

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

In re)	Chapter 11
)	
FREEDOM INDUSTRIES, INC.)	
)	Case No. 2:14-bk-20017
)	
Debtor.)	
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**INTERIM ORDER ON MOTION FOR ENTRY OF ORDER
(I) PROHIBITING UTILITY COMPANIES FROM ALTERING, REFUSING OR
DISCONTINUING SERVICES ON ACCOUNT OF PREPETITION INVOICES AND (II)
AUTHORIZING AND APPROVING OF PROCEDURES FOR PROVIDING
ADEQUATE ASSURANCE OF POSTPETITION PAYMENTS**

Upon consideration of the Debtor’s Motion for Entry of Order (I) Prohibiting Utilities from Altering, Refusing or Discontinuing Services on Account of Prepetition Invoices and (II) Authorizing and Approving of Procedures for Providing Adequate Assurance of Post-Petition Payments (the “Motion”) together with any responses thereto; the Court finds that (i) it has jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding pursuant to 28 U.S. C. § 157(b)(2); (iii) the relief requested in the Motion is in the best interest of the Debtor, its estate and its creditors; (iv) proper and adequate notice of the Motion has been given and that no other or further notice is necessary; (v) all objections to the Motion have been resolved by this Order or are overruled in their entirety; and (vi) upon the record herein after due deliberation thereon good and sufficient cause exists for the granting of relief as set forth herein.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is GRANTED.

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2. The Debtor shall provide each of the Utility Companies³ that request a deposit in writing within thirty (30) days of the issuance of an Order on this Motion, as adequate assurance of payment, a cash deposit in an amount equal to one-half of the previous month's bill for utility services provided by each respective Utility Company prior to the Petition Date (the "Adequate Assurance Deposit").

3. The following procedures shall govern adequate assurance of payment pursuant to § 366 (the "Procedures For Additional Assurance"):

a. If a Utility Company believes that the Adequate Assurance Deposit is not adequate assurance of payment required by section 366 of the Bankruptcy Code, within twenty (20) days of entry of this Order, the Utility Company must file an objection (an "Objection") to the sufficiency of the Adequate Assurance Deposit with the Court and serve such Objection on the Debtor's proposed counsel, **McGuireWoods LLP, Scott E. Schuster, EQT plaza, 625 Liberty Avenue, 23rd Floor, Pittsburgh, PA, 15222;**

b. Any Objection must be:

- i. in writing;
- ii. state the location(s) for which the Utility Company provides services to the Debtor and the relevant account number(s);
- iii. state the amount of prepetition debt owed to the Utility Company;
- iv. describe any deposit or other security currently held by the Utility Company;
- v. include a one year payment history for Debtor's account with the Utility Company;

³ Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in the Motion.

- vi. explain why the Utility Company believes the Adequate Assurance Deposit is insufficient assurance of future payment; and
- vii. identify and explain the basis for the Utility Company's proposed adequate assurance of payment under section 366(c)(2) of the Bankruptcy Code;

c. The Debtor may resolve any Objection by agreement with the objecting Utility Company and, without further order of the Court, may provide such Utility Company with adequate assurance of payment in addition to the Adequate Assurance Deposit;

d. If the Debtor determines that an objecting Utility Company's demand for additional adequate assurance is not reasonable and is unable to reach a prompt resolution of an Objection, either the Debtor or the Utility Company may file a written "Request for Determination of Adequate Assurance of Future Payment" with the Court not earlier than twenty (20) days after service of the Objection pursuant to paragraphs (a) and (b), above;

e. Pending the hearing on the Request for Determination of Adequate Assurance of Future Payment, and provided that the Debtor provides an Adequate Assurance Deposit to the objecting Utility Company (if requested) before the hearing, the objecting Utility Company shall be prohibited from altering or discontinuing services to the Debtor;

f. Any Utility Company that does not timely file an Objection is deemed to consent to, and shall be bound by, this order (the "Utility Order") and the Utility Order shall become a final order with respect to such Utility Company without further Order of the Court.

4. The Adequate Assurance Deposit and the Procedures for Additional Assurance constitute adequate assurance of payment under section 366 of the Bankruptcy Code.

5. Any deposit currently held by the Utility Companies equal to or greater than the amount of the applicable Adequate Assurance Deposit constitutes adequate assurance of payment under section 366 of the Bankruptcy Code without any additional deposit being provided by the Debtor.

6. Without further Order of Court, no Utility Company may alter, refuse, terminate, or discontinue utility service to, or discriminate against the Debtor on the basis of the commencement of this bankruptcy case or on account of outstanding prepetition invoices, or lack of adequate assurance of payment.

7. The Debtor shall be authorized to supplement the list of Utility Companies in Exhibit A to the Motion to add Utility Companies subsequently discovered. Any Utility Company not presently contained within the list attached as Exhibit A to the Motion, but subsequently identified and served, shall have twenty (20) days to serve in writing a request for an Adequate Assurance Deposit from the Debtor and ten (10) days from the date of such service to make an Objection, if any, as described in the Procedures for Additional Assurance detailed above.

8. The herein relief is granted immediately on an interim basis for all Utility Companies and on a final basis as to every Utility Company that does not timely file and serve an Objection.

9. Any Objection shall be resolved by a separate order of the Court unless otherwise resolved by the parties.

10. The Debtor shall serve a copy of this Order on the Utility Companies within three (3) business days of entry.

Dated: **JAN 22 2014**, 2014



HONORABLE RONALD G. PEARSON
UNITED STATES BANKRUPTCY JUDGE