

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

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**In re:**

**COMMERCECONNECT MEDIA HOLDINGS,  
INC., et al.,<sup>1</sup>**

**Debtors.**

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) **Chapter 11**  
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) **Case No. 09-**  
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) **Joint Administration Pending**  
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**MOTION OF DEBTORS FOR ENTRY OF AN ORDER DETERMINING ADEQUATE  
ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES**

The above-captioned debtors and debtors-in-possession (collectively, the “Debtors” or “Cygnus”) file this motion (the “Motion”) for entry of an interim order, substantially in the form attached hereto as **Exhibit A** (the “Interim Order”), prohibiting utility providers from altering or discontinuing service on account of prepetition invoices and establishing procedures for determining adequate assurance of payment for future utility services pending the entry of a final order, substantially in the form attached hereto as **Exhibit B**, granting the relief sought herein (the “Final Order”). In support of this Motion, the Debtors rely on the Affidavit of James Ogle, in Support of First Day Motions (the “Ogle Affidavit”) filed contemporaneously with this Motion, and respectfully state as follows:

**Jurisdiction**

1. On the date hereof (the “Petition Date”), the Debtors commenced their respective bankruptcy cases (the “Chapter 11 Cases”) by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”). No creditors’ committee has yet been appointed in the Chapter 11 Cases by the United States Trustee. The

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: CommerceConnect Media Holdings, Inc. (1749), Cygnus Business Media, Inc. (0832), Cygnus New Business Launches, Inc. (0713) and Cygnus Interactive New Business Launches, Inc. (1283). The address for each of the Debtors is: 1233 Janesville Avenue, Fort Atkinson, Wisconsin 53538.

Debtors are continuing in possession of their respective properties and are operating their respective businesses, as debtors-in-possession, pursuant to sections 1107 and 1108 of the Bankruptcy Code.

2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

3. The statutory predicates for the relief sought herein are section 366 of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”).

#### **Introduction**

4. As described in more detail below, the Chapter 11 Cases have been commenced to effectuate a negotiated out-of-court restructuring plan that has previously been agreed to by all but one of the Debtors’ senior secured lenders, all of the Debtors’ junior secured lenders, the holders of all of CommerceConnect Media Holdings, Inc.’s (“CCMH”) Series A Preferred Stock and the holders of a majority in interest of CCMH’s voting equity. The Debtors do not intend the Chapter 11 Cases to have any effect on the allowed claims of general unsecured creditors, but rather, to permit such claims to effectively “ride through” the Chapter 11 process and be paid in full without any impact by the bankruptcy on the relative rights, obligations and defenses of the parties. While the Debtors had hoped to avoid the cost of the Chapter 11 Cases by restructuring consensually out-of-court, one (1) hold out senior lender has refused to consent, apparently seeking to extract further value from the companies or its co-lenders. For this reason, the Debtors were forced to modify the consensual restructuring into a prepackaged plan of

reorganization (the “Plan”). Approximately 96% of the Debtors’ senior secured lenders and 100% of the Debtors’ junior secured lenders have voted in favor of the Plan, representing approximately \$200 million of the approximately \$206 million in secured debt owed to these institutional creditors. The Debtors have therefore commenced these Chapter 11 Cases to confirm the Plan, and will be seeking to do so expeditiously.

A. The Debtors’ Businesses.

5. Cygnus is a leading business-to-business (“B2B”) publisher and communications company, distributing content to diverse audiences in the construction, public safety, industrial and manufacturing, security, technology, transportation and aviation industries. Cygnus employs approximately 680 people, including 430 salaried and hourly employees and 250 independent contractors, all of whose livelihoods depend in some significant measure upon the successful continuation of the Debtors’ business enterprise. These employees and independent contractors are essential to the Debtors’ business operations and perform a variety of critical functions.

6. Several magazines published by Cygnus have been published for more than 40 years. Cygnus’ market-leading brands include *Qualified Remodeler*, *Firehouse*, *Equipment Today*, *Kitchen and Bath Design News*, and the *CPA Technology Advisor*. Cygnus’ breadth of content is internationally-recognized, reaching millions of business professionals who rely on Cygnus’ proprietary content to make critical business decisions. Cygnus reaches business professionals by utilizing three media platforms: publishing, interactive and expositions.

7. Publishing. Cygnus publishes 42 leading trade publications in 13 major markets, reaching over three million professionals, manufacturers and retail subscribers regularly. Cygnus’ publications are staffed with award-winning, industry-recognized writers and editors.

8. Interactive. With 38 website destinations, Cygnus' interactive division is a leading online provider of essential news, information, utilities and e-commerce services to 13 unique markets, providing industry news and information to over two million B2B professionals annually. Cygnus offers its interactive customers a full complement of updated industry news and award-winning editorial as well as video, webinars, online catalogs, e-newsletters and digital supplements and editions. In 2008, Cygnus interactive websites generated over 180 million page views with nearly two million unique visitors per month.

9. Expositions. Cygnus' exposition division is a leader in producing industry expositions, consistently providing solutions for doing business successfully. It produces approximately 32 trade shows and events annually, managing hundreds of thousands of square feet for thousands of exhibitors and tens of thousands of attendees each year. Additionally, Cygnus is at the forefront in producing electronic show dailies which include broadcast components, and Cygnus also produces custom programming from expo clients for use at trade shows.

B. Economic Performance and Other Challenges.

10. Cygnus' capital structure is highly leveraged, with approximately \$206 million in total funded debt (inclusive of accrued interest) as of June 30, 2009. Cygnus' funded debt consists primarily of (i) not less than \$173 million of senior, first lien debt under a credit agreement (the "Prepetition Credit Agreement") dated as of July 13, 2004, having General Electric Capital Corporation ("GECC") as agent; and (ii) approximately \$33 million of junior, second lien debt under a term loan dated as of July 13, 2004, having Barclays Bank PLC ("Barclays") as agent. In addition, Cygnus has issued approximately \$81 million of Series A Redeemable Preferred Stock (as of June 30, 2009, including accretion), approximately \$109,820

of Series B Preferred Stock (as of June 30, 2009), and approximately \$4,252 of Series C Preferred Stock (as of June 30, 2009).

11. Based on 2008 EBITDA of \$23 million, the total leverage ratio (secured debt) is approximately 8.9x and the aggregate leverage is 12.5x (including Series A but excluding Series B and Series C Preferred Stock).

12. Since the second quarter of 2008, Cygnus has been unable to meet its total leverage ratio covenants and has been in default under its financing agreements. The result of the covenant default was that lenders denied the company use of the \$13 million of availability under the Prepetition Credit Agreement, and Cygnus' liquidity has become constrained. Cygnus has been unable to make regular debt service payments to either the senior secured lenders or junior secured lenders, and has been operating under a nonbinding forbearance from the lenders. Further, as a result of these events, Cygnus' credit rating has been downgraded by Moody's and Standard & Poor's.

13. Additionally, Cygnus faces certain challenges that are not specific to it, but rather are being seen across the B2B industry. In addition to decreased advertising arising from the current economic climate, the B2B industry specifically has undergone a fundamental change driven by enhanced functionality of online advertising and tools causing traditional advertisers to reduce their allocation of resources to B2B publications and increase spending in their marketing budgets on their own websites.

14. Finally, Cygnus has been negatively affected by the overall shift away from print media. Although Cygnus has three media platforms, the majority of the business is devoted to and revenue is derived from print media. The management team continues to believe that in

order to be more successful, the Cygnus model needs to continue to shift toward interactive media and away from print, providing the most appropriate balance for Cygnus' advertisers.

C. Sale Efforts; Negotiations with Lenders.

15. More than three years ago, the Board of Directors of Cygnus engaged a well-known, leading investment bank to conduct a process to broadly market the company. This marketing process was unsuccessful in producing a credible bid that satisfied the Board of Directors. After a change in management teams and approximately twelve months later, the Board of Directors retained a nationally recognized boutique investment bank focused on media companies to again market the company through a solicitation process where numerous parties were contacted. During this period Cygnus undertook a considerable internal restructuring designed to address the business challenges facing all print media companies.

16. The second marketing process concluded with the leading party providing a bid that failed to satisfy the secured creditors of the company and would not provide a recovery for other constituents. As noted above, the sale processes occurred at a time when print media businesses were (and continue to be) in considerable upheaval, and when the economy as a whole has been subject to considerable decline.

17. Due to these disappointing marketing process results, Cygnus engaged Miller Buckfire & Co., LLC ("Miller Buckfire") to assist the company's efforts to address its liquidity constraints and its overleveraged balance sheet. Miller Buckfire is an investment banking firm with considerable expertise in distressed scenarios, including ones such as those faced by the company where the value of a company is less than its secured debt.

18. Miller Buckfire has performed a number of tasks simultaneously, including resoliciting the leading bidder noted above, soliciting interest from potential investors and

strategic partners and conducting negotiations with Cygnus' secured lenders and preferred equity holders regarding an internal restructuring of the company's balance sheet. There have been a number of sit down meetings with and/or management presentations to interested parties and extensive negotiations with the senior secured and junior secured lenders.

19. Unfortunately, the multiple sales processes did not produce a buyer who could or would purchase Cygnus for an amount necessary to satisfy even the company's senior secured debt. As a result, Miller Buckfire and Cygnus turned their attention to the various restructuring possibilities. After examining the options, including both a chapter 11 bankruptcy filing and an out-of-court restructuring, Miller Buckfire and Cygnus concluded that an out-of-court restructuring presented the most viable option for the Debtors, as it likely would have the least impact on the Debtors' going concern value, the lowest cost of implementation and potentially could be consummated more quickly than the other alternatives. These factors translated into the best potential return for the Debtors' stakeholders.

20. The result is that Miller Buckfire and Cygnus developed, along with GECC, the other senior lenders, Barclays, the holders of the Series A Preferred Stock and the holders of a majority in interest of the Debtors' voting equity, a proposed restructuring that would convert a large portion of the existing senior secured debt, and all of the existing junior secured debt, into equity and warrants, respectively (the "Out-of-Court Restructuring").

D. Need for Relief.

21. The Out-of-Court Restructuring was intensely negotiated over a series of months, among the Debtors, GECC, the other senior lenders, Barclays, the holders of the Series A Preferred Stock and the holders of a majority in interest of the Debtors' voting equity. Throughout the process, each of GECC and Barclays has been in nearly constant contact with the

registered holders of the senior secured debt and junior secured debt. Information and documentation has been made available in real time to all senior lenders, including, in the case of the senior secured lenders, through an on-line document database (*Intralinks*).

22. Until the week of July 13, 2009, the Out-of-Court Restructuring had been proceeding apace. As early as Monday of that week, all of the parties were hopeful that the Out-of-Court Restructuring would close on July 16, 2009, and in fact, the professionals had already begun to collect the signatures of the parties to the Out-of-Court Restructuring agreements when an unexpected obstacle arose.

23. On July 14, 2009, the Debtors were informed by GECC that one of the 21 holders of the not less than \$173 million of senior, first lien debt, may refuse to consent to the Out-of-Court Restructuring. That holder, Genesis CLO 2007-2 Ltd. ("Leichtman Fund"), a fund managed by Levine Leichtman Capital Partners ("Levine Leichtman"), holds approximately \$6.4 million of the not less than \$173 million of senior, first lien debt, which is less than 4% of the dollar amount of the claims in that class. Nonetheless, on an out-of-court basis, the Prepetition Credit Agreement requires unanimous consent of the holders to effectuate the transactions required. See Prepetition Credit Agreement, § 11.2(c).

24. Since that time, each of the Debtors, GECC and Barclays, and their respective professionals, have attempted to obtain Levine Leichtman's consent – with no success. Levine Leichtman's refusal to consent has therefore made an out-of-court solution impossible. Given the foregoing factors, the Debtors have determined that a chapter 11 prepackaged plan affords them the best option to preserve and realize upon the value of the companies and is the only remaining option to implement the agreed upon restructuring.

25. In consultation with their professionals, and after careful examination, the Debtors' Boards of Directors, the Debtors, GECC and Barclays have determined that chapter 11, combined with the prepackaged Plan, is the best and most efficient way to maximize a return for the Debtors, their estates, and all parties-in-interest. Additionally, the Debtors have entered into a cash collateral agreement with GECC which, subject to Bankruptcy Court approval, allows the Debtors' the use of cash collateral to ensure that the Debtors will have sufficient liquidity to complete the Chapter 11 process and effectuate the Plan.

26. Consistent with the terms of the Out-of-Court Restructuring previously agreed to by the Debtors, all but one of the holders of the senior, first lien debt and all of the holders of the junior, second lien debt, the Plan seeks to impair only the not less than \$173 million of senior, first lien debt under a Prepetition Credit Agreement (Class 3), the approximately \$33 million of junior, second lien debt (Class 4), any intercompany obligations (Class 6) and the existing equity interests in the Debtors (Class 7 and 8). Holders of other secured claims and general unsecured claims will have their allowed claims reinstated, or, at the option of the Debtor, paid in full. The result is that the Plan provides for no impairment of virtually all the going-concern obligations of the Debtors, as well as the conversion of a large portion of the existing senior secured debt, and all of the existing junior secured debt, to equity and warrants, respectively. The conversion of debt to equity results in a greatly reduced debt service and a largely deleveraged balance sheet.

27. On July 27, 2009, the Debtors solicited votes for or against the Plan from Class 3 and 4, the only Classes entitled to vote under the Plan. As noted above and contained in the voting affidavit of Garden City Group<sup>2</sup> filed contemporaneously herewith, approximately 95% in number and approximately 96% in dollar amount of Class 3 creditors (all but the Leichtman

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<sup>2</sup> The Garden City Group is the Debtors' proposed Claims, Noticing and Balloting Agent.

Fund) have accepted the Plan and 100% in number and dollar amount of Class 4 creditors have voted to accept the Plan. Class 7 and Class 8 creditors were not solicited as they are receiving no distributions on account of their claims/interests and are deemed to have rejected the Plan.

28. The existence of a Plan that has been overwhelmingly approved by the voting Classes, as well as the cash collateral agreement between GECC and the Debtors, will allow the Debtors to transition through bankruptcy as smoothly and as quickly as possible. The Debtors' publications, interactive web site and expositions should be virtually unaffected. Further, out of an abundance of caution, the Debtors seek approval as part of their "first day motions" relief which will allow the Debtors' obligations to employees and critical vendors to be honored in the ordinary course of business until such time as the Plan is confirmed and the obligations reinstated.

29. The Chapter 11 Cases have therefore been instituted to enable the Debtors to effectively take these steps and otherwise maximize the value of their assets.

#### **Relief Requested**

30. By this Motion, the Debtors seek entry of the Interim Order: (a) determining that the utility providers (as such term is defined in the Bankruptcy Code) (the "Utility Providers") have been provided with adequate assurance of payment within the meaning of section 366 of the Bankruptcy Code pending the entry of the Final Order; (b) approving the Debtors' proposed procedures whereby Utility Providers may request additional or different adequate assurance; (c) prohibiting the Utility Providers from altering, refusing or discontinuing services on account of prepetition amounts outstanding and on account of any perceived inadequacy of the Debtors' proposed adequate assurance, pending entry of a Final Order; (d) determining that the Debtors are not required to provide any additional adequate assurance, beyond what is proposed by this

Motion, pending entry of a Final Order; and (e) if any objections are received with respect to this Motion, scheduling a final hearing (the “Final Hearing”) on the Motion to consider the relief requested herein on a final basis.

### **Basis for Relief**

#### A. The Utility Providers.

31. As set forth in the Ogle Affidavit, in the ordinary course of their business, the Debtors incur utility expenses for water, sewer service, electricity, natural gas, telephone service, internet service and other services. Approximately 39 Utility Providers provide these services through approximately 44 accounts. The Utility Providers are listed on Exhibit 1 to the Proposed Order and incorporated by reference herein (the “Utility Service List”).<sup>3</sup> The Utility Providers do not include parties that are obligated to provide services to the Debtors pursuant to the terms of a contract.

32. On average, the Debtors spend approximately \$97,058 each month on utility costs. As of the Petition Date, approximately \$87,133.81 in utility costs were outstanding, of which \$0 is past due.

33. Uninterrupted utility services are essential to the Debtors’ ongoing operations and, therefore, to the success of these Chapter 11 Cases. Simply put, without utility services, the Debtors’ operations will shut down.

#### B. Proposed Adequate Assurance.

34. Based upon cash flow from operations, the Debtors expect to have ample liquidity to timely pay all postpetition obligations owed to their Utility Providers.

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<sup>3</sup> Although the Debtors believe that the Utility Service List includes all of their Utility Providers, the Debtors reserve the right, without the need for further order of the Court, to supplement the Utility Service List if any Utility Provider has been inadvertently omitted. Additionally, the listing of an entity on the Utility Service List is not an admission that such entity is a utility within the meaning of section 366 of the Bankruptcy Code, and the Debtors reserve the right to contest any such characterization in the future.

35. Nevertheless, to provide assurance of payment for future services to the Utility Providers as required by section 366 of the Bankruptcy Code, the Debtors will deposit \$48,529 (the "Utility Deposit") into a segregated account (the "Utility Deposit Account") within 20 days of the Petition Date (the "Proposed Adequate Assurance"). This amount represents a sum equal to 50% of the Debtors' estimated aggregate monthly cost of utility service supplied by the Utility Providers. The Debtors submit that the Proposed Adequate Assurance provides protection well in excess of that required to grant sufficient adequate assurance to the Utility Providers.

36. Notwithstanding the Proposed Adequate Assurance, if a Utility Provider is not satisfied that the establishment of the Utility Deposit Account provides adequate assurance of future payment, the Debtors propose the following procedures (the "Procedures") under which the Utility Provider may make additional requests for adequate assurance:

- a. If a Utility Provider is not satisfied with the assurance of future payment provided by the Debtors, the Utility Provider must serve a written request setting forth the location(s) at which the given utility services are provided, the account number(s) for such location(s), the outstanding balance for each account and a summary of the Debtors' payment history in each account (each, a "Request").
- b. The Request must be served upon the Debtors at the following addresses: (i) CommerceConnect Media Holdings, Inc., 1233 Janesville Avenue, Fort Atkinson, WI 53538, Attn.: Charles Carnaval and James Ogle; (ii) Curtis, Mallet-Prevost, Colt & Mosle LLP, 101 Park Avenue, New York, New York 10178, Attn.: Steven J. Reisman, Esq. and Timothy A. Barnes, Esq.; and (iii) Richards, Layton & Finger, P.A., One Rodney Square, P.O. Box 551, Wilmington, Delaware 19899, Attn.: Mark D. Collins, Esq. and John H. Knight, Esq. (the "Notice Parties").
- c. Without further order of the Court, the Debtors may enter into agreements granting additional adequate assurance to a Utility Provider serving a Request if the Debtors in their discretion determine that the Request is reasonable or if the parties negotiate alternate consensual provisions.
- d. If the Debtors believe that a Request is unreasonable, the Debtors shall file a motion pursuant to section 366(c) of the Bankruptcy Code (a "Determination Motion") within 30 days after the Request is actually received by the Debtors. The Determination Motion shall seek a determination from the Court that the Utility Deposit Account, plus any additional consideration offered by the Debtors,

constitutes adequate assurance of payment. Pending notice and a hearing of the Determination Motion, the Utility Provider that is the subject of the Determination Motion may not alter, refuse or discontinue services to the Debtors or recover or set off against a prepetition deposit.

- e. Any Utility Provider that fails to make a Request shall be deemed to be satisfied that the Debtors' Adequate Assurance provides adequate assurance of payment to such Utility Provider within the meaning of section 366 of the Bankruptcy Code, and shall further be deemed to have waived any right to seek additional adequate assurance during the course of these Chapter 11 Cases.

37. To the extent the Debtors subsequently identify additional providers of utilities, the Debtors seek authority, in their sole discretion, to amend the Utility Service List to add or remove any Utility Provider. The Debtors will serve a copy of this Motion, along with the applicable portion of the amended Utility Service List and any order entered in connection with this Motion to those Utility Providers that are subsequently added to the Utility Service List.

38. The Debtors further request that all Utility Providers, including subsequently added Utility Providers, be prohibited from altering, refusing or discontinuing utility services to the Debtors absent further order of the Court.

39. The Debtors further request that the Court make the Interim Order and Final Order binding on all Utility Providers, regardless of when each Utility Provider was added to the Utility Service List, provided that any such newly identified Utility Provider shall have until the later of (i) fourteen (14) days from the date of such service or (ii) thirty (30) days from the date of the Interim Order to serve a Request in compliance with the proposed Procedures; any such Request must actually be received by the Notice Parties within this timeframe. The Debtors shall have the periods specified in the proposed Procedures to seek to resolve any such Request by mutual agreement with the Utility Provider without further order of the Court or to file a Determination Motion with the Court to determine the adequacy of assurance of payment with respect to such Utility Provider in accordance with such Procedures.

C. Objections to Procedures.

40. Historically, chapter 11 debtors were able, under section 366 of the Bankruptcy Code, to put the onus on utility providers to argue that whatever form of adequate assurance proposed by the debtors was insufficient. Pursuant to the 2005 amendments to section 366 of the Bankruptcy Code, the burden is arguably shifted to the debtor to both provide adequate assurance that the utility providers find satisfactory and seek court review if a utility provider does not accept the proposed adequate assurance. However, this interpretation, if taken to the extreme could be crippling for a debtor. For example a utility company, on the 29<sup>th</sup> day following the Petition Date, could announce that the proposed adequate assurance is not acceptable, demand an unreasonably large deposit alleging risk from the Debtors, and threaten to terminate utility service the next day unless the Debtors complied with the demand. This would be an untenable result, leaving the Debtors with effectively no ability to seek review. Consequently, the Debtors believe it is prudent to require Utility Providers to raise any objections to the Procedures so that such Procedure Objection may be heard by the Court prior to the running of the thirty (30) day period following the Petition Date. Therefore the Debtors propose that any Utility Provider who objects to the Procedures described above must file a written objection (a "Procedures Objection") and serve such objection on the Notice Parties, so that it is actually received by the date that is earlier of (i) fifteen days after the entry of the Interim Order; or (ii) five business days before the Final Hearing.

41. In order to resolve any Procedures Objection within thirty days following the Petition Date, the Debtors request that the Court schedule a Final Hearing on any unresolved Procedures Objections approximately thirty days after the Petition Date.

D. Payment of Prepetition Utilities Is Authorized by Section 366.

42. Section 366(c)(2) of the Bankruptcy Code provides that a Utility Provider may discontinue its services to a debtor if the debtor has not furnished adequate assurance of payment within 30 days after the petition date. Congress enacted section 366 to protect debtors from utility service cutoffs upon a bankruptcy filing while providing utility companies with adequate assurance that the debtors will pay for postpetition services. See H.R. REP. No. 95-595, at 350 (1978), reprinted in 1978 U.S.C.C.A.N. 5963, 6306. Accordingly, section 366 protects debtors by prohibiting utilities from altering, refusing or discontinuing services to a debtor solely on account of unpaid prepetition amounts for a period of 30 days after a chapter 11 filing. At the same time, it protects utilities by permitting them to alter, refuse or discontinue service after 30 days if the debtor has not furnished “adequate assurance” of payment in a form “satisfactory” to the utility.

43. Section 366(c) also restricts the factors that a court may consider when determining whether an adequate assurance payment is, in fact, adequate. Specifically, courts may no longer consider (a) the absence of a security deposit before a debtor’s petition date, (b) a debtor’s history of timely payments, or (c) the availability of an administrative expense priority when determining the amount of a deposit. Notwithstanding these noteworthy changes, Congress did not abrogate the bankruptcy court’s right to determine the amount of adequate assurance necessary or change the fundamental requirement that assurance of payment must simply be “adequate.”

44. While section 366(c) limits the factors a court can consider when determining whether a debtor has provided adequate assurance of payment, it does not limit the court’s ability to determine the amount of payment necessary, if any, to provide such adequate assurance.

Instead, section 366(c) gives courts the same discretion in determining the amount of payment necessary for adequate assurance that they previously had under section 366(b). Compare 11 U.S.C. § 366(b) (2005) (“On request of a party in interest and after notice and a hearing, the court may order reasonable modification of the amount of the deposit or other security necessary to provide adequate assurance of payment.”) with 11 U.S.C. § 366(c)(3)(A) (2005) (“On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance payment under paragraph (2).”).

45. In addition, it is well established that section 366(b) permits a court to find that no payment at all is necessary to provide a utility with adequate assurance of payment. 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, . . . 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.’”). This principle may be applicable in cases where the debtor has made prepetition deposits or prepayments for services that utilities will ultimately render postpetition. See 11 U.S.C. § 366(c)(1)(A)(v) (recognizing a prepayment for postpetition services as adequate assurance). Accordingly, even after the 2005 amendments to section 366, courts continue to have discretion to determine the amount of adequate assurance payments and, where appropriate, to determine that no such payment is necessary.

46. Further, section 366(c), like section 366(b), requires only that a utility’s assurance of payment be “adequate.” Courts recognize that adequate assurance of performance does not constitute an absolute guarantee of a debtor’s ability to pay. See, e.g., In re Steinebach, 303 B.R. 634, 641 (Bankr. D. Ariz. 2004) (“Adequate assurance of payment is not, however, absolute

assurance ... a Bankruptcy Court is not required to give a utility provider the equivalent of a guarantee of payment, but must only determine that the utility is not subject to any unreasonable risk of non-payment for postpetition services.”) (citing In re Adelpia Bus. Solutions, Inc., 280 B.R. 63, 80 (Bankr. S.D.N.Y. 2002); see also In re Caldor, Inc.-N.Y., 199 B.R. 1, 3 (Bankr. S.D.N.Y. 1996) (section 366(b) “does not require an ‘absolute guarantee of payment’”), aff’d sub nom. Virginia Elec. & Power Co. v. Caldor, Inc.-N.Y., 117 F.3d 646 (2d Cir. 1997). Courts also have recognized that, in determining the requisite level of adequate assurance, bankruptcy courts should “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.” Virginia Elec. & Power Co., 117 F.3d at 650 (emphasis in original); see also In re Penn. Cent. Transp. Co., 467 F.2d 100, 103-04 (3d Cir. 1972) (affirming bankruptcy court’s ruling that no utility deposits were necessary where such deposits would likely “jeopardize the continuing operation of the [debtor] merely to give further security to suppliers who already are reasonably protected”). Accordingly, demands by a utility for a guarantee of payment should be refused when the debtor’s specific circumstances already afford adequate assurance of payment.

47. The Debtors submit that the Utility Deposit Account provides more than adequate assurance of future payment. The Debtors anticipate having sufficient resources to pay, and intend to pay, all valid postpetition obligations for utility services in a timely manner, especially considering the aggregate amount of the Debtors’ utility obligations is not overwhelming. In addition, the Debtors have a powerful incentive to stay current on their utility obligations because of their reliance on utility services for the operation of their business. These factors, which the Court may and should consider when determining the amount of any adequate

assurance payments, justify a finding that the Debtors' Proposed Adequate Assurance is more than sufficient to assure the Utility Providers of future payment.

48. The Court has granted similar relief to that requested herein in a number of cases in this District. See, e.g., In re The Fairchild Corporation, No. 09-10899 (CSS) (Bankr. D. Del. Mar. 20, 2009) (deeming utilities adequately assured where the debtors established segregated account containing an amount equal to 50% of the debtors' estimated monthly cost of utility service); In re Buffets Holdings, Inc., No. 08-10141 (MFW) (Bankr. D. Del. Jan. 23, 2008) (interim order deeming utilities adequately assured where debtors established a segregated account containing a sum equal to 50% of the debtor's estimated monthly cost of utility services); In re American Home Mortgage Holdings, Inc., No. 07-11047 (CSS) (Bankr. D. Del. Sept. 4, 2007) (deeming utilities adequately assured where the debtors established segregated account containing an amount equal to 50% of the debtors' estimated monthly cost of utility service); In re Global Home Products LLC, No. 06-10340 (KG) (Bankr. D. Del. May 5, 2006) (same); In re New Century TRS Holdings, Inc., No. 07-10416 (KJC) (Bankr. D. Del. Apr. 25, 2007) (deeming utilities adequately assured where debtor provided two weeks deposit for utilities); In re Pliant, No. 06-10001 (MFW) (Bankr. D. Del. Feb. 8, 2006); In re Nobex Corp., No. 05-20050 (MFW) (Bankr. D. Del. Dec. 22, 2005); In re FLYi, Inc., No. 05-20011 (MFW) (Bankr. D. Del. Dec. 5, 2005).

49. Moreover, if a Utility Provider disagrees with the Debtors' analysis, the Procedures will enable the parties to negotiate and, if necessary, seek Court intervention without jeopardizing the Debtors' continuing operations. If a Utility Provider fails to file a Request, however, such Utility Provider should be deemed to consent to the Procedures and should be bound by the order granting the relief requested herein. See In re Syroco, Inc., No. 07-

040912007, 2007 WL 2404295, at \*2 (Bankr. P.R. Aug. 22, 2007) (a utility provider's lack of objection, response or counter-demand after receiving notice of hearing on utilities motion, notice of interim order and notice of final hearing constitutes tacit acceptance of the debtor's proposed two week cash deposit as adequate assurance of payment as such term is used in section 366 of the Bankruptcy Code).

50. The proposed Procedures are necessary in these Chapter 11 Cases. If they are not approved, the Debtors could be forced to address numerous requests by their Utility Providers in a disorganized manner during the critical first weeks of the cases. Moreover, the Debtors could be blindsided by a Utility Provider unilaterally deciding on or after the 30th day following the Petition Date that it is not adequately protected and discontinuing service or making an exorbitant demand for payment to continue service. Discontinuation of utility service could essentially shut down operations, and any significant disruption of operations could put these Chapter 11 Cases in jeopardy.

51. Based on the foregoing, the Debtors submit that the relief requested herein is necessary and appropriate, is in the best interest of their estates and creditors, and should be granted in all respects.

52. The Debtors further submit that because the relief requested in this Motion is necessary to avoid immediate and irreparable harm to the Debtors for the reasons set forth herein, Bankruptcy Rule 6003 has been satisfied.

E. Request for Waiver of Stay.

53. The Debtors further seek a waiver of any stay of the effectiveness of the order approving this Motion. Pursuant to Rule 6004(h) of the Bankruptcy Rules, "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the

expiration of ten (10) days after entry of the order, unless the court orders otherwise.” As set forth above, the adequate assurance proposed herein is essential to prevent potentially irreparable damage to the Debtors’ operations, value and ability to reorganize. Accordingly, the Debtors submit that ample cause exists to justify a waiver of the ten (10) day stay imposed by Bankruptcy Rule 6004(h), to the extent it applies.

F. Debtors’ Reservation of Rights.

54. Nothing contained herein is intended to or should be construed as an admission of the validity of any claim against the Debtors, a waiver of the Debtors’ rights to dispute any claim, or an approval or assumption of any agreement, contract or lease under section 365 of the Bankruptcy Code. The Debtors expressly reserve their rights to contest any invoice of a Utility Provider under applicable non-bankruptcy law. Likewise, if this Court grants the relief sought herein, any payment made pursuant to the Court’s order is not intended to and should not be construed as an admission of the validity of any claim or a waiver of the Debtors’ rights to dispute such claim subsequently.

**Notice**

55. The Debtors shall provide notice of this Motion by facsimile and/or overnight mail to: (i) the Office of the United States Trustee for the District of Delaware; (ii) the Debtors’ largest unsecured creditors on a consolidated basis, as identified in their chapter 11 petitions; (iii) counsel to the Debtors’ prepetition secured lenders; (iv) the Department of Justice; (v) the Internal Revenue Service; and (vi) the Utility Providers. As this Motion is seeking first-day relief, notice of this Motion and any order entered hereon will be served on all parties required by Del. Bankr. L.R. 9013-1(m). Due to the urgency of the circumstances surrounding this

Motion and the nature of the relief requested herein, the Debtors respectfully submit that no further notice of this Motion is required.

**No Prior Request**

56. No prior motion for the relief requested herein has been made to this or any other court.

**Conclusion**

WHEREFORE, for the reasons set forth herein and in the Ogle Affidavit, the Debtors respectfully request that the Court enter an order, substantially in the form attached hereto as **Exhibit A**, (a) determining that the Utility Deposit Account provides the Utility Providers with adequate assurance of payment within the meaning of section 366 of the Bankruptcy Code, (b) approving the proposed Procedures, (c) prohibiting the Utility Providers from altering, refusing or discontinuing services on account of prepetition amounts outstanding or any perceived inadequacy of the Proposed Adequate Assurance, (d) determining that the Debtors are not required to provide any additional adequate assurance, beyond what is proposed by this Motion, (e) if necessary, scheduling a final hearing and (f) granting such other and further relief as is just and proper.

Dated: August 3, 2009  
Wilmington, Delaware

Respectfully submitted,



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Mark D. Collins (Bar No. 2981)  
John H. Knight (Bar No. 3848)  
Lee E. Kaufman (Bar No. 4877)  
One Rodney Square  
920 North King Street  
Wilmington, Delaware 19801  
Telephone: (302) 651-7700  
Facsimile: (302) 651-7701

- and -

CURTIS, MALLET-PREVOST,  
COLT & MOSLE LLP  
Steven J. Reisman (SR-4906)  
Timothy A. Barnes (TB-0409)  
Jerrold L. Bregman (JB-0784)  
101 Park Avenue  
New York, New York 10178-0061  
Telephone: (212) 696-6000  
Facsimile: (212) 697-1559

*Proposed Co-Counsel for the  
Debtors and Debtors-in-Possession*

**EXHIBIT A**

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

In re:	)	
	)	Chapter 11
COMMERCECONNECT MEDIA HOLDINGS, INC., <u>et al.</u> , <sup>1</sup>	)	Case No. 09-
	)	
Debtors.	)	Jointly Administered
	)	Re: Docket No. ____

**INTERIM ORDER DETERMINING ADEQUATE ASSURANCE OF  
PAYMENT FOR FUTURE UTILITY SERVICES**

Upon the motion (the "Motion")<sup>2</sup> of the above-captioned debtors and debtors-in-possession (collectively, the "Debtors") for entry of an interim order (this "Order") determining adequate assurance of payment for future utility services; and upon the Affidavit of James Ogle in Support of First Day Motions; and it appearing that the relief requested is in the best interests of the Debtors' estates, their creditors and other parties in interest; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it appearing that venue of this proceeding and this Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and due and proper notice of this Motion having been provided; and it appearing that no other or further notice need be provided; and after due deliberation and sufficient cause appearing therefor;

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: CommerceConnect Media Holdings, Inc. (1749), Cygnus Business Media, Inc. (0832), Cygnus New Business Launches, Inc. (0713) and Cygnus Interactive New Business Launches, Inc. (1283). The address for each of the Debtors is: 1233 Janesville Avenue, Fort Atkinson, Wisconsin 53538.

<sup>2</sup> Unless stated otherwise, all capitalized terms not defined herein shall have the same meanings as set forth in the Motion.

IT IS HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis as set forth herein.
2. Except in accordance with the procedures set forth below, and until such time as the Final Order is entered by this Court, the Debtors' utilities (as such term is used in section 366 of the Bankruptcy Code, collectively, the "Utility Providers") are prohibited from (a) altering, refusing, or discontinuing service to, or discriminating against the Debtors solely on the basis of the commencement of these cases or on account of any unpaid invoice for services provided before the date of commencement of these cases and (b) requiring the payment of a deposit or other security in connection with the Utility Providers' continued provision to the Debtors of utility services, including the furnishing of gas, heat, electricity, water, telephone service or any other utility of like kind.
3. Until the entry of a subsequent order of this Court, the Debtor is authorized, but not directed, to pay on a timely basis in accordance with its prepetition practices all undisputed invoices in respect of postpetition utility services rendered by the Utility Providers to the Debtors.
4. The Debtors shall serve this Interim Order upon each of the Utility Providers listed on Exhibit 1 attached hereto and all other parties required to receive service under Local Rule 2002-1(b), at the addresses listed thereon, by first-class mail, postage prepaid, within one (1) business day after the date of entry of this Interim Order.
5. The Debtors shall, on or before 20 days after Petition Date, deposit the Utility Deposit into the Utility Deposit Account, with such Utility Deposit to be held in escrow, pending further order of the Court, for the purpose of providing each Utility Provider adequate assurance of payment of its postpetition utility services to the Debtors.

6. If a Utility Provider is not satisfied with the assurance of payment provided under this Order, the Utility Provider must serve a written request (each, a “Request”) for additional assurance of payment, which Request must be served upon the Debtors at the following addresses: (a) Cygnus Business Media, Inc., 1233 Janesville Avenue, Fort Atkinson, WI 53538, Attn.: Charles Carnaval and James Ogle; (b) Curtis, Mallet-Prevost, Colt & Mosle LLP, 101 Park Avenue, New York, New York 10178, Attn.: Steven J. Reisman, Esq. and Timothy A. Barnes, Esq.; and (c) Richards, Layton & Finger, P.A., One Rodney Square, P.O. Box 551, Wilmington, Delaware 19899, Attn.: Mark D. Collins, Esq. and John H. Knight, Esq.

7. Without further order of the Court, the Debtors may enter into agreements granting additional adequate assurance to a Utility Provider serving a Request, if the Debtors in their discretion determine that the Request is reasonable or if the parties negotiate alternate consensual provisions.

8. If the Debtors believe that a Request is unreasonable, the Debtors shall file a motion pursuant to section 366(c) of the Bankruptcy Code (each, a “Determination Motion”) within 30 days after the Request seeking a determination from the Court that the Utility Deposit Account constitutes adequate assurance of payment. The Determination Motion shall seek a determination from the Court that the Utility Deposit Account, plus any additional consideration offered by the Debtors, constitutes adequate assurance of payment. Pending notice and a hearing on the Determination Motion, the Utility Provider that is the subject of the Request may not alter, refuse or discontinue services to the Debtors nor recover or set off against a prepetition deposit.

9. Any Utility Provider that fails to make a Request shall be deemed to be satisfied that the Utility Deposit Account provides adequate assurance of payment to such Utility Provider within the meaning of section 366 of the Bankruptcy Code, and shall further be deemed to have

waived any right to seek additional adequate assurance during the course of these Chapter 11 Cases.

10. The Debtors may supplement the list of Utility Providers on Exhibit 1 at any time. Any Utility Provider included on a supplemental exhibit shall be served with notice and a copy of this Order within five (5) business days after the supplemental exhibit is filed with the Court.

11. The Interim Order and Final Order (when and if entered) shall be binding on all Utility Providers providing Utility Services to the Debtors, regardless of when each Utility Provider was added to the Utility Service List, provided that such newly identified Utility Provider shall have until the later of (i) fourteen (14) days of such service or (ii) thirty (30) days from the entry of the Interim Order to serve a Request.

12. Any Utility Provider that does not file a timely Request and/or does not timely file a Procedures Objection (defined below) shall be deemed to have adequate assurance that is satisfactory to it, within the meaning of section 366 of the Bankruptcy Code.

13. Any objections or responses (each, a "Procedures Objection") to the Motion and the Procedures shall be filed and served upon the Notice Parties and those parties as required by Local Rule 9006-1(c)(ii), so that it is actually received by the date that is the earlier of (i) fifteen (15) days after the entry of this Interim Order; or (ii) five (5) business days before the Final Hearing.

14. A final hearing on the Motion, if necessary, shall take place before The Honorable \_\_\_\_\_ at the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, \_\_\_\_\_ Floor, Courtroom \_\_\_\_\_, Wilmington, Delaware 19801 on the date set by this Court for the Plan confirmation hearing (the "Final Hearing Date").

15. If no Procedures Objections are timely filed, served and received in accordance with this Interim Order, the Court may enter the Final Order without further notice or hearing.

16. Nothing in this Interim Order or the Motion shall be deemed to vacate or modify any other restrictions on the termination of service by a Utility Provider as provided by sections 362 and 366 of the Bankruptcy Code or other applicable law and nothing herein or in the Motion shall constitute postpetition assumption or adoption of any agreement pursuant to section 365 of the Bankruptcy Code nor shall anything herein be deemed a waiver by the Debtors or any other party of any right with respect to the assumption or rejection of an executory contract.

17. Nothing in the Motion or this Order, nor as a result of the Debtors' payment of claims pursuant to this Order, shall be deemed or construed as: (a) an admission as to the validity or priority of any claim against the Debtors; (b) a waiver of the Debtors' rights to dispute any claim; or (c) an approval or assumption of any agreement, contract or lease pursuant to section 365 of the Bankruptcy Code.

18. Bankruptcy Rule 6003(b) has been satisfied because the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors.

19. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062 or 9014, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

20. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

21. To the extent that this Order is inconsistent with any prior in these cases, the terms of this Order shall govern.

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

Dated: \_\_\_\_\_, 2009  
Wilmington, Delaware

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UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT 1**

**List of Utility Providers**

<b>Vendor Name</b>	<b>Type of Service</b>	<b>Site Used</b>	<b>Account Number</b>	<b>Address</b>
<b>Abendroth Water Cond Inc</b>	Water	Wisconsin	9969	P.O. Box 106, Fort Atkinson, WI 53538
<b>Info USA</b>	Internet Exposure Website hosting	Minnesota	1261-2167	Major Accts Div. P.O. Box 3603, Omaha, NE 68103
<b>AT&amp;T / SBC</b>	Telephone / Internet	Wisconsin	708 354-7039 693 1	P.O. Box 8100 Aurora, IL 60507
<b>Fort Atkinson Water Dept</b>	Water & Sewer	Wisconsin	0200014487-00	101 N Main Street Fort Atkinson, WI 53538
<b>WE Energies</b>	Electric	Wisconsin	4045-346-749	P.O. Box 2046 Milwaukee, WI 53201
<b>Earthlink Inc</b>	Internet	Florida	8096036	P.O. Box 7645 Atlanta, GA 30357
<b>Everyone.net Inc</b>	E-mail Hosting	Beltsville, MD	C1277388/C25548	2635 N. 1 St Suite 128 San Jose, CA 95134
<b>Verizon</b>	Telephone	Florida	01 1704 1173093304 10	P.O. Box 11328 St. Petersburg, FL 33733
<b>COX Communications Inc</b>	Internet	Arizona	001 8501 159482601	P.O. Box 78071 Phoenix, AZ 85062
<b>XO Communications Inc</b>	Telephone	Colorado	5000000345	8851 Sandy Pkwy Sandy, UT 84070
<b>Zone Telecom Inc</b>	Telephone	Wisconsin	611561	P.O. Box 6308 Southeastern PA 19398
<b>AT&amp;T</b>	Telephone	Illinois	847 368-1200 562 0	P.O. Box 2100 Mechanicsburg, PA

<b>Vendor Name</b>	<b>Type of Service</b>	<b>Site Used</b>	<b>Account Number</b>	<b>Address</b>
<b>Commonwealth Edison</b>	Electric	Wisconsin	2295108013	Bill Payment Center Chicago ,IL 60668
<b>Fort Pierce Utilities Authority</b>	Electric/Water	Florida	11104000-150390	Fort Pierce Utilities Authority P.O. Box 3191 Fort Pierce, FL 34948
<b>Cablevision Lightpath Inc</b>	Telephone	New York	47372	P.O. Box 360111 Pittsburgh ,PA 15251
<b>Eureka Water Company</b>	Water	Oklahoma	26051	729 SW 3rd St Oklahoma City, OK 73109
<b>Sprint</b>	Telephone	Wisconsin	537902713	P.O. Box 8077 London, KY 40742
<b>Venali Inc</b>	Internet	Florida	100014934	6100 Blue Lagoon Drive Suite 250 Miami, FL 33126
<b>Broadview Networks Inc</b>	Internet	New York	201-487-7800	P.O. Box 1191 Port Chester, NY 10573
<b>Sawnee EMC</b>	Electric	Georgia	None Given	Dept 2530, P.O. Box 2153 Birmingham, AL 35287- 2530
<b>Frontier Communications</b>	Telephone	New York	515-955-3896- 090696-7	P.O. Box 20550 Rochester, NY 14602
<b>Alabama Power</b>	Electric	Alabama	17555-38090	#2 Industrial Park Dr. Pelham, AL 35124
<b>Qwest Communications</b>	Telephone	Wisconsin	602 788-1792 307R	P.O. Box 29040 Phoenix, AZ 85038
<b>AT&amp;T</b>	Telephone	Florida	772 466-2224 636 0451	P.O. Box 105262 Atlanta, GA 30348
<b>Paetec Communications Inc</b>	Telephone	Wisconsin	8301477	P.O. Box 3177 Cedar Rapids, IA 53406
<b>Oklahoma Natural Gas</b>	Gas Deposit	Oklahoma	212739024 1365897 45	P.O. Box 401 Oklahoma City, OK 73101

**EXHIBIT B**



IT IS HEREBY ORDERED THAT:

1. The Motion is granted.
2. All relief granted in the Interim Order is hereby granted on a final basis.
3. The Debtors' Proposed Adequate Assurance satisfies the requirements of section 366 of the Bankruptcy Code.
4. The Debtors shall have the right to withdraw funds from the Utility Deposit Account to the extent such funds were deposited on account of a Utility Provider that is subsequently determined to not be included on the Utility Service List or to the extent a Request is properly served by a Utility Provider and any settlement results in such Utility Provider's removal from the Utility Services List.
5. Any Utility Provider that failed to submit a Request in accordance with the Procedures previously approved by this Court, or to timely file a Procedures Objection as required by the Interim Order is deemed to have adequate assurance that is satisfactory to it, within the meaning of section 366 of the Bankruptcy Code and shall not (i) discontinue, alter, or refuse service to, or discriminate against, the Debtors on the basis of the commencement of these Chapter 11 Cases or as a result of any unpaid prepetition charges, or (ii) require additional adequate assurance of payment other than any Utility Deposit supplied.
6. The Debtors are authorized to supplement, as necessary, the Utility Service List and the Debtors shall serve copies of the Motion, the Interim Order and this Order on such newly identified Utility Providers and that this Order shall be binding on all Utility Providers regardless of when each Utility Provider was added to the Utility Service List, provided that such newly identified Utility Provider shall have until the later of (i) fourteen (14) days of such service or (ii)

thirty (30) days from the entry of the Interim Order to serve a Request in accordance with the procedures set forth in the Interim Order.

7. Nothing in this Order or the Motion shall be deemed to vacate or modify any other restrictions on the termination of service by a Utility Provider as provided by sections 362 and 366 of the Bankruptcy Code or other applicable law and nothing herein or in the Motion shall constitute postpetition assumption or adoption of any agreement pursuant to section 365 of the Bankruptcy Code nor shall anything herein be deemed a waiver by the Debtors or any other party of any right with respect to the assumption or rejection of an executory contract.

8. Notwithstanding anything to the contrary contained herein, any payment to be made, or authorization contained, hereunder shall be subject to the requirements imposed on the Debtors under any approved debtor-in-possession financing facility, or budget in connection therewith, or any order regarding the use of cash collateral.

9. Nothing in the Motion or this Order, nor as a result of the Debtors' payment of claims pursuant to this Order, shall be deemed or construed as: (a) an admission as to the validity or priority of any claim against the Debtors; (b) a waiver of the Debtors' rights to dispute any claim; or (c) an approval or assumption of any agreement, contract or lease pursuant to section 365 of the Bankruptcy Code.

10. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062 or 9014, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

11. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

12. To the extent that this Order is inconsistent with any prior order in these cases, the terms of this Order shall govern.

13. Bankruptcy Rule 6003(b) has been satisfied because the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors.

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

Dated: \_\_\_\_\_, 2009  
Wilmington, Delaware

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UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT 1**

**List of Utility Providers**

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<b>AT&amp;T / SBC</b>	Telephone / Internet	Wisconsin	708 354-7039 693 1	P.O. Box 8100 Aurora, IL 60507
<b>Fort Atkinson Water Dept</b>	Water & Sewer	Wisconsin	0200014487-00	101 N Main Street Fort Atkinson, WI 53538
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<b>Earthlink Inc</b>	Internet	Florida	8096036	P.O. Box 7645 Atlanta, GA 30357
<b>Everyone.net Inc</b>	E-mail Hosting	Beltsville, MD	C1277388/C25548	2635 N. 1 St Suite 128 San Jose, CA 95134
<b>Verizon</b>	Telephone	Florida	01 1704 1173093304 10	P.O. Box 11328 St. Petersburg, FL 33733
<b>COX Communications Inc</b>	Internet	Arizona	001 8501 159482601	P.O. Box 78071 Phoenix, AZ 85062
<b>XO Communications Inc</b>	Telephone	Colorado	5000000345	8851 Sandy Pkwy Sandy, UT 84070
<b>Zone Telecom Inc</b>	Telephone	Wisconsin	611561	P.O. Box 6308 Southeastern PA 19398
<b>AT&amp;T</b>	Telephone	Illinois	847 368-1200 562 0	P.O. Box 2100 Mechanicsburg, PA

<b>Vendor Name</b>	<b>Type of Service</b>	<b>Site Used</b>	<b>Account Number</b>	<b>Address</b>
<b>Commonwealth Edison</b>	Electric	Wisconsin	2295108013	Bill Payment Center Chicago ,IL 60668
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<b>Venali Inc</b>	Internet	Florida	100014934	6100 Blue Lagoon Drive Suite 250 Miami, FL 33126
<b>Broadview Networks Inc</b>	Internet	New York	201-487-7800	P.O. Box 1191 Port Chester, NY 10573
<b>Sawnee EMC</b>	Electric	Georgia	None Given	Dept 2530, P.O. Box 2153 Birmingham, AL 35287- 2530
<b>Frontier Communications</b>	Telephone	New York	515-955-3896- 090696-7	P.O. Box 20550 Rochester, NY 14602
<b>Alabama Power</b>	Electric	Alabama	17555-38090	#2 Industrial Park Dr. Pelham, AL 35124
<b>Qwest Communications</b>	Telephone	Wisconsin	602 788-1792 307R	P.O. Box 29040 Phoenix, AZ 85038
<b>AT&amp;T</b>	Telephone	Florida	772 466-2224 636 0451	P.O. Box 105262 Atlanta, GA 30348
<b>Paetec Communications Inc</b>	Telephone	Wisconsin	8301477	P.O. Box 3177 Cedar Rapids, IA 53406
<b>Oklahoma Natural Gas</b>	Gas Deposit	Oklahoma	212739024 1365897 45	P.O. Box 401 Oklahoma City, OK 73101