



pleadings related thereto, including the First Day Declaration; and due and proper notice of the Motion having been given; and it appearing that no other or further notice of the Motion is required; and it appearing that the Court has jurisdiction to consider the Motion in accordance with 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order; and it appearing that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it appearing that venue of this proceeding and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that the relief requested in the Motion and provided for herein is in the best interest of the Debtors, their estates, and creditors; and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED on a final basis as set forth herein.
2. Subject to the Assurance Procedures set forth below, no Utility Company may (a) alter, refuse, terminate or discontinue Utility Services to, or discriminate against, the Debtors on the basis of the commencement of these chapter 11 cases or on account of outstanding pre-petition invoices or (b) require additional assurance of payment, other than the Utility Deposit, as a condition to the Debtors receiving such Utility Services.
3. To the extent not already deposited, the Debtors shall deposit, as adequate assurance for the Utility Companies, \$1,470,000 in the aggregate (the “**Utility Deposit**”) into a segregated account (the “**Utility Deposit Account**”) within twenty (20) days of the Petition Date to be maintained during the pendency of these cases. The Utility Deposit Account may be either interest-bearing or non-interest-bearing in the Debtors’ discretion.
4. Subject to the Assurance Procedures set forth below, the Utility Deposit constitutes adequate assurance of future payment to the Utility Companies under section 366 of the Bankruptcy Code (the “**Adequate Assurance**”).

5. The following Assurance Procedures are approved in all respects:
- (a) Any Utility Company desiring assurance of future payment for utility service beyond the Adequate Assurance must serve a request (an “**Additional Assurance Request**”) so that it is received by the Debtors at the following addresses: (i) Trump Entertainment Resorts, Inc., 1000 Boardwalk at Virginia Avenue, Atlantic City, NJ 08401 (Attn: Daniel McFadden); and (ii) proposed co-counsel to the Debtors, Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, NY 10038-4982 (Attn: Gabriel E. Sasson), and Young Conaway Stargatt & Taylor, LLP, 1000 North King Street, Rodney Square, Wilmington, DE 19801 (Attn: Ashley E. Markow).
  - (a) Any Additional Assurance Request must: (i) be made in writing; (ii) specify the amount and nature of assurance of payment that would be satisfactory to the Utility Company; (iii) set forth the location(s) for which utility services are provided and the relevant account number(s); (iv) describe any deposits, prepayments or other security currently held by the requesting Utility Company; and (v) explain why the requesting Utility Company believes the Adequate Assurance is not sufficient adequate assurance of future payment.
  - (b) Upon the Debtors’ receipt of an Additional Assurance Request at the addresses set forth above, the Debtors shall have thirty (30) days from the date of receipt of such request (collectively, the “**Resolution Period**”) to negotiate with the requesting Utility Company to resolve its Additional Assurance Request. The Debtors and the applicable Utility Company also may agree to extend the Resolution Period.
  - (c) The Debtors, in their discretion, may resolve any Additional Assurance Request by mutual agreement with the requesting Utility Company and without further order of this Court, and may, in connection with any such resolution, in their discretion, provide the requesting Utility Company with additional assurance of future payment in a form satisfactory to the Utility Company, including, but not limited to, cash deposits, prepayments and/or other forms of security, if the Debtors believe such additional assurance is reasonable; provided, however, that the Debtors shall confer with the Official Committee of Unsecured Creditors appointed in these chapter 11 cases prior to entering into any such agreement. Without the need for any notice to, or action, order or approval of, this Court, the Debtors may reduce the amount of the Utility Deposit by any amount allocated to a particular Utility Company to the extent consistent with any alternative adequate assurance arrangements mutually agreed to by the Debtors and the affected Utility Company.
  - (d) If the Debtors determine that an Additional Assurance Request is not reasonable or are not able to resolve such request during the Resolution

Period, the Debtors, during or promptly after the Resolution Period, will request a hearing before this Court to determine the adequacy of assurances of payment made to the requesting Utility Company (the “**Determination Hearing**”), pursuant to section 366(c)(3)(A) of the Bankruptcy Code.

- (e) Pending the resolution of the Additional Assurance Request at a Determination Hearing, the Utility Company making such request shall be restrained from discontinuing, altering or refusing service to the Debtors on account of unpaid charges for prepetition services, the commencement of these chapter 11 cases, or any objections to the Adequate Assurance, or requiring the Debtors to furnish any additional deposit or other security for the continued provision of services.
- (f) The Adequate Assurance shall be deemed adequate assurance of payment for any Utility Company that fails to make an Additional Assurance Request.

6. The Debtors are authorized, as necessary, to provide a copy of this Order to any Utility Company not listed on the Utility Service List (each, an “**Additional Utility Company**,” and collectively, the “**Additional Utility Companies**”) as such Utility Companies are identified. Promptly upon providing a copy of this Order to an Additional Utility Company, the Debtors shall increase the Utility Deposit by an amount equal to approximately two (2) weeks of the Debtors’ estimated aggregate utility expense for such Additional Utility Company subsequent to the Petition Date. The Additional Utility Companies shall be subject to the terms of this Order, including the Assurance Procedures.

7. Each Utility Company shall be deemed to have adequate assurance of payment under section 366 of the Bankruptcy Code unless and until: (a) the Debtors, in their discretion, agree to an alternative assurance of payment with the Utility Company; or (b) this Court enters an order, after a Determination Hearing, requiring that additional adequate assurance of payment be provided to the Utility Company.

8. If any utility account with a Utility Company becomes a Closed Account during the course of these chapter 11 cases, without the need for further order of this Court or

notice to any parties, the Debtors shall be authorized to decrease the amount of the Utility Deposit by withdrawing from the Utility Deposit Account the amount deposited with respect to such Closed Account. Upon the effective date of a chapter 11 plan in these cases, the Debtors may close the Utility Deposit Account without the need for any notice to, or action, order or approval of, this Court.

9. Nothing in this Order (a) is intended or shall be deemed to constitute an assumption of any agreement pursuant to section 365 of the Bankruptcy Code or an admission as to the validity of any claim against the Debtors, (b) shall impair, prejudice, waive or otherwise affect the rights of the Debtors and their estates with respect to the validity, priority or amount of any claim against the Debtors and their estates, (c) shall impair, prejudice, waive or otherwise affect the rights of the Debtors and their estates with respect to any and all claims or causes of action against a Utility Company, or (d) shall be construed as a promise to pay a claim.

10. Nothing in this Order is intended or shall be deemed to constitute a finding that any entity is or is not a Utility Company hereunder or under section 366 of the Bankruptcy Code, whether or not such entity is listed on the Utility Service List or is served with a copy of the interim order on the Motion previously entered by this Court, this Order or the Motion.

11. Notwithstanding anything to the contrary in this Order, the Utility Deposit Account shall not constitute Adequate Assurance for Thermal Energy Limited Partnership I (“TELP I”), rather Adequate Assurance for TELP I shall be in the form and manner provided for in the stipulation between the Debtors and TELP I resolving TELP I’s Additional Assurance Request, which stipulation is hereby approved.

12. The objection [Docket No. 143] of Atlantic City Electric (“ACE”) to the entry of this Order is resolved pursuant to (i) this Order and (ii) a separate agreement between

the Debtors and ACE for the payment of adequate assurance within the meaning of section 366 of the Bankruptcy Code, which agreement is hereby approved, and except for this paragraph neither the interim order on the Motion nor this Order shall apply to ACE. The post-petition conduct of the Debtors and ACE shall be carried out in accordance with the terms of such separate agreement, and undisputed post-petition bills received by the Debtors from ACE for post-petition utility charges shall constitute an administrative expense in accordance with sections 503(b)(1)(A) and 507(a)(2) of the Bankruptcy Code.

13. The Debtors are authorized to take any and all actions necessary to effectuate the relief granted herein.

14. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be effective and enforceable immediately upon its entry.

15. All time periods referenced in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

16. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: October 6, 2014  
Wilmington, Delaware

  
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Kevin Gross  
United States Bankruptcy Judge