

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.  
a Delaware corporation

Case No. 7-01-10779 SA  
Chapter 7

Debtor.

**OBJECTION TO TXU ENERGY RETAIL COMPANY LP'S  
APPLICATION FOR PAYMENT OF ADMINISTRATIVE EXPENSES**

Yvette J. Gonzales, chapter 7 Trustee ("Trustee"), by counsel, objects to Creditor's Application For Payment of Administrative Expenses (the "Application") filed September 8, 2003, by TXU Energy Retail Company LP ("TXU") (docketed as no. 2189), as follows:

1. The notice given of the period to object to the Application was inadequate. Notice was served only on counsel for the Trustee and the United States Trustee, and not, as required, on all persons on the limited mailing list maintained by the Clerk of Court in connection with this case. Further, the notice of the objection period was not referenced in the title of the Application, and was set forth in the text of the Application itself. This is contrary to local practice, and did not give fair notice. Finally, the specified objection deadline was at 4:00 p.m. twenty days from the date of service. This is an arbitrary deadline specified without a court order shortening the objection period set forth in the rules.

2. The undersigned has been unable to find any motion or order admitting counsel for TXU *pro hac vice* in this case, as required by the local rules. If an order admitting TXU's counsel *pro hac vice* has not been entered, the Application should be stricken.

3. An Order Establishing Bar Date For Administrative Claims was filed October 29, 2001 (as docket no. 1260). That order established an administrative claims bar date of

November 23, 2001. The administrative claim sought by the Application is time barred.

4. It is premature for the Court to determine chapter 11 administrative claims. The Trustee is in the process of collecting assets with a goal of accumulating funds to make a distribution to holders of allowed chapter 11 administrative claims. It would not be an efficient use of estate resources to determine chapter 11 administrative claims at this time. Further, until a procedure is established to determine chapter 11 administrative claims, it would be unnecessarily burdensome on the Court to begin determining chapter 11 administrative claims on a piece meal basis.

5. The Application seeks payment of TXU's chapter 11 administrative claim. Any chapter 11 administrative claim allowed in favor of TXU would be subordinated to chapter 7 administrative claims, and would share pro rata with other unpaid allowed chapter 11 administrative claims. Even if TXU were allowed a chapter 11 administrative claim, its pro rata share payment cannot be determined at this time.

6. The Trustee reserves the right to object to the amount of the TXU chapter 11 administrative claim.

WHEREFORE, the Trustee asks that the relief sought by the Application be denied.

JACOBVITZ THUMA & WALKER  
a Professional Corporation

By s/filed electronically \_\_\_\_\_  
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This certified that a copy of the  
foregoing will be served by mail on:

Lois J. Duran  
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Ronald E. Andazola  
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the 30th day of September 2003

s/filed electronically  
Robert H. Jacobvitz