

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

F21 OPCO, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 25-10469 (MFW)

(Jointly Administered)

Ref: Docket Nos. 5, 73, 128, 129, 204, and 205

CERTIFICATION OF COUNSEL REGARDING
***REVISED PROPOSED FINAL ORDER (I) (A) PROHIBITING UTILITY COMPANIES
FROM DISCONTINUING, ALTERING, OR REFUSING SERVICE, (B) DEEMING
UTILITY COMPANIES TO HAVE ADEQUATE ASSURANCE OF FUTURE
PAYMENT, (C) ESTABLISHING PROCEDURES FOR RESOLVING REQUESTS FOR
ADDITIONAL ASSURANCE, AND (II) GRANTING RELATED RELIEF***

On March 16, 2025, the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) filed the *Debtors’ Motion for Entry of Interim and Final Orders (I) (A) Prohibiting Utility Companies from Discontinuing, Altering, or Refusing Service, (B) Deeming Utility Companies to Have Adequate Assurance of Future Payment, (C) Establishing Procedures for Resolving Requests for Additional Assurance, and (II) Granting Related Relief* [D.I. 5] (the “**Motion**”). A proposed form of order approving the Motion on a final basis was attached to the Motion as Exhibit B (the “**Proposed Final Order**”).

On March 18, 2025, the United States Bankruptcy Court for the District of Delaware (the “**Court**”) entered an order approving the Motion on an interim basis [D.I. 73] (the “**Interim Order**”). Pursuant to the Interim Order, any objections or responses to entry of the Proposed Final

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: F21 OpCo, LLC (8773); F21 Puerto Rico, LLC (5906); and F21 GiftCo Management, LLC (6412). The Debtors’ address for purposes of service in these Chapter 11 Cases is 110 East 9th Street, Suite A500, Los Angeles, CA 90079.



Order were to be filed and served by April 8, 2025 at 4:00 p.m. (ET) (the “**Objection Deadline**”), as may have been extended for certain parties.

Prior to the Objection Deadline, the Debtors received to formal objections to the relief requested in the Motion: (i) the *Objection of Certain Utility Companies to Debtors’ Motion for Entry of Interim and Final Orders (I) (A) Prohibiting Utility Companies from Discontinuing, Altering, or Refusing Service, (B) Deeming Utility Companies to Have Adequate Assurance of Future Payment, (C) Establishing Procedures for Resolving Requests for Additional Assurance, and (II) Granting Related Relief* [D.I. 128] and (ii) the *Joinder of Certain FirstEnergy Operating Companies to the Objection of Certain Utility Companies to Debtors’ Motion for Entry of Interim and Final Orders (I) (A) Prohibiting Utility Companies from Discontinuing, Altering, or Refusing Service, (B) Deeming Utility Companies to Have Adequate Assurance of Future Payment, (C) Establishing Procedures for Resolving Requests for Additional Assurance, and (II) Granting Related Relief* [D.I. 129] (together, the “**Objections**,” and the objecting parties, the “**Objecting Parties**”). Additionally, the Debtors received informal comments to the Proposed Final Order from the Official Committee of Unsecured Creditors (the “**Committee**” and together with the Objecting Parties, the “**Responding Parties**”). The Debtors did not receive any other informal responses or objections to the Motion.

Following the Objection Deadline, the Debtors and the Objecting Parties successfully worked to resolve the Objections. Accordingly, on April 14, 2025, the Objecting Parties each withdrew their Objections. [D.I. 204, 205].

To resolve the Committee’s comments, the Debtors have agreed to revise the Proposed Final Order, as reflected in the revised Proposed Final Order attached hereto as **Exhibit A** (the “**Revised Proposed Final Order**”). For the convenience of the Court and other interested

parties, a blackline comparing the Revised Proposed Final Order against the Proposed Final Order is attached hereto as **Exhibit B**.

As the Debtors did not receive any objections or responses other than those described herein, and as the Responding Parties do not object to entry of the Revised Proposed Final Order, the Debtors respectfully request that the Court enter the Revised Proposed Final Order without further notice or hearing at the Court's earliest convenience.

Dated: April 14, 2025

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Sarah Gawrysiak

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Robert F. Poppiti, Jr. (No. 5052)

Ashley E. Jacobs (No. 5635)

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Proposed Counsel to the Debtors and Debtors in Possession

EXHIBIT A

Revised Proposed Final Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

F21 OPCO, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 25-10469 (MFW)

(Jointly Administered)

Ref: Docket Nos. 5 & 73

**FINAL ORDER (I) (A) PROHIBITING UTILITY COMPANIES FROM
DISCONTINUING, ALTERING, OR REFUSING SERVICE, (B) DEEMING UTILITY
COMPANIES TO HAVE ADEQUATE ASSURANCE OR PAYMENT, (C)
ESTABLISHING PROCEDURES FOR RESOLVING REQUESTS FOR ADDITIONAL
ASSURANCE, AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)² of the Debtors for entry of a final order (this “**Final Order**”) (a) prohibiting utility companies from discontinuing, altering, or refusing service to the Debtors on account of unpaid prepetition invoices; (b) deeming the utility companies to have received adequate assurance of future payment; (c) establishing procedures for resolving requests for additional assurance of future payment; and (d) granting related relief, all as more fully set forth in the Motion; and this Court having reviewed the Motion and the First Day Declaration; and this Court having previously entered that certain *Interim Order (I) (A) Prohibiting Utility Companies from Discontinuing, Altering, or Refusing Service, (B) Deeming Utility Companies to have Adequate Assurance of Future Payment, (C) Establishing Procedures for Resolving Requests for Additional Assurance, and (II) Granting Related Relief* [D.I. 73] (the “**Interim Order**”); and this Court having jurisdiction to consider the Motion and the relief requested therein in accordance

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

with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the record herein; and after due deliberation thereon; and this Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest, it is hereby

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED on a final basis, as set forth herein.
2. The Debtors shall serve a copy of the Motion and this Final Order on each Utility Company listed on the Utility Services List no later than two business days after the date this Final Order is entered.
3. To the extent not already done, Debtors are authorized to cause the Utility Deposit to be held in a segregated account during the pendency of these Chapter 11 Cases, subject to the Adequate Assurance Procedures, which Utility Deposit shall not be subject to any liens granted to the Debtors' post-petition lender(s) under any order entered by this Court authorizing the Debtors' use of cash collateral.
4. The Utility Deposit shall constitute adequate assurance of future payment as required by section 366 of the Bankruptcy Code.

5. All Utility Companies are prohibited from altering, refusing, or discontinuing services on account of any unpaid prepetition charges, the commencement of these Chapter 11 Cases, or any perceived inadequacy of the Adequate Assurance.

6. The following Adequate Assurance Procedures are hereby approved:

- i. Any Utility Company that objects to the Adequate Assurance must serve a request (an “**Adequate Assurance Request**”) on (a) proposed counsel to the Debtors, Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, DE 19801, Attn: S. Alexander Faris, Esq. (afaris@ycst.com) and Sarah Gawrysiak, Esq. (sgawrysiak@ycst.com); (b) counsel to Wells Fargo Bank, N.A. in its capacity as Prepetition ABL Administrative Agent, Otterbourg P.C., 230 Park Avenue, New York, NY 10169, Attn: Chad Simon, Esq. (csimon@otterbourg.com) and Daniel Fiorillo, Esq. (dfiorillo@otterbourg.com); (c) counsel to Pathlight Capital LP in its capacity as Prepetition Term Loan Agent, Riemer & Braunstein LLP, Times Square Tower, Suite 2506, Seven Times Square, New York, NY 10036, Attn: Steven E. Fox, Esq. (sfox@riemerlaw.com); and (d) proposed counsel to the Official Committee of Unsecured Creditors, McDermott Will & Emery LLP, 1 Vanderbilt Ave, Manhattan, NY 10017; 1325 6th Ave 19th floor, New York, NY 10019, Attn: Darren Azman (dazman@mwe.com) and Kirstin Going (kgoing@mwe.com) and Cole Schotz P.C., 500 Delaware Avenue, Wilmington, DE 19801, Attn: Justin Alberto (jalberto@coleschotz.com) (collectively, the “**Notice Parties**”).
- ii. Any Adequate Assurance Request must be served on the Notice Parties and must: (a) be made in writing; (b) identify the location for which Utility Services are provided; and (c) explain why the Utility Company believes that the Adequate Assurance is not sufficient adequate assurance of future payment.
- iii. Upon the Debtors’ receipt of any Adequate Assurance Request, the Debtors shall promptly negotiate with the requesting Utility Company in an effort to resolve its Adequate Assurance Request.
- iv. The Debtors are authorized to resolve, in their sole discretion, any Adequate Assurance Request by mutual agreement with a Utility Company and without further order of this Court and, in connection with any such agreement, in their sole discretion, provide a Utility Company with alternative adequate assurance of payment, including cash deposits, prepayments, or other forms of security, without further order of this Court, if the Debtors believe such alternative assurance is reasonable.
- v. If the Debtors determine that a timely received Adequate Assurance Request is not reasonable and are unable to reach an alternative resolution with the applicable Utility Company, the Debtors shall request a hearing before the Court

to determine the adequacy of assurance of payment pursuant to section 366(c)(3) of the Bankruptcy Code (the “**Determination Hearing**”). Pending resolution of such Adequate Assurance Request at the Determination Hearing, the Utility Company shall be prohibited from altering, refusing, or discontinuing services to the Debtors on account of unpaid charges for prepetition services or on account of any objections to the Adequate Assurance.

7. The Utility Companies that have received notice, and for whose benefit Utility Deposits are being made, are prohibited from requiring additional adequate assurance of payment other than pursuant to the Adequate Assurance Procedures.

8. All Utility Companies that have received notice, and for whose benefit Utility Deposits are being made, that do not serve an Adequate Assurance Request shall be: (a) deemed to have received adequate assurance of payment “satisfactory” to such Utility Company in compliance with section 366 of the Bankruptcy Code; and (b) prohibited from discontinuing, altering, or refusing services to, or discriminating against, the Debtors on account of any unpaid prepetition charges, or requiring additional assurance of payment other than the Adequate Assurance.

9. The Debtors are authorized, in their sole discretion and in consultation with the Official Committee of Unsecured Creditors (the “Committee”), to add any Utility Company to the Utility Services List, and the Debtors shall add an amount equal to 50% of the Debtors’ estimated monthly cost for each subsequently-added Utility Company as soon as practicable. For Utility Companies that are added to the Utility Services List, the Debtors will serve a copy of this Final Order, including the Adequate Assurance Procedures, on such subsequently-added Utility Company. Any Utility Company subsequently added to the Utility Services List shall be bound by the Adequate Assurance Procedures, provided that any subsequently-added Utility Company must serve on the Notice Parties, any Adequate Assurance Request.

10. If any utility account with a Utility Company becomes discontinued or terminated during the course of these Chapter 11 Cases, or to the extent the Debtors determine, in their sole discretion and in consultation with the Committee, that a Utility Company should otherwise be removed from the Utility Services List, then without the need for further order of this Court or notice to any parties except as otherwise provided herein, the Debtors shall be authorized to decrease the amount of the Utility Deposit by the amount deposited with respect to such account or such Utility Company, as applicable, provided that the Debtors (i) obtain the affected Utility Company's consent to do so, or (ii) provide the affected Utility Company with seven days' prior written notice of their intent to do so (which notice may be via e-mail) and receive no response to such notice. Upon the earlier of the effective date of a chapter 11 plan in these Chapter 11 Cases or such other time as these Chapter 11 Cases may be closed, the Debtors shall be relieved of the obligation to maintain the Utility Deposit without the need for any further notice or action, order or approval of this Court.

11. The relief granted herein is for all Utility Companies providing Utility Services to the Debtors and is not limited to those parties or entities listed on the Utility Services List.

12. To the extent not already done, the Debtors are authorized to satisfy prepetition amounts owed to the Aggregator, in an amount not to exceed \$10,000, in the ordinary course of business.

13. All objections to the entry of this Final Order, to the extent not withdrawn or settled, are overruled.

14. Nothing in the Motion, the Interim Order, or this Final Order, or the relief granted herein (including any actions taken or payments made by the Debtors), is to be construed as: (a) an implication or admission as to the amount of, basis for, or validity of any claim against the Debtors

under the Bankruptcy Code or other applicable non-bankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion; (e) a concession by the Debtors that any lien (contractual, common, statutory or otherwise) satisfied pursuant to the Motion are valid (and all rights to contest the extent, validity or perfection or seek avoidance of all such liens are expressly reserved); (f) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (g) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; (h) a waiver of the obligation of any party in interest to file a proof of claim; or (i) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code or any other applicable law. Nothing contained in this Final Order shall be deemed to increase, reclassify, elevate to an administrative expense status, or otherwise affect any claim to the extent it is not paid.

15. Notwithstanding Bankruptcy Rule 6004(h) or any other procedural rule, to the extent applicable, this Final Order shall be effective and enforceable immediately upon entry hereof.

16. The Debtors are authorized and empowered to take all actions necessary or appropriate to implement the relief granted in this Final Order.

17. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation or enforcement of this Final Order.

EXHIBIT B

Blackline

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