Docket #0070 Date Filed: 4/22/2021

IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE

In re: WELDED CONSTRUCTION, L.P., et al.,[1] 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) (Consolidated)
WELDED CONSTRUCTION, L.P., Plaintiff, v. EARTH PIPELINE SERVICES, INC. Defendant.	Adv. Proc. No. 20-50612 (CSS) (Consolidated) **Ref. Docket Nos. 18, 49, 53 & 54**

CERTIFICATION OF COUNSEL REGARDING REPLACEMENT MEDIATOR STIPULATION

The undersigned hereby certifies as follows:

1. On May 6, 2020, the Court entered the *Scheduling Order* [Adv. Docket No. 18] (the "Scheduling Order"), setting discovery, mediation, and pre-trial deadlines, among other things.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Welded Construction, L.P. (5008) and Welded Construction Michigan, LLC (9830). The mailing address for each of the Debtors is P.O. Box 470, Perrysburg, OH 43552-0470.

1812378210422000000000001

2. On September 4, 2020, pursuant to paragraph 9 of the Scheduling Order, the parties to the above-captioned adversary proceeding (respectively, the "Parties" and the "Adversary Proceeding") filed a *Joint Stipulation Regarding Appointment of a Mediator* [Adv. Docket No. 49] (the "Mediator Stipulation"), stipulating to the appointment of James S. Green, Sr., Esquire, as mediator. Subsequently, Mr. Green passed away.

3. On December 22, 2020, the Parties submitted a *Certification of Counsel Regarding Proposed Amended Scheduling Order* [Adv. Docket No. 53]. On December 23, 2020, the Court entered the *Amended Scheduling Order* [Adv. Docket No. 54] (the "Amended Scheduling Order"), setting revised discovery, mediation, and pre-trial deadlines, among other things.

4. Pursuant to the paragraph 3 of the Amended Scheduling Order, the Parties were required to file a stipulation regarding the appointment of a mediator (the "Stipulation") no later than fourteen (120) days after entry of the Amended Scheduling Order.

5. The Parties have proposed that Raymond H. Lemisch of Klehr Harrison Harvey Branzburg LLP be appointed as mediator in the Adversary Proceeding, and have agreed to a *Joint Stipulation Regarding Appointment of a Replacement Mediator* (the "Stipulation"), attached to the proposed order as Exhibit 1. The Parties hereby submit a proposed order approving the Stipulation (the "Proposed Order"), attached hereto as **Exhibit A**, appointing Mr. Lemisch as mediator in this matter. The Parties have reviewed the Proposed Order and consent to its entry.

WHEREFORE, Welded Construction, L.P. ("Welded") respectfully requests that the Court enter the Proposed Order attached hereto at its earliest convenience.

[Signature Page Follows]

Dated: April 22, 2020
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Kevin A. Guerke

Sean M. Beach (No. 4070)
Kevin A. Guerke (No. 4096)
Kenneth J. Enos (No. 4544)
Tara C. Pakrouh (No. 6192)
Rodney Square
1000 North King Street
Wilmington, DE 19801
Telephone: (302) 571-6600
Facsimile: (302) 571-1253
Email: sbeach@ycst.com
kguerke@ycst.com
kenos@ycst.com
tpakrouh@ycst.com

Counsel to Welded

EXHIBIT A

Proposed Order

27322422.2

IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE

In re: WELDED CONSTRUCTION, L.P., et al.,[1] 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) (Consolidated)
WELDED CONSTRUCTION, L.P., Plaintiff, v. EARTH PIPELINE SERVICES, INC. Defendant.	 Adv. Proc. No. 20-50612 (CSS) (Consolidated) **Ref. Docket No. ____**

ORDER APPROVING JOINT STIPULATION REGARDING APPOINTMENT OF A REPLACEMENT MEDIATOR

[*Remainder of page intentionally left blank.*]

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Welded Construction, L.P. (5008) and Welded Construction Michigan, LLC (9830). The mailing address for each of the Debtors is P.O. Box 470, Perrysburg, OH 43552-0470.

27322422.2

Upon consideration of the *Joint Stipulation Regarding Appointment of a Replacement Mediator* (the "Stipulation"),[2] a copy of which is attached hereto as Exhibit 1, and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED that the Stipulation is approved.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Stipulation.

27322422.2

EXHIBIT 1

Stipulation

27322143.5

IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE

In re: WELDED CONSTRUCTION, L.P., et al.,[1] 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) (Consolidated)
WELDED CONSTRUCTION, L.P., Plaintiff, v. EARTH PIPELINE SERVICES, INC. Defendant.	Adv. Proc. No. 20-50612 (CSS) (Consolidated)

JOINT STIPULATION REGARDING APPOINTMENT OF A REPLACEMENT MEDIATOR

Welded Construction, L.P. ("Welded"), Earth Pipeline Services, Inc. ("Earth"), and Columbia Gas Transmission, LLC, ("CGT" and together with Welded and Earth, the "Parties"), by and through their undersigned counsel, subject to approval of the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"), and in accordance with the

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Welded Construction, L.P. (5008) and Welded Construction Michigan, LLC (9830). The mailing address for each of the Debtors is P.O. Box 470, Perrysburg, OH 43552-0470.

27322143.5

Amendment to the District of Delaware Bankruptcy Court's General Order Regarding Procedures in Adversary Proceedings dated April 11, 2005, hereby stipulate and agree as follows:

1. Pursuant to Rule 9019-3 of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware (the "Local Rules") and the *Amended Scheduling Order* [Adv. Docket No. 54] (the "Amended Scheduling Order"), the Parties select Raymond H. Lemisch as the replacement mediator (the "Replacement Mediator") in the mediation (the "Mediation") of this adversary proceeding (the "Adversary Proceeding"). If the Replacement Mediator is later found to be conflicted, or if the Parties otherwise determine it to be appropriate and agree, the Parties may then stipulate to the appointment of an alternative mediator who, subject to Bankruptcy Court approval, would then be substituted for the above-named person as mediator in the Adversary Proceeding.

2. Subject to the terms of this Stipulation, the Order of the Bankruptcy Court approving this Stipulation, or any other order of the Bankruptcy Court, the Mediation shall be conducted in accordance with the Amended Scheduling Order and the Local Rules. To the extent any part of this Stipulation conflicts with Local Rule 9019-5, the terms and provisions of this Stipulation shall govern.

3. The Parties shall share equally in the payment of the mediator's normal fees and reasonable expenses incurred in connection with the Mediation.

4. Each Party participating in the Mediation must appear with at least one (1) principal or other authorized employee or agent with authority to make a decision binding upon such person or entity.

5. Pursuant to the Amended Scheduling Order, on or before sixty (60) days from an Order Assigning the Adversary Proceeding to Mediation, the Replacement Mediator shall either:

27322143.5

(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.

6. Without limiting the applicability of Local Rule 9019-5, and unless otherwise ordered by the Bankruptcy Court: (i) all discussions among any of the Parties relating to or made in connection with the Mediation; (ii) any mediation statements and any other documents or information provided to the mediator or the other Party in connection with or during the course of the Mediation; and (iii) correspondence, offers and counteroffers produced for or as a result of the Mediation shall be strictly confidential and shall not be admissible for any purpose in any judicial or administrative proceeding, and no person or Party participating in the Mediation, whether a direct participant or not, including counsel for any Party, shall in any way disclose to any non-party or to any court, including, without limitation, in any pleading or other submission to any court, any such discussion, mediation statements, other document or information, correspondence, offer or counteroffer which may be made or provided in connection with the Mediation. Notwithstanding this confidentiality provision, any documents exchanged at the mediation that are also produced in connection with discovery in this matter shall not be subject to this confidentiality provision and may be later utilized in connection with the Adversary Proceeding.

7. To the extent that any Party to the Mediation is in possession of privileged or confidential information provided to it by the other Party pursuant to the terms and conditions of a confidentiality agreement between the Parties or an Order of the Bankruptcy Court, such information may be disclosed to the mediator for purposes of the Mediation, but shall otherwise remain privileged and confidential.

[Signature Page Follows]

27322143.5

Dated: April 22, 2021
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ *Kevin A. Guerke*

Sean M. Beach (No. 4070)
Kevin A. Guerke (No. 4096)
Kenneth J. Enos (No. 4544)
Tara C. Pakrouh (No. 6192)
Rodney Square
1000 North King Street
Wilmington, DE 19801
Telephone: (302) 571-6600
Facsimile: (302) 571-1253
Email: sbeach@ycst.com
kguerke@ycst.com
kenos@ycst.com
tpakrouh@ycst.com

Counsel to Welded

COHEN, SEGLIAS, PALLAS, GREENHALL & FURMAN, P.C.

/s/ *Stephen A. Venzie*

Stephen A. Venzie, Esquire (No. 5716)
500 Delaware Avenue, Suite 730
Wilmington, DE 19801
(302) 425-5089
Email: svenzie@cohenseglias.com

Counsel to Earth

ARCHER & GREINER, P.C.

/s/ *David W. Carickhoff*

David W. Carickhoff, Esq. (No. 3715)
Alan M. Root, Esq.
300 Delaware Avenue, Suite 1100
Wilmington, DE 19801
Email: dcarickoff@archerlaw.com
aroot@archerlaw.com
kshaw@archerlaw.com

Counsel to CGT