

FILED & JUDGMENT ENTERED
Christine F. Ramsey
March 5 2026
Clerk, U.S. Bankruptcy Court
Western District of North Carolina



Laura T Beyer
Laura T. Beyer
United States Bankruptcy Judge

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

IN RE:

BRD LAND & INVESTMENT, et al.¹

Debtors.

Chapter 11

Case No. 26-30215

(Jointly Administered)

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”)² 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

¹ 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

² 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 undisputed invoices for pre-petition services provided up to sixty (60) days prior to the Petition Date, only to those Utility Services identified on Exhibit A to the Motion 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. 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.

7. The Utility Companies are hereby deemed, on an interim basis, to have adequate assurance of payment by way of the Existing Utilities Deposits and timely pre-petition payments to the Utility Companies 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.

8. 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 and on counsel for DLP.

9. 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.

10. The Debtors are authorized and empowered to take such actions as may be

necessary and appropriate to implement the terms of this Order.

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

12. 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