

**DEVELOPMENTS IN THE CHAPTER 11 BANKRUPTCY CASE OF  
WESTINGHOUSE ELECTRIC COMPANY, LLC, ET AL.  
DURING THE PERIOD OF JUNE 8, 2017 – JUNE 15, 2017**

This memorandum summarizes developments and the current status of matters in the Chapter 11 bankruptcy case of Westinghouse Electric Company, LLC and 29 of its affiliated companies (collectively, “Westinghouse”), all of which are in joint administration under Case No. 17-10751 (MEW) in the U.S. Bankruptcy Court for the Southern District of New York. This memorandum covers the period of June 8, 2017 through June 15, 2017.

**The Toshiba Guaranties**

Toshiba Corporation (“Toshiba”), which has a 90% ownership interest in Westinghouse, provided guaranties to South Carolina Electric and Gas Company (“SCE&G”) and the South Carolina Public Service Authority (“Santee Cooper”) as the owners of the V.C. Summer Plant in South Carolina, and to the owners of the Vogtle Plant in Georgia (the “Southern Companies”), who are represented by Georgia Power Company (“GPC”), acting for itself and as the agent for the Southern Companies, pursuant to which Toshiba guaranteed certain of Westinghouse’s obligations to SCE&G/Santee Cooper and to the Southern Companies under its contracts to construct the V.C. Summer Plant and the Vogtle Plant. The Toshiba guaranties have been a focal point in the analysis of the likely recoveries for SCE&G/Santee Cooper and the Southern Companies for damages arising from Westinghouse’s failure to fulfill its obligations to them under its contracts.

It appears that significant negotiations have been taking place between Toshiba and GPC, and between Toshiba and SCE&G/Santee Cooper. However, despite several public pronouncements to the contrary, it appears that, as of June 15, 2017, no binding agreement has been reached yet settling the Toshiba guaranty obligations.

At hearings in the Westinghouse bankruptcy on May 23, 2017, an attorney for Toshiba advised the Court that Toshiba and GPC had reached a non-binding agreement, stated in a term sheet, and that Toshiba was close to an agreement with SCE&G/Santee Cooper, to resolve Toshiba’s guaranties to them. The agreement would determine Toshiba’s exposure (liability) on the guaranties, and it would include payment provisions. The Toshiba attorney stated that agreement was to be put into the form of a final, binding agreement. Since that date, the negotiations have continued, but, as of June 15, 2017, no binding agreement has been reached.

Reportedly, Toshiba’s Board has authorized it to pay nearly \$6 billion to settle the Vogtle Plant and the V.C. Summer Plant guaranties. Further, reportedly Toshiba has agreed to pay GPC \$3.68 billion in settlement of the Vogtle Plant guaranty, which payment is not contingent upon completion of the Vogtle Plant. It appears, however, that the agreement regarding the Vogtle Plant guaranty is contingent upon Toshiba also reaching an agreement with SCE&G/Santee Cooper. It appears that Toshiba and SCE&G/Santee Cooper have not reached an agreement on a payment amount. Accordingly, because no agreement has been reached with SCE&G/Santee Cooper as of June 15, 2017, and because the settlement with GPC is linked to Toshiba also settling with SCE&G/Santee Cooper, the agreement regarding the Vogtle Plant guaranty has not been finalized.

It has been said that Toshiba will file a bankruptcy in Japan if an agreement with GPC and SCE&G/Santee Cooper is not reached. It is difficult to assess whether this threat is real, or if it is made

for negotiation purposes. It is understandable why a bankruptcy reorganization and sale might be necessary or helpful for Toshiba in the face of billions of dollars of guaranty obligations. However, it is possible that Toshiba might have less flexibility and not be able to do some things as fast in bankruptcy as it would outside of bankruptcy. In addition, the filing of a bankruptcy in Japan may involve other considerations, including possibly greater negative stigma than would exist in the United States.

If an agreement is reached between Toshiba and SCE&G/Santee Cooper, it is expected that Toshiba will proceed with the sale of its chip business, which it has been said is worth \$15 billion or more. The sale would provide a source of payment to GPC and SCE&G/Santee Cooper. In addition, Toshiba has claims in the Westinghouse bankruptcy arising from intercompany loans. The claims are reportedly in the range of \$1 billion. Although the Westinghouse bankruptcy case is not yet at the point of a proposed plan of reorganization, it is expected that Toshiba will receive some payment on the claims. The claims payment should provide another possible source of payment of the settlement amounts to GPC and SCE&G/Santee Cooper.

During this period of negotiation, amendments have been filed to the Interim Assessment Agreement between Westinghouse and GPC in place for the Vogtle Plant, further extending the period of the agreement through June 5, 2017, then through June 9, 2017, and then through June 22, 2017. The Interim Assessment Agreement between Westinghouse and SCE&G/Santee Cooper covers the period through June 26, 2017.

### **Claims Trader Solicitations to Creditors**

Claims traders have been soliciting to purchase the claims of Westinghouse's creditors. One claims trader sent an e-mail message to attorneys who have filed notices of appearance in the bankruptcy case, in which it is stated that the claims trader projects that general unsecured creditors (creditors who have neither liens on assets nor a priority status under the applicable law) will be worth 32 cents on the dollar; that claims under section 503(b)(9) of the Bankruptcy Code (for goods delivered in the ordinary course of business to Westinghouse within 20 days prior to the bankruptcy filing) will be worth 80 cents on the dollar; that reclamation claims will be worth 80 cents on the dollar; and that mechanic's lien claims will be worth 80 cents on the dollar. **These values are projections, and represent one company's current assessment and estimation, and should not be relied upon. The projected values may prove to be materially inaccurate. They are provided herein solely for information on the current status of matters, and what some parties have stated as to their expectations.**

### **Other Matters in the Westinghouse Bankruptcy**

Vendors and contractors continue to file reclamation claims (for goods delivered to Westinghouse shortly before the filing of the bankruptcy case) and to enforce and perfect mechanic's liens. The reclamation claimants seek to have reclamation rights established which would provide them with priority claims in the bankruptcy, and probably assure them payment (eventually). The mechanic's lien claimants seek to avoid loss of their lien rights by complying with filing deadlines under state law, and section 546(b)(2) (11 U.S.C. § 546(b)(2)) allows them to file notice in the bankruptcy case to serve in place of the state court filings otherwise required.

Several orders were entered during the period of June 8, 2017 – June 15, 2017 on motions filed early in the bankruptcy. For the most part, these orders are final orders replacing interim orders, and do not materially change the earlier dispositions of case matters.