

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: § Chapter 11
§
Fleming Companies, Inc., *et al.*, § Case No. 03-10945 (MFW)
§ (Jointly Administered)
Debtors. §
§

**AGREED ORDER ON MOTION OF RELIANT ENERGY SOLUTIONS, LLC
FOR AN ORDER PURSUANT TO SECTIONS 503 AND 556 OF THE
BANKRUPTCY CODE (I) DETERMINING THAT FORWARD ELECTRIC
ENERGY SALES AGREEMENT HAS AUTOMATICALLY TERMINATED,
(II) REQUIRING PAYMENT OF ADMINISTRATIVE PRIORITY CLAIM FOR
DELIVERY OF POST-PETITION ELECTRICITY, AND (III) AUTHORIZING
THE TRANSFER OF ELECTRIC SERVICE AT DEBTOR'S FACILITIES FROM
RELIANT TO DEFAULT SERVICE PROVIDER(S)**

Upon consideration of the Motion of Reliant Energy Solutions, LLC For An Order Pursuant To Sections 503 And 556 Of The Bankruptcy Code (I) Determining That Forward Electric Energy Sales Agreement Has Automatically Terminated, (II) Requiring Payment Of Administrative Priority Claim For Delivery Of Post-Petition Electricity, And (III) Authorizing The Transfer Of Electric Service At Debtor's Facilities From Reliant To Default Service Provider(s) (the "Motion") filed by Reliant Energy Solutions, LLC ("Reliant") and, good cause being shown,

IT IS HEREBY ORDERED THAT THE MOTION IS GRANTED and,

IT IS FURTHER ORDERED AND DECREED THAT:

1. The EESA¹ is a forward contract under section 101(25) of the Bankruptcy Code that terminated on the Petition Date; and
2. Reliant is a forward contract merchant under section 101(26) of the Bankruptcy Code and, as such, may exercise its rights pursuant to sections 556 and 362(b)(6) of the Bankruptcy Code; provided, however, nothing in this Order shall be deemed to prejudice or determine the Debtor's


¹ All capitalized terms not defined herein shall have the same meaning as defined in the Motion.

right to contest Reliant's status as a forward contract merchant for purposes of sections 546, 547, 548, or 550 of the Bankruptcy Code.

3. Upon entry of this order, Reliant may transfer electric service at Debtor's facilities now or previously serviced by Reliant to a Default Service Provider(s) or, for those facilities that Debtor has already indicated or does indicate to Reliant that it wants electric service in Debtor's name to be discontinued, Reliant may request that electric service at such facilities be disconnected consistent with the Texas Public Utility Commission's Substantive Rules. The Debtor will use all commercially reasonable efforts to provide information to Reliant pertaining to the new owners and/or lessors of the Debtor's facilities served by Reliant under the EESA.


4. Reliant's request in the Motion for payment of an administrative priority expense pursuant to section 503 of the Bankruptcy Code for all electricity delivered to the Debtor after the Petition Date is hereby continued to August 19, 2003 with both the Debtor and Reliant reserving all rights.

Dated: August 4, 2003




HONORABLE MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

AGREED TO:

By: 

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