Docket #0017 Date Filed: 5/5/2020

]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, Defendant.	Adv. Pro. No. 19-50274 (CSS) Adv. Pro. No. 19-50275 (CSS)
COLUMBIA GAS TRANSMISSION, LLC, Counter-Claimant, v. EARTH PIPELINE SERVICES, INC., Counter-Defendant.	

CERTIFICATION OF COUNSEL REGARDING SCHEDULING ORDER

The undersigned hereby certifies as follows:

1. On or about March 8, 2019, Earth Pipeline Services, Inc. filed a complaint against the above-captioned defendant in the Circuit Court of Wetzel County, West Virginia, designated as Civil Action No. 19-C-15 (the "Wetzel County Case").

2. On May 14, 2019, the Wetzel County Case was removed to this Court and redesignated as Adversary Proceeding Number 19-50274.

3. On or about March 8, 2019, Earth Pipeline Services, Inc. filed a complaint against the above-captioned defendant in the Circuit Court of Marshall County, West Virginia, designated as Civil Action No. 19-C-38 (the "Marshall County Case").

4. On May 14, 2019, the Marshall County Case was removed to this Court and redesignated as Adversary Proceeding Number 19-50275.

5. Subsequent to the removal of the above-captioned cases, counsel for plaintiff Earth Pipeline Services, Inc. and counsel for defendant Columbia Gas Transmission, LLC ("CGT") have negotiated a proposed mutually-satisfactory scheduling order (the "Scheduling Order"). By agreement, the Scheduling Order also provides that the two adversary proceedings shall be consolidated and administered within Adv. Pro. No. 19-50274. The Scheduling Order also provides a deadline within which the plaintiff shall amend its Complaint to name Debtor Welded Construction, L.P. ("Welded") as a nominal defendant. Counsel for CGT has consulted with counsel for Welded regarding the Scheduling Order and Welded consents to its entry.

WHEREFORE, CGT respectfully requests that the Court enter the Scheduling Order attached hereto at its earliest convenience.

Dated: May 5, 2020

ARCHER & GREINER, P.C.

/s/ Kevin F. Shaw

David W. Carickhoff (No. 3715)
Kevin F. Shaw (No. 6239)
300 Delaware Avenue, Suite 1100
Wilmington, DE 19801
Telephone: 302-777-4350
Facsimile: 302-777-4352
E-mail: dcarickhoff@archerlaw.com
kshaw@archerlaw.com

Counsel for Columbia Gas Transmission, LLC

218484178v2

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SCHEDULING ORDER

To promote the efficient and expeditious disposition of adversary proceedings, the following schedule shall apply to each of the above-captioned adversary proceedings.

IT IS HEREBY ORDERED that:

1. The above-captioned cases are consolidated into and shall be administered within Adv. Proc. No. 19-50274 (the "**Adversary Proceeding**").

2. Within seven (7) days of this Order, Earth Pipeline Services, Inc. ("**Earth Pipeline**") will name Welded Construction, L.P. ("**Welded**"), as a nominal defendant in the Adversary

Proceeding, and, to the extent applicable, Earth Pipeline is granted limited relief from the automatic stay pursuant to section 362 of the Bankruptcy Code only to the extent required to permit Earth Pipeline to name debtor Welded Construction, L.P. as a nominal defendant in the Adversary Proceeding, and to enforce and/or foreclose Earth Pipeline's asserted mechanic's liens and all rights and remedies related thereto, if any.

3. Absent leave of the Court, any amendments to pleadings of record shall be filed by Earth Pipeline or Columbia Gas Transmission within seven (7) days of the date of Welded's joinder as a defendant pursuant to the preceding paragraph. Any required answers or responses to any amendments filed pursuant to this paragraph shall be filed within fourteen (14) days of the filing of the related amendment.

4. Within twenty-one (21) days of this Order, if Welded has filed an adversary proceeding relating to the subject matter of the Adversary Proceeding (the "**Welded Proceeding**"), such proceeding shall be consolidated with the Adversary Proceeding pursuant to Fed.R.Civ.P. 42, made applicable by Fed.R.Bankr.P. 7042, for all purposes, including administration, discovery, and trial; *provided, however*, that Earth Pipeline shall have fourteen (14) days from the date that Welded files the Welded Proceeding to file an objection to consolidation of the Welded Proceeding and the Adversary Proceeding. If Earth Pipeline files an objection to consolidation, Columbia Gas Transmission, LLC and Welded shall each have a right to file a response to the objection within seven (7) days of Earth Pipeline filing said objection.

5. The discovery planning conference described in Fed.R.Civ.P. 26(f), made applicable by Fed.R.Bankr.P. 7026, shall take place no later than forty-five (45) days after the date of this Order.

6. The parties shall provide the initial disclosures under Fed.R.Civ.P. 26(a)(1) no later than fourteen (14) days after the discovery planning conference. Any extension of the deadline to

provide initial disclosures must be by Order of the Court and will only be granted for good cause shown.

7. All fact discovery shall be completed by a date no later than two hundred and forty (240) days from the date of this Order.

8. The parties shall provide expert reports for any issue on which they bear the burden of proof by a date no later than two hundred and seventy (270) days after the date of this Order. The parties shall provide rebuttal expert reports by a date no later than three hundred (300) days after the date of this Order. All reports shall provide the information required by Fed.R.Civ.P. 26(a)(2)(B). All expert discovery shall be completed, and discovery closed, by a date no later than three hundred and thirty (330) days after the date of this Order.

9. Pursuant to the General Order Regarding Procedures in Adversary Proceedings entered by the Honorable Mary F. Walrath on April 7, 2004, no later than one hundred and twenty (120) days after the date of this Order, the parties shall file a Stipulation Regarding Appointment of a Mediator or a statement that the parties cannot agree on a mediator and a request that the Court select and appoint a mediator to the proceeding. Within sixty (60) days after the entry of an Order Assigning the Adversary Proceeding to Mediation, the mediator shall either (a) file the mediator's certificate of completion, or (b) if the mediation is not concluded, file a status report that provides the projected schedule for completion of the mediation.

10. All dispositive motions shall be filed and served by a date no later than fifteen (15) days after the close of all discovery and shall be subject to Rule 7.1.2 of the Local Rules of Civil Practice and Procedure of the United States District Court for the District of Delaware.

11. The parties shall comply with the General Order Governing Pre-Trial Procedures in Adversary Proceedings Set for Trial Before Judge Christopher S. Sontchi. The parties shall file,

no later than three (3) business days prior to the earlier of the date set for (i) pre-trial conference (if one is scheduled) or (ii) trial, a joint pre-trial memorandum approved by all counsel and shall contemporaneously deliver two (2) copies thereof to Judge Sontchi's chambers.

12. The Order Assigning the Adversary Proceeding to Mediation shall set the Adversary Proceeding for trial. The Court may, in its discretion, schedule a pre-trial conference in lieu of or in addition to the trial.

13. The Plaintiff shall immediately notify Chambers upon the settlement, dismissal or other resolution of any adversary proceeding subject to this Order and shall file with the Court appropriate evidence of such resolution as soon thereafter as is feasible. The Plaintiff shall file a status report forty-five (45) days after the date of this scheduling order, each forty-five (45) days thereafter, and thirty (30), twenty (20), and ten (10) days prior to trial, setting out the status of the Adversary Proceeding. Plaintiff shall immediately advise Chambers, in writing, of any occurrence or circumstance, which Plaintiff believes may suggest or necessitate the adjournment or other modification of the trial setting.

14. Deadlines contained in this Scheduling Order may be extended only by the Court and only upon written motion for good cause shown.

15. The Plaintiff shall serve this Scheduling Order on each Defendant within five (5) business days after the entry of this Order.