

So Ordered.

Signed this 14 day of August, 2020.



Margaret Cangilos-Ruiz

United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

In re:

The Roman Catholic Diocese of Syracuse,  
New York,

Debtor.

Case No. 20-30663

Chapter 11

**FINAL ORDER (A) PROHIBITING UTILITY COMPANIES  
FROM ALTERING, REFUSING OR DISCONTINUING SERVICE ON  
ACCOUNT OF PREPETITION AMOUNTS DUE, (B) DETERMINING  
ADEQUATE ASSURANCE OF PAYMENT FOR POST-PETITION  
UTILITY SERVICES UNDER 11 U.S.C. § 366, AND (C) ESTABLISHING  
PROCEDURES FOR DETERMINING ADEQUATE ASSURANCE OF PAYMENT**

Upon the motion of The Roman Catholic Diocese of Syracuse, New York (the “Diocese”), for entry of interim and final orders (a) prohibiting Utility Companies from altering, refusing or discontinuing service on account of prepetition amounts due, (b) determining adequate assurance of payment for post-petition utility services under 11 U.S.C. § 366 and, (c) establishing procedures for determining adequate assurance of payment [Docket No. 12] (the “Motion”);<sup>1</sup> and it appearing

<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of this chapter 11 case and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and an interim order with respect to the Motion having been entered on June 24, 2020; and this Court having determined that the relief requested in the Motion is in the best interests of the Diocese, its estate, its creditors and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given under the circumstances and that no other or further notice is necessary; and after due deliberation thereon; and good and sufficient cause appearing therefor;

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED, as set forth herein.
2. All Objections to the Motion or the relief requested therein that have not been made, withdrawn, waived or settled, and all reservations of rights included therein, are overruled and disallowed on the merits.
3. Upon request, the Diocese will provide each Utility Company a cash deposit (each, a “Deposit”) in an amount equal to two weeks of the estimated cost of its utility consumption from each Utility Company, rounded to the nearest dollar. A Deposit will be calculated using an average charge over the past year’s invoices. If a Utility Company provides the Diocese with services under multiple accounts, then the Diocese may provide that Utility Company with separate Deposits or with one Deposit that equals two weeks of the aggregate estimated usage under all of the Diocese’s accounts with that Utility Company. A Deposit shall be provided within 10 business days of the receipt by the Diocese or its bankruptcy counsel of a written request from a Utility Company for adequate assurance under the Bankruptcy Code.

4. Subject to the terms of any adequate assurance agreements between the Diocese and any Utility Companies or any future determination hearings with respect to any timely filed Assurance Request, no Utility Company may: (a) alter, refuse, terminate or discontinue utility services to, and/or discriminate against, the Diocese on the basis of the commencement of this Chapter 11 Case or on account of outstanding prepetition amounts due; or (b) require additional assurance of payment beyond a Deposit as a condition to the Diocese receiving such utility services.

5. Subject to the terms of any adequate assurance agreements between the Diocese and any Utility Companies, pending further order of the Court each Utility Company is deemed to be adequately assured of future payment for purposes of section 366 of the Bankruptcy Code.

6. The Diocese is authorized in its sole discretion, to amend Schedule 1 to the Motion to add or delete any Utility Company, and this Final Order shall apply to any entity that is subsequently designated as a Utility Company. Any subsequently added Utility Company shall have 20 days from the date of such designation to file and serve an Assurance Request.

7. The Diocese's service of the Motion or this Final Order upon an entity or the designation of an entity as a Utility Company for purposes of the Motion shall not constitute an admission or concession by the Diocese that such entity is a utility within the meaning of Bankruptcy Code section 366 and all of the Diocese's rights and defenses with respect thereto are fully reserved.

8. The Diocese shall serve a copy of this Final Order each of the Utility Companies, within three (3) business days of the date this Final Order is entered, and shall also serve this Final Order on each entity subsequently designated by the Diocese as a Utility Company.

9. Nothing in this Final Order, nor any action taken by the Diocese in furtherance of the implementation hereof, shall be deemed an approval of the assumption or rejection of any executory contract or unexpired leases pursuant to Bankruptcy Code section 365.

10. Nothing in the Motion or this Final Order shall be construed as impairing the Diocese's right to contest the validity, priority or amount of any claim pursuant to applicable law or otherwise dispute, contest, setoff or recoup any claim, or assert any right, claim or defenses related thereto.

11. This Order is immediately effective and enforceable, notwithstanding the possible applicability of Bankruptcy Rule 6004(h) or otherwise. Any subsequent modification or vacatur of this Order shall not invalidate any action taken pursuant to this Order prior to the modification or vacatur of the Order.

12. The Diocese is authorized and empowered to take all actions it determines are necessary to effectuate the relief granted pursuant to this Final Order in accordance with the Motion.

13. This Court retains jurisdiction with respect to all matters arising from or related to the enforcement of this Final Order.

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