

**MCDERMOTT WILL & EMERY LLP**

Timothy W. Walsh  
Darren Azman  
Evan Belosa  
Ravi Vohra  
340 Madison Avenue  
New York, New York 10173  
Telephone: (212) 547-5400  
Facsimile: (212) 547-5444

*Counsel to the Debtors and  
Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

---

In re:	)	
	)	Chapter 11
AGERA ENERGY LLC, et al., <sup>1</sup>	)	Case No. 19-23802 (RDD)
	)	
Debtors,	)	(Jointly Administered)
	)	
	)	
AGERA ENERGY LLC,	)	
	)	
Plaintiff,	)	Adv. Proc. No. 19-08554 (RDD)
	)	
v.	)	
	)	
SUNWAVE USA HOLDINGS, INC.,	)	
	)	
Defendant.	)	

---

<sup>1</sup> The Debtors, together with the last four digits of each Debtor's federal tax identification number, are: Agera Energy LLC (8122); Agera Holdings, LLC (3335); energy.me midwest llc (9484); Aequitas Energy, Inc. (7988); Utility Recovery LLC (4351); and Agera Solutions LLC (8749). The location of the Debtors' corporate headquarters and the service address for all Debtors is 555 Pleasantville Road, S-107, Briarcliff Manor, NY 10510.

**MOTION TO SHORTEN TIME WITH RESPECT TO  
MOTION FOR STAY OF ADVERSARY PROCEEDING**

Agera Energy LLC (the “Debtor”), the plaintiff in the above-captioned adversary proceeding (the “Adversary Proceeding”), hereby respectfully submits this motion (the “Motion to Shorten”) for entry of an order (the “Order”) pursuant to Rule 9006(c) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), substantially in the form attached hereto as **Exhibit A**, shortening the notice period and setting a hearing date for the *Debtor’s Motion for Stay of Adversary Proceeding* (the “Stay Motion”).<sup>2</sup> In support of this Motion to Shorten, the Debtor respectfully states as follows:

**JURISDICTION AND VENUE**

1. The United States Bankruptcy Court for the Southern District of New York (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

2. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory basis for the relief requested herein is Rule 9006(c) of the Federal Rules of Bankruptcy Procedure.

**BACKGROUND**

4. On October 4, 2019 (the “Petition Date”), the Debtor and its debtor affiliates, as debtors and debtors in possession (collectively, the “Debtors”) filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

---

<sup>2</sup> Capitalized terms used but not defined herein have the meanings ascribed to such terms in the Stay Motion.

5. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

6. On October 11, 2019, the United States Trustee for the Southern District of New York (the “U.S. Trustee”) appointed an official committee of unsecured creditors pursuant to section 1102 of the Bankruptcy Code (the “Committee”) [Main Case Docket No. 61]. No trustee, examiner, or other official committee has been appointed in these Chapter 11 Cases.

7. A description of the Debtors’ business, capital structure, and the circumstances leading to these Chapter 11 Cases is set forth in the *Declaration of Todd Sandford Pursuant to Rule 1007-2 of the Local Bankruptcy Rules for the Southern District of New York in Support of the Debtors’ Chapter 11 Petitions and First Day Pleadings* [Main Case Docket. No. 3], incorporated herein by reference.

### **RELIEF REQUESTED**

8. Through this Motion to Shorten, the Debtors respectfully request, pursuant to Bankruptcy Rule 9006(c), that the Court shorten the notice period and fix the date and time for an expedited hearing on the Stay Motion. Specifically, the Debtors request that this Court consider the relief requested in the Stay Motion at the hearing currently scheduled on February 24, 2020 at 2:00 p.m. (Prevailing Eastern Time).

### **BASIS FOR REQUESTED RELIEF**

9. Bankruptcy Rule 9006(c) provides that “when an act is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may in its discretion with or without motion or notice order the period reduced.” Fed. R. Bankr. P. 9006(c).

10. Good cause exists to hear the Stay Motion on shortened notice. As set forth in greater detail in the Stay Motion, the goal of the Stay Motion in light of these Chapter 11 Cases is to stay all proceedings in this Adversary Proceeding until the earlier of (i) August 1, 2020, (ii) 60 days after the effective date of a plan of liquidation in these Chapter 11 Cases, and (iii) 60 days after these Chapter 11 Cases are dismissed or converted to chapter 7 cases. Without being granted the requested relief on a timely basis, additional litigation costs and expenses may directly impact the availability of funding for the Debtors' creditors through a plan of liquidation. Specifically, without the requested relief, the Debtor would be forced to expend resources in filing an opposition or other response to *Sunwave USA Holdings, Inc.'s Motion to Dismiss Agera Energy LLC's Complaint* [Adv. Docket No. 12] (the "Motion to Dismiss") on or prior to March 3, 2019.<sup>3</sup>

#### **MOTION PRACTICE**

11. This Motion to Shorten includes citations to the applicable rules and statutory authorities upon which the relief requested herein is predicated and a discussion of its application to this Motion to Shorten. Accordingly, the Debtors submit that this Motion to Shorten satisfies Local Rule 9013-1(a).

#### **NOTICE**

12. The Debtor has provided notice of this Motion to Shorten to: (1) Sunwave, by electronic mail and overnight mail to Sunwave's counsel; (2) the entities listed on the Master Service List (as defined in paragraph 12 of the *Order (A) Establishing Certain Notice, Case Management, and Administrative Procedures and (B) Granting Related Relief* [Main Case

---

<sup>3</sup> As set forth in the Stay Motion, on February 13, 2020, the Debtor submitted to the Court a third *Stipulation and Order Extending Time to Oppose or Otherwise Respond to Sunwave's Motion to Dismiss*, which proposed a March 3, 2020 deadline for the Debtor to oppose or otherwise respond to the Motion to Dismiss.

Docket No. 96] (the “Case Management Procedures Order”)) via electronic mail and overnight mail; and (3) the 2002 List (as defined in paragraph 12 of the Case Management Procedures Order) via electronic mail and overnight mail.

**NO PRIOR REQUEST**

13. No previous request for the relief sought herein has been made by the Debtors to this or any other Court.

WHEREFORE, the Debtor respectfully requests entry of the Order, substantially in the form attached hereto as **Exhibit A**, scheduling an expedited hearing on February 24, 2020 at 2:00 p.m. (Prevailing Eastern Time), or such other time as counsel may be heard, to consider the relief requested in the Stay Motion, and for such other and further relief as this Court deems warranted.

Dated: February 14, 2020  
New York, NY

Respectfully submitted,

**MCDERMOTT WILL & EMERY LLP**

/s/ Darren Azman

Timothy W. Walsh

Darren Azman

Ravi Vohra

340 Madison Avenue

New York, NY 10173

Telephone: (212) 547-5615

Facsimile: (212) 547-5444

Email: dazman@mwe.com

rvohra@mwe.com

*Counsel to the Debtors and  
Debtors in Possession*

**Exhibit A**

Proposed Order

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

---

In re:	)	Chapter 11
	)	
AGERA ENERGY LLC, et al., <sup>1</sup>	)	Case No. 19-23802 (RDD)
	)	
Debtors,	)	(Jointly Administered)
	)	
	)	
AGERA ENERGY LLC,	)	
	)	
Plaintiff,	)	Adv. Proc. No. 19-08554 (RDD)
	)	
v.	)	
	)	<b>Re: Adv. Docket No. __</b>
SUNWAVE USA HOLDINGS, INC.,	)	
	)	
Defendant.	)	

---

**ORDER SHORTENING TIME WITH RESPECT TO  
MOTION FOR STAY OF ADVERSARY PROCEEDING**

Upon the motion (the “Motion to Shorten”)<sup>2</sup> of plaintiff Agera Energy LLC (the “Debtor”) for entry of an order pursuant to Rule 9006(c) of the Federal Rules of Bankruptcy Procedure shortening the notice period and setting a hearing date for the *Debtor’s Motion for Stay of Adversary Proceeding* (the “Stay Motion”); and this Court having found that it has jurisdiction to consider the Motion to Shorten pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012; and this Court having found that the Motion to Shorten is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of

---

<sup>1</sup> The Debtors, together with the last four digits of each Debtor’s federal tax identification number, are: Agera Energy LLC (8122); Agera Holdings, LLC (3335); energy.me midwest llc (9484); Aequitas Energy, Inc. (7988); Utility Recovery LLC (4351); and Agera Solutions LLC (8749). The location of the Debtors’ corporate headquarters and the service address for all Debtors is 555 Pleasantville Road, S-107, Briarcliff Manor, NY 10510.

<sup>2</sup> Capitalized terms used but not defined herein have the meanings ascribed to such terms in the Motion to Shorten.



these Chapter 11 Cases and the Motion to Shorten in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having determined that the relief requested in the Motion to Shorten is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and that this Court may enter a final order consistent with Article III of the United States Constitution; and it appearing that proper and adequate notice of the Motion to Shorten has been given and that no other or further notice is necessary; and this Court having reviewed the Motion to Shorten; and this Court having determined that the legal and factual bases set forth in the Motion to Shorten establish just cause for the relief granted herein; and any objections to the relief requested herein having been withdrawn or overruled on the merits; and after due deliberation thereon and good and sufficient cause appearing therefor, IT IS HEREBY ORDERED THAT:

1. The Motion to Shorten is granted as set forth herein.
2. A hearing to consider the relief requested in the Stay Motion shall be scheduled for **February 24, 2020 at 2:00 p.m. (Prevailing Eastern Time)**, at the United States Bankruptcy Court for the Southern District of New York, Courtroom 118, 300 Quarropas Street, White Plains, NY 10601.
3. Objections, if any, to the relief requested in the Stay Motion must be filed and served in accordance with the Case Management Order [Main Case Docket No. 96] by **February 21, 2020 at 12:00 p.m. (Prevailing Eastern Time)**.

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

Dated: \_\_\_\_\_, 2020  
White Plains, New York

\_\_\_\_\_  
THE HONORABLE ROBERT D. DRAIN  
UNITED STATES BANKRUPTCY JUDGE