

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

)	
In re:)	Chapter 11
)	
EDISON MISSION ENERGY, <i>et al.</i> , ¹)	Case No. 12-[_____] (____)
)	
Debtors.)	(Joint Administration Requested)
)	

NOTICE OF MOTION

PLEASE TAKE NOTICE that on December 17, 2012, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed the *Debtors’ Motion to Approve (A) Payment of Certain Prepetition Compensation and Reimbursable Employee Expenses, (B) Continued Employee Medical and Other Benefits, and (C) Continued Employee Compensation and Benefits Programs* (the “Motion”).

PLEASE TAKE FURTHER NOTICE that the Debtors have requested a hearing on the Motion on Monday, December 17, 2012, at a time to be determined before the Honorable [_____] or any other judge who may be sitting in [**his/her**] place and stead, in Courtroom [___] in the United States Courthouse, 219 South Dearborn Street, Chicago, Illinois, at which time you may appear if you deem fit.

PLEASE TAKE FURTHER NOTICE that the hearing date and time once determined as well as copies of all documents are available free of charge by visiting the case website maintained by GCG, Inc. proposed notice and claims agent for these chapter 11 cases, available at www.edisonmissionrestructuring.com or by calling (866) 241-6491. You may also obtain copies of any pleadings by visiting the Court’s website at www.ilnb.uscourts.gov in accordance with the procedures and fees set forth therein.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Edison Mission Energy (1807); Camino Energy Company (2601); Chestnut Ridge Energy Company (6590); Edison Mission Energy Fuel Services, LLC (4630); Edison Mission Fuel Resources, Inc. (3014); Edison Mission Fuel Transportation, Inc. (3012); Edison Mission Holdings Co. (6940); Edison Mission Midwest Holdings Co. (6553); Midwest Finance Corp. (9350); Midwest Generation EME, LLC (1760); Midwest Generation, LLC (8558); Midwest Generation Procurement Services, LLC (2634); Midwest Peaker Holdings, Inc. (5282); Mission Energy Westside, Inc. (0657); San Joaquin Energy Company (1346); Southern Sierra Energy Company (6754); and Western Sierra Energy Company (1447). The location of parent Debtor Edison Mission Energy’s corporate headquarters and the Debtors’ service address is: 3 MacArthur Place, Suite 100, Santa Ana, California 92707.

Dated: December 17, 2012

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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In re:)	Chapter 11
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EDISON MISSION ENERGY, <i>et al.</i> , ¹)	Case No. 12-[_____] (____)
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Debtors.)	(Joint Administration Requested)
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**DEBTORS’ MOTION TO APPROVE (A) PAYMENT OF CERTAIN
PREPETITION COMPENSATION AND REIMBURSABLE EMPLOYEE
EXPENSES, (B) CONTINUED EMPLOYEE MEDICAL AND OTHER BENEFITS,
AND (C) CONTINUED EMPLOYEE COMPENSATION AND BENEFITS PROGRAMS**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) state as follows in support of this motion (this “Motion”):²

Relief Requested

1. By this Motion, the Debtors request entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B** (respectively, the “Interim Order” and the “Final Order”) authorizing, but not directing, the Debtors to approve (a) payment of certain prepetition wages, salaries and other compensation, taxes, withholdings, and reimbursable

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Edison Mission Energy (1807); Camino Energy Company (2601); Chestnut Ridge Energy Company (6590); Edison Mission Energy Fuel Services, LLC (4630); Edison Mission Fuel Resources, Inc. (3014); Edison Mission Fuel Transportation, Inc. (3012); Edison Mission Holdings Co. (6940); Edison Mission Midwest Holdings Co. (6553); Midwest Finance Corp. (9350); Midwest Generation EME, LLC (1760); Midwest Generation, LLC (8558); Midwest Generation Procurement Services, LLC (2634); Midwest Peaker Holdings, Inc. (5282); Mission Energy Westside, Inc. (0657); San Joaquin Energy Company (1346); Southern Sierra Energy Company (6754); and Western Sierra Energy Company (1447). The location of parent Debtor Edison Mission Energy’s corporate headquarters and the Debtors’ service address is: 3 MacArthur Place, Suite 100, Santa Ana, California 92707.

² The facts and circumstances supporting this Motion are set forth in the *Declaration of Maria Rigatti, Senior Vice President and Chief Financial Officer of Edison Mission Energy, in Support of Chapter 11 Petitions and First Day Pleadings* (the “First Day Declaration”), filed contemporaneously herewith.

expenses, (b) continued obligations relating to medical and other benefits programs, and (c) continued employee compensation and benefit programs on a postpetition basis.

2. The Debtors also request that the Court schedule a final hearing within approximately 21 days of the Petition Date to consider approval of the Motion on a final basis.

Jurisdiction

3. The United States Bankruptcy Court for the Northern District of Illinois (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

4. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

5. The statutory bases for the relief requested herein are sections 363(b), 363(c), 507(a)(4), 507(a)(5), 541(b), 1107(a), 1108, and 1129(a)(9)(B) of title 11 of the United States Code (the "Bankruptcy Code") and rule 6003 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

Background

6. Edison Mission Energy, together with its Debtor and non-Debtor affiliates, is a leading independent power producing enterprise specializing in developing, operating, and selling energy and capacity from over 40 generating facilities in 12 states and the Republic of Turkey. The Debtors have approximately 950 employees and maintain headquarters in Chicago, Illinois and Santa Ana, California.

7. On the date hereof (the "Petition Date"), each of the Debtors filed a petition with this Court under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Concurrently with the filing of this Motion, the Debtors requested procedural consolidation and joint administration of these chapter 11 cases pursuant to

Bankruptcy Rule 1015(b). No party has requested the appointment of a trustee or examiner in these chapter 11 cases, and no committees have been appointed or designated.

8. The Debtors' employees are critical to the Debtors' operations and are the lifeblood of the Debtors' organizations and businesses. Their support is vital to stabilizing the Debtors' businesses, implementing any successful reorganization, and ultimately maximizing value for all of the Debtors' Creditors.

Employee Compensation and Benefits

I. The Debtors' Workforce

9. As of the Petition Date, the Debtors employ approximately 950 employees (each an "Employee" and collectively, the "Employees"). Substantially all of the Debtors' Employees are full-time employees. Approximately 370 Employees are paid a salary; approximately 580 Employees are paid on an hourly basis.

10. Approximately 93 percent of the Debtors' hourly Employees are members of the International Brotherhood of Electrical Workers (the "IBEW"), Local Union No. 15 ("Local 15"), and are employed pursuant to a Collective Bargaining Agreement between Debtor Midwest Generation, LLC and IBEW Local 15, which was initially in effect between March 6, 2006 and December 31, 2009 (the "CBA"); on August 5, 2011, the CBA was extended to expire on December 31, 2013 pursuant to a Memorandum of Understanding Contract Extension (the "Contract Extension"). The CBA and Contract Extension generally provide compensation and benefit standards the Debtors must meet for the union Employees.

11. The Debtors also supplement their workforce by employing approximately 156 supplemental workers (the "Supplemental Workers"). The Debtors procure the services of the Supplemental Workers through 13 separate third-party temporary staffing agencies (collectively, the "Staffing Agencies"). The Debtors also utilize 11 independent contractors (the "Independent

Contractors”). Both the Supplemental Workers and the Independent Contractors generally provide on-site accounting, information technology, and other services on both a full-time and seasonal basis.

12. The Employees (together with the Supplemental Workers and the Independent Contractors) perform a wide variety of critical functions, including management and operation of the Debtors’ and their subsidiaries’ power generating projects, accounting, administration, finance, human resources, management, marketing, facilities maintenance, security, and other tasks. The Employees’ skills and their knowledge and understanding of the Debtors’ operations and infrastructure are essential to stabilizing operations and, ultimately, the effective reorganization of the Debtors’ businesses.

13. The vast majority of the Debtors’ Employees rely exclusively on their compensation and benefits to pay their daily living expenses. Thus, the Employees will be exposed to significant financial constraints if the Debtors are not permitted to continue paying their Employees compensation, providing their Employees benefits and maintaining certain programs benefiting their Employees.

14. To minimize the personal hardship that the Employees (and the Supplemental Workers and the Independent Contractors) would suffer if prepetition Employee-related obligations are not paid when due or as expected and to maintain morale and stability in the Debtors’ workforce during this critical time, the Debtors, by this Motion, seek authority but not direction to pay and honor certain prepetition claims relating to, among other things, wages, salaries, ordinary-course raises and other pay increases, bonuses and other compensation, payroll services, federal and state withholding taxes and other amounts withheld (including garnishments, Employees’ share of insurance premiums, taxes and 401(k) contributions), health

insurance, retirement health and related benefits, workers' compensation benefits, vacation time, leaves of absence, life insurance, short- and long-term disability coverage and all other benefits that the Debtors and their non-Debtor subsidiaries have historically provided in the ordinary course of business (collectively, the "Employee Compensation and Benefits") and to pay all costs incident to the foregoing.³ The Debtors intend to continue their prepetition Employee Compensation and Benefits programs in the ordinary course of business. Out of an abundance of caution, the Debtors request the right to modify, change and discontinue any of their Employee Compensation and Benefits and to implement new programs, policies, and benefits, in the ordinary course of business during these chapter 11 cases, in their sole discretion and without the need for further Court approval, subject to applicable law.

II. Employee Compensation and Obligations

A. Unpaid Compensation

15. In the ordinary course of business, the Debtors incur payroll obligations for their Employees. Such obligations generally consist of wages and salaries. The Debtors' Employees are paid salaries and wages bi-weekly every other Friday, five days in arrears. Approximately 94 percent of the Employees receive their wages and salaries by direct deposit through electronic transfer of funds directly to these Employees' accounts ("Direct Deposit"), with the other six percent of Employees receiving checks. Because all of the Employees are paid in arrears, the Employees have not been paid all of their prepetition wages and compensation as of the Petition Date.

³ Many of the Employee Compensation and Benefits are administered or part of plans sponsored by the Debtors' ultimate non-Debtor corporate parent Edison International ("EIX") as well as certain non-Debtor subsidiaries of EIX (each an "EIX Entity" and with EIX, collectively, the "EIX Entities"). Contemporaneously herewith, the Debtors have filed the *Debtors' Motion to Authorize Continued Performance of Obligations under Intercompany and Shared Services Arrangements* (the "Shared Services Motion"). Certain of the services related to the Employee Compensation and Benefits provided by the EIX Entities are identified on Exhibit A to the Shared Services Motion.

16. On average, the Debtors have gross payroll expenses of approximately \$3.7 million per bi-weekly pay-period. The Debtors' most recent gross payrolls under the payroll cycles described above, for the dates of December 7, 2012 and November 23, 2012, were each paid in the approximate amounts of \$3.7 million and \$3.7 million, respectively.

17. The Debtors fund their payroll obligations in advance of each pay day. The EIX Entities provide payroll processing and remittance services. In the ordinary course of business, every other Thursday (in accordance with the Debtors' bi-weekly payroll periods), the Debtors pre-fund payroll and other Employee Compensation and Benefits and provide applicable schedules and payment data to the EIX Entities. The applicable EIX Entity then issues payroll checks and Direct Deposit payments and remits deductions, payroll taxes, and withholdings to applicable taxing authorities and other third-party benefit providers. In addition, the Debtors remit any "true-up" payments on account of unfunded amounts of payroll or other Employee obligations on the 23rd day of each month. Costs the EIX Entities incur while providing these payroll processing and remittance services to the Debtors, which are allocable to the Debtors (the "Allocable Costs"), are charged to the Debtors at cost plus any applicable markup mandated by the California Public Utilities Commission.⁴ Accordingly, the EIX Entities do not charge a set amount for payroll processing and remittance services.

18. In addition, the Debtors incur compensation obligations for their Supplemental Workers and the Independent Contractors in the ordinary course of business. The Debtors pay approximately \$275,000 per week to the Staffing Agencies on account of the work performed by

⁴ As noted in the Shared Services Motion, certain EIX Entities are regulated public utilities and pursuant to the affiliate transaction rules issued by the California Public Utilities Commission, when any affiliate of a regulated utility obtains the services of an employee of the regulated utility, compensation to the utility must be priced at a minimum of the greater of fully loaded cost plus 10 percent of direct labor cost (or 15 percent for executive employees), or fair market value.

the Supplemental Workers (the “Staffing Agency Fees”), and the Debtors pay approximately \$40,000 per week to the Independent Contractors on account of the work performed by the Independent Contractors (the “Independent Contractor Fees”).

19. As of the Petition Date, the Debtors estimate that approximately \$4.7 million in prepetition accrued wages, salaries, Allocable Costs, Staffing Agency Fees, Independent Contractor Fees, and other ordinary cash compensation (excluding vacation pay) earned before the Petition Date remains unpaid (the “Unpaid Compensation”).

20. By this Motion, the Debtors request authority, but not direction, to make payment of the Unpaid Compensation in the ordinary course of the Debtors’ businesses. The Debtors do not owe any Employee Unpaid Compensation in excess of the \$11,725 cap imposed by section 507(a)(4) of the Bankruptcy Code. Accordingly, the Debtors are not seeking authority to pay Unpaid Compensation that exceeds \$11,725 to any single Employee.

B. Deductions and Payroll Taxes

21. During each applicable pay-period, the Debtors routinely deduct certain amounts (collectively, the “Deductions”) from Employees’ paychecks, including, among other items, (a) union dues and union fund contributions, (b) garnishments, child support, and similar deductions, and (c) other pre-tax and after-tax deductions payable pursuant to certain of the Employee Benefit Programs discussed herein (such as an Employee’s share of health care benefits and insurance premiums, contributions under flexible spending plans, 401(k) contributions and deferred compensation contributions, legally ordered deductions, fees and assessments, and miscellaneous deductions).

22. The Debtors (through the EIX Entities in accordance with the payroll processing arrangement described above) forward the Deductions to the appropriate recipients. On average, the Debtors deduct and forward approximately \$712,000 from the Employees’ paychecks per bi-

weekly payroll period. Due to the commencement of these chapter 11 cases, however, certain funds deducted from Employees' paychecks may not have been forwarded to the EIX Entities and then to the appropriate recipients before the Petition Date. Although the Debtors do not believe there are Deductions that have not been forwarded to the EIX Entities (and then to the appropriate recipients as of the Petition Date), out of an abundance of caution, the Debtors request authority but not direction to process any unpaid Deductions that they may discover. In addition, the Debtors request authority but not direction to continue to honor and process Deductions on a postpetition basis, in the ordinary course of business, as routinely done before the Petition Date.

23. Further, the Debtors are required by law to withhold from Employees' wages and salaries amounts related to federal, state, and local income taxes, social security, and Medicare taxes for remittance to the appropriate federal, state, or local taxing authority (collectively, the "Withholdings"). The Withholdings total approximately \$830,000 per bi-weekly pay-period. The Debtors must match from their own funds social security and Medicare taxes and pay, based on a percentage of gross payroll, additional amounts for federal and state unemployment insurance (collectively, the "Employer Payroll Taxes" and, together with the Withholdings, the "Payroll Taxes"). The Payroll Taxes, including portions paid by the Debtors and portions paid by the Employees, total approximately \$1 million per bi-weekly pay-period.

24. The Debtors estimate that, as of the Petition Date, approximately \$700,000 in Payroll Taxes have not been forwarded to the appropriate taxing authorities. By this Motion, the Debtors request authority but not direction to forward any outstanding Payroll Taxes to the EIX Entities so that such amounts may be forwarded to the appropriate taxing authorities. In

addition, the Debtors seek authority to continue to honor and process the Payroll Taxes on a postpetition basis, in the ordinary course of business, as routinely done before the Petition Date.

C. Reimbursable Expenses

25. In the ordinary course of their businesses, the Debtors reimburse Employees for certain reasonable and customary expenses (the “Reimbursable Expenses”) incurred on behalf of the Debtors in the scope of their employment.⁵ The Reimbursable Expenses are paid on a bi-weekly basis to Employees and include expenses for travel, meals, parking, automobile mileage, and other business-related expenses paid directly by Employees. Employees submit expense reports for Reimbursable Expenses, which are typically processed and reimbursed within 7-10 business days.

26. Approximately 80 Employees have corporate credit cards issued by American Express (collectively, the “Amex Corporate Cards”). The Employees charge Reimbursable Expenses to the Amex Corporate Cards and then seek reimbursement from the Debtors. When the Reimbursable Expenses charged on the Amex Corporate Cards are approved, the Debtors pay American Express directly. Furthermore, as part of the Amex Corporate Cards program, the Debtors may be required to post collateral with American Express from time to time. As of the Petition Date, the Debtors believe they do not owe any amounts on account of unpaid charges to American Express for Reimbursable Expenses charged on the Amex Corporate Cards.

27. In addition, approximately 100 Employees hold corporate purchasing cards issued by an affiliate of Citibank, N.A. (collectively, the “P-Cards”). The P-Cards are used by the Employees for business-related expenses, including the payment of certain obligations that

⁵ In addition, certain reasonable and customary expenses are paid to the Temporary Agencies and the Independent Contractors as a component of the Temporary Agency Fees and the Independent Contractor Fees (respectively).

would otherwise constitute Reimbursable Expenses. The Debtors pay Citibank, N.A. directly for expenses charged on the P-Cards rather than reimbursing the Employee cardholders. As of the Petition Date, the Debtors believe approximately \$100,000 is outstanding on the P-Cards.

28. Failure to reimburse these expenses will disrupt the Debtors' business operations and cause Employees to be concerned about personal liability for business-related charges, thereby distracting the Employees from devoting full attention to their day-to-day responsibilities. In addition, failure to satisfy these Reimbursable Expenses may authorize the issuer of the Amex Corporate Cards to seek recovery directly from Employees.⁶ Accordingly, the Debtors seek authority to pay all prepetition obligations with respect to the Amex Corporate Cards and the P-Cards and to otherwise continue the Amex Corporate Card (including posting any collateral required by American Express) and the P-Card programs in the ordinary course of business.

29. As of the Petition Date, the Debtors have approximately \$12,000 in pending requests for reimbursement of Reimbursable Expenses. In addition, it is possible that certain Employees may have incurred prepetition expenses for which they have not yet submitted requests for reimbursement and will submit such requests to the Debtors after the Petition Date. The Debtors estimate that based on the \$12,000 in pending requests for Reimbursable Expenses as well as other prepetition expenses incurred but not yet submitted, as of the Petition Date they will have no more than \$50,000 in prepetition requests for Reimbursable Expenses outstanding.

⁶ Although obligations owed under the Amex Corporate Cards represent Reimbursable Expense obligations of the Debtors, the credit card accounts are issued and maintained in the names of the Employees. Therefore, to the extent that the Debtors fail to remit payments for valid and legitimate Reimbursable Expenses, the Employees' credit may be negatively impacted, and the credit-card issuer could pursue remedies against the Employee holders of the Amex Corporate Cards.

30. The Debtors request authority but not direction to (a) continue paying Reimbursable Expenses in accordance with prepetition practices, (b) modify their prepetition policies relating thereto as they deem appropriate, and (c) pay all Reimbursable Expenses that relate to the prepetition period and are submitted to the Debtors postpetition.

III. Employee Benefit Programs

31. The Debtors offer Employees the ability to participate in a number of insurance and benefits programs, including, among other programs, medical, prescription drug, dental, and vision plans, vacation time, sick leave, and other paid leaves of absence, severance, retirement savings plans, pension plans, flexible spending accounts, life insurance, comprehensive disability insurance, long term disability insurance, long term care insurance, workers' compensation insurance, business travel accident insurance, and other employee benefit plans as described below (collectively, the "Employee Benefit Programs"). By this Motion, the Debtors request authority but not direction to continue the Employee Benefit Programs on a postpetition basis, in the ordinary course of business, as routinely done before the Petition Date and to pay any prepetition amounts related thereto.

A. Health Plans

32. The Debtors and their non-Debtor subsidiaries offer their Employees the opportunity to participate in a number of health benefit plans, including medical, prescription, dental, and vision plans (collectively, the "Health Plans"). As part of the Health Plans, the Debtors and their non-Debtor subsidiaries also subsidize or continue to provide certain benefits to certain former Employees (or their survivors) after their termination, retirement, or disability leave, including (without limitation) benefits provided under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"). The Health Plans include the following:

- a. **Medical Plans.** The Debtors and their non-Debtor subsidiaries participate in medical and prescription drug benefit programs sponsored by the EIX Entities, in which approximately 904⁷ Employees and 497 former Employees participate, with a total cost of approximately \$1.6 million each month, inclusive of Employee contributions and former Employee contributions.⁸ Generally, the medical coverage provided differs, depending on how much the Employees or former Employees pay and the level of coverage these Employees or former Employees elect to receive. Monthly health care premiums differ depending on the plan in which the Employee or former Employee is enrolled and whether the Employee or former Employee has dependents covered by the applicable plan. The prescription drug coverage provides a structure under which the amount the Employee or former Employee pays (and, correspondingly, the amount paid) depends upon whether the Employee or former Employee purchases generic or brand name drugs. The primary medical plans are administered by multiple vendors including Health Net of California, Kaiser Permanente, UHC PacifiCare, and Blue Shield of California.
- b. **Dental Plans.** The Debtors and their non-Debtor subsidiaries provide dental benefits to approximately 916 Employees and 497 former Employees with a total cost of approximately \$137,000 each month, inclusive of Employee contributions and former Employee contributions.⁹ Generally, the dental plans provide benefits for preventative services, basic care, and restorative services. Dental plan benefits and participant costs differ depending on the level of coverage an Employee or former Employee elects and the number of Dependents covered. The dental plans are sponsored by the EIX Entities and are administered by Anthem Blue Cross of California Dental Net, Blue Cross Blue Shield of Illinois DentaCap (BlueCare), Delta Dental, and SafeGuard Dental.
- c. **Vision Plan.** The Debtors and their non-Debtor subsidiaries provide vision benefits to approximately 940 Employees and 515 former Employees with a total cost of \$21,000 each month. Generally, the vision plan provides benefits for annual eye exams and prescription lenses for covered Employees and former Employees and their respective

⁷ Approximately 46 of the Debtors' Employees voluntarily waive participation in the Debtors' Medical Plans, and, accordingly, receive a \$600 pre-tax credit to be applied toward other healthcare expenses. For an Employee to voluntarily waive participation in the Medical Plans, the Employee must provide the Debtors with proof of medical insurance.

⁸ The Medical Plans collectively cost the Debtors approximately \$1.2 million per month exclusive of Employee contributions and former Employee contributions. Employees and former Employees collectively contribute approximately \$391,000 per month on account of the Medical Plans.

⁹ The Dental Plans collectively cost the Debtors approximately \$106,000 per month exclusive of Employee contributions and former Employee contributions. Employees and former Employees collectively contribute approximately \$31,000.00 per month on account of the Dental Plans.

dependents. Participating Employees and former Employees pay certain set amounts for the covered services. The Vision Plan, which is sponsored by the EIX Entities and administered by VSP, is paid for in full by the Debtors as applicable to current Employees.¹⁰

33. For 2012, the Debtors estimate total expenditures for the Health Plans, net of Employee contributions and former Employee contributions, to be approximately \$670,000 per pay-period and \$16.1 million on an annualized basis. Because of the manner in which expenses are incurred and claims are processed under the Health Plans, however, it is difficult for the Debtors to determine the amount of accrued obligations under the Health Plans outstanding at any particular time. Based on historical experience, the Debtors estimate approximately \$717,000 in prepetition obligations may have accrued but have not been paid under the Health Plans.

B. Health Spending Accounts

34. The Debtors offer their Employees the ability to contribute a portion of their pre-tax compensation into health care reimbursement accounts for themselves and their respective dependents (the "Health Spending Accounts").¹¹ Approximately 231 Employees participate in the Health Spending Accounts. The Health Spending Accounts allow each Employee to contribute up to \$5,000 per year to pay for unreimbursed tax-deductible medical expenses for themselves and his or her respective dependents.¹² The Debtors deduct approximately \$318,000 per year from Employees paychecks on account of the Health Spending Accounts. The Debtors

¹⁰ Although current Employees do not contribute to the cost of the Vision Plan, former Employees contribute approximately \$2,000 each month on account of the Vision Plan. Accordingly, the Vision Plan costs the Debtors approximately \$19,000 each month exclusive of former Employee contributions.

¹¹ In the ordinary course of business, the Debtors also offer former Employees the opportunity to participate in the Health Spending Accounts through COBRA; however, as of the Petition Date, no former Employees participate in the Health Spending Accounts.

¹² Pursuant to the Affordable Care Act, beginning in 2013, individuals will be able to contribute only \$2,500 per year to the Health Spending Accounts to pay for unreimbursed tax-deductible medical expenses for themselves and their respective dependents.

do not pay any administration costs on account of the Health Spending Accounts. Accordingly, as of the Petition Date, the Debtors do not owe any amounts on account of the Health Spending Accounts.

C. Dependent Care Accounts

35. The Debtors offer their Employees the ability to contribute a portion of their pre-tax compensation into dependent care reimbursement accounts (the “Dependent Care Accounts”).¹³ Approximately 28 Employees participate in the Dependent Care Accounts. The Dependent Care Accounts allow each Employee to contribute up to \$5,000 per year to pay for childcare or elderly care.¹⁴ The Debtors deduct approximately \$100,000 per year from Employees paychecks on account of the Dependent Care Accounts. The Debtors do not pay any administration costs on account of the Dependent Care Accounts. Accordingly, as of the Petition Date, the Debtors do not owe any amounts on account of the Dependent Care Accounts.

D. Employee Assistance Program

36. The Debtors Employees participate in an EIX Entity sponsored employee assistance program (the “Employee Assistance Program”) through Horizon Health (“Horizon”), a provider of health and wellness services. These services include, among others, counseling for alcohol and drug use, anxiety and depression, career and employment, family and marriage, financial, legal, and stress issues. As a component of the Employee Assistance Program, Horizon also offers assistance with dependent care, prenatal planning, adoption preparation,

¹³ In the ordinary course of business, the Debtors also offer former Employees the opportunity to participate in the Dependent Care Accounts through COBRA. As of the Petition Date, no former Employees participate in the Dependent Care Accounts.

¹⁴ If an Employee is married, his or her spouse must also be employed or a full-time student, in order for that Employee to be eligible to participate in the Dependent Care Accounts. Furthermore, with respect to the Dependent Care Accounts as applicable to elder care, such elders must be listed as “dependents” on each participating Employees’ yearly tax return pursuant to Internal Revenue Service guidelines.

summer care, emergency care, school profiling, college planning, and temporary or specialized care for dependents of all ages and provides assistance with personal issues including pet services and health and wellness resources. The costs to administer the Employee Assistance Program are included in the amounts the Debtors pay on behalf of the Health Plans. As of the Petition Date, the Debtors do not owe Horizon any amounts on account of the Employee Assistance Program.

E. Disability Programs, Workers' Compensation, and Other Insurance Programs

1. Comprehensive Disability Plan

37. The Debtors provide Employees with a comprehensive disability plan (the "Comprehensive Disability Plan") administered by Sedgwick Claims Management Services, Inc. ("Sedgwick"). The Comprehensive Disability Plan is offered to Employees who choose not to purchase or participate in California state disability insurance and protects against loss of income from disability. Should a participating Employee be unable to earn income due to disability, that Employee would be able to receive between 40 and 100 percent of pay under the Comprehensive Disability Plan. Approximately 926 of the Debtors' Employees are enrolled in the Comprehensive Disability Plan. Union Employees who elect to participate in the Comprehensive Disability Plan contribute approximately 40 percent of the premiums from post-tax earnings in exchange for this coverage, with the Debtors paying the remaining 60 percent of these premiums on account of the Union Employees. Non-union and executive Employees who elect to participate in the Comprehensive Disability Plan contribute approximately 31 percent of the premiums from post-tax earnings in exchange for this coverage, with the Debtors paying the remaining 69 percent. The Debtors' total monthly cost to provide the Comprehensive Disability Plan is approximately \$148,000, approximately \$44,000 of which is funded through Deductions

from participating Employees, with the remaining \$104,000 being paid for by the Debtors. As of the Petition Date, the Debtors believe they owe approximately \$111,000 on account of the Comprehensive Disability Plan.

2. Long-Term Disability Plan

38. The Debtors provide Employees with a long-term disability plan (the “Long-Term Disability Plan”) administered by Sedgwick. The benefits under the Long-Term Disability Plan become payable if an Employee cannot perform his or her job with the Debtors for a period of two years. Approximately 402 of the Debtors’ Employees are enrolled in the Long-Term Disability Plan. Employees who participate in the Long-Term Disability Plan can select coverage at a level equal to 50 percent, 60 percent, or 70 percent of their base pay. The Debtors target a 60 percent coverage level for Employees participating in the Long-Term Disability Plan and cover the entire cost of the Long-Term Disability Plan for Employees who select this 60 percent coverage level.¹⁵ The total monthly cost to provide the Long-Term Disability Plan is approximately \$78,000, approximately \$5,000 of which is funded by Deductions from participating Employees, with the remaining \$73,000 being paid for by the Debtors. As of the Petition Date, the Debtors believe they owe approximately \$39,000 on account of the Long-Term Disability Plan.

3. Workers’ Compensation

39. The Debtors maintain workers’ compensation insurance for Employees at the statutorily required level in each state in which the Debtors conduct business (the “Workers’ Compensation”). The Debtors’ Workers’ Compensation insurance is currently provided by

¹⁵ Employees who select the 50 percent coverage level are credited an amount equal to the ten percent difference between coverage at the 60 percent level and the 50 percent level, and this amount is deposited in the Employee’s Health Spending Account. Employees who select coverage at the 70 percent level pay the ten percent difference between coverage at the 60 percent level and coverage at the 70 percent level with either a deduction from their Health Spending Account or from other wage or salary amounts on a pre-tax basis.

affiliates of the American International Group, Inc. (“AIG”) and Travelers Indemnity Corp. (“Travelers”), with claims administered by Constitution State Services (“CSS”), an affiliate of Travelers.¹⁶ For 2012, the Debtors’ total annual premium for the Workers’ Compensation is approximately \$534,000, which covers a policy period from November 1, 2012 through October 31, 2013, and was paid in full on November 30, 2012 by the Debtors through the EIX Entities. In addition to the annual premium for the Workers’ Compensation, the Debtors (through the EIX Entities) pay Travelers approximately \$19,250 in administration fees each quarter. Workers’ Compensation coverage is subject to a \$1 million deductible, applicable to each and every claim, with the Debtors being required to fund losses incurred up to that \$1 million threshold. Under the Workers’ Compensation program, CSS administers claims and the Debtors (through the EIX Entities) reimburse Travelers up to the \$1 million deductible limit. Although the monthly reimbursement paid to Travelers on account of the Workers’ Compensation varies from month to month, the average monthly reimbursement on account of the Workers’ Compensation is approximately \$192,400.

40. To ensure that the Debtors comply with applicable workers’ compensation laws and requirements, claim assessment, determination, adjudication, and payment must continue without regard to whether such liabilities are outstanding before the Petition Date.¹⁷ The Debtors are currently unaware of any existing claims for Workers’ Compensation not yet asserted against

¹⁶ In certain states where the Debtors maintain the Workers’ Compensation, the Workers’ Compensation is maintained with affiliates of AIG and Travelers through the EIX Entities, whereas in other states the Workers’ Compensation is maintained by the Debtors directly with affiliates of AIG and Travelers.

¹⁷ Certain of the Debtors’ Workers’ Compensation may change postpetition in the ordinary course of business due to changes in applicable laws and regulations and the Debtors’ ability to meet requirements thereunder. By this Motion, the Debtors request authority to continue the Workers’ Compensation postpetition, including making any changes to current policies and practices that become necessary.

the Debtors. As of the Petition Date, the Debtors believe they owe approximately \$19,240 in accrued administrative fees and loss payments on account of the Workers' Compensation.

4. Business Travel Accident Insurance

41. The Debtors provide non-union and salaried Employees with business travel accident insurance (the "BTA Insurance") through CIGNA at no cost to eligible Employees. The BTA Insurance provides coverage equal to two times an Employee's base pay (up to a maximum of \$300,000) if the Employee dies or suffers certain physical losses due to an accident while traveling on business for the Debtors. The BTA Insurance costs the Debtors approximately \$2,260 per year and is paid two years in advance. Accordingly, as of the Petition Date, the Debtors do not believe they owe any amounts on account of the BTA Insurance.

5. Employee and Dependent Life Insurance

42. The Debtors offer Employees and former Employees (and their respective dependents) the option of purchasing (on a pre-tax basis) life insurance (the "Life Insurance"), which is administered by the EIX Entities through Northern Trust Company and provided by Aetna U.S. Healthcare and Prudential Life Insurance Company. Approximately 941 Employees¹⁸ and 503 former Employees are enrolled in the Life Insurance program and contribute 100 percent of the premiums in exchange for this coverage. The total monthly cost to provide the Life Insurance is approximately \$49,000, approximately \$36,100 of which is funded by Deductions from participating Employees and pre-tax contributions from former Employees, with the remaining \$12,900 being paid by the Debtors. As of the Petition Date, the Debtors believe they owe approximately \$7,700 on account of the Life Insurance.

¹⁸ Additionally, 500 of these 941 Employees also purchase Life Insurance for their dependents.

6. Accidental Death and Dismemberment Insurance

43. In addition to the Life Insurance, the Debtors also offer Employees the option of purchasing, on a pre-tax basis, accidental death and dismemberment insurance (the “AD&D Insurance”) administered by CIGNA. Approximately 941 Employees are enrolled in the AD&D Insurance. The total monthly cost to provide the AD&D Insurance is approximately \$11,000, approximately \$6,700 of which is funded by Deductions from participating Employees, with the remaining \$4,300 being paid by the Debtors. As of the Petition Date, the Debtors believe they owe approximately \$2,300 on account of the AD&D Insurance.

7. Long-Term Care Insurance Program

44. In addition to the Life Insurance and the AD&D Insurance, the Debtors offer Employees and former Employees (and their respective dependents) the option of participating in a long-term care insurance program (the “Long-Term Care”), provided directly by Metropolitan Life Insurance Company. The Long-Term Care pays for benefits, such as nursing home care, assisted living facilities, and home health care services, when a covered person cannot perform certain activities of daily living because of illness, injury, or aging. Approximately 12 Employees and former Employees (and their respective dependents) are enrolled and contribute 100 percent of the premiums in exchange for this coverage. There is no monthly cost to the Debtors for providing the Long-Term Care.

45. Because the participating Employees (or former Employees) pay 100 percent of the premiums on account of the Long-Term Care, the Debtors are not seeking any relief with respect to the Long-Term Care, but instead are simply disclosing the Long-Term Care as a program the Debtors will continue to administer during these chapter 11 cases.

F. Vacation, Severance, and Paid Time Off

1. Vacation

46. The Debtors provide vacation time to their Employees as a paid time-off benefit (the “Vacation Time”). Vacation Time is accrued on a per-pay-period basis, based on length of service. Vacation Time may be rolled over from year-to-year and Employees are also permitted to “buy” up to 40 hours of additional Vacation Time during the annual open enrollment period for benefits. The purchase price of the Vacation Time is based on each Employee’s hourly pay rate and is deducted from that Employee’s paycheck on a pre-tax basis.

47. When Vacation Time is used, Employees are paid at their regular salaried or hourly rates. Vacation Time obligations of the Debtors are generally satisfied by Employees’ using Vacation Time during the course of their employment. Employees are also permitted to “cash out” up to five days of accrued Vacation Time per year and all accrued Vacation Time upon termination or retirement. The CBA and Contract Extension govern Vacation Time benefits as applied to union Employees.

48. As of the Petition Date, the Debtors estimate that approximately \$5.4 million in earned but unused Vacation Time has accrued (the “Unpaid Vacation”). This amount, however, is non-current cash payment obligation, since Employees are only entitled to cash payment for accrued and unused Vacation Time in the event an Employee leaves the Debtors’ employment or otherwise cashes out accrued Vacation Time. Moreover, the Debtors anticipate that their Employees will utilize any accrued Vacation Time in the ordinary course of business, which will not create any material cash flow requirements beyond the Debtors’ normal payroll obligations.

2. Severance¹⁹

49. The Debtors offer severance to certain executive Employees and non-union Employees in the event of involuntary termination (the “Severance Program”). Under the Severance Program, eligible employees are entitled to cash payments plus the continuation of certain benefits (including certain ancillary benefits such as outplacement assistance). Specifically, in the event of involuntary termination, an executive Employee is generally entitled to a lump sum cash payment in an amount based on such Employee’s annual salary at the time of termination and a pro-rata portion of such Employee’s annual bonus, plus the continuation of certain benefits. A non-union, non-executive Employee is entitled to a lump sum cash payment, based on that Employee’s service with the Debtors, not to exceed 52 weeks of base pay, plus the continuation of certain benefits. Severance is not generally available to union Employees; however, if Severance is provided to any union Employee, payments are governed by the Memorandum of Understanding (the “MOU”) executed by Debtor Midwest Generation, LLC and IBEW Local 15, dated July 11, 2012.²⁰ As of the Petition Date, the Debtors’ do not owe any amounts on account of the Severance Program.

3. Paid Time Off

50. In addition to Vacation Time, the Debtors pay employees for certain time not worked (the “Paid Time Off”). The Debtors’ Paid Time Off policies are intended to address personal and family emergencies and other Employee obligations outside work. Paid Time Off is offered in certain circumstances, including:

- a. jury duty;

¹⁹ By this Motion, the Debtors do not seek relief related to the Severance Program for any “insider,” as such term is defined in section 101(31) of the Bankruptcy Code.

²⁰ Debtor Midwest Generation, LLC and IBEW Local 15 entered into the MOU in consideration of the Debtors’ retirement of the Crawford and Fisk power generating facilities and the accompanying reductions in force.

- b. testifying as a subpoenaed witness in a matter involving the Debtors or a governmental body;
- c. voting, limited to two hours per election;
- d. military leaves of absence;
- e. medical and dental appointments;
- f. personal illness and illness in the immediate family
- g. death in the immediate family, limited to 24 hours or three work days; and
- h. attending the funeral of a fellow Employee.

51. In addition, union Employees are provided with certain additional Paid Time Off, as required under the CBA and the Contract Extension. The Paid Time Off costs the Debtors approximately \$259,000 on an annualized basis.

G. Employee Savings and Retirement Plans

1. Qualified Defined Contribution 401(k) Plan

52. All of the Debtors' Employees may enroll in a 401(k) savings plan sponsored by the EIX Entities (the "401(k) Plan"), through which Employees may contribute amounts to the 401(k) Plan up to the annual Internal Revenue Service ("IRS") limits for contributions and eligible compensation (the "Employee 401(k) Contributions"). The Debtors match 100 percent of the Employee 401(k) Contributions up to six percent of each Employee's base pay (the "401(k) Matching"). Furthermore, the Debtors' executive and non-union Employees are eligible to participate in a profit sharing portion of the 401(k) Plan, for which the Debtors (i) contribute three percent of each Employee's applicable earnings each pay-period (the "Fixed 401(k) Profit Sharing") and (ii) a zero to seven percent contribution of that Employee's base salary once per year based on corporate performance, subject to IRS regulation limits (the "Variable 401(k) Profit Sharing").

53. Each pay-period the Debtors withhold approximately \$332,000 in Employee 401(k) Contributions and forward this amount to the EIX Entities, who send the 401(k) Contributions to State Street Bank and Trust Co. ("State Street"), the trustee of the 401(k) Plan. Further, each pay-period, the Debtors contribute approximately \$198,000 to the 401(k) Plan on account of 401(k) Matching.

54. In addition, the Debtors accrue approximately \$54,000 in contributions on account of the Fixed 401(k) Profit Sharing each pay-period, which amounts are remitted to State Street through the EIX Entities after each pay-period. The Debtors also accrue approximately \$72,000 each pay-period on behalf of the Variable Profit Sharing, which accrues throughout the year at a target of four percent of participating Employees' base salaries before being trued up to zero to seven percent of participating Employees' base salaries and funded to the 401(k) Plan through the EIX Entities. As of the Petition Date, the Debtors believe that approximately \$58,000 on account of Employee 401(k) Contributions, 401(k) Matching, Fixed 401(k) Profit Sharing, and Variable 401(k) Profit Sharing remain unpaid.

2. Defined Benefit Pension Plans

55. EIX sponsors and maintains a qualified noncontributory defined benefit pension plan (the "Midwest Gen Bargaining Unit Plan") for union Employees employed by Debtor Midwest Generation, LLC in accordance with the CBA and the Contract Extension. The Midwest Gen Bargaining Unit Plan is administered by Xerox ACS and Hewitt Associates LLC (d/b/a Aon Hewitt) ("Aon Hewitt") acts as the actuary. The Midwest Gen Bargaining Unit Plan is funded by the Debtors pursuant to the CBA and the Contract Extension. The expected contribution by the Debtors to the Midwest Gen Bargaining Unit Plan for 2012 is \$13.16 million. As of the Petition Date, the Debtors believe they owe approximately \$2.25 million in

contributions and \$59,000 in administrative fees on account of the Midwest Gen Bargaining Unit Plan for 2012.²¹

56. In addition, certain of the Debtors' non-union, non-executive Employees are eligible to participate in a qualified noncontributory defined benefit pension plan maintained by the EIX Entities (the "Retirement Plan"). The Retirement Plan is administered by Xerox ACS and Aon Hewitt acts as the actuary. The expected contribution by the Debtors on account of the Retirement Plan is approximately \$4.1 million for 2012. As of the Petition Date, the Debtors do not owe any contributions or administrative fees on account of the Retirement Plan for 2012.

57. Furthermore, 66 of the Debtors' current and former executive Employees are eligible to participate in a non-qualified noncontributory defined benefit pension plan maintained by the EIX Entities (the "Executive Retirement Plan"). The Executive Retirement Plan is administered by Xerox ACS and Aon Hewitt acts as the actuary. The collective expected contribution by the Debtors and their non-Debtor affiliates on account of the Executive Retirement Plan is approximately \$2.2 million for 2012. As of the Petition Date, the Debtors do not owe any contributions or administrative fees on account of the Executive Retirement Plan for 2012.

3. Non-Qualified Deferred Compensation Plan

58. The Debtors provide access to a non-qualified deferred compensation plan sponsored by the EIX Entities (the "Deferred Compensation Plan") to certain executive Employees (a) designated as eligible to participate in the Deferred Compensation Plan and

²¹ In the ordinary course of business, payments by the Debtors to the Midwest Gen Bargaining Unit Plan do not regularly accrue. Rather, the Debtors make quarterly payments of a predetermined plan year contribution amount to the Midwest Gen Bargaining Unit Plan. On October 15, 2012, the Debtors made a payment of \$3.29 million on account of the Midwest Gen Bargaining Unit Plan, and the Debtors' next and last regularly scheduled payment on account of the Midwest Gen Bargaining Unit Plan for the 2012 plan year is on January 15, 2013 in an amount of \$3.29 million. The portion of this \$3.29 million liability attributable to the time elapsed between the October 15, 2012 payment and the Petition Date is approximately \$2.25 million.

(b) who qualify as members of a “select group of management or highly compensated employees” under the Employee Retirement Income Security Act (“ERISA”). The Deferred Compensation Plan is intended to allow retirement benefits for participants whose participation in the 401(k) Plan is limited because of certain IRS regulations. Under the Deferred Compensation Plan, participating executive Employees are permitted to defer payment of their salary, with the Debtors matching deferrals at 100 percent of the deferred amount, up to six percent of a participating executive Employee’s salary. In addition, under the Deferred Compensation Plan, participating executive Employees are permitted to defer payment of any cash bonus they may earn pursuant to an incentive plan maintained by the Debtors, with the Debtors matching deferrals at 100 percent of this deferred amount, up to six percent of a participating executive Employee’s bonus. Each participating executive Employee’s deferred compensation amount, along with any matching contributions made by the Debtors, is placed into a separate notional account²² for the benefit of the Employee and disbursements from this account are made to the participating executive Employee upon such Employee’s termination of employment with the Debtors as elected by the participating executive Employee.

59. Approximately 31 executive Employees participate in the Deferred Compensation Plan, which has assets of approximately \$10.5 million.²³ Additionally, 22 former Employees are currently receiving payments in accordance with the Deferred Compensation Plan, who, collectively, have contributed \$7 million to the Deferred Compensation Plan.²⁴

²² “Notional accounts” are financial statement accounting entries used to track assets or liabilities.

²³ Three former Employees of the Debtors participating in the Deferred Compensation Plan are not yet receiving distributions under the Deferred Compensation Plan.

²⁴ Subject to entry of the Final Order only, the Debtors seek authority but not direction to continue to honor their obligations under the Deferred Compensation Plan in the ordinary course of business. The Debtors are not seeking interim approval of the Deferred Compensation Plan or interim authority to make any payments under the program.

H. Employee Recognition Programs

1. Safety Award Program

60. The Debtors offer a safety award program to union and non-union Employees at the Debtors' generating facilities (the "Safety Award Program"). The Safety Award Program operates on a generating facility by generating facility basis, and provides for all eligible participating Employees to receive a \$75 cash bonus if that generating facility is without safety issues for a 90-day period. In 2011, the Debtors paid approximately \$186,000 on account of the Safety Award Program. As of the Petition Date, the Debtors have paid approximately \$157,900 on account of the Safety Award Program during 2012 and believe approximately \$2,200 is currently outstanding to Employees under the Safety Award Program.

2. Service Award Program

61. The Debtors offer non-cash service awards (the "Service Awards") at an Employee's first and fifth anniversaries of employment as well as every fifth anniversary of employment thereafter. All Employees receive the same Service Award on their first anniversary of Employment. On each Employee's fifth anniversary of employment and subsequent five-year anniversaries of employment, each eligible Employee has the option of choosing from a selection of Service Awards, which differ from one another based on the eligible Employee's years of employment with the Debtors. The Debtors pay the providers of the Service Awards directly for the eligible Employee's Service Award selection. Historically, the Debtors pay third party providers approximately \$141,000 per year on account of the Service Awards.

3. Welder Award Program

62. In accordance with the CBA and the Contract Extension, the Debtors offer approximately 30 union Employees who are certified by the American Welding Society (each

a “Welder” and collectively, the “Welders”) the ability to earn cash incentive payment awards (the “Welder Awards”). To be eligible to receive a Welder Bonus, each Welder must maintain his or her certification with the American Welding Society for the entire calendar year. The Welder Awards are cash payments of \$1,500 per award. In 2011, the Welders earned \$45,000 in Welder Awards, which were paid in January 2012. As of the Petition Date, the Debtors have paid \$10,500 on account of Welder Awards earned in 2012. Further, the Debtors estimate that \$37,500 in Welder Awards will have been earned by the end of 2012 and will become payable in January 2013.

I. Other Benefit Programs

63. The Debtors provide a myriad of other miscellaneous benefits to Employees including but not limited to an employee education program, a relocation program, and a transportation program (collectively, the “Other Benefit Programs”).

1. Employee Education Program

64. The Debtors reimburse certain educational expenses of their Employees and former Employees for participating in certain degreed programs up to \$10,000 (the “Employee Education Program”). For an Employee to be eligible for the Employee Education Program, the Employee’s manager or other supervisor must determine that the requested program will help the Employee to acquire skills that will assist him or her in his or her work with the Debtors. In 2011, the Debtors spent approximately \$124,000 on the Employee Education Program. The Debtors estimate that they will spend approximately \$138,000 on the Employee Education Program in 2012. As of the Petition Date, the Debtors believe they owe approximately \$8,000 on account of the Employee Education Program.

2. Relocation Program

65. The Debtors provide their Employees with various levels of relocation assistance depending on an Employee's level of compensation (the "Relocation Program"). Specifically, the Relocation Program provides eligible Employees with home sale assistance, home finding and temporary living assistance, home purchase assistance, rental assistance, moving and household transportation assistance, and employee and family transition assistance. In 2011, the Debtors spent approximately \$680,000 on account of the Relocation Program. In 2012 the Debtors estimate they will spend approximately \$202,000 on account of the Relocation Program. As of the Petition Date, the Debtors do not believe they owe any amounts on account of the Relocation Program.

3. Transportation Program

66. The Debtors provide certain Employees access to up to \$115 per month in tax-free transit vouchers for use on public transportation (the "Transportation Program"). In 2011, the Debtors spent approximately \$17,000 on account of the Transportation Program. In 2012 the Debtors expect to spend approximately \$12,000 on account of the Transportation Program. As of the Petition Date, the Debtors do not believe they owe anything on account of the Transportation Program.

Basis for Relief

67. It is imperative that the Debtors continue to honor the Employee Compensation and Benefits obligations to ensure the uninterrupted operation of the Debtors' business, prevent undue harm to the Debtors' Employees, and maximize the value of the Debtors' estates. As detailed herein, in accordance with section 363(c) and section 1108 of the Bankruptcy Code, the Debtors may honor Employee Compensation and Benefits postpetition in the ordinary course of business. Furthermore, even if honoring the Employee Compensation and Benefits obligations

were outside the ordinary course of business, doing so would be a sound exercise of the Debtors' business judgment under section 363(b) of the Bankruptcy Code.

68. In addition, certain of the Employee Compensation and Benefits are entitled to priority treatment pursuant to section 507(a)(4) and section 507(a)(5) of the Bankruptcy Code, the Debtors are required by applicable state and federal law to maintain certain Employee Compensation and Benefits, and honoring the Employee Compensation and Benefits does not violate section 503 of the Bankruptcy Code. For all of these reasons, discussed in detail below, this Motion should be granted.

I. The Debtors May Honor Employee Compensation and Benefits Obligations in the Ordinary Course of Business.

69. The ability to compensate employees in the ordinary course of business is critical to the Debtors' reorganization efforts and consistent with sections 363(c) and 1108 of the Bankruptcy Code which, together, authorize the continued operation of a business in the ordinary course by chapter 11 debtors. See 11 U.S.C. § 363(c)(1) (providing that, so long as "the business of the debtor is authorized to be operated under [section 1108 of the Bankruptcy Code] and unless the court orders otherwise, the trustee may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of business, without notice or a hearing"); 11 U.S.C. § 1108 (debtor in possession, as trustee, may operate the debtor's business unless a court orders otherwise). Accordingly, sufficient cause exists to allow the Debtors to continue honoring Employee Compensation and Benefits in the ordinary course of business.

II. Payment of the Employee Compensation and Benefits Is a Sound Exercise of the Debtors' Business Judgment and in the Best Interest of the Debtors' Estates.

A. Payment of Employee Compensation and Benefits to Employees Is a Sound Exercise of the Debtors' Business Judgment.

70. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, debtors in possession are fiduciaries “holding the bankruptcy estate[s] and operating the business[es] for the benefit of [their] creditors and (if the value justifies) equity owners.” In re CoServ, L.L.C., 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002). Consistent with the debtor’s fiduciary duties, courts have also authorized payment of prepetition obligations under section 363(b) of the Bankruptcy Code where a sound business purpose exists for doing so. See Fulton State Bank v. Schipper (In re Schipper), 933 F.2d 513, 515 (7th Cir. 1991) (noting that a debtor may sell property outside the ordinary course of business if it can provide “articulated business justification”) (internal citations omitted); see also Armstrong World Indus., Inc. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.), 29 B.R. 391, 397 (S.D.N.Y. 1983) (relying on section 363 to allow contractor to pay prepetition claims of suppliers who were potential lien claimants because the payments were necessary for general contractors to release funds owed to debtors). Specifically, once a debtor articulates a valid business justification for a particular form of relief, the court reviews the debtor’s request under the business judgment rule. See In re Commercial Mortg. and Fin. Co., 414 B.R. 389, 394 (Bankr. N.D. Ill. 2009) (noting that a debtor in possession “has the discretionary authority to exercise his business judgment in operating the debtor’s business similar to the discretionary authority to exercise business judgment given to an officer or director of a corporation.”). The business judgment rule is a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the company. See In re Abbott Labs. Derivative S’holders Litig., 325 F.3d 795, 807 (7th Cir. 2003). Consequently, a debtor’s

business decision “should be approved by the court unless it is shown to be ‘so manifestly unreasonable that it could not be based upon sound business judgment, but only on bad faith, whim, or caprice.’” In re Aerovox, Inc., 269 B.R. 74, 80 (Bankr. D. Mass. 2001) (quoting In re Logical Software, Inc., 66 B.R. 683, 686 (Bankr. D. Mass. 1986) (citations omitted)).

71. Indeed, where debtors have shown that the payment of prepetition claims is critical to the success of their chapter 11 cases, courts in this District and others have authorized debtors to pay prepetition employee obligations. See, e.g., In re Corus Bankshares, Inc., No. 10-26881 (PSH) (Bankr. N.D. Ill. June 16, 2010) (authorizing debtors to pay prepetition wages under section 363(b)); In re Kimball Hill, Inc., No. 08-10095 (SPS) (Bankr. N.D. Ill. Apr. 25, 2008) (same); In re Neumann Homes, Inc., No. 07-20412 (ERW) (Bankr. N.D. Ill. Nov. 21, 2007) (same); In re Enesco Grp., Inc., No. 07-00565 (ABG) (Bankr. N.D. Ill. Jan. 12, 2007) (same); In re SWOC Liquidating Corp. (f/k/a Serv. Web Offset Corp.), No. 06-16700 (CAD) (Bankr. N.D. Ill. Dec. 21, 2006) (same); In re Glazed Invs., LLC, No. 06-00932 (PSH) (Bankr. N.D. Ill. Feb. 7, 2006); In re McLeodUSA Inc., No. 05-63230 (JHS) (Bank. N.D. Ill. Oct. 31, 2005) (same); In re JII Liquidating Inc. (f/k/a Jernberg Indus., Inc.), No. 05-25909 (JHS) (Bankr. N.D. Ill. June 30, 2005) (same); In re UAL Corp., No. 02-48191 (Bankr. N.D. Ill. Dec. 10, 2002).²⁵

72. The importance of the relief sought in this Motion cannot be overstated. The majority of the Debtors’ Employees rely exclusively on their compensation, benefits and reimbursement of their expenses to continue to pay their daily living expenses. Thus, these Employees will be exposed to significant hardship if the Debtors are not permitted to honor obligations for the Employee Compensation and Benefits. Failure to honor such obligations will

²⁵ Because of the voluminous nature of the orders cited herein, such orders have not been attached to the Motion. Copies of these orders are available upon request to the Debtors’ proposed counsel.

not only jeopardize Employee morale and loyalty, but also likely cause certain Employees to seek alternate employment at a time when their support is crucial.

73. Similarly, if the Debtors are not authorized to honor their various obligations under the Health Plans their Employees rely upon to cover health and medical coverage costs, many of the Debtors' Employees will not be reimbursed or have their benefits claims paid. In addition, certain Employees may become primarily obligated for the payment of these claims in cases where health care providers have not been reimbursed and may face termination of health services. The Debtors believe Employee uncertainty regarding the continuation of medical coverage will cause significant anxiety at a time when the Debtors need their Employees to perform their jobs at peak efficiency.

74. For all of these reasons, honoring prepetition obligations for Employee Compensation and Benefits will benefit the Debtors' estates and their creditors by allowing the Debtors' business operations to continue without interruption. The Debtors believe that, absent the requested relief, Employees are likely to seek alternative employment opportunities, perhaps with the Debtors' competitors. Losing Employees would severely hamper the Debtors' ability to continue operating and meet their customer obligations and, almost certainly, diminish stakeholder confidence in the Debtors' ability to successfully reorganize. Indeed, the resulting loss of institutional knowledge and the need to identify and recruit new employees would be distracting at this critical time when stabilizing operations and transitioning operations under chapter 11 are essential. It is therefore a sound business decision to continue to pay these obligations in the ordinary course. Moreover, as further detailed below, prepetition claims for wages, salaries, vacation, and sick leave, as well as contributions to employee benefit plans are entitled to priority status under the Bankruptcy Code, so payment of these prepetition claims

does not constitute preferential treatment. Accordingly, it is in the best interest of the Debtors' estate, and a reasonable exercise of the Debtors' business judgment, to pay such claims in the ordinary course of business during these chapter 11 cases.

B. Payment of Employee Compensation and Benefits to Former Employees Is a Sound Exercise of the Debtors' Business Judgment.

75. The Debtors further submit that continuing the obligations arising under the Employee Benefit Programs for the Debtors' former Employees is a sound business decision and vital to ongoing operations. Extending the applicable Employee Benefit Programs to former Employees reassures Employees that should their employment with the Debtors end during the course of Debtors' chapter 11 cases, they will continue to be provided with among other things, health care coverage and insurance. Indeed, the Debtors believe that without the requested relief, their Employees may seek alternative opportunities, perhaps with the Debtors' competitors. Such a development would deplete the Debtors' workforce, hindering the Debtors' ability to meet their customer obligations. The loss of valuable Employees and the resulting need to recruit new personnel would be distracting and counterproductive at this critical time, during which the Debtors are stabilizing and ultimately restructuring their operations in chapter 11. Further, if the Debtors lose valuable Employees, they will incur recruiting expenses in locating replacements. Accordingly, it is imperative for the Debtors to retain their workforce by, among other things, continuing to honor all Employee Compensation and Benefits including those to former Employees.

C. Certain of the Employee Compensation and Benefits Obligations Are Entitled to Priority Treatment.

76. Sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code accord priority status to claims for up to \$11,725 per individual for prepetition wages, salaries, vacation, and sick leave, as well as claims for contributions to employee benefit plans. Because such claims are priority

claims, the Debtors are required to pay them in full to confirm a chapter 11 plan. See 11 U.S.C. § 1129(a)(9)(B) (requiring payment of certain allowed unsecured claims for wages, salaries, and commissions for contributions to an employee benefit plan). Indeed, the Debtors believe the significant majority of the prepetition wages and other employee claims they seek to pay are entitled to priority treatment to the extent of \$11,725 for each individual Employee under sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code. Thus, granting the relief sought herein would affect only the timing of these payments, would not result in Employees receiving amounts to which they will not be ultimately entitled, and will not negatively affect recoveries for general unsecured creditors. Further, any amounts due by the Debtors over \$11,725 on account of Employee Compensation and Benefits obligations, such as Vacation Time, do not result in cash outlays in the ordinary course of business. Accordingly, the amount by which these claims exceed \$11,725 per individual, while not insignificant, pales in comparison with the value the Employees will provide to the Debtors' reorganization efforts.

77. Moreover, the Debtors submit that payment of Employee Compensation and Benefits obligations, at this time, enhances value for the benefit of all interested parties. Finding, attracting, and training new qualified employee talent would be extremely difficult and would distract the Debtors from their primary focus of restructuring their businesses in chapter 11.

D. Payment of Certain of the Employee Compensation and Benefits Is Required by Law.

1. Payment of Payroll Taxes and Employer Payroll Taxes Is Required by State and Federal Law.

78. Additionally, as part of the relief requested herein, the Debtors seek authority to remit the Deductions and the Payroll Taxes to the appropriate entities.²⁶ The Deductions and Payroll Taxes represent Employee earnings that governments (in the case of taxes), Employees (in the case of voluntarily withheld amounts), and judicial authorities (in the case of involuntarily withheld amounts) designate for deduction from Employees' paychecks.

79. Notably, federal and state laws require the Debtors and their officers to turn over certain tax amounts that have been withheld from their Employees' paychecks. 26 U.S.C. §§ 6672 and 7501(a); see also DuCharmes & Co. v. State of Mich. (In re DuCharmes & Co.), 852 F.2d 194, 196 (6th Cir. 1988) (noting individual officers of a company may be held personally liable for failure to pay trust fund taxes). Moreover, the Debtors do not believe that the amounts designated to be paid on account of the Deductions and Payroll Taxes are property of the Debtors' estates under section 541 of the Bankruptcy Code. See City of Farrell v. Sharon Steel Corp., 41 F.3d 92, 95-97 (3d Cir. 1994) (state law requiring debtor to withhold city income tax from its employees' wages created trust relationship between debtor and city for payment of withheld income taxes). Because the Deductions and Payroll Taxes are not property of the Debtors' estates, these amounts are not subject to the normal bankruptcy prohibitions against payment. Old Republic Nat'l Title Ins. Co. v. Tyler (In re Dameron), 155 F.3d 718, 721 (4th Cir. 1998). The Debtors therefore request that the Court confirm such Deductions and Payroll Taxes

²⁶ Contemporaneously herewith, the Debtors filed *Debtors' Motion to Pay Certain Taxes and Fees*, which among other things, seeks authority to pay certain prepetition "trust fund" taxes but not the prepetition Payroll Taxes, which the Debtors request authority to pay by this Motion.

are not property of the Debtors' estates and that the Debtors may transmit the Deductions and Payroll Taxes to the proper parties in the ordinary course of business.

2. Payment of Workers' Compensation Is Required by State Law.

80. Similarly, pursuant to state laws, the Debtors must maintain the Workers' Compensation to ensure prompt and efficient payment of applicable claims. If the Debtors fail to maintain the Workers' Compensation, they may be prohibited by state law from operating in those states without making significant adjustments. Payment of all amounts due under Workers' Compensation, therefore, is crucial to the continued operation of the Debtors' business, and is a sound exercise of the Debtors' business judgment.

The Requirements of Bankruptcy Rule 6003 are Satisfied

81. Under Bankruptcy Rule 6003, the Court may grant the relief requested in this Motion because such relief is necessary to avoid immediate and irreparable harm. FED. R. BANKR. P. 6003.

82. As described above, failure to satisfy obligations with respect to the Employees in the ordinary course will jeopardize the loyalty and trust of the Employees. Certain of the Employees may leave and thereby cause serious disruption to the Debtors' business operations during this critical period when the Debtors need the continued support of their Employees to allow for a successful reorganization. Moreover, the vast majority of the Debtors' Employees rely exclusively on their compensation, benefits, and reimbursement of their expenses to continue to pay their daily living expenses, and these Employees will be exposed to significant hardship if the Debtors cannot pay the Employees in the ordinary course of business. Accordingly, the Debtors submit that cause exists to support immediate payment of the Employee Compensation and Benefits under Bankruptcy Rule 6003.

Satisfaction of Bankruptcy Rule 6004(a) and Waiver of Bankruptcy Rule 6004(h)

83. To implement the foregoing successfully, the Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

Notice

84. The Debtors have provided notice of this Motion to: (a) the Office of the U.S. Trustee for the Northern District of Illinois; (b) the entities listed on the Consolidated List of Creditors Holding the 30 Largest Unsecured Claims; (c) the indenture trustee for the Debtors' senior unsecured notes; (d) counsel to the ad hoc committee of certain holders of the Debtors' senior unsecured notes; (e) the indenture trustee for the lessor notes related to the Debtors' Powerton generating station in Pekin, Illinois, and units 7 and 8 of the Debtors' Joliet, Illinois, generating station and the pass-through trustee for the related pass-through certificates; (f) counsel to the ad hoc committee of certain holders of pass-through certificates related to the Debtors' Powerton and Joliet generating stations; (g) the owner trusts and the equity investors for the Debtors' Powerton and Joliet generating stations (and their respective counsel, if known); (h) the lender under Debtor Edison Mission Energy's letter-of-credit facility; (i) the state attorneys general for states in which the Debtors conduct business; (j) United States Attorney for the Northern District of Illinois; (k) the Internal Revenue Service; (l) the Securities and Exchange Commission; and (m) the Environmental Protection Agency and similar state environmental agencies for states in which the Debtors conduct business. In light of the nature of the relief requested herein, the Debtors respectfully submit that no further notice is necessary.

No Prior Request

85. No prior request for the relief sought in this Motion has been made to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court enter interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, granting the relief requested herein and such other and further relief as the Court deems appropriate.

Dated: December 17, 2012

/s/ David R. Seligman, P.C.

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- and -

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*Proposed Counsel to Debtor Camino Energy Company
and Conflicts Counsel to the other Debtors
and Debtors in Possession*

Exhibit A

Proposed Interim Order

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
Eastern Division

In Re:) BK No.: 12-49219
EDISON MISSION ENERGY, et al.,)
)
) Chapter: 11
)
)
)
)
Debtor(s))

**INTERIM ORDER APPROVING
THE DEBTORS' (A) PAYMENT OF CERTAIN
PREPETITION COMPENSATION AND REIMBURSABLE EMPLOYEE
EXPENSES, (B) CONTINUED EMPLOYEE MEDICAL AND OTHER BENEFITS,
AND (C) CONTINUED EMPLOYEE COMPENSATION AND BENEFITS PROGRAMS**

Upon the motion (the "Motion") of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of an order (this "Order") authorizing but not directing the Debtors to (a) pay certain prepetition wages, salaries and other compensation, taxes, withholdings, and reimbursable expenses, (b) pay and honor obligations relating to medical and other benefits programs, and (c) continue their employee compensation and benefit programs, all as more fully set forth in the Motion; and upon the First Day Declaration; and the Court having found that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and the Court having found that the Debtors provided appropriate notice of the Motion and the opportunity for a hearing on the Motion under the circumstances; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before the Court (the "Hearing"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; 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 on an interim basis as set forth herein. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.
2. The final hearing (the "Final Hearing") on the Motion shall be held on _____, 2013 at __: __ m. (Central Time). Any objections or responses to entry of a final order shall be filed and served on or before _____, 2013 at 4:00 p.m. (Central Time).
3. The Debtors are authorized, except to the extent provided in the paragraphs below, to continue to honor, in their discretion, the Employee Compensation and Benefits and to pay any prepetition amounts due in connection therewith.
4. The Debtors are authorized but not directed to continue the following Employee Compensation and Benefits, pending entry of the Final Order, on a postpetition basis, in the ordinary course of business, in accordance with the Debtors' prepetition policies and practices and, in the Debtors' discretion, to pay and honor prepetition amounts related thereto: (a) Unpaid Compensation, inclusive of

any Allocable Costs; (b) Deductions and Payroll Taxes; (c) Reimbursable Expenses (including expenses incurred pursuant to the Amex Corporate Card and P-Card programs); (d) the Health Plans; (e) the Health Spending Accounts and the Dependent Care Accounts; (f) the Employee Assistance Program; (g) the Comprehensive Disability Plan, the Long-Term Disability Plan, the Workers' Compensation, the BTA Insurance, the Life Insurance, the AD&D Insurance, and the Long-Term Care; (h) the Vacation Time, the Severance Program, and the Paid Time Off; (i) the 401(k) Plan, the Midwest Gen Bargaining Unit Plan, the Retirement Plan, and the Executive Retirement Plan; (j) the Safety Award Program, the Service Awards, and the Welder Awards; and (k) the Other Benefit Programs, including, but not limited to, the Employee Education Program, the Relocation Program, and the Transportation Program.

5. Amounts owed by the Debtors for such services rendered by the EIX Entities in connection with the Employee Compensation and Benefits postpetition shall constitute allowed administrative expenses under sections 503(b)(1) and 507(a)(2) of the Bankruptcy Code and may be paid by the Debtors without the need for further application or motion or Court order.

6. In accordance with this Order and any other order of this Court, each of the financial institutions at which the Debtors maintain their accounts relating to the payment of the obligations described in the Motion is directed to receive, process, honor, and pay any and all checks, drafts, wire transfers, and automated clearing house transfers issued, whether before or after the Petition Date, for payment of obligations described in the Motion to the extent that sufficient funds are on deposit in such amounts.

7. The Debtors are authorized to issue postpetition checks, or to effect postpetition wire transfer requests, in replacement of any checks or wire transfer requests in respect of payments of prepetition obligations described in the Motion that are dishonored or rejected.

8. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied by the contents of the Motion.

9. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules of the United States Bankruptcy Court for the Northern District of Illinois are satisfied by such notice.

10. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

11. All postpetition payments from a Debtor to another Debtor are hereby accorded superpriority administrative expense status and shall have priority over any administrative claims that arise under section 503(b) of the Bankruptcy Code in accordance with the Court's order approving continued use of the Debtors' cash management system.

12. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, and subject to the administrative priority afforded pursuant to paragraph five of this Order, nothing in this Order shall be deemed: (a) an admission as to the validity of any claim against a Debtor entity; (b) a waiver of the Debtors' right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Order or the Motion; (e) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; or (f) a waiver of the Debtors' rights under the Bankruptcy Code or any other applicable law.

13. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant

to this Order in accordance with the Motion.

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

Enter:

Dated:

United States Bankruptcy Judge

Prepared by:

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Proposed Counsel to Debtor Camino Energy Company
and Conflicts Counsel to the other Debtors
and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
Eastern Division

In Re:)	BK No.: 12-49219
EDISON MISSION ENERGY, et al.,)	
)	Chapter: 11
)	
)	
)	
Debtor(s))	

**FINAL ORDER APPROVING
THE DEBTORS’ (A) PAYMENT OF CERTAIN
PREPETITION COMPENSATION AND REIMBURSABLE EMPLOYEE
EXPENSES, (B) CONTINUED EMPLOYEE MEDICAL AND OTHER BENEFITS,
AND (C) CONTINUED EMPLOYEE COMPENSATION AND BENEFITS PROGRAMS**

Upon the motion (the “Motion”) of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”) authorizing but not directing the Debtors to (a) pay certain prepetition wages, salaries and other compensation, taxes, withholdings, and reimbursable expenses, (b) pay and honor obligations relating to medical and other benefits programs, and (c) continue their employee compensation and benefit programs, all as more fully set forth in the Motion; and upon the First Day Declaration; and the Court having found that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors’ estates, their creditors, and other parties in interest; and the Court having found that the Debtors provided appropriate notice of the Motion and the opportunity for a hearing on the Motion under the circumstances; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before the Court (the “Hearing”); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; 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 on a final basis as set forth herein. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.
2. The Debtors are authorized, except to the extent provided in the paragraphs below, to continue to honor, in their discretion, the Employee Compensation and Benefits and to pay any prepetition amounts in connection therewith.
3. The Debtors are authorized but not directed to continue the following Employee Compensation and Benefits, on a postpetition basis, in the ordinary course of business, in accordance with the Debtors’ prepetition policies and practices and, in the Debtors’ discretion, to pay and honor prepetition amounts related thereto: (a) Unpaid Compensation, inclusive of any Allocable Costs; (b) Deductions and Payroll Taxes; (c) Reimbursable Expenses (including expenses incurred pursuant to the Amex Corporate Card and P-Card programs); (d) the Health Plans; (e) the Health Spending Accounts and the Dependent Care Accounts; (f) the Employee Assistance Program; (g) the Comprehensive Disability Plan, the Long-Term Disability Plan, the Workers’ Compensation, the BTA Insurance, the Life Insurance, the AD&D

Insurance, and the Long-Term Care; (h) the Vacation Time, the Severance Program, and the Paid Time Off; (i) the 401(k) Plan, the Midwest Gen Bargaining Unit Plan, the Retirement Plan, and the Executive Retirement Plan; (j) the Safety Award Program, the Service Awards, and the Welder Awards; and (k) the Other Benefit Programs, including, but not limited to, the Employee Education Program, the Relocation Program, and the Transportation Program.

4. The Debtors are further authorized but not directed to continue the Deferred Compensation Plan, on a postpetition basis, in the ordinary course of business, in accordance with the Debtors' prepetition policies and practices and, in the Debtors' discretion, to pay and honor prepetition amounts related thereto.

5. Amounts owed by the Debtors for such services rendered by the EIX Entities in connection with the Employee Compensation and Benefits postpetition shall constitute allowed administrative expenses under sections 503(b)(1) and 507(a)(2) of the Bankruptcy Code and may be paid by the Debtors without the need for further application or motion or Court order.

6. In accordance with this Order and any other order of this Court, each of the financial institutions at which the Debtors maintain their accounts relating to the payment of the obligations described in the Motion is directed to receive, process, honor, and pay any and all checks, drafts, wire transfers, and automated clearing house transfers issued, whether before or after the Petition Date, for payment of obligations described in the Motion to the extent that sufficient funds are on deposit in such amounts.

7. The Debtors are authorized to issue postpetition checks, or to effect postpetition wire transfer requests, in replacement of any checks or wire transfer requests in respect of payments of prepetition obligations described in the Motion that are dishonored or rejected.

8. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied by the contents of the Motion.

9. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules of the United States Bankruptcy Court for the Northern District of Illinois are satisfied by such notice.

10. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

11. All postpetition payments from a Debtor to another Debtor are hereby accorded superpriority administrative expense status and shall have priority over any administrative claims that arise under section 503(b) of the Bankruptcy Code in accordance with the Court's order approving continued use of the Debtors' cash management system.

12. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, and subject to the administrative priority afforded pursuant to paragraph five of this Order, nothing in this Order shall be deemed: (a) an admission as to the validity of any claim against a Debtor entity; (b) a waiver of the Debtors' right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Order or the Motion; (e) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; or (f) a waiver of the Debtors' rights under the Bankruptcy Code or any other applicable law.

13. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

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

Enter:

Dated:

United States Bankruptcy Judge

Prepared by:

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