

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

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In re : 01-11-10719 (S)
FURR'S SUPERMARKETS, INC., : Chapter 11
Debtor. :
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ORDER UNDER 11 U.S.C. §§ 105,
366, 503(b), AND 507(a) PROHIBITING UTILITIES
FROM ALTERING, REFUSING OR DISCONTINUING SERVICES
ON ACCOUNT OF PREPETITION INVOICES AND
ESTABLISHING PROCEDURES FOR DETERMINING
REQUESTS FOR ADDITIONAL ADEQUATE ASSURANCE

This matter having come before the Court on the motion, dated February 7, 2001 (the "Motion"),¹ of Furr's Supermarkets, Inc., debtor and debtor-in-possession (the "Debtor"), for an order under 11 U.S.C. §§ 105, 366, 503(b), and 507(a) (i) prohibiting the Debtor's utility service providers (the "Utility Companies") from altering, refusing or discontinuing services on account of outstanding prepetition invoices, and (ii) establishing procedures for determining requests by the Utility Companies for additional adequate assurance; and the Court having reviewed the Motion and the Affidavit of Steven L. Mortensen in Support of Chapter 11 Petition and First Day

¹ Unless otherwise defined, capitalized terms used herein shall have the same meanings as in the Motion.

Orders, sworn to February 7, 2001; and it appearing that notice of the Motion was good and sufficient under the particular circumstances and that no other or further notice need be given; and the Court having determined that the relief requested in the Motion is in the best interests of the Debtor, its estate, its creditors and other parties-in-interest; and upon the record of the hearing on the Motion; and after due deliberation thereon; and good cause appearing therefor; it is hereby

FOUND THAT the ability to pay future utility bills constitutes adequate assurance of future payment for utility services, under 11 U.S.C. § 366(b); and it is hereby

ORDERED THAT:

1. The Debtor is authorized and directed to pay on a timely basis all undisputed invoices for postpetition utility services provided by the Utility Companies to the Debtor.

2. Except in accordance with the procedures set forth below, absent further order of the Court, each Utility Company is prohibited from (a) altering, refusing, or discontinuing service to, or discriminating against the Debtor solely on the basis of the commencement of this case or on account of any unpaid invoice for services provided before the Petition Date and (b) requiring the payment of a deposit or other security in connection with the Utility Companies' continued provision of utility services, including, the furnishing of gas, heat, electricity, water, telephone or any other utility of like kind, to the Debtor.

3. The Debtor shall serve this Order upon each of the Utility Companies listed on the annexed Exhibit A, at the addresses listed thereon, by first-class mail, postage prepaid, within three business days of the entry of this Order.

4. This Order is without prejudice to the rights of any Utility Company to request from the Debtor additional assurances in the form of deposits or other security. Any such request must be made in writing ~~and actually received by the Debtor within 30 days of the date hereof (the "Deposit Request Deadline"). Any request for additional assurances received by the Debtor after the Deposit Request Deadline shall be deemed an untimely and invalid adequate assurance request.~~

5. If the Debtor believes that a timely request for additional assurances made by a Utility Company under 11 U.S.C. § 366(b) is unreasonable and the Debtor and the Utility Company are unable to resolve the dispute consensually, the Debtor shall file a motion for determination of adequate assurance of payment (a "Determination Motion") ~~and set the Determination Motion for hearing within 30 days after the Deposit Request Deadline (the "Determination Hearing").~~ ^{request a} ¹⁰ ^{on the Determination Motion}

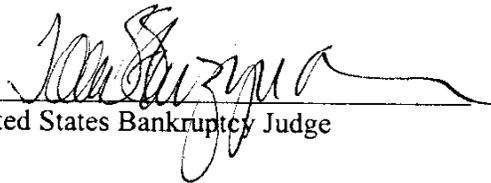
6. If a Determination Hearing is scheduled in accordance with the preceding paragraph, the Utility Compan(ies) to which the Determination Motion is

*For consideration on 20 day
negative notice.*

applicable shall be deemed to have adequate assurance of payment until the Court enters an order resolving the Determination Motion.

7. The Debtor may at any time supplement the list of Utility Companies in the annexed Exhibit A by filing an amended Exhibit A with the Court. Any new Utility Company included in an amended Exhibit A shall be served with a copy of this Order and the amended Exhibit A ~~and be afforded a 30-day period from the date of the amendment in order to file objections.~~ Such Utility Companies shall be deemed to fall within the scope of this Order from the date of the filing of the amended Exhibit A, subject to any later order of the Court.

Dated: _____


United States Bankruptcy Judge