



**IT IS ORDERED as set forth below:**

**Date: December 17, 2007**

*Mary Grace Diehl*

**Mary Grace Diehl  
U.S. Bankruptcy Court Judge**

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**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

In re:

PIKE NURSERY HOLDING, LLC,  
  
Debtor.

Chapter 11

Case No. 07-79129-mgd

**STIPULATION AND CONSENT ORDER BETWEEN ALABAMA POWER COMPANY  
AND PIKE NURSERY HOLDING, LLC RESOLVING OBJECTION TO DEBTOR'S  
UTILITY MOTION FOR ORDER (A) ESTABLISHING PROCEDURES FOR  
UTILITIES TO REQUEST ADEQUATE ASSURANCE OF PAYMENT, AND  
(B) ESTABLISHING PROCEDURES FOR RESOLVING DISPUTES RELATIVE TO  
ADEQUATE ASSURANCE REQUESTS**

This Stipulation and Consent Order (the "Stipulation") is entered into between Alabama Power Company ("Alabama Power") and Pike Nursery Holding, LLC, the debtor in the above-referenced case ("Debtor") with respect to *Debtor's Utility Motion for Order (A) Establishing Procedures for Utilities to Request Adequate Assurance of Payment, and (B) Establishing Procedures for Resolving Disputes Relative to Adequate Assurance Requests* (the "Utility Motion," Docket No. 10) and Alabama Power's objection (the "Objection," Docket No. 26) thereto.

Debtor and Alabama Power (each a "Party" and collectively the "Parties"), by and through their counsel, hereby stipulate and agree, and the Court hereby finds and orders, as follows:

**Recitals:**

WHEREAS on November 14, 2007 (the "Petition Date"), Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"); and

WHEREAS on the Petition Date, Debtor filed its Utility Motion; and

WHEREAS on November 15, 2007, Alabama Power filed its Objection; and

WHEREAS on November 15, 2007, the Court held an interim hearing on the Utility Motion and reserved ruling until final hearing in order to consider any objections to the Utility Motion; and

WHEREAS Debtor and Alabama Power agreed to continue the final hearing as to Alabama Power to allow the Parties a chance to resolve the Objection; and

WHEREAS on December 9, 2007, the Court entered an order on the Utility Motion (the "Order," Docket No. 129), which excepted Alabama Power from the Determination Procedures (as such term is defined in the Order); and

WHEREAS the Parties have reached an agreement regarding Debtor's provision of adequate assurance to Alabama Power; and

WHEREAS the Parties desire to resolve the Objection without imposing any further time, expense or delay on the Parties or the Court;

NOW, THEREFORE, in consideration of the mutual promises and representations hereinafter set forth, and for other good and valuable consideration, it is hereby stipulated and ordered as follows:

1. The Objection is resolved in accordance with this Stipulation and Consent Order.

2. Within three business days of the entry of this Stipulation and Consent Order, Debtor will provide a cash deposit to Alabama Power in the amount of \$4,789.50 (the "Deposit").

3. Upon the Debtor's request to terminate or otherwise discontinue the receipt of electric service from Alabama Power, the Deposit, less any unpaid electric service charges, shall be returned to the Debtor in accordance with the General Rules of the Alabama Public Service Commission and applicable non-bankruptcy law. Upon the occurrence of the effective date of a plan of reorganization in this Chapter 11 case, the Deposit, less any unpaid electric service charges, shall, in accordance with the General Rules of the Alabama Public Service Commission and applicable non-bankruptcy law, and upon the written request of the Debtor be returned to the Debtor if, within the twelve (12) billing periods prior to the request, the Debtor has made all

payments to Alabama Power on or before the delinquent date identified on the Debtor's electric service accounts invoices.

4. The provisions of this Stipulation will become effective only upon being "so-ordered" by the Court and entry of the Stipulation and Order by the Court.

5. Upon entry of the Stipulation and Order by the Court approving the terms hereof and the Stipulation and Order becoming final and non-appealable, notwithstanding any conversion to another chapter of the Bankruptcy Code, this Stipulation and Order shall be valid and binding on the Parties and their respective successors and assigns, parents, subsidiaries, affiliates, licensees, agents, attorneys and employees.

6. The Court shall retain jurisdiction to resolve any dispute concerning this Stipulation and Order.

7. This Stipulation and Order represents the entire agreement between the Parties and shall not be modified, except in writing to be countersigned by the Parties or their respective counsel and "so-ordered" by this Court. The Parties agree that there were no inducements or representations leading to the execution of this Stipulation and Order, except as contained herein.

8. The Order is not applicable to Alabama Power Company.

**[END OF DOCUMENT]**

STIPULATED AND AGREED:

Eric T. Ray (by AAR w/express permission)  
Eric T. Ray (AL State Bar No.ASB-3776-Y77E)

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