



Order Filed on October 1, 2018
by Clerk
U.S. Bankruptcy Court
District of New Jersey

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-2(c)

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*Proposed Counsel to the Debtors and
Debtors-in-Possession*

In re:

Duro Dyne National Corp., *et al.*,¹

Debtors.

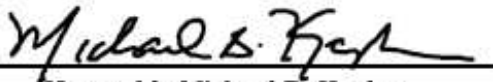
Chapter 11

Case No. 18- 27963 (MBK)

**FINAL ORDER (I) PROHIBITING UTILITY COMPANIES
FROM DISCONTINUING, ALTERING OR REFUSING SERVICE ON
ACCOUNT OF PREPETITION INVOICES, (II) DEEMING UTILITY
COMPANIES TO HAVE ADEQUATE ASSURANCE OF FUTURE PAYMENT
AND (III) ESTABLISHING PROCEDURES FOR RESOLVING REQUESTS
FOR ADDITIONAL ASSURANCE PURSUANT TO 11 U.S.C. §§ 105(a) AND 366**

The relief set forth on the following pages, numbered two (2) through and including six (6), is hereby **ORDERED**.

DATED: October 1, 2018


Honorable Michael B. Kaplan
United States Bankruptcy Judge

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's tax identification number, are: Duro Dyne National Corp. (4664); Duro Dyne Machinery Corp. (9699); Duro Dyne Corporation (3616); Duro Dyne West Corp. (5943); and Duro Dyne Midwest Corp. (4662).

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Debtor: Duro Dyne National Corp., *et al.*
Case No.: 18-27963 (MBK)
Caption: Final Order (I) Prohibiting Utility Companies from Discontinuing, Altering or Refusing Service on Account of Prepetition Invoices, (II) Deeming Utility Companies to Have Adequate Assurance of Future Payment and (III) Establishing Procedures for Resolving Requests for Additional Assurance Pursuant to 11 U.S.C. §§ 105(a) and 366

Upon consideration of the motion (the "Motion")² of the above-captioned debtors and debtors-in-possession (collectively, the "Debtors") for entry of an interim order and a final order pursuant to sections 105(a) and 366 of title 11 of the United States Code (the "Bankruptcy Code") (i) prohibiting all utility companies (the "Utility Companies") from discontinuing, altering or refusing service to the Debtors on account of prepetition invoices, (ii) deeming the Utility Companies to have adequate assurance of future performance on the basis of payment of a Utility Deposit, as defined herein, and (iii) establishing procedures for resolving requests for additional assurance of payment, as more fully described in the Motion; and the Court having entered the *Interim Order (i) Prohibiting Utility Companies From Discontinuing, Altering or Refusing Service on Account of Prepetition Invoices, (ii) Deeming Utility Companies to Have Adequate Assurance of Future Payment and (iii) Establishing Procedures for Resolving Requests for Additional Assurance Pursuant to 11 U.S.C. §§ 105(A) and 366* on September 11, 2018; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* dated as of September 18, 2012 (Simandle, C.J.); and venue being proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and notice of the Motion being sufficient under the circumstances; and it appearing that no other or further notice need be provided; and the Court having determined that the relief sought in the Motion is in the best interests of the Debtors, their estates and creditors; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED** as set forth herein.

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

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2. Absent any further order of the Court, each Utility Company is hereby prohibited from (i) discontinuing, altering, or refusing service to the Debtor on account of any unpaid prepetition charges or otherwise, or (ii) requiring the payment of an additional security deposit or receipt of any other security from the Debtors in connection with any unpaid prepetition charges except as set forth herein and in the Motion.

3. In accordance with section 366(c)(3)(A) of the Bankruptcy Code and the Interim Order, the Debtors have made an Adequate Assurance Deposit into a newly-created, interest-bearing Adequate Assurance Deposit Account, which amount equals the estimated aggregate cost for two (2) weeks of Utility Service for each Utility Company listed on Exhibit 1 attached hereto, calculated as set forth in the Motion.

4. An Adequate Assurance Deposit shall be not applied toward any outstanding prepetition amount owed to any Utility Company.

5. The Adequate Assurance Deposit shall be returned to the Debtors upon confirmation of a plan of reorganization or further order of this Court, if not applied or returned to the Debtors earlier.

6. The Debtors are authorized, in their sole discretion, to amend the list of Utility Companies attached as Exhibit 1 attached hereto to add or delete any Utility Company (each such additional Utility Company, a "Subsequently Identified Utility Company").

7. If the Debtors amend the list of Utility Companies to add a Subsequently Identified Utility Company not previously included on Exhibit 1 attached hereto, the Debtors may supplement the Adequate Assurance Deposit by an amount equal to two (2) weeks of services utilized by the Debtors, based on a yearly average, as adequate assurance of future performance to the Subsequently Identified Utility Company.

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8. This Final Order applies to any Subsequently Identified Utility Company, regardless of when each Subsequently Identified Utility Company was added to the list of Utility Companies attached as Exhibit 1 hereto.

9. The Debtors shall serve a copy of this Final Order via first-class mail on each of the Utility Companies identified on Exhibit 1 attached hereto (except as noted below) within five (5) business days after the date that the Final Order is entered by the Court, and shall promptly serve this Final Order on each Subsequently Identified Utility Company added to Exhibit 1 attached hereto.

10. The Procedures for determining requests for Additional Payment Requests lodged by Subsequently Identified Utility Companies as described in the Motion are approved on a final basis as follows:

- (a) In the event that any Utility Company was omitted from Exhibit 1, the Debtors shall have the right to supplement Exhibit 1 and shall promptly serve the Final Order upon such omitted Subsequently Identified Utility Company upon learning of such Subsequently Identified Utility Company.
- (b) Any Subsequently Identified Utility Company that is not satisfied with the proposed Adequate Assurance Deposit and seeks additional assurance of payment must serve an Additional Payment Request no later than the date that is thirty (30) days after the date such Subsequently Identified Utility Company receives notice of this Final Order (the "Additional Payment Request Deadline") by serving a request upon: (i) the Debtors; and (ii) proposed counsel to the Debtors, Lowenstein Sandler LLP, One Lowenstein Drive, Roseland, New Jersey 07068, Attention: Jeffrey D. Prol, Esq.
- (c) Any Additional Payment Request must: (i) be in writing, (ii) set forth the location for which utility services are

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provided, (iii) include a summary of the Debtors' payment history relevant to the affected account(s), including any security deposits or other prepayments or assurances previously provided by the Debtors, (iv) describe in sufficient detail the reason(s) why the proposed treatment afforded pursuant to the procedures set forth herein does not constitute satisfactory adequate assurance of payment, and (v) include a proposal for what would constitute adequate assurance from the Debtors, along with an explanation of why such proposal is reasonable.

- (d) If a Subsequently Identified Utility Company makes a timely Additional Payment Request that the Debtors believes is reasonable, the Debtors shall be authorized, in their sole discretion, to comply with such request without further order of the Court, and may, in connection with such Additional Payment Request, provide such Subsequently Identified Utility Company with additional adequate assurance of future payment, including, but not limited to, cash deposits, prepayments, and other forms of security, without further order of the Court.
- (e) If the Debtors believe that a Subsequently Identified Utility Company's Additional Payment Request is not reasonable, the Debtors will schedule a Determination Hearing to determine (i) if additional assurance to such Subsequently Identified Utility Company is necessary and, if so, (ii) the nature and amount of the adequate assurance to such Subsequently Identified Utility Company.
- (f) Pending resolution of a Subsequently Identified Utility Company's Additional Payment Request at a Determination Hearing, such Subsequently Identified Utility Company shall be prohibited from altering, refusing or discontinuing service to the Debtors.
- (g) If a Subsequently Identified Utility Company fails to send an Additional Payment Request by the Additional Payment Request Deadline, such Subsequently Identified Utility Company shall have waived its right to make an Additional Payment Request and shall be deemed to have received adequate assurance of payment in accordance with section

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366(c)(1)(A)(vi) of the Bankruptcy Code by virtue of the Adequate Assurance Deposit.

(h) A Subsequently Identified Utility Company shall be deemed to have received adequate assurance of payment unless and until a future order of this Court is entered requiring further adequate assurance of payment.

11. Nothing in this Final Order, the Interim Order, or the Motion shall be deemed to constitute the post-petition assumption or adoption of any agreement pursuant to section 365 of the Bankruptcy Code or a waiver of any claim or defense of the estates.

12. Notice of the Motion, the Interim Order, the Objection Deadline, and the Final Order as provided is good and sufficient notice of the Motion, the Interim Order, the Objection Deadline, and the Final Order, and no further or alternative notice of the Motion, the Interim Order, the Objection Deadline, and Final Order need be given.

13. All time periods set forth in this Final Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

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

15. The requirement set forth in Local Rule 9013-2 that this Motion be accompanied by a memorandum of law is hereby deemed satisfied by the contents of the Motion or otherwise waived.

16. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be immediately effect and enforceable upon its entry.

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

EXHIBIT 1

Payments

Utility	Service Provided	Twelve Months	Monthly Average	Est. 2 Week Deposit	Comment
DD Midwest					
Cincinnati Bell 221 East 4th Street Cincinnati, OH 45202	Telephone Service	6,037.07	503.09	232.20	
Duke Energy 550 South Tryon St. Charlotte, NC 28202	Gas and Electric	58,863.71	4,905.31	2,263.99	
Fairfield Utilities 5350 Pleasant Avenue Fairfield, OH 45014-3517	Water Utility	833.55	69.46	32.06	
		<u>65,734.33</u>	<u>5,477.86</u>	<u>2,528.24</u>	
DD Corp.					
Oplimum, Inc. 111 Stewart Avenue Town Of Oyster Bay, NY 11714	Internet Provider	2,715.57	226.30	104.45	
National Grid Accounts Processing KEDLI One Metro Tech Center Brooklyn, NY 11201-3948	Gas	36,408.37	3,034.03	1,400.32	
Suffolk County Water Authority 4060 Sunrise Hwy Oakdale, NY 11769	Water Utility	3,090.13	257.51	118.85	
PSE&G Long Island 333 Earle Ovington Boulevard Suite 403 Uniondale, NY 11553	Gas and Electric	229,797.51	19,149.79	8,838.37	
Windstream Communications 4001 Rodney Parham Rd Little Rock, AR 72212	Telephone Service	61,353.35	5,112.78	2,359.74	
AT&T Mobility 208 South Akard Street Dallas, TX 75202	Telephone Service	40,721.51	3,393.46	1,566.21	
		<u>374,086.44</u>	<u>31,173.87</u>	<u>14,387.94</u>	
DD National					
Telepacific Communications 515 S. Flower Street - 47th Floor Los Angeles, CA 90071	Telephone Service	10,278.78	3,426.26	1,581.35	
		<u>450,099.55</u>	<u>40,077.99</u>	<u>18,497.53</u>	

Note: No utility providers hold deposits.

In re:
Duro Dyne National Corp.
Debtor

Case No. 18-27963-MBK
Chapter 11

CERTIFICATE OF NOTICE

District/off: 0312-3

User: admin
Form ID: pdf903

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Total Noticed: 1

Date Rcvd: Oct 01, 2018

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Oct 03, 2018.

db +Duro Dyne National Corp., 100 Horizon Center Boulevard, Hamilton, NJ 08691-1903

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
NONE. TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE. TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Oct 03, 2018

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on October 1, 2018 at the address(es) listed below:

Christina Salem on behalf of Interested Party The North River Insurance Company
christina.salem@kennedyscmk.com
Christina Salem on behalf of Interested Party Hartford Accident and Indemnity Company
christina.salem@kennedyscmk.com
Jeffrey A. Cooper on behalf of Creditor 4 Site, LLC jcooper@rltlawfirm.com,
cooperatty@aol.com;rgaydos@rltlawfirm.com
Jeffrey D. Prol on behalf of Debtor Duro Dyne Machinery Corp. jprol@lowenstein.com,
tfreedman@lowenstein.com;dclaussen@lowenstein.com
Jeffrey D. Prol on behalf of Debtor Duro Dyne National Corp. jprol@lowenstein.com,
tfreedman@lowenstein.com;dclaussen@lowenstein.com
Jeffrey D. Prol on behalf of Interested Party Duro Dyne Midwest jprol@lowenstein.com,
tfreedman@lowenstein.com;dclaussen@lowenstein.com
Jeffrey D. Prol on behalf of Interested Party Duro Dyne Corporation jprol@lowenstein.com,
tfreedman@lowenstein.com;dclaussen@lowenstein.com
Jeffrey D. Prol on behalf of Interested Party Duro Dyne Machinery jprol@lowenstein.com,
tfreedman@lowenstein.com;dclaussen@lowenstein.com
Jeffrey D. Prol on behalf of Debtor Duro Dyne Corporation jprol@lowenstein.com,
tfreedman@lowenstein.com;dclaussen@lowenstein.com
Jeffrey D. Prol on behalf of Other Prof. Getzler Henrich & Associates, LLC
jprol@lowenstein.com, tfreedman@lowenstein.com;dclaussen@lowenstein.com
Jeffrey D. Prol on behalf of Interested Party Duro Dyne West jprol@lowenstein.com,
tfreedman@lowenstein.com;dclaussen@lowenstein.com
Jeffrey D. Prol on behalf of Debtor Duro Dyne West Corp. jprol@lowenstein.com,
tfreedman@lowenstein.com;dclaussen@lowenstein.com
Jeffrey D. Prol on behalf of Debtor Duro Dyne MidWest Corp. jprol@lowenstein.com,
tfreedman@lowenstein.com;dclaussen@lowenstein.com
Jeffrey M. Sponder on behalf of U.S. Trustee U.S. Trustee jeffrey.m.sponder@usdoj.gov,
jeffrey.m.sponder@usdoj.gov
John A. Fialcowitz on behalf of Creditor Committee Official Committee of Asbestos Claimants
john@fialcowitzlaw.com
Karl J. Norgaard on behalf of Unknown Role Type Undisclosed Interested Party
knorgaard@norgaardfirm.com,
sferreira@norgaardfirm.com;184grandno@gmail.com;kcimmino@norgaardfirm.com
Mark S. Lichtenstein on behalf of Interested Party Federal Insurance Company
mlichtenstein@crowell.com, mplevin@crowell.com;tyoon@crowell.com
Matthew B. Heimann on behalf of Creditor Mestek, Inc. and Mestek Machinery, Inc.
mheimann@mccarter.com
Mitchell Hausman on behalf of U.S. Trustee U.S. Trustee Mitchell.B.Hausman@usdoj.gov
Sean M. Beach on behalf of Other Prof. Lawrence Fitzpatrick bankfilings@ycst.com
Stephen Forte on behalf of Interested Party Hartford Accident and Indemnity Company
sforte@goodwin.com, bankruptcy@goodwin.com;bankruptcyparalegal@goodwin.com
U.S. Trustee USTPRegion03.NE.ECF@usdoj.gov

District/off: 0312-3

User: admin
Form ID: pdf903

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Total Noticed: 1

Date Rcvd: Oct 01, 2018

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email)
system (continued)

TOTAL: 22