Hearing Date and Time: July 26, 2018 at 11:00 a.m. (Eastern Time)
Objection Deadline: July 26, 2018 at 10:00 a.m. (Eastern Time)

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	**Chapter 11**
WESTINGHOUSE ELECTRIC COMPANY LLC, *et al.*,	:	**Case No. 17-10751 (MEW)**
Debtors.[1]	:	**(Jointly Administered)**

NOTICE OF HEARING AND MOTION OF DEBTORS FOR AUTHORIZATION TO AMEND THE CHAPTER 11 PLAN AND PLAN FUNDING AGREEMENT AND FOR RELATED RELIEF

[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, Inc. d/b/a WECTEC Global Project Services Inc. (8572), 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 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.

PLEASE TAKE NOTICE that a hearing on the annexed *Motion of Debtors for Authorization to Amend the Chapter 11 Plan and Plan Funding Agreement and for Related Relief*, dated July 23, 2018 (the "**Motion**"), of Westinghouse Electric Company LLC, Toshiba Nuclear Energy Holdings (UK) Limited, and certain of their affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively the "**Debtors**"), will be held before the Honorable Michael E. Wiles, United States Bankruptcy Judge, in Room 617 of the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004 (the "**Bankruptcy Court**"), on **July 26, 2018 at 11:00 a.m. (Eastern Time)**, or as soon thereafter as counsel may be heard.

PLEASE TAKE FURTHER NOTICE that any responses or objections (the "**Objections**") to the Motion must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules, and shall be filed with the Bankruptcy Court (a) by attorneys practicing in the Bankruptcy Court, including attorneys admitted *pro hac vice*, electronically in accordance with General Order M-399 (which can be found at www.nysb.uscourts.gov), and (b) by all other parties in interest, on a CD-ROM, in text-searchable portable document format (PDF) (with a hard copy delivered directly to Chambers), in accordance with the customary practices of the Bankruptcy Court and General Order M-399, to the extent applicable, and served in accordance with General Order M-399 and the *Order Pursuant to 11 U.S.C. §105(a) and Fed. R. Bankr. P. 1015(c), 2002(m), and 9007 Implementing Certain Notice and Case Management Procedures* [ECF No. 101] so as to be received no later than **July 26, 2018 at 10:00 a.m. (Eastern Time)** (the "**Objection Deadline**").

PLEASE TAKE FURTHER NOTICE that if no Objections are timely filed and served with respect to Motion, the Debtors may, on or after the Objection Deadline, submit to the Bankruptcy Court an order substantially in the form of the proposed order annexed to the Motion, which order may be entered with no further notice or opportunity to be heard.

Dated: July 23, 2018
New York, New York

/s/ Robert J. Lemons

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	
	:	**Chapter 11**
WESTINGHOUSE ELECTRIC COMPANY LLC, *et al.*,	:	**Case No. 17-10751 (MEW)**
	:	
Debtors.[1]	:	**(Jointly Administered)**

MOTION OF DEBTORS FOR AUTHORIZATION TO AMEND THE CHAPTER 11 PLAN AND PLAN FUNDING AGREEMENT AND FOR RELATED RELIEF

[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, Inc. d/b/a WECTEC Global Project Services Inc. (8572), 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 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.

TO THE HONORABLE MICHAEL E. WILES,
UNITED STATES BANKRUPTCY JUDGE:

Westinghouse Electric Company LLC ("**WEC**"), Toshiba Nuclear Energy Holdings (UK) Limited ("**TNEH**") and certain of their affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), respectfully represent as follows in support of this motion (the "**Motion**"):

Background

1. On March 29, 2017 (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 are authorized to 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 or examiner has been appointed in these chapter 11 cases.

2. The Debtors' chapter 11 cases are being jointly administered for procedural purposes only pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**").

3. On April 7, 2017, the United States Trustee for Region 2 (the "**U.S. Trustee**") appointed the Statutory Unsecured Claimholders Committee (the "**UCC**") pursuant to section 1102 of the Bankruptcy Code. On October 2, 2017, and December 19, 2017, the U.S. Trustee filed amended notices of appointment [ECF Nos. 1431 and 1954] removing members from the UCC.

4. On January 12, 2018, TNEH, TSB Nuclear Energy Services Inc. ("**TNESI**"), and Brookfield WEC Holdings LLC ("**Brookfield**" or "**Plan Investor**", and collectively with TNEH and TNESI, the "**PFA Parties**") entered into that certain *Plan Funding Agreement* (the "**PFA**") pursuant to which Brookfield will provide cash (the "**Plan Investment**

Proceeds") to fund the Debtors' Plan (as defined below) and acquire Westinghouse's business through (a) the issuance of new equity interests in reorganized TNESI and (b) the purchase of 100% of the equity interests of non-debtor Westinghouse Electric UK Holdings Limited (the "**Plan Investment Transaction**").

5. On March 28, 2018 (the "**Confirmation Date**"), the Court entered an order [ECF No. 2988] (the "**Confirmation Order**") confirming the Debtors' *Modified Second Amended Joint Chapter 11 Plan of Reorganization* [ECF No. 2986] (the "**Plan**"),[2] including the PFA and the Plan Investment Transaction. The Plan's effective date (the "**Effective Date**") has yet to occur, but is anticipated to occur as early as July 31, 2018.

6. The Plan provides for the treatment of all allowed claims and equity interests, including the treatment of the Class 3B General Unsecured Claims held by Nucleus Acquisition LLC (the "**Consenting Claimholder**"). As provided in the Plan, holders of Allowed General Unsecured Claims (other than Class 3B General Unsecured Claims) will receive their pro rata share of $1.15 billion, and the holders of Allowed Class 3B General Unsecured Claims (*i.e.*, the Consenting Claimholder) will receive 100% of the membership interests in Wind Down Co, which will hold the Plan Investment Proceeds remaining after the settlement and/or satisfaction of Allowed Secured Claims, DIP Claims, Administrative Expense Claims, Priority Claims, Professional Fee Claims, Class 3A General Unsecured Claims, Intercompany Claims and Cash Pool Claims, each of which are expected to be paid in full or otherwise settled. Accordingly, through its receipt of 100% of the membership interests in Wind Down Co, the Consenting Claimholder will effectively own the residual value of the Debtors' estates after the Effective Date.

[2] Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Plan.

7. Since the Confirmation Date, the Debtors have been working diligently to satisfy the conditions to the closing of the Plan Investment Transaction (the "**Closing**") and the Effective Date (which are expected to occur simultaneously). The Debtors have also been working to reach a consensus among the Debtors, the Plan Investor, and the Consenting Claimholder on certain potential disputes regarding, and adjustments to, the Plan and PFA, including the potential assumption of certain additional pension liabilities by the Debtors, the transfer to Wind Down Co of certain causes of action which would otherwise be retained by Reorganized WEC, as well as certain purchase price adjustments.

8. The Debtors, the Plan Investor, and the Consenting Claimholder have just now reached an agreement on these matters, and have agreed that on the Effective Date:

a) Reorganized WEC will assume (the "**EPP Assumption**") the Westinghouse Electric Company Executive Pension Plan (as amended and restated on April 1, 2017, the "**EPP**"). In exchange for assuming these EPP liabilities, which are not accounted for in the PFA purchase price, the Plan Investor will receive an Allowed Class 3A General Unsecured Claim against WEC in the amount of $121.5 million (the "**Allowed EPP Claim**"), which Plan Investor will sell to Wind Down Co, on the Effective Date, for $120 million.

b) The Debtors will transfer any and all causes of action of the Debtors' (the "**Affirmative CB&I Claims**") arising under that under that certain Purchase Agreement, dated October 27, 2015, among WEC, WSW Acquisition Co. LLC, Chicago Bridge & Iron Company N.V. ("**CB&I**"), and CB&I Stone & Webster, Inc. (the "**S&W Purchase Agreement**") to Wind Down Co. Notwithstanding the foregoing, Wind Down Co shall be obligated to pay to Reorganized WEC 60% any cash proceeds recovered on account of the Affirmative CB&I Claims, net of any amount that Wind Down Co pays to CB&I or its affiliates on account of claims asserted by CB&I that arise under the S&W Purchase Agreement, including the CB&I POCs (as defined below) (the "**Net CB&I Proceeds**"). Absent this agreement, the Affirmative CB&I Claims would be retained by the Reorganized Debtors following the Effective Date.

c) The following right of the Plan Investor under the PFA will be eliminated: the right to hold back (the "**Holdback**") at Closing up to $80 million of the Base Purchase Price (as defined below) if, prior to Closing, the applicable Company Group Members (as defined in the PFA) do not enter into a binding settlement

with respect to outstanding claims arising under a certain material contract (the "**Contract**") with one of their significant customers (the "**Customer**") on either (i) terms substantially the same (in all material respects) as those terms made available to the Plan Investor prior to the date of the PFA (the "**Settlement Terms**"), or (ii) the Required Terms (as set forth in the PFA);[3] and

d) The Plan Investment Proceeds will be reduced by $40 million (the "**Purchase Price Reduction**").

Relief Requested

9. Accordingly, by this Motion, the Debtors are asking the Court to,

a) pursuant to section 1127 of the Bankruptcy Code, approve modifications to the PFA, as provided in that certain *Amendment No. 1 to the Plan Funding Agreement* in the agreed upon form attached as Exhibit 1 to the Proposed Order (the "**PFA Modifications**"), and modifications to the Plan, as identified in a redline comparison attached as Exhibit 2 to the Proposed Order (the "**Plan Modifications**", and together with the PFA Modifications, the "**Modifications**"); and

b) pursuant to section 105 of the Bankruptcy Code and paragraph 21 of the Confirmation Order and section 9.2 of the Plan, grant certain related relief, including allowance of the Allowed EPP Claim.

10. A proposed form of order granting the relief requested herein is annexed hereto as **Exhibit A** (the "**Proposed Order**").

Jurisdiction

11. 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). Venue is

[3] The identity of the particular Contract and Customer are confidential, and the Court recognized as such through its entry of that certain *Order Pursuant To 11 U.S.C. §§ 107(b) and 105(a) And Fed. R. Bankr. P. 9018, Authorizing Debtors to (I) File Documents Under Seal and (II) Redact Commercially Sensitive, Nonpublic Information* dated January 18, 2018 [ECF No. 2181] authorizing the Debtors to redact such information in the PFA and file an unredacted copy of the PFA under seal (the "**Confidentiality Order**"). Accordingly, the Debtors have not disclosed such information hereunder, and rely on the terms of the Confidentiality Order to redact such information in the PFA Modifications. The Debtors will provide unredacted versions of the PFA Modifications to the Court for *in camera* review, and have already delivered the unredacted PFA Modifications to the Committee on a confidential basis. In addition, the Debtors will deliver an unredacted version to the U.S. Trustee for review on a confidential basis.

proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Proposed Modifications

12. As the Plan and PFA now stand, in the absence of the Modifications, on the Effective Date: (i) the EPP will not be assumed by the Debtors; (ii) the Affirmative CB&I Claims will vest with the Reorganized Debtors, (iii) the Plan Investor will be entitled to hold back $80 million on account of the Holdback, and (iv) the base purchase price under the PFA will be $3.802 billion (the "**Base Purchase Price**").

13. The requested modifications to the Plan and PFA (i) provide that WEC will assume the EPP pursuant to the Plan and Reorganized WEC shall pay any associated cure costs, (ii) provide that the Affirmative CB&I Claims are Excluded Assets to be transferred to Wind Down Co on the Effective Date, (iii) eliminate the Holdback, and (iv) reduce the Plan Investment Proceeds by $40 million to $3.762 billion. To compensate the Plan Investor for assuming the EPP, the Plan Investor will receive the Allowed EPP Claim, which the Plan Investor will sell to Wind Down Co on the Effective Date.

14. These Modifications will (i) allow for the resolution, shortly after the Effective Date, of the EPP Claims (as defined below), one of the largest unresolved groups of claims in the Debtors' chapter 11 cases, (ii) better align the interests related to the CB&I POCs (as defined below), which assert the largest unresolved claims in the Debtors' chapter 11 cases, and (iii) eliminate an $80 million purchase price holdback, and are in the best interests of the Debtors' estates.

A. The Executive Pension Plan

15. The Debtors established the EPP, effective as of April 1, 1999, to provide supplemental pension benefits to certain of the Debtors' management level employees as well as certain other highly compensated employees. On January 20, 2017, WEC's board of directors

suspended accruals under the EPP effective as of April 1, 2017. Under the existing terms of the PFA, as incorporated by the Plan and the Confirmation Order, the EPP is excluded from assumption by the Debtors following the Effective Date. Under the Plan, any executory contract not assumed by the Debtors prior to the Effective Date, or otherwise scheduled for assumption prior to the Effective Date, will (subject to certain exceptions outlined in the Plan) be automatically rejected pursuant to section 365 and 1123 of the Bankruptcy Code as of the Effective Date.

16. As of the Petition Date, subject to otherwise complying with the terms of the EPP, 90 of the Debtors' former employees were eligible to receive benefits under the EPP (the "**Retiree Plan Participants**") and 66 of the Debtors' then current employees could have become eligible to receive benefits under the EPP upon retirement (if certain requirements were met), two of whom attained eligibility after the Petition Date (the "**Non-Retiree Plan Participants**," and, together with the Retiree Plan Participants, the "**Plan Participants**"). As of the date hereof, Plan Participants have filed 144 proofs of claim (the "**EPP Claims**") asserting purported claims arising under the EPP in an aggregate amount of approximately $135 million (the "**Asserted Claim Amounts**").

17. The bulk of the Asserted Claim Amounts are for contingent claims that would arise if WEC rejected the EPP. The Debtors, together with their actuaries and other professionals, analyzed these claims, taking into consideration actuarial tables, discount rates, and, in the case of the Non-Retiree Plan Participants, projected ages of retirement.

18. Additionally, as of the date hereof, WEC has failed to make more than $6 million of payments under the EPP to Retiree Plan Participants during the pendency of the Debtors' chapter 11 cases. Under the terms of the EPP, the Debtors currently owe approximately $400,000 per month to Retiree Plan Participants.

19. Following entry of the Confirmation Order, the Debtors, the Plan Investor, and the Consenting Claimholder engaged in discussions regarding potential assumption of the EPP. Specifically, the Debtors and the Plan Investor determined that WEC's assumption of the EPP would (a) enhance the Reorganized Debtors' ability to retain the Non-Retiree Plan Participants and (b) provide the Reorganized Debtors with certain protections available under the EPP, including certain non-compete provisions. Additionally, assumption of the EPP would avoid the potentially significant costs, time, and uncertainty to the estate of having Wind Down Co litigate the allowed amount of each of the EPP Claims.

20. After extensive, arms-length negotiations among the Debtors, the Plan Investor, and the Consenting Claimholder, the Debtors and the Plan Investor have agreed to amend the PFA to require that the Debtors assume the EPP pursuant to the Plan. WEC has determined in the exercise of its sound business judgment that assuming the EPP on the following terms, as provided in the PFA Modifications and Proposed Order, is in the best interests of the Debtors, their estates, and their creditors:

- **EPP Assumption and Allowed EPP Claim**: Reorganized WEC will assume all obligations and liabilities relating to the EPP, and pay any applicable cure costs. To compensate the Plan Investor for Reorganized WEC's assumption of EPP liabilities, the Plan Investor will receive the Allowed EPP Claim upon the Effective Date. Plan Investor will subsequently be deemed to have transferred the Allowed EPP Claim to Wind Down Co on the Effective Date in exchange for $120 million, which amount may be satisfied, at the election of Wind Down Co, by crediting or offsetting the Base Purchase Price. Wind Down Co may thereafter transfer the Allowed EPP Claim to Consenting Claimholder.

- **Cure Costs**: Subject to occurrence of the Effective Date, WEC shall resume payments of amounts due under the EPP, and shall pay all past due amounts under the EPP, on or before October 1, 2018 or such later date as may be approved by the Court upon a motion by WEC with notice to all Retiree Plan Participants. Wind Down Co shall not have any liability with respect to the assumption of the EPP.

21. Additionally, based on the analysis of the EPP Claims by each of WEC, the Plan Investor, the Consenting Claimholder, and their respective professionals, WEC, the Plan Investor, and the Consenting Claimholder all believe that the Allowed EPP Claim, together with the terms of the PFA Modification, provides reasonable compensation to the Plan Investor for permitting WEC to assume the EPP liabilities and assuming obligations to pay cure amounts. As a result, approximately $135 million of Class 3A General Unsecured Claims asserted by EPP Participants will effectively be replaced with the Plan Investor's $121.5 million Allowed Class 3A General Unsecured Claim, benefitting holders of Allowed Class 3A General Unsecured Claims by reducing the amount of claims and obviating the need for additional reserves and costly litigation. Because claims related to the EPP will be reduced from $135 million to $121.5 million, the likelihood that Class 3A General Unsecured Claims will be paid in full under the Plan is enhanced.

22. Under the Plan and Confirmation Order, the Debtors have authority to assume additional executory contracts prior to Closing. Under paragraph 24 of the Confirmation Order, up to five (5) business days before the anticipated Closing Date, executory contracts may be added to or removed from the Schedule of Assumed Contracts by filing with the Court and serving on each non-debtor counterparty thereto one or more supplemental Schedule of Executory Contracts, and any previously filed Schedule of Executory Contracts shall be deemed to be updated accordingly. Accordingly, on the date hereof, the Debtors filed the *Eighth Supplemental Notice Regarding (I) Executory Contracts and Unexpired Leases, (II) Proposed Cure Obligations, and (III) Related Procedures* [ECF No. 3614] listing the EPP as an executory contract that may be designated for assumption pursuant to the Plan. On July 24, 2018, the Debtors intend to list the EPP on their final Schedule of Assumed Contracts. The PFA Modification regarding the

assumption of the EPP is merely being made because under the existing terms of the PFA, the EPP is explicitly excluded from being an assumed liability of the Debtors under the Plan.

23. Through the assumption of the EPP, the Debtors will avoid the costs of litigating the EPP Claims and the Reorganized Debtors will realize valuable employee retention benefits and retain certain other benefits with respect to the Retiree Plan Participants that would otherwise cease to be effective were the EPP to be rejected under the Plan.

B. Affirmative CB&I Claims

24. WEC and WECTEC LLC are party to the S&W Purchase Agreement, pursuant to which CB&I sold its nuclear construction business WEC. On November 28, 2017, CB&I filed proof of claim numbers 3413 and 3414 (amending proof of claim numbers 3086 and 3087) against the Debtors asserting, among other things, claims of up to approximately $1.11 billion arising under the S&W Purchase Agreement for deferred consideration and earn-out payments (the "**CB&I POCs**"). The CB&I POCs are the largest disputed individual Class 3A General Unsecured Claims in the Debtors' chapter 11 cases that remain unresolved. The Debtors also have claims against CB&I arising under the S&W Purchase Agreement and have been engaged in litigation with CB&I over the net working capital calculation under the S&W Purchase Agreement (the "**NWC Claim**").

25. Without the Modifications, the Affirmative CB&I Claims, including the NWC Claim, will vest with the Reorganized Debtors on the Effective Date, and Wind Down Co will be responsible for resolving the CB&I POCs. Pursuant to the Modifications, (i) the Affirmative CB&I Claims will be transferred to Wind Down Co to allow the claims, counterclaims, and defenses under the S&W Purchase Agreement to be held by the same party, and (ii) Wind Down Co shall be required to use commercially reasonable efforts to pursue the Affirmative CB&I Claims. Further, notwithstanding the fact that the Affirmative CB&I Claims

shall be transferred to Wind Down Co, the Reorganized Debtors shall be entitled to 60% of the Net CB&I Proceeds.

26. Transferring the Affirmative CB&I Claims to Wind Down Co (subject to the right of Reorganized WEC to 60% of the Net CB&I Proceeds) by listing them as Excluded Assets under the Plan and PFA provides the Debtors' estate with an asset and allows for an alignment of interests with respect to the Affirmative CB&I Claims and CB&I POCs, potentially allowing for a more efficient resolution of such claims to the benefit of the Debtors' estates.

C. Elimination of Holdback

27. Under the PFA, if, prior to the Closing, the applicable Company Group Member has not entered into a binding settlement with the Customer (a "**Settlement**") on either (i) the Settlement Terms, or (ii) the Required Terms, the Plan Investor is entitled to hold back up to $80 million of the Plan Investment Proceeds until a Settlement is entered into on the Settlement Terms, which include the Required Terms. The PFA also requires that after the Closing, the Plan Investor is required to use commercially reasonable efforts to enter into the Settlement on the Settlement Terms.

28. As of the date hereof, the Settlement has not been entered into and it remains unclear whether such a settlement will be achieved. However, under the Plan Modifications, the Plan Investor has agreed to waive and eliminate the Holdback, resulting in $80 million of the Plan Investment Proceeds to be made immediately available to the Debtors' estates and Wind Down Co (subject to the Purchase Price Reduction, as described below).

D. Purchase Price Reduction

29. To compensate the Plan Investor for the concessions made in the Plan Modifications (in other words the elimination of the Holdback and the transfer of the Affirmative CB&I Claims, in addition to the assumption of the EPP), the Debtors and Consenting Claimholder

have agreed that the Plan Investor may reduce the Plan Investment Proceeds by $40 million and receive the Allowed EPP Claim, which the Debtors understand Wind Down Co will acquire on the Effective Date for $120 million, which amount may be offset against the Base Purchase Price. The Consenting Claimholder and Debtors have determined that amending the PFA and Plan to provide for the Purchase Price Reduction is appropriate given the value of, among other things, the Affirmative CB&I Claims, and the elimination of the Holdback.

30. None of the Debtors' creditors other than the Consenting Claimholder will be impacted by the purchase price reduction because the pool of cash available for distribution to holders of Allowed Class 3A General Unsecured Claims will not be reduced as a result of the Purchase Price Reduction.

E. Technical Adjustments and Modifications

31. The Debtors also hereby give notice of the following technical adjustments and modifications to the Plan and PFA (the "**Technical Adjustments**"), which are incorporated in the Modifications:

a) conforming Schedules 2.02(a) and 2.02(b) of the PFA to the Assumed Liabilities and Excluded Asset schedules annexed respectively as Exhibit I and Exhibit H to the Plan;

b) replacing the term "Post-Closing Adjustment Amount" with "Post-Closing Adjustment Threshold" in Section 3.06(d)(a)(ii) of the PFA;

c) acknowledging and agreeing that the Hematite Adjustment Amount (as defined in the PFA) is $4,731,770;

d) replacing the reference to "the Company's'" with "the applicable Company Group Members'" in Section 3.11(c) of the PFA; and

e) replacing the reference in section 5.5 of the Plan to "Section 6.1 of the Plan Funding Agreement" with "Section 7.01 of the Plan Funding Agreement".

32. The Technical Adjustments are being made merely to clarify certain potential ambiguities or correct incorrect references in the Plan and PFA and do not materially

adversely affect or change the treatment of any Claims or Interests. Accordingly, the Technical Modifications do not require (i) additional disclosure under section 1125 of the Bankruptcy Code, (ii) resolicitation of votes under section 1126 of the Bankruptcy Code, (iii) that holders of Claims be afforded an opportunity to change previously cast acceptances or rejections of the Plan, or (iv) approval of the Court.

Relief Requested Should Be Granted

A. The Modifications are Appropriate under Section 1127(b) of the Bankruptcy Code.

33. Section 1127(b) of the Bankruptcy Code provides for the post-confirmation modification of a plan:

> The proponent of a plan or the reorganized debtor may modify such plan at any time after confirmation of such plan and before substantial consummation of such plan, but may not modify such plan so that such plan as modified fails to meet the requirements of sections 1122 and 1123 of this title. Such plan as modified under this subsection becomes the plan only if circumstances warrant such modification and the court, after notice and a hearing, confirms such plan as modified, under section 1129 of this title.

34. Section 12.1(a) of the Plan further provides that:

> The Plan may be amended, modified, or supplemented by the Debtors in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law without additional disclosure pursuant to section 1125 of the Bankruptcy Code; provided, however, that the Plan and exhibits, supplements, or appendices hereto may not be modified in any way that adversely affects the Distributions, recoveries, treatment, classification, or other rights or entitlements of (i) the PSA Parties (either as a group or individually) without the consent of each affected PSA Party, and (ii) the DIP Lenders and DIP Agent without the DIP Agent's consent. In addition, after the Confirmation Date, the Debtors may institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan or the Confirmation Order, with respect to such matters as may be necessary to carry out the purposes and effects of the Plan.

35. Modifying the Plan and PFA pursuant to the Modifications is appropriate under section 1127(b) of the Bankruptcy Code.

36. *First*, the Modifications do not violate sections 1122 (classification of claims or interests) or 1123 (contents of a plan). The proposed Modifications do not adversely change the terms of the existing Plan, and do not affect the Plan's classification scheme or otherwise affect the mandatory or discretionary contents of a plan as set forth in section 1123. The proposed Modifications merely (i) allocate value between the Plan Investor and Consenting Claimholder, each of whom has consented to these Modifications, and (ii) require Reorganize WEC to honor its contractual commitments under the EPP.

37. *Second*, the proposed Modifications are appropriate under section 1129 of the Bankruptcy Code. The Court has already determined that (i) the Debtors' Plan meets the requirements of section 1129 of the Bankruptcy Code and complies with all relevant sections of the Bankruptcy Code (*see* Confirmation Order at ¶ K) and (ii) that Reorganized Debtors have provided adequate assurance of future performance executory contracts and unexpired leases assumed pursuant to the Plan (*see* Confirmation Order at ¶ 25). The proposed Modifications to the Plan and PFA do not materially change the Court's analysis of the Plan. The proposed Modifications, which are proposed in good faith, simply allocate value between the Plan Investor and Consenting Claimholder, do not alter the treatment of allowed claims, and require Reorganized WEC to honor its contractual commitments under the EPP. The proposed Modifications, therefore, should be approved.

B. The Modifications Are Appropriate under Section 1127(c) of the Bankruptcy Code as They Are Not Material to Creditors Other Than the Consenting Claimholder and Do Not Adversely Impact Parties Who Previously Voted for the Plan

38. Pursuant to section 1127(b) of the Bankruptcy Code, "[t]he proponent of a modification shall comply with section 1125 of this title with respect to the plan as modified." 11

U.S.C. § 1127(c). This requirement to comply with section 1125 of the Bankruptcy Code, however, does not necessarily mandate re-solicitation of a Plan. *In re Cellular Information Sys., Inc.*, 171 B.R. 926, 929 n.6 (Bankr. S.D.N.Y. 1994) ("I find that such changes are nonmaterial modifications which do not require re-solicitation of the respective impaired classes of creditors and equity security holders").

39. The legislative history of section 1127(c) makes clear that not all modifications to a confirmed plan require new disclosure. *See* H. Rep. No. 595, 95th Cong., 1st Sess., 411 (1977) ("if the modification were sufficiently minor, the court might determine that additional disclosure was not required under the circumstances"). Indeed, a number of courts have held further disclosure is only necessary where a proposed plan modification materially *and* adversely affects a claimant's treatment. *See Resolution Trust Corp. v. Best Prods. Co.*, 177 B.R. 791, 802 (S.D.N.Y. 1995) (noting that the key inquiry was whether the modification materially altered the plan so that a claimant's treatment was adversely affected); *Enron Corp. v. The New Power Co. (In re The New Power Co.)*, 438 F.3d 1113, 1118 (11th Cir. 2006) ("[A]s an initial matter, we consider whether there was any material and adverse modifications from the First Amended Plan."); *see also In re Century Glove, Inc.*, 1993 U.S. Dist. LEXIS 2286, *12 (D. Del. Feb. 10, 1993).

40. The question of materiality is one of fact. A proposed plan modification will be considered material "if it so affects a creditor or interest holder who accepted the plan that such entity, if it knew of the modification, would be likely to reconsider its acceptance." *In re Am. Solar Corp.*, 90 B.R. 808, 824 (Bankr. W.D. Tex. 1988) (citing 8 Collier on Bankruptcy, ¶ 3019.03 (15th ed. 1987)). Thus, a "clear and obvious improvement to the position of the creditors affected by the modification" will not require re-solicitation of the modified plan. *In re Concrete Designers,*

Inc., 173 B.R. 354, 356 (Bankr. S.D. Ohio 1994). This reading of section 1127(c) is entirely consistent with the disclosure requirements in section 1125 because a modification that is not material is, "by definition, one which will not affect an investor's voting decision," and thus, "additional disclosure would serve no purpose." *In re Am. Solar Corp*., 90 B.R. at 824.

41. Here, the proposed Modifications do not materially or adversely affect the interest of any allowed claimant in these chapter 11 cases. Indeed, Plan Investor and Consenting Claimholder have consented to them, and the Modifications will fully restore the rights of the Plan Participants under the EPP. The proposed Modifications, therefore, are proper under sections 1125 and 1127(c) of the Bankruptcy Code and should be approved.

42. Moreover, as discussed above, there are several benefits to the Debtors and their estates from implementing the Modifications and assuming the EPP. Wind Down Co will avoid the costs of litigating the allowed amount of each of the EPP Claims. Further, the Reorganized Debtors will realize valuable employee retention benefits and retain certain other benefits with respect to the Retiree Plan Participants that would otherwise cease to be effective were the EPP to be rejected under the Plan. Further, the party responsible for defending the CB&I POCs will also own the Affirmative CB&I Claims.

Notice

43. Notice of this Motion will be provided in accordance with the *Order Pursuant to 11 U.S.C. §105(a) and Fed. R. Bankr. P. 1015(c), 2002(m), and 9007 Implementing Certain Notice and Case Management Procedures* [ECF No. 101], and a motion requesting shortened notice, filed contemporaneously herewith. The Debtors submit that, in view of the facts and circumstances, such notice is sufficient and no other or further notice need be provided.

44. 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 Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: July 23, 2018
New York, New York

/s/ Robert J. Lemons

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Attorneys for Debtor Toshiba
Nuclear Energy Holdings (UK) Limited

Exhibit A

Proposed Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	
	:	**Chapter 11**
WESTINGHOUSE ELECTRIC COMPANY LLC, *et al.*,	:	**Case No. 17-10751 (MEW)**
	:	
Debtors.[1]	:	**(Jointly Administered)**

ORDER AUTHORIZING DEBTORS TO AMEND THE CHAPTER 11 PLAN AND PLAN FUNDING AGREEMENT AND PROVIDING RELATED RELIEF

Upon the motion [ECF No. [●]] (the "**Motion**"),[2] dated July 23, 2018, of Westinghouse Electric Company LLC, Toshiba Nuclear Energy Holdings (UK) Limited, and their debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"), pursuant to section 1127 of the Bankruptcy Code, for an order authorizing the Debtors to amend the Plan and PFA, 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

[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, Inc. d/b/a WECTEC Global Project Services Inc. (8572), 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 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 meaning ascribed to such terms in the Motion.

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 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 (the "**Hearing**"); and the record of 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 HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.

2. Pursuant to section 1127 of the Bankruptcy Code, the Debtors are authorized to make the proposed PFA Modifications, annexed hereto as **Exhibit 1**, and Plan Modifications, annexed hereto as **Exhibit 2**.

3. The Debtors shall not be required to re-solicit acceptances to the Plan in light of these modifications.

4. As of the Effective Date, the Plan Investor is hereby granted an Allowed Class 3A General Unsecured Claim in the amount of $121,500,000 (the "**Allowed EPP Claim**").

5. On or before October 1, 2018, Reorganized WEC shall pay any Cure Costs payable to EPP participants on account of benefits that have accrued since the Petition Date and remain unpaid (the "**Cure Cost Deadline**"); *provided*, that the foregoing shall be without prejudice to WEC filing a motion with the Bankruptcy Court seeking authority to extend the Cure Cost Deadline on notice to the EPP Participants, who shall have an opportunity to object.

6. Notwithstanding anything to the contrary in the Plan or the PFA, Wind Down Co shall not have any liability with respect to the assumption of the EPP, including any Cure Costs payable in respect thereof.

7. On the Effective Date, Plan Investor shall be deemed to have transferred the Allowed EPP Claim to Wind Down Co in exchange for $120,000,000, which amount may be satisfied, at the election of Wind Down Co, by crediting or offsetting the Base Purchase Price owing to Wind Down Co by Plan Investor. Wind Down Co may thereafter, at its sole discretion, transfer the Allowed EPP Claim to any third-party, including the Consenting Claimholder.

8. Under the circumstances of these chapter 11 cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

9. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be immediately effective and enforceable upon its entry.

10. The Debtors are authorized to take all action necessary to effectuate the relief granted in this Order.

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

Dated: _____, 2018
New York, New York

_____
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

PFA Modifications

Agreed Upon Execution Version

AMENDMENT NO. 1 TO PLAN FUNDING AGREEMENT

THIS AMENDMENT NO. 1 TO PLAN FUNDING AGREEMENT (this "Amendment"), dated as of July [●], 2018, is made and entered into by and among TSB Nuclear Energy Services Inc. ("**TNESI**"), Toshiba Nuclear Energy Holdings (UK) Limited (together with TNESI, the "**Companies**") and Brookfield WEC Holdings LLC ("**Plan Investor**" and, together with the Companies, the "**Parties**").

WHEREAS, the Parties entered into that certain Plan Funding Agreement, dated as of January 12, 2018 (the "**Plan Funding Agreement**"); and

WHEREAS, in furtherance of the foregoing and in accordance with Section 13.11 of the Plan Funding Agreement, the Parties desire to amend the Plan Funding Agreement and agree as set forth herein.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

Section 1.1 Defined Terms; References. All capitalized terms, unless otherwise defined or amended herein, shall have the meaning given to them in the Plan Funding Agreement. Each reference to "hereof," "herein," "hereunder," "hereby" and "this Agreement" shall, from and after the date hereof, refer to the Plan Funding Agreement, as amended by this Amendment. Notwithstanding the foregoing, references to the date of the Plan Funding Agreement, as amended hereby, shall in all instances continue to refer to January 12, 2018, references to "date hereof" and "the date of this Agreement" shall continue to refer to January 12, 2018.

Section 1.2 Amendments. The Plan Funding Agreement and the Disclosure Schedules thereto are hereby amended as follows:

(a) Schedule 2.02(a) and Schedule 2.02(b) of the Disclosure Schedules are hereby deleted in their entirety and replaced with Schedule 2.02(a) and Schedule 2.02(b) attached hereto, respectively.

(b) Section 2.04 of the Plan Funding Agreement is hereby amended to add the following as a new subsection at the end of Section 2.04:

> "(i) Notwithstanding anything to the contrary in this Section 2.04, after the Closing and prior to October 1, 2018, reorganized Westinghouse Electric Company LLC shall pay any Cure Costs payable to participants in the Westinghouse Electric Company Executive Pension Plan on account of benefits that are accrued since March 29, 2017 and unpaid, and Wind Down Co shall not have any obligation to pay any Cure Costs related to the assumption of the Westinghouse Electric Company Executive Pension Plan."

(c) Reference to "$3.802 billion" in Section 3.01(a) of the Plan Funding Agreement is hereby replaced with "$3.762 billion".

(d) Section 3.03(b)(i) of the Plan Funding Agreement is hereby deleted in its entirety and replaced with the following:

> "(i) the Closing Payment (*less* the sum of the Purchase Price Escrow Funds, [redacted], and the [redacted] Holdback, if any), as specified in the Closing Notice, by wire transfer of immediately available funds, to an account or accounts of Wind Down Co as directed by Companies in the Closing Notice;"

(e) The Parties hereby acknowledge and agree that the Hematite Adjustment Amount is $4,731,770.

(f) Section 3.06(d)(a)(ii) of the Plan Funding Agreement is hereby deleted in its entirety and replaced with the following:

> "(ii) Wind Down Co submits a Dispute Notice and the absolute value of the amount of the Post-Closing Adjustment that would result if Wind Down Co's position with respect to all amounts in dispute were finally determined in favor of Wind Down Co would be greater than the Post-Closing Adjustment Threshold, and"

(g) Reference to "the Company's balance sheet" in Section 3.11(c) of the Plan Funding Agreement is hereby replaced with "the applicable Company Group Member's balance sheet".

(h) Section 3.13 of the Plan Funding Agreement is hereby deleted in its entirety and replaced with the following:

> "Section 3.13. [Reserved.]"

(i) The Plan Funding Agreement is hereby amended to add the following as a new Section 7.06:

> "Section 7.06. Assigned CB&I Claims. From and after the Closing, irrespective of such claim being an Excluded Asset hereunder, Wind Down Co will use commercially reasonable efforts to pursue the claims that any Company Group Member may have against Chicago Bridge & Iron Company N.V. ("CB&I") and its Affiliates, including the dispute regarding working capital and related purchase price adjustments, arising under that certain Purchase Agreement (the "CB&I Purchase Agreement"), dated October 27, 2015, by and among Westinghouse Electric Company LLC, CB&I, CB&I Stone & Webster, Inc. and WSW Acquisition Co., LLC (the "CB&I Claims"), which commercially reasonable efforts may include offsetting or netting claims asserted by CB&I or its Affiliates that arise under the CB&I Purchase Agreement,

including Proofs of Claim 3413 and 3414 (amending proof of claim numbers 3086 and 3087) filed in the Bankruptcy Cases (the "CB&I Bankruptcy Claims"). Promptly, and in any case within five (5) Business Days after any amount is paid in cash to or for the benefit of Wind Down Co with respect to, arising out of, or relating to the CB&I Claims, Wind Down Co will pay by wire of immediately available funds to Plan Investor an amount equal to 60% of the aggregate amount of such cash payment net of any amount that Wind Down Co pays to CB&I or its Affiliates on account of the CB&I Bankruptcy Claims."

(j) Exhibit A to the Plan Funding Agreement is hereby amended by deleting the following defined terms listed therein:

1. "Applicable Percentage"

[redacted]

[redacted]

[redacted]

5. "Incurred Liquidated Damages"

6. "Required Items"

7. "Waived Liquidated Damages"

(k) Schedule 1 to Exhibit C to the Plan Funding Agreement is hereby amended by deleting the first item listed thereon: "Westinghouse Electric Company Executive Pension Plan".

Section 1.3 No Other Modifications. Except as expressly set forth herein, the terms and provisions of the Plan Funding Agreement remain unmodified and in full force and effect. This Amendment forms a part of the Plan Funding Agreement for all purposes and this Amendment and the Plan Funding Agreement shall be read together as one agreement.

Section 1.4 Miscellaneous. Articles XIII is hereby incorporated into this Amendment *mutatis mutandis*.

[*Remainder of Page Intentionally Blank*]

IN WITNESS WHEREOF, the Parties, intending to be legally bound hereby, have duly executed this Amendment No. 1 to the Plan Funding Agreement as of the date first above written.

TSB NUCLEAR ENERGY SERVICES INC.

By: _____
Name: Marc Beilinson
Title: Authorized Signatory

TOSHIBA NUCLEAR ENERGY HOLDINGS (UK) LIMITED

By: _____
Name: David J. Baker
Title: Director

BROOKFIELD WEC HOLDINGS LLC

By: _____
Name:
Title:

By: _____
Name:
Title:

Schedule 2.02(a)

Excluded Assets

1. Excess Cash of the Debtors (excluding in all respects all Regulator Cash and Returned Regulator Cash) in excess of $35,000,000; provided however, that the amount of Excess Cash shall be calculated without regard to the cap provided for in the definition of "Excess Cash" on Exhibit A.

2. The CB&I Claims.

Schedule 2.02(b)

Assumed Liabilities

The "**Assumed Liabilities**" consist solely of the following Liabilities of Debtors:

(i) all Liabilities in the amounts that have been reserved against and to the extent taken into account in the calculation of the items set forth on the Final Closing Statement (it being agreed and acknowledged that, notwithstanding anything to the contrary in this Agreement, reserves taken into account in the calculation of the items set forth in the Final Closing Statement shall include reserves with respect to warranty obligations arising under or with respect to all Contracts, including Designated Contracts and Excluded Contracts);

(ii) all Liabilities of any Debtor with respect to performance under any of the Designated Contracts, assumed by Debtors pursuant to the Plan, in each case, to the extent arising after the Closing and all other Liabilities with respect thereto that arise from any events, facts or circumstances (including any breach or course of conduct) that occur after the Closing. Notwithstanding the foregoing or anything to the contrary in this Agreement, (a) warranty claims or obligations under the Designated Contracts that are asserted after the Closing shall constitute Assumed Liabilities regardless of whether such warranty claims or obligations arise from events, facts or circumstances arising before or after the Closing; and (b) warranty claims or obligations under Designated Contracts that are asserted before the Closing shall not constitute Assumed Liabilities unless otherwise assumed pursuant to item (i) of this Exhibit I;

(iii) all Liabilities for (a) Taxes of the U.S. Debtors for Post-Closing Tax Periods and (b) Transfer Taxes allocated to the Plan Investor pursuant to Section 10.01;

(iv) all Liabilities relating to the Reorganized Debtors' ownership or operation of the Business Assets, to the extent arising from events, facts or circumstances that occur following the Closing;

(v) all decommissioning Liabilities arising before, on or after the Closing;

(vi) all Liabilities expressly assumed by the Reorganized Debtors pursuant to Exhibit C;

(vii) all Liabilities to indemnify or hold harmless any current or former director or officer of an Acquired Company for claims that relate to periods prior to or following the Closing;

(viii) all Liabilities of Debtors to the extent arising on or after the Closing under the Transaction Documents; and

(ix) all Liabilities under Environmental Laws to investigate, cleanup, remediate, respond, remove, report, monitor or take similar actions with respect to the Owned Real Property

or Leased Real Property (together with (to the extent of such Debtor's interest therein) all buildings, structures, improvements and fixtures thereon) on and after the Closing Date, regardless of whether the conditions giving rise to such Liabilities were known or unknown or existed before, on or after the Closing Date, and which Liabilities do not constitute "claims," as that term is defined in section 101 of the Bankruptcy Code.

Exhibit 2

Plan Modifications

1.74 ***Initial Distribution Date*** means a date selected by the Plan Oversight Board for the Initial Distribution that is no later than 60 days after the Effective Date.

1.75 ***Intercompany Claim*** means any Claim against any of the Debtors by any of the Westinghouse Entities, other than the Cash Pool Claims and AUAM Loan Claim.

1.76 ***Intercompany Interest*** means an Interest in a Debtor, other than an Interest in U.S. HoldCo or TNEH UK.

1.77 ***Interests*** means any equity security in a Debtor as defined in section 101(16) of the Bankruptcy Code, including all common stock, preferred stock or other instruments evidencing an ownership interest in any of the Debtors, whether or not transferable, and any option, warrant or right, contractual or otherwise, to acquire any such interests in a Debtor that existed immediately before the Effective Date.

1.78 ***Interim Compensation Order*** means the *Order Pursuant to 11 U.S.C. §§ 105(a), 330, 331, Fed. R. Bankr. P. 2016, and Local Rule 2016-1 Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Retained Professionals*, entered by the Bankruptcy Court in the Chapter 11 Cases on May 24, 2017 at ECF No. 544, as the same may be modified by a Bankruptcy Court order approving the retention of a specific Professional or otherwise.

1.79 ***L/C Cash Collateralization Amount*** has the meaning set forth in the DIP Credit Agreement.

1.80 ***LFA Claims*** means the claims of WEC against TNEH UK and the EMEA Subsidiaries pursuant to the Liquidity Facility Agreement.

1.81 ***Lien*** has the meaning set forth in section 101(37) of the Bankruptcy Code.

1.82 ***Liquidity Facility Agreement*** means that certain *Liquidity Facility Agreement* by and among WEC and the borrowers thereto, dated as of April 5, 2017, as has been or may be amended, restated, or modified.

1.83 ***Material Claims*** means the Claims set forth in (a) Proofs of Claim numbers 2464, 2467, and 3007, (b) the Additional Consent Claims; and (c) Proofs of Claim numbers 3086, 3087, 3413, and 3414, and any amendments thereof, and irrespective of any assignments or transfers thereof.

1.84 ***Net Plan Investment Proceeds*** means $~~3,703~~3,662,000,000 in Cash (subject to certain adjustments and holdbacks under the Plan Funding Agreement) to be delivered by the Plan Investor to Wind Down Co pursuant to the Plan Funding Agreement and this Plan.

1.85 ***NI Contract*** means that certain *AP1000 Nuclear Island Contract for Nuclear Power Self-reliance Program Supporting Projects* dated as of July 24, 2007 by and between, among others, WEC, Westinghouse Industry Products International Company Ltd., Stone & Webster Asia Inc., Stone & Webster International Inc., and the NI Counterparties.

1.86 ***NI Counterparties*** means State Nuclear Power Technology Corporation Ltd., Sanmen Nuclear Power Company Ltd., and Shandong Nuclear Power Company Ltd.

1.87 ***NI Settlement*** means those certain agreements entered into among WEC, Westinghouse Industry Products International Company Ltd., Stone & Webster Asia Inc., Stone &

(C) to direct and control the wind down, liquidation, sale and/or abandoning of the remaining assets of Wind Down Co under the Plan and in accordance with applicable law as necessary to maximize Distributions to holders of Allowed Claims; and

(D) prosecute all Causes of Action (other than those Causes of Action that are released, waived, or transferred pursuant to the Plan) on behalf of Wind Down Co for the benefit of holders of Allowed Claims, elect not to pursue any Causes of Action, and determine whether and when to compromise, settle, abandon, dismiss, or otherwise dispose of any such Causes of Action.

(e) *Indemnification*. Wind Down Co shall indemnify and hold harmless each member of the Plan Oversight Board, solely in its capacity as a member of the Plan Oversight Board, for any losses incurred in such capacity, except to the extent such losses were the result of such member's gross negligence, willful misconduct or criminal conduct.

(f) *Continued Existence*. Wind Down Co will continue in existence until all Claims against the Debtors have been fully resolved and all Available Cash has been fully distributed in accordance with the Plan, and all other duties and functions of Wind Down Co and the Plan Oversight Board as set forth this Section 5.4 of the Plan have been fully performed.

5.5. ***Cooperation and Access***

Subject to Section ~~6.1~~7.01 of the Plan Funding Agreement, from and after the Effective Date, in connection with any reasonable business purpose, or as is necessary to administer, or satisfy Wind Down Co's obligations in connection with administering the Chapter 11 Cases, the Reorganized Debtors will, (a) afford Wind Down Co and the Plan Oversight Board access to the Reorganized Debtors' properties, books and records, (b) furnish to Wind Down Co and the Plan Oversight Board financial and other information, and (c) make available to Wind Down Co and the Plan Oversight Board those employees of the Reorganized Debtors whose assistance, expertise, testimony, notes or recollections or presence may be reasonably necessary to assist Wind Down Co and the Plan Oversight Board.

5.6. ***Segregated Account for Class 3A General Unsecured Claims***

On the Effective Date, Wind Down Co shall deposit the Segregated Funds in the Segregated Account. Until the Final Class 3A Distribution Date, the Segregated Funds shall be utilized for the sole purpose of (a) making Distributions to holders of Allowed Class 3A General Unsecured Claims (other than holders of Cash Pool Claims), (b) establishing a Disputed Claims Reserve for Disputed Class 3A General Unsecured Claims, and (c) making Distributions on account of Disputed Class 3A General Unsecured Claims as such Disputed Claims are resolved. After the Final Class 3A Distribution Date, (i) 95% of any remaining Segregated Funds shall be delivered to Wind Down Co to be distributed to holders of Allowed Class 3B General Unsecured Claims in accordance with the terms herein, and (ii) 5% of any remaining Segregated Funds shall be transferred to Reorganized WEC to be contributed by Reorganized WEC to its pension plans in accordance with the Pension Funding Agreement.

5.7. ***Continuing Role of UCC***

The UCC shall continue to exist following the Confirmation Date and Effective Date solely for the purposes of performing its responsibilities under the Reconciliation Plan, overseeing distributions from the Segregated Account, and as otherwise set forth herein. The UCC shall cease to exist upon the earliest to occur of the resignation of all its remaining members, the closing of the Chapter 11 Cases, and the Final Class 3A Distribution Date, if not otherwise provided herein; *provided, however*, that after such date, the UCC shall exist and its Professionals shall continue to be retained and shall

Exhibit J

Excluded Assets

Excluded Assets[1]

1. Excess Cash of the Debtors (excluding in all respects all Regulator Cash and Returned Regulator Cash) in excess of $35,000,000; *provided*, *however*, that the amount of Excess Cash shall be calculated, for purposes of the Plan, without regard to the cap contained in the proviso in the definition of "Excess Cash" in the Plan Funding Agreement~~.~~; and

2. The CB&I Claims.

[1] All capitalized terms in this Exhibit J shall have the meaning ascribed to such terms in the Plan Funding Agreement.