

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

In re:)	Chapter 11
)	
AGERA ENERGY LLC, <i>et al.</i> , ¹)	Case No. 19-23802 (RDD)
)	
Debtors.)	(Jointly Administered)
)	

NOTICE OF SALE, BIDDING PROCEDURES, AUCTION AND SALE HEARING

PLEASE TAKE NOTICE that the above-captioned debtors and debtors in possession (collectively, the “Debtors”) each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of New York (the “Court”) on October 4, 2019 (the “Petition Date”).

PLEASE TAKE FURTHER NOTICE that, on the Petition Date, the Debtors filed a motion (the “Sale Motion”),² [ECF No. 16], with the Court seeking entry of orders, among other things, approving (a) procedures for the solicitation of bids in connection with the proposed sale of substantially all of the Debtors’ assets (the “Sale”), subject to the submission of higher or otherwise better offers in an auction process (the “Auction”), (b) the form and manner of notice related to the Sale and (c) procedures for the assumption and assignment of contracts and leases in connection with the Sale.

PLEASE TAKE FURTHER NOTICE that a party (the “Stalking Horse Bidder”) has already submitted a binding bid (the “Stalking Horse Bid”) for certain of the Assets, as set forth in a certain asset purchase agreement (the “Stalking Horse APA”). The Stalking Horse Bid remains subject to higher and/or better offers.

PLEASE TAKE FURTHER NOTICE that, on October 22, 2019, the Court entered an order (the “Bidding Procedures Order”), [ECF No. 116], approving, among other things, the Bidding Procedures, which establish the key dates and times related to the Sale and the Auction. All interested bidders should carefully read the Bidding Procedures Order and the Bidding Procedures in their entirety.³

¹ 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.

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

³ To the extent of any inconsistencies between the Bidding Procedures and the summary descriptions of the Bidding Procedures in this notice, the terms of the Bidding Procedures shall control in all respects.

Contact Persons for Parties Interested in Submitting a Bid

The Bidding Procedures set forth the requirements for submitting a Qualified Bid, and any person interested in making an offer to purchase the Assets must comply strictly with the Bidding Procedures. Only Qualified Bids will be considered by the Debtors, in accordance with the Bidding Procedures.

Any interested bidder should contact, as soon as practicable:

Stifel, Nicolaus & Co., Inc. and Miller Buckfire & Co., LLC (“Miller Buckfire”) (Attn: Richard Klein and James Georgiow; richard.klein@millerbuckfire.com and jgeorgiow@stifel.com).

Obtaining Additional Information

Copies of the Stalking Horse APA, the Bidding Procedures Order, the Bidding Procedures, and the proposed Sale Order are available upon request to the Debtors’ noticing agent, Stretto, at <https://cases.stretto.com/agera>.

Important Dates and Deadlines⁴

- (i) **Bid Deadline.** The deadline to submit a Qualified Bid is **November 1, 2019 at 11:00 a.m. (prevailing Eastern Time)**.
- (ii) **Sale Objection Deadline.** The deadline to file an objection with the Court to the Sale, and all objections relating to the Stalking Horse Bidder, or the Sale (collectively, the “Sale Objection”) is **November 1, 2019 at 4:00 p.m. (prevailing Eastern Time)** (the “Sale Objection Deadline”).
- (iii) **Auction.** In the event that the Debtors timely receive a Qualified Bid in addition to the Stalking Horse Bid, and subject to the satisfaction of any further conditions set forth in the Bidding Procedures, the Debtors intend to conduct an Auction for the Assets. The Auction, if one is held, will commence on **November 4, 2019 at 10:00 a.m. (prevailing Eastern Time)** at the offices of McDermott Will and Emery, 340 Madison Avenue, New York, New York 10173.
- (iv) **Sale Hearing.** A hearing (the “Sale Hearing”) to consider the proposed Sale will be held before the Court on **November 5, 2019 at 10:00 a.m. (prevailing Eastern Time)**, or such other date as determined by the Court, at 300 Quarropas Street White Plains, NY 10601-4140.

Filing Objections

Sale Objections, if any, must (a) be in writing, (b) state, with specificity, the legal and factual bases thereof, (c) be filed with the Court by no later than **the Sale Objection Deadline** and (d) be served on (1) proposed counsel to the Debtors, McDermott Will & Emery LLP, 340

⁴ The following dates and deadlines may be extended by the Debtors or the Court pursuant to the terms of the Bidding Procedures and the Bidding Procedures Order.

Madison Avenue, New York, NY 10173 (Attn: Darren Azman and Ravi Vohra; dazman@mwe.com and rvohra@mwe.com), (2) counsel to the Committee, Kilpatrick Townsend & Stockton LLP, Kilpatrick Townsend & Stockton LLP, The Grace Building, 1114 Avenue of the Americas, New York, NY 10036-7703 (Attn: Todd C. Meyers; tmeyers@kilpatricktownsend.com) and Kilpatrick Townsend & Stockton LLP, 1100 Peachtree Street NE Suite 2800, Atlanta, GA USA 30309 (Attn: Colin M. Bernardino; cbernardino@kilpatricktownsend.com), (3) the U.S. Trustee, U.S. Federal Office Building, 201 Varick Street, Suite 1006, New York, NY 10014 (Attn: Andrea B. Schwartz, Esq. and Shannon Scott, Esq.; andrea.b.schwartz@usdoj.gov and shannon.scott2@usdoj.gov), (4) counsel to the Stalking Horse Bidder, McGuireWoods LLP, 500 East Pratt Street, Suite 1000, Baltimore, MD 21202 (Attn: Cecil E. Martin III; cmartin@mcguirewoods.com), (5) counsel to BP Energy Company, Haynes & Boone LLP, 1221 McKinney Street, Suite 2100, Houston, TX 77010 (Attn: Kelli S. Norfleet and Kathryn Shurin; kelli.norfleet@haynesboone.com and kathryn.shurin@haynesboone.com), and (6) any other party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the “Objection Notice Parties”), with a copy to the Court’s Chambers.

CONSEQUENCES OF FAILING TO TIMELY ASSERT AN OBJECTION

Any party or entity who fails to timely make an objection to the Sale on or before the Sale Objection Deadline in accordance with the Bidding Procedures Order and this Notice shall be forever barred from asserting any objection to the Sale, including with respect to the transfer of the assets free and clear of all liens, claims, encumbrances and other interests.

NO SUCCESSOR LIABILITY

For more information on the Debtors’ business, refer to 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 (the “First Day Declaration”) [ECF No. 3]. Upon Court approval, the Sale will be free and clear of, among other things, any claim arising from any conduct of the Debtors prior to the closing of the Sale, whether known or unknown, whether due or to become due, whether accrued, absolute, contingent or otherwise, so long as such claim arises out of or relates to events occurring prior to the closing of the Sale. Accordingly, as a result of the Sale, the Successful Bidder will not be a successor to any of the Debtors by reason of any theory of law or equity, and the Successful Bidder will have no liability, except as expressly provided in the Purchase Agreement, for any liens, claims, encumbrances and other interests against or in any of the Debtors under any theory of law, including successor liability theories.

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Dated: October 22, 2019
New York, NY

MCDERMOTT WILL & EMERY LLP

/s/ Darren Azman

Timothy W. Walsh

Darren Azman

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*Proposed Counsel to the Debtors
and Debtors in Possession*