

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

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US BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:)
)
SPORTS AUTHORITY HOLDINGS, INC., *et al.*,)
) Case No. 16-10527 (MFW)
Debtors.)
) Chapter 11

REQUEST FOR ADDITIONAL ASSURANCE OF UTILITY PAYMENT

AND

**OPPOSITION TO DEBTOR’S MOTION FOR ORDER APPROVING
PROPOSED ADEQUATE ASSURANCE OF PAYMENT
FOR POSTPETITION SERVICES**

Chugach Electric Association, Inc. (“Chugach”), creditor and utility provider in this Chapter 11 case, requests additional assurance of utility payment and opposes Debtors’ Motion that this court issue a Final Order granting their request to deposit, in an account, only two *weeks* of utility service as adequate assurance of payment. Chugach requests a deposit, as adequate assurance of payment, of two times the average *monthly* bill.

BACKGROUND

Sports Authority Holdings, Inc. (“Debtor”) filed its Chapter 11 petition on March 2, 2016. As of March 2nd, Debtor owed Chugach \$18,295.41 for electric service on Debtor’s account with Chugach. Affidavit of Bonnie Maxwell, at ¶ 2. Debtor’s Motion does not calculate Chugach’s proposed Adequate Assurance deposit but



proposes to provide an amount equal to the estimated cost for two *weeks* of Utility Services calculated based on the historical data for the past year. Motion at p. 6.

As of the March 8, Debtor had incurred its second late payment fee for payments due to Chugach on Debtor's account. Maxwell Affidavit, at ¶ 3. Debtor has been late in its payments to Chugach and has incurred late charges (which remain unpaid). *Id.*

For customers like the Debtor, and based in large part on the amount of time that passes between the time an account becomes delinquent and the time Chugach is permitted by its state regulatory authority to disconnect a delinquent account, Chugach generally requests a deposit equal to two times the average *monthly* power usage. Maxwell Affidavit, at ¶ 4. Chugach requests a deposit of \$20,875.00 as adequate assurance of payment. Maxwell Affidavit, at ¶ 5.

ARGUMENT

Under Section 366(b) of the Code, 11 U.S.C. § 366(b), Chugach is entitled to adequate assurance of payment for postpetition utility services in the form of a deposit or other security. Under this section, Chugach is expressly authorized to request Debtor to furnish adequate assurance in the form of a security deposit and may discontinue service if it is not provided within 20 days after the order for relief.

Debtor's proposes that it be relieved of this obligation and instead pay a two-week historical average to an account under the Debtor's control. However, when it filed for bankruptcy relief, Debtor already owed Chugach for nearly two months of

service. Courts generally require the deposit requested by a utility provider and it is appropriate in this case.

Debtor's recent payment history is clearly not adequate. Debtor has demonstrated a history of problematic payments. Within the last two months, Debtor was behind in both payments and to date, has not paid the late fee assessed for the utility bill due February 8 nor made its last payment due March 7, 2016. Since that time, a third utility bill has been rendered to Debtors. Debtors account with Chugach now totals \$19,895.28. Maxwell Affidavit at ¶ 6. As of this date, Debtor has not fully paid its last two months' payments. Maxwell Affidavit at ¶ 3.

Here, Chugach requires a deposit equal to approximately two months' of service. This deposit is in accordance with the usual practice of Chugach in seeking adequate assurance of payment of postpetition services. Maxwell Affidavit, at ¶ 4. Chugach is entitled to the requested deposit.

CONCLUSION

For all these reasons, the Court should order Debtor to provide a postpetition deposit to Chugach in the amount of two times the average monthly billing or \$20,875.00.

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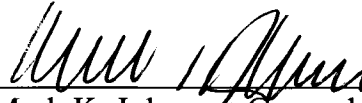
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DATED this 21st day of March, 2016.

Respectfully submitted,



Mark K. Johnson, General Counsel (AK Bar 8106028)
CHUGACH ELECTRIC ASSOCIATION, INC.
5601 Electron Drive
Anchorage, AK 99518
(907) 762-4739
Mark_johnson@chugachelectric.com

I hereby certify that the original of the foregoing was delivered via overnight delivery to the Clerk of the Bankruptcy Court as addressed below and a copy was e-mailed and sent via U.S. Mail this 21st day of March, 2016 to:

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) Chapter 11

AFFIDAVIT OF BONNIE MAXWELL

STATE OF ALASKA)
) ss
THIRD JUDICIAL DISTRICT)

After being duly sworn, Bonnie Maxwell deposes and says:

1. I am the Manager of Customer Service for Chugach Electric Association, Inc. ("Chugach") and am familiar with the account of Sports Authority Holdings, Inc. ("Debtor"). I have personal knowledge of the facts set forth in this Affidavit and, if called to testify, could competently testify to them.

2. Debtor owed Chugach \$18,295.41 as of March 2, 2016 on Chugach's account number 241726-266180.

3. Debtor has been late in its payments to Chugach. On March 8, 2016, Chugach assessed a second late payment fee to Debtor for payments overdue for invoices rendered in January and February, 2016.

4. Chugach's Regulatory Commission of Alaska-approved practice for determining post-petition deposits (adequate assurance of payment) is generally based upon the debtor's payment history and the need to protect the company from future bad debt. Once a utility member becomes delinquent with the first month's utility bill, Chugach begins a process of "credit notices" that sets in motion a disconnect schedule. If no payments are received, three months of services and billing pass before Chugach is able to physically disconnect service to that member. As such, an adequate assurance deposit of two times the average monthly bill limits Chugach's bad debt exposure to approximately one month.

5. Based upon Debtor's recent payment history and Chugach's standard practice, Chugach would require a deposit of two times the average monthly bill. Two times the average monthly bill for Debtor's account is \$20,875.00.

6. Debtor has been behind in their payments to Chugach in each of the last two months. Additionally, on March 9, a third invoice was sent to the Debtors for additional utility service. As of March 9, Debtor's account has a balance of \$19,895.28.

7. Chugach has received no payment to date towards this post-petition deposit.

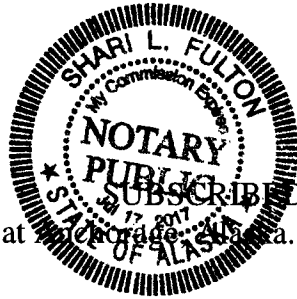
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FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 21st day of March, 2016.



Bonnie Maxwell

Bonnie Maxwell

SUBSCRIBED AND SWORN TO before me this 21st day of March, 2016, at *Wasilla, Alaska*.

Shari L. Fulton

Notary Public in and for the State of Alaska

My Commission expires: *July 17, 2017*