

JONES DAY
222 East 41st Street
New York, New York 10017
Telephone: (212) 326-3939
Facsimile: (212) 755-7306
Corinne Ball
Veerle Roovers

JONES DAY
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
Telephone: (216) 586-3939
Facsimile: (216) 579-0212
David G. Heiman

JONES DAY
1420 Peachtree Street, N.E.
Suite 800
Atlanta, Georgia 30309
Telephone: (404) 521-3939
Facsimile: (404) 581-8309
Jeffrey B. Ellman

Proposed Attorneys for Debtors
and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re : Chapter 11
Chrysler LLC, *et al.*, : Case No. 09-50002 (AJG)
Debtors. : (Jointly Administered)
-----X

**MOTION OF DEBTORS AND DEBTORS IN POSSESSION,
PURSUANT TO SECTION 366 OF THE BANKRUPTCY CODE,
FOR INTERIM AND FINAL ORDERS: (A) PROHIBITING
UTILITIES FROM ALTERING, REFUSING OR DISCONTINUING
SERVICES TO, OR DISCRIMINATING AGAINST, THE DEBTORS
ON ACCOUNT OF PREPETITION INVOICES; (B) DETERMINING THAT
THE UTILITIES ARE ADEQUATELY ASSURED OF FUTURE PAYMENT;
(C) ESTABLISHING PROCEDURES FOR DETERMINING REQUESTS
FOR ADDITIONAL ASSURANCE; AND (D) PERMITTING UTILITY
COMPANIES TO OPT OUT OF THE PROCEDURES ESTABLISHED HEREIN**

TO THE HONORABLE
UNITED STATES BANKRUPTCY JUDGE:

Chrysler LLC ("Chrysler") and 24 of its domestic direct and indirect subsidiaries, as debtors and debtors in possession (collectively with Chrysler, the "Debtors"), respectfully represent as follows:

Background

1. On the date hereof (the "Petition Date"), the Debtors commenced their reorganization cases by filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). By a motion filed on the Petition Date, the Debtors have requested that their chapter 11 cases be consolidated for procedural purposes only and administered jointly.

2. The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. The Debtors and their nondebtor direct and indirect subsidiaries (collectively, the "Chrysler Companies") comprise one of the world's largest manufacturers and distributors of automobiles and other vehicles, together with related parts and accessories. On the Petition Date, the Chrysler Companies employed approximately 55,000 hourly and salaried employees worldwide, 70% of whom were based in the United States. In addition, as of the Petition Date, the Debtors made payments for health care and related benefits to more than 105,000 retirees.

4. Chrysler's ultimate parent company, Chrysler Holding LLC ("Chrysler Parent"), also owns a financing company, nondebtor Chrysler Financial Services Americas LLC ("Chrysler Financial"), that operates under a governance structure separate from Chrysler, with

its own board and management. Historically, Chrysler Financial has provided financing to both Chrysler's dealers and consumers.

5. For the twelve months ended December 31, 2008, the Chrysler Companies recorded revenue of more than \$48.4 billion and had assets of approximately \$39.3 billion and liabilities totaling \$55.2 billion.

6. A more detailed explanation of Chrysler's businesses and operations, and the events leading to the commencement of these cases, can be found in the Affidavit of Ronald E. Kolka, which was filed contemporaneously herewith and is incorporated herein by reference.

Overview of These Cases

7. The significance of this chapter 11 filing to Chrysler and to the United States economy is difficult to overstate. In connection with the filing, Chrysler is seeking approval from this Court to consummate the only sale transaction that preserves some portion of its business as a going concern and averts a liquidation of historic proportions. If the proposed transaction, designed to effect an alliance with Italian automobile manufacturer Fiat S.p.A. ("Fiat"), is rejected and Chrysler liquidates, it will mean the end of an iconic, 83-year-old American car company whose name has been synonymous with innovative engineering, from the Slant-Six and HEMI engines, to power windows, power brakes and power steering, to the minivan. A liquidation would also have impacts on the nation's economy and Chrysler's stakeholders that are grim:

- 38,500 hourly and salaried Chrysler workers in the U.S. will lose their jobs;
- Chrysler's workers and retirees and their surviving spouses will lose over \$9.8 billion of health care and other benefits and \$2 billion in annual pension payments;

- All 23 of Chrysler's manufacturing plants and facilities and 15 parts depots in the United States will shut down (as well as 18 additional plants and parts depots worldwide);
- Approximately 3,200 Chrysler dealers will be put out of business and the over 140,000 employees of those dealerships will lose their jobs;
- Over \$5.7 billion in outstanding auto parts and service supplier invoices will not be paid to Chrysler's suppliers and new business will be cancelled, forcing hundreds of suppliers out of business and the loss of hundreds of thousands of additional jobs;
- Over 31 million Chrysler, Jeep and Dodge owners would lose significant value in their cars and trucks, particularly due to questions about the ongoing availability of warranties and replacement parts and services;
- Local, state and federal governments will lose tens of billions of dollars in tax revenues, according to a research memorandum published by the Center for Automotive Research in November 2008;¹
- Over \$100 billion in annual sales will disappear from local economies; and
- Chrysler's first lien secured creditors will receive net present value recoveries of less than 38 cents on the dollar and possibly as little as 9 cents; the U.S. government, another secured creditor, will receive less than that; and Chrysler's unsecured creditors will receive nothing.

8. The economic and market conditions that led to the commencement of Chrysler's chapter 11 cases and the need for the proposed sale transaction are well known, but sobering nonetheless. The automotive market meltdown, the worst in at least 26 years,² disrupted Chrysler's substantial progress in implementing a long-term plan to reduce costs and transform its businesses for the next generation of cars. With sales plummeting and credit markets frozen, Chrysler undertook an intense effort to address the challenges it faced. After months of hard work and dedication by Chrysler's management, employees and advisors, working with all key stakeholders and with the support of the U.S. government, the Debtors have

¹ Daniel Cole, *et al.*, Center for Automotive Research Memorandum, *The Impact on the U.S. Economy of a Major Contraction of the Detroit Three Automakers*, at <http://www.cargroup.org> (Nov 4, 2008).

² Chris Isidore, *Auto Sales Are Worst in 26 Years. January Sales Tumble More Than Expected at GM, Ford and Toyota as Rental Car Companies Slash Purchases*, CNNMoney.com, Feb. 3, 2009 (4:22 p.m., ET).

commenced these cases to implement a prompt sale to preserve the going concern value of their businesses and return these businesses to viability under new ownership.

9. The proposed sale transaction would create the sixth-largest global automaker by volume unit, increasing competitiveness with other Original Equipment Manufacturers ("OEMs") and creating billions of dollars in synergies. This transaction is the result of thousands of hours of negotiations among multiple parties. The transaction is being financially backed by the United States Department of the Treasury (the "U.S. Treasury") and Export Development Canada, an affiliate of the Canadian government, which together will provide the new alliance with approximately \$6 billion of taxpayer money to start up and maintain operations. In addition to this unprecedented government support, virtually all of the major constituencies that would be affected by a Chrysler liquidation have recognized how devastating it would be and have made important concessions in support of the proposed alliance:

- The International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (the "UAW") has agreed to wage and benefit reductions in the context of a sale to the new company, which would receive the benefit of a new collective bargaining agreement eliminating certain severance benefits, and would be a party to an agreement with the UAW containing restructured retiree health care benefits;
- Chrysler's dealers have agreed to reduce their dealer and service contract margins;
- Chrysler's already financially troubled suppliers have agreed to a further 3% price reduction and other measures that will save millions of dollars;
- Chrysler's largest secured creditors, JPMorgan Chase, Goldman Sachs, Morgan Stanley and Citigroup, have agreed to the transaction that would substantially compromise their first lien debt, comprising 70% of the \$6.9 billion total outstanding, for an estimated recovery of approximately 28 cents on the dollar; and
- Chrysler Parent's minority shareholder, Daimler AG ("Daimler"), has agreed as part of a settlement with Chrysler to (a) forgive \$1.5 billion of second lien

debt, at the same time that \$500 million of second lien debt is forgiven by majority shareholder Cerberus Capital Management L.P. ("Cerberus"); and (b) assist in funding Chrysler's pension plans.

Representatives of these constituencies have devoted the past six months to reaching these agreements.

10. As the culmination of these efforts, Chrysler, Fiat and New Chrysler (as defined below) have reached an agreement in principle and are expected to enter into a Master Transaction Agreement (collectively with other ancillary and supporting documents, the "Purchase Agreement") in short order. Pursuant to the Purchase Agreement, among other things: (a) Chrysler will transfer the majority of its operating assets to New CarCo Acquisition LLC ("New Chrysler"), a newly established Delaware limited liability company that currently is an indirect wholly-owned subsidiary of Fiat; and (b) in exchange for those assets, New Chrysler will assume certain liabilities of Chrysler and pay to Chrysler \$2 billion in cash (collectively with the other transactions contemplated by the Purchase Agreement, the "Fiat Transaction").

11. With the support of the U.S. government, Fiat, the UAW, dealers, suppliers and other stakeholders, the Debtors commenced these cases to implement an expeditious sale process to implement the Fiat Transaction, or a similar transaction with a competing bidder, designed to maximize the value of the Debtors' operations and businesses for the benefit of their stakeholders. Pending the proposed sale, the Debtors will idle most operations as they conserve their resources, while at the same time ensuring that (a) the facilities are prepared to resume normal production schedules quickly upon the completion of a sale and (b) consumers are not impacted by the filing.

12. Time is of the essence. Given the continuing stress on all aspects of the automotive industry and the idling of the Debtors' manufacturing facilities, key relationships with suppliers, dealers and other business partners simply cannot be preserved if the sale process

is not concluded quickly. Absent a prompt sale, approved and consummated in the coming weeks, the value of the Debtors' assets will rapidly decline and the ability to achieve a going concern sale will be irretrievably lost. By contrast, the proposed sale transaction, if it can be promptly consummated, will maximize the value available for stakeholders, will save hundreds of thousands of jobs and will strengthen the U.S. automotive sector and the economy generally.

Jurisdiction

13. This Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

14. Pursuant to section 366(a) of the Bankruptcy Code, the Debtors hereby seek entry of an interim order (the "Interim Order"): (a) prohibiting those third-party utility companies currently providing utility services, or that will provide services, to the Debtors (collectively, the "Utility Companies" and each, individually, a "Utility Company") from altering, refusing or discontinuing services to, or discriminating against, the Debtors on account of the filing of these chapter 11 cases or on account of unpaid prepetition invoices, pending entry of a final order granting the relief sought herein (the "Final Order"); (b) determining that the Utility Companies have received adequate assurance of payment for future utility services on the terms provided herein, pending entry of the Final Order; (c) establishing certain procedures for determining requests for additional assurance for most of the Utility Companies; (d) permitting those Utility Companies subject to the procedures to opt out of the procedures established herein and (e) scheduling a final hearing on the Motion (the "Final Hearing") within 30 days of the Petition Date. The Debtors also seek the entry of a Final Order granting this relief on a permanent basis.

The Utility Companies

15. The Debtors currently use electric, natural gas, heat, water, sewer and other similar services³ pursuant to hundreds of separate accounts provided by approximately 62 different Utility Companies, including the Utility Companies identified on the attached Exhibit A (the "Utility Service List").⁴ The Debtors estimate that their average monthly obligations to the Utility Companies on account of services rendered postpetition will total approximately \$16.1 million prior to and pending the anticipated transfer of the Debtors' operating assets pursuant to the Fiat Transaction or similar sales transaction (the "Sale Transaction").⁵

16. Uninterrupted utility service is necessary for the Debtors to preserve and maintain their assets pending consummation of the Sale Transaction. As described above, the Debtors are leading global automobile manufacturers and have 38 manufacturing facilities and

³ The Debtors' Utility Companies provide traditional utility services related to the day-to-day operation or maintenance of the Debtors' various facilities.

⁴ The Debtors have made an extensive and good faith effort to identify all Utility Companies and include them on the Utility Service List. For each Utility Company, the Utility Service List identifies: (a) the name and address of the Utility Company; (b) to the extent known, the account number under which the Utility Company provides services to the Debtors; and (c) the estimated two weeks cost of utilities to be provided by the Utility Company. The inclusion of any entity on, or any omission of any entity from, the Utility Service 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 their rights with respect thereto. In addition, the Debtors are requesting that this Motion apply to all of the Debtors' Utility Companies, whether or not any given Utility Company is included on the Utility Service List. The Debtors have proposed a procedure for supplementing the Utility Service List. Additionally, it is possible that certain entities may have been mistakenly included on the Utility Service List and, therefore, the Debtors reserve the right to assert that any such entities are not Utility Companies for the purposes of this Motion or section 366 of the Bankruptcy Code.

⁵ As of the Petition Date, the Debtors have idled their manufacturing operations in an effort to conserve cash while they pursue the Sale Transaction with the goals of preserving and maximizing the value of their estates. One or more of the Debtors' parts depots will continue in full operation in order to provide an uninterrupted supply of parts to service the Debtors' vehicles. The estimate of the Debtors' average monthly obligations to Utility Companies is based upon fixed cost assessments of utilities that will be provided after the Petition Date. Following consummation of the Sale Transaction, the Debtors' average monthly obligations to Utility Companies will likely decrease due to the transfer of the majority of the Debtors' operating assets to New Chrysler and the anticipated wind down of the Debtors' remaining businesses and assets.

parts depots and various other facilities throughout the United States. The temporary or permanent discontinuation of utility services could irreparably disrupt the Debtors' ability to maintain the facilities in a safe and prudent manner and, as a result, fundamentally undermine the Debtors' ability to maximize value for stakeholders and achieve their restructuring goals.

17. The Debtors intend to pay their postpetition obligations to the Utility Companies in a timely manner. The Debtors will make these payments from their cash reserves as of the Petition Date and from anticipated access to a new debtor in possession financing facility.⁶

The Adequate Assurance Deposit

18. Pursuant to section 366(c)(2) of the Bankruptcy Code, a utility may alter, refuse or discontinue a chapter 11 debtor's utility service if the utility does not receive from the debtor or the trustee adequate "assurance of payment" within 30 days of the commencement of the debtor's chapter 11 cases.⁷ Section 366(c)(1)(A) of the Bankruptcy Code defines the phrase "assurance of payment" to mean, among other things, a cash deposit. Accordingly, the Debtors propose to deposit, as adequate assurance, \$5,991,487.00 into a newly created, segregated,

⁶ Concurrently with the filing of this Motion, the Debtors have filed a motion seeking approval of up to \$4.5 billion in debtor in possession financing from the U.S. Treasury and Export Development Canada.

⁷ There is an apparent discrepancy between subsections (b) and (c) of section 366 of the Bankruptcy Code because these two subsections set forth different time periods during which a utility is prohibited from altering, refusing or discontinuing utility service. Specifically, section 366(b) of the Bankruptcy Code allows a utility to alter, refuse or discontinue service "if neither the trustee nor the debtor, within 20 days after the date of the order for relief, furnishes adequate assurance of payment," while section 366(c)(2) of the Bankruptcy Code allows a utility in "a case filed under chapter 11" to alter, refuse or discontinue service to a chapter 11 debtor "if during the 30-day period beginning on the date of the filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service...." (emphases added).

Under the statutory construction canon *lex specialis derogat legi generali* ("specific language controls over general"), the language of section 366(c)(2) controls here because the Debtors are chapter 11 debtors. See 3 Collier on Bankruptcy ¶ 366.03[2] (Alan N. Resnick & Henry J. Sommer eds., 15th ed. rev. 2006) ("It is unclear how the 30-day period [in section 366(c)(2) of the Bankruptcy Code] meshes with the normal 20-day period in section 366(b). The better view is that, because section 366(c) is more specifically applicable to chapter 11 cases, the 30-day period, rather than the 20-day period in section 366(b), should apply.").

interest bearing escrow account (the "Adequate Assurance Deposit") within 20 days of the Petition Date. The Adequate Assurance Deposit equals approximately two weeks of the Debtors' estimated aggregate postpetition utility expenses, excluding utility expenses subject to the Daimler Guarantee (as such term is defined in paragraph 29 below).⁸

19. The Debtors submit that the Adequate Assurance Deposit, in conjunction with the Debtors' ability to pay for future utility services in the ordinary course of business (collectively, the "Proposed Adequate Assurance"), constitutes sufficient adequate assurance of future payment to the Utility Companies that are not subject to the Daimler Guarantee to satisfy the requirements of section 366 of the Bankruptcy Code.⁹ Nonetheless, if any Utility Company believes additional assurance is required, they may request such assurance pursuant to the procedures described below.

The Adequate Assurance Procedures

20. To address the right of any Utility Company under section 366(c)(2) of the Bankruptcy Code to seek additional adequate assurance satisfactory to it, the Debtors propose that the following procedures (the "Adequate Assurance Procedures")¹⁰ be adopted:

- a. Any Utility Company desiring assurance of future payment for utility service beyond the Proposed Adequate Assurance must serve a request (an "Additional Assurance Request") so that it is received by the Debtors by no later than 30 days after the Petition Date (the "Request Deadline") at the following addresses:
(i) Chrysler, LLC, Legal Department, 1000 Chrysler Drive, Auburn Hills, Michigan 48326-2766 (Attn: Thomas E. Gunton, Esq.); (ii) Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114-1190 (Attn: Thomas A. Wilson, Esq.); and

⁸ The deposit proposed will be two weeks' worth of estimated service at reduced levels compared to historical figures in light of the idling of the Debtors' manufacturing operations.

⁹ For the Utility Company that is subject to the Daimler Guarantee, the guarantee itself constitutes the Proposed Adequate Assurance.

¹⁰ The Utility Company subject to the Daimler Guarantee is not subject to these procedures with respect to the utility services that are subject to the guarantee.

(iii) Jones Day, 1420 Peachtree Street, N.E., Suite 800, Atlanta, Georgia 30309-3053 (Attn: Jeffrey B. Ellman, Esq.).

- b. Any Additional Assurance Request must specify the amount and nature of assurance of payment that would be satisfactory to the Utility Company and (i) be made in writing, (ii) set forth the location(s) for which utility services are provided and the relevant account number(s), (iii) describe any deposits or other security currently held by the requesting Utility Company, (iv) explain whether the Debtors prepay for Utility Company's services; (v) describe any payment delinquency or irregularity by the Debtors for the postpetition period, if any; and (vi) explain why the requesting Utility Company believes the Proposed Adequate Assurance is not sufficient adequate assurance as future payment.
- c. Upon the Debtors' receipt of an Additional Assurance Request at the addresses set forth above, the Debtors shall have the greater of (i) 20 days from the receipt of such Additional Assurance Request or (ii) 40 days from the Petition Date (collectively, the "Resolution Period") to negotiate with the requesting Utility Company to resolve its Additional Assurance Request. The Resolution Period may be extended by agreement of the Debtors and the applicable Utility Company without application to or approval of the Court.
- d. The Debtors, in their discretion, may resolve any Additional Assurance Request by mutual agreement with the requesting Utility Company and without further order of the 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, other forms of security or any combination of the above, if the Debtors believe such additional assurance is reasonable. If the Debtors and requesting Utility Company resolve the Additional Assurance Request, the Debtors may, by mutual agreement with the requesting Utility Company and without further order of the Court, reduce the Adequate Assurance Deposit by an amount not exceeding the requesting Utility Company's estimated two-week utility expense listed on the Utility Service List.
- e. If the Debtors determine that an Additional Assurance Request is not reasonable, and the parties are not able to resolve such request during the Resolution Period, during or immediately after the Resolution Period, the Debtors will request a hearing before the 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.¹¹

- f. 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 or on account of any objections to the Proposed Adequate Assurance.
- g. Other than through the Opt-Out Procedures (as such term is defined below), any Utility Company that does not comply with the Adequate Assurance Procedures is deemed to find the Proposed Adequate Assurance satisfactory to it and is prohibited from discontinuing, altering or refusing service on account of any unpaid prepetition charges, or requiring additional assurance of payment (other than the Proposed Adequate Assurance). The Interim Order shall be deemed the Final Order with respect to all Utility Companies that do not timely file and serve a Procedures Objection (as defined below).

The Opt-Out Procedures

21. As noted above, section 366(c) of the Bankruptcy Code requires the Debtors to provide Utility Companies, within 30 days of the Petition Date, with "adequate assurance of payment for utility service that is satisfactory to the utility." 11 U.S.C. § 366(c)(2). Thereafter, any such adequate assurance provided by the debtor may be modified by the court after notice and a hearing under section 366(c)(3)(A) of the Bankruptcy Code. Under the Adequate Assurance Procedures, however, the Debtors may seek a determination of appropriate adequate assurance at a Determination Hearing held more than 30 days after the commencement of these chapter 11 cases, without providing interim assurances deemed "satisfactory" to the Utility Company. Although the Adequate Assurance Procedures are reasonable, certain Utility Companies might assert that the procedures as implemented are not strictly in compliance with

¹¹ Section 366(c)(3)(A) of the Bankruptcy Code provides that "[o]n request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment" 11 U.S.C. § 366(c)(3)(A).

section 366 of the Bankruptcy Code if an adequate assurance dispute is not resolved within the 30 days following the Petition Date. If, as a result, any Utilities Companies wish to opt out of the Adequate Assurance Procedures, the Debtors submit that the Court should schedule a hearing and issue a ruling on the amount of adequate assurance to be provided such Utility Companies within 30 days of the Petition Date.

22. In particular, to avoid any argument that the Debtors have not fully complied with section 366 of the Bankruptcy Code, the Debtors propose the following procedures (the "Opt-Out Procedures"): ¹²

- a. A Utility Company that desires to opt-out of the Adequate Assurance Procedures must file an objection (a "Procedures Objection") with the Court and serve such Procedures Objection so that it is *actually received* within 11 days of entry of the Interim Order by the Debtors at the following addresses: (i) Chrysler, LLC, Legal Department, 1000 Chrysler Drive, Auburn Hills, Michigan 48326-2766 (Attn: Thomas E. Gunton, Esq.); (ii) Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114-1190 (Attn: Thomas A. Wilson, Esq.); and (iii) Jones Day, 1420 Peachtree Street, N.E., Suite 800, Atlanta, Georgia 30309-3053 (Attn: Jeffrey B. Ellman, Esq.).
- b. Any Procedures Objection must (i) be made in writing, (ii) set forth all location(s) for which utility services are provided and the relevant account number(s), (iii) describe any deposits or other security currently held by the objecting Utility Company, (iv) explain whether the Debtors prepay for the Utility Company's services or what payment terms presently apply to the Debtors, (v) explain why the objecting Utility Company believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment and (vi) identify and explain the basis of the Utility Company's proposed adequate assurance requirement under section 366(c)(2) of the Bankruptcy Code.
- c. The Debtors, in their discretion, may resolve any Procedures Objection by mutual agreement with the objecting Utility Company and without further order of the Court, and may, in connection with any such resolution and in their discretion, provide

¹² The Utility Company subject to the Daimler Guarantee is not subject to these procedures with respect to the utility services that are subject to the guarantee.

a Utility Company with assurance of future payment, including, but not limited to, cash deposits, prepayments or other forms of security, if the Debtors believe such assurance of payment is reasonable. If the Debtors and objecting Utility Company resolve the Procedures Objection, the Debtors may, by mutual agreement with the objecting Utility Company and without further order of the Court, reduce the Adequate Assurance Deposit by an amount not exceeding the objecting Utility Company's estimated two-week utility expense listed on the Utility Service List.

- d. If the Debtors determine that a Procedures Objection is not reasonable and are not able to reach a prompt alternative resolution with the objecting Utility Company, the Procedures Objection will be heard at the Final Hearing.
- e. Any Utility Company that does not timely file a Procedures Objection is deemed to consent to, and shall be bound by, the Adequate Assurance Procedures.

Final Hearing Date

23. To resolve any Procedures Objections within 30 days of the Petition Date, the Debtors request that the Court schedule the Final Hearing on any unresolved Procedures Objections approximately 25 to 28 days after the Petition Date.

Subsequent Modifications of Utility Service List

24. It is possible that, despite the Debtors' efforts, certain Utility Companies have not yet been identified by the Debtors or included on the Utility Service List (collectively, the "Additional Utility Companies"). Thus, promptly upon the discovery of an Additional Utility Company, the Debtors will increase the Adequate Assurance Deposit by an amount equal to approximately two weeks of the Debtors' estimated aggregate postpetition utility expense for each Additional Utility Company and will file with the Court a supplement to the Utility Service List incorporating this information.

25. In addition, the Debtors request that the Court: (a) authorize the Debtors to provide notice and a copy of the Interim Order (which, for purposes of this paragraph, shall also be the Final Order on this Motion) to the Additional Utility Companies, as such Additional

Utility Companies are identified, and (b) provide that the Additional Utility Companies are subject to the terms of the Interim Order, including the Adequate Assurance Procedures; provided, however, that (a) the Opt-Out Procedures shall apply only to the extent that a Procedures Objection made by an Additional Utility Company is filed with the Court and submitted to the Debtors and their counsel no later than 4:00 p.m. (New York time) on the date that is the earlier of (i) five business days before the Final Hearing or (ii) ten days after service of the Interim Order on such Additional Utility Company and (b) the deadline for an Additional Utility Company to submit an Additional Assurance Request under the Adequate Assurance Procedures will be 25 days after the date the Interim Order is served upon such Additional Utility Company. As a result, the Additional Utility Companies will be afforded (a) 25 days from the service of the Interim Order on a particular Additional Utility Company to submit an Additional Assurance Request pursuant to the Adequate Assurance Procedures and (b) in some cases, up to ten days from the date of service of the Interim Order on a particular Additional Utility Company to file a Procedures Objection pursuant to the Opt-Out Procedures.

Determination and Modification of Adequate Assurance Deposit

26. Upon the consummation of the Sale Transaction that results in the discontinuation of or decreased level of utility services to the Debtors, the Debtors request that the Court authorize the Debtors to reduce the Adequate Assurance Deposit to an amount equal to approximately two weeks of the Debtors' estimated aggregate utility expense based on their anticipated decreased level of utility service (the "Modified Adequate Assurance Deposit") pursuant to the following procedures (the "Modified Adequate Assurance Procedures"):

- a. If the Debtors seek to modify the Adequate Assurance Deposit, the Debtors shall (i) file with the Court a supplement to the Utility Service List incorporating new two-week usage amounts reflecting the Modified Adequate Assurance Deposit (the "Modified Utility Service List") and (ii) provide notice of such Modified Utility

Service List to those Utility Companies and Additional Utility Companies that will be impacted by the Modified Adequate Assurance Deposit (each, individually, a "Modified Deposit Utility Company").

- b. Any Modified Deposit Utility Company that wishes to object to the Modified Adequate Assurance Deposit must file an objection with the Court (the "Modified Adequate Assurance Deposit Objection") and serve such Modified Adequate Assurance Deposit Objection so that it is *actually received* within 11 days after service of the Modified Utility Service List (the "Modified Request Deadline") at the following addresses: (i) Chrysler, LLC, Legal Department, 1000 Chrysler Drive, Auburn Hills, Michigan 48326-2766 (Attn: Thomas E. Gunton, Esq.); (ii) Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114-1190 (Attn: Thomas A. Wilson, Esq.); and (iii) Jones Day, 1420 Peachtree Street, N.E., Suite 800, Atlanta, Georgia 30309-3053 (Attn: Jeffrey B. Ellman, Esq.).
- c. Any Modified Adequate Assurance Deposit Objection must (i) be made in writing, (ii) set forth all location(s) for which utility services are provided and the relevant account number(s), (iii) describe any deposits or other security currently held by the objecting Utility Company, (iv) explain whether the Debtors prepay for the Utility Company's services or what payment terms presently apply to the Debtors and (v) explain why the objecting Utility Company believes the Modified Adequate Assurance Deposit is not sufficient.
- d. The Debtors, in their discretion, may resolve any Modified Adequate Assurance Deposit Objection by mutual agreement with the objecting Utility Company and without further order of the Court, and may, in connection with any such resolution and in their discretion, provide a Utility Company with assurance of future payment, including, but not limited to, cash deposits, prepayments or other forms of security, if the Debtors believe such assurance of payment is reasonable. If the Debtors and objecting Utility Company resolve the Modified Adequate Assurance Deposit Objection, the Debtors may, by mutual agreement with the objecting Utility Company and without further order of the Court, reduce the Modified Adequate Assurance Deposit by an amount not exceeding the requesting Utility Company's estimated two-week utility expense listed on the Modified Utility Service List.
- e. If the Debtors determine that a Modified Adequate Assurance Deposit Objection is not reasonable and are not able to reach a prompt alternative resolution with the objecting Utility Company, the Modified Adequate Assurance Deposit Objection will be heard

at the next regularly scheduled omnibus hearing in these cases that is at least five days after the Debtors file and serve a notice of hearing.

- f. Any Utility Company that does not timely file a Modified Adequate Assurance Deposit Objection is deemed to consent to, and shall be bound by, the Modified Adequate Assurance Deposit.

27. No money may be withdrawn from the Adequate Assurance Deposit account except (a) in compliance with the Adequate Assurance Procedures, the Opt-Out Procedures or the Modified Adequate Assurance Procedures, (b) by mutual agreement of the Debtors and the applicable Utility Company or (c) by further order of the Court. In any event, if the Debtors fail to pay for postpetition utility services when due (including any applicable grace periods), a Utility Company may access only that portion of the Adequate Assurance Deposit that is allotted to it in the Utility Service List (as may be modified from time to time).

**Proposed Adequate Assurance for
the Utility Company Subject to the Daimler Guarantee**

28. Certain utility relationships are impacted by transactions initiated during the time that Daimler owned the controlling stake in the Debtors. Pursuant to the Membership Interest Purchase Agreement, dated May 17, 2004 (the "Utility Purchase Agreement"), Debtor Utility Assets LLC ("Utility Assets") sold its equity interest in DCC Utility Assets LLC ("DCC Utility") to DTE Energy Center LLC ("DTE"), an entity unrelated to Daimler or the Debtors. In conjunction with the Utility Purchase Agreement, Utility Assets and DTE entered into eight separate utility services agreements (collectively, the "Utility Service Agreements"), each dated May 24, 2004, pursuant to which DTE agreed to provide utility services to certain of Chrysler's manufacturing plants, identified on the attached Exhibit B (the "Utility Payment Guarantee Schedule"), and Utility Assets agreed to purchase such services up to Actual Capacity (as such term is defined in the Utility Service Agreements). The Debtors estimate that their average

monthly obligations to DTE on account of services rendered pursuant to the Utility Service Agreements total approximately \$4.16 million.¹³

29. In accordance with Section 2.8 of the Utility Purchase Agreement, Daimler North America Corporation (f/k/a DaimlerChrysler North America Holding Corporation) ("DCNAC") executed a parent guarantee (the "Daimler Guarantee") pursuant to which DCNAC unconditionally and irrevocably guaranteed to DTE, as primary obligor and not merely as surety, the prompt and complete performance by Utility Assets of all its obligations under the Utility Service Agreements, including Utility Assets's obligation to pay DTE the monthly capacity fee for the provision of utility services to the manufacturing plants listed on the Utility Payment Guarantee Schedule.¹⁴

30. The Debtors submit that DCNAC's Daimler Guarantee and the Utility Security Interest constitutes sufficient adequate assurance of future payment to DTE in accordance with the Utility Service Agreements for the manufacturing plants listed on the Utility Payment Guarantee List and, thus, satisfies the requirements of section 366 of the Bankruptcy Code. The Debtors propose that DTE shall be deemed to have adequate assurance for the locations for which there are Utility Service Agreements on an interim basis until the Final Hearing. If DTE disagrees that the Daimler Guarantee and the Utility Security Interest constitutes adequate assurance within the meaning of section 366 of the Bankruptcy Code, the

¹³ This amount includes various obligations, including monthly capacity charges and operation and maintenance fees.

¹⁴ DCNAC was not released of its Daimler Guarantee when Daimler sold its controlling interest in the Chrysler Companies to affiliates of Cerberus. In conjunction with that transaction, however, Chrysler agreed to reimburse DCNAC for any payment made by DCNAC pursuant to the Daimler Guarantee (the "Reimbursement Agreement"). To secure Chrysler's reimbursement obligations, Chrysler deposited funds into certain accounts at JPMorgan Chase Bank and granted a security interest in the account to DCNAC (the "Utility Security Interest"). Although the Daimler Guarantee to DTE remains outstanding, Chrysler must maintain funds in such accounts equal to the Daimler Guarantee and other credit support documents. As of December 1, 2008, the amount required to be maintained in the account equaled \$302 million, of which \$250 million was earmarked for the Daimler Guarantee.

Debtors propose that DTE be required to file a written objection at least eight days prior to the Final Hearing and that the issue be heard and determined at the Final Hearing.

31. If, in the course of these cases, DCNAC is released of the Daimler Guarantee, the Debtors will increase the Adequate Assurance Deposit by an amount equal to two weeks of the Debtors' estimated utility obligations to DTE for utility services to the manufacturing facilities listed on the Utility Payment Guarantee Schedule, which amount may be modified pursuant to the Modified Adequate Assurance Procedures.

Basis for Relief Requested

32. The policy underlying section 366 of the Bankruptcy Code is to protect debtors from utility service cutoffs upon the filing of a bankruptcy case, while at the same time providing utility companies with adequate "assurance of payment" for postpetition utility service. See H.R. Rep. No. 95-595, at 350 (1978), reprinted in 1978 U.S.C.C.A.N. 5963, 6306. Section 366(c)(1) of the Bankruptcy Code defines "assurance of payment" to mean several enumerated forms of security (e.g., cash deposits, letters of credit, prepayment for utility service) while excluding from the definition certain other forms of security (e.g., administrative expense priority for a utility's claim). In addition, section 366(c)(3)(B) of the Bankruptcy Code provides that a court may not consider certain facts (e.g., a debtor's prepetition history of making timely payments to a utility) in making a determination of adequate assurance of payment.

33. While section 366(c) clarifies what does and does not constitute "assurance of payment" and what can be considered in determining whether such assurance is adequate, Congress, in enacting that section, did not divest the Court of its power to determine what *amount*, if any, is necessary to provide adequate assurance of payment to a Utility Company. Indeed, section 366(c) of the Bankruptcy Code not only fails to establish a minimum amount of adequate "assurance of payment," but explicitly empowers the court to determine the

appropriate level of adequate assurance required in each case. See 11 U.S.C. § 366(c)(3)(A) ("On request of a party in interest and after notice and a hearing, the Court may order modification of the amount of an assurance of payment . . .").

34. Thus, there is nothing within section 366 of the Bankruptcy Code that prevents a court from ruling that, on the facts of the case before it, the amount required to adequately assure future payment to a utility company is nominal, or even zero. Prior to the enactment of section 366(c) of the Bankruptcy Code, courts enjoyed precisely the same discretion to make such rulings pursuant to section 366(b) of the Bankruptcy Code, and frequently did so. See Virginia Elec. & Power Co. v. Caldor, Inc.– N.Y., 117 F.3d 646, 650 (2d Cir. 1997) ("Even assuming that 'other security' should be interpreted narrowly, we agree with the appellees that a bankruptcy court's authority to 'modify' the level of the 'deposit or other security,' provided for under § 366(b), includes the power to require no 'deposit or other security' where none is necessary to provide a utility supplier with 'adequate assurance of payment.'").

35. Moreover, Congress has not changed the requirement that the assurance of payment only be "adequate." Courts construing section 366(b) of the Bankruptcy Code have long recognized that adequate assurance of payment does not constitute an absolute guarantee of the debtors' ability to pay. See, e.g., In re Caldor, Inc.– N.Y., 199 B.R. 1, 3 (S.D.N.Y. 1996) ("Section 366(b) requires [a] [b]ankruptcy [c]ourt to determine whether the circumstances are sufficient to provide a utility with 'adequate assurance' of payment. The statute does not require an 'absolute guarantee of payment.'") (citation omitted), aff'd sub nom., Virginia Elec. & Power Co. v. Caldor, Inc – N.Y., 117 F.3d 646 (2d Cir. 1997); In re Adelpia Bus. Solutions, Inc., 280 BR. 63, 80 (Bankr. S.D.N.Y. 2002) (same); Steinebach v. Tucson Elec. Power Co (In re Steinebach), 2004 WL 51616, at *5 (Bankr. D. Ariz. Jan. 2, 2004) ("Adequate assurance of payment is not, however, absolute assurance . . . all § 366(b) requires is that a utility be protected

from an unreasonable risk of non-payment"); In re Penn Jersey Corp., 72 B.R. 981, 982 (Bankr. E.D. Pa. 1987) (stating that section 366(b) of Bankruptcy Code "contemplates that a utility receive only such assurance of payment as is sufficient to protect its interests given the facts of the debtor's financial circumstances"); see also In re Astle, 338 B.R. 855, 860-61 n.14 (Bankr. D. Idaho 2006) (case law governing pre-BAPCPA section 366(b) is still applicable because BAPCPA did not amend section 366(b)).¹⁵

36. Therefore, despite its language allowing a utility to take adverse action against the debtor should the debtor fail to provide adequate assurance of future payment "satisfactory to the utility," section 366 of the Bankruptcy Code does not require that the assurance provided be "satisfactory" once a party seeks to have the Court determine the appropriate amount of adequate assurances. See In re Circuit City Stores, Inc., 2009 Bankr. LEXIS 237, at *17-22 (Bankr. E.D. Va. 2009) (utility's proposed interpretation of section 366 that precluded bankruptcy court from determining adequate assurance prior to payment of utility's demand was held to be unworkable and counter to congressional intent); In re Beach House Prop., LLC., Case No. 08-11761, 2008 WL 961498 (Bankr. S.D. Fla. Apr. 8, 2008) (bankruptcy court may determine amount of adequate assurance pursuant to section 366 before debtor's payment of utility's initial demand for adequate assurance).

37. At least one court in a recent opinion approved terms similar in many respects to the Adequate Assurance Procedures proposed in this Motion. In the Circuit City case, the debtors filed a motion that proposed granting their utility companies adequate assurance by establishing a segregated bank account containing blocked funds in an amount equal to

¹⁵ Courts have recognized that "[i]n deciding what constitutes 'adequate assurance' in a given case, a bankruptcy court must 'focus upon the need of the utility for assurance, and to require that the debtor supply no more than that, since the debtor almost perforce has a conflicting need to conserve scarce financial resources.'" Caldor, 117 F.3d at 650 (emphasis in original) (quoting Penn Jersey, 72 B.R. at 985).

approximately two weeks of utility service from all of its utility companies. See Circuit City, 2009 Bankr. LEXIS 237, at *19-21. The Court approved the motion and noted that "[t]he Procedures set forth in the Utility Order serve to streamline the reorganization process and do not adversely impair the rights of any utility company. The Utility Order is designed to avoid a haphazard and chaotic process whereby each utility could make extortionate, last-minute demands for adequate assurance which the Debtors would be pressured to pay under the threat of losing critical utility service." Id. at *22; see also In re Syroco Inc., 374 B.R. 60 (Bankr. D. P.R. 2007) (approving the debtors' motion that proposed granting their utility companies a security deposit of two weeks service as adequate assurance despite several utilities' failure to respond).

38. Consistent with Circuit City and Syroco, the Debtors submit that entry of the Interim Order is consistent with, and fully satisfies, the requirements of section 366 of the Bankruptcy Code. Far from offering the Utility Companies nominal (or even no) additional assurance of payment, the Debtors propose to provide requesting Utility Companies not subject to the Daimler Guarantee with (a) significant cash deposits, totaling over \$5.9 million, placed into a segregated escrow account for the benefit of the Utility Companies and (b) procedures pursuant to which these Utility Companies can seek additional or different security. Such assurance of payment significantly alleviates — if not eliminates — any honest concern of non-payment on the part of the Utility Companies, and is thus clearly "adequate."

39. Relief establishing Adequate Assurance Procedures similar to those proposed herein has been granted in other chapter 11 cases in this District. See, e.g., In re Interep Nat'l Radio Sales, Inc., No. 08-11079 (RDD) (Bankr. S.D.N.Y. April 22, 2008); In re DJK Residential LLC, No. 08-10375 (JMP) (Bankr. S.D.N.Y. Feb. 5, 2008); In re PLVTZ, Inc., No. 07-13532 (REG) (Bankr. S.D.N.Y. Nov. 9, 2007); In re Bally Total Fitness Corp., No. 07-12395 (BRL) (Bankr. S.D.N.Y. Aug 2, 2007); In re Dana Corp., No. 06-10354 (BRL) (Bankr.

S.D.N.Y. Mar. 6, 2006); In re Musicland Holding Corp., No. 06-10064 (SMB) (Bankr. S.D.N.Y. Feb. 2, 2006); In re Calpine Corp., No. 05-60200 (BRL) (Bankr. S.D.N.Y. Jan. 18, 2006); In re Refco, Inc., No. 05-60006 (RDD) (Bankr. S.D.N.Y. Dec. 9, 2005); see also In re Circuit City Stores, Inc., No. 08-35653 (KRJ) (Bankr. E.D. Va. Dec. 9, 2008); In re Boscov's Inc., No. 08-11637 (KG) (Bankr. D. Del. Sept. 10, 2008).¹⁶

40. With respect to DTE, the Utility Company subject to the Daimler Guarantee, the Debtors submit that the guarantee itself is a form of adequate assurance of payment for utility services postpetition. As described above, it is well settled that in providing adequate assurance, a debtor is not required to give a utility company the equivalent of a guarantee of full payment. See, e.g., Steinebach v. Tucson Elec. Power Co. (In re Steinebach), 303 B.R. at 641. If a debtor provides the utility company with a third-party guarantee for payment for future utility services, the Court may determine that a guarantee is sufficient adequate assurance in satisfaction of section 366 of the Bankruptcy Code. In re Santa Clara Circuits West, Inc., 27 B.R. 680, 685 (Bankr. D. Utah 1982) ("[T]here may be other methods of providing adequate assurance of payment to the utility company. . . . A cash deposit may not be necessary if guarantees or other non-cash forms of security are available."). Here, such guarantee, along with the Utility Security Interest that supports the guarantee, provides DTE with assurances that it will be able to seek payment from DCNAC in the event that the Debtors fail to make payments postpetition.

Notice

41. No trustee or examiner has been appointed in these chapter 11 cases.

Notice of this Motion has been given to: (a) the Office of the United States Trustee for the

¹⁶ Because of the voluminous nature of these unreported orders, they are not attached to this Motion. Copies of these unreported orders will be made available to the Court at or prior to the hearing on this Motion and are available to other parties upon request from the Debtors' counsel.

Southern District of New York; (b) the creditors holding the 50 largest unsecured claims against the Debtors' estates, as identified in the Debtors' chapter 11 petitions; (c) counsel to the administrative agent for the Debtors' prepetition senior secured lenders; (d) counsel to Cerberus; (e) counsel to Daimler; (f) counsel to the UAW; and (g) counsel to the U.S. Treasury. The Debtors submit that no other or further notice need be provided.

No Prior Request

42. No prior request for the relief sought in this Motion has been made to this or any other Court.

WHEREFORE, the Debtors respectfully request that this Court: (i) enter an order substantially in the form attached hereto as Exhibit C, granting the relief sought herein; and (ii) grant such other and further relief to the Debtors as the Court may deem proper.

Dated: April 30, 2009
New York, New York

Respectfully submitted,

/s/ Corinne Ball

Corinne Ball
Veerle Roovers
JONES DAY
222 East 41st Street
New York, New York 10017
Telephone: (212) 326-3939
Facsimile: (212) 755-7306

David G. Heiman
JONES DAY
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
Telephone: (216) 586-3939
Facsimile: (216) 579-0212

Jeffrey B. Ellman
JONES DAY
1420 Peachtree Street, N.E.
Suite 800
Atlanta, Georgia 30309
Telephone: (404) 521-3939
Facsimile: (404) 581-8309

PROPOSED ATTORNEYS FOR DEBTORS
AND DEBTORS IN POSSESSION

EXHIBIT A

List of Utility Companies Providing Services

Utility	Utility Contact Information	Account Numbers	Two Week Cost Estimate
Ameren Utility (Electric)	Tom Thompson PO Box 66529 St. Louis, MO 63166 Tel: 314-206-0665	35-0369605-0 35-0369606-8 35-0376495-7 51210-02622	\$94,000.00
Belvidere Water & Sewer	Jimmy Grimes 210 Whitney Boulevard Belvidere, IL 61008 Tel: 815-544-2766	84-006200-00 01-009600-00	\$9,000.00
BP Canada Energy Marketing Corp. (Gas)	Cynthia Quint North American Headquarters 28100 Torch Parkway Warrenville, IL 60555 Tel: 630-836-4642		\$316,000.00
Board of Water Commission (City of Detroit)	City of Detroit P.O. Box 32711 Detroit, MI 48232 Tel: 313-267-8000	030-1115.300 870-0017.300 870-0023.300 030-0138.300 030-0139.300 030-0140.300 030-0141.300 030-0567.300 590-2437.300 020-0450.300 020-0446.300 020-0447.300 020-0448.300 020-0449.300 580-3907.300 030-1196.300 030-0240.300	\$46,000.00
Centerpoint Energy	Corporate Office PO Box 4567 Houston, TX 77210 Tel: 713-207-1111		\$228,000.00
Charter Township of Huron	22950 Huron River Drive, New Boston, MI 48164 Tel: 734-753-9376		\$614.00

Utility	Utility Contact Information	Account Numbers	Two Week Cost Estimate
Chevron Texaco	Ines Alvarez Chevron Natural Gas A Division of Chevron USA Inc. PO Box 4700 Houston, TX 77210 Tel: 832-854-6424		\$1,109,000.00
City of Akron	146 S High Street Room 211 Akron, OH 44308 Tel: 330-375-2554	55-0580.300	\$1,000.00
City of Auburn Hills	Dave Harran 1827 N. Squirrel Road Auburn Hills, MI 48326 Tel: 248-391-3777	710-31620800 710-31620001 710-32702615	\$7,000.00
City of Beaverton	PO Box 4755 Portland, OR 97208 Tel: 503-526-2257		\$687.00
City of Centerline Treasurer	7070 E. 10 Mile Rd. Centerline, MI 48015 Tel: 586-758-8278		\$2,000.00
City of Kokomo	1501 West Markland Kokomo, IN 46902 Tel: 765-457-5509	157-5396 10-0000045-3 115-43783	\$8,000.00
City of Lathrop	Town Center Drive Lathrop, CA 95330 Tel: 209-941-7320		\$1,044.00
City of Marysville	200 East 14th Street Marysville, MI 48040 Tel: 810-364-8340		\$4,000.00
City of Naperville	400 S. Eagle Street Naperville, IL 60540 Tel: 630-420-6111	118241-89546	\$12,000.00

Utility	Utility Contact Information	Account Numbers	Two Week Cost Estimate
City of Newark	Finance Department 220 Elkton Road PO Box 390 Newark, DE 19715 Tel: 302-366-7080		\$9,000.00
City of Ontario	Ken Jeske 1425 South Bon View Ave Ontario, CA 91761 Tel: 909-395-2600		\$626.00
City of Sterling Heights, Treasurer	40555 Utica Road Sterling Heights, MI 48313 Tel: 586-446-2320	304337 334337 308433 505045 505151	\$13,000.00
City of Toledo	The Ohio Building 420 Madison Avenue Suite 100 Toledo, OH 43667 Tel: 419-245-1827	7700-0001-0312 7700-0001-0239	\$1,000.00
City of Trenton	2800 Third Street Trenton, MI 48183 Tel: 734-676-0646	4010210-00 4010200-00 4010201-00	\$5,000.00
City of Twinsburg	PO Box 1058 Twinsburg, OH 44087 Tel: 330-425-7161	900-90001-00	\$2,000.00
City of Warren	One City Square Warren, MI 48093 Tel: 586-759-9200	400060247 400060127 400060200 400060307 400060207	\$14,000.00
Clayton County Water Authority	1600 Battle Creek Rd. Morrow, GA 30260 Tel: 770-961-2130		\$891.00

Utility	Utility Contact Information	Account Numbers	Two Week Cost Estimate
Columbia Gas of Ohio	Darin King PO Box 742510 Cincinnati, OH 45274 Tel: 419-252-8141	6087 6738	\$5,000.00
Commonwealth Energy	ComEd P.O. Box 805379 Chicago, IL 60680 Tel: 877-426-6331	0699425002	\$153,000.00
Consumers Energy (Gas)	Dave Almesina Consumers Energy P.O. Box 30090 Lansing, MI 48937 Tel: 800-805-0490 Fax: 800-363-4806	10000003093 10000003101 10000002996 10000003044 10000003051 10000003069 10000003002 100000030s8 10000003085 10000003036 10000002970 10000002988 10000003077 10000003010	\$42,000.00
Delmarva Power Delivery	Tom Cole Delmarva Power PO Box 17000 Wilmington, DE 19886 Tel: 302-283-6037	3038-0389-9994 2761-1339-9998 2761-1639-9995 3414-2059-9985	\$80,000.00
Delta Energy	Patrick Ryan PO Box 712411 Cincinnati, OH 45271 Tel: 614-339-2603		\$183,000.00
Denver Water	PO Box 173343 Denver, CO 80217 Tel: 303-893-2444		\$889.00

Utility	Utility Contact Information	Account Numbers	Two Week Cost Estimate
Department of Public Utilities	Dave Leffler 420 Madison Avenue Suite 100 Toledo, OH 43667 Tel: 419-245-1800	7700-0006-7957 7700-0007-7550 7700-0043-8265 7700-0034-7144 7700-0034-7052 7700-0007-5125	\$41,000.00
Detroit Edison /DTE (Electric Only)	Thomas Longo DTE Energy PO Box 67-069A Detroit, MI 48267 313-235-8994 Corporate Headquarters 2000 2 nd Avenue Detroit, MI 48226	0000-0178-4 0000-0184-4 1169 209 0006 9 1169 209 0004 4 1169 209 0003 6 0000-0186-7 0002-3689-3 0000-1254-2 3432 713 0003 4 3432 713 0002 6 0000-8234-7 0000-7937-6 1169 209 0003 6 1169 210 0001 8 0002-1892-5 0002-3206-6 1970-218-0006-9 0000-0177-6 0002-4582-9 0000-0325-1 0000-7063-1 0000-0176-8 1840 102 0002 2 1840 102 0003 0 0000-3411-6 0000-1021-5 0000-1020-7 0000-0175-0 0000-0169-3 1970 218 0003 6 0000-0182-6 1629 464 0001 5 1629 464 0002 3 1840 102 0001 4 1840 102 0005 5 1970 218 0001 0 0000-1043-9 1840 102 0006 3 10 00 00 2872 25 10 00 14 0820 75 10 00 14 0821 74 10 00 14 0822 40 10 00 14 0823 31	\$1,024,000.00

Utility	Utility Contact Information	Account Numbers	Two Week Cost Estimate
		0000-0180-0 1131-399-0002-2 1131-399-0001-4 0000-0184-2 0000-1280-7 0001-2177-2 0000-0172-7 4623-583-0001-2 1131-400-0005-1 1131-400-0004-4 1131-400-0001-0 0000-0173-5 1131-446-0001-3 0000-0172-7	
Dominion Energy (East Ohio Gas)	Corporate PO Box 5759 Cleveland, OH 44101 Tel: 1-800-362-7557	50810	\$3,000.00
Duke Energy	Jessica Jackmen PO Box 9001076 Louisville, KY 40290 Tel: 800-774-1202 ext. 4927	8470-3046-01-0 1570-3046-01-8 2570-3046-01-3	\$677,000.00
First Energy	Bernard Nelson Payment Options – Toledo Edison Tel: 419-249-6081 Corporate Address 76 South Main Street Akron, OH 44308 Tel: 1-800-447-3333	31701667 110019278180 120000009593 11-00-35-4795-3-1 11-00-54-9799-5-7 11-00-18-1613-2-0 11-00-18-1609-4-2 11-00-17-6691-0-9 11-00-18-1645-7-1 11-00-17-7306-8-7 11-00-17-8208-4-3 11-00-17-8209-4-2 11-00-18-1657-1-9	\$170,000.00
Georgia Power	96 Annex Atlanta, GA 30396 Tel: 888-655-5888	74019-62004 19 01018-09027 07 73809-62006 08 90399-62009 08	\$13,000.00
Hess Corporation	1 Hess Plaza Woodbridge, NJ 07095 Tel: 732-750-6030		\$63,000.00

Utility	Utility Contact Information	Account Numbers	Two Week Cost Estimate
Indiana American Water	Joe Loughmiller External Affairs PO Box 94551 Palatine, IL 60094 Tel: 317-885-2434	10-0000014-9 10-0000015-6 10-0012718-1 10-0012719-9	\$8,000.00
Indianapolis Power & Light	PO Box 110 Indianapolis, IN 46206		\$1,486.00
Kenosha Water Utility	4401 Green Bay Road Kenosha, WI 53144 Tel: 262-653-4300	1 02700 0602 000/2700 1 05540 0241 000/5540 1 05600 0301 000/5600 1 00158 0281 999/028 1 25819 0562 999/2319 056 1 25818 0562 999/2303 056 1 25817 0562 999/2311 056 1 25782 0251 999/5513 025 2 25013 0301 999/5410 030 2 25738 0301 999/5555 030 4 05311 0301 901/5311 4 05312 0261 000/5312 4 05313 0301 901/5313 4 05316 0261 000/5316 4 05427 0301 901/5427 4 05555 0301 902/5555 4 05555 0301 901/5555 4 05703 0301 901/5703 4 05915 0301 901/5915 5 02701 0602 000/2701 5 05401 0301 000/5401 5 05501 0301 000/5501 5 05509 0301 000/5509 5 05506 0301 000/5509 5 05555 0301 000/5555	\$5,000.00
Kokomo Gas	PO Box 13007 Merrillville, IN 46411 Tel: 888-456-5427	491-736-009-6 272-736-001-9 089-636-008-7	\$204,000.00
Laclede Gas	David Simorka Missouri Natural Gas St. Louis, MO 63171 Tel: 314-342-0679	519793-002-0	\$34,000.00

Utility	Utility Contact Information	Account Numbers	Two Week Cost Estimate
Memphis Light, Gas and Water	PO Box 388 Memphis, TN 38145 Tel: 901-544-6549	00048-1810-1481-492 00048-1810-1545-715 00040-5365-1454-717 00040-5365-1359-243	\$11,000.00
Metropolitan St. Louis Sewer	Metropolitan St. Louis Sewer District 2350 Market Street St. Louis, MO 63103 Tel: 314-768-6260	425280-5 741013-7 0695211-3 441029-6	\$14,000.00
MichCon (Gas Only)	Thomas Longo DTE Energy PO Box 67-069A Detroit, MI 48267 Tel: 313-235-8994 Corporate Headquarters 2000 2 nd Avenue Detroit, MI 48226	CTC 22061-6 ODTC 22054-1 Plymouth Rd. 22052-5 Lynch Rd. 22051-7 Mack Eng. 22050-9 Trenton Eng. 22049-1 Jefferson North 22047-5 Conner Ave 18744-3 Chelsea Proving 18208-9	\$36,000.00
Milwaukee Water Works	PO Box 3268 Milwaukee, WI 53201 Tel: 444-286-2830		\$2,000.00
Missouri American Water	PO Box 94551 Palatine, IL 60094 Tel: 866-430-0820	35-0369605-0 35-0369606-8 35-0376495-7	\$14,000.00
Nicor Gas	Russell Bartmess Aurora, IL 60507 Tel: 630-983-8676	886763200009	\$13,000.00
Orange & Rockland	Spring Valley Operations Center 390 W. Route 59 Spring Valley, NY 10977 Tel: 877-434-4100	62619-58003 04680-15009 67187-33009	\$15,000.00
Orlando Utilities Commission	PO Box 4901 Orlando, FL 32802 Tel: 886-243-7083	2830010001	\$15,000.00

Utility	Utility Contact Information	Account Numbers	Two Week Cost Estimate
PG&E	PO Box 997300 Sacramento, CA 95899 Tel: 800-743-5000	6383470990-7	\$17,000.00
PGE	PO Box 4438 Portland, OR 97208 Tel: 800-542-8818	0008-19617-519499-1	\$3,000.00
SEMCO Energy Gas Co.	Jim Taylor Tel: 810-887-5004 PO Box 79001 Detroit, MI 48279	27636	\$500.00
Southern California Edison	PO Box 800 Rosemead, CA 91770 Tel: 800-655-4555	2-02-049-9265 3-000-1225-75	\$9,000.00
Sylvan Township	18027 Old US 12 Chelsea, MI 48118 Tel: 734-433-5470		\$750.00
Town of Mansfield -- Collect.	Six Park Row Mansfield, MA 02048 Tel: 508-261-7335	17460300	\$7,000.00
TXU Energy	PO Box 660161 Dallas, TX 75266 Tel: 877-213-1053	5651560890-1 665-4189-96-5	\$23,000.00
United Water Delaware	Customer Service Center PO Box 6508 Wilmington, DE 19804 PO Box 371804 Pittsburgh, PA 15250 Tel: 302-633-5900	02700999813730	\$3,000.00
Village of Dundee	350 W. Monroe St. Dundee MI 48131 Tel: 734-529-2090		\$1,000.00

Utility	Utility Contact Information	Account Numbers	Two Week Cost Estimate
WE Energies (Gas)	James Worth Corporate Office 231 W. Michigan St. Milwaukee, WI 53203 Tel: 414-221-3590	679-636-008-3	\$3,000.00
WE Energy - Wisconsin	Jim Worth Account Rep. 333 W. Everett Avenue Milwaukee, WI 53290 Tel: 414-221-3590	7875-821-816 3264-054-358 7867-674-170 8209-721-799	\$219,000.00
WPS-Integrays	Angie Morton PO Box 19046 Green Bay, WI 54307 Tel: 416-733-5864		\$985,000.00
XCEL Energy	PO Box 9477 Minneapolis, MN 55484 Tel: 800-895-4999	53-2354702-0 51-5112598-3	\$9,000.00

EXHIBIT B

Utility Payment Guarantee Schedule

Utility	Utility Contact Information	Manufacturing Plant	Two Week Cost Estimate
DTE Energy Center LLC	Thomas Longo DTE Energy PO Box 67-069A Detroit, MI 48267 Tel: 313-235-8994 Corporate Headquarters 2000 2nd Avenue Detroit, MI. 48226	1) Indiana Transmission Plant 1 (Kokomo) 2) Indiana Transmission Plant 2 (Kokomo) 3) Mack Avenue Engine Plant 1 4) Mack Avenue Engine Plant 2 5) Sterling Heights Assembly Plant 6) Sterling Heights Stamping Plant 7) Toledo North Assembly Plant 8) Warren Truck Assembly Plant	\$2.08 million

EXHIBIT C

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re : Chapter 11
Chrysler LLC, *et al.*, : Case No. 09-50002 (AJG)
Debtors. : (Jointly Administered)
-----X

**INTERIM AND PROPOSED FINAL ORDER, PURSUANT TO SECTION 366
OF THE BANKRUPTCY CODE: (A) PROHIBITING UTILITIES
FROM ALTERING, REFUSING OR DISCONTINUING SERVICES
TO, OR DISCRIMINATING AGAINST, THE DEBTORS ON ACCOUNT
OF PREPETITION INVOICES; (B) DETERMINING THAT
THE UTILITIES ARE ADEQUATELY ASSURED OF FUTURE PAYMENT;
(C) ESTABLISHING PROCEDURES FOR DETERMINING REQUESTS
FOR ADDITIONAL ASSURANCE; AND (D) PERMITTING UTILITY
COMPANIES TO OPT OUT OF THE PROCEDURES ESTABLISHED HEREIN**

This matter coming before the Court on the Motion of Debtors and Debtors in Possession, Pursuant to Section 366 of the Bankruptcy Code, for Interim and Final Orders: (A) Prohibiting Utilities from Altering, Refusing or Discontinuing Services to, or Discriminating Against, the Debtors on Account of Prepetition Invoices; (B) Determining that the Utilities are Adequately Assured of Future Payment; (C) Establishing Procedures for Determining Requests for Additional Assurance; and (D) Permitting Utility Companies to Opt Out of the Procedures Established Herein (the "Motion"),¹ filed by the debtors and debtors in possession in the above-captioned cases (collectively, the "Debtors"); the Court having reviewed the Motion and the Affidavit of Ronald E. Kolka filed in support of the Debtors' first day papers (the "Affidavit") and having considered the statements of counsel and the evidence adduced with respect to the

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

Motion at a hearing before the Court (the "Hearing"); the Court finding that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b) and (c) notice of the Motion and the Hearing was sufficient under the circumstances; and the Court having determined that the legal and factual bases set forth in the Motion and the Affidavit and at the Hearing establish just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. Subject to the procedures described 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 unpaid prepetition invoices or (b) require additional assurance of payment, other than the Proposed Adequate Assurance, as a condition to the Debtors receiving such utility services pending the entry of a Final Order or upon this order becoming a Final Order as set forth in paragraph 16 below.
3. The Debtors shall deposit, for the Utility Companies not subject to the Daimler Guarantee, \$5,991,487.00 into a newly created, segregated, interest bearing account (the "Adequate Assurance Deposit") within 20 days of the Petition Date as adequate assurance.
4. The Adequate Assurance Deposit, in conjunction with the Debtors' ability to pay for future utility services in the ordinary course of business (collectively, the "Proposed Adequate Assurance"), constitutes sufficient adequate assurance of future payment to the Utility Companies that are not subject to the Daimler Guarantee to satisfy the requirements of section 366 of the Bankruptcy Code.

5. The following Adequate Assurance Procedures are approved in all respects:²

- (a) Any Utility Company desiring assurance of future payment for utility service beyond the Proposed Adequate Assurance must serve a request (an "Additional Assurance Request") so that it is received by the Debtors by no later than 30 days after the Petition Date (the "Request Deadline") at the following addresses:
 - (i) Chrysler, LLC, Legal Department, 1000 Chrysler Drive, Auburn Hills, Michigan 48326-2766 (Attn: Thomas E. Gunton, Esq.);
 - (ii) Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114-1190 (Attn: Thomas A. Wilson, Esq.); and
 - (iii) Jones Day, 1420 Peachtree Street, N.E., Suite 800, Atlanta, Georgia 30309-3053 (Attn: Jeffrey B. Ellman, Esq.).
- (b) Any Additional Assurance Request must specify the amount and nature of assurance of payment that would be satisfactory to the Utility Company and (i) be made in writing, (ii) set forth the location(s) for which utility services are provided and the relevant account number(s), (iii) describe any deposits or other security currently held by the requesting Utility Company, (iv) explain whether the Debtors prepay for Utility Company's services; (v) describe any payment delinquency or irregularity by the Debtors for the postpetition period, if any; and (vi) explain why the requesting Utility Company believes the Proposed Adequate Assurance is not sufficient adequate assurance as future payment.
- (c) Upon the Debtors' receipt of an Additional Assurance Request at the addresses set forth above, the Debtors shall have the greater of (i) 20 days from the receipt of such Additional Assurance Request or (ii) 40 days from the Petition Date (collectively, the "Resolution Period") to negotiate with the requesting Utility Company to resolve its Additional Assurance Request. The Resolution Period may be extended by agreement of the Debtors and the applicable Utility Company without application to or approval of the Court.

² DTE is not subject to these procedures with respect to the utility services that are subject to the Daimler Guarantee.

- (d) The Debtors, in their discretion, may resolve any Additional Assurance Request by mutual agreement with the requesting Utility Company and without further order of the 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, other forms of security or any combination of the above, if the Debtors believe such additional assurance is reasonable. If the Debtors and requesting Utility Company resolve the Additional Assurance Request, the Debtors may, by mutual agreement with the requesting Utility Company and without further order of the Court, reduce the Adequate Assurance Deposit by an amount not exceeding the requesting Utility Company's estimated two-week utility expense listed on the Utility Service List.
- (e) If the Debtors determine that an Additional Assurance Request is not reasonable, and the parties are not able to resolve such request during the Resolution Period, during or immediately after the Resolution Period, the Debtors will request a hearing before the 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.
- (f) 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 or on account of any objections to the Proposed Adequate Assurance.
- (g) Other than through the Opt-Out Procedures (as such term is defined below), any Utility Company that does not comply with the Adequate Assurance Procedures is deemed to find the Proposed Adequate Assurance satisfactory to it and is prohibited from discontinuing, altering or refusing service on account of any unpaid prepetition charges, or requiring additional assurance of payment (other than the Proposed Adequate Assurance). The Interim Order shall be deemed the Final Order with respect to all Utility Companies that do not timely file and serve a Procedures Objection (as defined below).

6. The following Opt-Out Procedures are approved in all respects:³
- (a) A Utility Company that desires to opt-out of the Adequate Assurance Procedures must file an objection (a "Procedures Objection") with the Court and serve such Procedures Objection so that it is *actually received* within 11 days of entry of the Interim Order by the Debtors at the following addresses: (i) Chrysler, LLC, Legal Department, 1000 Chrysler Drive, Auburn Hills, Michigan 48326-2766 (Attn: Thomas E. Gunton, Esq.); (ii) Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114-1190 (Attn: Thomas A. Wilson, Esq.); and (iii) Jones Day, 1420 Peachtree Street, N.E., Suite 800, Atlanta, Georgia 30309-3053 (Attn: Jeffrey B. Ellman, Esq.).
 - (b) Any Procedures Objection must (i) be made in writing, (ii) set forth all location(s) for which utility services are provided and the relevant account number(s), (iii) describe any deposits or other security currently held by the objecting Utility Company, (iv) explain whether the Debtors prepay for the Utility Company's services or what payment terms presently apply to the Debtors, (v) explain why the objecting Utility Company believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment and (vi) identify and explain the basis of the Utility Company's proposed adequate assurance requirement under section 366(c)(2) of the Bankruptcy Code.
 - (c) The Debtors, in their discretion, may resolve any Procedures Objection by mutual agreement with the objecting Utility Company and without further order of the Court, and may, in connection with any such resolution and in their discretion, provide a Utility Company with assurance of future payment, including, but not limited to, cash deposits, prepayments or other forms of security, if the Debtors believe such assurance of payment is reasonable. If the Debtors and objecting Utility Company resolve the Procedures Objection, the Debtors may, by mutual agreement with the objecting Utility Company and without further order of the Court, reduce the Adequate Assurance Deposit by an amount not exceeding the objecting Utility Company's estimated two-week utility expense listed on the Utility Service List.
 - (d) If the Debtors determine that a Procedures Objection is not reasonable and are not able to reach a prompt alternative resolution with the objecting Utility Company, the Procedures Objection will be heard at the Final Hearing.

³ DTE is not subject to these procedures with respect to the utility services that are subject to the Daimler Guarantee.

- (e) Any Utility Company that does not timely file a Procedures Objection is deemed to consent to, and shall be bound by, the Adequate Assurance Procedures.

7. A Final Hearing to resolve any Procedures Objections shall be conducted on _____, 2009 at _____ .m., Eastern Time.

8. A 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 (i) an Additional Assurance Request or (ii) an alternative assurance of payment with the Utility Company during the Resolution Period; or (b) this Court enters an order at the Final Hearing, any Determination Hearing or omnibus hearing requiring that additional adequate assurance of payment be provided.⁴

9. For DTE, the Utility Company that is subject to the Daimler Guarantee, the guarantee itself, along with the Utility Security Interest, constitutes adequate assurance of future payment for utility services that it provides to the manufacturing facilities identified on Exhibit B of the Motion that is satisfactory to it within the meaning of section 366 of the Bankruptcy Code, unless and until this Court enters an order at the Final Hearing requiring that additional adequate assurance of payment be provided. If DTE disagrees that the Daimler Guarantee and Utility Security Interest constitutes adequate assurance within the meaning of section 366 of the Bankruptcy Code, DTE must file a written objection at least eight days prior to the Final Hearing (a "DTE Objection"), at which time this issue will be heard absent the agreement of the parties to adjourn such hearing to a later date. If, in the course of these cases, DCNAC is released of the Daimler Guarantee, the Debtors shall increase the Adequate Assurance Deposit by an amount equal to two weeks of the Debtors' estimated utility obligations

⁴ DTE is not subject to these procedures with respect to the utility services that are subject to the Daimler Guarantee.

to DTE for utility services to the manufacturing facilities listed on Exhibit B of the Motion, which amount may be modified pursuant to the Modified Adequate Assurance Procedures.

10. The Debtors are authorized, in their sole discretion, to amend the Utility Service List to add or delete any Utility Company, and this Order shall apply to any such Utility Company that is subsequently added to the Utility Service List (collectively, the "Additional Utility Companies"). Promptly upon their discovery of an Additional Utility Company, the Debtors shall increase the Adequate Assurance Deposit by an amount equal to approximately two weeks of the Debtors' estimated aggregate utility expense for each Additional Utility Company and will file with the Court a supplement to the Utility Service List incorporating this information. The Additional Utility Companies are subject to the terms of this Order, including the Adequate Assurance Procedures; provided, however, that (a) the Opt-Out Procedures shall apply only to the extent that a Procedures Objection made by an Additional Utility Company is filed with the Court and submitted to the Debtors and their counsel no later than 4:00 p.m. (New York time) on the date that is the earlier of (i) five business days before the Final Hearing or (ii) ten days after service of this Order on such Additional Utility Company and (b) the deadline for an Additional Utility Company to submit an Additional Assurance Request under the Adequate Assurance Procedures will be 25 days after the date that this Order is served upon such Additional Utility Company.

11. The following Modified Adequate Assurance Procedures are approved in all respects:⁵

⁵ DTE is not subject to these procedures with respect to the utility services that are subject to the Daimler Guarantee.

- (a) If the Debtors seek to modify the Adequate Assurance Deposit, the Debtors shall (i) file with the Court a supplement to the Utility Service List incorporating new two-week usage amounts reflecting the Modified Adequate Assurance Deposit (the "Modified Utility Service List") and (ii) provide notice of such Modified Utility Service List to those Utility Companies and Additional Utility Companies that will be impacted by the Modified Adequate Assurance Deposit (each, individually, a "Modified Deposit Utility Company").
- (b) Any Modified Deposit Utility Company that wishes to object to the Modified Adequate Assurance Deposit must file an objection with the Court (the "Modified Adequate Assurance Deposit Objection") and serve such Modified Adequate Assurance Deposit Objection so that it is *actually received* within 11 days after service of the Modified Utility Service List (the "Modified Request Deadline") at the following addresses: (i) Chrysler, LLC, Legal Department, 1000 Chrysler Drive, Auburn Hills, Michigan 48326-2766 (Attn: Thomas E. Gunton, Esq.); (ii) Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114-1190 (Attn: Thomas A. Wilson, Esq.); and (iii) Jones Day, 1420 Peachtree Street, N.E., Suite 800, Atlanta, Georgia 30309-3053 (Attn: Jeffrey B. Ellman, Esq.).
- (c) Any Modified Adequate Assurance Deposit Objection must (i) be made in writing, (ii) set forth all location(s) for which utility services are provided and the relevant account number(s), (iii) describe any deposits or other security currently held by the objecting Utility Company, (iv) explain whether the Debtors prepay for the Utility Company's services or what payment terms presently apply to the Debtors and (v) explain why the objecting Utility Company believes the Modified Adequate Assurance Deposit is not sufficient.

- (d) The Debtors, in their discretion, may resolve any Modified Adequate Assurance Deposit Objection by mutual agreement with the objecting Utility Company and without further order of the Court, and may, in connection with any such resolution and in their discretion, provide a Utility Company with assurance of future payment, including, but not limited to, cash deposits, prepayments or other forms of security, if the Debtors believe such assurance of payment is reasonable. If the Debtors and objecting Utility Company resolve the Modified Adequate Assurance Deposit Objection, the Debtors may, by mutual agreement with the objecting Utility Company and without further order of the Court, reduce the Modified Adequate Assurance Deposit by an amount not exceeding the requesting Utility Company's estimated two-week utility expense listed on the Modified Utility Service List.
- (e) If the Debtors determine that a Modified Adequate Assurance Deposit Objection is not reasonable and are not able to reach a prompt alternative resolution with the objecting Utility Company, the Modified Adequate Assurance Deposit Objection will be heard at the next regularly scheduled omnibus hearing in these cases that is at least five days after the Debtors file and serve a notice of hearing.
- (f) Any Utility Company that does not timely file a Modified Adequate Assurance Deposit Objection is deemed to consent to, and shall be bound by, the Modified Adequate Assurance Deposit.

12. No money may be withdrawn from the Adequate Assurance Deposit account except (a) in compliance with the Adequate Assurance Procedures, the Opt-Out Procedures or the Modified Adequate Assurance Procedures, (b) by mutual agreement of the Debtors and the applicable Utility Company or (c) by further order of the Court. In any event, if the Debtors fail to pay for postpetition utility services when due (including any applicable grace periods), a Utility Company may access only that portion of the Adequate Assurance Deposit that is allotted to it in the Utility Service List (as may be modified from time to time).

13. The Debtors shall administer the Adequate Assurance Deposit account in accordance with the terms of this Order.

14. Nothing herein constitutes 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.

15. The Debtors shall serve a copy of this Order on each Utility Company listed on the Utility Service List within two business days of the date this Order is entered. The Debtors also shall serve this Order on each Additional Utility Company subsequently added by the Debtors to the Utility Service List.

16. The terms and conditions of this Order shall be effective and enforceable immediately upon its entry. This Order shall be deemed to be the Final Order with respect to any Utility Company that does not file a timely Procedures Objection (or, with respect to DTE's services subject to the Daimler Guarantee, a timely DTE Objection) as described herein.

17. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: New York, New York
_____, 2009

UNITED STATES BANKRUPTCY JUDGE