

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re: )  
 ) Chapter 11  
 )  
Met-Coil Systems Corporation, ) Case No. 03-\_\_\_\_\_( )  
 )  
 )  
Debtor. )

**ORDER (A) PROHIBITING UTILITY COMPANIES FROM ALTERING,  
REFUSING OR DISCONTINUING SERVICES TO, OR DISCRIMINATING  
AGAINST, THE DEBTOR; (B) DEEMING THE UTILITY COMPANIES  
ADEQUATELY ASSURED OF FUTURE PERFORMANCE BY THEIR  
ENTITLEMENT TO AN ADMINISTRATIVE EXPENSE CLAIM; AND (C)  
ESTABLISHING A PROCEDURE WHEREBY THE UTILITY  
COMPANIES MAY REQUEST ADDITIONAL ADEQUATE  
ASSURANCE OF FUTURE PERFORMANCE**

Upon the motion (the "Motion")<sup>1</sup> of the debtor and debtor in possession (the "Debtor") in the above-captioned Chapter 11 case (the "Case"), for entry of an Order (a) prohibiting the Utility Companies from altering, refusing or discontinuing services to, or discriminating against, the Debtor, (b) deeming the Utility Companies adequately assured of future performance by their entitlement to an administrative expense claim, and (c) establishing a procedure whereby the Utility Companies may request additional adequate assurance of future performance; and upon the Kuoni Affidavit; and it appearing that the Court has jurisdiction over the Motion pursuant to 28 U.S.C. § 157(b)(2)(G); and due and adequate notice of the Motion having been given; and it appearing that no other or further notice need be given; and this Court having determined that granting the relief requested in the Motion is in the best interests of the Debtor, its estate and its creditors; and after due deliberation and sufficient cause appearing therefor;

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<sup>1</sup> All capitalized terms used herein but not defined herein shall have the meanings given them in the Motion.

IT IS HEREBY ORDERED THAT:

1. The Motion is granted.
2. The Debtor shall not be required to make any postpetition deposits with the Utility Companies to secure future payments for utility services.
3. For purposes of this Order, the Debtor's regular and timely prepetition history of payments to the Utility Companies and the Debtor's postpetition ability to pay the Utility Companies for future utility services are deemed to be adequate assurance to the Utility Companies of payment for future utility services in accordance with § 366(b) of the Bankruptcy Code.
4. The Debtor shall pay, on a timely basis, in accordance with their prepetition practices, all undisputed invoices in respect of postpetition utility services rendered to the Debtor by the Utility Companies.
5. Any deposits, bonds, letters of credit or other assurances of payment that were in place prior to the Petition Date shall remain in place and shall continue to be held by the Utility Companies holding same, except upon entry of further orders of this Court upon proper application.
6. Absent any further order of this Court, each of the Utility Companies is prohibited from altering, refusing, or discontinuing services to, or discriminating against, the Debtor, or requiring the payment of a deposit or other security on the basis of prepetition amounts due from the Debtor.
7. Under § 503(b)(1)(A) of the Bankruptcy Code, any unpaid, undisputed postpetition utility charges shall constitute actual and necessary expenses of preserving the

Debtor's estate, entitling the Utility Companies to an administrative expense priority under § 507(a)(1) of the Bankruptcy Code.

8. Within five (5) business days of the date of this Order, the Debtor shall, by first class mail, serve a copy of this Order and the supporting Motion to each of the Utility Companies.

9. This Order is without prejudice to the rights of any of the Utility Companies to make a written request to the Debtor within thirty (30) days after the date of entry of the Order, for additional assurance in the form of deposits or other security.

10. Any Utility Company that fails to make a timely written request for additional adequate assurance as provided for herein shall be deemed to have adequate assurance of payment for postpetition utility services without the payment of a deposit.

11. In the event that the Debtor believes that a timely written request for additional assurances made by any of the Utility Companies is unreasonable, within thirty (30) days of such written request, the Debtor shall file a Determination Motion and such Determination Motion shall be set for a Determination Hearing.

12. In the event a Determination Hearing is scheduled in accordance with the immediately preceding paragraph, the Utility Company that is the subject of the Determination Hearing shall be deemed to have adequate assurance of payment until an order of the Court is entered in connection with such Determination Hearing.

13. Nothing in this Order shall be deemed to affect any burden of proof that either the Debtor or any Utility Company may have in the Determination Hearing.

14. Nothing in the Motion or this Order shall be deemed or construed: (a) as an admission as to the validity of any claim against the Debtor; (b) as a waiver of the

Debtor's rights to dispute any claim; (c) to waive or release any right, claim, defense or counterclaim of the Debtor or its estate, or to estop the Debtor or its estate from asserting any right, claim, defense or counterclaim; (d) as an approval or assumption of any agreement, contract or lease, pursuant to § 365 of the Bankruptcy Code; or (e) as an admission that any obligation is entitled to administrative expense priority or any such contract or agreement is executory or unexpired for the purposes of § 365 of the Bankruptcy Code or otherwise.

15. The Debtor is authorized and empowered to take such actions as may be necessary and appropriate to implement the terms of this Order.

16. This Court shall retain jurisdiction with respect to all matters relating to the interpretation of this Order.

Dated: \_\_\_\_\_, 2003  
Wilmington, Delaware

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UNITED STATES BANKRUPTCY JUDGE

**File a First Day Motion:**

03-12676 Met-Coil Systems Corporation

**U.S. Bankruptcy Court**

**District of Delaware**

Notice of Electronic Filing

The following transaction was received from Carignan, James C. entered on 8/26/2003 at 11:56 PM EDT and filed on 8/26/2003

**Case Name:** Met-Coil Systems Corporation

**Case Number:** 03-12676

**Document Number:** 10

**Docket Text:**

Motion Prohibiting Utilities from Discontinuing Service *Debtor's Motion for Entry of Order (A) Prohibiting Utility Companies From Altering, Refusing or Discontinuing Services to, or Discriminating Against, the Debtor, (B) Deeming the Utility Companies Adequately Assured of Future Performance by Their Entitlement to an Administrative Expense Claim, and (C) Establishing a Procedure Whereby the Utility Companies May Request Additional Adequate Assurance of Future Performance* Filed By Met-Coil Systems Corporation (Attachments: # (1) Proposed Form of Order)(Carignan, James)

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**X:\E-Filings\Met-Coil\Filings\082603 Utility Motion MOT.pdf

**Electronic document Stamp:**

[STAMP bkecfStamp\_ID=983460418 [Date=8/26/2003] [FileNumber=1857349-0] [606f01374f5e17acb1cf9d39e1be564b879dd07ff6ea35e10f04731f80aaccf8682f43907fafd7da4a7bd3f4d4c5456d6d6d68041b764298565a55da216c9b4c]]

**Document description:**Proposed Form of Order

**Original filename:**X:\E-Filings\Met-Coil\Filings\082603 Utility Motion ORDER.pdf

**Electronic document Stamp:**

[STAMP bkecfStamp\_ID=983460418 [Date=8/26/2003] [FileNumber=1857349-1] [5f7e8b4561b94a7d0edf717639e7965ccc01c4382980c87655beb3c0fe1d59c6514ca5ba759f4adeafafb440c9dcd722a35167feb9410c3e4a0d6251984b9af]]

**03-12676 Notice will be electronically mailed to:**

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**03-12676 Notice will not be electronically mailed to:**