

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

Hudson 1701/1706, LLC, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 25-11853 (KBO)

(Jointly Administered)

**DEBTORS' MOTION FOR ENTRY OF  
INTERIM AND FINAL ORDERS (I)(A) APPROVING  
THE DEBTORS' PROPOSED ADEQUATE ASSURANCE OF PAYMENT FOR  
FUTURE UTILITY SERVICES, (B) APPROVING THE DEBTORS' PROPOSED  
PROCEDURES FOR RESOLVING ADDITIONAL ASSURANCE REQUESTS, AND  
(C) PROHIBITING UTILITY PROVIDERS FROM ALTERING, REFUSING, OR  
DISCONTINUING SERVICES; AND (II) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors-in-possession (the “**Debtors**”) hereby move (this “**Motion**”) the Court for entry of interim and final orders substantially in the forms attached hereto as **Exhibit A** and **Exhibit B** (the “**Interim Order**” and the “**Final Order**,” respectively), granting the relief described below. In support of this Motion, the Debtors rely upon the *Amended and Restated Declaration of Alan Tantleff in Support of Debtors’ Chapter 11 Petitions and First Day Motions* (the “**First Day Declaration**”),<sup>2</sup> and respectfully represent as follows:

**JURISDICTION AND VENUE**

1. The United States Bankruptcy Court for the District of Delaware (the “**Court**”) has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334 and the *Amended*

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Hudson 1701/1706, LLC (0281) and Hudson 1702, LLC (0190). The Debtors’ headquarters and the mailing address for the Debtors is 11440 San Vicente Boulevard, 2<sup>nd</sup> Floor, Los Angeles, CA 90045.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the First Day Declaration.



*Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012.

2. Pursuant to Rule 9013-1(f) of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), the Debtors confirm their consent to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of these chapter 11 cases and this Motion is proper in this district under 28 U.S.C. §§ 1408 and 1409.

4. The statutory bases for the relief requested herein are sections 105(a) and 366 of title 11 of the United States Code, as amended (the “**Bankruptcy Code**”). The relief is also appropriate in accordance with Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Local Rule 9013-1(m).

#### **RELIEF REQUESTED**

5. By this Motion, the Debtors respectfully request entry of the Interim Order and the Final Order: (i)(a) approving the Debtors’ proposed adequate assurance of payment for future utility services, (b) approving the Debtors’ proposed procedures for resolving requests for adequate assurance, and (c) prohibiting utility providers from altering, refusing, or discontinuing services; and (ii) granting related relief.

6. The Debtors further request that the Court: (i) set a deadline for filing objections to the Motion and entry of the Final Order; (ii) set a final hearing on the Motion (the “**Final Hearing**”); and (iii) enter the Final Order on this Motion at or after such Final Hearing.

7. The Debtors also request that the Interim Order and the Final Order: (i) authorize all applicable banks and other financial institutions (collectively, the “**Banks**”), when requested by the Debtors in their sole discretion, to receive, process, honor, and pay any and all checks, drafts, and other forms of payment, including fund transfers on account of obligations owed to utility providers, whether such checks or other requests were submitted before, on, or after the Petition Date; (ii) authorize the Banks to rely on the representations of the Debtors as to which checks and fund transfers are subject to this Motion, provided that no such Bank shall have any liability to any party for relying on such direction and representations by the Debtors; (iii) provide that the Banks shall, at the direction of the Debtors, receive, process, honor, and pay all prepetition and postpetition checks and fund transfers on account of obligations to utility providers that had not been honored and paid as of the Petition Date, provided that sufficient funds are on deposit in the applicable accounts to cover such payments and that no such Bank shall have any liability to any party for relying on such direction by the Debtors; and (iv) authorize the Debtors to issue new postpetition checks or effect new postpetition fund transfers to replace any checks, drafts, and other forms of payment which may be inadvertently dishonored or rejected.

### **BACKGROUND**

#### **A. THE CHAPTER 11 CASES.**

8. On October 22, 2025 (the “**Petition Date**”), the Debtors each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the “**Court**”), thereby commencing these cases (the “**Chapter 11 Cases**”). The Chapter 11 Cases are jointly administered for procedural purposes only pursuant to Bankruptcy Rule 1015(b).

9. The Debtors continue to be in possession of their properties, to operate their business, and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

10. To date, the Office of the United States Trustee for the District of Delaware (the “**U.S. Trustee**”) has not appointed a creditors’ committee in the Chapter 11 Cases, nor has any trustee or examiner been appointed therein.

11. Additional factual background regarding the Debtors, including their business operations, their capital and debt structures and the events leading to the filing of these Chapter 11 Cases, is set forth in the First Day Declaration, which is fully incorporated herein by reference.

**B. THE UTILITY SERVICES AND UTILITY PROVIDERS.**

12. In connection with the operation of their business, the Debtors obtain telephone, internet, electricity, natural gas, water, sewer, waste management, and other similar services (collectively, the “**Utility Services**”) from a number of utility providers (collectively, the “**Utility Providers**”). As of the Petition Date, the Debtors had approximately six (6) active utility accounts. A nonexclusive list of the Utility Providers that provide Utility Services to the Debtors as of the Petition Date (the “**Utility Providers List**”) is attached hereto as **Exhibit C**.<sup>3</sup>

13. Uninterrupted Utility Services are essential to the Debtors’ ongoing business operations and, hence, the overall success of these Chapter 11 Cases. Should any Utility Provider refuse or discontinue service, even for a brief period, the Debtors’ business operations would be severely disrupted. Such disruption would, in turn, negatively affect the Debtors’ reorganization

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<sup>3</sup> The inclusion of any entity on, or the omission of any entity from, the Utility Providers List is not an admission by the Debtors that such entity is, or is not, a utility within the meaning of section 366 of the Bankruptcy Code, and the Debtors reserve all rights with respect to any such determination. Additionally, although **Exhibit C** is intended to be comprehensive, the Debtors may have inadvertently omitted one or more Utility Providers. By this Motion, the Debtors request relief applicable to all Utility Providers, regardless of whether such Utility Provider is specifically identified on **Exhibit C**.

efforts and the value of the Debtors' estates. Accordingly, it is essential that the Utility Services continue uninterrupted during these Chapter 11 Cases.

14. On average, the Debtors pay approximately \$11,075.00 each month for Utility Services, calculated as a historical average payment for the last five (5) months.<sup>4</sup> The Debtors do not anticipate this monthly average will change materially during the initial thirty days following the commencement of these Chapter 11 Cases. Accordingly, the Debtors estimate that their cost for Utility Services during the next thirty (30) days will be approximately \$11,075.00.

**A. PROPOSED ADEQUATE ASSURANCE OF PAYMENT**

15. The Debtors intend to pay all timely and undisputed postpetition obligations owed to the Utility Provider. Regardless, as additional adequate assurance of payment, the Debtors propose to deposit \$5,539.00 (the "**Adequate Assurance Deposit**"), into a separate, segregated account (the "**Adequate Assurance Account**") for the benefit of the Utility Providers. The Adequate Assurance Deposit represents an amount equal to approximately one-half of the Debtors' average monthly cost of Utility Services, as of the Petition Date, calculated as a historical average payment for the last five (5) months.

16. The Adequate Assurance Deposit will be held in a separate, segregated account for the duration of these Chapter 11 Cases, for the benefit of each Utility Provider, subject to each of the Debtors' respective rights to terminate or discontinue the applicable Utility Services and may be applied to any postpetition defaults in payment to the Utility Providers. The Adequate Assurance Deposit will be held by the Debtors.

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<sup>4</sup> Following the UCC foreclosure sale, the Debtors opened new accounts with the Utility Providers. This average reflects the monthly cost over the last five (5) months for the Debtors' active accounts for Utility Services.

17. The Debtors submit that the Adequate Assurance Deposit, in conjunction with the Debtors' ability to pay for future Utility Services in accordance with their prepetition practices (collectively, the "**Proposed Adequate Assurance**"), constitutes sufficient adequate assurance to the Utility Providers in full satisfaction of section 366 of the Bankruptcy Code.

**B. THE ADEQUATE ASSURANCE PROCEDURES**

18. In light of the severe consequences to the Debtors' business and operations that would result from any interruption in Utility Services, but recognizing the right of the Utility Providers to evaluate the Proposed Adequate Assurance, if a Utility Provider believes additional adequate assurance is required, it may request such assurance pursuant to the following procedures (the "**Adequate Assurance Procedures**"):

- a. The Debtors will serve a copy of the Motion and the Interim Order granting the relief requested herein to each Utility Provider identified on **Exhibit C** within two (2) business days after entry of the Interim Order.
- b. Subject to paragraphs (f)-(k) herein, the Debtors will deposit the Adequate Assurance Deposit, in the aggregate amount of \$5,539.00, in the Adequate Assurance Account as soon as practicable after entry of the Interim Order.
- c. Each Utility Provider shall be entitled to the funds in the Adequate Assurance Account in the amount set forth for such Utility Provider in the column labeled "Proposed Adequate Assurance" on the Utility Providers List.
- d. If an amount relating to Utility Services provided postpetition by a Utility Provider is unpaid, remains unpaid beyond any applicable grace period, and is undisputed, such Utility Provider may request a disbursement from the Adequate Assurance Account by giving notice to: (a) the Debtors, Hudson 1701/106, LLC, c/o *FTI Consulting* 1166 Avenue of the Americas, 15<sup>th</sup> Floor, New York, NY 10036 (Attn: Alan Tantleff) (Email: [alan.tantleff@fticonsulting.com](mailto:alan.tantleff@fticonsulting.com) ); (b) *proposed* counsel for the Debtors, *Chipman Brown Cicero & Cole, LLP*, Hercules Plaza, 1313 North Market Street, Suite 5400, Wilmington, Delaware 19801 (Attn: William E. Chipman, Jr., Esquire and Mark D. Olivere, Esquire) (Email: [chipman@chipmanbrown.com](mailto:chipman@chipmanbrown.com) and [olivere@chipmanbrown.com](mailto:olivere@chipmanbrown.com)); (c) the *Office of the United States*

*Trustee for the District of Delaware*, 844 King Street, Suite 2207, Lock Box 35, Wilmington, Delaware 19801 (Attn: Malcom M. Bates, Esquire) (Email: [malcom.m.bates@usdoj.gov](mailto:malcom.m.bates@usdoj.gov)); and (d) counsel to the DIP Lender and Prepetition Lender, *Hogan Lovells US LLP*, (i) 1999 Avenue of the Stars, Suite 1400, Los Angeles, California 90067 (Attn: Richard Wynne, Esquire and David P. Simonds, Esquire) (Email: [richard.wynne@hoganlovells.com](mailto:richard.wynne@hoganlovells.com) and [david.simonds@hoganlovells.com](mailto:david.simonds@hoganlovells.com) ; and (ii) 390 Madison Avenue, New York, New York, 10017 (Attn.: Christopher Bryant, Esquire) (Email: [chris.bryant@hoganlovells.com](mailto:chris.bryant@hoganlovells.com)) (collectively, the “**Notice Parties**”). The Debtors shall honor such undisputed request within five (5) business days after the date the request is received by the Debtors. The Debtors and any such requesting Utility Provider maintain the ability to resolve any dispute regarding such request without further order of the Court. To the extent a Utility Provider receives a disbursement from the Adequate Assurance Account, the Debtors shall replenish the Adequate Assurance Account in the amount disbursed.

- e. The portion of the Adequate Assurance Deposit attributable to each Utility Provider (including any additional amount deposited upon request of any applicable Utility Provider), or any portion thereof, shall revert to the Debtors less any amounts owed on account of unpaid, postpetition Utility Services, by the earlier of the date upon which (i) the Debtors reconcile and pay the Utility Provider’s final invoice in accordance with applicable nonbankruptcy law following the Debtors’ termination of Utility Services from such Utility Provider or (ii) the effective date of any chapter 11 plan confirmed in these Chapter 11 Cases; provided that for any Utility Provider for which the Adequate Assurance Deposit is reduced, the Debtors shall have provided such Utility Provider with fourteen (14) days’ notice of the Debtors’ intent to make such reduction and (ii) paid such Utility Provider in full for any undisputed outstanding postpetition Utility Services.
- f. Any Utility Provider that (i) objects to the Debtors’ Proposed Adequate Assurance or (ii) desires additional assurances of payment in the form of deposits, prepayments, or otherwise must serve a request for additional assurance (an “**Additional Assurance Request**”) on the Notice Parties.
- g. Any Additional Assurance Request must: (i) be in writing; (ii) identify the location for which the Utility Services are provided; and (iii) explain why the Utility Provider believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment. Any Additional Assurance Request that does not fully comply with the foregoing requirements shall be deemed invalid.

- h. If a Utility Provider fails to file and serve an Additional Assurance Request the Utility Provider shall be forbidden from altering, refusing, or discontinuing Utility Services to, or discriminating against, the Debtors on account of any unpaid prepetition charges, or requiring additional assurance of payment other than the Proposed Adequate Assurance.
- i. Without further order of the Court, the Debtors may resolve any Additional Assurance Request by mutual agreement with a Utility Provider, and the Debtors may, in connection with any such agreement, provide a Utility Provider with additional adequate assurance of payment, including, but not limited to, cash deposits, prepayments, or other forms of security if the Debtors believe that such adequate assurance is reasonable.
- j. If the Debtors determine in their business judgment that the Additional Assurance Request is not reasonable and the Debtors are unable to reach an alternative resolution with the Utility Provider within twenty-one (21) days of receipt of the Additional Assurance Request, the Debtors may request a hearing (the “**Determination Hearing**”) before the Court to determine the adequacy of assurance of payment with respect to that Utility Provider pursuant to section 366(c)(3) of the Bankruptcy Code.
- k. Pending resolution of such dispute at a Determination Hearing, the relevant Utility Provider shall be prohibited from altering, refusing, or discontinuing Utility Services to the Debtors on account of: (i) unpaid charges for prepetition services; (ii) a pending Additional Assurance Request; or (iii) any objections filed in response to the Proposed Adequate Assurance.

**C. MODIFICATIONS TO THE UTILITY PROVIDERS LIST.**

19. The Debtors have made a good-faith effort to identify all Utility Providers and include them on the Utility Providers List. Nonetheless, to the extent the Debtors identify new or additional Utility Providers or discontinue services from existing Utility Providers, the Debtors request the authority to add or remove such parties from the Utility Providers List; *provided, however*, that the Debtors shall provide notice of any such addition or removal to the Notice Parties.

20. For any Utility Provider that is subsequently added to the Utility Providers List, the Debtors will serve such Utility Provider with a copy of the Interim Order or Final Order, as



applicable, including the Adequate Assurance Procedures, and provide such Utility Provider fourteen (14) days' notice to object to the inclusion of such Utility Provider on the Utility Providers List. The Debtors request the authority to increase the Adequate Assurance Deposit by an amount equal to approximately one-half of the Debtors' monthly average cost of services from the subsequently added Utility Provider. The Debtors request that the terms of the Court's order and the Adequate Assurance Procedures apply to any subsequently identified Utility Provider to the same extent as if the Utility Provider was listed on the original Utility Providers List attached hereto.

21. Upon the discontinuance of any Utility Service, the Debtors seek authority to, in their discretion and without further order of the Court, reduce the Adequate Assurance Deposit by an amount not exceeding, for each of the Utility Services being discontinued, the lesser of (a) one-half of the average monthly cost of such Utility Services, calculated based on the aforementioned historical average, to align with the go-forward average monthly cost of Utility Services and (b) the amount of the Adequate Assurance Deposit then attributable to the applicable Utility Provider; *provided* that for any Utility Provider for which the Adequate Assurance Deposit is reduced, the Debtors shall have (i) provided such Utility Provider with fourteen (14) days' notice of the Debtors' intent to make such reduction and (ii) paid such Utility Provider in full for any undisputed outstanding postpetition Utility Services. To the extent that there is any dispute as to the postpetition amounts owed to a Utility Provider proposed to be removed from the Utilities Providers List, such Utility Provider shall not be removed from the Utility Providers List, and no funds shall be removed from the Adequate Assurance Deposit, until such dispute has been resolved.

**D. PROHIBITION ON ALTERING, REFUSING, OR DISCONTINUING SERVICE.**

22. Pending the entry of Interim and Final orders with respect to the Motion and pending resolution of any Additional Assurance Request, objection, or Determination Hearing, the Utility Providers, including any subsequently identified Utility Providers, shall be prohibited from (i) discriminating against the Debtors, (ii) altering, refusing or discontinuing service to the Debtors, or (iii) requiring payment of a deposit or receipt or any other security for continued service other than the Adequate Assurance Deposit, as a result of the Debtors' bankruptcy filings or any outstanding prepetition invoices.

**BASIS FOR RELIEF REQUESTED**

**A. SUFFICIENT CAUSE EXISTS TO APPROVE THE ADEQUATE ASSURANCE PROCEDURES.**

23. The Court possesses the power, under section 105(a) of the Bankruptcy Code, to “[i]ssue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” The Adequate Assurance Procedures and the Proposed Adequate Assurance are necessary and appropriate to carry out the provisions of the Bankruptcy Code, particularly section 366 thereof. Accordingly, the Court should exercise its powers under sections 366 and 105(a) of the Bankruptcy Code and approve both the Proposed Adequate Assurance and the Adequate Assurance Procedures.

24. Section 366 of the Bankruptcy Code protects a debtor against the immediate termination or alteration of utility services after the petition date. *See* 11 U.S.C. § 366. Section 366(c)(2) requires the debtor to provide “adequate assurance” of payment for postpetition services in a form “satisfactory” to the utility provider within thirty days of the Petition Date, or the utility provider may alter, refuse, or discontinue service. 11 U.S.C. § 366(c)(2). Section 366(c)(1) of the Bankruptcy Code enumerates what constitutes “assurance of payment.” 11 U.S.C. § 366(c)(1).

Although assurance of payment must be “adequate,” it need not constitute an absolute guarantee of a debtors’ ability to pay. *See, e.g., In re Great Atl. & Pac. Tea Co.*, No. 11-CV-1338, 2011 WL 5546954, at \*5 (Bankr. S.D.N.Y. Nov. 14, 2011) (finding that “[c]ourts will approve an amount that is adequate enough to insure against unreasonable risk of nonpayment, but are not required to give the equivalent of a guaranty of payment in full.”) (internal citations omitted); *In re Caldor, Inc.*, 199 B.R. 1, 3 (S.D.N.Y. 1996) (“Section 366(b) requires . . . adequate assurance of payment. The statute does not require an absolute guarantee of payment.”) (internal quotation and citation omitted)), *aff’d sub nom. Va. Elec. & Power Co. v. Caldor, Inc.*, 117 F.3d 646 (2d Cir. 1997).

25. When considering whether a given assurance of payment is “adequate,” the Court should examine the totality of the circumstances to make an informed decision as to whether the Utility Provider will be subject to an unreasonable risk of nonpayment. *See Mass. Elec. Co. v. Keydata Corp. (In re Keydata Corp.)*, 12 B.R. 156, 158 (B.A.P. 1st Cir. 1981) (citing *In re Cunha*, 1 B.R. 330 (Bankr. E.D. Va. 1979)) (stating that the meaning of adequate assurance of payment “[d]epends upon the facts and circumstances of each case, keeping in mind the intent of Congress to protect the utility company while preventing discrimination against the debtor.”); *see also In re Adelphia Bus. Sols., Inc.*, 280 B.R. 63, 82–83 (Bankr. S.D.N.Y. 2002) (finding that “[t]he heart of the inquiry . . . is the examination of the totality of the circumstances to make an informed judgment as to whether or not the utilities would be subject to an unreasonable risk of payment.”).

26. Courts have recognized that, in determining the requisite level of adequate assurance, however, “[a] bankruptcy court must focus upon the need of the utility for assurance, and . . . require that the debtor supply *no more than that*, since the debtor almost perforce has a conflicting need to conserve scarce financial resources.” *Va. Elec. & Power Co.*, 117 F.3d at 650 (citing *In re Penn Jersey Corp.*, 72 B.R. 981, 985 (Bankr. E.D. Pa. 1987)); *see also In re Penn.*

*Cent. Transp. Co.*, 467 F.2d 100, 103–04 (3d Cir. 1972) (affirming the bankruptcy court’s ruling that no utility deposits were necessary where such deposits likely would “[j]eopardize the continuing operation of the [debtor] merely to give further security to suppliers who already are reasonably protected[.]”). Accordingly, demands by a Utility Provider for a guarantee of payment should be refused when the Debtors’ specific circumstances already afford adequate assurance of payment.

27. Further, courts are permitted to fashion reasonable procedures, such as the Adequate Assurance Procedures proposed herein, to implement the protections afforded under section 366 of the Bankruptcy Code. *See, e.g., In re Circuit City Stores, Inc.*, No. 08-35653, 2009 WL 484553, at \*5 (Bankr. E.D. Va. Jan. 14, 2009) (stating that “[t]he plain language of § 366 of the Bankruptcy Code allows the Court to adopt the Procedures set forth in the Utility Order.”). Such procedures are important because, without them, debtors “could be forced to address numerous requests by utility companies in an unorganized manner at a critical period in their efforts to reorganize.” *Id.*

28. Here, the Debtors respectfully submit that the Utility Provider is adequately assured against any risk of nonpayment for future services, especially in light of the Debtors’ prepetition history of paying Utility Service obligations on time and in the ordinary course. The Adequate Assurance Deposit and the Debtors’ ongoing ability to meet obligations as they come due in the ordinary course provide assurance of the Debtors’ payment of their future obligations. Moreover, any rights the Utility Providers have under sections 366(b) and (c)(2) of the Bankruptcy Code are wholly preserved under the Adequate Assurance Procedures. Specifically, the Utility Providers may choose, in accordance with the Adequate Assurance Procedures, to request modification of

the Proposed Adequate Assurance and be heard on such request, albeit in an organized and value-maximizing manner.

29. The Adequate Assurance Procedures avoid a haphazard and chaotic process whereby each Utility Provider could make an unreasonable, last-minute demand for adequate assurance that would force the Debtors to pay under the threat of losing critical Utility Services. *See In re Circuit City*, 2009 WL 484553, at \*5 (noting that “[t]he orderly process contemplated by [the Debtors’] Procedures is necessary for the Debtors’ smooth transition into chapter 11, and it will ensure that all parties act in good faith by establishing a fair process that has been reviewed by the Court.”). Moreover, termination of Utility Services could result in the Debtors’ inability to operate their business to the detriment of all stakeholders. *Cf. In re Monroe Well Serv., Inc.*, 83 B.R. 317, 321–22 (Bankr. E.D. Pa. 1988) (noting that without utility service the debtors “would have to cease operations” and that section 366 of the Bankruptcy Code “was intended to limit the leverage held by utility companies, not increase it.”).

30. The importance of adequate assurance procedures to a debtor’s reorganization efforts has been repeatedly recognized by courts in this district, and such courts have granted relief similar to the relief requested herein. *See, e.g., In re IMG Holdings Inc.*, No. 25-11500 (KBO) (Bankr. D. Del. Sept. 8, 2025) (approving adequate assurance deposit equal to one-half of debtor’s monthly utility expenses); *In re Claire’s Holdings, LLC*, No. 25-11454 (BLS) (Bankr. D. Del. Sept. 8, 2025) (same); *In re Mosaic Companies LLC*, No. 25-11296 (CTG) (Bankr. D. Del. Aug. 4, 2025) (same); *In re Americas Gardening Resource Inc*, No. 25-11180 (BLS) (Bankr. D. Del. July 14, 2025) (same); *In re At Home Group Inc.*, No. 25-11120 (JKS) (Bankr. D. Del. July 13, 2025)

(same); *In re Marelli Automotive Lighting USA LLC*, No. 25-11034 (CTG) (Bankr. D. Del. July 16, 2025) (same).<sup>5</sup>

**B. THE PROPOSED PAYMENT PROCESSING PROCEDURES ARE APPROPRIATE.**

31. As set forth above, the Debtors request that all Banks be authorized and directed to honor and process payments on account of obligations owed to Utility Providers as directed by the Debtors. The Debtors have sufficient liquidity to pay the amounts delineated in this Motion in the ordinary course of business and have implemented controls to ensure that prepetition claims will not be paid except as authorized by this Court. The Debtors therefore submit that the payment processing procedures described in the Motion are appropriate.

**C. IMMEDIATE AND UNSTAYED RELIEF IS NECESSARY.**

32. The Court may grant the relief requested in this Motion immediately if the “relief is needed to avoid immediate and irreparable harm.” Fed. R. Bankr. P. 6003; *see also In re First NLC Fin. Servs., LLC*, 382 B.R. 547, 549 (Bankr. S.D. Fla. 2008) (holding that Rule 6003 permits entry of retention orders on an interim basis to avoid irreparable harm). In the context of preliminary injunctions, the Third Circuit has interpreted the language “immediate and irreparable harm” to refer to a continuing harm which cannot be adequately redressed by final relief on the merits and for which money damages are inadequate. *See, e.g., Norfolk S. Ry. Co. v. City of Pittsburgh*, 235 F. App’x 907, 910 (3d Cir. 2007) (*citing Glasco v. Hills*, 558 F.2d 179, 181 (3d Cir. 1977)). The harm also must be actual and imminent, not speculative or unsubstantiated. *See, e.g., Acierno v. New Castle Cty.*, 40 F.3d 645, 653-55 (3d Cir. 1994). The Debtors submit that, for

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<sup>5</sup> Because of the voluminous nature of the orders cited herein, such orders have not been attached to this Motion. Copies of these orders are available upon request to the Debtors’ proposed counsel.

the reasons already set forth herein, the relief requested in this Motion is necessary to avoid immediate and irreparable harm.

33. The Debtors also request that the Court waive the stay imposed by Bankruptcy Rule 6004(h), which provides that “[a]n order authorizing the use, sale, or lease of property (other than cash collateral) is stayed for 14 days after the order is entered.” Fed. R. Bankr. P. 6004(h). As described above, the relief that the Debtors seek in this Motion is necessary for the Debtors to operate without interruption and to preserve value for their estates. Accordingly, the Debtors respectfully request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

#### **RESERVATION OF RIGHTS**

34. Nothing in this Motion should be construed as (a) authority to assume or reject any executory contract or unexpired lease of real property, or as a request for the same; (b) an admission as to the validity, priority, or character of any claim or other asserted right or obligation, or a waiver or other limitation on the Debtors’ ability to contest the same on any ground permitted by bankruptcy or applicable non-bankruptcy law; (c) a promise to pay any claim or other obligation; (d) granting third party beneficiary status or bestowing any additional rights on any third-party; or (e) being otherwise enforceable by any third-party.

#### **NOTICE**

35. Notice of this Motion will be given to: (a) the Office of the United States Trustee for the District of Delaware; (b) the Internal Revenue Service; (c) the parties included on the Debtors’ consolidated list of their twenty (20) largest unsecured creditors; (d) the Office of the United States Attorney for the District of Delaware; (e) counsel to the DIP Lenders; (f) all Utility

Companies on the Utility Company List; and (g) the Banks. As this Motion is seeking “first day” relief, notice of this Motion and any interim order entered in connection with the Motion will be served on all parties as required by Local Rule 9013-1(m). In light of the nature of the relief requested herein, the Debtors respectfully submit that no further notice of this Motion is required.

**NO PRIOR REQUEST**

36. No previous request for the relief sought herein has been made to this Court or any other court.

**CONCLUSION**

WHEREFORE, the Debtors respectfully request that this Court enter the Interim Order and the Final Order, each substantially in the form annexed hereto, granting the relief requested herein and such other and further relief as may be just and proper.

Dated: November 12, 2025  
Wilmington, Delaware

**CHIPMAN BROWN CICERO & COLE, LLP**

/s/ Alison R. Maser

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*Proposed Counsel for Debtors and  
Debtors in Possession*



# **EXHIBIT A**

## **Proposed Interim Order**

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

In re:

Hudson 1701/1706, LLC, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 25-11853 (KBO)

(Jointly Administered)

**Related Docket No. \_\_\_\_**

**INTERIM ORDER (I)(A) APPROVING THE DEBTORS’  
PROPOSED ADEQUATE ASSURANCE OF PAYMENT FOR  
FUTURE UTILITY SERVICES, (B) APPROVING THE DEBTORS’ PROPOSED  
PROCEDURES FOR RESOLVING ADDITIONAL ASSURANCE REQUESTS, AND  
(C) PROHIBITING UTILITY PROVIDERS FROM ALTERING, REFUSING, OR  
DISCONTINUING SERVICES; AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)<sup>2</sup> of the Debtors for entry of this interim order (this “**Interim Order**”) and a final order (i)(a) approving the Debtors’ proposed adequate assurance of payment for future utility services, (b) approving the Debtors’ proposed procedures for resolving requests for adequate assurance, and (c) prohibiting utility providers from altering, refusing, or discontinuing services; and (ii) granting related relief; all as more fully set forth in the Motion; and upon consideration of the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 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 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 this Court having found that the relief requested in the Motion is in the best

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Hudson 1701/1706, LLC (0281) and Hudson 1702, LLC (0190). The Debtors’ headquarters and the mailing address for the Debtors is 11440 San Vicente Boulevard, 2<sup>nd</sup> Floor, Los Angeles, CA 90045.

<sup>2</sup> Capitalized terms used in this Interim Order but not immediately defined herein have the meanings ascribed to them in the Motion.

interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "**Hearing**"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is granted on an interim basis as set forth herein.
2. Until such time as this Court enters the Final Order on the Motion or the Court orders otherwise, all Utility Providers 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 Proposed Adequate Assurance.
3. The Debtors shall serve a copy of the Motion and this Interim Order on each Utility Provider listed on **Exhibit C** to the Motion within two (2) business days after the date this Interim Order is entered, and upon service, any such Utility Provider shall be bound by the Adequate Assurance Procedures.
4. The Debtors' service of the Motion upon the Utility Providers List shall not constitute an admission or concession that any such entity is a "utility" within the meaning of section 366 of the Bankruptcy Code, and the Debtors reserve all rights and defenses with respect thereto.
5. The Adequate Assurance Deposit and the Debtors' ability to pay for future Utility Services in the ordinary course of business subject to the Adequate Assurance Procedures, shall

constitute adequate assurance of future payment as required by section 366 of the Bankruptcy Code.

6. The following Adequate Assurance Procedures are hereby approved on an interim basis:

- a. The Debtors will serve a copy of the Motion and the Interim Order granting the relief requested herein to each Utility Provider identified on **Exhibit C** within two business days after entry of the Interim Order.
- b. Subject to paragraphs (f)-(k) herein, the Debtors will deposit the Adequate Assurance Deposit, in the aggregate amount of \$5,539.00, in the Adequate Assurance Account as soon as practicable after entry of the Interim Order.
- c. Each Utility Provider shall be entitled to the funds in the Adequate Assurance Account in the amount set forth for such Utility Provider in the column labeled "Proposed Adequate Assurance" on the Utility Providers List.
- d. If an amount relating to Utility Services provided postpetition by a Utility Provider is unpaid, remains unpaid beyond any applicable grace period, and is undisputed, such Utility Provider may request a disbursement from the Adequate Assurance Account by giving notice to: (a) the Debtors, Hudson 1701/106, LLC, c/o *FTI Consulting* 1166 Avenue of the Americas, 15<sup>th</sup> Floor, New York, NY 10036 (Attn: Alan Tantleff) (Email: [alan.tantleff@fticonsulting.com](mailto:alan.tantleff@fticonsulting.com)); (b) *proposed* counsel for the Debtors, *Chipman Brown Cicero & Cole, LLP*, Hercules Plaza, 1313 North Market Street, Suite 5400, Wilmington, Delaware 19801 (Attn: William E. Chipman, Jr., Esquire and Mark D. Olivere, Esquire) (Email: [chipman@chipmanbrown.com](mailto:chipman@chipmanbrown.com) and [olivere@chipmanbrown.com](mailto:olivere@chipmanbrown.com)); (c) the *Office of the United States Trustee for the District of Delaware*, 844 King Street, Suite 2207, Lock Box 35, Wilmington, Delaware 19801 (Attn: Malcom M. Bates, Esquire) (Email: [malcom.m.bates@usdoj.gov](mailto:malcom.m.bates@usdoj.gov)); and (d) counsel to the DIP Lender and Prepetition Lender, *Hogan Lovells US LLP*, (i) 1999 Avenue of the Stars, Suite 1400, Los Angeles, California 90067 (Attn: Richard Wynne, Esquire and David P. Simonds, Esquire) (Email: [richard.wynne@hoganlovells.com](mailto:richard.wynne@hoganlovells.com) and [david.simonds@hoganlovells.com](mailto:david.simonds@hoganlovells.com); and (ii) 390 Madison Avenue, New York, New York, 10017 (Attn.: Christopher Bryant, Esquire) (Email: [chris.bryant@hoganlovells.com](mailto:chris.bryant@hoganlovells.com)) (collectively, the "**Notice Parties**"). The Debtors shall honor such undisputed request within five (5) business days after the date the request is received by the Debtors. The Debtors and any such requesting Utility Provider maintain the ability to resolve any dispute regarding such request without further order of the Court. To the extent a Utility Provider receives

a disbursement from the Adequate Assurance Account, the Debtors shall replenish the Adequate Assurance Account in the amount disbursed.

- e. The portion of the Adequate Assurance Deposit attributable to each Utility Provider (including any additional amount deposited upon request of any applicable Utility Provider), or any portion thereof, shall revert to the Debtors less any amounts owed on account of unpaid, postpetition Utility Services, by the earlier of the date upon which (i) the Debtors reconcile and pay the Utility Provider's final invoice in accordance with applicable nonbankruptcy law following the Debtors' termination of Utility Services from such Utility Provider or (ii) the effective date of any chapter 11 plan confirmed in these chapter 11 cases; provided that for any Utility Provider for which the Adequate Assurance Deposit is reduced, the Debtors shall have provided such Utility Provider with fourteen (14) days' notice of the Debtors' intent to make such reduction and (ii) paid such Utility Provider in full for any undisputed outstanding postpetition Utility Services.
- f. Any Utility Provider that (i) objects to the Debtors' Proposed Adequate Assurance or (ii) desires additional assurances of payment in the form of deposits, prepayments, or otherwise must serve a request for additional assurance (an "**Additional Assurance Request**") on the Notice Parties.
- g. Any Additional Assurance Request must: (i) be in writing; (ii) identify the location for which the Utility Services are provided; and (iii) explain why the Utility Provider believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment. Any Additional Assurance Request that does not fully comply with the foregoing requirements shall be deemed invalid.
- h. If a Utility Provider fails to file and serve an Additional Assurance Request the Utility Provider shall be forbidden from altering, refusing, or discontinuing Utility Services to, or discriminating against, the Debtors on account of any unpaid prepetition charges, or requiring additional assurance of payment other than the Proposed Adequate Assurance.
- i. Without further order of the Court, the Debtors may resolve any Additional Assurance Request by mutual agreement with a Utility Provider, and the Debtors may, in connection with any such agreement, provide a Utility Provider with additional adequate assurance of payment, including, but not limited to, cash deposits, prepayments, or other forms of security if the Debtors believe that such adequate assurance is reasonable.
- j. If the Debtors determine in their business judgment that the Additional Assurance Request is not reasonable and the Debtors are unable to reach an alternative resolution with the Utility Provider within twenty-one (21) days of receipt of the Additional Assurance Request, the Debtors may request a hearing (the "**Determination Hearing**") before the Court to determine the

adequacy of assurance of payment with respect to that Utility Provider pursuant to section 366(c)(3) of the Bankruptcy Code.

- k. Pending resolution of such dispute at a Determination Hearing, the relevant Utility Provider shall be prohibited from altering, refusing, or discontinuing Utility Services to the Debtors on account of: (i) unpaid charges for prepetition services; (ii) a pending Additional Assurance Request; or (iii) any objections filed in response to the Proposed Adequate Assurance.

7. The Utility Providers are prohibited from requiring additional adequate assurance of payment other than pursuant to the Adequate Assurance Procedures.

8. To the extent the Debtors identify new or additional Utility Providers or discontinue or terminate services from existing Utility Providers, the Debtors are authorized to add or remove such parties from the Utility Providers List; *provided, however*, that the Debtors shall provide notice of any such addition or removal to the Notice Parties. For any Utility Provider that is subsequently removed from the Utility Providers List, the Debtors are authorized, in their discretion and without further order of the Court, to reduce the Adequate Assurance Deposit by an amount not exceeding, for each of the Utility Services being discontinued, the lesser of (a) one-half of the average monthly cost of Utility Services previously provided, calculated based on the aforementioned historical average to align with the go-forward average monthly cost of Utility Services and (b) the amount of the Adequate Assurance Deposit then attributable to the applicable Utility Provider; *provided* that for any Utility Provider for which the Adequate Assurance Deposit is reduced, the Debtors shall have (i) provided such Utility Provider with fourteen (14) days' notice of the Debtors' intent to make such reduction and (ii) paid such Utility Provider in full and for any outstanding undisputed postpetition Utility Services.

9. To the extent that there is any dispute as to the postpetition amounts owed to a Utility Provider, such Utility Provider shall not be removed from the Utility Providers List, and no

funds shall be removed from the Adequate Assurance Deposit, until such dispute has been resolved.

10. For any Utility Provider that is subsequently added to the Utility Providers List, the Debtors will serve such Utility Provider with a copy of this Interim Order, including the Adequate Assurance Procedures, and provide such Utility Provider fourteen days' notice to object to the inclusion of such Utility Provider on the Utility Providers List. The terms of the Interim Order and the Adequate Assurance Procedures shall apply to any subsequently identified Utility Provider to the same extent as if the Utility Provider was listed on the original Utility Providers List attached hereto.

11. The Debtors shall increase the Adequate Assurance Deposit for any subsequently added Utility Provider by an amount equal to approximately one-half of the Debtors' monthly average cost of services for such subsequently added Utility Provider, or by any other amount as may be mutually acceptable to the Debtors and any subsequently added Utility Provider.

12. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the validity, priority, or amount of any particular claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any particular claim on any grounds; (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 this Interim Order or the Motion; (e) a request or authorization to assume or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors or any other party in interest that any liens (contractual, common law, statutory, or otherwise)

satisfied pursuant to this Interim Order are valid and the Debtors and all other parties in interest expressly reserve their rights to contest the extent, validity, or perfection or to seek avoidance of all such liens. Any payment made pursuant to this Interim Order should not be construed as an admission as to the validity, priority, or amount of any particular claim or a waiver of the Debtors' or any other party in interest's rights to subsequently dispute such claim.

13. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order without any duty of further inquiry.

14. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these Chapter 11 Cases with respect to prepetition amounts owed in connection with any Utility Services.

15. A final hearing (the "**Final Hearing**") on the full relief requested in the Motion shall be held on **December 12, 2025, at 10:00 a.m. (prevailing Eastern Time)**. Any objections or responses to the entry of a Final Order on the Motion (each, an "**Objection**") shall be filed on or before **4:00 p.m. (prevailing Eastern Time) on December 5, 2025**, and shall be served on the following parties: (a) the Debtors, Hudson 1701/106, LLC, c/o *FTI Consulting* 1166 Avenue of the Americas, 15<sup>th</sup> Floor, New York, NY 10036 (Attn: Alan Tantleff) (Email: [alan.tantleff@fticonsulting.com](mailto:alan.tantleff@fticonsulting.com)); (b) *proposed* counsel for the Debtors, *Chipman Brown Cicero & Cole, LLP*, Hercules Plaza, 1313 North Market Street, Suite 5400, Wilmington, Delaware 19801



(Attn: William E. Chipman, Jr., Esquire and Mark D. Olivere, Esquire) (Email: [chipman@chipmanbrown.com](mailto:chipman@chipmanbrown.com) and [olivere@chipmanbrown.com](mailto:olivere@chipmanbrown.com)); (c) the *Office of the United States Trustee for the District of Delaware*, 844 King Street, Suite 2207, Lock Box 35, Wilmington, Delaware 19801 (Attn: Malcom M. Bates, Esquire) (Email: [malcom.m.bates@usdoj.gov](mailto:malcom.m.bates@usdoj.gov)); and (d) counsel to the DIP Lender and Prepetition Lender, *Hogan Lovells US LLP*, (i) 1999 Avenue of the Stars, Suite 1400, Los Angeles, California 90067 (Attn: Richard Wynne, Esquire and David P. Simonds, Esquire) (Email: [richard.wynne@hoganlovells.com](mailto:richard.wynne@hoganlovells.com) and [david.simonds@hoganlovells.com](mailto:david.simonds@hoganlovells.com) ; and (ii) 390 Madison Avenue, New York, New York, 10017 (Attn.: Christopher Bryant, Esquire) (Email: [chris.bryant@hoganlovells.com](mailto:chris.bryant@hoganlovells.com)). If no objections or responses are filed and served, this Court may enter a final order without further notice or hearing.

16. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

17. Notice of the Motion was provided in accordance with Local Rule 9013-1(m)(iii) and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

18. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

19. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

20. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

# **EXHIBIT B**

## **Proposed Final Order**

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

In re:

Hudson 1701/1706, LLC, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 25-11853 (KBO)

(Jointly Administered)

**Related Docket Nos. \_\_\_\_**

***FINAL ORDER (I)(A) APPROVING THE  
DEBTORS PROPOSED ADEQUATE ASSURANCE  
OF PAYMENT FOR FUTURE UTILITY SERVICES,  
(B) APPROVING THE DEBTORS' PROPOSED PROCEDURES  
FOR RESOLVING ADDITIONAL ASSURANCE REQUESTS, AND  
(C) PROHIBITING UTILITY PROVIDERS FROM ALTERING, REFUSING,  
OR DISCONTINUING SERVICES; AND (II) GRANTING RELATED RELIEF***

Upon the motion (the “**Motion**”)<sup>2</sup> of the Debtors for entry of an interim order and this final order (this “**Final Order**”) (i)(a) approving the Debtors’ proposed adequate assurance of payment for future utility services, (b) approving the Debtors’ proposed procedures for resolving requests for adequate insurance, and (c) prohibiting utility providers from altering, refusing, or discontinuing services; and (ii) granting related relief; all as more fully set forth in the Motion; and upon consideration of the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 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 this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Hudson 1701/1706, LLC (0281) and Hudson 1702, LLC (0190). The Debtors’ headquarters and the mailing address for the Debtors is 11440 San Vicente Boulevard, 2<sup>nd</sup> Floor, Los Angeles, CA 90045.

<sup>2</sup> Capitalized terms used in this Final Order but not immediately defined have the meanings given to them in the Motion.

found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "**Hearing**"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is granted on a final basis as set forth herein.
2. All Utility Providers 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 Proposed Adequate Assurance.
3. Nothing herein shall constitute an admission or concession that any entity listed on the Utility Providers List is a "utility" within the meaning of section 366 of the Bankruptcy Code, and the Debtors reserve all rights and defenses with respect thereto.
4. The Adequate Assurance Deposit and the Debtors' ability to pay for future Utility Services in the ordinary course of business subject to the Adequate Assurance Procedures, shall constitute adequate assurance of future payment as required by section 366 of the Bankruptcy Code.
5. The following Adequate Assurance Procedures are hereby approved on a final basis:
  - a. The Debtors will serve a copy of this Final Order to each Utility Provider identified on **Exhibit C** within two business days after entry of the Interim Order.

- b. Subject to paragraphs (f)-(k) herein, to the extent not already done, the Debtors will deposit the Adequate Assurance Deposit, in the aggregate amount of \$5,539.00, in the Adequate Assurance Account as soon as practicable after entry of this Final Order.
- c. Each Utility Provider shall be entitled to the funds in the Adequate Assurance Account in the amount set forth for such Utility Provider in the column labeled “Proposed Adequate Assurance” on the Utility Providers List.
- d. If an amount relating to Utility Services provided postpetition by a Utility Provider is unpaid, remains unpaid beyond any applicable grace period, and is undisputed, such Utility Provider may request a disbursement from the Adequate Assurance Account by giving notice to: (a) the Debtors, Hudson 1701/106, LLC, c/o *FTI Consulting* 1166 Avenue of the Americas, 15<sup>th</sup> Floor, New York, NY 10036 (Attn: Alan Tantleff) (Email: [alan.tantleff@fticonsulting.com](mailto:alan.tantleff@fticonsulting.com)); (b) *proposed* counsel for the Debtors, *Chipman Brown Cicero & Cole, LLP*, Hercules Plaza, 1313 North Market Street, Suite 5400, Wilmington, Delaware 19801 (Attn: William E. Chipman, Jr., Esquire and Mark D. Olivere, Esquire) (Email: [chipman@chipmanbrown.com](mailto:chipman@chipmanbrown.com) and [olivere@chipmanbrown.com](mailto:olivere@chipmanbrown.com)); (c) the *Office of the United States Trustee for the District of Delaware*, 844 King Street, Suite 2207, Lock Box 35, Wilmington, Delaware 19801 (Attn: Malcom M. Bates, Esquire) (Email: [malcom.m.bates@usdoj.gov](mailto:malcom.m.bates@usdoj.gov)); and (d) counsel to the DIP Lender and Prepetition Lender, *Hogan Lovells US LLP*, (i) 1999 Avenue of the Stars, Suite 1400, Los Angeles, California 90067 (Attn: Richard Wynne, Esquire and David P. Simonds, Esquire) (Email: [richard.wynne@hoganlovells.com](mailto:richard.wynne@hoganlovells.com) and [david.simonds@hoganlovells.com](mailto:david.simonds@hoganlovells.com); and (ii) 390 Madison Avenue, New York, New York, 10017 (Attn.: Christopher Bryant, Esquire) (Email: [chris.bryant@hoganlovells.com](mailto:chris.bryant@hoganlovells.com)) (collectively, the “**Notice Parties**”). The Debtors shall honor such undisputed request within five (5) business days after the date the request is received by the Debtors. The Debtors and any such requesting Utility Provider maintain the ability to resolve any dispute regarding such request without further order of the Court. To the extent a Utility Provider receives a disbursement from the Adequate Assurance Account, the Debtors shall replenish the Adequate Assurance Account in the amount disbursed.
- e. The portion of the Adequate Assurance Deposit attributable to each Utility Provider (including any additional amount deposited upon request of any applicable Utility Provider), or any portion thereof, shall revert to the Debtors less any amounts owed on account of unpaid, postpetition Utility Services, by the earlier of the date upon which (i) the Debtors reconcile and pay the Utility Provider’s final invoice in accordance with applicable nonbankruptcy law following the Debtors’ termination of Utility Services from such Utility Provider or (ii) the effective date of any chapter 11 plan confirmed in these chapter 11 cases; provided that for any Utility Provider for which the Adequate Assurance Deposit is reduced, (i) the Debtors shall

have provided such Utility Provider with fourteen (14) days' notice of the Debtors' intent to make such reduction and (ii) paid such Utility Provider in full for any undisputed outstanding postpetition Utility Services.

- f. Any Utility Provider that (i) objects to the Debtors' Proposed Adequate Assurance or (ii) desires additional assurances of payment in the form of deposits, prepayments, or otherwise must serve a request for additional assurance (an "**Additional Assurance Request**") on the Notice Parties.
- g. Any Additional Assurance Request must: (i) be in writing; (ii) identify the location for which the Utility Services are provided; and (iii) explain why the Utility Provider believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment. Any Additional Assurance Request that does not fully comply with the foregoing requirements shall be deemed invalid.
- h. If a Utility Provider fails to file and serve an Additional Assurance Request the Utility Provider shall be forbidden from altering, refusing, or discontinuing Utility Services to, or discriminating against, the Debtors on account of any unpaid prepetition charges, or requiring additional assurance of payment other than the Proposed Adequate Assurance.
- i. Without further order of the Court, the Debtors may resolve any Additional Assurance Request by mutual agreement with a Utility Provider, and the Debtors may, in connection with any such agreement, provide a Utility Provider with additional adequate assurance of payment, including, but not limited to, cash deposits, prepayments, or other forms of security if the Debtors believe that such adequate assurance is reasonable.
- j. If the Debtors determine in their business judgment that the Additional Assurance Request is not reasonable and the Debtors are unable to reach an alternative resolution with the Utility Provider within twenty-one (21) days of receipt of the Additional Assurance Request, the Debtors may request a hearing (the "**Determination Hearing**") before the Court to determine the adequacy of assurance of payment with respect to that Utility Provider pursuant to section 366(c)(3) of the Bankruptcy Code.
- k. Pending resolution of such dispute at a Determination Hearing, the relevant Utility Provider shall be prohibited from altering, refusing, or discontinuing Utility Services to the Debtors on account of: (i) unpaid charges for prepetition services; (ii) a pending Additional Assurance Request; or (iii) any objections filed in response to the Proposed Adequate Assurance.

6. The Utility Providers are prohibited from requiring additional adequate assurance of payment other than pursuant to the Adequate Assurance Procedures.

7. To the extent the Debtors identify new or additional Utility Providers or discontinue or terminate services from existing Utility Providers, the Debtors are authorized to add or remove such parties from the Utility Providers List; *provided, however*, that the Debtors shall provide notice of any such addition or removal to the Notice Parties. For any Utility Provider that is subsequently removed from the Utility Providers List, the Debtors are authorized, in their discretion and without further order of the Court, to reduce the Adequate Assurance Deposit by an amount not exceeding, for each of the Utility Services being discontinued, the lesser of (a) one-half of the average monthly cost of Utility Services previously provided, calculated based on the aforementioned historical average to align with the go-forward average monthly cost of Utility Services and (b) the amount of the Adequate Assurance Deposit then attributable to the applicable Utility Provider; *provided* that for any Utility Provider for which the Adequate Assurance Deposit is reduced, the Debtors shall have (i) provided such Utility Provider with fourteen (14) days' notice of the Debtors' intent to make such reduction and (ii) paid such Utility Provider in full and for any outstanding undisputed postpetition Utility Services.

8. To the extent that there is any dispute as to the postpetition amounts owed to a Utility Provider, such Utility Provider shall not be removed from the Utility Providers List, and no funds shall be removed from the Adequate Assurance Deposit, until such dispute has been resolved.

9. For any Utility Provider that is subsequently added to the Utility Providers List, the Debtors will serve such Utility Provider with a copy of this Final Order, including the Adequate Assurance Procedures, and provide such Utility Provider fourteen days' notice to object to the inclusion of such Utility Provider on the Utility Providers List. The terms of the Final Order and the Adequate Assurance Procedures shall apply to any subsequently identified Utility Provider to

the same extent as if the Utility Provider was listed on the original Utility Providers List attached hereto.

10. The Debtors shall increase the Adequate Assurance Deposit for any subsequently added Utility Provider by an amount equal to approximately one-half of the Debtors' monthly average cost of services for such subsequently added Utility Provider, or by any other amount as may be mutually acceptable to the Debtors and any subsequently added Utility Provider.

11. Notwithstanding the relief granted in this Final Order and any actions taken pursuant to such relief, nothing in this Final Order shall be deemed: (a) an admission as to the validity, priority, or amount of any particular claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any particular claim on any grounds; (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 this Interim Order or the Motion; (e) a request or authorization to assume or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors or any other party in interest that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to this Interim Order are valid and the Debtors and all other parties in interest expressly reserve their rights to contest the extent, validity, or perfection or to seek avoidance of all such liens. Any payment made pursuant to this Interim Order should not be construed as an admission as to the validity, priority, or amount of any particular claim or a waiver of the Debtors' or any other party in interest's rights to subsequently dispute such claim.

12. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to



receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order without any duty of further inquiry.

13. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these Chapter 11 Cases with respect to prepetition amounts owed in connection with any Utility Services.

14. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

15. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

16. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

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

# **EXHIBIT C**

## **Utility Providers List**

| <b>Debtor</b> | <b>Utility Provider</b>   | <b>Description</b> | <b>Account Number</b> | <b>Monthly Average</b> | <b>Proposed Adequate Assurance</b> |
|---------------|---|--------------------|-----------------------|------------------------|------------------------------------|
|               | <b>Astound</b><br>P.O. Box 1330<br>Wilkes-Barre, PA 18703               | Cable/Phone        | 6101-0427427-01       | \$1,061.00             | \$531.00                           |
|               | <b>Astound</b><br>P.O. Box 1330<br>Wilkes-Barre, PA 18703               | Cable/Phone        | 61010427371-01        | \$190.00               | \$95.00                            |
|               | <b>Spectrum</b><br>396-398 Avenue of the Americas<br>New York, NY 10011 | Cable/Phone        | 8150200040061710      | \$90.00                | \$45.00                            |
|               | <b>Spectrum</b><br>396-398 Avenue of the Americas<br>New York, NY 10011 | Cable/Phone        | 8150200072205520      | \$149.00               | \$75.00                            |
|               | <b>Con Edison</b><br>P.O. Box 1701<br>New York, NY 10116-1701           | Electric           | 54374379946           | \$9,532.00             | \$4,766.00                         |
|               | <b>Con Edison</b><br>P.O. Box 1701<br>New York, NY 10116-1701           | Gas                | 81318566643           | \$53.00                | \$27.00                            |