

**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. 17-10751 (MEW)**
 :
 Debtors.¹ : **(Jointly Administered)**
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**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 payment of prepetition charges to Lien

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.



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. 43 and 126, 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 March 30, 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. 71) (the “**Interim Order**”) and scheduling a final hearing on the Motion for May 23, 2017 (the “**Final Hearing**”); and the Final Hearing having been held 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 if either (i) such claims are afforded priority under section 503(b)(9) of the Bankruptcy Code; (ii) the Debtors determine that the failure to make such payment creates an immediate risk of (a) causing an environmental hazard or posing significant risk to the environment, (b) posing a threat to health and public safety, or (c) compromising the Company's customers' ability to provide power to the electrical grid; or (iii) the Debtors determine that in the absence of making such payment, the Debtors would suffer a loss of value in excess of such payment amount and the Debtors reasonably and in good faith determine that there is a risk of immediate loss of value if they do not make such payment; *provided that* the amount paid with respect to Critical Vendor Claims shall not exceed the aggregate amount of \$45 million (inclusive of any amounts already paid), without prejudice to the Debtors' right to request additional relief from the Court, and *provided further that* the Debtors shall not pay any Critical Vendor Claim that would result in any individual Critical Vendor receiving an aggregate amount in excess of \$650,000 unless (x) (1) the Debtors provide not less than two (2) business days' notice of the Debtors' intent to make such payment to counsel and any financial advisor or investment banker to the statutory committee of unsecured claimholders ("UCC") and counsel and any financial advisor or investment banker to the DIP Lenders, which shall only be permitted to disclose to members of the UCC or the DIP Lenders the name of the proposed payee and the aggregate

proposed payment amount and, for the avoidance of doubt, shall not be permitted to disclose itemized information relating to the proposed payment, including, but not limited to, copies of purchase orders or similar documentation that contain pricing information, prior to making such payment (or such shorter period to which the UCC agrees) and (2) the UCC does not object to such payment in a writing to the Debtors and their counsel within two (2) business days of receiving notice of the Debtors' intent to make such payment, or (y) the Debtors obtain Court approval to make such payment; 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 (inclusive of any amounts already paid), without prejudice to the Debtors' right to request additional relief from the Court; *provided further that* the Debtors shall not pay any individual Lien Claimant an aggregate amount in excess of \$500,000 unless (i) (a) the Debtors provide not less than two (2) business days' notice of the Debtors' intent to make such payment to counsel and any financial advisor or investment banker to the UCC and counsel and any financial advisor or investment banker to the DIP Lenders, which shall only be permitted to disclose to members of the UCC or the DIP Lenders the name of the proposed payee and the aggregate proposed payment amount and, for the avoidance of doubt, shall not be permitted to disclose itemized information relating to the proposed payment, including, but not limited to, copies of purchase orders or similar documentation that contain pricing information, prior to making such

payment (or such shorter period to which the UCC agrees) and (b) the UCC does not object to such payment in a writing to the Debtors and their counsel within two (2) business days of receiving notice of the Debtors' intent to make such payment, or (ii) the Debtors obtain Court approval to make such payment; 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 \$10 million (inclusive of any amounts already paid), without prejudice to the Debtors' right to request additional relief from the Court, and the Debtors shall not pay any Foreign Claim that would result in any individual Foreign Creditor receiving an aggregate amount in excess of \$750,000 unless (i) (a) the Debtors provide not less than two (2) business days' notice of the Debtors' intent to make such payment to counsel and any financial advisor or investment banker to the UCC and counsel and any financial advisor or investment banker to the DIP Lenders, which shall only be permitted to disclose to members of the UCC or the DIP Lenders the name of the proposed payee and the aggregate proposed payment amount and, for the avoidance of doubt, shall not be permitted to disclose itemized information relating to the proposed payment, including, but not limited to, copies of purchase orders or similar documentation that contain pricing information, prior to making such payment (or such shorter period to which the UCC agrees) and (b) the UCC does not object to such payment in a writing to the Debtors and their counsel within two (2) business days of receiving notice of the Debtors' intent to make such payment, or (ii) the Debtors obtain Court approval to make such payment; *provided further that* the Debtors may only pay a Foreign Claim to a Foreign Creditor if either

(x) such Foreign Claim is afforded priority under section 503(b)(9) of the Bankruptcy Code or
(y) the Debtors determine that in the absence of making such payment, the Debtors would suffer a loss of value in excess of such payment amount and the Debtors determine that there is a risk of immediate loss of value if they do not make such payment; and it is further

ORDERED that the Debtors are not authorized, and shall not pay directly or indirectly, any Foreign Claims, Critical Vendor Claims, or claims of Lien Claimants of any non-Debtor affiliates or insiders (or make any payments for the benefit of such entities) without the prior written consent of counsel to the UCC; 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, *provided, however*, that nothing in the DIP Order, DIP Loan Documents, or Budget shall authorize the Debtors to make payments of prepetition Foreign Claims, prepetition Critical Vendor Claims, or prepetition claims of Lien Claimants unless such payments are authorized pursuant to the terms of this Order or another order of the Court; 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; *provided, further, that* without a Vendor Agreement the Debtors shall not pay any Vendor Claim that would result in any individual Vendor Claimant receiving an aggregate amount in excess of \$500,000 unless (i) (a) the Debtors provide not less than two (2) business days' notice of the Debtors' intent to make such payment to counsel and any financial advisor or investment banker to the UCC and counsel and any financial advisor or investment banker to the DIP Lenders, which shall only be permitted to disclose to members of the UCC or the DIP Lenders the name of the proposed payee and the aggregate proposed payment amount and, for the avoidance of doubt, shall not be permitted to disclose itemized information relating to the proposed payment, including, but not limited to, copies of purchase orders or similar documentation that contain pricing information, prior to making such payment (or such shorter period to which the UCC or the DIP Lenders agree) and (b) the UCC does not object to such payment in a writing to the Debtors and their counsel within two (2) business days of receiving notice of the Debtors' intent to make such payment, or (ii) the Debtors obtain Court approval to make such payment; 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 (with a copy to counsel to the UCC), 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 consultation with counsel to the UCC, 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 shall notify counsel to the UCC, and 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's claim 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 and any financial advisor or investment banker to the UCC and counsel and any financial advisor or investment banker to the DIP Lenders, which shall be permitted to disclose information in the matrix to members of the UCC or the DIP Lenders; and it is further

ORDERED that the undisputed obligations of the Debtors arising from postpetition delivery, shipment, or provision of services 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 the payment of postpetition obligations; (ii) receive, process, honor, and pay all checks presented for the payment of prepetition obligations and honor all fund transfer requests made by the Debtors related thereto only upon the Debtors' representation that such payment or transfer is authorized by an Order of the Court; and (iii) 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', the UCC's, 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 effectuate the relief granted in this Final Order; and it is further

ORDERED that nothing contained in the Motion or this Final Order, nor any payment made pursuant to any interim order or this Final Order, is intended to be or shall be dispositive with respect to any allocation of responsibility between and among Debtors and non-

Debtors for such payments, and all rights with respect thereto are expressly reserved by the UCC;
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: June 1, 2017
New York, New York

s/Michael E. Wiles
UNITED STATES BANKRUPTCY JUDGE