

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

In re:)	
)	Chapter 11
Curae Health, Inc., <i>et al.</i> ¹)	Case No. 18-05665
)	
1721 Midpark Road, Suite B200)	Judge Walker
Knoxville, TN 37921)	
Debtors.)	Jointly Administered

EXPEDITED FINAL ORDER (I) PROHIBITING UTILITY PROVIDERS FROM ALTERING, REFUSING, OR DISCONTINUING SERVICE; (II) APPROVING THE DEBTORS’ PROPOSED ADEQUATE ASSURANCE OF PAYMENT FOR POSTPETITION SERVICES; AND (III) ESTABLISHING PROCEDURES FOR RESOLVING REQUESTS FOR ADDITIONAL ADEQUATE ASSURANCE OF PAYMENT

Upon the motion (the “**Motion**”)² of the Debtors for an order, pursuant to Bankruptcy Code sections 105(a) and 366; Bankruptcy Rules 6003 and 6004: (i) prohibiting Utility Providers from altering, refusing or discontinuing service; (ii) approving the Debtors’ Proposed Adequate Assurance of payment for postpetition services; and (iii) establishing procedures for resolving requests for additional adequate assurance of payment; and the Court having reviewed the Motion and the First Day Declaration; and the 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; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and the 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

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Curae Health, Inc. (5638); Amory Regional Medical Center, Inc. (2640); Batesville Regional Medical Center, Inc. (7929); and Clarksdale Regional Medical Center, Inc. (4755); Amory Regional Physicians, LLC (5044); Batesville Regional Physicians, LLC (4952); Clarksdale Regional Physicians, LLC (5311).

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

consistent with Article III of the United States Constitution; and the 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 good and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is GRANTED, as set forth herein on a final basis.
2. The Debtors are authorized to pay on a timely basis, in accordance with their prepetition practices, all undisputed invoices for Utility Services rendered by the Utility Providers to the Debtors after the Petition Date.
3. To the extent not otherwise already done, the Debtors shall provide an adequate assurance deposit for all Utility Providers by depositing \$137,081.96, which is equal to the estimated cost for two weeks of Utility Services (the “**Adequate Assurance Deposit**”). The Adequate Assurance Deposit will be deposited into a separate bank account with a bank that has signed a uniform deposit agreement (“**UDA**”) with the Middle District of Tennessee (the “**Adequate Assurance Deposit Account**”).
4. The Proposed Adequate Assurance comprises the Adequate Assurance Deposit and the Debtors’ ability to pay for future utility services in the ordinary course of business and constitutes sufficient adequate assurance of future payment to the Utility Providers to satisfy the requirements of Bankruptcy Code section 366.
5. The Utility Providers are prohibited from: (a) altering, refusing, or discontinuing Utility Services to, or discriminating against, the Debtors on the basis of the commencement of the Chapter 11 Cases or on account of any unpaid prepetition charges; (b) drawing upon any

existing security deposit, surety bond, or other form of security to secure future payment for utility services; or (c) requiring additional adequate assurance of payment other than the Proposed Adequate Assurance, as a condition of the Debtors continuing to receive Utility Services.

6. The following Adequate Assurance Procedures are approved:
 - a. If a Utility Provider is not satisfied with the Proposed Adequate Assurance and seeks additional assurance of payment in the form of a deposit, letter of credit, prepayment, or otherwise, it must serve an Additional Assurance Request upon:
 - (i) proposed counsel to the Debtors, Polsinelli PC (Attn: David E. Gordon, Esq.);
 - (ii) counsel to any official committee appointed in the Chapter 11 Cases; and
 - (iii) counsel to Midcap Financial Trust, the DIP Lender, (Attn: David Lemke) (together, the “**Notice Parties**”);
 - b. Each Additional Assurance Request must (i) be made in writing; (ii) set forth all location(s) for which utility services are provided and the relevant account number(s); (iii) include a summary of the Debtors’ payment history relevant to the affected account(s); (iv) describe any deposits or other security currently held by the requesting Utility Provider; and (v) identify and explain the basis of the Utility Provider’s proposed adequate assurance requirement under Bankruptcy Code section 366(c)(2);
 - c. Upon the Notice Parties’ receipt of an Additional Assurance Request at the addresses set forth in subparagraph (b) above, the Debtors shall promptly negotiate with such Utility Provider to resolve such Utility Provider’s Additional Assurance Request;
 - d. The Debtors may, after consulting with the Prepetition First Lien Lender and the DIP Lender, in their discretion, resolve an Additional Assurance Request by mutual agreement with the requesting Utility Provider without further notice to the Court or any other party in interest, other than the Prepetition First Lien Lender and the DIP Lender, and may, in connection with any such agreement, provide a Utility Provider with additional adequate assurance of future payment, including, but not limited to, cash deposits, prepayments, letters of credit, and/or other forms of security, without further order of the Court to the extent that the Debtors believe such additional assurance is reasonable in the exercise of its business judgment and the Debtors may, by mutual agreement with the objecting Utility Provider and without further order of the Court, reduce the Adequate Assurance Deposit by an amount not exceeding the requesting Utility Provider’s estimated two-week utility expense;
 - e. If the Debtors determine that a timely received Additional Assurance Request is not reasonable and is unable to reach an alternative resolution with the applicable

Utility Provider, the Debtors shall, upon reasonable notice, calendar the matter (the “**Adequate Assurance Dispute**”) for the next regularly scheduled omnibus hearing to determine the adequacy of assurance of payment pursuant to Bankruptcy Code section 366(c)(3);

- f. Pending resolution of any such Adequate Assurance Dispute, any such Utility Provider shall be prohibited from altering, refusing, or discontinuing service to the Debtors on account of unpaid charges for prepetition services, the filing of the Chapter 11 Cases, or any objection to the adequacy of the Proposed Adequate Assurance;
- g. Upon the termination of Utility Services, the Debtors may, after consulting with the Prepetition First Lien Lender and the DIP Lender, in their discretion and upon 14 days’ notice to the parties in interest and all affected Utility Providers, reduce the Adequate Assurance Deposit by an amount not exceeding, for each of the Utility Services being discontinued, the lesser of (a) the estimated two-week utility expense for such Utility Services and (b) the amount of the Adequate Assurance Deposit then attributable to the applicable Utility Provider, provided that there are no outstanding disputes related to postposition amounts due.

7. The Debtors may supplement the Utility Providers List without further order of the Court with Additional Utility Providers if such Additional Utility Providers were inadvertently omitted from the Utility Providers List, and the Debtors will file as soon as practicable with the Court a supplement to Exhibit B annexed to the Motion that adds the name of any Additional Utility Provider to the Utility Providers List. The Debtors will then serve by email or by facsimile transmission (or, where the Debtors does not have the email address or fax number of an Additional Utility Provider, by First Class Mail) a copy of the Motion and this signed Final Order on any Additional Utility Provider. The Debtors will also supplement the Adequate Assurance Deposit in an amount equal to 50% of the Debtors’ average monthly utility consumption over the course of 12 months for an added Utility Provider.

8. The Debtors may amend the Utility Service List to delete a Utility Provider, or may seek to terminate a Utility Provider, upon 14 days’ notice to the parties in interest and all affected Utility Providers and only if the Debtors have not received any objection from such Utility Provide or any other parties in interest. If an objection is received, the Debtors shall

request a hearing before this Court at the next omnibus hearing date, or such other date that the Debtors and the Utility Provider may agree. The Debtors shall not deduct from the Utility Deposit the amount set aside for any Utility Company that the Debtors seeks to terminate or delete from Exhibit B unless and until the two week notice period has passed and the Debtors have not received any objection to termination or deletion from such Utility Company or any parties in interest, or until any such objection has been resolved consensually or by order of the Court.

9. No money may be withdrawn from the Adequate Assurance Deposit Account except (a) in compliance with the Adequate Assurance Procedures, (b) by mutual agreements of the Debtors and the applicable Utility Provider, or (c) by further order of the Court. If the Debtors fail to pay for any legitimate post-petition Utility Services when due, a Utility Provider may access only that portion of the Adequate Assurance Deposit attributable to it in the Adequate Assurance Deposit Account.

10. Upon confirmation of any chapter 11 plan in these Chapter 11 Cases, and without further order of the Court, all amounts in the Adequate Assurance Deposit Account shall first be used to pay any amounts outstanding under the Credit Agreement and shall then be available for the Debtors' use, after consulting with the Prepetition First Lien Lender and the DIP Lender, in their discretion.

11. The Debtors shall administer the Adequate Assurance Deposit Account in accordance with the terms of this Final Order.

12. Nothing contained herein constitutes a finding that any entity is or is not a Utility Provider hereunder or under Bankruptcy Code section 366, whether or not such entity is listed on the Utility Providers List.

13. Within two (2) business days of the date of this Final Order, the Debtors shall serve a copy of this Final Order on each Utility Provider identified on the Utility Providers List. Within two (2) business days of filing a supplement to the Utility Providers List, as applicable, the Debtors shall serve a copy of this Final Order and the Motion on any Additional Utility Provider.

14. Nothing in this Final Order authorizes the Debtors to pay prepetition claims without further order of the Court.

15. Nothing in the Motion or this Final Order, or the Debtors' payment of any claims pursuant to this Final Order, shall be deemed or construed as: (a) an admission as to the validity of any claim or lien against the Debtors or their estates; (b) a waiver of the Debtors' rights to dispute any claim or lien; (c) a waiver of a Utility Provider's rights with regard to assertion of any claim or interest; (d) an approval or assumption of any agreement, contract, or lease pursuant to Bankruptcy Code section 365; (e) an admission of the priority status of any claim, whether under Bankruptcy Code section 503(b)(9); or (f) a modification of the Debtors' rights to seek relief under any section of the Bankruptcy Code on account of any amounts owed or paid to any Utility Provider.

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

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

18. The Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Final Order.

This Order Was Signed And Entered Electronically As Indicated At The Top Of The First Page

APPROVED FOR ENTRY:

POLSINELLI PC

/s/ Michael Malone

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