

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

In re:)	
	)	Chapter 11
PES HOLDINGS, LLC, <i>et al.</i> , ¹)	
	)	Case No. 19-11626 (____)
Debtors.	)	(Joint Administration Requested)
)	

**DEBTORS’ MOTION FOR
ENTRY OF INTERIM AND FINAL ORDERS
(I) APPROVING THE DEBTORS’ PROPOSED
ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE
UTILITY SERVICES, (II) PROHIBITING UTILITY COMPANIES
FROM ALTERING, REFUSING, OR DISCONTINUING SERVICES,
(III) APPROVING THE DEBTORS’ PROPOSED PROCEDURES FOR RESOLVING
ADDITIONAL ASSURANCE REQUESTS, AND (IV) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”)² respectfully state the following in support of this motion (this “Motion”).

Relief Requested

1. The Debtors seek entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B** (respectively, the “Interim Order” and the “Final Order”): (a) approving the Debtors’ Proposed Adequate Assurance (as defined below) of payment for future Utility Services (as defined below); (b) prohibiting Utility Companies

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: PES Holdings, LLC (8157); North Yard GP, LLC (5458); North Yard Logistics, L.P. (5952); PES Administrative Services, LLC (3022); PES Energy Inc. (0661); PES Intermediate, LLC (0074); PES Ultimate Holdings, LLC (6061); and Philadelphia Energy Solutions Refining and Marketing LLC (9574). The Debtors’ service address is: 1735 Market Street, Philadelphia, Pennsylvania 19103.

² A detailed description of the Debtors and their business, and the facts and circumstances supporting this Motion and the Debtors’ chapter 11 cases, are set forth in greater detail in the *Declaration of Jeffrey S. Stein, Chief Restructuring Officer of the Debtors, in Support of Chapter 11 Petitions and First Day Motions* (the “First Day Declaration”), filed contemporaneously with the Debtors’ voluntary petitions for relief filed under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), on July 21, 2019 (the “Petition Date”).

(as defined below) from altering, refusing, or discontinuing services; (c) approving the Debtors' proposed procedures for resolving Adequate Assurance Requests (as defined below); and (d) granting related relief.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the District of Delaware (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012 (the "Amended Standing Order"). The Debtors confirm their consent, pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are sections 105(a) and 363(b) of the Bankruptcy Code, Bankruptcy Rules 6003 and 6004, and Local Rule 9013-1(m).

Background

5. Headquartered in Philadelphia, Pennsylvania, the Debtors are owners and operators of the largest oil refining complex on the United States Eastern seaboard and have been continuously operating in some form for over 150 years. The refining complex sits on an approximately 1,300 acre industrial site roughly 2.5 miles from downtown Philadelphia. It is comprised of two separate refineries that have a combined distillation and refining capacity of 335,000 barrels of crude oil per day. The refining complex produces a full range of transportation

fuels, such as gasoline and ultra-low sulfur diesel, as well as other refined products, including home heating oil, jet fuel, kerosene, fuel oil, propane, propylene, butane, cumene, and sulfur. The Debtors market and distribute these products by truck, rail, pipeline, and waterborne vessels throughout population centers in the northeastern United States and by waterborne vessels to international markets.

6. On the Petition Date, each of the Debtors filed a petition with the Court under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their business and manage their properties as debtors and debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Concurrently with the filing of this Motion, the Debtors have requested procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b). No party has requested the appointment of a trustee or examiner in these chapter 11 cases, and no committees have been appointed or designated.

Utility Services and Proposed Adequate Assurance

I. The Utility Services and Utility Companies.

7. In connection with the operation of their business and management of their properties, the Debtors obtain electricity, natural gas, propane, telecommunications, water, waste management (including sewer and trash), internet, and other similar services (collectively, the “Utility Services”) from a number of utility companies or brokers (collectively, the “Utility Companies”). A list of the Utility Companies and their affiliates that provide Utility Services to the Debtors as of the Petition Date (the “Utility Services List”) is attached hereto as

Exhibit C.³ The relief requested herein is requested with respect to all Utility Companies providing Utility Services to the Debtors.

8. Uninterrupted Utility Services are essential to the Debtors' ongoing business operations and, hence, the overall success of these chapter 11 cases. To successfully operate their business, the Debtors must maintain the ability to run their refining facilities in a near-constant state. The Debtors' refining and safing operations also require electricity and gas for lighting, heating, and air conditioning. In addition to the refining processes, the Debtors operate a corporate office responsible for ensuring the smooth operation of the Debtors' business. This office requires electricity, telecommunications, internet, water, and waste management services to operate. Should any Utility Company refuse or discontinue service, even for a brief period, the Debtors' business operations would be severely disrupted, and such disruption would jeopardize the Debtors' ability to manage their efforts in reaching a value-preserving resolution. Accordingly, it is essential that the Utility Services continue uninterrupted during these chapter 11 cases.

9. To the best of the Debtors' knowledge, there are no defaults or arrearages with respect to the Debtors' undisputed invoices for prepetition Utility Services. On average, the Debtors pay approximately \$5.8 million each month for third-party Utility Services, calculated as a historical average payment for the twelve-month period ended June 30, 2019. Accordingly, the Debtors estimate that their cost for Utility Services during the next 30 days (not including any deposits to be paid) will be approximately \$5.8 million in the ordinary course of business. The Debtors have provided certain of the Utility Companies with prepetition cash deposits, escrow

³ The inclusion of any entity on, or the omission of any entity from, the Utility Services List is not an admission by the Debtors that such entity is, or is not, a utility within the meaning of section 366 of the Bankruptcy Code, and the Debtors reserve all rights with respect to any such determination.

agreements, or letters of credit, as set forth in the schedule attached hereto as **Exhibit C** (collectively, the “Prepetition Deposits”).⁴

II. Proposed Adequate Assurance of Payment.

10. The Debtors intend to pay postpetition obligations owed to the Utility Companies in a timely manner. Cash held by the Debtors, cash generated in the ordinary course of business, and cash otherwise available to the Debtors under the proposed debtor in possession financing, will provide sufficient liquidity to pay the Debtors’ Utility Service obligations in accordance with prepetition practice.

11. To provide additional assurance of payment, the Debtors propose to deposit approximately \$900,000 into a segregated account (the “Adequate Assurance Deposit”). The Adequate Assurance Deposit represents an amount equal to approximately one half of the Debtors’ average monthly cost of Utility Services, calculated as a historical average payment for the twelve-month period ended June 30, 2019 excluding any prepaid amounts or Prepetition Deposits held by the Utility Companies, as detailed in **Exhibit C**. The Adequate Assurance Deposit will be held in a segregated account at Bank of America for the benefit of the Utility Companies (the “Adequate Assurance Account”) for the duration of these chapter 11 cases and may be applied to any postpetition defaults in payment to the Utility Companies. The Adequate Assurance Deposit will be held by the Debtors, and the Debtors’ creditors will have no lien on any Adequate Assurance Deposit to the extent not returned to the Debtors pursuant to the terms set forth in the Interim or Final Order, as applicable, or the Adequate Assurance Account.

⁴ Additionally, with respect to Colonial Energy, Inc. and Constellation New Energy Inc., the Debtors have reached agreements with the parties to provide prepayments on a weekly or monthly basis.

12. The Debtors submit that the Adequate Assurance Deposit, in conjunction with the Debtors' ability to pay for future Utility Services in accordance with prepetition practice (collectively, the "Proposed Adequate Assurance"), constitutes sufficient adequate assurance to the Utility Companies in full satisfaction of section 366 of the Bankruptcy Code.

III. The Adequate Assurance Procedures.

13. A Utility Company that believes additional adequate assurance is required may request such assurance pursuant to the following procedures (the "Adequate Assurance Procedures"):

- a. The Debtors will serve a copy of this Motion and the order granting the relief requested herein to each Utility Company in accordance with Local Rule 9013-1(m)(iv).
- b. Subject to paragraphs (f)–(i) herein, the Debtors will deposit the Adequate Assurance Deposit, in the aggregate amount of approximately \$900,000, in the Adequate Assurance Account as soon as practicable after entry of the order granting this Motion.
- c. Each Utility Company shall be entitled to the funds in the Adequate Assurance Account in the amount set forth for such Utility Company in the column labeled "Proposed Adequate Assurance" on the Utility Services List, attached hereto as **Exhibit C**.
- d. If an amount relating to Utility Services provided postpetition by a Utility Company is unpaid, and remains unpaid beyond any applicable grace period, such Utility Company may request a disbursement from the Adequate Assurance Account by giving notice to: (i) the proposed counsel to the Debtors, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn.: Steven Serajeddini, Matthew C. Fagen, and Allyson Smith Weinhouse; (ii) the proposed co-counsel to the Debtors, Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, 17th Floor, P.O. Box 8705, Wilmington, Delaware 19899-8705 (Courier 19801), Attn: Laura Davis Jones; (iii) the Office of the United States Trustee for the District of Delaware (the "U.S. Trustee"); and (iv) the counsel to the official committee of unsecured creditors (if any) appointed in these chapter 11 cases (collectively, the "Notice Parties"). The Debtors shall honor such request within five business days after the date the request is received by the Debtors, subject to the ability of the Debtors and any such requesting Utility Company to resolve any dispute regarding such request without further order of the Court. To the extent a Utility Company receives a

disbursement from the Adequate Assurance Account, the Debtors shall replenish the Adequate Assurance Account in the amount disbursed.

- e. The portion of the Adequate Assurance Deposit attributable to each Utility Company shall be returned to the Debtors on the earlier of (i) reconciliation and payment by the Debtors of the Utility Company's final invoice in accordance with applicable nonbankruptcy law following the Debtors' termination of Utility Services from such Utility Company or (ii) the effective date of any chapter 11 plan confirmed in these chapter 11 cases.
- f. Any Utility Company desiring additional assurances of payment in the form of deposits, prepayments, or otherwise must serve a request for additional assurance (an "Additional Assurance Request") on the Notice Parties.
- g. Any Additional Assurance Request must (i) be in writing, (ii) identify the location for which the Utility Services are provided, (iii) summarize the Debtors' payment history relevant to the affected account(s), (iv) certify the amount that is equal to two weeks of the Utility Services the Utility Company provides to the Debtors, calculated as a historical average over the twelve month period ended June 30, 2019, and (v) certify that the Utility Company does not already hold a Prepetition Deposit equal to or greater than two weeks of Utility Services.
- h. Unless a Utility Company files an objection or serves an Additional Assurance Request, such Utility Company shall be: (i) deemed to have received "satisfactory" adequate assurance of payment in compliance with section 366 of the Bankruptcy Code; and (ii) forbidden from discontinuing, altering, or refusing Utility Services to, or discriminating against, the Debtors on account of any unpaid prepetition charges, or requiring additional assurance of payment other than the Proposed Adequate Assurance.
- i. Upon the Debtors' receipt of any Additional Assurance Request, the Debtors shall promptly negotiate with such Utility Company to resolve such Utility Company's Additional Assurance Request.
- j. The Debtors may, without further order from the Court, resolve any Additional Assurance Request by mutual agreement with the relevant Utility Company and, the Debtors may, in connection to any such agreement, provide such Utility Company with additional adequate assurance of payment, including, but not limited to, cash deposits, prepayments, or other forms of security if the Debtors believe that such additional assurance is reasonable.
- k. If the Debtors and the Utility Company are not able to reach an alternative resolution within 14 days of receipt of the Additional Assurance Request,

the Debtors will request a hearing before the Court at the next regularly scheduled omnibus hearing to determine the adequacy of assurances of payment with respect to a particular Utility Company (the “Determination Hearing”) pursuant to section 366(c)(3) of the Bankruptcy Code.

1. Pending resolution at any such Determination Hearing, the Utility Company filing such Additional Assurance Request shall be prohibited from altering, refusing, or discontinuing Utility Services to the Debtors on account of unpaid charges for prepetition services or on account of any objections to the Proposed Adequate Assurance.

IV. Modifications to the Utility Services List.

14. To the extent the Debtors identify new or additional Utility Companies or discontinue services from existing Utility Companies, the Debtors seek authority to add or remove parties from the Utility Services List. For any Utility Company that is subsequently added to the Utility Services List, the Debtors will serve such Utility Company with a copy of the Court’s order regarding Utility Services, including the Adequate Assurance Procedures. The Debtors request that the terms of such Utility Services order and the Adequate Assurance Procedures apply to any subsequently identified Utility Company.

Basis for Relief

15. As discussed above, section 366 of the Bankruptcy Code protects a debtor against the immediate termination or alteration of utility services after the Petition Date. *See* 11 U.S.C. § 366. Section 366(c) of the Bankruptcy Code requires the debtor to provide “adequate assurance” of payment for postpetition services in a form “satisfactory” to the utility company within thirty days of the petition, or the utility company may alter, refuse, or discontinue service. 11 U.S.C. § 366(c)(2). Section 366(c)(1) of the Bankruptcy Code provides a non-exhaustive list of examples for what constitutes “assurance of payment.” Although assurance of payment must be “adequate,” it need not constitute an absolute guarantee of the debtors’ ability to pay. *See In re Caldor, Inc.—NY*, 199 B.R. 1, 3 (S.D.N.Y. 1996) (“Section 366(b) requires . . .

‘adequate assurance’ of payment. The statute does not require an ‘absolute guarantee of payment’”), *aff’d sub nom. Va. Elec. & Power Co. v. Caldor, Inc.*—NY, 117 F.3d 646 (2d Cir. 1997); *In re Great Atl. & Pac. Tea Co.*, No. 11-CV-1338, 2011 WL 5546954, at *5 (S.D.N.Y. Nov. 14, 2011) (finding that “[c]ourts will approve an amount that is adequate enough to insure against unreasonable risk of nonpayment, but are not required to give the equivalent of a guaranty of payment in full”).

16. When considering whether a given assurance of payment is “adequate,” the Court should examine the totality of the circumstances to make an informed decision as to whether the Utility Company will be subject to an unreasonable risk of nonpayment. *See In re Keydata Corp.*, 12 B.R. 156, 158 (B.A.P. 1st Cir. 1981); *In re Adelpia Bus. Solutions, Inc.*, 280 B.R. 63, 82–83 (Bankr. S.D.N.Y. 2002). In determining the level of adequate assurance, however, “a bankruptcy court must focus upon the need of the utility for assurance, and . . . require that the debtor supply no more than that, since the debtor almost perforce has a conflicting need to conserve scarce financial resources.” *Va. Elec. & Power Co.*, 117 F.3d at 650 (internal quotation marks omitted) (quoting *In re Penn Jersey Corp.*, 72 B.R. 981, 985 (Bankr. E.D. Pa. 1987)); *see also In re Penn. Cent. Transp. Co.*, 467 F.2d 100, 103–04 (3d Cir. 1972) (affirming bankruptcy court’s ruling that no utility deposits were necessary where such deposits likely would “jeopardize the continuing operation of the [debtor] merely to give further security to suppliers who already are reasonably protected”).

17. Here, the Utility Companies are adequately assured against any risk of nonpayment for future services, especially in light of the Debtors’ history of paying all utility bills on time and in the ordinary course. The Adequate Assurance Deposit and the Debtors’ ongoing ability to meet obligations as they come due in the ordinary course provides assurance of the Debtors’ payment

of their future obligations. Moreover, termination of Utility Services could result in the Debtors' inability to operate its business to the detriment of all stakeholders. *In re Monroe Well Serv., Inc.*, 83 B.R. 317, 321–22 (Bankr. E.D. Pa. 1988) (noting that without utility service the debtors “would have to cease operations” and that section 366 of the Bankruptcy Code “was intended to limit the leverage held by utility companies, not increase it”).

18. Courts are permitted to fashion reasonable procedures, such as the Adequate Assurance Procedures proposed herein, to implement the protections afforded under section 366 of the Bankruptcy Code. *See, e.g., In re Circuit City Stores, Inc.*, No. 08-35653, 2009 WL 484553, at *5 (Bankr. E.D. Va. Jan. 14, 2009) (stating that “[t]he plain language of § 366 of the Bankruptcy Code allows the Court to adopt the [p]rocedures set forth in the [u]tility [o]rder”). Such procedures are important because, without them, the Debtors “could be forced to address numerous requests by utility companies in an unorganized manner at a critical period in their efforts to reorganize.” *Id.* Here, notwithstanding a determination that the Proposed Adequate Assurance constitutes sufficient adequate assurance, any rights the Utility Companies believe they have under sections 366(b) and (c)(2) of the Bankruptcy Code are wholly preserved under the Adequate Assurance Procedures. *See, e.g., id.* at *5–6. The Utility Companies still may choose, in accordance with the Adequate Assurance Procedures, to request modification of the Proposed Adequate Assurance. *See, e.g., id.* at *6. The Adequate Assurance Procedures, however, avoid a haphazard and chaotic process whereby each Utility Company could make an extortionate, last-minute demand for adequate assurance that would force the Debtors to pay under the threat of losing critical Utility Services. *See, e.g., id.* at *5.

19. Because the Adequate Assurance Procedures are reasonable and accord with the purposes of section 366 of the Bankruptcy Code, the Court should grant the relief requested herein.

Indeed, similar procedures have been approved by courts in this district. *See, e.g., In re Z Gallerie, LLC*, No. 19-10488 (LSS) (Bankr. D. Del. Apr. 9, 2019) (approving adequate assurance deposit equal to one half of debtor’s monthly utility expenses); *In re Things Remembered, Inc.*, No. 19-10234 (KG) (Bankr. D. Del. Feb. 26, 2019) (same); *In re ATD Corp.*, No. 18-12221 (KJC) (Bankr. D. Del. Oct. 26, 2018) (same); *In re VER Techs. Holdco LLC*, No. 18-10834 (KG) (Bankr. D. Del. May 4, 2018) (same); *In re EV Energy Partners, L.P.*, No. 18-10814 (CSS) (Bankr. D. Del. Apr. 5, 2018) (same); *In re PES Holdings, LLC*, No. 18-10122 (KG) (Bankr. D. Del. Feb. 26, 2018) (same).⁵

20. Further, the Court possesses the power, under section 105(a) of the Bankruptcy Code, to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” The Adequate Assurance Procedures and the Proposed Adequate Assurance are necessary and appropriate to carry out the provisions on the Bankruptcy Code, particularly section 366 thereof. Accordingly, the Court should exercise its powers under sections 366 and 105(a) of the Bankruptcy Code and approve both the Adequate Assurance Procedures and the Proposed Adequate Assurance.

I. Cause Exists to Authorize the Debtors’ Financial Institutions to Honor Checks and Electronic Fund Transfers.

21. The Debtors have sufficient funds to pay the amounts described in this Motion in the ordinary course of business by virtue of expected cash flows from ongoing business operations, the proposed debtor in possession financing, and anticipated access to cash collateral. In addition, under the Debtors’ existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to an authorized payment in respect of the Utility Services.

⁵ Because of the voluminous nature of the orders cited herein, such orders have not been attached to this Motion. Copies of these orders are available upon request to the Debtors’ proposed counsel.

Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently. Therefore, the Debtors respectfully request that the Court authorize all applicable financial institutions, when requested by the Debtors, to receive, process, honor, and pay any and all checks or wire transfer requests in respect of the relief requested in this Motion.

The Requirements of Bankruptcy Rule 6003 Are Satisfied

22. Bankruptcy Rule 6003 empowers a court to grant relief within the first 21 days after the commencement of a chapter 11 case “to the extent that relief is necessary to avoid immediate and irreparable harm.” As described above, (a) authorizing the Debtors’ Proposed Adequate Assurance payment for future Utility Services, (b) prohibiting Utility Companies from altering, refusing, or discontinuing services, (c) approving the Debtors’ proposed procedures for resolving Adequate Assurance Requests, and (d) granting the other relief requested herein is necessary to avoid the irreparable harm that would result from an interruption of Utility Services. Failure to receive such authorization and other relief during the first 21 days of these chapter 11 cases would severely disrupt the Debtors’ operations at this critical juncture. For the reasons discussed herein, the relief requested is necessary in order for the Debtors to operate their business in the ordinary course and preserve the ongoing value of the Debtors’ operations and maximize the value of their estates for the benefit of all stakeholders. Accordingly, the Debtors submit that they have satisfied the “immediate and irreparable harm” standard of Bankruptcy Rule 6003 to support granting the relief requested herein.

Reservation of Rights

23. Nothing contained herein is intended or shall be construed as: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors’ or any other party in interest’s rights to dispute any prepetition claim on any grounds; (c) a promise or

requirement to pay a prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Motion or any order granting the relief requested by this Motion; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; or (f) a waiver of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law.

Waiver of Bankruptcy Rule 6004(a) and 6004(h)

24. To implement the foregoing successfully, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h).

Notice

25. The Debtors will provide notice of this Motion to: (a) the Office of the U.S. Trustee for the District of Delaware; (b) the holders of the 50 largest unsecured claims against the Debtors (on a consolidated basis); (c) the administrative agent under the Debtors' prepetition first lien term loan facility and counsel thereto; (d) the lenders under the Debtors' prepetition first lien term loan facility and counsel thereto; (e) Merrill Lynch Commodities, Inc. and counsel thereto; (f) NGL Energy Partners LP and counsel thereto; (g) the lenders under the Debtors' prepetition promissory note and counsel thereto; (h) counsel to ICBC Standard Bank Plc; (i) the Utility Companies; (j) the Internal Revenue Service; (k) all parties known by the Debtors to hold or assert a lien on any asset of any Debtor; (l) all relevant state taxing authorities; (m) all of the Debtors' landlords, and owners and/or operators of premises at which any of the Debtors' inventory and/or equipment is located; and (n) any party that has requested notice pursuant to Bankruptcy Rule 2002. As this Motion is seeking "first day" relief, within two business days of the hearing on this Motion, the Debtors will serve copies of this Motion and any order entered in respect to this Motion as required by Local

Rule 9013-1(m). The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

26. No prior motion for the relief requested herein has been made to this or any other court.

[Remainder of page intentionally left blank.]

WHEREFORE, the Debtors respectfully request that the Court enter the Interim Order and the Final Order granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Dated: July 22, 2019
Wilmington, Delaware

/s/ Laura Davis Jones

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- and -

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Proposed Co-Counsel to the Debtors and Debtors in Possession

Exhibit A

Proposed Interim Order

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

In re:)	
	)	Chapter 11
PES HOLDINGS, LLC, <i>et al.</i> , ¹)	
	)	Case No. 19-11626 (___)
)	
Debtors.	)	(Joint Administration Requested)
)	
	)	Re: Docket No. ___

**INTERIM ORDER (I) APPROVING
THE DEBTORS’ PROPOSED ADEQUATE
ASSURANCE OF PAYMENT FOR FUTURE UTILITY
SERVICES, (II) PROHIBITING UTILITY COMPANIES
FROM ALTERING, REFUSING, OR DISCONTINUING SERVICES,
(III) APPROVING THE DEBTORS’ PROPOSED PROCEDURES FOR RESOLVING
ADDITIONAL ASSURANCE REQUESTS, AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”) (a) approving the Debtors’ Proposed Adequate Assurance of payment for future Utility Services, (b) prohibiting Utility Companies from altering, refusing, or discontinuing services, (c) approving the Adequate Assurance Procedures for resolving Additional Assurance Requests, (d) scheduling a final hearing to consider approval of the Motion on a final basis, and (e) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order; and that this Court may enter a final order consistent with Article III of the United States Constitution; and this

1 The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: PES Holdings, LLC (8157); North Yard GP, LLC (5458); North Yard Logistics, L.P. (5952); PES Administrative Services, LLC (3022); PES Energy Inc. (0661); PES Intermediate, LLC (0074); PES Ultimate Holdings, LLC (6061); and Philadelphia Energy Solutions Refining and Marketing LLC (9574). The Debtors’ service address is: 1735 Market Street, Philadelphia, Pennsylvania 19103.

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

Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. Subject to the Adequate Assurance Procedures for resolving Additional Assurance Requests, the Motion is granted on an interim basis as set forth herein.

2. The final hearing (the "Final Hearing") on the Motion shall be held on _____, 2019, at __: __ .m., prevailing Eastern Time. Any objections or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m., prevailing Eastern Time, on _____, 2019, and shall be served on: (a) proposed counsel to the Debtors, (i) Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn: Edward O. Sassower, P.C., Steven N. Serajeddini, and Matthew C. Fagen; and (ii) Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, 17th Floor, P.O. Box 8705, Wilmington, Delaware 19899-8705 (Courier 19801), Attn: Laura Davis Jones; (b) counsel to the DIP Lenders, (i) Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017, Attn: Damian S. Schaible and Aryeh E. Falk, and (ii) Morris, Nichols, Arsht & Tunnell LLP, 1201 North Market Street, 16th Floor, P.O. Box 1347, Wilmington, Delaware 19899-1347, Attn: Robert J. Dehney and Andrew R. Remming; (c) counsel to ICBC Standard Bank Plc; (d) counsel to the official committee of unsecured creditors (if any)

appointed in these chapter 11 cases; (e) the Internal Revenue Service, (f) the U.S. Trustee for the District of Delaware, and (g) any other party that has filed a request for notices with the Court. In the event no objections to entry of the Final Order on the Motion are timely received, this Court may enter such Final Order without need for the Final Hearing.

3. The Adequate Assurance Deposit, together with the Debtors' ability to pay for future Utility Services in the ordinary course of business subject to the Adequate Assurance Procedures, shall constitute adequate assurance of future payment as required by section 366 of the Bankruptcy Code.

4. Each Utility Company shall be entitled to the funds in the Adequate Assurance Account in the amount set forth for such Utility Company in the column labeled "Proposed Adequate Assurance" on the Utility Services List.

5. If an amount relating to Utility Services provided postpetition by a Utility Company is unpaid, and remains unpaid beyond any applicable grace period, such Utility Company may request a disbursement from the Adequate Assurance Account by giving notice to the Notice Parties. The Debtors shall honor such request within five business days after the date the request is received by the Debtors, subject to the ability of the Debtors and any such requesting Utility Company to resolve any dispute regarding such request without further order of the Court. To the extent a Utility Company receives a disbursement from the Adequate Assurance Account, the Debtors shall replenish the Adequate Assurance Account in the amount disbursed.

6. The portion of the Adequate Assurance Deposit attributable to each Utility Company shall be returned to the Debtors on the earlier of the reconciliation and payment by the Debtors of the Utility Company's final invoice in accordance with applicable

nonbankruptcy law following the Debtors' termination of Utility Services from such Utility Company or the effective date of any chapter 11 plan confirmed in these chapter 11 cases.

7. All Utility Companies are prohibited from altering, refusing, or discontinuing services on account of any unpaid prepetition charges, the commencement of these chapter 11 cases, or any perceived inadequacy of the Proposed Adequate Assurance.

8. The following Adequate Assurance Procedures are hereby approved:

- a. The Debtors will serve a copy of the Motion and this Interim Order to each Utility Company in accordance with Local Rule 9013-1(m)(iv).
- b. Subject to paragraphs (c)–(e) below, the Debtors will deposit the Adequate Assurance Deposit, in the aggregate amount of approximately \$900,000, in the Adequate Assurance Account as soon as practicable after entry of this Interim Order.
- c. Any Utility Company desiring additional assurances of payment in the form of deposits, prepayments, or otherwise must serve a request for additional assurance (an "Additional Assurance Request") on the Notice Parties.
- d. Any Additional Assurance Request must (i) be in writing, (ii) identify the location for which the Utility Services are provided, (iii) summarize the Debtors' payment history relevant to the affected account(s), (iv) certify the amount that is equal to two weeks of the Utility Services the Utility Company provides to the Debtors, calculated as a historical average over the twelve month period ended June 30, 2019, and (v) certify that the Utility Company does not already hold a deposit equal to or greater than two weeks of Utility Services.
- e. Upon the Debtors receipt of any Additional Assurance Request, the Debtors shall promptly negotiate with such Utility Company to resolve such Utility Company's Additional Assurance Request.
- f. The Debtors may, without further order from the Court, resolve any Additional Assurance Request by mutual agreement with the relevant Utility Company, and the Debtors may, in connection to any such agreement, provide such Utility Company with additional adequate assurance of payment, including, but not limited to, cash deposits, prepayments, or other forms of security if the Debtors believe that such additional assurance is reasonable.
- g. If the Debtors and the Utility Company are not able to reach an alternative resolution within 14 days of receipt of the Additional Assurance Request,

the Debtors will request a hearing before the Court at the next regularly scheduled omnibus hearing to determine the adequacy of assurances of payment with respect to a particular Utility Company (the “Determination Hearing”) pursuant to section 366(c)(3) of the Bankruptcy Code.

- h. Pending resolution at any such Determination Hearing, the Utility Company filing such Additional Assurance Request shall be prohibited from altering, refusing, or discontinuing Utility Services to the Debtors on account of unpaid charges for prepetition services or on account of any objections to the Proposed Adequate Assurance.

9. The Utility Companies are prohibited from requiring additional adequate assurance of payment other than pursuant to the Adequate Assurance Procedures.

10. Unless a Utility Company files an objection or serves an Additional Assurance Request, such Utility Company shall be: (a) deemed to have received adequate assurance of payment “satisfactory” to such Utility Company in compliance with section 366 of the Bankruptcy Code; and (b) forbidden to discontinue, alter, or refuse services to, or discriminate against, the Debtors on account of any unpaid prepetition charges, or require additional assurance of payment other than the Proposed Adequate Assurance.

11. The Debtors are authorized, following the giving of two weeks’ notice to the affected Utility Company, where the Debtors have received no objection from any such Utility Company, to add or remove any Utility Company from the Utility Services List, and the Debtors shall add to or subtract from the Adequate Assurance Deposit an amount equal to one half of the Debtors’ approximate average monthly cost for each Utility Company subsequently added or removed, respectively. If an objection is received, the Debtors shall request a hearing before this Court at the next omnibus hearing date, or such other date that the Debtors and the Utility Company may agree. The Debtors shall not deduct from the Adequate Assurance Deposit the amount set aside for any Utility Company that the Debtors seek to terminate or delete from the Utility Service List unless and until the two week notice period has passed and the Debtors have

not received any objection to termination or deletion from such Utility Company, or until any such objection has been resolved consensually or by order of the Court. For Utility Companies that are added to the Utility Services List, the Debtors will cause a copy of this Interim Order, including the Adequate Assurance Procedures, to be served on such subsequently added Utility Company. Any Utility Company subsequently added to the Utility Services List shall be bound by the Adequate Assurance Procedures.

12. The relief granted herein is for all Utility Companies providing Utility Services to the Debtors and is not limited to those parties or entities listed on the Utility Services List.

13. The Debtors' service of the Motion upon the Utility Services 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.

14. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's rights to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay a prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or in this Interim Order; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; or (f) a waiver of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law.

15. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized

to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order.

16. The Debtors are authorized to issue postpetition checks or to effect postpetition fund transfer requests in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any payment to the Utility Companies.

17. Notwithstanding anything to the contrary in this Interim Order, any payment made, or authorization contained, hereunder, shall be subject to the requirements imposed on the Debtors under any order of this Court approving the debtor in possession financing facility and use of cash collateral (the "DIP Order"). In the event of any inconsistency between the terms of this Interim Order and the DIP Order, the terms of the DIP Order shall govern.

18. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

19. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

20. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

21. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

22. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

Dated: _____, 2019
Wilmington, Delaware

UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Proposed Final Order

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

In re:)	
	)	Chapter 11
PES HOLDINGS, LLC, <i>et al.</i> , ¹)	
	)	Case No. 19-11626 (___)
)	
Debtors.	)	(Joint Administration Requested)
)	
	)	Re: Docket No. ___

**FINAL ORDER (I) APPROVING
THE DEBTORS’ PROPOSED ADEQUATE
ASSURANCE OF PAYMENT FOR FUTURE UTILITY
SERVICES, (II) PROHIBITING UTILITY COMPANIES
FROM ALTERING, REFUSING, OR DISCONTINUING SERVICES,
(III) APPROVING THE DEBTORS’ PROPOSED PROCEDURES FOR RESOLVING
ADDITIONAL ASSURANCE REQUESTS, AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Final Order”) (a) approving the Debtors’ Proposed Adequate Assurance of payment for future Utility Services, (b) prohibiting Utility Companies from altering, refusing, or discontinuing services, (c) approving the Adequate Assurance Procedures for resolving Additional Assurance Requests, and (d) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order; and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this

1 The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: PES Holdings, LLC (8157); North Yard GP, LLC (5458); North Yard Logistics, L.P. (5952); PES Administrative Services, LLC (3022); PES Energy Inc. (0661); PES Intermediate, LLC (0074); PES Ultimate Holdings, LLC (6061); and Philadelphia Energy Solutions Refining and Marketing LLC (9574). The Debtors’ service address is: 1735 Market Street, Philadelphia, Pennsylvania 19103.

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

district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. Subject to the Adequate Assurance Procedures for resolving Additional Assurance Requests, the Motion is granted on a final basis as set forth herein.

2. The Adequate Assurance Deposit, together with the Debtors' ability to pay for future Utility Services in the ordinary course of business subject to the Adequate Assurance Procedures, shall constitute adequate assurance of future payment as required by section 366 of the Bankruptcy Code.

3. Each Utility Company shall be entitled to the funds in the Adequate Assurance Account in the amount set forth for such Utility Company in the column labeled "Proposed Adequate Assurance" on the Utility Services List.

4. If an amount relating to Utility Services provided postpetition by a Utility Company is unpaid, and remains unpaid beyond any applicable grace period, such Utility Company may request a disbursement from the Adequate Assurance Account by giving notice to the Notice Parties. The Debtors shall honor such request within five business days after the date the request is received by the Debtors, subject to the ability of the Debtors and any such requesting Utility Company to resolve any dispute regarding such request without further order of the Court. To the

extent a Utility Company receives a disbursement from the Adequate Assurance Account, the Debtors shall replenish the Adequate Assurance Account in the amount disbursed.

5. The portion of the Adequate Assurance Deposit attributable to each Utility Company shall be returned to the Debtors on the earlier of the reconciliation and payment by the Debtors of the Utility Company's final invoice in accordance with applicable nonbankruptcy law following the Debtors' termination of Utility Services from such Utility Company or the effective date of any chapter 11 plan confirmed in these chapter 11 cases.

6. All Utility Companies are prohibited from altering, refusing, or discontinuing services on account of any unpaid prepetition charges, the commencement of these chapter 11 cases, or any perceived inadequacy of the Proposed Adequate Assurance.

7. The following Adequate Assurance Procedures are hereby approved:

- a. The Debtors will serve a copy of the Motion and this Final Order to each Utility Company in accordance with Local Rule 9013-1(m)(iv).
- b. Subject to paragraphs (c)–(e) below, the Debtors will deposit the Adequate Assurance Deposit, in the aggregate amount of approximately \$900,000, in the Adequate Assurance Account as soon as practicable after entry of this Final Order.
- c. Any Utility Company desiring additional assurances of payment in the form of deposits, prepayments, or otherwise must serve a request for additional assurance (an "Additional Assurance Request") on the Notice Parties.
- d. Any Additional Assurance Request must (i) be in writing, (ii) identify the location for which the Utility Services are provided, (iii) summarize the Debtors' payment history relevant to the affected account(s), (iv) certify the amount that is equal to two weeks of the Utility Services the Utility Company provides to the Debtors, calculated as a historical average over the twelve month period ended June 30, 2019, and (v) certify that the Utility Company does not already hold a deposit equal to or greater than two weeks of Utility Services.
- e. Upon the Debtors' receipt of any Additional Assurance Request, the Debtors shall promptly negotiate with such Utility Company to resolve such Utility Company's Additional Assurance Request.

- f. The Debtors may, without further order from the Court, resolve any Additional Assurance Request by mutual agreement with the relevant Utility Company, and the Debtors may, in connection to any such agreement, provide such Utility Company with additional adequate assurance of payment, including, but not limited to, cash deposits, prepayments, or other forms of security if the Debtors believe that such additional assurance is reasonable.
- g. If the Debtors and the Utility Company are not able to reach an alternative resolution within 14 days of receipt of the Additional Assurance Request, the Debtors will request a hearing before the Court at the next regularly scheduled omnibus hearing to determine the adequacy of assurances of payment with respect to a particular Utility Company (the “Determination Hearing”) pursuant to section 366(c)(3) of the Bankruptcy Code.
- h. Pending resolution at any such Determination Hearing, the Utility Company filing such Additional Assurance Request shall be prohibited from altering, refusing, or discontinuing Utility Services to the Debtors on account of unpaid charges for prepetition services or on account of any objections to the Proposed Adequate Assurance.

8. The Utility Companies are prohibited from requiring additional adequate assurance of payment other than pursuant to the Adequate Assurance Procedures.

9. Unless a Utility Company files an objection or serves an Additional Assurance Request, such Utility Company shall be: (a) deemed to have received adequate assurance of payment “satisfactory” to such Utility Company in compliance with section 366 of the Bankruptcy Code; and (b) forbidden to discontinue, alter, or refuse services to, or discriminate against, the Debtors on account of any unpaid prepetition charges, or require additional assurance of payment other than the Proposed Adequate Assurance.

10. The Debtors are authorized, following the giving of two weeks’ notice to the affected Utility Company, where the Debtors have received no objection from any such Utility Company, to add or remove any Utility Company from the Utility Services List, and the Debtors shall add to or subtract from the Adequate Assurance Deposit an amount equal to one half of the Debtors’ approximate average monthly cost for each Utility Company subsequently added

or removed, respectively. If an objection is received, the Debtors shall request a hearing before this Court at the next omnibus hearing date, or such other date that the Debtors and the Utility Company may agree. The Debtors shall not deduct from the Adequate Assurance Deposit the amount set aside for any Utility Company that the Debtors seek to terminate or delete from the Utility Service List unless and until the two week notice period has passed and the Debtors have not received any objection to termination or deletion from such Utility Company, or until any such objection has been resolved consensually or by order of the Court. For Utility Companies that are added to the Utility Services List, the Debtors will cause a copy of this Final Order, including the Adequate Assurance Procedures, to be served on such subsequently added Utility Company. Any Utility Company subsequently added to the Utility Services List shall be bound by the Adequate Assurance Procedures.

11. The relief granted herein is for all Utility Companies providing Utility Services to the Debtors and is not limited to those parties or entities listed on the Utility Services List.

12. The Debtors' service of the Motion upon the Utility Services 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.

13. Notwithstanding the relief granted in this Final Order and any actions taken pursuant to such relief, nothing in this Final Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's rights to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay a prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or in this Final Order; (e) a request or authorization to

assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; or (f) a waiver of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law.

14. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Final Order.

15. The Debtors are authorized to issue postpetition checks or to effect postpetition fund transfer requests in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any payment to the Utility Companies.

16. Notwithstanding anything to the contrary in this Final Order, any payment made, or authorization contained, hereunder, shall be subject to the requirements imposed on the Debtors under any order of this Court approving the debtor in possession financing facility and use of cash collateral (the "DIP Order"). In the event of any inconsistency between the terms of this Final Order and the DIP Order, the terms of the DIP Order shall govern.

17. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

18. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

19. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

20. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

21. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.

Dated: _____, 2019
Wilmington, Delaware

UNITED STATES BANKRUPTCY JUDGE

Exhibit C

Utility Services List

Utility Services List

Provider	Address	Service(s) Provided	Half of Average Monthly Expenditure	Prepetition Deposit	Proposed Adequate Assurance
ALLSTATE POWER VAC INC	928 EAST HAZELWOOD AVENUE RAHWAY, NJ 07065	Hazardous Waste Disposal	\$156,378	N/A	\$156,378
CLEAN VENTURE INC	1800 CARMEN STREET CAMDEN, NJ 08105	Waste Management/Disposal	\$4,353	N/A	\$4,353
CLEANHARBORS ENVIRONMENTAL	42 LONGWATER DRIVE NORWELL, MA 02061-9149	Hazardous Waste Disposal	\$43,039	N/A	\$43,039
COLONIAL ENERGY, INC.	3975 FAIR RIDGE DRIVE FAIRFAX, VA 22033	Utilities- Gas	\$1,625,784	\$508,625 plus weekly prepay	\$0
CONSTELLATION NEW ENERGY INC	20 N UPPER WACKER DR SUITE 2100 2110B CHICAGO, IL 60601	Utilities-Electric	Estimated \$900,000	\$1,800,000 monthly prepay	\$0
ENSONO, INC.	2 CHRISTIE HEIGHTS STREET LEONIA, NJ 07605	Telecommunications	\$48,709	N/A	\$48,709
LEVEL (3) / CENTURYLINK	1025 ELDORADO BLVD BROOMFIELD, CO 80021	Telecommunications	\$3,673	N/A	\$3,673
MERICHEM COMPANY	5455 OLD SPANISH TRAIL HOUSTON, TX 77023	Waste Management/Disposal	\$43,381	N/A	\$43,381
MPW INDUSTRIAL SERVICES, INC	150 SOUTH 29TH STREET NEWARK, OH 43055	Wastewater Treatment	\$16,807	N/A	\$16,807
PECO ENERGY	ATTN: GENERAL COUNSEL 2301 MARKET STREET PHILADELPHIA, PA 19103	Utilities-Electric	\$278,432	\$1,195,025	\$0
PHILADELPHIA GAS WORKS	800 W MONTGOMERY AVE 3RD FLR PHILADELPHIA, PA 19122	Utilities-Gas	\$65,592	N/A	\$65,592
REPUBLIC SERVICES, INC.	18500 N ALLIED WAY PHOENIX, AZ 85054	Waste Management/Disposal	\$71,139	N/A	\$71,139

Provider	Address	Service(s) Provided	Half of Average Monthly Expenditure	Prepetition Deposit	Proposed Adequate Assurance
ROSS ENVIRONMENTAL SERVICES	PO BOX 116 ELYRIA, OH 44036-0116	Hazardous Waste Disposal	\$11,952	N/A	\$11,952
S J TRANSPORTATION CO INC	1176 US-40 WOODSTOWN, NJ 08098	Hazardous Waste Disposal	\$12,496	N/A	\$12,496
SUMTER TRANSPORT COMPANY	1880 LYNETTE DR SUMTER, SC 29154	Hazardous Waste Disposal	\$158,203	N/A	\$158,203
TEXAS EASTERN TRANSMISSION, LP	C/O SPECTRA ENERGY PARTNERS, LP 5400 WESTHEIMER COURT HOUSTON, TX 77056-5310	Utilities- Gas	\$58,103	\$262,000	\$0
UGI ENERGY SERVICES, INC.	ONE MERIDIAN BOULEVARD SUITE 2C01 PO BOX 827032 WYOMISSING, PA 19610-3230	Utilities- Gas	\$23,304	N/A	\$23,304
VEOLIA NORTH AMERICA REGENERATION	4760 WORLD HOUSTON PKWY STE 100 HOUSTON, TX 77032	Sulfur Gas Recapture	\$166,067	N/A	\$166,067
VEOLIA WATER NORTH AMERICA	4760 WORLD HOUSTON PKWY STE 100 HOUSTON, TX 77032	Wastewater Treatment	\$103,129	N/A	\$103,129
VERIZON WIRELESS / BUSINESS	500 TECHNOLOGY DRIVE SUITE 550 WELDON SPRING, MO 63304	Telecommunications	\$3,724	N/A	\$3,724
WATER REVENUE BUREAU	1401 JOHN F KENNEDY BLVD PHILADELPHIA, PA 19102	Utilities- Water and Sewer	\$47,247	N/A	\$47,247
WINDSTREAM	PO BOX 9001013 LOUISVILLE, KY 40290	Telecommunications	\$587	N/A	\$587
		Total	\$2,942,100	\$3,765,650	\$979,781