

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

In re:)	Chapter 11
)	
TRUMP ENTERTAINMENT RESORTS,)	Case No. 14-12103 (KG)
INC., et al.,)	
)	
Debtor.)	
)	

OBJECTION OF ATLANTIC CITY ELECTRIC TO DEBTORS’ MOTION FOR INTERIM AND FINAL ORDERS, PURSUANT TO SECTIONS 105(a) AND 366 OF THE BANKRUPTCY CODE, (I) PROHIBITING UTILITY COMPANIES FROM ALTERING, REFUSING, OR DISCONTINUING UTILITY SERVICES, (II) DEEMING UTILITY COMPANIES ADEQUATELY ASSURED OF FUTURE PAYMENT, (III) ESTABLISHING PROCEDURES FOR DETERMINING ADDITIONAL ADEQUATE ASSURANCE OF PAYMENT

COMES NOW, Atlantic City Electric Co. (“ACE”)¹ by and through undersigned counsel, and hereby (A) objects to the Interim Order and to Debtors’ Motion for Interim and Final Orders, Pursuant to Sections 105(a) and 366 of the Bankruptcy Code, (I) Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Utility Services, (II) Deeming Utility Companies Adequately Assured of Future Payment, (III) Establishing Procedures for Determining Additional Adequate Assurance of Payment (“Motion”) (B) respectfully requests that the Interim Order be vacated, the Motion denied and that the Court order Debtors either to pay a form and amount of assurance equal to 2 months of service to ACE or face the potential loss of service after 30 days for failure to provide a satisfactory assurance under Section 366(c)(2) of the Bankruptcy Code.

1. Under the provisions of Section 366(c) of the Bankruptcy Code, Debtors may not bring on for hearing a motion for modification of an assurance prior to the utility having received the assurance it deems satisfactory. The receipt of such an assurance by the utility is required by

¹ Atlantic City Electric is a wholly owned subsidiary of Pepco Holdings Inc.

the terms of Section 366(c)(2) and that statutory requirement may not be altered by order of Court.

2. The Debtors' proposed utility escrow account is contrary to a plain reading of Section 366(c). An escrow account not held individually by each affected utility does not meet the express requirements of Section 366(c)(1) or the regulatory requirements of ACE's tariffs and applicable law in the state of Delaware. Pursuant to its state law tariffs, ACE has provided and continues to provide electric service to the Debtors. The service to Debtors as of the petition date was provided through the accounts set forth on the deposit analysis attached as Exhibit A.

3. It appears that Debtors did not properly serve their Motion upon ACE. To the extent Debtors mailed papers to ACE at the specific addresses listed on Exhibit C of their Motion, Debtors failed to meet the requirements under Bankruptcy Rule 9014 and 7004 for service of contested matters upon the other party. Mailing papers to addresses that do not identify the name of the person at the utility appointed to accept service fails to comply with the above Bankruptcy Rules and Federal Rule of Civil Procedure 4. Sending service to a post office box cannot be good service under the Rules. If the service failed to meet those requirements, the Motion should be denied on that basis alone.

4. Debtors' proposed "Assurance Procedures" are nowhere referenced in Section 366 and are contrary the provisions in applicable state law pursuant to ACE's tariffs and regulations adopted by the public service commission in New Jersey. Thus, those procedures run afoul of the express requirements of 28 U.S.C. 959(b) that all debtors in possession comply with the laws of the jurisdictions in which they operate. Section 366 of the Bankruptcy Code is totally consistent with Section 959(b) and by its terms authorizes the Bankruptcy Court to modify only

the amount of the assurance that a utility receives as satisfactory under Section 366(c)(2). It does not permit Debtors to seek relief to displace or modify the regulatory requirements under which public utilities operate. That is in no way changed by the provisions of Section 105 of the Bankruptcy Code upon which Debtors also rely. The applicable regulatory requirements are specifically set forth ACE's tariffs that are publicly available for review by every customer and the public generally. ACE requests that the Court take judicial notice of these tariffs and regulations. The website address containing the detailed provisions of those tariffs and regulations for ACE is set forth below:

<http://www.atlanticcityelectric.com/my-business/choices-and-rates/tariffs/>

5. The Motion also seeks to enjoin ACE in a manner contrary to Bankruptcy Rule 7001. No adversary proceeding was filed in this matter, and the relief requested improperly attempts to enjoin ACE from exercising its rights under the adequate assurance provisions of Section 366(c). Moreover, a proper factual basis for such extraordinary relief has not been provided by Debtors.

Wherefore, ACE respectfully requests that the Court deny the Debtors' Motion, vacate the Interim Order and direct Debtors either to pay a form and amount of assurance equal to 2 months to ACE or face the potential loss of service after 30 days for failure to provide a satisfactory assurance under Section 366(c)(2) of the Bankruptcy Code. ACE reserves the right to supplement this response.

Respectfully submitted,

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-and-

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CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of September 2014, the foregoing has been filed and sent via the Court's CM/ECF electronic filing system and also sent to the following by U.S.

Mail, properly addressed and postage prepaid, and by via facsimile or email, as indicated below:

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Wilmington, DE 19899-0035

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/s/ William Douglas White

Trump

Deposit Analysis

Pre-Petition Account Number	Post-Petition Account Number	Customer name	Street location	TPS Account Y / N	2 Month Deposit Requirement	Pre-Petition Deposit Held?	Final Bill Amount (if available)
*****99993	*****-9999-1	TRUMP PLAZA	2319 PACIFIC AVE PK-LOT	Y	\$0.00	No	TBD
*****99993	*****-9999-1	TRUMP CASINO SERVICES-DIP	2206 PACIFIC	Y	\$0.00	No	TBD
*****99990	*****-9999-3	TRUMP PLAZA HOTEL & CASINO-DIP	BOARDWALK & MISSISSIPPI AVE	Y	\$0.00	No	TBD
*****99990	TBD	TRUMP PLAZA-DIP	COLUMBIA & BOARDWALK	Y	\$0.00	No	TBD
*****99991	TBD	TRUMP TAJ MAHAL ASSOC LP-DIP	BDWK BET PENNA & STATES AVE	Y	\$0.00	No	TBD
*****99993	New Party	TRUMP PLAZA HOTEL & CASINO-DIP	BOARDWALK AT MISSISSIPPI	Y	\$0.00	No	TBD
*****99999	*****-9999-7	TRUMP PLAZA HOTEL & CASINO-DIP	2225 BOARDWALK	Y	\$150.00	No	TBD
*****99994	*****-9999-0	TRUMP EAST-DIP	COLUMBIA AVE AND BOARDWALK	Y	\$75,000.00	No	TBD
*****99999	*****-9999-7	TRUMP PLAZA HOTEL CASINO-DIP	MISSOURI & BDWK TRUMP PLAZA	Y	\$423,000.00	No	TBD
*****99992	*****-9999-2	TRUMP PLAZA HOTEL CASINO-DIP	MISS & PACIFIC AVE GRG	Y	\$71,000.00	No	TBD
*****99991	*****-9999-0	TRUMP PLAZA MESSAGE CENTER DIP	ATLANTIC & MISSOURI AVES	Y	\$8,700.00	No	TBD
*****99992	*****-9999-0	TRUMP TAJ THEATRE-DIP	STATES AVE	Y	\$165,000.00	No	TBD
*****99999	*****-9999-3	TRUMP TAJ MAHAL CASINO RST-DIP	1001 BOARDWALK	Y	\$134,000.00	No	TBD
*****99996	*****-9999-1	TRUMP TAJ MAHAL CASINO RST-DIP	1001 BOARDWALK	Y	\$1,493,000.00	No	TBD
*****99998	*****-9999-6	TRUMP PLAZA HOTEL & CASINO-DIP	2235 BOARDWALK	Y	\$2,700.00	No	TBD
					<u>\$2,372,550.00</u>		
Filed: 9/9/2014							
Case: 14-12103							
Ch:11							
Judge: Gross							