

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

In re:)	
)	Chapter 11
)	
WELDED CONSTRUCTION, L.P., <i>et al.</i> , ¹)	Case No. 18-12378 (KG)
)	
)	(Jointly Administered)
Debtors.)	
)	Ref. Docket Nos. 12, 13, 45, 111 & 170

**ORDER APPROVING THIRD COMMITMENT LETTER FROM
TRANSCONTINENTAL GAS PIPE LINE COMPANY, LLC**

Upon consideration of that certain third commitment letter from Transcontinental Gas Pipe Line Company, LLC (“**Transco**”), covering the period November 5, 2018 to December 8, 2018 and attached hereto as **Exhibit 1** (the “**Commitment Letter**”);² and due and proper notice of the Commitment Letter and the request of the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) for the entry of this Order having been given under the circumstances; and it appearing that the Court has jurisdiction to consider the Commitment Letter and enter this Order in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012; and it appearing that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it appearing that venue of this proceeding is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having considered the *Declaration of Frank Pometti in Support of Debtors’ Chapter 11 Petitions and First-Day Motions* (the “**First Day Declaration**”), the *Debtors’ Motion for Entry of an Order, Pursuant to Sections 105(a), 363(b), 503(b)(1),*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Welded Construction, L.P. (5008) and Welded Construction Michigan, LLC (9830). The mailing address for each of the Debtors is 26933 Eckel Road, Perrysburg, OH 43551.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Commitment Letter.



1107(a) and 1108 of the Bankruptcy Code, Authorizing, But Not Directing (I) the Debtors to Pay Certain Prepetition Claims, Conditioned upon Prior Customer Payment, (II) The Debtors to Honor Customer Obligations, (III) the Debtors to Implement Control Procedures for Customer Project Funding and Completion, and (IV) Granting Related Relief (the “**Customer Programs Motion**”) and the declaration of Stephen D. Hawkins submitted in connection with the Customer Programs Motion (the “**Hawkins Declaration**”); and it appearing from the First Day Declaration, the Customer Programs Motion, the Hawkins Declaration, the record of the October 23, 2018 hearing in these chapter 11 cases, and the terms of the Commitment Letter that the Commitment Letter and the relief provided for herein is in the best interest of the Debtors, their estates, and their creditors, and an appropriate exercise of the Debtors’ business judgment; and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY ORDERED THAT:**

1. The Commitment Letter is approved, and the terms and conditions of the Commitment Letter are incorporated into this Order as if fully set forth herein. The estimated prepayment of \$1,650,000 contemplated by the Commitment Letter shall be made to the Debtors by wire transfer of immediately available funds as soon as reasonably practicable after the entry of this Order and in any event not later than one (1) business day following the date of the entry of this Order.

2. Notwithstanding any language in any order authorizing and approving post-petition financing in these chapter 11 cases, the funds provided by Transco under the Commitment Letter (the “**Transco Funds**”) shall be free of and not encumbered by any liens or claims under any such financing or any other liens or claims of any other party. Unless otherwise agreed to in writing by Transco, the Transco Funds shall be used by the Debtors solely

to fund the Atlantic Sunrise Pipeline project for the period from November 5, 2018 through and including December 8, 2018.

3. The Commitment Letter shall be valid and enforceable against any trustee appointed in the chapter 11 cases, upon the conversion of any of the chapter 11 cases to a case under chapter 7 of the Bankruptcy Code or in any other proceedings related to any of the foregoing (any “**Successor Cases**”), or upon the dismissal of any of the chapter 11 cases or Successor Cases.

4. Except as may be expressly set forth in the Commitment Letter, nothing in this Order, nor as a result of any payment made pursuant to this Order: (a) is intended or shall be deemed to constitute an assumption of any agreement pursuant to section 365 of the Bankruptcy Code, or an admission as to the validity of any claim against the Debtors and their estates in these chapter 11 cases; (b) shall impair, prejudice, waive, or otherwise affect the rights of the Debtors and their estates with respect to the validity, priority, or amount of any claim against the Debtors and their estates; or (c) shall be construed as a promise to pay a claim.

5. The provisions of this Order shall be binding upon and inure to the benefit of Transco and the Debtors and each of their respective successors and assigns (including any trustee or other fiduciary hereinafter appointed as a legal representative of the Debtors or with respect to the property of the estates of the Debtors) whether in these chapter 11 cases, in any Successor Cases, or upon dismissal of any such chapter 11 or chapter 7 case.

6. The Debtors are authorized to execute and deliver such other instruments or documents and take such other action as may be necessary or appropriate to implement and effectuate the relief granted by this Order.

7. Notwithstanding any provision in the Federal Rules of Bankruptcy Procedure to the contrary: (a) this Order shall be effective immediately and enforceable upon its entry; (b) the Debtors are not subject to any stay in the implementation, enforcement, or realization of the relief granted in this order; and (c) the Debtors are authorized and empowered, and may in their discretion and without further delay, take any action necessary or appropriate to implement this Order.

8. The Court retains jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

A handwritten signature in black ink, appearing to read "Kevin Gross", written over a horizontal line.

EXHIBIT 1

Commitment Letter



GAS PIPELINE — TRANSCO

2800 Post Oak Boulevard (77056) -or-
P.O. Box 1396
Houston, Texas 77251-1395

November 6, 2018

Welded Construction, L.P.
26933 Eckel Road
Perrysburg, OH 43551
Attention: Mr. Stephen Hawkins

Re: Williams Atlantic Sunrise – Go Forward Work Structure with Welded (Spreads 5, 6, and 7)

On October 20, 2018, Transcontinental Gas Pipe Line Company, LLC (“Transco”) and Welded Construction, LP (“Welded”) executed, and the Bankruptcy Court approved, a Commitment Letter pursuant to which Transco prepaid \$4,600,000 for continuing the work under Transco-Welded contract 2016-0001 (the “Contract”) between October 22, 2018 and October 29, 2018 (First Commitment Letter). Thereafter, on October 28, 2018, Transco and Welded executed, and the Bankruptcy Court approved, a second Commitment Letter pursuant to which Transco prepaid \$1,800,000 for continuing work under the Contract between October 30, 2018 and November 4, 2018, and addressed the payment of accrued and unpaid pre-petition union dues and benefits that have or will become due on or prior to November 4, 2018 (Second Commitment Letter).

Transco and Welded now wish to address in a Third Commitment Letter the funding of work between November 5, 2018 and the conclusion of the remaining work set forth herein (which shall be no later than November 15, 2018 for right of way work, no later than November 21, 2018 for Spread 5 and 7 yard cleanup and no later than December 8, 2018 for Spread 6 yard cleanup).

Welded has provided Transco a reconciliation which demonstrates that at least \$1,917,476.00 of the \$4,600,000 prepayment made pursuant to the First Commitment Letter remains available for work on the project.¹ Welded has not yet provided a reconciliation for the \$1,800,000 prepayment made pursuant to the Second Commitment Letter. By November 8, 2018, Welded shall provide Transco a reconciliation of the \$1,800,000 prepayment provided pursuant to the Second Commitment letter compared to actual costs incurred for the week of October 29, 2018 – November 4, 2018, including detailed timesheet backup.

¹ Transco does not have the backup detail for this reconciliation and, thus, reserves its right to audit the actual costs of work performed pursuant to the First Commitment Letter.

By November 8, 2018, Welded shall provide Transco a revised forecast of work to be performed and costs to be incurred by Welded on the Project for the remaining work set forth herein.

Given the limited remaining work on the Project, regulatory restrictions on the time in which work must be completed and upcoming winter weather, Transco is agreeable to allow the \$1,917,476.00 held by Welded in connection with the First Commitment Letter, and an additional \$1,650,000² to be funded pursuant to this Third Commitment Letter within twenty-four (24) hours of Court approval of this Third Commitment Letter, subject to the reconciliation procedures set forth below, to be used for remaining scope of work on the Project for Welded labor and equipment costs (for Included Equipment), subject to court approval, as follows:

Contractor Yards

- Welded shall continue the demobilization efforts on the three main contractor yards at Rausch Creek (Spread 5), Lebanon (Spread 6) and Marietta (Spread 7). Work shall include removal of all temporary trailers, construction mats, fuel storage tanks and associated secondary containment, equipment and tools, and trash.
- Welded shall furnish all trucking, fuel, and permits necessary to fulfil above mentioned scope of work.
- Above scope of work shall be completed no later than November 21, 2018 for Spreads 5 and 7 yards and no later than December 8, 2018 for Spread 6 yard.

Spread 5

- Welded shall continue the clean-up and restoration efforts on Spread 5 for as long as the parties agree is practicable without requiring the use or transport of heavy equipment past November 15, 2018. Due to the U.S. Fish and Wildlife regulatory restriction near the established bat portal area, all heavy equipment must be removed from the pipeline right-of-way no later than November 15, 2018.
- All heavy equipment in other areas of the pipeline right-of-way shall be removed no later than November 15, 2018. Welded shall furnish all trucking, fuel, and permits necessary to remove all equipment. Transco will directly pay all subcontractor, service providers and vendors attributable to the remaining work set forth herein (but only to the extent not otherwise included in "Included Equipment").
- Clean-up and restoration of the Bethel Road staging areas shall cease as of November 7, 2018.

Spread 6

- Welded shall remove all equipment from the pipeline right-way no later than November 15, 2018. Welded shall furnish all trucking, fuel, and permits necessary to remove all equipment. Transco will directly pay all subcontractor, service providers and vendors attributable to the remaining work set forth herein (but only to the extent not otherwise included in "Included Equipment").

² Such amount is inclusive of fixed overhead costs of \$25,000 per week from the Petition Date through December 8, 2018, which amount shall be available to the Debtors for general use, not subject to reconciliation, to offset the significant overhead costs not captured in the project cost estimate.

Spread 7

- All clean-up and restoration efforts on the pipeline right-of-way shall cease as of November 7, 2018.
- All remaining work on mainline block valves (MLVs) shall cease as of November 7, 2018.
- Welded shall remove all equipment from the pipeline right-way no later than November 15, 2018. Welded shall furnish all trucking, fuel, and permits necessary to remove all equipment. Transco will directly pay all subcontractor, service providers and vendors attributable to the remaining work set forth herein (but only to the extent not otherwise included in "Included Equipment").

Transco will directly pay all subcontractors, service providers and vendors attributable to the remaining work set forth herein (but only to the extent not otherwise included in "Included Equipment"). Welded and Transco will cooperate to identify the subcontractors, service providers and vendors necessary for the remaining work set forth herein. To the extent of a dispute regarding costs of subcontractors, service providers or vendors in connection with the remaining work set forth herein or whether such costs were necessary for the remaining work set forth herein, the Bankruptcy Court will resolve the dispute.

All funds contemplated herein shall be used for the benefit of the Project only and to be applied only to costs incurred during the time periods stated above. Said amounts are not to be construed as payment for, or payment which can be used for, payment of past due amounts owed by Welded in arrears, or payment of amounts Welded owes in connection with work performed for Welded's other clients. Within ten (10) business days after December 8, 2018, Welded shall provide Transco a reconciliation of all remaining amounts for obligations that accrued or were incurred for forecasted work versus actual cost of work which shall be subject to Transco review and audit. In the event there is a remainder, that amount shall be refunded to Transco within one business day and shall not be withheld for any reason.

If Welded uses any portion of payments made herein to pay past due amounts owed to its subcontractors, vendors, or suppliers, or debts or work associated with projects for other clients and, as a result, short pay invoices due on the Project, such short paid subcontractors, vendors, or suppliers would be protected under the payment bond provided in connection with the Project. Further, Transco is not compromising its ability to enforce the Project bond with respect to amounts Welded subcontractors, vendors, or suppliers may claim in relation to work previously performed or materials or equipment previously provided.

Union Dues:

Welded has requested that Transco make additional payment of all accrued and unpaid pre-petition union dues and benefits that have or will become due in November, 2018 in connection with the Project ("Additional Union Dues"). Transco agrees to make payment of such Additional Union Dues in an amount not to exceed \$1.75 million, subject only to Transco's right to perform due diligence to reasonably affirm that the amounts that have been incurred in connection with and only for the benefit of the Project and in the proper amount. Such payment must also be subject to a reservation of rights agreement with the Surety and subject to Welded's commitment to advance the work on the Project as set forth herein. To that end, Transco and the surety Chubb may speak directly with the Unions to diligence the Additional Union Dues and

to assure the unions that such amounts will be satisfied to help assure that workers will continue to work on the Project, but subject to the agreement that a representative of Welded will participate in any such communications. Finally, Transco shall have the right to make any payment of Additional Union Dues directly to the unions.

Payment of Additional Union Dues payment would be without prejudice to the rights, remedies and defenses of Transco to assert that such payments were already paid based on an earlier Project invoice from Welded. To the extent there is a dispute as to whether the Union Dues are on account of the Project, the Bankruptcy Court would resolve the dispute.

Completion of Scope of Work:

At 12:01 a.m. EST on November 7, 2018, unless otherwise agreed in writing by Welded and Transco, the Scope of Work set forth in the Contract shall be deemed reduced such that any remaining clean-up, restoration and mainline valve work on the pipeline right of way for Spread 7 shall not be required under the Contract. From that point, Welded shall not be obligated to complete any such remaining clean-up, restoration and mainline valve work on the project. In addition, from that point, Transco shall not be obligated to use Welded to complete any such remaining clean-up, restoration and mainline valve work on the project. At 12:01 a.m. EST on November 16, 2018, unless otherwise agreed in writing by Welded and Transco, the Scope of Work set forth in the Contract shall be deemed reduced such that any remaining restoration work shall not be required under the Contract. From that point, Welded shall not be obligated to complete any remaining restoration work on the project. In addition, from that point, Transco shall not be obligated to use Welded to complete any remaining restoration work on the project. At 12:01 a.m. EST on November 22, 2018, unless otherwise agreed in writing by Welded and Transco, the Scope of Work set forth in the Contract shall be deemed reduced such that any remaining cleanup work on Spreads 5 and 7 yards shall not be required under the Contract. From that point, Welded shall not be obligated to complete any remaining cleanup work on Spreads 5 and 7 yards on the project. In addition, from that point, Transco shall not be obligated to use Welded to complete any remaining cleanup work on Spreads 5 and 7 yards on the project. At 12:01 a.m. EST on December 9, 2018, unless otherwise agreed in writing by Welded and Transco, the Scope of Work set forth in the Contract shall be deemed reduced such that any remaining cleanup work on Spread 6 yard shall not be required under the Contract. From that point, Welded shall not be obligated to complete any remaining cleanup work on Spread 6 yard on the project. In addition, from that point, Transco shall not be obligated to use Welded to complete any remaining cleanup work on Spread 6 yard on the project. Transco shall use its commercially reasonable best efforts to remove Welded from all permits associated with the Project as of December 9, 2018, including, but not limited to those certain permits that Welded and Transco are co-permittees on PADEP Permit No. ESG03000150001 and all related local government permits, consistent with the applicable rules, guidelines and regulations of PADEP and other applicable governmental authorities, and from the date of the conclusion of Welded's work on each Spread as set forth herein, shall indemnify and hold harmless Welded (including any officers and directors of Welded) for any permit responsibilities or liabilities arising under the project from any acts and/or omissions occurring after the completion of the work on such Spread contemplated by this Third Commitment Letter. Transco shall not indemnify and hold harmless Welded (including any officers and directors of Welded) for any permit responsibilities or liabilities arising under the project from any acts and/or omissions occurring on or before the completion of the work contemplated by this Third Commitment Letter. Transco and Welded otherwise reserve all rights against each other as provided in the Contract and the Surety Bond shall remain in full force and effect.

Regards,

Evan D. Kirchen

Evan Kirchen
Vice President of Project Execution – Atlantic Gulf
Transcontinental Gas Pipe Line Company, LLC

Acknowledged and agreed:

A handwritten signature in black ink, appearing to read "S. Hawkins", is written over a horizontal line.

Stephen Hawkins
CEO
Welded Construction, L.P.