135), WEC Specialty LLC (N/A), WEC Welding and Machining, LLC (8771), WECTEC Contractors Inc. (4168), WECTEC Global Project Services Inc. (8572), WECTEC LLC (6222), WECTEC Staffing Services LLC (4135), Westinghouse Energy Systems LLC (0328), Westinghouse Industry Products International Company LLC (3909), Westinghouse International Technology LLC (N/A), and Westinghouse Technology Licensing Company LLC (5961). The Debtors' principal offices are located at 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066.



**MOTION OF DEBTORS
PURSUANT TO 11 U.S.C. §§ 105(a),
363(b), AND 503(b)(9) FOR INTERIM AND
FINAL AUTHORIZATION (I) TO PAY PREPETITION
OBLIGATIONS TO CRITICAL VENDORS, SHIPPERS,
WAREHOUSEMEN, OTHER LIEN CLAIMANTS, AND
FOREIGN CREDITORS, (II) CONFIRMING ADMINISTRATIVE
STATUS FOR CERTAIN GOODS DELIVERED AND SERVICES
PROVIDED POSTPETITION, AND (III) AUTHORIZING FINANCIAL
INSTITUTIONS TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Westinghouse Electric Company LLC and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**” or the “**Company**”), respectfully represent as follows in support of this motion (the “**Motion**”):

Background

1. On the date hereof (the “**Petition Date**”), each Debtor commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”). The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

2. Contemporaneously herewith, the Debtors have filed a motion requesting joint administration of the chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”).

3. Additional information regarding the Debtors’ business, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the *Declaration of Lisa J. Donahue Pursuant to Rule 1007-2 of the Local Bankruptcy Rules for the Southern District of New York*, sworn to on the date hereof (the “**Donahue Declaration**”), which

has been filed with the Court contemporaneously herewith and is incorporated herein by reference.

Jurisdiction

4. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

5. By this Motion, pursuant to sections 105(a), 363(b), and 503(b)(9) of the Bankruptcy Code, the Debtors seek entry of an order authorizing, but not directing, the Debtors to (i) pay certain prepetition claims of certain vendors, suppliers, service providers, and other similar entities that are essential to maintaining the going concern value of the Debtors' enterprise (the "**Critical Vendors**" and their prepetition claims, the "**Critical Vendor Claims**"); (ii) pay those prepetition charges to Shippers, Warehousemen, Equipment Manufacturers, Tool Makers, and Other Lien Claimants (each as defined below and, collectively, the "**Lien Claimants**") that the Debtors determine, in the exercise of their business judgment, to be necessary or appropriate to obtain the release of inventory, supplies, goods, tools, equipment, components, materials, or other items held by any Lien Claimants; and (iii) pay certain suppliers, service providers, and other entities outside of the United States (collectively, the "**Foreign Creditors**" and their prepetition claims, the "**Foreign Claims**") in the ordinary course of business, in each case, subject to the procedures and conditions described herein.

6. The Debtors further request that this Court (i) confirm administrative priority status of all undisputed obligations of the Debtors owing to third party vendors and suppliers arising from the postpetition delivery of goods and provision of services ordered prior

to the Petition Date and (ii) authorize the Debtors to pay such obligations in the ordinary course of business.

7. The Debtors seek the relief requested herein in all cases subject to, and in compliance with, the terms and conditions of the Debtors' proposed debtor-in-possession financing facility (the "**DIP Facility**") and the lenders and letter of credit issuer thereunder, the "**DIP Lenders**"), the term sheet related thereto (the "**DIP Term Sheet**"), and any orders approving the DIP Facility (the "**DIP Orders**").²

8. Finally, the Debtors request that the Court authorize all applicable banks and other financial institutions (collectively, the "**Banks**") to receive, process, honor, and pay all checks presented for payment and electronic payment requests relating to the foregoing to the extent directed by the Debtors in accordance with this Motion, whether such checks were presented or electronic requests were submitted before or after the Petition Date, and that all such Banks be authorized to rely on the Debtors' designation of any particular check or electronic payment request as appropriate pursuant to this Motion, without any duty of further inquiry, and without liability for following the Debtors' instructions.

9. Proposed forms of order granting the relief requested herein on an interim basis and a final basis are annexed hereto as **Exhibit A** (the "**Proposed Interim Order**") and **Exhibit B** (the "**Proposed Final Order**"), respectively.

² Additional information regarding the Debtors' proposed DIP Facility is contained in the *Motion of Debtors Pursuant to 11 U.S.C. §§ 362, 363, 364, 507, and 105 and Fed. R. Bankr. P. 2002, 4001, 6003, 6004 and 9014 for Interim and Final Orders (I) Authorizing the Debtors to Obtain Senior Secured, Superpriority, Postpetition Financing, (II) Granting Liens and Superpriority Claims, and (III) Scheduling a Final Hearing*, filed contemporaneously herewith.

The Critical Vendors

I. The Debtors' Business Model and Supply Chains

10. The Debtors operate a nuclear power business that delivers a range of products and services to customers worldwide that span the full lifespan of a nuclear power generator – from construction to decommissioning and all maintenance in between. As set forth in more detail in the Donahue Declaration, the Company is comprised of five primary lines of business—the nuclear fuel and components manufacturing business (the “**Nuclear Fuel and Components Manufacturing Business**”); the operating plant business (the “**Operating Plant Business**”); the decommission, decontamination, remediation, and waste management business (the “**Decommissioning Business**”); the WECTEC services business (the “**WECTEC Services Business**”); and the new plants, major projects, and construction business (the “**New Nuclear Plants / Major Projects and Construction Business**”).³

Nuclear Fuel and Component Manufacturing Business

11. The Company's Nuclear Fuel and Component Manufacturing Business is the world's leading integrated supplier of nuclear fuel products and services, as well as the leading manufacturer and global supplier of fuel assemblies containing enriched uranium. This business line provides customers with fuel design services, components and technology for nuclear power production, and high performance fuel for a variety of different reactors. The Nuclear Fuel and Component Manufacturing business also produces zirconium tubing and zirconium alloy products for use in fuel assemblies, procures and trades natural, enriched, and

³ On March 15, 2017 the Debtors announced that the New Nuclear Plants / Major Projects and Construction Business would be integrated into the WECTEC Services Business to create the new projects business (the “**New Projects Business**”). The New Projects Business is expected to deliver projects conducted by the New Nuclear Plants / Major Projects Business as well as services provided by WECTEC under a consolidated organizational structure.

intermediate uranium products, and manages uranium working stock and uranium handling services on behalf of its customers to support fuel fabrication.

12. Further, the Nuclear Fuel and Component Manufacturing Business manufactures, installs, and supports tools and machinery for handling nuclear fuel, including refueling machines, fuel elevators, cranes, and other transportation equipment. This business manufactures components for nuclear reactors, including highly complex mechanisms that make up the reactor vessel internals, control rod mechanisms, and reactor coolant pumps, and provides engineering and procurement services for a wide variety of other components. The Nuclear Fuel and Component Manufacturing Business also supplies qualified replacement parts and components, safety-related parts, and engineering, operational, and technical support to its customers.

13. To carry out its operations, the Nuclear Fuel and Component Manufacturing Business relies on specialized suppliers to provide components to build fuel assemblies in nuclear reactor vessels. Many of these suppliers are unique to the nuclear industry and, in many cases, are unique to the Debtors' business operations. The vast majority of these suppliers are the sole source of components that are necessary for the Debtors to continue to operate the Nuclear Fuel and Component Manufacturing Business.

Operating Plant Business

14. The Company's Operating Plant Business delivers automation and engineering products and services to the global operating nuclear power fleet, including field services, testing, instrumentation and control, welding and machining, and installation-related functions that help keep nuclear power plants operating safely and competitively. The Operating Plant Business is one of the largest providers of nuclear services that are critical to nuclear power

plant operators globally, providing services to nearly every entity in the world that operates and manages nuclear power plants.

15. The Operating Plant Business typically experiences an increased demand to provide services related to nuclear plant outages during the months of February through May and September through November (the “**Outage Seasons**”). The demand to provide outage support to customers, which includes reactor refueling, steam generator services, inspections, and field services, has been especially high during the current spring 2017 Outage Season. To compare, there will be 47 total outages this season as opposed to only 27 total outages in spring 2016. If the Debtors fail to meet this heightened demand from their customers, the value of their business will significantly deteriorate as customers will be forced to seek services from other sources. Moreover, failure to meet increased demand may pose risks to the environment, health, and safety.

16. To carry out its operations, the Operating Plant Business relies on several different types of suppliers and service providers to provide custom-built equipment and essential services for nuclear operating plant upgrades, maintenance, inspection and testing, and outage support. The equipment provided by these vendors includes equipment specially-designed for use in the nuclear industry, equipment designed for general commercial use but tested for suitability for use in the nuclear industry, and equipment custom-designed and tested for use specifically by the Debtors. Generally, it takes anywhere from six months to four years to complete the qualification of equipment for use in the nuclear industry. The Debtors’ customers require that the Debtors use the specific suppliers of proprietary tools and services to perform under the Debtors’ customer contracts. Accordingly, such vendors also provide proprietary tools and services necessary to support such contracts. If the Debtors were unable to

obtain the required tools and services from these specific vendors, the Debtors would be unable to comply with, and perform under, many of their customer contracts. Goods and services from these vendors are also necessary to enable the Debtors to provide round-the-clock emergency support to operating nuclear plants that have unplanned shut downs and require immediate support to safely shut down for necessary repairs.

Decommissioning Business

17. The Company's Decommissioning Business deploys global technologies and forms local partnerships to carry out long-term projects related to decontaminating, decommissioning, and remediating nuclear power facilities. These services are provided to nuclear power producers worldwide, and include spent fuel management and plant decommissioning. As part of its decontamination services, the division removes nuclear material from plant machinery and equipment to lower personnel exposure and reduces handling costs and decommissioning time. It also reduces waste classification levels, allowing for less-expensive disposal, lowers airborne risks, reduces spread of contamination and clean-up, and increases options on cutting plant materials. As part of its decommissioning services, the Company dismantles nuclear power plants to the point that they no longer require measures for radiation protection.

18. To carry out its business operations, the Decommissioning Business relies on several different types of vendors to survey radioactive sites and characterize radioactive materials, as well as qualified vendors to safely handle, transport, and dispose of such materials. The Decommissioning Business also requires the services of vendors that have experience in engineering, planning, and carrying out complex radioactive site remediation and decommissioning. These include niche vendors who possess experience in nuclear

decontamination and decommissioning, and who provide protection to public safety by reducing the risk of additional contamination through their remediation services.

WECTEC Services Business

19. The WECTEC Services Business is run by Debtor WECTEC, LLC (“WECTEC”) and its subsidiaries, and consists of two segments: (1) construction services for the Advance Passive 1000 (“AP1000”) projects – a new generation nuclear power plant design that radically departs from existing nuclear plants – in the U.S.; and (2) global project services, staffing services, and government services to advance the use of nuclear energy worldwide as well as non-nuclear engineering and construction services. WECTEC’s AP1000-related business segment is co-engaged with the Company’s New Nuclear Plants / Major Projects and Construction Business in building the U.S. AP1000 projects. The non-AP1000 business segment provides assistance to customers to enhance the availability and reliability of their operating plants while sustaining regulatory compliance, extending plant life, and reducing operation and maintenance costs.

20. To carry out its operations, the WECTEC Services Business relies on a variety of vendors to provide custom built equipment and essential services for nuclear operating plant upgrades, maintenance, inspection and testing, and outage support as well as support for U.S. government nuclear projects. Similar to the Operating Plant Business, the equipment provided by these vendors is either specially designed or qualified for use in the nuclear industry, which may take up to four years to complete. Certain suppliers also provide proprietary tools and services necessary to support the Debtors’ customer contracts.

21. As discussed in the Donahue Declaration, the Debtors’ future involvement in construction of the U.S. AP1000 projects is uncertain. Accordingly, the Debtors

do not expect to pay prepetition claims of vendors that provide goods or services exclusively in connection with the AP1000 business segment.⁴ However, the WECTEC Services Business relies on vendors that provide goods and services to both the AP1000 and non-AP1000 business segments (the “**Overlap Vendors**”). The Overlap Vendors may refuse to continue providing goods and services to the non-AP1000 projects if they are not also paid in connection with the goods and services they provide to the AP1000 projects. Therefore, the Debtors propose to pay the Overlap Vendors if, in the Debtors’ business judgment, the failure to pay such claims would diminish the value of non-AP1000 projects or the Debtors’ other business lines, including by failing to maintain appropriate safety and/or environmental standards.

The New Nuclear Plants / Major Projects and Construction Business

22. The New Nuclear Plants / Major Projects and Construction Business consists of two business segments: (1) engineering, procurement, and construction (“**EPC**”) services for customers around the globe, primarily offering the AP1000; and (2) engineering and procurement (“**E&P**”) services, such as design, equipment, and site installation and startup support, to both AP1000 and non-AP1000 projects.

23. To carry out its business operations, the New Nuclear Plants / Major Projects and Construction Business relies on special heavy manufacturing vendors for reactor vessels, steam generators, reactor coolant systems, and plant support systems. All of such equipment is specially designed for the New Nuclear Plants / Major Projects and Construction Business in accordance with specialized requirements, qualifications, and certifications. Additionally, certain vendors provide specialized electrical instrumentation and control systems and computers which they design and qualify.

⁴ As discussed in the Donahue Declaration, the owners of the U.S. AP 1000 projects may, but are not obligated to, pay some or all of these claims.

24. The New Nuclear Plants / Major Projects and Construction Business also relies on Overlap Vendors that may refuse to continue providing goods and services to the non-AP1000 projects if they are not paid in connection with the goods and services they provide to the AP1000 projects. The Debtors propose to pay the Overlap Vendors if, in the Debtors' business judgment, the failure to pay such claims would diminish the value of non-AP1000 projects or the Debtors' other business lines, including by failing to maintain appropriate safety and/or environmental standards.

II. The Debtors' Critical Vendors

25. The Debtors rely heavily on certain Critical Vendors to provide them with services related to health and safety, specialized and unique parts, equipment, materials, and other services necessary to conduct the business operations detailed above. Due to, among other things, the specialized goods and services required to operate the Debtors' business lines and maintain compliance with strict environmental, health, and safety regulations, the Debtors have limited alternatives when going to market for necessary goods and services. Replacing such vendors, even in the infrequent instances where possible, could result in substantially higher costs for the Debtors and their estates and risk delays that could create safety and/or environmental risks and harm the Debtors' value.

26. Anticipating a situation where vendors become increasingly unwilling to extend trade credit to the Company, the Debtors took painstaking efforts to ensure the stability of the goods and services essential to their ongoing business prior to commencing these chapter 11 cases – including developing a narrowly-tailored critical vendor program. The process of developing the critical vendor program involved a core, centralized team comprised of members of the Debtors' purchasing and supply team with the assistance of AlixPartners, LLP

(“**AlixPartners**”) and Weil, Gotshal & Manges LLP (“**Weil**”) and was subject to the personal supervision of the Debtors’ Vice President of Finance, Daniel Sumner. The Debtors will authorize payment only to those suppliers critical to the Debtors’ operations and subject to the vendors’ own obligations to provide Customary Trade Terms (as defined herein).

27. The Debtors developed their proposed critical vendor program using the following process:

- (a) First, the Debtors and their professionals reviewed more than 3,000 open accounts and approximately \$485 million in trade payables. Areas of focus included: (i) whether interruption would cause environmental hazards or pose significant risk to the environment; (ii) whether interruption would pose a threat to health and public safety, or compromise the Company’s customers’ ability to provide power to the electrical grid; (iii) whether the vendor provides goods or services to the AP1000 projects; (iv) whether a contract exists and the Debtors could compel performance in time to prevent loss of value to the Debtors business; and (v) other general criteria typically used to determine whether a vendor is critical to the continued operations of a company.⁵
- (b) Second, the Debtors designated a centralized, high-level team, with the guidance of their professionals (collectively, the “**Supplier Management Committee**”), to review, assess, and potentially authorize payments to Critical Vendors.
- (c) Third, the Debtors and their professionals began to implement a detailed protocol to route all requests for Critical Vendor treatment through the Supplier Management Committee and to educate procurement, payables, and operations personnel on the process.
- (d) Fourth, the Debtors incorporated a mechanism to provide information on actual Critical Vendor payments on a confidential basis to certain interested parties such as the United States Trustee for the Southern District of New York (the “**U.S. Trustee**”), counsel to the Debtors’ DIP Lenders, and the professionals retained by any official committee of unsecured creditors appointed in these chapter 11 cases.

⁵ See *infra* ¶ 33.

28. With the assistance of AlixPartners and Weil, the Debtors spent significant time reviewing and analyzing their books and records, consulting operations management and purchasing personnel, reviewing contracts and supply agreements, and analyzing applicable laws, regulations, and historical practices to identify certain critical business relationships and Critical Vendors—the loss of which could materially harm the Debtors’ businesses or impair going-concern viability. As a result of that analysis and review, the Debtors have identified the following two general categories of Critical Vendors, as more fully described below: (i) health and safety suppliers and servicers and (ii) specialized servicers and suppliers to businesses other than the U.S. AP1000 projects.

Health and Safety Servicers and Suppliers

29. The interruption of goods or services from these vendors would either (i) cause environmental hazards or pose significant risk to the environment, (ii) pose a threat to health and public safety, or (iii) compromise the Company’s customers’ ability to provide power to the electrical grid. For instance, the Operating Plant Business relies on goods and services from certain vendors that are necessary for the Debtors to provide emergency support to operating nuclear plants that have unplanned shutdowns and require immediate support to safely shutdown and conduct necessary repairs. There may be a risk to public health and safety if goods and services from these vendors are interrupted, as the Debtors’ ability to assist with emergency plant shutdowns will be affected. Similarly, the Decommissioning Business relies on certain specialized vendors that have experience in complex radioactive site remediation and decommissioning. These vendors provide protection to public health and the environment by reducing the risk of additional contamination through their remediation services. Moreover, interruption from unique suppliers would compromise the ability of the Debtors’ customers to

provide power to the electrical grid, which may have negative implications for public health and safety. As previously discussed, it is even more crucial to ensure the continued supply of goods and services from certain vendors to meet the heightened demand for support from customers during the spring 2017 Outage Season. Failure to do so may pose risks to public health and safety as well as the environment, and could jeopardize the Debtors' customers' ability to provide power to the electrical grid.

Specialized Servicers and Suppliers to Non-AP1000 Projects

30. This category of vendors provides specialized services and supplies unrelated to the U.S. AP1000 projects. These vendors are either sole source suppliers, vendors unique to the nuclear industry or the Debtors' specific business operations, suppliers of proprietary tools and services necessary to support the Debtors' customer contracts, vendors with specialized qualifications, or vendors that otherwise provide specialized goods or services related to the nuclear power industry.

31. For example, to manufacture nuclear reactor vessels, the Debtors rely on certain suppliers to provide specialized component parts, the vast majority of which are the sole source providers of such components and, in many cases, unique to the Debtors' Nuclear Fuel and Component Manufacturing Business. Other examples include suppliers that provide equipment that takes anywhere from six months to four years to be qualified for use in the nuclear industry and suppliers that provide proprietary tools and services to the Operating Plant Business that are required by customers for the Debtors to perform under customer contracts. These specialized servicers and suppliers are essential to the Debtors' complex business operations and cannot be replaced in a feasible manner, if at all.

32. This category includes Overlap Vendors commonly relied on by the Debtors' WECTEC Services Business and New Nuclear Plants / Major Projects and Construction Business. Additionally, this category encompasses certain vendors and professionals that provide services necessary for the Debtors to maintain numerous patents used in connection with all five of their business lines, such as vendors who manage the Debtors' international patent database and the Debtors' payment of its patent maintenance fees. The Debtors propose to pay Overlap Vendors that provide specialized goods and services if, in the Debtors' business judgment, the failure to pay such claims would diminish the value of the Debtors' core businesses.

III. Critical Vendor Cap

33. The Debtors estimate that the aggregate amount owed to Critical Vendors for goods delivered or services provided during the period before the Petition Date should not exceed \$87.3 million (the "**Critical Vendor Cap**"). Of this amount, the Debtors are requesting authority to pay up to \$58.9 million of Critical Vendor claims on an interim basis prior to a final hearing. Of these amounts, \$11.5 million and \$16.3 million are attributable to claims under section 503(b)(9) of the Bankruptcy Code on an interim and final basis, respectively.

34. In determining the amount of the Critical Vendor Cap, the Debtors considered, among other things: (i) whether interruption of goods or services would cause environmental hazards or pose significant risk to the environment; (ii) whether interruption of goods and services would pose a threat to health and public safety; (iii) whether interruption of goods and services would compromise the Company's customers' ability to provide power to the electrical grid; (iv) whether there is an alternative source for the goods or services that can replace the vendor within a reasonable amount of time and such replacement costs do not exceed

the prepetition claims of the vendor at issue; (v) whether certain quality specifications or other requirements prevent the Company from obtaining the vendor's goods or services from an alternative source; (vi) whether there is a unique process or special knowledge of the Company that the vendor has developed over time that no other vendor has; (vii) whether the vendor is required for the Company to comply with laws or regulations; (viii) whether the vendor supplies the Company with necessary materials in quantities that other vendors cannot provide; (ix) whether the vendor's products have been preapproved for use in the Company's end product by its customers; (x) whether the vendor is a provider of specialized services requiring a permit or license pursuant to state or federal laws; (xi) whether the vendor will face liquidity constraints which would affect its ability to provide goods and/or services to the Company if the vendor is not paid its prepetition claims; (xii) whether the vendor has a priority claim pursuant to section 503(b)(9) of the Bankruptcy Code; and (xiii) whether there is a contract that governs the relationship of the parties that would compel the vendor to perform.

Lien Claimants

I. Shippers and Warehousemen

35. In operating their businesses, the Debtors use and make payments to specialized shippers qualified to deliver hazardous materials, common carriers, freight forwarders and consolidators, delivery services, small parcel services, shipping auditing services, and distributors (collectively, the "**Shippers**") to ship, transport, and otherwise facilitate the movement of inventory, supplies, merchandise, tools, equipment, components, materials, and other items (collectively, the "**Goods**"), some of which are stored at third party warehouses (the "**Warehousemen**" and such payments, the "**Shipping and Warehousing Charges**").

36. The services provided by the Shippers and Warehousemen are critical to the Debtors' day-to-day operations. If many of the Goods in transport are not timely delivered, the Debtors' business operations would be brought to a halt, which could result in nuclear plant shutdowns. Furthermore, many of the Goods in transport are critical to health and safety. Accordingly, to maintain uninterrupted operations, the Debtors have implemented an efficient system for the receipt of materials which relies heavily on third parties, including Shippers and Warehousemen.

37. At any given time the Debtors may owe the Shippers and Warehousemen fees related to a number of different shipments and the Shippers may, in turn, have multiple vehicles in transit carrying Goods on behalf of the Debtors. Accordingly, the refusal of any Shipper or Warehouseman to perform could negatively impact the Debtors' different business lines and create attendant risks to public health and safety.

38. Because of the commencement of these chapter 11 cases, certain Shippers and Warehousemen who hold Goods for delivery to or from the Debtors may refuse to release the Goods pending receipt of payment for their prepetition services. Under some state laws, a Shipper or Warehouseman may have a lien on the Goods in its possession to secure the charges or expenses incurred for the transportation or storage of Goods.⁶ Additionally, pursuant to section 363(e) of the Bankruptcy Code, the Shippers and Warehousemen, as bailees, may be entitled to adequate protection as holders of possessory liens. As discussed, because of the Debtors' supply needs, any delay in shipments would disrupt the Debtors' operations and could harm the Debtors' reorganization efforts as well as pose a potential risk to health and safety.

⁶ For example, section 7-307 of the Pennsylvania Uniform Commercial Code provides, in pertinent part that a "carrier has a lien on the goods covered by a bill of lading or on the proceeds thereof in its possession for charges after the date of carrier's receipt of the goods for storage or transportation, including demurrage and terminal charges, and for expenses necessary for preservation of the goods incident to their transportation or reasonably incurred in their sale pursuant to law." 13 PA. STAT. ANN. § 7307 (2017).

39. It is thus imperative that the Debtors be authorized to pay any Shipping and Warehousing Charges, whether they arose prior to or after the Petition Date, that the Debtors determine in their business judgment they must pay to ensure the uninterrupted shipment and delivery of the Goods.

II. Other Lien Claimants

40. The Debtors routinely transact business with a number of other third parties, including contractors, repairmen, and manufacturers who may assert tooling, mechanics', and other possessory liens (the "**Other Lien Claimants**") against the Debtors and their property if the Debtors fail to pay for the goods or services rendered. As discussed in more detail below, the Other Lien Claimants perform a number of services for the Debtors, including manufacturing and repair of equipment and manufacturing component parts necessary for the Debtors' five business lines, and are critical to the Debtors' successful reorganization.

41. As set forth in detail below and in the Donahue Declaration, if amounts owed to the Other Lien Claimants are not paid, certain of the Other Lien Claimants may be able to assert and perfect mechanics' or artisans' liens against certain of the Debtors' goods, property, or plant locations, notwithstanding the automatic stay imposed by section 362 of the Bankruptcy Code.⁷

Equipment Manufacturers

42. In the ordinary course of their businesses, the Debtors are required to contract with third party equipment manufacturers (the "**Equipment Manufacturers**") to make specialized equipment and parts needed by the Debtors' various business lines. The Debtors

⁷ The Debtors do not concede that any liens described in this Motion, including contractual liens, mechanics' liens, artisan liens, statutory liens, and liens asserted by Shippers and Warehousemen are valid and enforceable, and expressly reserve the right to contest the extent, validity, and perfection of all such liens.

require the Equipment Manufacturers' services for highly specialized components needed to keep nuclear plants operational.

43. Typically, the Equipment Manufacturers are paid at intervals based upon progress or milestones relative to the completion of the item(s) they are manufacturing. To the extent that the Debtors are unable to fulfill their payment obligations to the Equipment Manufacturers, the Equipment Manufacturers may assert liens against the partially and/or fully built equipment in their possession. Such actions could severely hinder the Debtors' ability to fulfill production obligations to their customers on both existing and new programs.

Tool Makers

44. In the ordinary course of their businesses, the Debtors regularly contract with independent tool and die shops (the "**Tool Makers**"), on behalf of both the Debtors and the customers, for the production of specialized tools, moldings, fixtures, and special machines necessary for producing and maintaining customer equipment. The selection and qualification of a Tool Maker and the design and manufacture and qualification of tools can take considerable time; in fact, it is not uncommon for this process to take over a year. Therefore, a number of Tool Makers may be in the process of producing tools that the Debtors need to continue existing lines of business.

45. The Debtors typically pay for tools either by providing a deposit at the beginning of the production process and the balance owed once production is complete or by making progress payments to the Tool Makers throughout the production process. The Debtors take possession of tools prior to paying the Tool Makers in full for such tools so that all necessary quality and performance-related tests can be performed. Accordingly, the Debtors have not yet fully paid for the majority of the tools being produced by the Tool Makers.

46. Many states have legislatively granted Tool Makers security interests in finished or unfinished tools.⁸ Moreover, the Debtors frequently contract with the same Tool Makers to produce various tools for various product lines. The Debtors believe that, upon the commencement of these chapter 11 cases, certain of the Tool Makers may, in enforcing their state law rights, refuse to deliver new tooling in the future or return tooling that they are servicing unless the Tool Makers are paid in full for such tools or provided assurance of future payment. As such, the Debtors respectfully request that they be granted the authority, in their sole discretion, to pay the Tool Makers for outstanding prepetition amounts owed.

Miscellaneous Other Lien Claimants

47. Numerous third parties render services related to the Debtors' property at the Debtors' various facilities throughout the U.S. For example, the Debtors rely on third parties to provide maintenance, calibration, stamping, refurbishment, and mechanic services. Certain of these third parties may have the right to perfect state law statutory liens or mechanics' liens on the Debtors' property and, thus, may be able to hinder the Debtors' use of property needed to operate their businesses.

48. To the extent any Other Lien Claimant has perfected a lien on any of the Debtors' property or its customers' property or, in the Debtors' estimation, could assert and perfect a lien on any such property, it is imperative that the Debtors be authorized to immediately pay such Other Lien Claimants regardless of whether their claims arose prior to or after the Petition Date to secure the release of any such lien and the Debtors' continued uninterrupted access to the goods and services provided by the Other Lien Claimants.

⁸ See, e.g. MICH. COMP. LAWS §§ 570.541 *et seq.* (defining "special tool" for which a statutory lien is granted as "tools, dies, jigs, gauges, gauging fixtures, special machinery, cutting tools, or metal castings manufactured by a special tool builder" and "special tool builder" as "a person who designs, develops, manufactures, or assembles special tools for sale").

49. As of the Petition Date, the Debtors estimate that approximately \$23.5 million is owed to Lien Claimants (including Shippers, Warehouseman, and Other Lien Claimants), approximately \$16.8 million of which the Debtors expect to be due during the interim period prior to a final hearing. Of these amounts, \$2.3 million and \$3.2 million are attributable to claims under section 503(b)(9) of the Bankruptcy Code on an interim and final basis, respectively.

The Foreign Creditors

50. In the ordinary course of conducting their businesses, the Debtors incur various obligations to and rely on many of the Foreign Creditors, which are located in, among other places, Belgium, Bulgaria, Canada China, Croatia, France, Germany, Israel, Italy, Japan, Korea, Spain, Sweden, Switzerland, and the United Kingdom, to supply various goods or services that are crucial to the Debtors' ongoing operations, including the following:

Raw Material Suppliers

51. The Debtors utilize a significant amount of raw materials in providing products and services to their customers, including, without limitation, zirconium crystals, uranium, magnesium, and various castings and forgings. While most of these raw materials are sourced from domestic companies, certain of the Debtors' raw material suppliers are located outside the United States. While the Debtors could seek alternative raw material suppliers, any new supplier would likely charge the Debtors significant premiums and price increases that would negatively impact the Debtors' liquidity and prospects for a successful reorganization. Additionally, the qualification process for some Foreign Creditors can take up to 18 months. Therefore, the Debtors seek permission to pay these Foreign Creditors that supply raw materials

in order to keep operating costs low at a critical time in the Debtors' reorganization and to meet customer delivery schedules.

Equipment Suppliers

52. The Debtors also contract with several overseas suppliers that provide fixtures and equipment that are utilized in the Debtors' business operations. As the Debtors operate in a highly specialized and technologically demanding industry, there are only a few qualified suppliers the Debtors can rely on to provide equipment and components that meet the rigorous engineering specifications required by the Debtors' customers. Moreover, several of these vendors also supply equipment that allows the Debtors to safely run their business. For instance, some overseas suppliers provide tubing for components that are necessary to ensure the safe operation of nuclear reactors. Failure to pay these Foreign Creditors could result in hazards to the environment or health and safety. Although the Debtors generally prepay some portion of their equipment supplier obligations prior to shipment, the Debtors are seeking authority to pay any prepetition amounts owed to these Foreign Creditors that supply equipment to continue operating safely and smoothly.

Other Foreign Creditors

53. As previously discussed, the Debtors' businesses utilize numerous patents and trademarks. In addition to the Foreign Creditors above, the Debtors rely heavily on services provided by law firms across the globe (without U.S. offices) that work to defend the Debtors' intellectual property. Failure to pay these Foreign Creditors may jeopardize the Debtors' ability to maintain patents and trademarks that are vital to all five of the Debtors' business lines.

54. As of the Petition Date, the Debtors estimate that the amount of prepetition claims owed to Foreign Creditors is approximately \$20.1 million, approximately

\$14.7 million of which the Debtors expect to be due during the interim period prior to a final hearing. Of these amounts, \$4.4 million and \$6.3 million are attributable to claims under section 503(b)(9) of the Bankruptcy Code on an interim and final basis respectively.

55. The Debtors are making every effort to avoid interruptions in the supply chain and the adverse effects that even a temporary break in the supply chain could have on their businesses. Any short term disruption could generate instability and thus jeopardize the Debtors' ability to preserve their value. Because of the nature of the Debtors' businesses, many of the Foreign Creditors will make, or have made, credible actionable threats that, unless paid on account of the prepetition debt, they will cease to supply the Debtors with the specialized goods and services necessary to maintain the operation of the Debtors' businesses.

56. Additionally, most of the Foreign Creditors have little or no connection to the United States. Although the scope of the automatic stay set forth in section 362 of the Bankruptcy Code is universal, the Debtors may not be able to enforce the stay in foreign jurisdictions if the creditor against whom enforcement is sought has minimal or no presence in the United States. As a result, despite the commencement of these cases and the imposition of the automatic stay, the Foreign Creditors may be able to immediately pursue remedies and seek to collect prepetition amounts owed to them. Indeed, there is the real risk that Foreign Creditors may attach or seize the Company's assets in their jurisdictions—which would significantly disrupt operations.

57. In light of the potential for serious and irreparable consequences if the Foreign Creditors do not continue to make uninterrupted and timely deliveries and/or take actions outside the United States to collect on prepetition obligations the Debtors have determined, in the exercise of their business judgment, that payment of certain Foreign

Creditors' claims is essential to avoid costly disruptions to the Debtors' operations and, accordingly, the relief requested herein should be granted.

Proposed Conditions to Receiving Payment

The Debtors' Payment Protocol

58. To minimize the amount of payments required, the Debtors request authority to identify and pay particular Critical Vendors, Lien Claimants, and Foreign Creditors (collectively, the "**Vendor Claimants**" and their prepetition claims, the "**Vendor Claims**"), including Vendor Claimants with claims under section 503(b)(9) of the Bankruptcy Code, utilizing the following payment protocol (the "**Payment Protocol**"):

- (a) Requests for Vendor Claimant treatment (*i.e.*, any payment on account of Vendor Claims) will be routed through a centralized control center staffed by specifically identified members of the Supplier Management Committee, and assisted by professionals from AlixPartners and Weil.
- (b) All aspects of any proposed payment on account of a prepetition claim will be scrutinized for, among other things: (i) the business need for the goods or services at issue; (ii) the terms offered by the particular vendor; (iii) the amount of payment at issue; and (iv) the existence of any contract requiring the vendor to perform and the likelihood that the Debtors could compel performance in time to prevent loss of value to the Debtors' businesses.
- (c) Material business terms (including proposed payments) require written approval by specifically-designated members of the Debtors' management team, with any necessary assistance from the Debtors' professionals.
- (d) All proposed payments of \$450,000 or more require the approval of the Debtors' Vice President of Finance.
- (e) All proposed payments must be documented pursuant to an executed vendor agreement, with any specific exception from this requirement to be made only with the express authorization of the Debtors' Vice President of Finance and notice to counsel to the DIP Lenders.

- (f) Payment may only be physically executed by specifically-designated members of the Debtors' finance department when the Payment Protocol has been completed and upon presentation of completed documentation.

For the avoidance of doubt, the Debtors are not seeking authority to, and shall not pay directly or indirectly, Foreign Claims or Foreign Creditors of any of the non-Debtor affiliates.

59. Although the Debtors have effectively "pre-screened" certain creditors who have satisfied the criteria for Vendor Claimant treatment, the Debtors are aware that they must be prepared to address new or additional exigencies should they emerge – particularly given the size and scope of their operations. Thus, the Payment Protocol includes specific processes by which additional creditors may be designated for Vendor Claimant treatment on a case-by-case basis. This process will be routed through the Supplier Management Committee with approval of senior management required—in addition to the approvals required for any creditor ("pre-screened" or otherwise) to receive payment on account of a prepetition claim—and with notice to counsel to the DIP Lenders.

60. The Debtors and their professionals have educated senior personnel (*i.e.*, those individuals tasked with screening such vendors) about the Payment Protocol prior to the Petition Date, and are also educating other personnel about vendor issues across the Debtors' enterprise. Disbursements made to Vendor Claimants are centralized through the Debtors' Cranberry Township headquarters and are not made at the plant level, which further ensures that the controls and protocols with respect to payments will be observed. At the end of the day, the "faucet" of dollars for Vendor Claimants will be controlled by a core group of executives operating with significant professional assistance, with ultimate control of payments ending with the Debtors' Vice President of Finance.

Vendor Agreements

61. The Debtors propose to pay Vendor Claims in accordance with the Payment Protocol and to the extent that the related Vendor Claimant agrees to continue to supply goods or service to the Debtors, as well as any and all entities affiliated with the Debtors on “Customary Trade Terms” for 24 months from the date of the agreement. As used herein, “Customary Trade Terms” means industry trade terms and existing contractual obligations between the parties, including rebates and discounts, and shall in no event be worse than the most favorable terms and credit limits in effect within the 24 months before the Petition Date, or such other trade terms as agreed by the Debtors and the Vendor Claimant.

62. As a further condition of receiving payment on a Vendor Claim, the Debtors may require that a Vendor Claimant agree to take whatever action is necessary to remove any mechanics’ liens, possessory liens, or other liens (the “**Trade Liens**”) on the Debtors’ assets based upon the claims held by those Vendor Claimants.

63. The Debtors also propose that if a Vendor Claimant fails to comply with any terms and provisions of its agreement with the Debtors regarding payment of its prepetition claims and removal of liens (a “**Vendor Agreement**”) then the Debtors may, in their discretion, and without further order of the Court, declare that: (i) the payment of the Vendor Claim, as the case may be, is a voidable postpetition transfer pursuant to section 549(a) of the Bankruptcy Code that the Debtors may recover from the Vendor Claimant in cash or in goods (including by setoff against postpetition obligations); or (ii) the Vendor Claimant shall immediately return the Debtors’ payment of the Vendor Claim without giving effect to alleged setoff rights, recoupment rights, adjustments, or offsets of any type whatsoever, and the Vendor Claim shall be reinstated in an amount that will restore the Debtors and the Vendor Claimant to their original positions as

if the Vendor Agreement had never been entered into and the payment of the Vendor Claim had not been made.

64. Further, the Debtors propose that they may, in their discretion, declare that a Vendor Agreement with a Vendor Claimant has terminated on the date the Debtors deliver notice, as the case may be, that such Vendor Claimant has not complied with the terms and provisions of such Vendor Agreement; *provided that* the Vendor Agreement may be reinstated if:

- i. Such determination is subsequently reversed by the Court for good cause shown that the determination was materially incorrect after notice and a hearing following a motion from the Vendor Claimant;
- ii. The underlying default under the Vendor Agreement was fully cured by the Vendor Claimant not later than five (5) business days after the date when the initial default occurred; or
- iii. The Debtors, in their discretion, reach an agreement with the Vendor Claimant.

65. The Debtors propose to maintain a matrix summarizing (i) the name of each Vendor Claimant paid; (ii) the amount paid to each Vendor Claimant on account of its Vendor Claim; and (iii) the type of goods or services provided by that Vendor Claimant. This matrix will be provided upon request, to the U.S. Trustee, and, on a weekly basis (or such other agreed upon time period), to counsel to the Debtors' DIP Lenders, and the professionals retained by any official committee of unsecured creditors appointed in these chapter 11 cases; *provided*, that the professionals for any such committee shall keep the matrix confidential and shall not disclose any of the information in the matrix to anyone, including, but not limited to, any member of any statutory committee of creditors, without the prior written consent of the Debtors.

Prepetition Purchase Orders

66. As of the Petition Date, the Debtors have certain prepetition purchase orders (the “**Prepetition Purchase Orders**”) outstanding with various third party vendors and suppliers (the “**Vendors**”) for goods and/or services ordered by the Debtors that have not yet been delivered to the Debtors’ facilities or provided to the Debtors. These Vendors may be concerned that, because the Debtors’ obligations under the Prepetition Purchase Orders arose prior to the Petition Date, such obligations will be treated as general unsecured claims in these chapter 11 cases. Accordingly, certain Vendors may refuse to provide goods and/or services to the Debtors purchased pursuant to the Prepetition Purchase Orders unless the Debtors issue substitute purchase orders postpetition or obtain an order of the Court (i) confirming that all undisputed obligations of the Debtors arising from the postpetition delivery of goods and/or services subject to Prepetition Purchase Orders are afforded administrative expense priority status under section 503(b) of the Bankruptcy Code and (ii) authorizing the Debtors to satisfy such obligations in the ordinary course of business.

67. As discussed above, any delay in the shipment or delivery of goods and/or services could bring the Debtors’ operations to a halt, harming the Debtors’ businesses. Further, as also discussed above, interruption could pose a significant risk to health and safety. Although it is difficult to estimate the total amount due and owing under the Prepetition Purchase Orders for goods and/or services that are not scheduled to be delivered or provided until after the Petition Date, the Debtors submit that the total amount to be paid to the Vendors in connection therewith, if the relief requested herein is granted, is *de minimis* compared to the importance and necessity of the goods and/or services provided.

Relief Requested Should Be Granted

68. The Court may grant the relief requested herein pursuant to section 363 of the Bankruptcy Code. Section 363(b) of the Bankruptcy Code provides, in relevant part, that “[t]he [debtor], after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). Under section 363 of the Bankruptcy Code, a court may authorize a debtor to pay certain prepetition claims where a sound business purposes exists for doing so. *See In re Ionosphere Clubs, Inc.*, 98 B.R. 174 (Bankr. S.D.N.Y. 1989) (finding that there must be a sound business justification to justify payment of prepetition wages); *Armstrong World Indus., Inc. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.)*, 29 B.R. 391, 397 (S.D.N.Y. 1983) (relying on section 363 of the Bankruptcy Code to allow contractor to pay prepetition claims for suppliers).

69. In addition, the Court has the authority, pursuant to its equitable powers under section 105(a) of the Bankruptcy Code, to authorize the relief requested herein, because such relief is necessary for the Debtors to carry out their fiduciary duties under section 1107(a) of the Bankruptcy Code. Section 1107(a) of the Bankruptcy Code “contains an implied duty of the debtor-in-possession” to act as a fiduciary to “protect and preserve the estate, including an operating business’ going-concern value,” on behalf of the debtor’s creditors and other parties in interest. *In re CEI Roofing, Inc.*, 315 B.R. 50, 59 (Bankr. N.D. Tex. 2004) (quoting *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002)); *see also Unofficial Comm. of Equity Holders v. McManigle (In re Penick Pharm., Inc.)*, 227 B.R. 229, 232-33 (Bankr. S.D.N.Y. 1998) (“[U]pon filing its petition, the Debtor became debtor in possession and, through its management . . . was burdened with the duties and responsibilities of a bankruptcy trustee.”). Section 105(a) of the Bankruptcy Code empowers the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of” the Bankruptcy Code.

11 U.S.C. § 105(a); *see Ionosphere Clubs*, 98 B.R. at 175 (applying section 105(a) to justify an order authorizing the payment of certain pre-petition wages, salaries, medical benefits, and business expense claims to debtor's employees); *In re Just for Feet, Inc.*, 242 B.R. 821, 824–25 (D. Del. 1999) (holding that section 105(a) of the Bankruptcy Code provides a statutory basis for the payment of prepetition claims).

70. In a long line of well-established cases, courts consistently have permitted payment of prepetition obligations where necessary to preserve or enhance the value of a debtor's estate for the benefit of all creditors. *See, e.g., Miltenberger v. Logansport, C&S W.R. Co.*, 106 U.S. 286, 312 (1882) (payment of pre-receivership claim prior to reorganization permitted to prevent “stoppage of the continuance of [crucial] business relations”); *Dudley v. Mealey*, 147 F.2d 268, 271 (2d Cir.) (extending doctrine for payment of prepetition claims beyond railroad reorganization cases), *cert. denied* 325 U.S. 873 (1945); *Mich. Bureau of Workers' Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.)*, 80 B.R. 279, 285-86 (S.D.N.Y. 1987) (approving lower court order authorizing payment of prepetition wages, salaries, expenses, and benefits).

71. This “doctrine of necessity” functions in a chapter 11 reorganization as a mechanism by which the Court can exercise its equitable power to allow payment of critical prepetition claims not explicitly authorized by the Bankruptcy Code. *See In re Boston & Me. Corp.*, 634 F.2d 1359, 1382 (1st Cir. 1980) (recognizing “existence of a judicial power to authorize trustees . . . to pay claims . . . [for] goods or services indispensably necessary” to debtors' continued operation); *In re Structurlite Plastics Corp.*, 86 B.R. 922, 932 (Bankr. S.D. Ohio 1988) (“[A] *per se* rule proscribing the payment of pre-petition indebtedness may well be too inflexible to permit the effectuation of the rehabilitative purposes of the Code.”). The

rationale for the doctrine of necessity is consistent with the paramount goal of chapter 11 – “facilitating the continued operation and rehabilitation of the debtor.” *Ionosphere Clubs*, 98 B.R. at 176.

72. Additionally, certain of the Critical Vendors, Lien Claimants, and Foreign Creditors that the Debtors are seeking authority to pay delivered raw materials, equipment, supplies, components, and other goods in the ordinary course to the Debtors within the 20 days before the Petition Date and are entitled to administrative expense priority pursuant to section 503(b)(9) of the Bankruptcy Code. Payment of such claims at the beginning of these chapter 11 cases, therefore, merely accelerates the timing of payment and not the ultimate treatment of such claims. Additionally, all creditors will benefit from the seamless transition of the Debtors’ operations into bankruptcy.

73. The Bankruptcy Code does not prohibit a debtor from paying such administrative claims prior to confirmation of a chapter 11 plan. As administrative claims incurred in the ordinary course of business, the Debtors believe they may pay such claims in accordance with their business judgment pursuant to section 363(c)(1) of the Bankruptcy Code. *See In re Blitz U.S.A. Inc.*, 475 B.R. 209, 211, 216 (Bankr. D. Del. 2012) (granting the debtor’s motion to make payments under an employee bonus plan without notice and a hearing because the plan was “an ordinary course transaction made with sound business judgment and in good faith”); *In re Nellson Nutraceutical, Inc.*, 369 B.R. 787, 796-97 (Bankr. D. Del. 2007) (noting that no notice and hearing are required if a transaction is “in the ordinary course of business” pursuant to section 363(c)(1) and “provided that the conduct involves a business judgment made in good faith upon a reasonable basis”); *In re Dura Auto. Sys. Inc.*, No. 06-11202 (KJC)

(Bankr. D. Del. Oct. 31, 2006) (ECF No. 153) Hr'g Tr. 49:21-23 ("I think arguably the [D]ebtor could pay its 503(b)(9) claimants without court approval.").

**Payment of Critical Vendor Claims
Is Necessary to Ensure Continuation of the Debtors' Operations**

74. As noted herein and in the Donahue Declaration, payment of Critical Vendors is necessary for the Debtors to maintain operations and consequently preserve the value of their business and ensure safety. Accordingly, maintaining favorable trade terms and credit is in the best interests of all creditors and other parties in interest.

75. The Critical Vendors provide goods and services that are necessary to preserve the value of the Debtors' numerous business lines. As discussed, many of the Critical Vendors are providers of specialized goods and services that cannot be replaced in a feasible manner, if at all, due to their specialized qualifications or commitments pursuant to the Debtors' customer contracts. Failure to pay these vendors' prepetition claims would result in a loss of value to the Company's different business lines, which would be unable to continue operating without such vendors. As stated in the Donahue Declaration, the Debtors have concluded that if they do not make Critical Vendor payments, their value will be reduced by amounts well in excess of amounts that the Debtors seek authorization to pay.

76. Additionally, the Debtors devote extraordinary time and resources to ensure their operations are conducted in the safest possible manner. Numerous Critical Vendors provide goods and services required by federal or state safety regulations, and that are necessary to ensure continued public and environmental safety. Critical Vendors' goods and services are also necessary for the Debtors' customers to continue providing electricity to the electrical grid, the interruption of which may have negative implications for public safety. Therefore, payment of Critical Vendors that provide health and safety related goods and services is necessary to

ensure the Company continues its operations in the safest manner possible, the absence of which would also compromise the Debtors' value.

77. Courts in this district regularly grant relief consistent with that which the Debtors are seeking in this Motion. *See, e.g., In re AOG Entm't*, Case No. 16-11090 (SMB) (Bankr. S.D.N.Y. June 10, 2016) (ECF No. 13) (authorizing debtors to pay prepetition claims of critical vendors); *In re Primorsk Int'l Shipping Ltd.*, Case No 16-10073 (Bankr. S.D.N.Y. Jan. 21, 2016) (same); *In re ConnectEdu, Inc.*, Case No. 14-11238 (SCC) (ECF No. 131) (Bankr. S.D.N.Y. May 27, 2016) (same); *In re MPM Silicones, LLC*, Case No. 14-22503 (RDD) (Bankr. S.D.N.Y. May 16, 2014) (same); *In re Marco Polo Seatrade B.V.*, Case No. 11-13634 (JMP) (Bankr. S.D.N.Y. Sep. 15, 2011).

78. Additionally, courts in this and other districts have granted similar relief for payments of large amounts in cases of other large industrial debtors. *See, e.g., In re Chrysler LLC*, No. 09-50002 (AJG) (Bankr. S.D.N.Y. May 20, 2009) (ECF No. 1318) (authorizing payment of \$1.71 billion for prepetition claims of direct production suppliers, and \$600 million for prepetition claims of indirect suppliers); *In re Delphi Corp.*, No. 05-44481 (RDD) (Bankr. S.D.N.Y. Oct. 13, 2005) (ECF No. 197) (authorizing payment of up to \$90 million for prepetition claims of essential suppliers); *In re SunEdison, Inc.*, No. 16-10992 (SMB) (Bankr. S.D.N.Y. Jun. 8, 2016) (ECF No. 515) (authorizing debtors to pay critical vendors in an amount not to exceed \$52 million); *In re Lear Corp.*, No. 09-14326 (MEW) (Bankr. S.D.N.Y. Jul. 31, 2009) (ECF No. 245) (authorizing debtors to pay critical vendors in an amount not to exceed \$50 million); *In re Smurfit-Stone Container Corp.*, No. 09-10235 (BLS) (Bankr. D. Del. Feb. 23, 2009) (ECF No. 378) (authorizing debtor to pay up to \$50 million to critical vendors and granting debtor the right to seek an increase to make payments up to \$60 million).

79. Further, due to the nature of the Debtors' businesses, certain of the Critical Vendors that the Debtors seek authority to pay delivered raw materials, equipment, supplies, components, and other goods in the ordinary course to the Debtors within the 20 days prior to the Petition Date. The Debtors estimate that approximately \$16.3 million owed to Critical Vendors, representing approximately 19% of the total amount of Critical Vendor Claims, is on account of goods that were received during the 20 day period before the Petition Date, and therefore, would be afforded administrative priority under section 503(b)(9) of the Bankruptcy Code. Payment to any Critical Vendor on account of such deliveries at the onset of these chapter 11 cases merely accelerates the timing of payment and not the ultimate treatment of such claims. Accordingly, the Debtors would have to pay the Critical Vendor Claims in full, to the extent they fall within the scope of section 503(b)(9) of the Bankruptcy Code, regardless of the timing of such payment.

Payment of Prepetition Claims of Shippers, Warehousemen, and Other Lien Claimants Is Necessary to Ensure Continuation of the Debtors' Operations

80. The critical need for the continued receipt and distribution of Goods that Lien Claimants may hold on the Petition Date or assert liens against amply justifies the relief sought herein. The Debtors rely heavily on the Shippers and Warehousemen, many of whom currently hold property of the Debtors, to expeditiously transport their Goods, such as Shippers that transport specialized tools to the Debtors' various plants. Similarly, the Other Lien Claimants provide valuable services to the Debtors that are necessary to the Debtors' continued operations. If the Debtors are unable to access the Goods held by the Lien Claimants and the services provided by the Lien Claimants, their operations will likely halt, derailing these chapter 11 cases. Further, if the Debtors' operations are interrupted, nuclear plant shut downs may result. The prompt payment to the Lien Claimants, and satisfaction of any liens asserted against the Debtors' property or the customers' property is thus in the Debtors' sound business judgment

and crucial for the orderly and efficient operation of the Debtors' businesses. As stated in the Donahue Declaration, the Debtors have concluded that if they do not make payments to Lien Claimants, their value will be reduced by amounts well in excess of amounts that the Debtors seek authorization to pay.

81. Courts in this district have frequently authorized similar relief. *See, e.g., In re Eastman Kodak Company*, Case No. 12-10202 (ALG) (Bankr. S.D.N.Y. Feb. 15, 2012) (authorizing debtors to pay prepetition claims of potential lien claimants); *In re the Great Atl. & Pac. Tea Co., Inc.*, Case No. 10-24549 (Bankr. S.D.N.Y. Jan. 13, 2011) (same); *In re Blockbuster Inc.*, Case No. 10-14997 (Bankr. S.D.N.Y. Oct. 21, 2010) (same); *In re The Reader's Digest Ass'n*, Case No. 09-23529 (Bankr. S.D.N.Y. Sep. 17, 2009) (same).

**Payment of Prepetition Claims of Foreign Creditors
Is Necessary to Ensure the Debtors' Continued Operations**

82. Payment of the prepetition claims of the Debtors' Foreign Creditors is essential to the Debtors' reorganization. As stated, the limitations of the enforceability of the automatic stay, the risk of Foreign Creditors' exercising remedial rights, the critical nature of goods and services provided by the Foreign Creditors, and the lack of qualified alternative suppliers justify the relief requested in this Motion. Absent a continued, uninterrupted supply of raw materials, component parts, and other goods from Foreign Creditors, the Debtors' overall ability to operate their businesses will be jeopardized. Simply stated, payment of the Foreign Claims as proposed will assure the orderly operation of the Debtors' businesses and avoid costly disruptions and the significant loss of value and irreparable harm arising therefrom. Further, the Foreign Creditors may take actions to collect debts outside of the U.S. As stated in the Donahue Declaration, the Debtors have concluded that if they do not pay Foreign Claims, their value will be reduced by amounts well in excess of amounts that the Debtors seek authorization to pay.

83. Courts have properly relied on section 105(a) to authorize payment of prepetition claims of foreign creditors in similar circumstances where, as here, the estate will obtain more value for all creditors or avoid more harm by making the prepetition payments. *See, e.g., In re Gawker Media LLC*, Case No. 16-11700 (SMB) (Bankr. S.D.N.Y. July 13, 2016) (authorizing debtors to pay prepetition claims of foreign creditors); *In re Chassix Holdings, Inc.*, Case No. 15-10578 (Bankr. S.D.N.Y. Mar. 13, 2015); *In re MPM Silicones, LLC*, Case No. 14-22503 (RDD) (Bankr. S.D.N.Y. May 16, 2014) (same); *In re LodgeNet Interactive Corp.*, Case No. 13-10238 (Bankr. S.D.N.Y. Feb. 27, 2013) (same); *In re Eastman Kodak Company*, Case No. 12-10202 (ALG) (Bankr. S.D.N.Y. Feb. 15, 2012) (same); *In re Marco Polo Seatrade B.V.*, Case No. 11-13634 (JMP) (Bankr. S.D.N.Y. Sep. 15, 2011) (same); *In re Delphi Corporation*, Case No. 05-44481 (Bankr. S.D.N.Y. Oct. 13, 2005) (same).

**Payment of Prepetition Purchase
Orders Is Necessary to the Debtors' Reorganization**

84. Finally, it is necessary to the uninterrupted operation of the Debtors' businesses that obligations owed under the Prepetition Purchase Orders for goods and/or services delivered or provided postpetition be explicitly granted administrative expense status. Pursuant to section 503(b)(1)(A) of the Bankruptcy Code, obligations that arise in connection with the postpetition delivery of necessary goods and services are afforded administrative expense priority status. *See, e.g., Frito-Lay, Inc. v. LTV Steel Co. (In re Chateaugay Corp.)*, 10 F.3d 944, 956 (2d Cir. 1993) (“[A] claim will be afforded priority ‘only to the extent that the consideration supporting the claimant’s right to payment was both supplied to and beneficial to the debtor-in-possession in the operation of the business.’”) (quoting *Trustees of Amalgamated Ins. Fund v. McFarlin’s, Inc.*, 789 F.2d 98, 101 (2d Cir. 1986) (quoting *In re Mammoth Mart, Inc.*, 536 F.2d 950, 954 (1st Cir. 1976))); *In re Tropicana Entm’t, LLC*, No. 08-10856 (KJC), 2015 WL

6112064, at *5 (Bankr. D. Del. Oct. 14, 2015) (internal quotation omitted) (“[Pursuant to] Bankruptcy Code § 503(b)(1)(A), the Court may allow as administrative expenses, the actual, necessary costs and expenses of preserving the estate, including wages, salaries, commissions for services rendered after the commencement of the case.”); *In re Blockbuster Inc.*, No. 10-14997, 2010 WL 5559538, at *3 (Bankr. S.D.N.Y. Oct. 27, 2010) (final order ruling that the “Debtors’ undisputed obligations . . . that arise from the postpetition delivery of materials, goods, and services that were ordered in the prepetition period shall have administrative expense priority status pursuant to section 503(b) of the Bankruptcy Code.”). Thus, the granting of the relief requested herein will not provide the Vendors with any greater priority than they otherwise would have if the relief were not granted, and will not prejudice any other parties in interest.

85. Although the relief requested herein will not alter any Vendor’s position in the case, the relief will provide Vendors with assurance of payment and thus avoid potential disruption in the Debtors’ operations. As discussed, any delay in the shipment or delivery of goods and/or services could cause significant harm to the Debtors’ business operations and create safety risks.

86. Similar relief to that requested herein has been granted in other chapter 11 cases in this and other districts. *See, e.g., In re Breitburn Energy Partners LP*, Case No. 16-11390 (SMB) (Bankr. S.D.N.Y. May 20, 2016) (ECF No. 65) (granting administrative expense status to undisputed obligations to vendors arising from postpetition delivery of goods and services ordered prepetition); *In re Republic Airways Holdings Inc.*, Case No. 16-10429 (Bankr. S.D.N.Y. Mar. 23, 2016) (ECF No. 200) (same); *In re Chassix Holdings, Inc.*, Case No. 15-10578 (MEW) (Bankr. S.D.N.Y. Apr. 14, 2015) (ECF No. 273) (same); *In re OnCure Holdings*,

Inc., No. 13-11540 (KG) (Bankr. D. Del. July 24, 2013) (ECF No. 171) (same); *In re Tronox Inc.*, Case No. 09-10156 (ALG) (Bankr. S.D.N.Y. Jan. 14, 2009) (same).

**Cause Exists to Authorize Debtors'
Banks to Honor Checks and Electronic Fund Transfers**

87. The Debtors have sufficient funds to pay the amounts described herein in the ordinary course of business by virtue of expected cash flows from ongoing business operations and proceeds of their postpetition financing. Moreover, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to an authorized payment in respect of the obligations discussed herein. Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently, that the Court should authorize the Banks, when requested by the Debtors, to receive, process, honor, and pay any and all checks or wire transfer requests in respect of the relief requested herein, and that Banks should be able to rely on the representations of the Debtors without any duty of further inquiry and without liability for following the Debtors' instructions.

Reservation of Rights

88. Nothing contained herein is intended or shall be construed as (i) an admission as to the validity of any claim or lien against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as

an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

Debtors Have Satisfied Bankruptcy Rule 6003(b)

89. Bankruptcy Rule 6003(b) provides that, to the extent relief is necessary to avoid immediate and irreparable harm, a bankruptcy court may issue an order granting “a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition” before 21 days after filing of the petition. As set forth in this Motion, the Debtors believe an immediate and orderly transition into chapter 11 is critical to the viability of their operations and that any delay in granting the relief requested could jeopardize the Debtors' operations and cause irreparable harm. The failure to receive the requested relief during the first 21 days of these chapter 11 cases would severely disrupt the Debtors' operations at this critical juncture and imperil the Debtors' restructuring. Accordingly, the Debtors submit that the relief requested herein is necessary to avoid immediate and irreparable harm, and, therefore, Bankruptcy Rule 6003 is satisfied.

Request for Bankruptcy Rule 6004(a) and (h) Waivers

90. To implement the foregoing successfully, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14 day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h). As explained above and in the Donahue Declaration, the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtors. Accordingly, ample cause exists to justify the waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14 day stay imposed by Bankruptcy Rule 6004(h), to the extent such notice requirements and such stay apply.

Notice

91. Notice of this Motion will be provided to (i) the Office of the U.S. Trustee for Region 2; (ii) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (iii) the Securities and Exchange Commission; (iv) the Internal Revenue Service; (v) the United States Attorney's Office for the Southern District of New York; (vi) proposed counsel to Debtor Toshiba Nuclear Energy Holdings (UK) Limited, Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, NY 10119 (Attn: Albert Togut, Esq.); (vii) counsel to Toshiba Corporation, Skadden, Arps, Slate, Meagher & Flom LLP, 300 South Grand Avenue, Suite 3400, Los Angeles, CA 90071 (Attn: Van C. Durrer II, Esq. and Annie Z. Li, Esq.); (viii) counsel to the Debtors' prepetition agent under that certain Second Amended and Restated Credit Agreement, dated as of October 7, 2009 (as amended), Latham & Watkins LLP, 330 North Wabash Avenue, Suite 2800, Chicago, IL 60611 (Attn: Zulfiqar Bokhari, Esq.); (ix) counsel to the lenders under the Debtors' proposed DIP Facility, (a) Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, NY 10019-6064 (Attn: Jeffrey D. Saferstein, Esq.) and (b) Paul, Weiss, Rifkind, Wharton & Garrison LLP, 2001 K Street, NW, Washington, DC 20006-1047 (Attn: Claudia R. Tobler, Esq.); (x) counsel to the agents and letter of credit issuer under the Debtors' proposed DIP Facility, Shearman & Sterling LLP, 599 Lexington Avenue, New York, NY 10022 (Attn: Fredric Sosnick, Esq. and Ned S. Schodek, Esq.); and (xi) the Banks (collectively, the "**Notice Parties**"). The Debtors submit that, in view of the facts and circumstances, such notice is sufficient and no other or further notice need be provided. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE the Debtors respectfully request entry of the Proposed Interim Order and the Proposed Final Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: March 29, 2017
New York, New York

/s/ Robert J. Lemons

Gary T. Holtzer
Robert J. Lemons
Garrett A. Fail
WEIL, GOTSHAL & MANGES LLP
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*Proposed Attorneys for Debtors
and Debtors in Possession*

Exhibit A

Proposed Interim Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re :
 : **Chapter 11**
WESTINGHOUSE ELECTRIC :
COMPANY LLC, et al., : **Case No. 17-_____ (____)**
 :
Debtors.¹ : **(Joint Administration Pending)**
-----X

**INTERIM ORDER
PURSUANT TO 11 U.S.C. §§ 105(a),
363(b), AND 503(b)(9) FOR AUTHORIZATION
(I) TO PAY PREPETITION OBLIGATIONS TO
CRITICAL VENDORS, SHIPPERS, WAREHOUSEMEN, OTHER
LIEN CLAIMANTS, AND FOREIGN CREDITORS, (II) CONFIRMING
ADMINISTRATIVE STATUS FOR CERTAIN GOODS DELIVERED AND
SERVICES PROVIDED POSTPETITION, AND (III) AUTHORIZING FINANCIAL
INSTITUTIONS TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS**

Upon the motion (the “**Motion**”),² dated March 29, 2017, of Westinghouse Electric Company LLC and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 105(a), 363(b), and 503(b)(9) of the Bankruptcy Code, for an interim order (the “**Interim Order**”) (i) authorizing payment of certain prepetition claims of Critical Vendors; (ii) authorizing

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, if any, are: Westinghouse Electric Company LLC (0933), CE Nuclear Power International, Inc. (8833), Fauske and Associates LLC (8538), Field Services, LLC (2550), Nuclear Technology Solutions LLC (1921), PaR Nuclear Holding Co., Inc. (7944), PaR Nuclear, Inc. (6586), PCI Energy Services LLC (9100), Shaw Global Services, LLC (0436), Shaw Nuclear Services, Inc. (6250), Stone & Webster Asia Inc. (1348), Stone & Webster Construction Inc. (1673), Stone & Webster International Inc. (1586), Stone & Webster Services LLC (5448), Toshiba Nuclear Energy Holdings (UK) Limited (N/A), TSB Nuclear Energy Services Inc. (2348), WEC Carolina Energy Solutions, Inc. (8735), WEC Carolina Energy Solutions, LLC (2002), WEC Engineering Services Inc. (6759), WEC Equipment & Machining Solutions, LLC (3135), WEC Specialty LLC (N/A), WEC Welding and Machining, LLC (8771), WECTEC Contractors Inc. (4168), WECTEC Global Project Services Inc. (8572), WECTEC LLC (6222), WECTEC Staffing Services LLC (4135), Westinghouse Energy Systems LLC (0328), Westinghouse Industry Products International Company LLC (3909), Westinghouse International Technology LLC (N/A), and Westinghouse Technology Licensing Company LLC (5961). The Debtors’ principal offices are located at 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066.

² Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

payment of prepetition charges to Lien Claimants; (iii) authorizing payment of the prepetition claims of certain Foreign Creditors; (iv) confirming administrative priority status of Prepetition Purchase Orders and authorizing the Debtors to pay such obligations in the ordinary course of business; (v) authorizing financial institutions to pay, honor, and process related checks and transfers; and (vi) granting related relief; all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Notice Parties; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion on an interim basis (the “**Hearing**”); and upon the Donahue Declaration, filed contemporaneously with the Motion, and the record of the Hearing; 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 it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Motion is granted on an interim basis to the extent set forth herein; and it is further

ORDERED that the Debtors are authorized, but not directed, pursuant to sections 105(a), 363(b), and 503(b)(9) of the Bankruptcy Code, in the reasonable exercise of their business judgment, to pay Critical Vendor Claims upon such terms and in the manner provided in this Interim Order and the Motion; *provided that* prior to a final hearing to consider the relief requested in the Motion (the “**Final Hearing**”) the amount paid with respect to Critical Vendor Claims shall not exceed the aggregate amount of \$58.9 million; and it is further

ORDERED that the Debtors are authorized, but not directed, pursuant to sections 105(a), 363(b), and 503(b)(9) of the Bankruptcy Code, in the reasonable exercise of their business judgment, to make payments to Lien Claimants, including, without limitation, Shippers, Warehousemen, Equipment Manufacturers, Tool Makers, and Other Lien Claimants upon such terms and in the manner provided in this Interim Order and in the Motion; *provided that* prior to the Final Hearing the amount paid with respect to prepetition claims of Lien Claimants shall not exceed the aggregate amount of \$16.8 million; and it is further

ORDERED that the Debtors are authorized, but not directed, pursuant to sections 105(a), 363(b), and 503(b)(9) of the Bankruptcy Code, in the reasonable exercise of their business judgment, to pay some or all of the Foreign Claims upon such terms and in the manner provided in this Interim Order and the Motion; *provided that* prior to the Final Hearing the amount paid with respect to Foreign Claims shall not exceed the aggregate amount of \$14.7 million; and it is further

ORDERED that, notwithstanding anything to the contrary contained herein, any payment to be made or relief or authorization granted hereunder shall be not be inconsistent with, and shall be subject to, the requirements imposed on the Debtors under the DIP Orders, the

budget approved thereunder (the “**Budget**”), and the loan and security documents evidencing the DIP Facility (the “**DIP Loan Documents**”); and it is further

ORDERED that to the extent there is any conflict between this Order and the DIP Orders, the DIP Loan Documents, or the Budget, the terms of the DIP Order, DIP Loan Documents, or the Budget, as applicable, shall govern; and it is further

ORDERED that the Debtors are authorized to enter into Vendor Agreements when the Debtors determine, in the exercise of their reasonable business judgment, that it is appropriate to do so; *provided that* the Debtors’ inability to enter into a Vendor Agreement shall not preclude them from paying a Vendor Claim when, in the exercise of their reasonable business judgment, such payment is necessary to the Debtors’ reorganization; and it is further

ORDERED that the Debtors may, in their discretion, declare that a Vendor Agreement with a Vendor Claimant has terminated on the date the Debtors deliver notice, as the case may be, that such Vendor Claimant has not complied with the terms and provisions of such Vendor Agreement; *provided that* the Vendor Agreement may be reinstated if:

- i. Such determination is subsequently reversed by the Court for good cause shown that the determination was materially incorrect after notice and a hearing following a motion from the Vendor Claimant;
- ii. The underlying default under the Vendor Agreement was fully cured by the Vendor Claimant not later than five (5) business days after the date when the initial default occurred; or
- iii. The Debtors, in their discretion, reach an agreement with the Vendor Claimant; and it is further

ORDERED that if a Vendor Claimant has received payment of its Vendor Claim, but later fails to comply with the terms of a Vendor Agreement between the Vendor Claimant and the Debtors, or such other terms as were individually agreed to between the Debtors and such Vendor Claimant, the Debtors may, in their discretion, declare that (i) the payment is a

voidable postpetition transfer pursuant to section 549(a) of the Bankruptcy Code that the Debtors may recover in cash or in goods from such Vendor Claimant (including by setoff against postpetition obligations); or (ii) the Vendor Claimant shall immediately return the payment of its claim without giving effect to alleged setoff rights, recoupment rights, adjustments, or offsets of any type whatsoever, and the Vendor Claimant shall be reinstated in such an amount so as to restore the Debtors and the Vendor Claimant to their original positions as if the Vendor Agreement had never been entered into and no payment of the claim had been made; and it is further

ORDERED that the Debtors shall maintain a matrix summarizing (i) the name of each Vendor Claimant paid; (ii) the amount paid to each Vendor Claimant on account of its Vendor Claim; and (iii) the type of goods or services provided by that Vendor Claimant. This matrix will be provided upon request, to the U.S. Trustee, and, on a weekly basis, (or such other agreed upon time period), to counsel to the DIP Lenders, and the professionals retained by any official committee of unsecured creditors appointed in these chapter 11 cases; *provided that* the professionals for any such committee shall keep the matrix confidential and shall not disclose any of the information in the matrix to anyone, including, but not limited to, any member of any statutory committee of creditors, without prior written consent of the Debtors; and it is further

ORDERED that the undisputed obligations of the Debtors arising under the Prepetition Purchase Orders shall be afforded administrative expense priority status pursuant to section 503(b)(1)(A) of the Bankruptcy Code; *provided that* any such claims shall be junior to the claims and liens of the DIP Lenders; and it is further

ORDERED that pursuant to section 363(c)(1) of the Bankruptcy Code, the Debtors are authorized to pay in the ordinary course of their businesses all undisputed

obligations arising from the postpetition delivery or shipment by Vendors of goods or provision of services under Prepetition Purchase Orders consistent with their customary practice; and it is further

ORDERED that in accordance with this Interim Order (or other order of the Court), each of the Banks at which the Debtors maintain their accounts relating to the payment of the obligations described in the Motion is authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise; and it is further

ORDERED that the Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of prepetition obligations and claims as set forth herein, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases; and it is further

ORDERED that nothing contained in the Motion or this Interim Order, nor any payment made pursuant to the authority granted by this Interim Order is intended to be or shall be construed as (i) an admission as to the validity of any claim or lien against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption,

adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code; and it is further

ORDERED that notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by any party; and it is further

ORDERED that the requirements of Bankruptcy Rule 6003(b) have been satisfied; and it is further

ORDERED that under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a); and it is further

ORDERED that notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that the Debtors are authorized to take all action necessary to the relief granted in this Interim Order; and it is further

ORDERED that the Debtors shall serve this Interim Order within forty-eight (48) hours of its entry via first class U.S. mail on the Notice Parties; and it is further

ORDERED that the Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Interim Order; and it is further

ORDERED that the Final Hearing to consider the relief requested in the Motion shall be held on _____, 2017 at _____ (**Prevailing Eastern Time**) and any objections or responses to the Motion shall be in writing, filed with the Court, and served upon proposed counsel to the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Gary T. Holtzer, Esq., Robert J. Lemons, Esq., and Garrett A. Fail, Esq.) and

(ii) the Notice Parties, in each case, so as to be actually received on or prior to **4:00 p.m.**
(Prevailing Eastern Time) on _____, 2017.

Dated: _____, 2017
New York, New York

UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Proposed Final Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re :
 : **Chapter 11**
WESTINGHOUSE ELECTRIC :
COMPANY LLC, et al., : **Case No. 17-_____ (____)**
 :
Debtors.¹ : **(Joint Administration Pending)**
-----X

**FINAL ORDER
PURSUANT TO 11 U.S.C. §§ 105(a),
363(b), AND 503(b)(9) FOR AUTHORIZATION
(I) TO PAY PREPETITION OBLIGATIONS TO
CRITICAL VENDORS, SHIPPERS, WAREHOUSEMEN, OTHER
LIEN CLAIMANTS, AND FOREIGN CREDITORS, (II) CONFIRMING
ADMINISTRATIVE STATUS FOR CERTAIN GOODS DELIVERED AND
SERVICES PROVIDED POSTPETITION, AND (III) AUTHORIZING FINANCIAL
INSTITUTIONS TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS**

Upon the motion (the “**Motion**”),² dated March 29, 2017, of Westinghouse Electric Company LLC and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), pursuant to sections 105(a), 363(b), and 503(b)(9) of the Bankruptcy Code, for a final order (the “**Final Order**”) (i) authorizing payment of certain prepetition claims of Critical Vendors; (ii) authorizing

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, if any, are: Westinghouse Electric Company LLC (0933), CE Nuclear Power International, Inc. (8833), Fauske and Associates LLC (8538), Field Services, LLC (2550), Nuclear Technology Solutions LLC (1921), PaR Nuclear Holding Co., Inc. (7944), PaR Nuclear, Inc. (6586), PCI Energy Services LLC (9100), Shaw Global Services, LLC (0436), Shaw Nuclear Services, Inc. (6250), Stone & Webster Asia Inc. (1348), Stone & Webster Construction Inc. (1673), Stone & Webster International Inc. (1586), Stone & Webster Services LLC (5448), Toshiba Nuclear Energy Holdings (UK) Limited (N/A), TSB Nuclear Energy Services Inc. (2348), WEC Carolina Energy Solutions, Inc. (8735), WEC Carolina Energy Solutions, LLC (2002), WEC Engineering Services Inc. (6759), WEC Equipment & Machining Solutions, LLC (3135), WEC Specialty LLC (N/A), WEC Welding and Machining, LLC (8771), WECTEC Contractors Inc. (4168), WECTEC Global Project Services Inc. (8572), WECTEC LLC (6222), WECTEC Staffing Services LLC (4135), Westinghouse Energy Systems LLC (0328), Westinghouse Industry Products International Company LLC (3909), Westinghouse International Technology LLC (N/A), and Westinghouse Technology Licensing Company LLC (5961). The Debtors’ principal offices are located at 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066.

² Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

payment of prepetition charges to Lien Claimants; (iii) authorizing payment of the prepetition claims of certain Foreign Creditors; (iv) confirming administrative priority status of Prepetition Purchase Orders and authorizing the Debtors to pay such obligations in the ordinary course of business; (v) authorizing financial institutions to pay, honor, and process related checks and transfers; and (vi) granting related relief; all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion and the Interim Order (as defined herein) having been provided to the Notice Parties as set forth in the affidavits of service filed at Docket Nos. [] and [], respectively; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing on [] [], 2017 to consider the relief requested in the Motion on an interim basis (the “**Interim Hearing**”); and the Court having entered an order granting the relief requested in the Motion on an interim basis (Docket No. []) (the “**Interim Order**”) and scheduling a final hearing on the Motion for [] [], 2017 (the “**Final Hearing**”); and the Final Hearing having been held, if necessary, to consider the relief requested in the Motion on a final basis; and upon the Donahue Declaration, filed contemporaneously with the Motion, and the record of the Interim Hearing and the Final Hearing; 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 it appearing that the relief requested in the Motion is in the best interests of the Debtors, their

estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Motion is granted as set forth herein; and it is further

ORDERED that the Debtors are authorized, but not directed, pursuant to sections 105(a), 363(b), and 503(b)(9) of the Bankruptcy Code, in the reasonable exercise of their business judgment, to pay Critical Vendor Claims upon such terms and in the manner provided in this Final Order and the Motion; *provided that* the amount paid with respect to Critical Vendor Claims shall not exceed the aggregate amount of \$87.3 million; and it is further

ORDERED that the Debtors are authorized, but not directed, pursuant to sections 105(a), 363(b), and 503(b)(9) of the Bankruptcy Code, in the reasonable exercise of their business judgment, to make payments to Lien Claimants, including, without limitation, Shippers, Warehousemen, Equipment Manufacturers, Tool Makers, and Other Lien Claimants upon such terms and in the manner provided in this Final Order and in the Motion; *provided that* the amount paid with respect to prepetition claims of Lien Claimants shall not exceed the aggregate amount of \$23.5 million; and it is further

ORDERED that the Debtors are authorized, but not directed, pursuant to sections 105(a), 363(b), and 503(b)(9) of the Bankruptcy Code, in the reasonable exercise of their business judgment, to pay some or all of the Foreign Claims upon such terms and in the manner provided in this Final Order and the Motion; *provided that* the amount paid with respect to Foreign Claims shall not exceed the aggregate amount of \$20.1 million; and it is further

ORDERED that, notwithstanding anything to the contrary contained herein, any payment to be made or relief or authorization granted hereunder shall be not be inconsistent with, and shall be subject to, the requirements imposed on the Debtors under the DIP Orders, the

budget approved thereunder (the “**Budget**”), and the loan and security documents evidencing the DIP Facility (the “**DIP Loan Documents**”); and it is further

ORDERED that to the extent there is any conflict between this Order and the DIP Orders, the DIP Loan Documents, or the Budget, the terms of the DIP Order, DIP Loan Documents, or the Budget, as applicable, shall govern; and it is further

ORDERED that the Debtors are authorized to enter into Vendor Agreements when the Debtors determine, in the exercise of their reasonable business judgment, that it is appropriate to do so; *provided that* the Debtors’ inability to enter into a Vendor Agreement shall not preclude them from paying a Vendor Claim when, in the exercise of their reasonable business judgment, such payment is necessary to the Debtors’ reorganization; and it is further

ORDERED that the Debtors may, in their discretion, declare that a Vendor Agreement with a Vendor Claimant has terminated on the date the Debtors deliver notice, as the case may be, that such Vendor Claimant has not complied with the terms and provisions of such Vendor Agreement; *provided that* the Vendor Agreement may be reinstated if:

- iv. Such determination is subsequently reversed by the Court for good cause shown that the determination was materially incorrect after notice and a hearing following a motion from the Vendor Claimant;
- v. The underlying default under the Vendor Agreement was fully cured by the Vendor Claimant not later than five (5) business days after the date when the initial default occurred; or
- vi. The Debtors, in their discretion, reach an agreement with the Vendor Claimant; and it is further

ORDERED that if a Vendor Claimant has received payment of its Vendor Claim, but later fails to comply with the terms of a Vendor Agreement between the Vendor Claimant and the Debtors, or such other terms as were individually agreed to between the Debtors and such Vendor Claimant, the Debtors may, in their discretion, declare that (i) the payment is a

voidable postpetition transfer pursuant to section 549(a) of the Bankruptcy Code that the Debtors may recover in cash or in goods from such Vendor Claimant (including by setoff against postpetition obligations); or (ii) the Vendor Claimant shall immediately return the payment of its claim without giving effect to alleged setoff rights, recoupment rights, adjustments, or offsets of any type whatsoever, and the Vendor Claimant shall be reinstated in such an amount so as to restore the Debtors and the Vendor Claimant to their original positions as if the Vendor Agreement had never been entered into and no payment of the claim had been made; and it is further

ORDERED that the Debtors shall maintain a matrix summarizing (i) the name of each Vendor Claimant paid; (ii) the amount paid to each Vendor Claimant on account of its Vendor Claim; and (iii) the type of goods or services provided by that Vendor Claimant. This matrix will be provided upon request, to the U.S. Trustee, and, on a weekly basis, (or such other agreed upon time period), to counsel to the DIP Lenders, and the professionals retained by any official committee of unsecured creditors appointed in these chapter 11 cases; *provided that* the professionals for any such committee shall keep the matrix confidential and shall not disclose any of the information in the matrix to anyone, including, but not limited to, any member of any statutory committee of creditors, without prior written consent of the Debtors; and it is further

ORDERED that the undisputed obligations of the Debtors arising under the Prepetition Purchase Orders shall be afforded administrative expense priority status pursuant to section 503(b)(1)(A) of the Bankruptcy Code; *provided that* any such claims shall be junior to the claims and liens of the DIP Lenders; and it is further

ORDERED that pursuant to section 363(c)(1) of the Bankruptcy Code, the Debtors are authorized to pay in the ordinary course of their businesses all undisputed

obligations arising from the postpetition delivery or shipment by Vendors of goods or provision of services under Prepetition Purchase Orders consistent with their customary practice; and it is further

ORDERED that in accordance with this Final Order (or other order of the Court), each of the Banks at which the Debtors maintain their accounts relating to the payment of the obligations described in the Motion is authorized to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, and (ii) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise; and it is further

ORDERED that the Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of prepetition obligations and claims as set forth herein, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases; and it is further

ORDERED that nothing contained in the Motion or this Final Order, nor any payment made pursuant to the authority granted by this Final Order is intended to be or shall be construed as (i) an admission as to the validity of any claim or lien against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption,

adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code; and it is further

ORDERED that notwithstanding entry of this Final Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by any party; and it is further

ORDERED that under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a); and it is further

ORDERED that notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that the Debtors are authorized to take all action necessary to the relief granted in this Final Order; and it is further

ORDERED that the Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Final Order.

Dated: _____, 2017
New York, New York

UNITED STATES BANKRUPTCY JUDGE