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**UNITED STATES BANKRUPTCY COURT  
THE SOUTHERN DISTRICT OF NEW YORK**

In re:

JENNIFER CONVERTIBLES, INC.,<sup>1</sup>  
  
Debtors.

Chapter 11

Case No. 10-13779 (ALG)  
  
(Jointly Administered)

**DEBTORS' MOTION FOR AN ORDER DETERMINING ADEQUATE ASSURANCE  
OF PAYMENT FOR FUTURE UTILITY SERVICES**

Jennifer Convertibles, Inc. ("Jennifer Convertibles") and its affiliated debtors, as debtors in possession (together, the "Debtors"), hereby move this Court for entry of an order (a) prohibiting the Utility Providers (as defined below) from altering, refusing or discontinuing service; (b) deeming the Utility Providers (as defined below) adequately assured of future performance; and (c) establishing procedures for determining additional adequate assurance of future payment (the "Motion"). In support of this Motion, the Debtors respectfully state as follows:

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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, if applicable, are: (i) Jennifer Convertibles, Inc. (4646); (ii) Jennifer Convertibles Boylston MA, Inc. (7904); (iii) Jennifer Chicago Ltd. (0505); (iv) Elegant Living Management, Ltd. (5049); (v) Hartsdale Convertibles, Inc. (1681); (vi) Jennifer Management III Corp. (3552); (vii) Jennifer Purchasing Corp. (7319); (viii) Jennifer Management II Corp. (9177); (ix) Jennifer Management V Ltd. (9876); (x) Jennifer Convertibles Natick, Inc. (2227); (xi) Nicole Convertibles, Inc. (5985); (xii) Washington Heights Convertibles, Inc. (0783)..

## **Background**

1. On July 18, 2010 (the “Petition Date”), each of the Debtors commenced with the Bankruptcy Court a voluntary case pursuant to chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. An Official Committee of Unsecured Creditors was appointed in these chapter 11 cases on July 23, 2010.

2. Jennifer Convertibles, Inc. was organized as a Delaware corporation in 1986, and is currently the owner of (i) the largest group of sofabed specialty retail stores and leather specialty retail stores in the United States, with stores located throughout the Eastern seaboard, Midwest, West Coast and Southwest, and (ii) seven big box, full-line furniture stores operated under the Ashley Furniture HomeStore brand (the “Ashley Stores”) under a license from Ashley Furniture Industries, Inc.

3. In order to generate sales, the Debtors rely on aggressive pricing, the attractive image of its stores, extensive advertising and prompt delivery. Operations are classified into two operating segments organized by retail concept: Jennifer and Ashley. The Jennifer segment operates the sofabed specialty retail store concept. The Ashley segment is the big box, full line home furniture retail store concept. There are no inter-company sales between segments. The Ashley segment is highly profitable due to its unique sourcing model, whereby once most sales are executed, Ashley’s supplier manages the supply chain process. Under the Ashley sourcing model, the Debtors need for warehouse inventory is reduced, thereby limiting working capital needs and infrastructure requirements. The Debtors’ two operating segments enable the Debtors to more effectively offer diverse home furnishings and accessories and expand to a broader consumer base.

4. As of the Petition Date, the Debtors' stores include 130 stores operated by the Jennifer segment. During fiscal 2007, the Debtors opened their first Ashley Store. As of the Petition Date, the Debtors operate seven Ashley Stores.

5. As of the Petition Date, the Debtors employ 497 people. There are 336 employees in the Jennifer segment, 114 employees in the Ashley segment and 47 corporate employees. None of the employees are represented by a collective bargaining unit.

6. For the fiscal year ended August 29, 2009, the Debtors' consolidated financial statements showed revenues from continuing operations of approximately \$94,177,000, compared with \$120,131,000 for the fiscal year ended August 30, 2008, and \$132,683,000 for the fiscal year ended August 25, 2007. For the thirty-nine weeks ended May 29, 2010, revenues from continuing operations were approximately \$70,036,000, with \$56,144,000 coming from the Jennifer segment stores, and \$13,892,000 from the Ashley segment stores.

7. Net sales from continuing operations were \$88,845,000 and \$113,073,000 for the fiscal years ended August 29, 2009 and August 30, 2008, respectively. Net sales from continuing operations decreased by 21.4%, or \$24,228,000 for the fiscal year ended August 29, 2009 compared to the fiscal year ended August 30, 2008. The decrease in net sales is attributable to a decline in overall demand within the furniture industry sector due to a poor housing market and an overall weak U.S. economy. Consolidated same store sales from continuing operations (sales at those stores open for the entire current and prior comparable periods) decreased 19.6% for the thirteen weeks ended May 29, 2010, compared to the same period ended May 30, 2009.

8. Specifically, in the Ashley segment, net sales from continuing operations were \$5,106,000 and \$3,363,000 for the thirteen-week periods ended May 29, 2010 and May 30,

2009, respectively. Net sales from continuing operations increased by 51.8%, or \$1,743,000 for the thirteen-week period ended May 29, 2010 compared to the thirteen-week period ended May 30, 2009. The increase is largely attributable to four new Ashley locations open during the thirteen-week period ended May 29, 2010, that were not open during the same thirteen week period last year.

9. In the Jennifer segment, net sales from continuing operations were \$16,375,000 and \$16,987,000 for the thirteen-week periods ended May 29, 2010 and May 30, 2009, respectively. Net sales from continuing operations decreased by 3.6%, or \$612,000 for the thirteen-week period ended May 29, 2010 compared to the thirteen-week period ended May 30, 2009. The decrease is attributable to the decline in overall demand within the furniture industry sector due to the prevailing conditions of the U.S. economy, the current housing market, store closings, and delays in receipt of merchandise from the Debtors' Chinese supplier, all as discussed in greater detail in the other first day motions, filed concurrently herewith.

10. The factual background relating to the Debtors' commencement of these chapter 11 cases is set forth in additional detail in the Declaration of Rami Abada in Support of First Day Motions (the "Abada Declaration") filed on July 19, 2010 and incorporated herein by reference.

### **Jurisdiction**

11. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

12. The statutory predicates for the relief requested herein are sections 105(a) and 366 of title 11 of the United States Code (the "Bankruptcy Code").

### **Relief Requested**

13. In the normal course of business, the Debtors have relationships with various Utility Providers and other providers (each a “Utility Provider” and, collectively, the “Utility Providers”) for the provision of telephone, gas, electricity and related services (the “Utility Services”). The Utility Providers include, without limitation, the entities set forth on Exhibit A hereto (the “Utility Providers List”).

14. On average, the Debtors pay approximately \$160,000 per month on account of Utility Services. Historically, the Debtors have had a very good payment record with the Utility Providers. Moreover, to the best of their knowledge, there are few, if any, defaults or arrearages of any significance with respect to the Debtors’ undisputed invoices for Utility Services, other than payment interruptions that may be caused by the commencement of these chapter 11 cases. The Debtors estimate that their cost for Utility Services during the next thirty days (not including any deposits to be paid) will be approximately \$160,000. Currently, certain of the Utility Providers already hold deposits and/or bonds in excess of approximately \$33,772 in the aggregate.

15. Because uninterrupted Utility Services are critical to the Debtors' ongoing operations, the Debtors, by this Motion and pursuant to sections 105(a) and 366 of the Bankruptcy Code, seek the entry of an order: (a) prohibiting the Utility Providers from altering, refusing or discontinuing services; (b) deeming Utility Providers adequately assured of future performance; and (c) establishing procedures for determining additional adequate assurance of future payment.

16. In order to provide adequate assurance of payment for future services to the Utility Providers, the Debtors propose to make a deposit (the "Adequate Assurance Deposit") equal to 50% of the Debtors' estimated cost of their monthly utility consumption to each Utility

Provider which the Debtors intend to continue to utilize during the course of this case. The Debtors estimate that the Adequate Assurance Deposits, in the aggregate, will total approximately \$67,700.<sup>2</sup> The Debtors propose to make Adequate Assurance Deposits to each of the Utility Providers specified on Exhibit B (the "Adequate Assurance List"), within fourteen days after the entry of an order granting this Motion, pending further order of the Court, for the purpose of providing each Utility Provider with adequate assurance of payment of its postpetition services to the Debtors.

17. If the Debtors supplement the Utility Provider List subsequent to the filing of this Motion, the Debtors will serve a copy of this Motion and the signed order granting the Motion (the "Order") on any Utility Provider that is added to the Utility Provider List by such a supplement (the "Supplemental Service"). In addition, the Debtors will also provide an Adequate Assurance Deposit in the amount of 50% of the estimated cost of monthly utility consumption for the added Utility Provider. Concurrently with the Supplemental Service, the Debtors will file with the Court a supplement to the Utility Provider List and the Adequate Assurance List, adding the name of the Utility Provider so served. The added Utility Provider shall have thirty days from the date of service of this Motion and the Order to object.

18. The Debtors further request that the Order provide that the Debtors may terminate the services of any Utility Provider by providing written notice (a "Termination Notice") to the Utility Provider. Upon receipt of a Termination Notice by a Utility Provider, pursuant to the relief requested by the Debtors herein, the Utility Provider shall immediately refund any Utility Deposit to the Debtors, without giving effect to any rights of setoff or any claims the Utility Provider may assert against the Debtors. The Debtors believe that the immediate refund of a

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<sup>2</sup> This number does not account for those Utility Providers that have already received a deposit from the Debtors in excess of 50% of the estimated cost of monthly utility consumption.

Utility Deposit by a Utility Provider whose services are terminated is fair and appropriate under the circumstances because the Utility Provider would no longer require adequate assurance of future payment by the Debtors.

### **The Proposed Adequate Assurance**

19. The Debtors intend to timely pay all postpetition obligations owed to the Utility Providers and expect that their cash flow from operations will be more than sufficient to pay all such obligations. Nevertheless, to provide adequate assurance of payment to the Utility Providers pursuant to sections 366(b) and 366(c), the Debtors propose to place a letter of credit or deposit equal to 50% of the estimated cost of monthly Utility Services, calculated as a historical average over the past twelve months (the “Adequate Assurance Deposit”) into an interest-bearing, newly created segregated account (the “Adequate Assurance Deposit Account”), for the benefit of the Utility Providers. A Utility Provider will be eligible for the Adequate Assurance Deposit if (i) the Utility Provider does not already hold a deposit equal to, or greater than, 50% of the estimated cost of monthly Utility Services; and (ii) such Utility Provider is not currently paid in advance for its Utility Services.

20. The Debtors further request that, upon confirmation of any plan of reorganization in these chapter 11 cases, without further order of the Court (i) all amounts in the Adequate Assurance Deposit Account shall be immediately returned to the Debtors (if not returned or applied sooner), and (ii) any letter of credit issued in connection therewith shall be cancelled.

21. The Debtors submit that the Adequate Assurance Deposit, together with the Debtors’ ability to pay for future Utility Services in the ordinary course of business (collectively, the “Proposed Adequate Assurance”), constitute sufficient adequate assurance to the Utility Providers. Nonetheless, if any Utility Provider believes additional assurance is required, the Debtors propose that such Utility Provider be required to adhere to the procedures described

below. Furthermore, out of an abundance of caution, the Debtors request approval of the Proposed Adequate Assurance pursuant to Bankruptcy Rule 6003 to prevent the immediate and irreparable harm that could result if any discontinuation or termination of utility services occurred.

### **The Additional Adequate Assurance Procedures**

22. In light of the severe consequences to the Debtors of any interruption in Utility Services, the Debtors are proposing procedures that will enable them, in a coordinated manner, to work with the Utility Providers to consensually resolve adequate assurance issues. If the Debtors and a Utility Provider cannot consensually resolve such issues, the Court should determine first whether an additional adequate assurance payment is necessary and, if so, the amount necessary, before the Utility Provider may cease providing Utility Services for failure of adequate assurance. The procedures the Debtors propose are as follows (the “Additional Adequate Assurance Procedures”):

- a. A Utility Provider desiring additional assurances of payment, in excess of the Utility Reserve must serve a request (an “Additional Assurance Request”) so that it is received by the Debtors by no later than 30 days after the Petition Date (the “Request Deadline”) at the following addresses: (i) Jennifer Convertibles, 417 Crossways Park Drive, Woodbury, New York 11797, Attn: Rami Abada; (ii) counsel to the Debtors, Olshan Grundman Frome Rosenzweig & Wolosky LLP, Park Avenue Tower, 65 East 55<sup>th</sup> Street, New York NY 10022, Attn: Jordanna Nadritch, Esq.; and (iii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21<sup>st</sup> Floor, New York NY 10004 (collectively, the “Service Parties”). Any request or question concerning an Adequate Assurance Request should be directed to Philip Rameshwar at Jennifer Convertibles, (516) 496-1900 x 3206.
- b. The Additional Assurance Request must be made to the Service Parties no later than the Request Deadline. If a Utility Provider fails to timely file and serve an Additional Assurance Request by the Request Deadline it shall be: (i) deemed to have received adequate assurance of payment in compliance with section 366 of the Bankruptcy Code; and forbidden from altering, discontinuing or refusing service to, or discriminating against, the Debtors on account of any unpaid prepetition charges or the commencement of these Chapter 11 Cases, or require



additional adequate assurance of payment other than the Proposed Adequate Assurance.

- c. Any Additional Assurance Request must: (i) be made in writing; (ii) specify the amount and nature of assurance of payment that would be satisfactory to the Utility Provider; (iii) set forth the location(s) for which utility services are provided; (iv) include a summary of the Debtors' payment history relevant to the affected account(s), including a description of any deposits, prepayments, or other security held by the Utility Provider; and (v) set forth why the Utility Provider believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment.
- d. Upon the Debtors' receipt of any Additional Assurance Request, the Debtors shall have 14 days from the receipt of any such Additional Assurance Request (the "Resolution Period") to resolve that Utility Provider's Additional Assurance Request. The Resolution Period may be extended by agreement of the Debtors and the applicable Utility Provider.
- e. The Debtors may, in their discretion, resolve any Additional Assurance Request by mutual agreement with the Utility Provider and without further order of the Court, and may, in connection with any such agreement, in their discretion, provide a Utility Provider with additional adequate assurance of future payment including, but not limited to, cash deposits, prepayments and/or other forms of security, without further order of this Court, if the Debtors believe such additional assurance is reasonable.
- f. If the Debtors determine that the Additional Assurance Request is not reasonable and cannot reach a resolution with the Utility Provider during the Resolution Period, the Debtors, during or immediately after the Resolution Period, will request a hearing before this Court to determine the adequacy of assurances of payment with respect to a particular Utility Provider (the "Determination Hearing") pursuant to section 366(c)(3) of the Bankruptcy Code.
- g. Pending resolution of any Additional Assurance Request at the Determination Hearing or by mutual agreement between the Debtors and the Utility Provider, such particular Utility Provider shall be restrained from altering, discontinuing, or refusing service to, or discriminating against, the Debtors on account of unpaid charges for prepetition services or the Debtors' bankruptcy filing.

23. Accordingly, the Debtors request that, upon entry of the Order, the Court find that any Utility Provider that has failed to file an Objection to this Motion shall be deemed to have been provided with adequate assurance of payment as required by section 366 of the Bankruptcy

Code, and shall be prohibited from discontinuing, altering, or refusing to provide Utility Services, including as a result of unpaid charges for prepetition Utility Services.

**Subsequent Modifications of the Utility Provider List**

24. Although the Debtors have made extensive and good faith efforts to identify all Utility Providers, certain companies that currently provide Utility Services to the Debtors may have been omitted inadvertently from the Utility Provider List and/or the Adequate Assurance List. To the extent that the Debtors identify additional Utility Providers, the Debtors will promptly file amendments to the Utility Provider List and/or the Adequate Assurance List, and shall serve copies of the Motion and Order on such newly identified Utility Providers.

25. The Debtors further request that this Court make the Order binding on all Utility Providers, regardless of when each Utility Provider was added to the Utility Provider List, provided that any such newly identified Utility Provider shall have until the later of (i) fourteen (14) days from the date of such service or (ii) thirty (30) days from the entry of the Order to file an Objection.

**Basis For Relief**

26. Section 366 of the Bankruptcy Code protects a debtor against the immediate termination of utility services after commencing its case. Pursuant to section 366(c), a utility company may not, during the first 30 days of a chapter 11 case, alter, refuse, or discontinue services to a debtor solely because of unpaid prepetition amounts. Utilities may alter or discontinue services after the 30-day period following the Petition Date if the debtor does not provide “adequate assurance” of payment for postpetition services in a form “satisfactory” to the utility.

27. In determining whether an assurance of payment is adequate, the court may not consider (i) the absence of security before the petition date; (ii) the debtor’s history of timely

payments; or (iii) the availability of an administrative expense priority. 11 U.S.C. § 366(c)(3)(B). While section 366(c) clarifies what does and does not constitute “assurance of payment” and what can be considered in determining whether such assurance is adequate, Congress, in enacting that section, did not divest this Court of its power to determine what amount, if any, is necessary to provide adequate assurance of payment to a Utility Provider. 11 U.S.C. § 366(c)(3)(A). Specifically, pursuant to section 366(c)(3)(A), “[o]n request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment . . . .” *Id.* Under section 366(c), there is nothing to prevent a court from deciding that, on the facts of the case before it, the amount required of the debtor to provide adequate assurance of payment to a utility company is nominal, or even zero. *See In re Pac-West Telecomm, Inc.*, Case No. 07-10562 (BLS) (Bankr. D. Del. May 2, 2007) (approving adequate assurance that was one-time supplemental prepayment to each utility company equal to pro rated amount of one week’s charges); *In re The N.Y. Racing Ass’n, Inc.*, Case No. 0612618 (JMP) (Bankr. S.D.N.Y. Dec. 1, 2006) (approving adequate assurance to requesting utilities companies of a two-week deposit based on historical average, as well as procedures for opting out). If a Utility Provider does not believe the Proposed Adequate Assurance is “satisfactory,” such Utility Provider may file an Objection with the Court.

28. Accordingly, the Debtors believe that the Proposed Adequate Assurance is reasonable and satisfies the requirements of section 366 of the Bankruptcy Code. The Proposed Adequate Assurance in this Motion is similar to the relief granted in other recent chapter 11 cases filed in this District. *See, e.g., In re Saint Vincents Catholic Medical Centers of New York*, Case No. 10- 11963 (CGM) (Bankr. S.D.N.Y. Apr. 16, 2010); *In re Fortunoff Holdings, LLC, et al.*, Case No. 09-10497 (RDD) (Bankr. S.D.N.Y. Feb. 5, 2009); *In re Value City Holdings, Inc.*,

Case No. 08-14197 (JMP) (Bankr. S.D.N.Y. Nov. 19, 2008); *In re Steve & Barry's Manhattan LLC et al.*, Case No. 08-12579 (ALG) (Bankr. S.D.N.Y. July 31, 2008); *In re Dana Corp., et al.*, Case No. 06-10354 (BRL) (Bankr. S.D.N.Y. March 3, 2006); *In re Musicland Holding Corp., et al.*, Case No. 06-10064 (SMB) (Bankr. S.D.N.Y. Feb. 2, 2006); *In re Refco Inc., et al.*, Case No. 05-60006 (RDD) (Bankr. S.D.N.Y. Dec. 9, 2005).

29. The relief requested herein will ensure that the Debtors' operations will not be disrupted by the termination of vital Utility Services or the requests by the Utility Providers of unnecessarily large deposits that could endanger the Debtors' liquidity. If a disruption occurs, the impact on the Debtors' business operations and revenues would be extremely harmful to the Debtors and all of their creditors. As mentioned above, the Debtors operate and manage several racetracks and the operation of their businesses, as well as the management of their properties, is dependent on the services provided by the Utility Providers. Without the requested relief, any interruption in services by the Utility Providers could bring the Debtors' businesses to a grinding halt. Even if the Utility Providers did not interrupt their services, without the requested relief the Debtors could be forced to address numerous requests by Utility Providers in a disorganized manner during a critical period in these chapter 11 cases and during a time when their efforts could be more productively focused on the anticipated speedy emergence from bankruptcy. At the same time, the relief requested provides the Utility Providers with a fair and orderly procedure for determining requests for additional or different adequate assurance.

#### **Reservation of Rights**

30. Nothing contained herein is intended or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any party in interest's rights to dispute any claim, or (iii) an approval or assumption of any agreement, contract, program, policy or lease under section 365 of the Bankruptcy Code. Likewise, if this

Court grants the relief sought herein, any payment made pursuant to the Court's Order is not intended and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently. Finally, the relief requested herein shall not oblige the Debtors to accept any services, to accept the shipment of goods, or prevent the Debtors from returning or rejecting goods.

**Notice**

31. Notice of this Motion has been provided to: (i) Office of the United States Trustee for the Southern District of New York; (ii) counsel to the Official Committee of Unsecured Creditors; (iii) counsel to Haining Mengnu Group Co. Ltd.; (iv) the utility providers listed on Exhibit A to the Utilities Motion, and (v) any other party who has filed a notice of appearance in these cases. The Debtors submit that such notice is sufficient under the circumstances.

WHEREFORE the Debtors respectfully request entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: New York, New York  
July 29, 2010

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*Proposed Attorneys for the Debtors and  
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**EXHIBIT A**

**Utility Providers List**

<b><u>UTILITY PROVIDER</u></b>	<b><u>ADDRESS</u></b>	<b><u>TYPE OF SERVICE</u></b>	<b><u>AVERAGE 30 DAY CHARGE</u></b>
Ace Service	590 Atkins Ave Brooklyn, NY 11208-5202	Trash	\$75
Aqua Pennsylvania, Inc.	762 W. Lancaster Avenue Bryn Mawr, PA 19010-3489	Water	\$40
AT&T	P.O. Box8110 Aurora, IL 60507-8110	Fax & DSL	\$420
AT&T	P.O. Box105262 Atlanta, GA 30348-5262	Fax & DSL	\$1,141
AT&T	P.O. Box8110 Aurora, IL 60507-8110	Fax & DSL	\$835
AT&T	Payment Center Sacramento, CA 95887-0001	Fax & DSL	\$835
AT&T	Payment Center Sacramento, CA 95887-0001	Fax & DSL	\$830
Atlantic City Electric	P.O. Box 4875 Trenton, NJ 08650	Electric	\$545
Atlas Sanitation Co., Inc.	P.O. Box 140629 Howard Beach, NY 11414-0629	Trash	\$60
California-American Water	P.O. Box 7150 Pasadena, CA 91109	Water	\$155
Central Hudson Gas & Electric	284 South Ave. Poughkeepsie, NY 12601	Gas & Electric	\$760
CenturyLink	P.O. Box 4300 Carol Stream, IL 60197-4300	Alarm/Fax/DSL	\$175
City of Birmingham-Water	Dept. 175601 P.O. Box 67000 Detroit, MI 48267	Water / Sewer	\$85
City of Culver City	Culver City Treasurer's Office P.O. Box 507 9770 Culver Blvd. Culver City, CA 90232-0507	Trash	\$150
City of Fort Lauderdale, Municipal Services	P.O. Box 31687 Tampa, FL 33631-3687	Water / Sewer	\$120
City of Glendale	P.O. Box 51462 Los Angeles, CA 90051	Electric	\$405
City of North Miami Beach	P.O. Box 600427 North Miami Beach, FL 33160-0427	Water / Garbage	\$110
City of Novi, Water/Sewer Bill	P.O. Box 674264 Detroit, MI 48267-4264	Water / Sewer	\$ 135
City of Ontario	Revenue Department 1333 S. Bon View Avenue P.O. Box 8000 Ontario, CA 91761-1076	Waste/Water	\$880
City of Palo Alto Utilities	P.O. Box 10097 Palo Alto, CA 94303-0897	Electric, Gas & Water	\$730
City Of Pembroke Pines	P.O. Box 269005 Pembroke Pines, FL 33026	Water	\$30

City of Taylor Water Dept.	P.O. Box 298 Taylor, MI 48180	Water / Sewer	\$100
City of Thousand Oaks	Department #7235 Los Angeles, CA 90088	Sewer	\$50
CL&P	P.O. Box 150493 Hartford, CT 06115-0493	Electric	\$3,620
Classic Recycling New York Corp.	409 River Road, Ste 1 Clifton, NJ 07014	Trash	\$75
Comcast	P.O. Box3005 Southeastern, PA 19398	Internet	\$300
ComEd	Bill Payment Center Chicago, IL 60668	Electric	\$1,735
Consumers Energy	Lansing, MI 48937	Gas	\$520
Covad Communications	Dept. 33408 P.O. Box39000 San Francisco, CA 94139-0001	Internet	\$1,610
D.C. Water and Sewer Authority	Customer Service Dept. P.O. Box 97200 Washington, DC 20090	Water / Sewer	\$25
Dominion Virginia Power	P.O. Box26543 Richmond, VA 23290-0001	Electric	\$370
DTE Energy	P.O. Box 2859 Detroit, MI 48260	Electric	\$1,715
Dublin Sanitation	P.O. Box CC Dublin, CA 94568	Water / Sewer	\$150
Duke Energy	P.O. Box 70516 Charlotte, NC 28272-0516	Electric	\$815
EBMUD	Payment Center P.O. Box 1000 Oakland, CA 94649-0001	Water	\$60
El Toro Water District	P.O. Box 4000 Laguna Hills, CA 92654-4000	Water	\$40
Elizabethtown Gas	P.O. Box 11811 Newark, NJ 07101-8111	Gas	\$275
Energy Management Systems	Accounts Receivable Dept. 1281 P.O. Box 538 Malvern, PA 19355-0538	Water	\$25
Federal Realty Investment Trust	P.O. Box8500 - 9320 Philadelphia, PA 19178-9320	Water	\$5
Florida Power & Light	General Mail Facility Miami, FL 33188-0001	Electric	\$6,995
Georgia Natural Gas	P.O. Box 105445 Atlanta, GA 30348-5445	Gas	\$355
Granite Telecommunications	100 Newport Ave. Quincy, MA 02171	Fax & DSL	\$7,885
Gwinnett Co., Dept. of Water Resources	P.O. Box 530575 Atlanta, GA 30353-0575	Water	\$70
IEM, Inc.	24516 Network Place Chicago, IL 60673-1245	Waste	\$180
ISTA, North America	P.O. Box 60878 Los Angeles, CA 90060-0878	Electric	\$350
IWS of New York	P.O. Box 553913 Detroit, MI 48255-3913	Trash	\$215
Jackson EMC	P.O. Box 100 Jefferson, GA 30549-0100	Electric	\$940

Jersey Central Power & Light	P.O. Box 3687 Akron, OH 44309-3687	Electric	\$3,505
L.A. Dept. of Water and Power	Los Angeles, CA 90030-0808	Electric/Water	\$1,175
MegaPath	P.O. Box31785 Hartford, CT 06150	Internet	\$3,065
Miami-Dade Water & Sewer Dept.	P.O. Box 026055 Miami, FL 33102-6055	Water/Sewer	\$265
Mount Laurel Twp. M.U.A.	P.O. Box 48222 Newark, NJ 07101-4822	Water / Sewer	\$25
National Grid - LI	P.O. Box 9037 Hicksville, NY 11802-9037	Gas	\$7,180
National Grid - MA/NH (Gas)	P.O. Box 4300 Woburn, MA 01888-4300	Gas	\$185
Nationalgrid - MA	P.O. Box 1005 Woburn, MA 01807-1005	Gas	\$645
New Jersey American Water	Box 371476 Pittsburgh, PA 15250-7476	Water	\$30
NICOR GAS	P.O. Box416 Aurora, IL 60568	Gas	\$160
NJ Natural Gas Co.	P.O. Box 1378 Wall, NJ 07715	Gas	\$100
North Shore Gas	P.O. Box A3991 Chicago, IL 60690-3991	Gas	\$25
NOVEC	Department #795 Alexandria, VA 22334	Electric	\$610
NSTAR Electric	P.O. Box 4508 Woburn, MA 01888	Electric	\$4,680
NSTAR Gas	P.O. Box 4508 Woburn, MA 01888	Gas	\$95
NWP Services Corp	P.O. Box 553178 Detroit, MI 48255-3178	Water/Sewer	\$50
Palm Beach Cty. Water Utly. Dept	P.O. Box 24740 West Palm Beach, FL 33416	Waste/Water	\$140
Paraco Gas	Sycamore Square 2510 Route 44, STE 8 Salt Point, NY 12578-8041	Gas	\$40
PECO Energy	Payment Processing P.O. Box 37629 Philadelphia, PA 19101	Electric	\$4,210
Peoples Gas	Chicago, IL 60687-0001	Gas	\$175
Philadelphia Gas Works	P.O. Box 17606 Baltimore, MD 21297-1606	Gas	\$55
Piedmont Natural Gas Co.	P.O. Box 533500 Atlanta, GA 30353-3500	Gas	\$65
Progress Energy Carolinas, Inc.	Raleigh, NC 27698-0001	Electric	\$1,350
PSNC Energy	P.O. Box 100256 Columbia, SC 29202-3256	Gas	\$485
Shorelands Water Co. Inc.	1709 Union Avenue P.O. Box 98 Hazlet, NJ 07730-0098	Water	\$15
SMECO	P.O. Box 2000 Hughesville, MD 20637-2000	Electric	\$600
South Brunswick Twp.	P.O. Box 190	Water/Sewer	\$200



Water/Sewer Revenue	Monmouth Junction, NJ 08852-0190		
South Jersey Gas	P.O. Box3121 Southeastern, PA 19398-3121	Gas	\$85
Southern California Edison	P.O. Box 300 Rosemead, CA 91772-0001	Electric	\$7,955
Southern California Edison	P.O. Box 300 Rosemead, CA 91772-0001	Electric	\$1,100
Southern Conn. Gas Co.	P.O. Box 1999 Augusta, ME 04332-1999	Gas	\$255
Suburban Carting	P.O. Box5981 Hicksville, NY 11802-5981	Trash	\$80
Suffolk County Water Authority	P.O. Box 9224 Uniondale, NY 11555-9224	Water	\$20
Synergy Gas of Riverhead	1264 West Main St. Riverhead, NY 11901-3110	Gas	\$100
The Gas Company	P.O. Box C Monterey Park, CA 91756	Gas	\$220
The United Illuminating Co.	P.O. Box 9230 Chelsea, MA 02150	Electric	\$1,350
Thor Macomb Mall, L.L.C.	P.O. Box 712516 Cincinnati, OH 45271-2516	Electric	\$385
Town of Cary	P.O. Box 8049 Cary, NC 27512-8049	Water/Sewer	\$25
Town of Saugus	298 Central Street Saugus, MA 01906	Water/Sewer	\$125
Town of Siler City Water Department	P.O. Box 769 Siler City, NC 27344	Water/Sewer	\$40
United Water New York	P.O. Box 371804 Pittsburgh, PA 15250	Water	\$10
Valencia Water Co.	P.O. Box 5904 Valencia, CA 91385	Water	\$50
Veolia ES Solid Waste Midwest, LLC	P.O. Box 6484 Carol Stream, IL 60197-6484	Trash	\$75
Verizon	P.O. Box12045 Trenton, NJ 08650-2045	Internet	\$220
Verizon	P.O. Box1 Worcester, MA 01654-0001	Internet	\$155
Verizon	P.O. Box4833 Trenton, NJ 08650-4833	Internet	\$180
Verizon	P.O. Box660720 Dallas, TX 75266-0720	Internet	\$60
Verizon	P.O. Box 4833 Trenton, NJ 08650-4833	Fax/Alarm/DSL	\$155
Verizon	P.O. Box15124 Albany, NY 12212	Fax/Alarm/DSL	\$230
Verizon	P.O. Box15124 Albany, NY 12212	Internet	\$70
Verizon	P.O. Box9688 Mission Hills, CA 91346-9688	Internet	\$490
Verizon California	P.O. Box 9688 Mission Hills, CA 91346-9688	Alarm/Fax	\$80
Village of Schaumburg	P.O. Box 5919 Carol Stream, IL 60197-5919	Water/Sewer	\$20
Washington Gas	P.O. Box 830036 Baltimore, MD 21283-0036	Gas	\$335

WSSC	14501 Sweitzer Lane Laurel, MD 20707-5902	Water/Sewer	\$165
Yankee Gas Services Co.	P.O. Box2919 Hartford, CT 06104-2919	Gas	\$420

**EXHIBIT B**

**Adequate Assurance List**

<b><u>UTILITY PROVIDER</u></b>	<b><u>ADDRESS</u></b>	<b><u>TYPE OF SERVICE</u></b>	<b><u>AVERAGE 30 DAY CHARGE</u></b>
Ace Service	590 Atkins Ave Brooklyn, NY 11208-5202	Trash	\$75
Aqua Pennsylvania, Inc.	762 W. Lancaster Avenue Bryn Mawr, PA 19010-3489	Water	\$40
AT&T	P.O. Box8110 Aurora, IL 60507-8110	Fax & DSL	\$420
AT&T	P.O. Box105262 Atlanta, GA 30348-5262	Fax & DSL	\$1,141
AT&T	P.O. Box8110 Aurora, IL 60507-8110	Fax & DSL	\$835
AT&T	Payment Center Sacramento, CA 95887-0001	Fax & DSL	\$835
AT&T	Payment Center Sacramento, CA 95887-0001	Fax & DSL	\$830
Atlantic City Electric	P.O. Box 4875 Trenton, NJ 08650	Electric	\$545
Atlas Sanitation Co., Inc.	P.O. Box 140629 Howard Beach, NY 11414-0629	Trash	\$60
BGE	P.O. Box 13070 Philadelphia, PA 19101-3070	Gas & Electric	\$2,540
California-American Water	P.O. Box 7150 Pasadena, CA 91109	Water	\$155
Central Hudson Gas & Electric	284 South Ave. Poughkeepsie, NY 12601	Gas & Electric	\$760
CenturyLink	P.O. Box 4300 Carol Stream, IL 60197-4300	Alarm/Fax/DSL	\$175
City of Birmingham-Water	Dept. 175601 P.O. Box 67000 Detroit, MI 48267	Water / Sewer	\$85
City of Culver City	Culver City Treasurer's Office P.O. Box 507 9770 Culver Blvd. Culver City, CA 90232-0507	Trash	\$150
City of Fort Lauderdale, Municipal Services	P.O. Box 31687 Tampa, FL 33631-3687	Water / Sewer	\$120
City of Glendale	P.O. Box 51462 Los Angeles, CA 90051	Electric	\$405
City of Novi, Water/Sewer Bill	P.O. Box 674264 Detroit, MI 48267-4264	Water / Sewer	\$ 135
City of Ontario	Revenue Department 1333 S. Bon View Avenue P.O. Box 8000 Ontario, CA 91761-1076	Waste/Water	\$880
City of Palo Alto Utilities	P.O. Box 10097 Palo Alto, CA 94303-0897	Electric, Gas & Water	\$730
City Of Pembroke Pines	P.O. Box 269005 Pembroke Pines, FL 33026	Water	\$30

City of Taylor Water Dept.	P.O. Box 298 Taylor, MI 48180	Water / Sewer	\$100
City of Thousand Oaks	Department #7235 Los Angeles, CA 90088	Sewer	\$50
CL&P	P.O. Box 150493 Hartford, CT 06115-0493	Electric	\$3,620
Classic Recycling New York Corp.	409 River Road, Ste 1 Clifton, NJ 07014	Trash	\$75
Comcast	P.O. Box3005 Southeastern, PA 19398	Internet	\$300
ComEd	Bill Payment Center Chicago, IL 60668	Electric	\$1,735
Con Edison	Corporate Customer Group 4 Irving Place, 9th Floor South New York, NY 10003	Gas & Electric	\$28,950
Consumers Energy	Lansing, MI 48937	Gas	\$520
Covad Communications	Dept. 33408 P.O. Box39000 San Francisco, CA 94139-0001	Internet	\$1,610
D.C. Water and Sewer Authority	Customer Service Dept. P.O. Box 97200 Washington, DC 20090	Water / Sewer	\$25
Dominion Virginia Power	P.O. Box26543 Richmond, VA 23290-0001	Electric	\$370
DTE Energy	P.O. Box 2859 Detroit, MI 48260	Electric	\$1,715
Dublin Sanitation	P.O. Box CC Dublin, CA 94568	Water / Sewer	\$150
Duke Energy	P.O. Box 70516 Charlotte, NC 28272-0516	Electric	\$815
EBMUD	Payment Center P.O. Box 1000 Oakland, CA 94649-0001	Water	\$60
El Toro Water District	P.O. Box 4000 Laguna Hills, CA 92654-4000	Water	\$40
Elizabethtown Gas	P.O. Box 11811 Newark, NJ 07101-8111	Gas	\$275
Energy Management Systems	Accounts Receivable Dept. 1281 P.O. Box 538 Malvern, PA 19355-0538	Water	\$25
Federal Realty Investment Trust	P.O. Box8500 - 9320 Philadelphia, PA 19178-9320	Water	\$5
Georgia Natural Gas	P.O. Box 105445 Atlanta, GA 30348-5445	Gas	\$355
Granite Telecommunications	100 Newport Ave. Quincy, MA 02171	Fax & DSL	\$7,885
IEM, Inc.	24516 Network Place Chicago, IL 60673-1245	Waste	\$180
ISTA, North America	P.O. Box 60878 Los Angeles, CA 90060-0878	Electric	\$350
IWS of New York	P.O. Box 553913 Detroit, MI 48255-3913	Trash	\$215
Jackson EMC	P.O. Box 100 Jefferson, GA 30549-0100	Electric	\$940

Jersey Central Power & Light	P.O. Box 3687 Akron, OH 44309-3687	Electric	\$3,505
LIPA	P.O. Box 9039 Hicksville, NY 11802-9039	Electric	\$26,635
MegaPath	P.O. Box31785 Hartford, CT 06150	Internet	\$3,065
Miami-Dade Water & Sewer Dept.	P.O. Box 026055 Miami, FL 33102-6055	Water/Sewer	\$265
Mount Laurel Twp. M.U.A.	P.O. Box 48222 Newark, NJ 07101-4822	Water / Sewer	\$25
National Grid - LI	P.O. Box 9037 Hicksville, NY 11802-9037	Gas	\$7,180
National Grid - MA/NH (Gas)	P.O. Box 4300 Woburn, MA 01888-4300	Gas	\$185
National Grid - NY	P.O. Box 29212 Brooklyn, NY 11202-9212	Gas	\$1,380
Nationalgrid - MA	P.O. Box 1005 Woburn, MA 01807-1005	Gas	\$645
New Jersey American Water	Box 371476 Pittsburgh, PA 15250-7476	Water	\$30
NICOR GAS	P.O. Box416 Aurora, IL 60568	Gas	\$160
NJ Natural Gas Co.	P.O. Box 1378 Wall, NJ 07715	Gas	\$100
North Shore Gas	P.O. Box A3991 Chicago, IL 60690-3991	Gas	\$25
NOVEC	Department #795 Alexandria, VA 22334	Electric	\$610
NSTAR Electric	P.O. Box 4508 Woburn, MA 01888	Electric	\$4,680
NSTAR Gas	P.O. Box 4508 Woburn, MA 01888	Gas	\$95
NWP Services Corp	P.O. Box 553178 Detroit, MI 48255-3178	Water/Sewer	\$50
Orange & Rockland Utilities	P.O. Box1005 Spring Valley, NY 10977	Gas & Electric	\$2,005
Palm Beach Cty. Water Utl. Dept	P.O. Box 24740 West Palm Beach, FL 33416	Waste/Water	\$140
Paraco Gas	Sycamore Square 2510 Route 44, STE 8 Salt Point, NY 12578-8041	Gas	\$40
Peoples Gas	Chicago, IL 60687-0001	Gas	\$175
Pepco	P.O. Box 4863 Trenton, NJ 08650-4863	Electric	\$2,170
PG & E	Box 997300 Sacramento, CA 95899	Gas & Electric	\$4,500
PG & E	Box 997300 Sacramento, CA 95899	Electric	\$200
Philadelphia Gas Works	P.O. Box 17606 Baltimore, MD 21297-1606	Gas	\$55
Piedmont Natural Gas Co.	P.O. Box 533500 Atlanta, GA 30353-3500	Gas	\$65
Progress Energy Carolinas, Inc.	Raleigh, NC 27698-0001	Electric	\$1,350
PSE&G Company	P.O. Box14444	Gas & Electric	\$13,285

	New Brunswick, NJ 08906		
PSNC Energy	P.O. Box 100256 Columbia, SC 29202-3256	Gas	\$485
SMECO	P.O. Box 2000 Hughesville, MD 20637-2000	Electric	\$600
South Brunswick Twp. Water/Sewer Revenue	P.O. Box 190 Monmouth Junction, NJ 08852-0190	Water/Sewer	\$200
South Jersey Gas	P.O. Box3121 Southeastern, PA 19398-3121	Gas	\$85
Southern California Edison	P.O. Box 300 Rosemead, CA 91772-0001	Electric	\$1,100
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Verizon	P.O. Box4833 Trenton, NJ 08650-4833	Internet	\$180
Verizon	P.O. Box660720 Dallas, TX 75266-0720	Internet	\$60
Verizon	P.O. Box 4833 Trenton, NJ 08650-4833	Fax/Alarm/DSL	\$155
Verizon	P.O. Box15124 Albany, NY 12212	Fax/Alarm/DSL	\$230
Verizon	P.O. Box15124 Albany, NY 12212	Internet	\$70
Verizon	P.O. Box9688 Mission Hills, CA 91346-9688	Internet	\$490
Verizon California	P.O. Box 9688 Mission Hills, CA 91346-9688	Alarm/Fax	\$80

Village of Schaumburg	P.O. Box 5919 Carol Stream, IL 60197-5919	Water/Sewer	\$20
Washington Gas	P.O. Box 830036 Baltimore, MD 21283-0036	Gas	\$335
WSSC	14501 Sweitzer Lane Laurel, MD 20707-5902	Water/Sewer	\$165
Yankee Gas Services Co.	P.O. Box 2919 Hartford, CT 06104-2919	Gas	\$420

**EXHIBIT C**

**Proposed Order**



**UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re:

JENNIFER CONVERTIBLES, INC.,<sup>1</sup>

Debtors.

Chapter 11

Case No. 10-13779 (ALG)

(Jointly Administered)

**ORDER DETERMINING ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE  
UTILITY SERVICES AND SCHEDULING FINAL HEARING**

Upon the motion, dated July 29, 2010 (the “Motion”)<sup>2</sup> of Jennifer Convertibles, Inc. and its affiliated debtors, as debtors in possession (collectively, the “Debtors”), for an order determining adequate assurance of payment for future Utility Services, all as more fully set forth in the Motion; and upon consideration of the Declaration of Rami Abada in Support of the Debtors’ Chapter 11 Petitions and Request for First Day Relief; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the parties listed therein, and it appearing that no other or further notice need be provided; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing 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, if applicable, are: (i) Jennifer Convertibles, Inc. (4646); (ii) Jennifer Convertibles Boylston MA, Inc. (7904); (iii) Jennifer Chicago Ltd. (0505); (iv) Elegant Living Management, Ltd. (5049); (v) Hartsdale Convertibles, Inc. (1681); (vi) Jennifer Management III Corp. (3552); (vii) Jennifer Purchasing Corp. (7319); (viii) Jennifer Management II Corp. (9177); (ix) Jennifer Management V Ltd. (9876); (x) Jennifer Convertibles Natick, Inc. (2227); (xi) Nicole Convertibles, Inc. (5985); (xii) Washington Heights Convertibles, Inc. (0783).

<sup>2</sup> All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

interests of the Debtors, their estates, and creditors; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED.
2. All Utility Providers are prohibited from altering, refusing, or discontinuing Utility Services to the Debtors on account of any unpaid prepetition charges, or discriminating against the Debtors, or requiring payment of a deposit or receipt for any other security for continued service as a result of the Debtors' bankruptcy filings or any outstanding prepetition invoices other than as set forth in the Motion.
3. The Motion and this Order shall be served, via first-class mail, on each Utility Provider on the list annexed as Exhibit A to the Motion (the "Utility Provider List"), which the Debtors believe could be affected by the Motion and all other parties required to receive service within three (3) business days of entry of this Order.
4. The relief granted herein is for all Utility Providers providing Utility Services to the Debtors and is not limited to those listed on the Utility Provider List.
5. The Debtors shall place a letter of credit or deposit equal to \$67,700, which represents 50% of the estimated cost of monthly Utility Services, calculated as a historical average over the past twelve months (the "Adequate Assurance Deposit") into an interest-bearing, newly created segregated account for the benefit of the Utility Providers within fourteen days of entry of this Order.
6. The Debtors' service of the Motion upon a company or a Utility Provider's inclusion on 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.

7. The Adequate Assurance Deposit Account constitutes sufficient adequate assurance of future payment to the Utility Providers to satisfy the requirements of section 366 of the Bankruptcy Code.

8. The following Additional Adequate Assurance Procedures are approved in full and in all respects:

- a. A Utility Provider desiring additional assurances of payment, in excess of the Utility Reserve must serve a request (an “Additional Assurance Request”) so that it is received by the Debtors by no later than 30 days after the Petition Date (the “Request Deadline”) at the following addresses: (i) Jennifer Convertibles, 417 Crossways Park Drive, Woodbury, New York 11797, Attn: Rami Abada; (ii) counsel to the Debtors, Olshan Grundman Frome Rosenzweig & Wolosky LLP, Park Avenue Tower, 65 East 55th Street, New York NY 10022, Attn: Jordanna Nadritch, Esq.; and (iii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21<sup>st</sup> Floor, New York NY 10004 (collectively, the Service Parties). Any request or question concerning an Adequate Assurance Request should be directed to Philip Rameshwar at Jennifer Convertibles, (516) 496-1900 x 3206.
- b. The Additional Assurance Request must be made by all the Service Parties no later than the Request Deadline. If a Utility Provider fails to timely file and serve an Additional Assurance Request by the Request Deadline it shall be: (i) deemed to have received adequate assurance of payment in compliance with section 366 of the Bankruptcy Code; and forbidden from altering, discontinuing or refusing service to, or discriminating against, the Debtors on account of any unpaid prepetition charges or the commencement of these Chapter 11 Cases, or require additional adequate assurance of payment other than the Proposed Adequate Assurance.
- c. Any Additional Assurance Request must: (i) be made in writing; (ii) specify the amount and nature of assurance of payment that would be satisfactory to the Utility Provider; (iii) set forth the location(s) for which utility services are provided; (iv) include a summary of the Debtors’ payment history relevant to the affected account(s), including a description of any deposits, prepayments, or other security held by the Utility Provider; and (v) set forth why the Utility Provider believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment.
- d. Upon the Debtors’ receipt of any Additional Assurance Request, the Debtors shall have 14 days from the receipt of any such Additional Assurance Request (the “Resolution Period”) to resolve that Utility Provider’s Additional Assurance

Request. The Resolution Period may be extended by agreement of the Debtors and the applicable Utility Provider.

- e. The Debtors may, in their discretion, resolve any Additional Assurance Request by mutual agreement with the Utility Provider and without further order of the Court, and may, in connection with any such agreement, in their discretion, provide a Utility Provider with additional adequate assurance of future payment including, but not limited to, cash deposits, prepayments and/or other forms of security, without further order of this Court, if the Debtors believe such additional assurance is reasonable.
- f. If the Debtors determine that the Additional Assurance Request is not reasonable and cannot reach a resolution with the Utility Provider during the Resolution Period, the Debtors, during or immediately after the Resolution Period, will request a hearing before this Court to determine the adequacy of assurances of payment with respect to a particular Utility Provider (the “Determination Hearing”) pursuant to section 366(c)(3) of the Bankruptcy Code.
- g. Pending resolution of any Additional Assurance Request at the Determination Hearing or by mutual agreement between the Debtors and the Utility Provider, such particular Utility Provider shall be restrained from altering, discontinuing , or refusing service to, or discriminating against, the Debtors on account of unpaid charges for prepetition services or the Debtors’ bankruptcy filing.

9. Each Utility Provider shall be deemed to have adequate assurance of payment under section 366 of the Bankruptcy Code unless and until (a) the Debtors, in their discretion, agree to (i) an Additional Assurance Request or (ii) an alternative assurance of payment with the Utility Provider during the Resolution Period; or (b) this Court enters an order requiring the Debtors to provide additional adequate assurance of payment.

10. The Debtors are authorized, in their discretion, to amend the Utility Providers listed on Exhibit A to the Motion and the Adequate Assurance List listed on Exhibit B to the Motion in order to add or delete any Utility Provider, and the Order shall apply as of the Petition Date to any such Utility Provider that is subsequently added to either list; provided, that, with respect to any additional Utility Provider, the period to file an Additional Assurance Request shall be 20 days after the date that the Debtors serve the Order on such Additional Utility

Provider. Any Additional Assurance Request by such additional Utility Provider must otherwise comply with the requirements set forth in this Order or shall be deemed an invalid Additional Assurance Request.

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

12. Any payment or transfer made or service rendered by the Debtors pursuant to the Order is not, and shall not be deemed, an admission as to the validity of the underlying obligation, a waiver of any rights the Debtors may have to dispute such obligation or waiver of any other rights or remedies of the Debtors, or an approval or assumption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

13. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order.

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

Dated: July \_\_, 2010  
New York, New York

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UNITED STATES BANKRUPTCY JUDGE