FINAL REPORT ON THE STATUS OF THE CHAPTER 11 BANKRUPTCY CASE OF WESTINGHOUSE ELECTRIC COMPANY, LLC, *ET AL.*

This memorandum is to provide a final report on the status of the Chapter 11 bankruptcy case of Westinghouse Electric Company, LLC and 29 of its affiliated companies (collectively, "**Westinghouse**"), all of which filed petitions for relief under the United States Bankruptcy Code (11 U.S.C. § 101, *et seq.*, the "**Bankruptcy Code**") on March 29, 2017 (the "**Petition Date**") and were joined for joint administration under Case No. 17-10751 (MEW) in the United States Bankruptcy Court for the Southern District of New York. The Westinghouse bankruptcy case is not yet concluded. The confirmed plan of reorganization must be substantially consummated, the claims review and payment process is likely to take an extended period of time, and other aspects of case administration must be completed. Nonetheless, the issues and matters in the Westinghouse case are now at the advanced stage of determination where continued close monitoring of the remaining bankruptcy matters by the South Carolina Office of Regulatory Staff ("**ORS**") does not appear warranted. Instead, hereafter ORS will generally monitor matters for significant new developments affecting South Carolina.

The focus of this memorandum report is on matters affecting, or potentially affecting, the Virgil C. Summer Nuclear Generating Station (the "**V.C. Summer Plant**") located in Fairfield County, South Carolina, the owners of that plant, South Carolina Electric & Gas Company ("**SCE&G**") and South Carolina Public Service Authority ("**Santee Cooper**," and together with SCE&G, the "**SC Owners**"), contractors and other creditors of the V.C. Summer Plant, and rate payers of SCE&G. As discussed below, most matters in the bankruptcy case affecting these parties have been determined. The remaining matters for these parties primarily relate to the review and allowance of filed claims, and the disbursement of payments on the allowed claims pursuant to the confirmed plan of reorganization in the case.

The current status of the Westinghouse case and matters in it may be summarized as follows:

The Westinghouse Chapter 11 Plan of Reorganization Has Been Confirmed

1. On March 28, 2018, the Bankruptcy Court entered its Findings of Fact, Conclusions of Law, and Order Confirming Modified Second Amended Joint Plan of Reorganization ("**Order Confirming Plan**") [Doc 2988] confirming the Modified Second Amended Joint Chapter 11 Plan of Reorganization (the "**Confirmed Plan**") filed by Westinghouse on March 28, 2018 [Doc 2988]. The Confirmed Plan made a number of amendments to the prior version of the plan of reorganization filed on February 22, 2018, to reflect rulings made by the Bankruptcy Court at the hearing on plan confirmation (the "**Confirmation Hearing**") on March 28, 2018.

2. Plan confirmation was made possible by an agreement reached among several key constituents in the bankruptcy case. Westinghouse, the Statutory Unsecured Claimholders Committee (the "**Creditors Committee**"), the holder of the largest claims asserted against Westinghouse (Nucleus Acquisition LLC, defined in the Confirmed Plan as the "**Consenting**

Claimholder"), Brookfield WEC Holdings, LLC (the purchaser of the reorganized companies under the Confirmed Plan, defined as the "**Plan Investor**"), and Toshiba Corporation ("**Toshiba**"), entered into a Plan Support Agreement (the "**PSA**") dated January 17, 2018, and they were the proponents of the Confirmed Plan pursuant to the PSA.

3. Prior to the Confirmation Hearing, Westinghouse filed the Plan Supplement in Connection with the Debtors' Joint Plan of Reorganization (the "**Plan Supplement**") on March 9, 2018 [Doc 2790], which Westinghouse amended on March 23, 2018 [Doc 2955]. The Plan Supplement provides documents referenced in the Confirmed Plan, and consists of 659 pages. The documents include corporate organizational documents, Board of Director information, identification of Plan Oversight Board members, Plan Oversight Board By-Laws, settlement agreements with parties regarding AP1000 nuclear plant projects in China (the "**NI Settlement**," Exhibit F beginning on page 505 of the Plan Supplement) and with Toshiba regarding certain European non-debtor (*i.e.*, not in bankruptcy) affiliates of Westinghouse (Exhibit G beginning on page 605 of the Plan Supplement), a list of Westinghouse foreign non-debtor affiliates released from guaranties (Exhibit H on pages 653 and 654 of the Plan Supplement), and other information for the implementation of the Confirmed Plan.

What the Confirmed Plan Provides

4. The Confirmed Plan provides for a transaction valued at approximately $4.6 billion by which Brookfield WEC Holdings LLC, as the Plan Investor, will acquire the reorganized Westinghouse companies that are in bankruptcy, and the ownership of the foreign non-bankruptcy affiliates of Westinghouse. The transaction is to provide approximately $3.802 billion (subject to certain adjustments and holdbacks, the "**Plan Investment Proceeds**") in cash and cash consideration. The sale does not include all assets of the acquired companies, and the excluded assets (the "**Excluded Assets**") will be transferred to a newly formed company, **Wind Down Co**, which will administer the Excluded Assets for creditors who are not to be paid from the Segregated Funds (defined below) or as an assumed liability of the reorganized Westinghouse companies.

5. On or before the Effective Date of the Confirmed Plan, the Plan Investor is to transfer the Excluded Assets to Wind Down Co and Wind Down Co will then deposit cash or cash equivalents equal to $1.15 billion (the "**Segregated Funds**") into a segregated account to be used for payment of Class 3A General Unsecured Creditors. The Creditors Committee will direct and oversee payments of the Segregated Funds.

6. Class 3A General Unsecured Creditors include most non-priority unsecured creditors, the exceptions being specifically identified large claimants (*e.g.*, the claims of the Consenting Claimholder, which acquired the former claims of the SC Owners and the owners of the AP1000 nuclear plant in Georgia known as the Alvin W. Vogtle Electric Generating Plant (the "**Vogtle Plant**")). Although the total of the filed claims that would be deemed Class 3A General Unsecured Claims is substantially higher than the Segregated Funds amount, Westinghouse estimates that the allowed claims in Class 3A will total approximately $774.5 million to $1.162 billion. Westinghouse projects that the Class 3A General Unsecured Claims will be paid 98.9 – 100% of their allowed amounts.

7. Class 3B General Unsecured Claims consist of large unsecured claims which will receive only partial payment. The holders of these claims agreed to accept less favorable treatment than Class 3A General Unsecured Claims (which are to be paid an estimated 98.1 – 100% of the claim amounts) will receive under the Confirmed Plan. The Class 3B General Unsecured Claims total approximately $7.6 billion. These claims include the claims now held by Nucleus Acquisition LLC, the Consenting Claimholder, that were formerly the claims of the SC Owners, the Vogtle Plant owners, and Toshiba. The holders of Class 3B General Unsecured Claims will receive ownership of Wind Down Co.

8. The "**Effective Date**" is defined in the Confirmed Plan as being the date on which all conditions under section 10 of the Confirmed Plan have been satisfied or waived. Section 10 lists the conditions precedent to the Effective Date as being (a) entry of the Order Confirming Plan (done), (b) the closing of the Plan Investment Transaction under the Plan Funding Agreement, (c) the funding of the account established for the Segregated Funds, (d) the Cash Pool Settlement shall have become effective, (e) the Pension Funding Agreement shall be in full force and effect, (f) all documents and agreements necessary to implement and consummate the Confirmed Plan shall have been effected or executed, and (g) the NI Settlement shall have been approved in the Order Confirming Plan (done). It appears that some documents have not yet been finalized, but it is expected that the Effective Date will occur soon.

Disposition of the SC Owners' Claims Against Westinghouse

9. SCE&G and Santee Cooper filed proofs of claim in the Westinghouse case for amounts they claimed due to them from Westinghouse. Citigroup Financial Products, Inc. ("**CFPI**") purchased the SCE&G and Santee Cooper claims made as the SC Owners arising from the V.C. Summer Plant, pursuant to the Notice of Transfer of Claim Pursuant to Rule 3001(e) filings made on September 28, 2017 [Doc 1411, 1412, 1413 and 1414].

10. CFPI then amended the claims to include damages for Westinghouse's default and breach of the Engineering, Procurement and Construction Agreement (the "**EPC Agreement**") dated May 23, 2008 between the SC Owners and Westinghouse for the V.C. Summer Plant. In the amended claims, CFPI asserted damages of approximately $7.5 billion. Westinghouse objected to the amended claims, and ultimately a settlement was reached, which was incorporated into the PSA, under which the Consenting Claimholder is to purchase (and now may have purchased) the former SCE&G and Santee Cooper claims from CFPI. Upon its purchase of the claims, the Consenting Claimholder will withdraw the claims. The Consenting Claimholder also purchased the claims of Toshiba and the Vogtle Plant owners against Westinghouse.

11. Pursuant to their sale of their claims to CFPI, SCE&G and Santee Cooper will not receive payment under the Confirmed Plan for the claims they asserted as the SC Owners.

12. The EPC Agreement was an executory contract, which would have been subject to assumption or rejection by Westinghouse, as a Chapter 11 debtor-in-possession, under Bankruptcy Code section 365 (11 U.S.C. § 365). From the outset of the case, Westinghouse made clear that it did not intend to assume the EPC Agreement with the SC Owners, or the EPC Agreement with the Vogtle Plant owners. It did not, however, file a motion to reject the EPC Agreement with the SC

Owners, probably so as not to compromise arguments and positions it intended to take in opposition to the claim made for breach of the contract. As part of the agreement ultimately reached with respect to the SC Owners' claims (see paragraph 10 above), the contract has been rejected. The EPC Agreement was rejected pursuant to section 9.1 of the Confirmed Plan, which provides that unless specifically assumed or designated for assumption, upon the Effective Date, each executory contract not previously rejected, assumed or assumed and assigned, shall be deemed automatically rejected under Bankruptcy Code § 365. The EPC Agreement has been rejected; however, the Consenting Claimholder has waived the right to payment for rejection damages.

Claims of Contractors, Vendors and Suppliers of the V.C. Summer Plant

13. The claims of contractors, vendors and suppliers of the V.C. Summer Plant (the "**V.C. Summer Plant Creditors**") may be paid by different means, depending on when they provided the services or goods for which they seek payment. For V.C. Summer Plant Creditors whose claims arose after the filing of the Westinghouse bankruptcy on March 29, 2017, for work done, services provided or goods provided under contracts with Westinghouse (or pursuant to Westinghouse purchase orders) (i) after the commencement of the bankruptcy (*i.e.*, not based on the date of an invoice, but for post-petition work, services and/or goods), and (ii) prior to Westinghouse's rejection of that claimant's contract, those creditors may have administrative expense priority claims against Westinghouse. Allowed administrative expense priority claims are to be paid in full by Westinghouse prior to the Effective Date of the Plan, or by Wind Down Co, depending on when the asserted claim is approved.

14. Westinghouse may assert that some V.C. Summer Plant Creditors whose services and goods were provided after the filing of the bankruptcy case are owed payment by the SC Owners, not by Westinghouse, pursuant to the Interim Assessment Agreement (as amended, the "**IAA**") entered by Westinghouse and the SC Owners immediately upon the filing of the bankruptcy case. The IAA provided that the SC Owners would be responsible for the payment of amounts incurred for work performed and goods and services provided from the filing of the bankruptcy case until termination of the IAA. The IAA was between the Westinghouse and the SC Owners (a similar agreement was entered by Westinghouse and the owners of the Vogtle Plant), and the V.C. Summer Creditors were not party to the IAA; accordingly, the IAA generally should not be binding on V.C. Summer Creditors. It appears that Westinghouse may pay claims of this kind, and possibly demand reimbursement from the SC Owners.

15. For V.C. Summer Creditors asserting claims for work performed or for goods or services provided prior to the filing of the bankruptcy case on March 29, 2017, they will have non-priority unsecured claims against Westinghouse. These claims should be paid as Class 3A General Unsecured Claims. Westinghouse has stated that it projects payment of Class 3A General Unsecured Claims in the amount of 98.1 – 100% of the allowed amount of such claims. Payment is to be made from the Segregated Funds.

16. Many V.C. Summer Plant Creditors have asserted mechanic's liens against the V.C. Summer Plant. It is uncertain whether such lien claims will result in payment from the SC Owners. If these claims are allowed as claims against Westinghouse, the claims should be paid as Class 3A General Unsecured Claims from the Segregated Funds.

17. Some V.C. Summer Plant Creditors may assert the right to payment from the SC Owners for the retention and/or use of their equipment or goods after the SC Owners announced that they would abandon the V.C. Summer Plant project. Any claims of this kind should not require determination by the Bankruptcy Court, but should be determinable outside of the bankruptcy proceedings.

18. The timing of payment of Class 3A General Unsecured Claims is uncertain at this time. The process for the review and allowance of claims made in the Westinghouse case is likely to take an extended period of time, and disbursements to creditors having allowed claims will not likely occur until either the claims review and allowance process is completed, or the process is substantially completed to the point where the maximum possible allowed claims are determined to be less than the Segregated Funds available for payment of the claims. In short, payments will not likely begin until the percentage payment for the class is determined.

Possible Westinghouse Claims Against the SC Owners

19. Westinghouse or Wind Down Co may assert claims against the SC Owners. Such claims might include claims for reimbursement for any payments made to creditors who Westinghouse maintains the SC Owners were responsible for paying under the IAA. It is unknown at this time whether any such claims may be asserted. Likewise, the amount of any such claims is unknown. There is no established cap on the amount of such claims. It should be expected that, if any such claims are made against them, the SC Owners will contest them.

Conclusion of ORS Review and Monitoring of the Bankruptcy

20. ORS has reviewed and monitored the Westinghouse bankruptcy case and related matters, for the possible impact and implications of the case and related matters on the SC Owners, South Carolina rate payers and the State of South Carolina. ORS does not have a claim to assert in the bankruptcy case, and no matters occurred in the bankruptcy case for which ORS has had good or proper cause to take action.

21. In light of the Confirmed Plan and its expected substantial consummation, ORS will now discontinue its close monitoring of the Westinghouse case and related matters. ORS will continue to monitor matters so as to stay abreast of material new developments, if any, having an impact on the SC Owners, the South Carolina rate payers or the State of South Carolina. However, this report shall serve as the final report made on the status of the Westinghouse bankruptcy case.

May 14, 2018