



The New York Times  
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620 8th Avenue  
New York, NY 10018  
nytimes.com

## PROOF OF PUBLICATION

October 1, 2024

I, Larnyce Tabron, in my capacity as a Principal Clerk of the Publisher of The New York Times, a daily newspaper of general circulation printed and published in the City, County, and State of New York, hereby certify that the advertisement annexed hereto was published in the editions of The New York Times on the following date or dates, to wit on.

9/30/2024, NY/NATL, pg B4

*Larnyce Tabron*

Digitally signed  
by John McGill  
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JOHN MCGILL  
Electronic Notary Public  
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Registration No. 8038092  
My Commission Expires Dec 31, 2027

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION  
In re: Chapter 11  
Vertex Energy, Inc., et al., Case No. 24-90507 (CMJ)  
Debtors. (Jointly Administered)

NOTICE OF ORDER APPROVING NOTIFICATION AND  
HEARING PROCEDURES FOR CERTAIN TRANSFERS  
OF AND DECLARATIONS OF WORTHLESSNESS WITH  
RESPECT TO COMMON STOCK

TO: ALL ENTITIES (AS DEFINED BY SECTION 101(15) OF  
THE BANKRUPTCY CODE) THAT MAY HOLD BENEFICIAL  
OWNERSHIP OF THE EXISTING CLASSES OF COMMON  
STOCK (THE "COMMON STOCK") OF VERTEX ENERGY, INC.:

PLEASE TAKE NOTICE that on September 24, 2024 (the "Petition Date"), the above-captioned debtors and debtors in possession (collectively, the "Debtors"), filed petitions with the United States Bankruptcy Court for the Southern District of Texas (the "Court") under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). Subject to certain exceptions, section 362 of the Bankruptcy Code operates as a stay of any act to obtain possession of property of or from the Debtors' estates or to exercise control over property of or from the Debtors' estates.

PLEASE TAKE FURTHER NOTICE that on the Petition Date, the Debtors filed the Debtors' Emergency Motion for Entry of an Order (i) Approving Notification and Hearing Procedures for Certain Transfers of and Declarations of Worthlessness with Respect to Common Stock and (ii) Granting Related Relief (Docket No. 11) (the "Motion").

PLEASE TAKE FURTHER NOTICE that on September 25, 2024, the Court entered the Order (i) Approving Notification and Hearing Procedures for Certain Transfers of and Declarations of Worthlessness with Respect to Common Stock and (ii) Granting Related Relief (Docket No. 65) (the "Order") approving procedures for certain transfers and declarations of worthlessness with respect to Common Stock, set forth in Exhibit 1 attached to the Order (the "Procedures").

PLEASE TAKE FURTHER NOTICE that, pursuant to the Order, a Substantial Shareholder may not consummate any purchase, sale, or other transfer of Common Stock, or Beneficial Ownership of Common Stock in violation of the Procedures, and any such transaction in violation of the Procedures shall be null and void ab initio.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Order, the Procedures shall apply to the holding and transfers of Common Stock, or any Beneficial Ownership therein by a Substantial Shareholder or someone who may become a Substantial Shareholder.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Order, a 50 Percent Shareholder may not claim a worthless stock deduction with respect to Common Stock, or Beneficial Ownership of Common Stock, in violation of the Procedures, and any such deduction in violation of the Procedures shall be null and void ab initio, and the 50 Percent Shareholder shall be required to file an amended tax return revoking such proposed deduction.

PLEASE TAKE FURTHER NOTICE that pursuant to the Order, upon the request of any person or entity, the proposed notice, claims, and satisfaction agent for the Debtors' Kurtzman Carson Consultants, LLC, d/b/a Vertex ("KCC")

will provide a copy of the Order and a form of each of the declarations required to be filed by the Procedures in a reasonable period of time. Such declarations are also available via PACER on the Court's website at <https://edtech.sdc.uscourts.gov/> for a fee, or free of charge by accessing the Debtors' restructuring website at <https://restructuring.vertexenergy.com/>.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Order, failure to follow the Procedures set forth in the Order shall constitute a violation of, among other things, the automatic stay provisions of section 362 of the Bankruptcy Code.

PLEASE TAKE FURTHER NOTICE that nothing in the Order shall preclude any person desirous of acquiring any Common Stock from requesting relief from the Order from this Court, subject to the Debtors' and the Debtor's (or Parties') rights to oppose such relief.

PLEASE TAKE FURTHER NOTICE that, except to the extent that the Order expressly conditions or restricts trading in Common Stock, nothing in the Order or in the Motion shall or shall be deemed to preclude, impair, or otherwise affect the rights of any holders of Common Stock, including in connection with the treatment of any such stock under any chapter 11 plan or any applicable bankruptcy court order.

PLEASE TAKE FURTHER NOTICE that any prohibited purchase, sale, or other transfer of or declaration of worthlessness with respect to Common Stock, Beneficial Ownership thereof, or option with respect thereto in violation of the Order is prohibited and shall be null and void ab initio and may be subject to additional sanctions as the Court may determine.

PLEASE TAKE FURTHER NOTICE that the requirements set forth in the Order are in addition to the requirements of applicable law and do not excuse compliance therewith.

Houston, Texas, September 26, 2024

By: Agnes G. Cohen, BRACKWELL LLP, Agnes G. Cohen (TX Bar No. 24850435), Jonathan L. Luzzo (TX Bar No. 24725757), 715 Louisiana Street, Suite 2100, Houston, Texas 77002, Telephone: (713) 773-2300, facsimile: (800) 404-3370, Email: [agc@brackwell.com](mailto:agc@brackwell.com), [jluzzo@brackwell.com](mailto:jluzzo@brackwell.com), and Mark E. Dendroger (pro hac vice pending), 311 W. 52nd Street, Suite 1900, New York, NY 10019, Telephone: (212) 508-4100, facsimile: (800) 454-3370, Email: [mark.dendroger@brackwell.com](mailto:mark.dendroger@brackwell.com), Plaintiff's Co-Counsel to the Debtors and Debtors in Possession, and KIRKLAND & ELLIS LLP, KIRKLAND & ELLIS INTERNATIONAL LLP, Brian Schatz, P.C. (TX Bar No. 24999361), 601 Lexington Avenue, New York, New York 10022, Telephone: (212) 446-4300, facsimile: (212) 446-4900, Email: [brian.schatz@kirkland.com](mailto:brian.schatz@kirkland.com), and KIRKLAND & ELLIS LLP, KIRKLAND & ELLIS INTERNATIONAL LLP, John A. Luzzo (admitted pro hac vice), Rachel M. Bentley (admitted pro hac vice), 333 West Wacker Drive, Chicago, Illinois 60654, Telephone: (312) 562-2000, facsimile: (312) 562-2200, Email: [john.luzzo@kirkland.com](mailto:john.luzzo@kirkland.com), [rachel.bentley@kirkland.com](mailto:rachel.bentley@kirkland.com), Plaintiff's Co-Counsel to the Debtors and Debtors in Possession.

A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' proposed claims and noticing agent at <https://restructuring.vertexenergy.com/>. The location of Vertex Energy, Inc.'s corporate headquarters and the Debtors' service address in these chapter 11 cases is 1331 Gemini Street Suite 250, Houston, Texas 77058.

Capitalized terms used but not otherwise defined herein have the agent for the Debtors Kurtzman Carson Consultants, LLC, d/b/a Vertex ("KCC")



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TECHNOLOGY

# OpenAI Is Growing Rapidly and Burning Through Piles of Money

FROM FIRST BUSINESS PAGE  
ices and other expenses like employee salaries and office rent, according to an analysis by a financial professional who has also reviewed the documents. Those numbers do not include paying out equity-based compensation to employees, among several large expenses not fully explained in the documents.

OpenAI has been circulating the documents with potential investors for an investment round that could bring in \$7 billion and value the company at \$150 billion, among the highest ever for a private tech company. The round, which could close as early as next week, comes at a crucial time for OpenAI, which is experiencing rapid growth but has lost a number of important executives and researchers in the past few months.

The documents offer the first detailed look into OpenAI's financial performance and how it is presenting itself to investors, but they do not neatly explain how much money it is losing. The fundraising material also signaled that OpenAI would need to continue raising money over the next year because its expenses grew in tandem with the number of people using its products.

OpenAI declined to comment on the documents.

OpenAI's revenue in August more than tripled from a year ago, according to the documents, and about 350 million people — up from around 100 million in March

— used its services each month as of June.

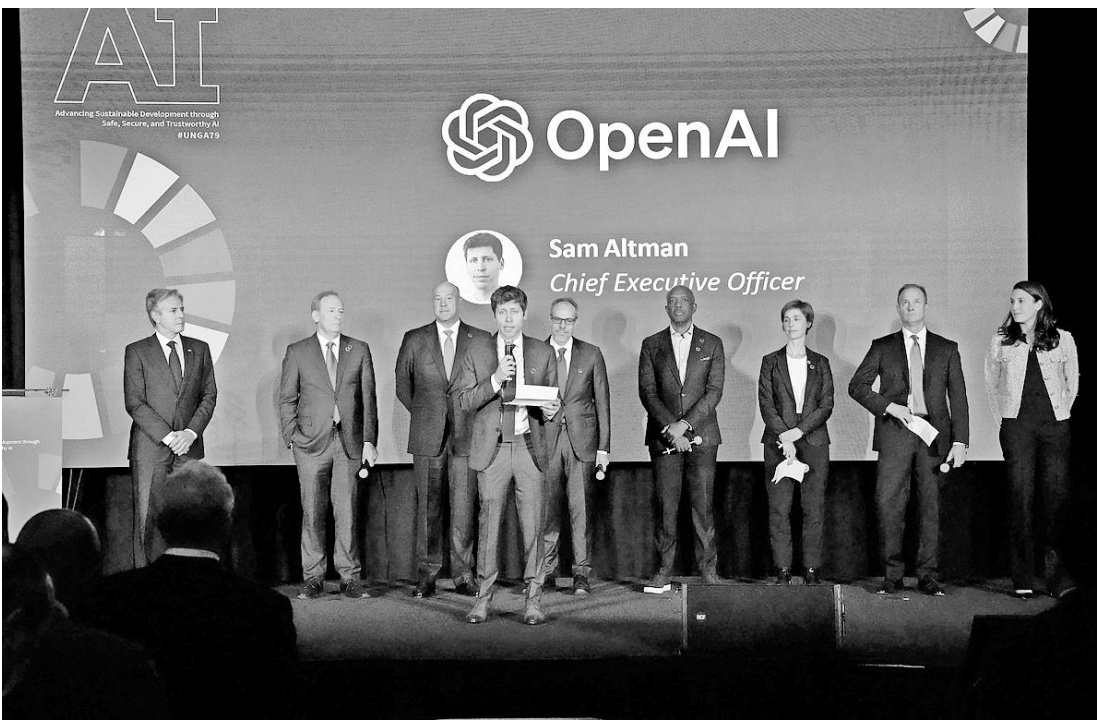
Most of that has come from the continuing popularity of ChatGPT, which was released in November 2022. The documents show a spike in growth after ChatGPT began allowing people to use the service without creating an account or logging in. The company expects ChatGPT to bring in \$2.7 billion in revenue this year, up from \$700 million in 2023, with \$1 billion coming from other businesses using its technology.

Roughly 10 million ChatGPT users pay the company a \$20 monthly fee, according to the documents. OpenAI expects to raise that price by \$2 by the end of the year, and will aggressively raise it to \$44 over the next five years, the documents said. More than one million third-party developers use OpenAI's technology to power their own services.

OpenAI predicts its revenue will hit \$100 billion in 2029, which would roughly match the current annual sales of Nestlé or Target.

Like other high-profile tech start-ups of the last few decades, OpenAI is struggling to get its costs under control.

Its biggest cost is the computing power it gets through a partnership with Microsoft, which is also OpenAI's primary investor. Microsoft has pumped more than \$13 billion into the San Francisco company. But OpenAI spends much of that money on Microsoft's cloud computing systems,



OpenAI's chief executive, Sam Altman, center, is seeking an investment round that could value the firm at \$150 billion.

which host OpenAI's products.

In addition to Thrive Capital, the lead investor in the new round, OpenAI is in talks with Microsoft, Apple, Nvidia, Tiger Global and MGX, a technology investment firm controlled by the United Arab Emirates, according to three people familiar with the discussions.

OpenAI is offering unusual deal structures to investors. Thrive Capital has invested \$750 million

into OpenAI's latest round of funding, according to a person familiar with the deal. In addition to putting in its own money, the firm plans to use a financial instrument called a special purpose vehicle to gather an additional \$450 million from other investors, the person said.

As the deal's lead investor, Thrive also has an unusual perk: the option to invest up to \$1 billion

more into OpenAI at the same \$150 billion valuation through 2025, according to the documents. That could be lucrative to Thrive given how quickly OpenAI's valuation has escalated to \$150 billion, up from just \$30 billion a year ago.

None of OpenAI's other investors have been granted the same terms, and some of them were frustrated by the special preference, according to two people fa-

## California Law Protects Brain Data of Individuals

By JONATHAN MOENS

On Saturday, Governor Gavin Newsom of California signed a new law that aims to protect people's brain data from being potentially misused by neurotechnology companies.

A growing number of consumer technology products promise to help address cognitive issues: apps to meditate, to improve focus and to treat mental health conditions like depression. These products monitor and record brain data, which encodes virtually everything that goes on in the mind, including thoughts, feelings and intentions.

The new law, which passed both the California State Assembly and the Senate with no opposition votes, amends the state's current personal privacy law — known as the California Consumer Privacy Act — by including “neural data” under “personal sensitive information.” This includes data generated by a user's brain activity and the meshwork of nerves that extends to the rest of the body.

“I'm very excited,” said State Senator Josh Becker, a Democrat, who sponsored the bill. “It's important that we be up front about protecting the privacy of neural data — a very important set of data that belongs to people.”

With tens of thousands of tech startups, California is a hub for tech innovation. This includes smaller companies developing brain technologies, but Big Tech companies like Meta and Apple are also developing devices that likely will involve collecting vast troves of brain data.

“The importance of protecting neural data in California cannot be understated,” Senator Becker said.

The bill extends the same level of protections to neural data that it does for other data already considered sensitive under the California Consumer Privacy Act, such as facial images, DNA and fingerprints, known as biometric information.

Users can now request, delete, correct and limit what data a neurotech company collects on them. They can also opt out from companies selling or sharing their data.

Unlike medical devices, which must abide by federal health laws, consumer neurotechnology devices go largely unregulated, experts say.

An April report from the Neurorights Foundation, an advocacy group pushing for laws to protect people's brain data around the world, including in California, examined policy documents of 30



JOHN LOCHER/ASSOCIATED PRESS

companies and concluded that almost all have access to their user's neural data and do not have meaningful limitations to restrict access. More than half explicitly allow user data to be shared with third parties.

The new law is “a big step forward,” said Jared Genser, general counsel for the foundation, and follows similar legislation enacted in Colorado in April.

The foundation is talking with lawmakers in other major states, including Florida, Texas and New York, Mr. Genser said.

The law comes at a critical moment, experts say. Scientists have already been able to decode people's thoughts and feelings with startling accuracy, said Rafael Yuste, a neuroscientist at Columbia University and the chair of the Neurorights Foundation.

The NextMind brain-computer interface is among devices that collect neural data. A new California law regulates the collection of such data.

tion, even if was not stated explicitly.

“Biometric data is pretty much everything that we've already talked about,” said Morris Hoffman, a retired Colorado judge who conducts research on neuroscience and law. “So this does nothing except make that explicit.”

Other experts said the bill was overly limited on regulating neural data when instead it should focus on preventing companies from being able to make intrusive inferences about people's thoughts and emotions, regardless of whether the data was neural or the kind of technology used.

“What matters is that you are doing a type of inference that is extremely infringing upon my privacy rights,” said Marcello Ienca, a professor of ethics of artificial intelligence and neuroscience at the Technical University of Munich, in Germany, who was not involved in developing the bill. Whether that inference involves facial recognition, neurotechnology, biosensors or other technology is unimportant, he said.

A better approach, he added, would be to regulate the algorithms underpinning these predictions, rather than targeting neural data and neurotechnology companies specifically.

TechNet, a network representing tech companies like Meta, Apple and OpenAI, also pushed back

against the bill, arguing that including the peripheral nervous system — the array of nerves that extend from the brain and spinal cord to the rest of the body — in the bill would “sweep too broadly and ensnare nearly any technology that records anything about human behavior.”

The final draft of the bill kept the language about the peripheral nervous system but stipulated that information inferred through non-neural data would not be covered by the law. In effect, devices that measure other features of the human body, like a person's heart rate, blood pressure, glucose or hormone levels, are left uncovered by the law, Mr. Genser said.

“I think this amendment strikes a good balance of trying to protect consumers while also allowing some space for businesses complying with the law to provide services that consumers want,” said Owen Jones, a professor of law and biology at Vanderbilt University who was not involved with the bill.

The bill, Senator Becker said, set a precedent for the tech industry globally.

“California is really a technology leader for the world,” Mr. Becker said. “And so for California to step forward and say, ‘Hey, this is important, we are going to protect this information,’ I think it is really important.”

## Newsom Vetoes Sweeping Legislation That Sought to Place Guardrails on Artificial Intelligence

By CECILIA KANG

Gov. Gavin Newsom on Sunday vetoed a California artificial intelligence safety bill, blocking the most ambitious proposal in the nation aimed at curtailing the growth of the new technology.

The first-of-its-kind bill, S.B. 1047, required safety testing of large A.I. systems, or models, before their release to the public. It also gave the state's attorney general the right to sue companies over serious harm caused by their

technologies, like death or property damage. And it mandated a kill switch to turn off A.I. systems in case of potential biowarfare, mass casualties or property damage.

Mr. Newsom said that the bill was flawed because it focused too much on regulating the biggest A.I. systems, known as frontier models, without considering potential risks and harms from the technology. He said that legislators should go back to rewrite it

for the next session.

“I do not believe this is the best approach to protecting the public from real threats posed by the technology,” Mr. Newsom said in a statement. “Instead, the bill applies stringent standards to even the most basic functions — so long as a large system deploys it.”

The decision to kill the bill is expected to set off fierce criticism from some tech experts and academics who have pushed for the legislation.

Governor Newsom, a Democrat, had faced strong pressure to veto the bill, which became embroiled in a fierce national debate over how to regulate A.I.

A flurry of lobbyists descended on his office in recent weeks, some promoting the technology's potential for great benefits. Others warned of its potential to cause irreparable harm to humanity.

California was poised to become a standard-bearer for regulating a technology that has exploded into public consciousness with the release of chatbots and realistic image and video generators in recent years. In the absence of federal legislation, California's Legislature took an aggressive approach to reining in the technology with its proposal, which both houses passed nearly unanimously.

While lawmakers and regulators globally have sounded the alarm over the technology, few have taken action. Congress has held hearings, but no legislation has made meaningful progress. The European Union passed the A.I. Act, which restricts the use of riskier technology like facial recognition software.

In the absence of federal legislation, Colorado, Maryland, Illinois

and other states have enacted laws to require disclosures of A.I.-generated “deepfake” videos in political ads, ban the use of facial recognition and other A.I. tools in hiring and protect consumers from discrimination in A.I. models.

But California's A.I. bill garnered the most attention, because it focused on regulating the most powerful and ambitious A.I. models, which can cost more than \$100 million to develop.

“States and local governments are trying to step in and address the obvious harms of A.I. technology, and it's sad the federal government is stumped in regulating it,” said Patrick Hall, an assistant

### California's governor says a first-of-its-kind bill was flawed.

professor of information systems at Georgetown University. “The American public has become a giant experimental population for the largest and richest companies in world.”

California has led the nation on privacy, emissions and child safety regulations, which frequently affect the way companies do business nationwide because they prefer to avoid the challenge of complying with a state-by-state patchwork of laws.

State Senator Scott Wiener of San Francisco said he had introduced California's A.I. bill after talking to local technologists and academics who warned about potential dangers of the technology and the lack of action by Congress. Last week, 120 Hollywood actors

and celebrities, including Joseph Gordon-Levitt, Mark Ruffalo, Jane Fonda and Shonda Rhimes, signed a letter to Mr. Newsom, asking him to sign the bill.

Mr. Newsom said the bill needed more input from A.I. experts in academia and business leaders to develop a deeper science-backed analysis of the potential for frontier models and their potential risks.

The California governor said that the bill was “well-intentioned” but left out key ways of measuring risk and other consumer harms. He said that the bill “does not take into account whether an A.I. system is deployed in high-risk environments or the use of sensitive data.”

Mr. Newsom said he had asked several technology and legal scholars to help come up with regulatory guardrails for generative A.I., including Fei-Fei Li, a professor of computer science at Stanford; Mariano-Florentino Cuéllar, a member of the National Academy of Sciences Committee on Social and Ethical Implications of Computing Research; and Jennifer Tour Chayes, dean of the College of Computing, Data Science, and Society at University of California, Berkeley.

Ms. Li of Stanford, whom Mr. Newsom referred to as the “godmother of A.I.,” wrote in an opinion piece last month that the bill would “harm our budding AI ecosystem,” and give the biggest A.I. companies an advantage by penalizing smaller developers and academic researchers who would have to meet testing standards.

OpenAI, Google, Meta and Microsoft opposed the legislation,

saying it could stifle innovation and set back the United States in the global race to dominate A.I. Venture capital investors, including Andreessen Horowitz, said the measure would hurt A.I. start-ups that didn't have the resources required to test their systems.

Several California representatives in Congress wrote Mr. Newsom with warnings that the bill was too hypothetical and unnecessarily put safety standards on a nascent technology. Representative Nancy Pelosi, the former House speaker, also asked her fellow Democrat to veto the bill.

“While we want California to lead in A.I. in a way that protects consumers, data, intellectual property and more, S.B. 1047 is more harmful than helpful in that pursuit,” Ms. Pelosi wrote in an open letter last month.

Other technologists and some business leaders, including Elon Musk, took the opposite position, saying the potential harms of A.I. are too great to postpone regulations. They warned that A.I. could be used to disrupt elections with widespread disinformation, facilitate biowarfare and create other catastrophic situations.

Mr. Musk posted last month on X, his social media site, that it was a “tough call” but that “all things considered,” he supported the bill because of the technology's potential risks to the public. Last year, Mr. Musk founded the A.I. company xAI, and he is the chief executive of Tesla, an electric vehicle manufacturer that uses A.I. for self-driving.

This month, 50 academics sent a letter to Mr. Newsom describing the bill as “reasonable” and an important deterrent for the fast deployment of unsafe models.

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In re: Chapter 11  
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Debtors. (Jointly Administered)

NOTICE OF ORDER APPROVING NOTIFICATION AND HEARING PROCEDURES FOR CERTAIN TRANSFERS OF AND DECLARATIONS OF WORTHLESSNESS WITH RESPECT TO COMMON STOCK

TO: ALL ENTITIES (AS DEFINED BY SECTION 101(15) OF THE BANKRUPTCY CODE) THAT MAY HOLD BENEFICIAL OWNERSHIP OF THE EXISTING CLASSES OF COMMON STOCK (THE “COMMON STOCK”) OF VERTEX ENERGY, INC.:

PLEASE TAKE NOTICE that on September 24, 2024 (the “Petition Date”), the above-captioned debtors and debtors in possession (collectively, the “Debtors”), filed petitions with the United States Bankruptcy Court for the Southern District of Texas (the “Court”) under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). Subject to certain exceptions, section 362 of the Bankruptcy Code operates as a stay of any act to obtain possession of property of or from the Debtors’ estates or to exercise control over property of or from the Debtors’ estates.

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PLEASE TAKE FURTHER NOTICE that on September 25, 2024, the Court entered the Order (i) Approving Notification and Hearing Procedures for Certain Transfers of and Declarations of Worthlessness with Respect to Common Stock and (ii) Granting Related Relief (Docket No. 60) (the “Order”).

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1. A complete list of each of the Debtors in this chapter 11 cases may be obtained on the website of the Debtors' proposed claims and noticing agent at <https://www.vertexglobal.net/vertex>. The location of Debt Vertex Energy Inc.'s corporate headquarters and the Debtors' service address in this chapter 11 cases is 1331 Gemini Street Suite 250, Houston, Texas 77058.

2. Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Order or the Motion, as applicable.