Docket #0020 Date Filed: 5/13/2020

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: WELDED CONSTRUCTION, L.P., et al., Debtors.	Chapter 11 Case No. 18-12378 (CSS) (Jointly Administered)
EARTH PIPELINE SERVICES, INC., Plaintiff, v. COLUMBIA GAS TRANSMISSION, LLC, WELDED CONSTRUCTION, L.P., Defendants.	Adv. Pro. No. 19-50274 (CSS) Adv. Pro. No. 19-50275 (CSS)

AMENDED COMPLAINT FOR LIMITED PURPORSE TO JOIN WELDED CONSTRUCTION, L.P. AS ADDITIONAL DEFENDANT

AND NOW comes Claimant/Plaintiff Earth Pipeline Services, Inc., by counsel, Bernstein-Burkley, P.C., and, for the limited purpose of joining Welded Construction, L.P. as an additional defendant, files the following *Amended Complaint to Foreclose the Mechanic's Lien* which was filed on September 12, 2018, with the Clerk of the Marshall County Commission, at Instrument No. 1445514, Mechanic's Lien Book 11 at page 574, in the amount of $3,650,300.42, averring in support thereof the following:

1. Plaintiff, Earth Pipeline Services, Inc. ("Claimant"), is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with a place of business located at 135 Technology Drive, Suite 400, Canonsburg, Washington County, Pennsylvania 15317.

2. Defendant, Columbia Gas Transmission, LLC ("Owner"), is a limited liability

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company, organized and existing under the laws of the State of Delaware, and having a place of business at 700 Louisiana Street, Suite 700, Houston, TX 77002, having its registered agent in West Virginia as Corporation Service Company, 209 W. Washington Street, Charleston, Kanawha County, West Virginia 25302, and is record owner and/or has a real property interest in approximately 99,436 linear feet of pipeline right-of-way, temporary workspaces, access roads, laydown yards and other areas located from Station Number 0+00 to Station Number 994+36 for Spread 1 of the Mountaineer Express Pipeline Project (the "Project"), situate from Mile Post 0.00 to Mile Post 18.83 in Marshall and Wetzel Counties, West Virginia (the "Liened Property").

3. Contractor, Welded Construction, L.P. ("Welded"), is a corporation organized and existing under the laws of the State of Delaware that has offices at 26933 Eckel Road, Perrysburg, Ohio 43551, who contracted with Owner to perform furnishing of materials and labor necessary for the clearing and grubbing of all timber, brush and vegetation on the Liened Property for the Project.

4. Welded subcontracted the foregoing described work on the Project to Claimant and the contract price and value of work and material provided by Claimant was $7,342,519.62, of which only $3,692,219.20 has been paid to Claimant, leaving a balance due Claimant in the amount of $3,650,300.42.

5. Claimant's Mechanics' Lien relates to labor and materials provided by Claimant as a Subcontractor to Owner pursuant to the subcontract with Welded, as defined by W. Va. Code § 38-2-2, to the Contractor upon the Liened Property, being more fully described as aforesaid in paragraph 2, *supra*.

6. On October 22, 2018, Welded filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

7. On May 6, 2020, the Bankruptcy Court entered a Scheduling Order that, *inter alia*, permitted limited relief from the automatic stay for purposes of Welded being joined as a nominal defendant in this action.

Count I - Enforcement of Mechanic's Lien
(Against Columbia Gas and Welded Construction, L.P.)

8. Claimant repeats and realleges the allegations contained in paragraphs 1 through 7 as if set forth fully herein.

9. On or about June 20, 2018, Claimant last supplied labor and/or materials to Welded and Owner for construction upon the Liened Property

10. Claimant filed its Notice of Mechanic's Lien pursuant to W. Va. Code § 38-2-7, with the Clerk of the Marshall County Commission on September 12, 2018, at Instrument No. 1445514, Book 11 at page 574. A true and correct copy of Claimant's Mechanic's Lien is attached hereto, marked Exhibit "1," and made a part hereof.

11. Claimant served notice of the filing of its Mechanic's Lien, and a copy of its Mechanic's Lien, upon Owner's registered agent Corporation Service Company, on or about September 25, 2018. A true and correct copy of the Affidavit of Service of the Claimant's Mechanic's Lien upon Columbia Gas Transmission, LLC c/o Corporation Service Company is attached hereto as Exhibit "2" and made a part hereof.

12. Despite the performance of all conditions precedent by Claimant, all amounts due and owing Claimant for services provided to Owner and Welded, the aforesaid Mechanic's Lien

remains unsatisfied, and Claimant brings this action in accordance with W. Va. Code § 38-2-34 to enforce its Mechanic's Lien.

13. The unpaid principal amount due and owing to Plaintiff on account of the aforesaid Statement of Mechanics' Lien Claim is $3,650,300.42.

WHEREFORE, Claimant/Plaintiff, Earth Pipeline Services, Inc., demands Judgment on this Complaint to enforce its Mechanic's Lien against Defendant's title and interest in the Liened Property, and requests this Honorable Court to order a sale of Defendant's title and interest in the Liened Property on which Claimant/Plaintiff's lien is established pursuant to W. Va. Code § 38-2-35, or so much thereof as may be sufficient to satisfy said Mechanic's Lien.

Date: May 13, 2020

Respectfully submitted:

CAMPBELL & LEVINE, LLC

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