

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
SOUTHCROSS ENERGY PARTNERS, L.P.,)	Case No. 19-10702 (MFW)
<i>et al.</i> ,)	
)	Jointly Administered
Debtors. ¹)	
)	RE: D.I. 13 & 58

CERTIFICATE OF COUNSEL REGARDING PROPOSED FINAL ORDER AUTHORIZING (I) DEBTORS TO CONTINUE TO MAINTAIN EXISTING CASH MANAGEMENT SYSTEM, BANK ACCOUNTS, AND BUSINESS FORMS AND (II) FINANCIAL INSTITUTIONS TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS

The undersigned counsel to the above-captioned debtors and debtors in possession (the “Debtors”) hereby certifies as follows:

1. On April 1, 2019, the Debtors filed the *Motion of Debtors for Entry of Interim and Final Orders Authorizing (I) Debtors to Continue to Maintain Existing Cash Management System, Bank Accounts, and Business Forms and (II) Financial Institutions to Honor and Process Related Checks and Transfers* (D.I. 13) (the “**Motion**”).

2. Pursuant to the *Interim Order Authorizing (I) Debtors to Continue to Maintain Existing Cash Management System, Bank Accounts, and Business Forms and (II) Financial*

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



Institutions to Honor and Process Related Checks and Transfers [D.I. 58] (the “**Interim Order**”), the deadline to file objections or responses to the final relief requested in the Motion was to be filed and served no later than April 16, 2019, at 4:00 p.m. (Prevailing Eastern Time).

3. The Debtors received informal comments to the Interim Order from the Office of the United States Trustee for the District of Delaware (the “**U.S. Trustee**”). In addition, the Debtors received informal comments to the final relief requested in the Motion from J.P. Morgan Chase Bank, N.A. (“**JPM**”). Besides the informal comments from JPM and the U.S. Trustee, the Debtors have received no other objection or informal comments, and no objection or other responsive pleading to the Motion appears on the Court’s docket.

4. The Debtors have resolved the informal comments of JPM through revisions to the proposed order granting the relief requested in the Motion on a final basis (the “**Proposed Final Order**”). Further, the Debtors have incorporated the informal comments by the U.S. Trustee included in the Interim Order into the Proposed Final Order.

5. The Proposed Final Order is attached hereto as Exhibit A.

6. For the convenience of the Court and all parties in interest, a blackline comparing the Proposed Final Order against the version filed with the Motion is attached hereto as Exhibit B.

7. JPM and the U.S. Trustee have reviewed the Proposed Final Order and do not object to its entry.

WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Final Order substantially in the form attached hereto as Exhibit A at its earliest convenience.

Dated: April 17, 2019
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Eric W. Moats

Robert J. Dehney (No. 3578)
Andrew R. Remming (No. 5120)
Joseph C. Barsalona II (No. 6102)
Eric W. Moats (No. 6441)
1201 North Market Street, 16th Floor
P.O. Box 1347
Wilmington, Delaware 19899-1347
Tel.: (302) 658-9200
Fax: (302) 658-3989
rdehney@mnat.com
aremming@mnat.com
jbarsalona@mnat.com
emoats@mnat.com

-and-

DAVIS POLK & WARDWELL LLP

Marshall S. Huebner (admitted *pro hac vice*)
Darren S. Klein (admitted *pro hac vice*)
Steven Z. Szanzer (admitted *pro hac vice*)
Benjamin M. Schak (admitted *pro hac vice*)
450 Lexington Avenue
New York, New York 10017
Tel.: (212) 450-4000
Fax: (212) 701-5800
marshall.huebner@davispolk.com
darren.klein@davispolk.com
steven.szanzer@davispolk.com
benjamin.schak@davispolk.com

Proposed Counsel to the Debtors and Debtors in Possession

Exhibit A

Revised Proposed Order

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

)	
In re:)	Chapter 11
)	
SOUTHCROSS ENERGY PARTNERS, L.P.,)	Case No. 19-10702 (MFW)
<i>et al.</i> ,)	
)	Jointly Administered
Debtors. ¹)	
)	Re: D.I. 13 & 58

**FINAL ORDER AUTHORIZING (I) DEBTORS TO CONTINUE TO
MAINTAIN EXISTING CASH MANAGEMENT SYSTEM, BANK
ACCOUNTS, AND BUSINESS FORMS AND (II) FINANCIAL
INSTITUTIONS TO HONOR AND PROCESS RELATED
CHECKS AND TRANSFERS**

Upon the motion (the “**Motion**”)² of Southcross Energy Partners, L.P. (“**Southcross**”), Southcross Energy Partners GP, LLC, and Southcross’s wholly owned direct and indirect subsidiaries, each of which is a debtor and debtor in possession in the Chapter 11 Cases (collectively, the “**Debtors**”),³ for entry of interim and final orders pursuant to sections 105(a), 345, 363(c)(1), and 364(a) of the Bankruptcy Code, (a) authorizing, but not directing, the

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

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

³ For the purposes of this Order, all references to the Debtors shall include the Debtors’ authorized agents and assignees.

Debtors, in their sole discretion, to (i) continue to operate the Cash Management System, (ii) maintain the Bank Accounts located at the Banks, and (iii) maintain the Debtors' existing business forms, (b) waiving the requirements of section 345(b) of the Bankruptcy Code on an interim basis, and (c) authorizing the Debtors' financial institutions to receive, process, honor, and pay all checks or wire transfers used by the Debtors to pay for the foregoing, as more fully described in the Motion; and the Court having jurisdiction to consider the matters raised in the Motion pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and the Court having authority to hear the matters raised in the Motion pursuant to 28 U.S.C. § 157; and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and consideration of the Motion and the requested relief being a core proceeding that the Court can determine pursuant to 28 U.S.C. § 157(b)(2); and due and proper notice of the Motion and opportunity for a hearing on the Motion having been given to the parties listed therein, and it appearing that no other or further notice need be provided; and the Court having reviewed and considered the Motion and the Howe Declaration; and the Court having held an interim hearing on the Motion; and the Court having granted interim relief on the Motion on April 2, 2019 (D.I. 58); and the Court having the opportunity to hold a final hearing on the Motion (the "**Final Hearing**"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Final Hearing establish just cause for the relief granted herein; and the Court having found that the relief requested in the Motion being in the best interests of the Debtors, their creditors, their estates, and all other 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 relief requested in the Motion is hereby granted as set forth herein.
2. Subject to the limitations of this order, the Debtors are authorized, but not directed, pursuant to sections 105(a) and 363(c)(1) of the Bankruptcy Code, to continue, in their sole discretion, to maintain, operate, and make transfers under their Cash Management System as described in the Motion.
3. The Debtors shall maintain full, accurate, and complete records of all transfers within the Cash Management System, including transfers between Debtors and between Debtors and non-Debtor affiliates, so that transactions may be readily ascertained, traced, recorded properly, and distinguished between prepetition and post-petition transactions. A Debtor that is owed money from another Debtor or non-Debtor on account of cash disbursements or transfers made from and after the Petition Date shall have an administrative claim against such other Debtor in respect to any such post-petition disbursement or transfer.
4. The Debtors shall maintain records of all transfers within the Cash Management System to the same extent as they were recorded by the Debtors before the commencement of the Chapter 11 Cases.
5. To the extent that cash, including cash collateral (as defined in the Bankruptcy Code), of any Debtor is used by another Debtor, the Debtor funding such use shall have an allowed superpriority administrative expense claim pursuant to sections 503(b) and 507(a) of the Bankruptcy Code junior in priority only to Adequate Protection Claims (as defined in the *Interim Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 506, and 507, (i) Authorizing the Debtors To Obtain Senior Secured Superpriority Post-Petition Financing, (ii) Granting Liens and Superpriority Administrative Expense Claims, (iii) Authorizing the Use of Cash Collateral,*

(iv) Granting Adequate Protection, (v) Modifying the Automatic Stay, (vi) Scheduling Final Hearing and (VII) Granting Related Relief) (the “**DIP Order**”).

6. The Debtors are authorized, but not directed, to continue, in their sole discretion, to maintain the Bank Accounts with the same account numbers following the commencement of the Chapter 11 Cases.

7. The Banks are authorized, but not required, to (a) continue to treat, service, and administer the Debtors’ Bank Accounts, as accounts of the respective Debtor as a debtor in possession, without interruption, and in the ordinary course of business without the need for further order of this Court (b) receive, process, honor, debit, and pay any and all checks, drafts, wires, check transfer requests, and/or automated clearing house transfers drawn on the Bank Accounts by the holders or makers thereof, including all checks that are cashed at the Banks’ counters or exchanged for cashier’s checks by the payees thereof prior to the Petition Date as the case may be, to the extent that the Debtors have sufficient funds standing to their credit with such Bank, (c) receive, process, honor, and pay all checks or other items deposited in one of the Debtors’ Bank Accounts with the Banks prior to the Petition Date that have been dishonored or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Debtors were responsible for such items prior to the Petition Date, (d) receive, process, honor, and pay any and all other checks, drafts, wires, check transfer requests, and/or automated clearinghouse transfers evidencing amounts paid by the Debtors under this Order whether presented prior to, on, or after the Petition Date, and (e) debit all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to any Bank as service charges for the maintenance of the Cash Management System.

8. The Banks may rely on the representations of the Debtors with respect to whether any check, draft, wire, or other payment drawn or issued by the Debtors should be honored pursuant to this or any other order of this Court, and the Banks shall not be liable to any party on account of (a) following the Debtors' instructions or representations as to any order of this Court, (b) the honoring of any check or item in a good faith belief that the Court has authorized such check or item to be honored, or (c) an innocent mistake made despite implementation of reasonable item handling procedures.

9. Those certain existing deposit agreements between the Debtors and the Banks shall continue to govern the post-petition cash management relationship between the Debtors and the Banks, and all of the provisions of such agreements, including, without limitation, the termination and fee provisions, shall remain in full force and effect.

10. In accordance with current practice and any applicable agreement governing the Bank Accounts, the Banks are authorized to "charge back" to the Debtors' accounts any amounts incurred by the Banks resulting from returned checks or other returned items, and the Debtors are authorized, but not directed, to pay, in their sole discretion, any obligations (including overdrafts, fees, and expenses) owed to the Banks (and the Banks are authorized to debit or charge back the Bank Accounts for any such obligations unless notified by the Debtors that any such obligations are disputed), in each case regardless of whether such items were deposited prepetition or post-petition or relate to prepetition or post-petition items. All post-petition fees, costs, charges, and expenses, including fees and expenses, chargebacks, or other reimbursement obligations arising under any applicable agreement governing the Bank Accounts shall be entitled to administrative expense priority pursuant to section 503(b) of the Bankruptcy Code.

11. The Banks are further authorized to honor the Debtors' directions with respect to the opening and closing of any Bank Account and accept and hold, or invest, the Debtors' funds in accordance with the Debtors' instructions; *provided* that the Banks shall not have any liability to any party for relying on such representations.

12. The relief granted in this order is extended to any new bank account opened by the Debtors after the date hereof and to the bank at which such account is opened.

13. Any payment from a Bank Account at the request of the Debtors made by a Bank prior to the Petition Date (including any ACH Transfer such Bank is or becomes obligated to settle), or any instruments issued by such Bank on behalf of any Debtor pursuant to a "midnight deadline" or otherwise, shall be deemed to be paid prepetition, whether or not actually debited from the Bank Account prepetition.

14. The Debtors and the Banks are authorized, but not directed, without further order of the Court, to implement changes to the Cash Management System in the ordinary course of business, including opening any additional Bank Accounts or closing any existing Bank Account as they may deem necessary and appropriate.

15. For Banks that have not signed a Uniform Depository Agreement with the U.S. Trustee, the Debtors shall have 45 days from the Petition Date (the "**Extension Period**") within which to comply with section 345(b) of the Bankruptcy Code or to make arrangements to which the U.S. Trustee agrees, and such extension is without prejudice to the Debtors' right to request a further extension of the Extension Period or waiver of the requirements of section 345(b) of the Bankruptcy Code in the Chapter 11 Cases. For Banks that have signed a Uniform Depository Agreement with the U.S. Trustee, all Bank Accounts with such Banks are deemed to satisfy section 345(b) of the Bankruptcy Code.

16. Within 14 days of the date of entry of this Order, with respect to Banks that are party to a Uniform Depository Agreement with the U.S. Trustee, the Debtors shall (a) contact each Bank, (b) provide the Bank with each of the Debtors' tax identification numbers, and (c) identify each of their Bank Accounts held at such Bank as being held by a debtor in possession in a bankruptcy case.

17. Within 30 days of the date of entry of this Order, with respect to Banks that are not party to a Uniform Depository Agreement with the U.S. Trustee, the Debtors shall send the Banks a Uniform Depository Agreement in a form prescribed by the U.S. Trustee and request that the Banks execute said Uniform Depository Agreement. The U.S. Trustee's rights to seek relief from this Court on notice in the event that the aforementioned Banks are unwilling to execute a Uniform Depository Agreement in a form prescribed by the U.S. Trustee are fully reserved.

18. The Banks are authorized to honor the Debtors' requests to open or close, as the case may be, such Bank Accounts or additional Bank Accounts, and the Debtors shall give notice to the U.S. Trustee, counsel to the DIP Lenders, the Banks, and any official committee appointed in the Chapter 11 Cases within 14 days of opening a new Bank Account or closing an existing Bank Account; *provided, however*, that, unless otherwise ordered by this Court, the Debtors shall open any new Bank Account at a Bank that has executed a Uniform Depository Agreement with the U.S. Trustee or at a Bank willing to immediately execute such an agreement.

19. Nothing contained herein shall prevent the Banks from modifying or terminating any Bank Accounts or related services in accordance with the agreements governing such accounts or services.

20. The Debtors are authorized to continue the Purchase Card Program in the ordinary course in accordance with the Commercial Card Agreement, dated as of September 30, 2016 (the “**Commercial Card Agreement**”) with JPMorgan Chase Bank, N.A. (“**JPMC**”) and to pay or reimburse JPMC any fees, charges, or other amounts due and owing thereunder (the “**Purchase Card Obligations**”). Any Purchase Card Obligations incurred post-petition shall be entitled to administrative priority under section 503(b) of the Bankruptcy Code. The Debtors’ and JPMC’s rights under the Credit Card Agreement are fully preserved.

21. The Debtors are authorized, but not directed, to continue, in their sole discretion, to use the Business Forms, including, but not limited to, purchase orders, letterhead, envelopes, promotional materials, checks, and other business forms substantially in the forms existing immediately before the Petition Date, without reference to their status as debtors in possession; *provided*, that once the Debtors’ existing checks have been used, the Debtors will, when reordering checks, ensure that the designation “Debtor in Possession” and the corresponding bankruptcy case number be printed on all checks; *provided further* that, with respect to electronic checks and checks that the Debtors or their agents print themselves, the Debtors will begin printing the “Debtor in Possession” legend on such items within ten days of the date of entry of this Order.

22. Notwithstanding anything contained herein, despite the Debtors’ use of a consolidated cash management system, the Debtors shall calculate their quarterly fees under 28 U.S.C. § 1930(a)(6) based on disbursements of each Debtor, regardless of which Debtor pays those disbursements.

23. Nothing in this Order or any action taken by the Debtors in furtherance of the implementation hereof shall be deemed to constitute an assumption or rejection of any executory

contract or unexpired lease pursuant to section 365 of the Bankruptcy Code, and all of the Debtors' rights with respect to such matters are expressly reserved.

24. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained herein shall (a) create, nor is it intended to create, any rights in favor of, or enhance the status of any claim held by, any person or entity or (b) be deemed to convert the priority of any claim from a prepetition claim into an administrative expense claim.

25. Nothing in this Order nor the Debtors' payment of claims pursuant to this Order shall be construed as or deemed to constitute (a) an agreement or admission by the Debtors as to the validity of any claim against the Debtors on any ground, (b) a grant of third-party beneficiary status or bestowal of any additional rights on any third party, (c) a waiver or impairment of any rights, claims, or defenses of the Debtors' rights to dispute any claim on any grounds, (d) a promise by the Debtors to pay any claim, or (e) an implication or admission by the Debtors that such claim is payable pursuant to this Order.

26. Notwithstanding anything to the contrary in this Order, in the event of any inconsistency between the terms of this Order and the terms of any order of this Court approving the debtor-in-possession financing facility and use of cash collateral (the "**DIP Order**"), including, without limitation, any budget in connection therewith, the terms of the DIP Order shall govern.

27. Any Bankruptcy Rule (including, but not limited to, Bankruptcy Rule 6004(h)) or Local Rule that might otherwise delay the effectiveness of this Order is hereby waived, and the terms and conditions of this Order shall be effective and enforceable immediately upon its entry.

28. The Debtors are authorized to take all such actions as are necessary or appropriate to implement the terms of this Order.

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

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

Dated: _____, 2019
Wilmington, Delaware

THE HONORABLE MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Blackline

maintain the Bank Accounts located at the Banks, and (iii) maintain the Debtors' existing business forms, (b) waiving the requirements of section 345(b) of the Bankruptcy Code on an interim basis, and (c) authorizing the Debtors' financial institutions to receive, process, honor, and pay all checks or wire transfers used by the Debtors to pay for the foregoing, as more fully described in the Motion; and the Court having jurisdiction to consider the matters raised in the Motion pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and the Court having authority to hear the matters raised in the Motion pursuant to 28 U.S.C. § 157; and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and consideration of the Motion and the requested relief being a core proceeding that the Court can determine pursuant to 28 U.S.C. § 157(b)(2); and due and proper notice of the Motion and opportunity for a hearing on the Motion having been given to the parties listed therein, and it appearing that no other or further notice need be provided; and the Court having reviewed and considered the Motion and the Howe Declaration; and the Court having held an interim hearing on the Motion; and the Court having granted interim relief on the Motion on , [April 2](#), 2019 (D.I. [\[•\]58](#)); and the Court having ~~held~~[the opportunity to hold](#) a final hearing on the Motion (the "**Final Hearing**"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Final Hearing establish just cause for the relief granted herein; and the Court having found that the relief requested in the Motion being in the best interests of the Debtors, their creditors, their estates, and all other 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 relief requested in the Motion is hereby granted as set forth herein.

2. Subject to the limitations of this order, the Debtors are authorized, but not directed, pursuant to sections 105(a) and 363(c)(1) of the Bankruptcy Code, to continue, in their sole discretion, to maintain, operate, and make transfers under their Cash Management System as described in the Motion.

3. The Debtors shall maintain full, accurate, and complete records of all transfers within the Cash Management System ~~at least to the same extent as they were recorded by the Debtors before the Petition Date in order to reconcile net amounts that may become due from one Debtor to another Debtor affiliate in respect to cash disbursements or transfer made between them or for their benefit from and after the Petition Date,~~ including transfers between Debtors and between Debtors and non-Debtor affiliates, so that transactions may be readily ascertained, traced, recorded properly, and distinguished between prepetition and post-petition transactions.

A Debtor that is owed money from another Debtor or non-Debtor on account of cash disbursements or transfers made from and after the Petition Date shall have an administrative claim against such other Debtor in respect to any such post-petition disbursement or transfer.

4. The Debtors shall maintain records of all transfers within the Cash Management System to the same extent as they were recorded by the Debtors before the commencement of the Chapter 11 Cases.

5. To the extent that cash, including cash collateral (as defined in the Bankruptcy Code), of any Debtor is used by another Debtor, the Debtor funding such use shall have an allowed superpriority administrative expense claim pursuant to sections 503(b) and 507(a) of the Bankruptcy Code junior in priority only to Adequate Protection Claims (as defined in the *Interim*

Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 506, and 507, (i) Authorizing the Debtors To Obtain Senior Secured Superpriority Post-Petition Financing, (ii) Granting Liens and Superpriority Administrative Expense Claims, (iii) Authorizing the Use of Cash Collateral, (iv) Granting Adequate Protection, (v) Modifying the Automatic Stay, (vi) Scheduling Final Hearing and (VII) Granting Related Relief (the “**DIP Order**”).

6. The Debtors are authorized, but not directed, to continue, in their sole discretion, to maintain the Bank Accounts with the same account numbers following the commencement of the Chapter 11 Cases.

7. The Banks are authorized, but not required, to (a) continue to treat, service, and administer the Debtors’ Bank Accounts, as accounts of the respective Debtor as a debtor in possession, without interruption, and in the ordinary course of business without the need for further order of this Court (b) receive, process, honor, debit, and pay any and all checks, drafts, wires, check transfer requests, and/or automated clearing house transfers drawn on the Bank Accounts by the holders or makers thereof, including all checks that are cashed at the Banks’ counters or exchanged for cashier’s checks by the payees thereof prior to the Petition Date as the case may be, to the extent that the Debtors have sufficient funds standing to their credit with such Bank, (c) receive, process, honor, and pay all checks or other items deposited in one of the Debtors’ Bank Accounts with the Banks prior to the Petition Date that have been dishonored or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Debtors were responsible for such items prior to the Petition Date, (d) receive, process, honor, and pay any and all other checks, drafts, wires, check transfer requests, and/or automated clearinghouse transfers evidencing amounts paid by the Debtors under this Order whether presented prior to, on, or after the Petition Date, and (e) debit all undisputed prepetition

amounts outstanding as of the date hereof, if any, owed to any Bank as service charges for the maintenance of the Cash Management System.

8. The Banks may rely on the representations of the Debtors with respect to whether any check, draft, wire, or other payment drawn or issued by the Debtors ~~prior to the Petition Date~~ should be honored pursuant to this or any other order of this Court, and the Banks shall not be liable to any party on account of (a) following the Debtors' instructions or representations as to any order of this Court, (b) the honoring of any ~~prepetition~~ check or item in a good faith belief that the Court has authorized such ~~prepetition~~ check or item to be honored, or (c) an innocent mistake made despite implementation of reasonable item handling procedures.

9. Those certain existing deposit agreements between the Debtors and the Banks shall continue to govern the post-petition cash management relationship between the Debtors and the Banks, and all of the provisions of such agreements, including, without limitation, the termination and fee provisions, shall remain in full force and effect.

10. In accordance with current practice and any applicable agreement governing the Bank Accounts, the Banks are authorized to "charge back" to the Debtors' accounts any amounts incurred by the Banks resulting from returned checks or other returned items, and the Debtors are authorized, but not directed, to pay, in their sole discretion, any obligations (including overdrafts, fees, and expenses) owed to the Banks (and the Banks are authorized to debit or charge back the Bank Accounts for any such ~~fees and expenses~~obligations unless notified by the Debtors that any such ~~fees or expenses~~obligations are disputed), in each case regardless of whether such items were deposited prepetition or post-petition or relate to prepetition or post-petition items. All post-petition fees, costs, charges, and expenses, including fees and expenses, chargebacks, or other reimbursement obligations arising under any applicable agreement governing the Bank

[Accounts shall be entitled to administrative expense priority pursuant to section 503\(b\) of the Bankruptcy Code.](#)

11. The Banks are further authorized to honor the Debtors' directions with respect to the opening and closing of any Bank Account and accept and hold, or invest, the Debtors' funds in accordance with the Debtors' instructions; *provided* that the Banks shall not have any liability to any party for relying on such representations.

12. The relief granted in this order is extended to any new bank account opened by the Debtors after the date hereof and to the bank at which such account is opened.

13. Any payment from a Bank Account at the request of the Debtors made by a Bank prior to the Petition Date (including any ACH Transfer such Bank is or becomes obligated to settle), or any instruments issued by such Bank on behalf of any Debtor pursuant to a "midnight deadline" or otherwise, shall be deemed to be paid prepetition, whether or not actually debited from the Bank Account prepetition.

14. The Debtors and the Banks are authorized, but not directed, without further order of the Court, to implement changes to the Cash Management System in the ordinary course of business, including opening any additional Bank Accounts or closing any existing Bank Account as they may deem necessary and appropriate.

15. For Banks that have not signed a Uniform Depository Agreement with the U.S. Trustee, the Debtors shall have 45 days from the Petition Date (the "**Extension Period**") within which to comply with section 345(b) of the Bankruptcy Code or to make arrangements to which the U.S. Trustee agrees, and such extension is without prejudice to the Debtors' right to request a further extension of the Extension Period or waiver of the requirements of section 345(b) of the Bankruptcy Code in the Chapter 11 Cases. For Banks that have signed a Uniform Depository

Agreement with the U.S. Trustee, all Bank Accounts with such Banks are deemed to satisfy section 345(b) of the Bankruptcy Code.

16. Within 14 days of the date of entry of this Order, with respect to Banks that are party to a Uniform Depository Agreement with the U.S. Trustee, the Debtors shall (a) contact each Bank, (b) provide the Bank with each of the Debtors' tax identification numbers, and (c) identify each of their Bank Accounts held at such Bank as being held by a debtor in possession in a bankruptcy case.

17. Within 30 days of the date of entry of this Order, with respect to Banks that are not party to a Uniform Depository Agreement with the U.S. Trustee, the Debtors shall send the Banks a Uniform Depository Agreement in a form prescribed by the U.S. Trustee and request that the Banks execute said Uniform Depository Agreement. The U.S. Trustee's rights to seek relief from this Court on notice in the event that the aforementioned Banks are unwilling to execute a Uniform Depository Agreement in a form prescribed by the U.S. Trustee are fully reserved.

18. The Banks are authorized to honor the Debtors' requests to open or close, as the case may be, such Bank Accounts or additional Bank Accounts, and the Debtors shall give notice to the U.S. Trustee, counsel to the DIP Lenders, the Banks, and any official committee appointed in the Chapter 11 Cases within 14 days of opening a new Bank Account or closing an existing Bank Account; *provided, however*, that, unless otherwise ordered by this Court, the Debtors shall open any new Bank Account at a Bank that has executed a Uniform Depository Agreement with the U.S. Trustee or at a Bank willing to immediately execute such an agreement.

19. Nothing contained herein shall prevent the Banks from modifying or terminating any Bank Accounts or related services in accordance with the agreements governing such accounts or services.

20. The Debtors are authorized to continue the Purchase Card Program in the ordinary course in accordance with the Commercial Card Agreement, dated as of September 30, 2016 (the “Commercial Card Agreement”) with JPMorgan Chase Bank, N.A. (“JPMC”) and to pay or reimburse JPMC any fees, charges, or other amounts due and owing thereunder (the “Purchase Card Obligations”). Any Purchase Card Obligations incurred post-petition shall be entitled to administrative priority under section 503(b) of the Bankruptcy Code. The Debtors’ and JPMC’s rights under the Credit Card Agreement are fully preserved.

21. ~~20.~~ The Debtors are authorized, but not directed, to continue, in their sole discretion, to use the Business Forms, including, but not limited to, purchase orders, letterhead, envelopes, promotional materials, checks, and other business forms substantially in the forms existing immediately before the Petition Date, without reference to their status as debtors in possession; *provided*, that once the Debtors’ existing checks have been used, the Debtors will, when reordering checks, ensure that the designation “Debtor in Possession” and the corresponding bankruptcy case number be printed on all checks; *provided further* that, with respect to electronic checks and checks that the Debtors or their agents print themselves, the Debtors will begin printing the “Debtor in Possession” legend on such items within ten days of the date of entry of this Order.

22. ~~21.~~ Notwithstanding anything contained herein, despite the Debtors’ use of a consolidated cash management system, the Debtors shall calculate their quarterly fees under 28

U.S.C. § 1930(a)(6) based on disbursements of each Debtor, regardless of which Debtor pays those disbursements.

23. ~~22.~~ Nothing in this Order or any action taken by the Debtors in furtherance of the implementation hereof shall be deemed to constitute an assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code, and all of the Debtors' rights with respect to such matters are expressly reserved.

24. ~~23.~~ Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained herein shall (a) create, nor is it intended to create, any rights in favor of, or enhance the status of any claim held by, any person or entity or (b) be deemed to convert the priority of any claim from a prepetition claim into an administrative expense claim.

25. ~~24.~~ Nothing in this Order nor the Debtors' payment of claims pursuant to this Order shall be construed as or deemed to constitute (a) an agreement or admission by the Debtors as to the validity of any claim against the Debtors on any ground, (b) a grant of third-party beneficiary status or bestowal of any additional rights on any third party, (c) a waiver or impairment of any rights, claims, or defenses of the Debtors' rights to dispute any claim on any grounds, (d) a promise by the Debtors to pay any claim, or (e) an implication or admission by the Debtors that such claim is payable pursuant to this Order.

26. ~~25.~~ Notwithstanding anything to the contrary in this Order, in the event of any inconsistency between the terms of this Order and the terms of any order of this Court approving the debtor-in-possession financing facility and use of cash collateral (the "**DIP Order**"), including, without limitation, any budget in connection therewith, the terms of the DIP Order shall govern.

27. ~~26.~~ Any Bankruptcy Rule (including, but not limited to, Bankruptcy Rule 6004(h)) or Local Rule that might otherwise delay the effectiveness of this Order is hereby waived, and the terms and conditions of this Order shall be effective and enforceable immediately upon its entry.

28. ~~27.~~ The Debtors are authorized to take all such actions as are necessary or appropriate to implement the terms of this Order.

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

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

Dated: _____, 2019
Wilmington, Delaware

THE HONORABLE ~~{•}~~ MARY E.
WALRATH
UNITED STATES BANKRUPTCY JUDGE

Document comparison by Workshare 9.5 on Thursday, April 18, 2019 9:51:39 AM

Input:	
Document 1 ID	interwovenSite://WIL-DMS/WILM/12716320/1
Description	#12716320v1<WILM> - SXE - Cash Management (As Filed Final Order)
Document 2 ID	file://\mn.net\dfs01\profile_redirect\emoats\Desktop\SXE - Final Cash Management Order Revised (2).docx
Description	SXE - Final Cash Management Order Revised (2)
Rendering set	Standard

Legend:	
	<u>Insertion</u>
	Deletion
	Moved from
	<u>Moved to</u>
	Style change
	Format change
	Moved deletion
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	29
Deletions	23
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	52