

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
Charlotte Division

IN RE:

BRD LAND & INVESTMENT, et al.<sup>1</sup>

Debtors.

Chapter 11

Case No. 26-\_\_\_\_\_

(Joint Administration Requested)<sup>2</sup>

**DEBTORS’ MOTION FOR ENTRY OF AN ORDER (I) PROHIBITING UTILITIES FROM ALTERING, REFUSING, OR DISCONTINUING SERVICES ON ACCOUNT OF PREPETITION INVOICES, (II) DECLARING, ON AN INTERIM BASIS, THAT THE UTILITY COMPANIES HAVE ADEQUATE ASSURANCE BY WAY OF CURRENT PAYMENTS, AND (III) ESTABLISHING PROCEDURES FOR RESOLVING REQUESTS BY UTILITY COMPANIES FOR ADDITIONAL ASSURANCE OF PAYMENT**

BRD Land & Investment, a South Carolina partnership, BRDL Warden Station Holding Co., LLC, and BRDL Warden Station, LLC (collectively, “Debtors”), debtors-in-possession in the above-captioned case, hereby move (the “Motion”) the Court for entry of an order (the “Order”), pursuant to sections 105(a) and 366 of title 11 of the United States Code (the “Bankruptcy Code”): (i) prohibiting utilities from altering, refusing, or discontinuing services on account of prepetition invoices, (ii) declaring, on an interim basis, that the utility providers have adequate assurance by way of current payments and payment of any prepetition obligation, (iii) directing any Utility Companies that believe additional assurances of payment are needed from the Debtors to file a request for additional adequate assurance to Debtors’ counsel within twenty-one (21) days of service of such an Order, (iv) providing that any Utility Company that does not file such request

<sup>1</sup> Debtors are the following entities (the last four digits of their taxpayer identification numbers follows in parentheses): BRD Land & Investment, a South Carolina partnership (6940), BRDL Warden Station Holding Co LLC (0184), and BRDL Warden Station, LLC (4687). The Debtors’ address is 6433 Bannington Road, Charlotte, NC 28226.

<sup>2</sup> The Debtors have also filed a contemporaneous motion requesting joint administration of their respective Chapter 11 bankruptcy cases.



be finally deemed to have adequate assurance of payment under section 366 of the Bankruptcy Code, and (v) establishing procedures for resolving requests by utility companies for additional assurance of payment. In support of this Motion, the Debtors respectfully state as follows:

**JURISDICTION**

1. The Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b). Venue of these proceedings and the Motion in this Court is proper under 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief requested herein are sections 105(a) and 366 of the Bankruptcy Code.

**BACKGROUND**

3. On the date hereof (the “Petition Date”), the Debtors filed their respective voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

4. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No creditors’ committee, trustee, or examiner has been appointed in these cases.

5. In support of this Motion, the Debtors rely on the Affidavit of William A. Barbee in Support of their Chapter 11 Petitions and First Day Motions (the “Barbee Affidavit”). The facts and circumstances surrounding the Debtors’ bankruptcy filing, and certain background relevant to this Motion, are set forth in the Barbee Affidavit.

6. In the ordinary course of business, the Debtors have relationships with many different utility companies and other providers (each a “Utility Company” and, collectively, the “Utility Companies”) for the provision of internet, telephone, trash removal, electric, water, sewer, natural gas, security, and similar utility products and services (collectively, the “Utility Services”)

at its offices and development sites. The Utility Companies include, without limitation, the entities set forth on the list attached hereto as Exhibit A.<sup>3</sup>

7. The average monthly amount paid to the Utility Companies based on a twelve (12) month average, is approximately \$19,458.00.

8. The Debtors are generally current with the Utility Companies set forth on Exhibit A as of the Petition Date. The Debtors have a lengthy payment history with the Utility Companies indicating consistent timely payment of utility services. However, as of the Petition Date, Debtors may have had (a) prepetition accounts payable for utilities, (b) outstanding checks issued to pay prepetition charges for utilities that had not cleared their account prior to the Petition Date, or (c) liabilities for prepetition utilities that had not yet been billed. Additionally, the Debtors may also have deposits in place with certain Utility Companies (the “Existing Utility Deposits”).

9. The Debtors’ business involves the purchase and development of real property. The Debtors’ offices and development sites require consistent service from the Utility Companies. Should any Utility Company refuse or discontinue service for even a brief period to the Debtors’ offices and development sites, operations would be disrupted, which would have a drastic effect on the Debtors’ efforts to accomplish a reorganization.

10. To achieve the reorganization of their business operations, the Debtors must be assured of consistent and uninterrupted utility services. Without service by the Utility Companies to their offices and development sites, the Debtor will not be able to engage in business operations.

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<sup>3</sup> While the Debtors have used their best efforts to list its Utility Companies in Exhibit A, the Debtors may have inadvertently omitted certain Utility Companies from Exhibit A. Accordingly, the Debtors request that they be authorized, without further order from the Court, to amend Exhibit A to add any Utility Companies that were omitted therefrom and that the relief requested herein apply, subject to the below, to all such entities added to Exhibit A, and to file such amended Exhibit A with this Court. In addition, the Debtors reserve the right to argue that (a) any of the entities now or hereafter listed in Exhibit A is not a “utility” within the meaning of Section 366 of the Bankruptcy Code and (b) any such entity is compelled by contractual obligation, state or local law, or otherwise to continue to furnish services to the Debtors notwithstanding the filing of these Chapter 11 cases.

Any disruption in service by the Utility Companies would damage the Debtors' efforts to accomplish their reorganization by halting Debtors' abilities to communicate with local zoning authorities, contractors, and potential purchasers and harming the creditor body writ large if interruption of utility services hinders the Debtors' ability to maximize the value of their estates during the reorganization.

11. The Debtors anticipate any unpaid utility bills will be relatively small and well-worth the cost to ensure uninterrupted service at the time it is required. It is in the best interest of the Debtors, the estates, and creditors of the Debtors to maintain certain, continuous, and uninterrupted utility service at the Debtors' locations.

**RELIEF REQUESTED**

12. By this Motion, the Debtors seek, pursuant to sections 105(a) and 366 of the Bankruptcy Code, entry of an order by this Court: (i) prohibiting utilities from altering, refusing, or discontinuing services on account of prepetition invoices, (ii) declaring, on an interim basis, that the Utility Companies have adequate assurance by way of current payments and payment of any prepetition obligation, (iii) directing any Utility Companies that believe additional assurances of payment are needed from the Debtors to file a request for additional adequate assurance to Debtors' counsel within twenty-one (21) days of service of such an Order, (iv) providing that any Utility Company that does not file such request be finally deemed to have adequate assurance of payment under Section 366 of the Bankruptcy Code, and (v) establishing procedures for resolving requests by utility companies for additional assurance of payment.

13. By this Motion, the Debtors respect the protections that the Utility Companies have under the Bankruptcy Code, while affording the Debtors an opportunity to provide and negotiate adequate assurance without facing the threat of imminent termination of Utility Services. In

particular, the Debtors request approval of certain procedures that balance the protections afforded the Utility Companies under Section 366 of the Bankruptcy Code and the Debtors' need for continuous and uninterrupted Utility Services.

**A. Proposed Adequate Assurance**

14. The Debtors anticipate that ongoing operations will provide sufficient funds to allow them to satisfy all administrative expenses, and Debtors intend to pay all post-petition obligations owed to the Utility Companies in a timely manner. Nevertheless, to provide adequate assurance of payment for future Utility Services, the Debtors will also maintain all of their Existing Utility Deposits.

15. Also, the Debtors request Court approval and authorization to pay the Utility Companies in the ordinary course of business for services rendered, including payment for services that were rendered or accrued pre-petition.

16. The Debtors submit that the Existing Utility Deposits and the payment of any prepetition amounts owed to any Utility Company together with the Debtors' ability to pay for future Utility Services in the ordinary course of business, provides protection well in excess of that required to grant adequate assurance to the Utility Companies.

**B. The Additional Adequate Assurance Procedures**

17. Notwithstanding the foregoing proposed adequate assurance, certain Utility Companies may argue that the Existing Utility Deposits together with the Debtors' ability to pay for future Utility Services in the ordinary course of business, is not "satisfactory" and, thus, request additional adequate assurance of payment pursuant to section 366(c)(2) of the Bankruptcy Code.

18. Accordingly, the Debtors requests the establishment of procedures (“Procedures”) by which a Utility Company may request additional adequate assurance of future payment, if necessary. Such Procedures would provide that:

- a. A Utility Company must send a request for additional adequate assurance within twenty-one (21) days of service of an Order granting this Motion to Debtors’ counsel if the Utility Company believes additional assurances of payment are needed from the Debtors. Any Utility Company that does not send such a request within the twenty-one (21) day deadline will be deemed to have adequate assurance of payment.
- b. Any request for additional assurance in the form of additional deposits or other security:
  - i. must be made in writing;
  - ii. must include a summary of the Debtors’ payment history relevant to the affected account(s) as well as information regarding the amount of any deposit held by the Utility Company with respect to the Debtors’ account; and
  - iii. must be received by Debtors’ counsel within twenty-one (21) days of the date of service of any order granting this Motion (the “Deposit Request Deadline”) at the following address:

Rayburn Cooper & Durham, P.A.  
Attn: Natalie E. Kutcher  
227 W. Trade Street, Suite 1200  
Charlotte, NC 28202.

Any request for additional adequate assurance of payment failing to meet these requirements shall be deemed an invalid adequate assurance request.

- c. If the Debtors determine, in their sole discretion, that a request for additional adequate assurance made by a Utility Company is reasonable and satisfies the requirements set forth above, the Debtors request the authority, but not direction, to provide such adequate assurance up to one thousand dollars (\$1,000) without further order of this Court. If the additional adequate assurance exceeds one thousand dollars (\$1,000), the approval of such additional adequate assurance will be subject to notice, a hearing at the next regularly scheduled case hearing not occurring more than twenty (20) days after the date of the notice, and order of the Court.
- d. If the Debtors believe that a request for additional adequate assurance made by a Utility Company, which otherwise satisfies the requirements set forth above, is unreasonable, and the Debtors are unable to resolve the request consensually with the Utility Company, then upon the request of the Utility Company (the “Request”), the Debtors shall promptly file a motion for determination of adequate assurance of payment and set such motion for hearing (the “Determination Hearing”) at the next regularly scheduled case hearing occurring more than twenty (20) days after the date of the Request, unless another hearing date is agreed to by the parties or ordered by the Court.
- e. Any Utility Company having made a request for additional adequate assurance of payment shall be deemed to have adequate assurance of payment until the Court enters a final order in connection with such a request finding that the Utility Company is not adequately assured of future payment.

19. Although the Debtors believe that the list of Utility Companies attached as Exhibit A hereto is a complete list, the Debtors reserve the right, without further order of the Court, to supplement the list if any Utility Company has been inadvertently omitted. In the event any additional Utility Companies are identified, they shall have twenty-one (21) days from the service of a Notice of this Order to request additional adequate assurance of payment.

20. The Debtors submit the Procedures provide a fair and orderly mechanism for the Utility Companies to seek additional adequate assurance, while temporarily maintaining the status quo for the benefit of all stakeholders.

### **BASIS FOR RELIEF REQUESTED**

21. Section 366(a) of the Bankruptcy Code protects debtors against the immediate termination of utility services after they file for bankruptcy. Pursuant to this section, a utility may not, during the first thirty (30) days of the case, alter, refuse or discontinue services to debtors in a chapter 11 case solely because of unpaid prepetition amounts. However, the utility may do so thereafter unless the debtors furnish “adequate assurance” of payment for post-petition services in a form “satisfactory” to the utility within twenty (20) days of the Petition Date.

22. Under the terms of section 366 of the Bankruptcy Code, the forms of adequate assurance of payment that debtors may employ in providing adequate assurance of payment are defined to include cash deposits, letters of credit, and prepayment of utility consumption. 11 U.S.C. §§ 366(c)(1)(A)(i), (ii), and (v).

23. While the form of adequate assurance of payment is limited under subsection 366(c), the amount of the security remains fully within the reasonable discretion of the Court. Prior to the 2005 amendments, it was well-settled that adequate assurance of payment did not require a guaranty of payment. Va. Elec. & Power Co. v. Caldor, Inc.-NY, 117 F.3d 646, 648-49

(2d Cir. 1997). Instead, the protection granted to a utility is intended to avoid exposing the utility to an unreasonable risk of nonpayment. “In determining adequate assurance, a bankruptcy court is not required to give a utility company the equivalent of a guaranty of payment but must only determine that the utility is not subject to an unreasonable risk of nonpayment for post-petition services.” In re Adelpia Bus. Sols., Inc., 280 B.R. 63, 80 (Bankr. S.D.N.Y. 2002).

24. A bankruptcy court’s authority to “modify” the level of the “deposit or other security,” provided for under Section 366(b) of the Bankruptcy Code, includes the power to require no “deposit or other security” where none is necessary to provide a utility with “adequate assurance of payment.” Virginia Elec., 117 F.3d at 650; see also Shirey v. Phila. Elec. Co. (In re Shirey), 25 B.R. 247, 249 (Bankr. E.D. Pa. 1982) (“[S]ection 366(b). . . does not permit a utility to request adequate assurance of payment for continued service unless there has been a default by the debtor on a prepetition debt owed for services rendered.”).

25. Here, the Debtors propose to continue prepetition security arrangements as to the Utility Companies that have Existing Utility Deposits. When coupled with both the short duration of risk the Utility Companies are exposed to and the history of timely payment by the Debtors for utility services, the Debtors submit that this constitutes “adequate assurance” of the Debtors’ future performance with respect to the Utility Companies. Additionally, the Debtors propose to further protect the Utility Companies by requesting that this Court adopt the procedures outlined above.

26. The Debtors further submit that granting the requested relief will not prejudice the rights of the Utility Companies to seek additional adequate assurance of payment under section 366 should the facts and circumstances detailed above fail to provide adequate assurance of payment.

27. As set forth above, the Debtors cannot continue its operations without continued services of the Utility Companies. If any of the Utility Companies alter, refuse, or discontinue service, even for a brief period, the Debtors' business operations would be disrupted and the going concern value would be negatively impacted. In contrast, the Utility Companies will not be prejudiced by the continuation of their services and will be paid all post-petition utility charges.

28. The Debtors reserve all rights to object to any claim of any Utility Company, and the inclusion of any Utility Company on Exhibit A to this Motion is not an admission that any claim alleged by any such Utility Company is valid.

### **REQUEST FOR WAIVER OF STAY**

29. To the extent that the relief sought in the Motion constitutes a use of property under section 363(b) of the Bankruptcy Code, Debtors seek a waiver of the fourteen-day stay under Bankruptcy Rule 6004(h). Further, to the extent applicable, Debtors request that the Court find that the provisions of Bankruptcy Rule 6003 are satisfied. As explained herein, the relief requested in this Motion is immediately necessary for Debtors to be able to continue to operate its business and preserve the value of the estate.

### **NOTICE**

30. Notice of the hearing on this Motion has been given to: (a) the holders of the twenty largest general unsecured claims against Debtors; (b) the Utility Companies; and (c) Shumaker Loop & Kendrick, LLP, Harvey & Vallini, LLC, and DLP Lending Fund, LLC. In light of the nature of the relief requested, the Debtors submit that no further notice is required.

**WHEREFORE**, Debtors respectfully request the Court enter an order, substantially in the form attached hereto as Exhibit B (i) prohibiting utilities from altering, refusing, or discontinuing services on account of prepetition invoices, (ii) declaring, on an interim basis, that the utility

providers have adequate assurance by way of current payments and payment of any prepetition obligation, (iii) approving the Utility Deposit Account as adequate assurance of payment, (iv) directing any Utility Companies that believe additional assurances of payment are needed from the Debtors to file a request for additional adequate assurance to Debtors' counsel within twenty-one (21) days of service of such an Order, (v) providing that any Utility Company that does not file such request be finally deemed to have adequate assurance of payment under section 366 of the Bankruptcy Code, and (vi) establishing procedures for resolving requests by utility companies for additional assurance of payment, and (vii) granting Debtors such other and further relief as is just and proper.

This the 24th day of February, 2026.

RAYBURN COOPER & DURHAM, P.A.

By: /s/ Matthew L. Tomsic  
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*Proposed Counsel to the Debtors*

**EXHIBIT A**

**UTILITY COMPANIES**

**BRD Land & Investment, GP and BRDL Warden Station, LLC**

<b>Utility Provider</b>	<b>Service</b>	<b>Location</b>	<b>Average Monthly</b>
Brunswick County Public Utilities	Water	740 Village Road, Shallotte, NC 28470	\$21
Stericycle Inc	Shredding	6433 Bannington Road, Charlotte, NC 28226	\$52
Charter Communications/ Spectrum	Internet	6433 Bannington Road, Charlotte, NC 28226	\$409
Todd Sturgis	Landscaping	740 Village Road, Shallotte, NC 28470	\$150
Piedmont Natural Gas	Gas	6433 Bannington Road, Charlotte, NC 28226	\$188
Brunswick EMC	Electric	740 Village Rd, Shallotte, NC 28470	\$49
Southern Shade Tree Co, Inc.	Landscaping	Liberty Grove Commercial Parcel, China Grove, NC	\$1,040
MYFAX	Fax	6433 Bannington Road, Charlotte, NC 28226	\$13
TMOBILE	Mobile Phone	6433 Bannington Road, Charlotte, NC 28226	\$85
Town of Shallotte	Sewer	740 Village Road, Shallotte, NC 28470	\$87
Duke Energy	Electric	6433 Bannington Road, Charlotte, NC 28226	\$284
Intermedia.net, Inc	Phone	6433 Bannington Road, Charlotte, NC 28226	\$649
InvestNext	Investor Website Service	6433 Bannington Road, Charlotte, NC 28226	\$1,649
Ideals	Virtual Data Room	6433 Bannington Road, Charlotte, NC 28226	\$5,045
Smartsheet	Project Management Platform	6433 Bannington Road, Charlotte, NC 28226	\$5,611
ThinkManaged	IT Services - Hosts Microsoft platform & SharePoint (Intranet)	6433 Bannington Road, Charlotte, NC 28226	\$3,613
Adobe	Monthly Subscription Payment	6433 Bannington Road, Charlotte, NC 28226	\$80
Panther Building Services	Office Cleaning	6433 Bannington Road, Charlotte, NC 28226	\$433
		<b>Total</b>	<b>\$19,458.00</b>

**EXHIBIT B**

**PROPOSED ORDER**

**UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
Charlotte Division**

IN RE:

BRD LAND & INVESTMENT, et al. <sup>1</sup>

Debtors.

Chapter 11

Case No. 26-\_\_\_\_\_

(Joint Administration Requested)<sup>2</sup>

**ORDER UNDER 11 U.S.C. §§ 105(a) AND 366 (I) PROHIBITING UTILITIES FROM ALTERING, REFUSING, OR DISCONTINUING SERVICES ON ACCOUNT OF PREPETITION INVOICES, (II) DECLARING, ON AN INTERIM BASIS, THAT THE UTILITY COMPANIES HAVE ADEQUATE ASSURANCE BY WAY OF CURRENT PAYMENTS, AND (III) ESTABLISHING PROCEDURES FOR RESOLVING REQUESTS BY UTILITY COMPANIES FOR ADDITIONAL ASSURANCE OF PAYMENT**

Upon review of the motion (the “Motion”)<sup>3</sup> of BRD Land & Investment, a South Carolina partnership, BRDL Warden Station Holding Co., LLC and BRDL Warden Station, LLC (collectively, “Debtors”), debtors-in-possession in the above-captioned cases, for entry of an order, pursuant to sections 105(a) and 366 of title 11 of the United States Code (as amended, the “Bankruptcy Code”) (i) prohibiting utilities from altering, refusing, or discontinuing services on

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<sup>1</sup> Debtors are the following entities (the last four digits of their taxpayer identification numbers follows in parentheses): BRD Land & Investment, a South Carolina partnership (6940), BRDL Warden Station Holding Co LLC (0184), and BRDL Warden Station, LLC (4687). The Debtors’ address is 6433 Bannington Road, Charlotte, NC 28226

<sup>2</sup> The Debtors have also filed a contemporaneous motion requesting joint administration of their respective Chapter 11 bankruptcy cases.

<sup>3</sup> Capitalized terms used but not otherwise defined shall have the meanings set forth in the Motion.

account of prepetition invoices, (ii) declaring, on an interim basis, that the utility providers have adequate assurance by way of current payments and payment of any prepetition obligation, (iii) directing any Utility Companies that believe additional assurances of payment are needed from the Debtors to file a request for additional adequate assurance to Debtors' counsel within twenty-one (21) days of service of such an Order, (iv) providing that any Utility Company that does not file such request be finally deemed to have adequate assurance of payment under section 366 of the Bankruptcy Code, and (v) establishing procedures for resolving requests by utility companies for additional assurance of payment; and upon the Barbee Affidavit; and due and sufficient notice of the Motion having been given; and it appearing that no other or further notice need be provided; and upon the record therein; and it appearing that the relief requested by the Motion is in the best interests of the Debtors' estates, its creditors, and other parties-in-interest; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. The requirements of Rule 6003 of the Bankruptcy Rules are satisfied, and the relief requested is necessary to avoid immediate and irreparable harm.
3. Notwithstanding Rule 6004(h) of the Bankruptcy Rules, this Order shall be effective and enforceable immediately upon the entry hereof.
4. The Debtors are authorized to provide the procedures set forth in the Motion and are authorized to pay all undisputed invoices for pre- and post-petition Utility Services provided by the Utility Companies to the Debtors in the ordinary course of business without regard to whether any such utility bill may include charges for periods before the Petition Date.
5. Such provision of security in the form of the Existing Utility Deposits held by the

Utility Companies, along with the continued payment for services provided by the Utility Companies in the ordinary course of business, provides adequate assurance of payment to such Utility Companies under section 366 of the Bankruptcy Code.

6. The Debtors are authorized to continue paying the Utility Companies in the ordinary course of business, including, without limitation, payment of any amounts due to the Utility Companies for prepetition utility services as set forth in the Motion.

7. Absent any further order of this Court and except as otherwise provided herein, the Utility Companies may not alter, refuse, or discontinue service to, or discriminate against, on account of the commencement of this chapter 11 case or any unpaid prepetition charges or request payment of a deposit or receipt of other security in connection with any unpaid prepetition charges.

8. The Utility Companies are hereby deemed, on an interim basis, to have adequate assurance of payment by way of the Utilities Deposit Account and Existing Utilities Deposits as authorized by this Order; provided, however, that any Utility Company that believes additional assurances of payment are needed from the Debtors shall adhere to the following procedures:

(a) A Utility Company must send a request for additional adequate assurance within twenty-one (21) days of service of an Order granting this Motion to Debtors' counsel if the Utility Company believes additional assurances of payment are needed from the Debtors. Any Utility Company that does not send such a request within the twenty-one (21) day deadline will be deemed to have adequate assurance of payment.

(b) Any request for additional assurance in the form of additional deposits or other security:

(i) must be made in writing,

(ii) must include a summary of the Debtors' payment history relevant to the affected account(s) as well as information regarding the amount of any deposit held by the Utility Company with respect to the Debtors' account, and

(iii) must be received by Debtors' counsel within twenty-one (21) days of the date of service of any order granting this Motion (the "Deposit Request Deadline") at the following address:

Rayburn Cooper & Durham, P.A.  
Attn: Natalie E. Kutcher  
227 W. Trade Street, Suite 1200  
Charlotte, NC 28202

Any request for additional adequate assurance of payment failing to meet these requirements shall be deemed an invalid adequate assurance request.

(c) If the Debtors determine, in their sole discretion, that a request for additional adequate assurance made by a Utility Company is reasonable and satisfies the requirements set forth above, the Debtors are hereby authorized, but not directed, to provide such adequate assurance up to one thousand dollars (\$1,000) without further order of this Court. If the additional adequate assurance exceeds one thousand dollars (\$1,000), the approval of such additional adequate assurance will be subject to notice, a hearing at the next regularly scheduled case hearing not occurring more than twenty (20) days after the date of the notice, and order of the Court.

(d) If the Debtors believe that a request for additional adequate assurance made by a Utility Company, which otherwise satisfies the requirements set forth above, is unreasonable, and the Debtors are unable to resolve the request consensually with the Utility Company, then upon the request of the Utility Company (the "Request"), the

Debtors shall promptly file a motion for determination of adequate assurance of payment and set such motion for hearing (the “Determination Hearing”) at the next regularly scheduled case hearing occurring more than twenty (20) days after the date of the Request, unless another hearing date is agreed to by the parties or ordered by the Court.

(e) Any Utility Company having made a request for additional adequate assurance of payment shall be deemed to have adequate assurance of payment until the Court enters a final order in connection with such a request finding that the Utility Company is not adequately assured of future payment.

9. If the Debtors add any Utility Company to Exhibit A, the Debtors will file with the Court an Amended Exhibit A including any such Utility Company and shall serve a copy of this Order, along with Amended Exhibit A, on any such Utility Company, such Utility Company to be afforded thirty (30) days to request additional adequate assurance from the Debtors. Additionally, the Debtors will serve such Amended Exhibit A on the Office of the Bankruptcy Administrator for the Western District of North Carolina.

10. Nothing in the Motion or this Order, nor the Debtors’ payment of claims pursuant to this Order, shall be deemed or construed: (a) as an admission as to the validity of any claim against the Debtors; (b) as a waiver of the Debtors’ rights to dispute any claim; (c) to waive or release any right, claim, defense or counterclaim of the Debtors or their estates, or to estop the Debtors or their estates from asserting any right, claim, defense or counterclaim; (d) as an approval or assumption of any agreement, contract or lease, pursuant to section 365 of the Bankruptcy Code; or (e) as an admission that any obligation is entitled to administrative expense priority or any such contract or agreement is executory or unexpired for purposes of section 365 of the Bankruptcy Code or otherwise.

11. The Debtors are authorized and empowered to take such actions as may be necessary and appropriate to implement the terms of this Order.

12. This Court shall retain jurisdiction with respect to all matters relating to the interpretation or implementation of this Order.

13. Pursuant to Local Rule 9013-1(f), any party shall be entitled to request a hearing or request that the Court reconsider entry of this Order by filing a motion for reconsideration within fourteen (14) days of service of this Order.

This Order has been signed electronically. The judge's signature and court's seal appear at the top of the Order.

United States Bankruptcy Court