

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
RC SOONER HOLDINGS, LLC, <u>et al.</u> , ¹)	Case No. 10- <u>10528</u> ()
)	
Debtors.)	(Jointly Administered)
)	
)	

**INTERIM ORDER (A) PROHIBITING UTILITY PROVIDERS FROM
ALTERING REFUSING OR DISCONTINUING SERVICE,
(B) DEEMING UTILITIES ADEQUATELY ASSURED OF
FUTURE PAYMENT, AND (C) ESTABLISHING PROCEDURES
FOR DETERMINING ADEQUATE ASSURANCE OF PAYMENT**

This matter coming before the Court on the Motion of the Debtors for Interim and Final Orders Under Section 366 of the Bankruptcy Code (A) Prohibiting Utility Providers from Altering, Refusing or Discontinuing Service (B) Deeming Utilities Adequately Assured of Future Payment, and (C) Establishing Procedures for Determining Adequate Assurance of Payment (the “Motion”),² filed by the above-captioned debtors and debtors in possession (collectively, the “Debtors”); and upon consideration of the Affidavit of Daniel Gordon in Support of Chapter 11 Petitions and First Day Pleadings; the Court having reviewed the Motion; the Court finding that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), (c) venue of these chapter 11 cases and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409, and (d) notice of the

¹ The Debtors and the last four digits of their taxpayer identification numbers are: RC Sooner Holdings, LLC (7904); RC Brixton Square Owner, LLC (8002); RC Cedar Crest Owner, LLC (7914); RC Fulton Plaza Owner, LLC (8011); RC Magnolia Owner, LLC (7998); RC Pomeroy Park Owner, LLC (7939); RC Salida Owner, LLC (7947); RC Savannah South Owner, LLC (7983); RC Southern Hills Owner, LLC (7958); Brixton Square Apartments, LLC (1844); CC Apartments, LLC (1798); Fulton Plaza Apartments, LLC (4344); Magnolia Manor Apartments, LLC (4486); Pomeroy Park Apartments, LLC (1649); Salida Apartments, LLC (1915); Savannah South Apartments, LLC (8586); and Southern Hills Villa Apartments, LLC (1721). The business address for each of the Debtors where notices should be sent is 1515 Broadway, 11th Floor, New York, New York 10036-8901.

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

Motion was sufficient under the circumstances; 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 is in the best interests of the Debtors' estates, their creditors and other parties in interest;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on an interim basis pending final hearing thereon.
2. Within ten (10) days after the date of entry of this Order, the Debtors shall furnish the Utility Providers with adequate assurance of payment for postpetition services by depositing \$45,000.00 in an interest-bearing account (the "Utility Deposit Account"), with such Utility Deposit Account to be held in escrow pending further order of the Court for the purpose of providing each Utility Company with adequate assurance of payment of its postpetition date services to the Debtors.
3. Except in accordance with the procedures set forth below, and absent further order of this Court, each Utility Provider is prohibited from (a) altering, refusing, or discontinuing service to, or discriminating against the Debtors solely on account of the commencement of these chapter 11 cases or on account of any unpaid prepetition charges, and (b) requiring the payment of any additional deposit or other security in connection with any unpaid prepetition charges.
4. If a Utility Provider is not satisfied with the assurance of future payment provided by the Debtors in the Motion, the Utility Provider may request additional assurance of future payment from the Debtors pursuant to the following procedures:
 - a. A Utility Provider may request additional assurance of payment within thirty (30) days after the Petition Date (an "Additional Assurance Request") by submitting

an Additional Assurance Request to counsel for the Debtors: Ballard Spahr LLP, 919 N. Market Street, 12th Floor, Wilmington, DE 19801, Attn: Tobey M. Daluz, Esquire, Christopher S. Chow, Esquire, and Joshua E. Zugergerman, Esquire.

b. Any Additional Assurance Request must (i) be made in writing; (ii) include a summary of the Debtors' payment history relevant to the affected account(s); and (iii) an explanation of why the Utility Deposit is inadequate assurance of payment.

c. If a Utility Provider makes a timely Additional Assurance Request that the Debtors believe is reasonable, then the Debtors shall be authorized in their sole discretion to comply with such request without further order of the Court.

d. If the Debtors believe the Additional Assurance Request is unreasonable, the Debtors shall schedule a hearing to determine the necessity and extent of additional assurance of payment to such Utility Provider at the next omnibus hearing scheduled in these cases (the "Determination Hearing").

e. Pending resolution of such issue at any such Determination Hearing, any Utility Provider making an Additional Assurance Request shall be prohibited from altering, refusing or discontinuing service to the Debtors on account of unpaid charges for prepetition services.

f. A Utility Provider that fails to make a timely Additional Assurance Request shall be deemed to have adequate assurance of payment, i.e., that the Utility Deposit supplies adequate assurance of payment, unless and until a future order of this Court is entered requiring further adequate assurance of payment.

5. If the Debtors agree to provide to any Utility Provider a payment from the Utility Deposit Account, such Utility Deposit Account shall be replenished so as to maintain a balance equal to the original deposit amount of \$45,000.00.

6. The Debtors are authorized to supplement, as necessary, the list of Utility Providers attached as Exhibit A to the Motion and to serve promptly a copy of the Motion, and this Order on any Utility Provider that is added to the list by such a supplement. Upon identification of an additional Utility Provider and amendment of Exhibit A, the Debtors shall increase the Utility Deposit Account in a sum not less than fifty percent (50%) of the average monthly payment to such Utility Provider. Concurrently with such service, the Debtors shall file with the Court a supplement to Exhibit A adding the name of the Utility Provider so served. Such an added Utility Provider shall have thirty (30) days from the date of service of the Motion and this Order to make an Additional Assurance Request. If such an Additional Assurance Request is made, the Debtors shall abide by the procedures set forth paragraph 4 of this Order. Pending resolution of the adequate assurance issue at any Determination Hearing relating to an Adequate Assurance Request, any such additional Utility Provider shall be prohibited from altering, refusing or discontinuing utility services to the Debtors on account of unpaid charges for prepetition services.

7. A copy of the Motion and this Interim Order shall be served on each Utility Provider that the Debtors believe could be affected by the Motion, including those utilities set forth on Exhibit A attached to the Motion, and on other interested parties. The deadline by which objections to the Motion must be filed is _____, 2010 at __: __ **.m. prevailing Eastern Time**. A final hearing on the Motion will be conducted on _____, 2010 at __: __ **.m. prevailing Eastern Time**, only if objections are timely filed.

8. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

Dated: _____

UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
RC SOONER HOLDINGS, LLC, <u>et al.</u> , ¹)	Case No. 10- <u>10528</u> ()
)	
Debtors.)	(Jointly Administered)
)	
)	Related Docket No. __

**FINAL ORDER (A) PROHIBITING UTILITY PROVIDERS FROM
ALTERING REFUSING OR DISCONTINUING SERVICE,
(B) DEEMING UTILITIES ADEQUATELY ASSURED OF
FUTURE PAYMENT, AND (C) ESTABLISHING PROCEDURES
FOR DETERMINING ADEQUATE ASSURANCE OF PAYMENT**

This matter coming before the Court on the Motion of the Debtors for Interim and Final Orders Under Section 366 of the Bankruptcy Code (A) Prohibiting Utility Providers from Altering, Refusing or Discontinuing Service (B) Deeming Utilities Adequately Assured of Future Payment, and (C) Establishing Procedures for Determining Adequate Assurance of Payment (the “Motion”),² filed by the above-captioned debtors and debtors-in-possession (collectively, the “Debtors”); and upon consideration of the Affidavit of Daniel Gordon in Support of Chapter 11 Petitions and First Day Pleadings; the Court having reviewed the Motion; the Court finding that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), (c) venue of these chapter 11 cases and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409, and (d) notice of the

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Motion was sufficient under the circumstances; 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 is in the best interests of the Debtors' estates, their creditors and other parties in interest;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on a final basis.
2. Nothing in this order shall be deemed to vacate or modify any other restrictions on the termination of services by a Utility Provider as provided by 11 U.S.C. §§ 362 and 365 or other applicable law. Nothing herein or in the Motion shall constitute postpetition assumption or adoption of any agreement pursuant to 11 U.S.C. § 365, nor shall anything herein be deemed a waiver by the Debtors or any other party of any rights with respect to assumption or rejection of an executory contract.
3. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

Dated: _____

UNITED STATES BANKRUPTCY JUDGE