

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

In re:

WALTER ENERGY, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 15-____(____)

Joint Administration Requested

**THE DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS
(A) (I) PROHIBITING UTILITY COMPANIES FROM ALTERING, REFUSING
OR DISCONTINUING UTILITY SERVICES, (II) DEEMING UTILITY
COMPANIES ADEQUATELY ASSURED OF FUTURE PERFORMANCE,
(III) ESTABLISHING PROCEDURES FOR DETERMINING ADEQUATE
ASSURANCE OF PAYMENT, (IV) SETTING A FINAL HEARING RELATED
THERE TO; AND (B) GRANTING RELATED RELIEF**

Walter Energy, Inc. and its affiliated debtors and debtors-in-possession (each a “Debtor” and, collectively, the “Debtors”) hereby move (the “Motion”) for entry of an interim and a final order substantially in the forms of Exhibits A and B hereto (the “Interim Order” and the “Final Order” respectively, and together, the “Proposed Orders”) pursuant to section 366 of title 11 of the U.S. Code (the “Bankruptcy Code”) and rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”): (i) prohibiting the Debtors’ utility service providers from altering, refusing, or discontinuing utility services on account of unpaid prepetition invoices; (ii) deeming the Debtors’ utility service providers adequately assured of future performance; (iii) establishing procedures for determining additional adequate assurance

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Walter Energy, Inc. (9953); Atlantic Development and Capital, LLC (8121); Atlantic Leaseco, LLC (5308); Blue Creek Coal Sales, Inc. (6986); Blue Creek Energy, Inc. (0986); J.W. Walter, Inc. (0648); Jefferson Warrior Railroad Company, Inc. (3200); Jim Walter Homes, LLC (4589); Jim Walter Resources, Inc. (1186); Maple Coal Co., LLC (6791); Sloss-Sheffield Steel & Iron Company (4884); SP Machine, Inc. (9945); Taft Coal Sales & Associates, Inc. (8731); Tuscaloosa Resources, Inc. (4869); V Manufacturing Company (9790); Walter Black Warrior Basin LLC (5973); Walter Coke, Inc. (9791); Walter Energy Holdings, LLC (1596); Walter Exploration & Production LLC (5786); Walter Home Improvement, Inc. (1633); Walter Land Company (7709); Walter Minerals, Inc. (9714); and Walter Natural Gas, LLC (1198). The location of the Debtors’ corporate headquarters is 3000 Riverchase Galleria, Suite 1700, Birmingham, Alabama 35244-2359.



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of future payment and authorizing the Debtors to provide adequate assurance of future payment to the Debtors' utility service providers; and (iv) setting a final hearing related thereto. In support of this Motion, the Debtors rely on the *Declaration of William G. Harvey in Support of Chapter 11 Petitions and First Day Relief* (the "First Day Declaration")² and respectfully state as follows:

JURISDICTION

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

2. The statutory and legal predicates for the relief requested herein are sections 105(a) and 366(b) of the Bankruptcy Code.

BACKGROUND

3. On the date hereof (the "Petition Date"), each of the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code, thereby commencing the instant cases (the "Chapter 11 Cases"). The Debtors continue to manage and operate their businesses as debtors-in-possession under sections 1107 and 1108 of the Bankruptcy Code.

4. No trustee, examiner, or official committee has been appointed in the Chapter 11 Cases.

5. Information regarding the Debtors' businesses, their capital and debt structure, and the events leading to the filing of the Chapter 11 Cases is contained in the First Day Declaration.

² The First Day Declaration has been filed contemporaneously with this Motion and is incorporated by reference herein. Capitalized terms used herein that are not defined shall have the meaning set forth in the First Day Declaration.

RELIEF REQUESTED

6. By this Motion, the Debtors request that the Court enter, on an interim and final basis, orders (a) prohibiting the Utility Companies (as defined below) from altering, refusing, or discontinuing Utility Services (as defined below) on account of prepetition invoices, including the making of demands for security deposits or accelerated payment terms; (b) determining that the Debtors have provided each of the Utility Companies with “adequate assurance of payment” within the meaning of section 366 of the Bankruptcy Code (“Adequate Assurance”), based, inter alia, on the Debtors’ establishment of a segregated account containing an amount equal to 50% of the Debtors’ average monthly cost of the Utility Services, based on the past twelve months of service, which may be adjusted by the Debtors to account for the termination of certain Utility Services by the Debtors on account of any ceased operations or by agreement between the Debtors and the affected Utility Company; (c) upon entry of the Final Order, establishing procedures for determining additional Adequate Assurance, if any, and authorizing the Debtors to provide Adequate Assurance to the Utility Companies (the “Assurance Procedures”); (d) setting a final hearing (the “Final Hearing”) on the proposed Adequate Assurance and Assurance Procedures; and (e) granting related relief.

7. As more fully set forth below, the Debtors propose to establish a segregated account containing approximately \$1.8 million, equal to 50% of the Debtors’ average monthly cost of the Utility Services, based on the past twelve months of service, on a consolidated basis, to provide Adequate Assurance to the Utility Companies.

8. The Debtors have reviewed the relief sought in this Motion with the Steering Committee, and all relief sought in this Motion, including all payments and transfers authorized herein, shall be subject to and made in accordance with, the *Interim Order (A) Authorizing Postpetition Use of Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured*

Parties, (C) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001(b) and (D) Granting Related Relief (the “Interim Cash Collateral Order”) and related final order.

THE UTILITY SERVICES AND UTILITY COMPANIES

9. In the normal course of operation of their businesses, the Debtors obtain electricity, natural gas, water, telecommunications, waste disposal and other similar services (collectively, the “Utility Services”) from various utility companies (the “Utility Companies”). A list of Utility Companies that provide Utility Services to the Debtors as of the Petition Date is attached as Exhibit C (the “Utility Service List”).³

10. The Debtors have a good payment history with the Utility Companies and have made payments on a regular and timely basis. To the best of the Debtors’ knowledge, there are no material defaults or arrearages of any significance with respect to the Debtors’ undisputed Utility Services invoices, other than payment interruptions that may be caused by the commencement of the Chapter 11 Cases.

BASIS FOR RELIEF

11. The Utility Services are essential to the operation of the Debtors’ businesses and will continue to be necessary during the Chapter 11 Cases. The termination or cessation (even if only temporary) of Utility Services because of payment defaults related to prepetition Utility Services would result in a significant disruption to the Debtors’ business operations. Unanticipated delays in the Debtors’ ability to meet their customers’ production needs would result in substantial and irreparable harm to the Debtors and would impair the Debtors’ efforts to

³ The Debtors have endeavored to identify all of the Utility Companies and list them on Exhibit C hereto. However, inadvertent omissions may have occurred, and the omission from Exhibit C of any entity providing utility services to the Debtors shall not be construed as an admission, waiver, acknowledgement or consent that section 366 of the Bankruptcy Code does not apply to such entity.

preserve and maximize the value of their estates during the Chapter 11 Cases. It is therefore critical that the Utility Services continue uninterrupted.

12. Section 366 of the Bankruptcy Code provides that, during the initial thirty (30) days after the commencement of a chapter 11 case, utilities may not alter, refuse, or discontinue service to, or discriminate against, a debtor solely on the basis of the commencement of its case or the existence of prepetition debts owed by the debtor. See 11 U.S.C. § 366(a)-(c). After the thirty (30) day period, however, under section 366(c) of the Bankruptcy Code, utilities may discontinue service to a debtor if the debtor does not provide “adequate assurance of payment” of its postpetition obligations in a form that is satisfactory to the utility, subject to the Court’s ability to modify the form or amount of adequate assurance. See id.

13. The Debtors intend to pay when due all undisputed postpetition charges for Utility Services. Nonetheless, the Debtors propose to deposit a sum of approximately \$1.8 million, equal to 50% of the Debtors’ average monthly cost for Utility Services, based on the past twelve months of service, into a newly created segregated bank account within twenty-one (21) days of the Petition Date (the “Utility Deposit”) as Adequate Assurance. The Utility Deposit will be either interest-bearing or non-interest-bearing, at the Debtors’ election.

14. While the form of Adequate Assurance may be limited to the types of security enumerated in subsection 366(c)(1)(A) of the Bankruptcy Code,⁴ the determination of the amount of adequate assurance is within the discretion of the Court. The requirement that a utility receive adequate assurance of payment does not require a guarantee of payment. Instead, the protection granted to a utility is intended to avoid exposing the utility to an unreasonable risk of nonpayment. See In re Crystal Cathedral Ministries, 454 B.R. 124, 131 (C.D. Cal. 2011).

⁴ The Bankruptcy Code provides that “assurance of payment” may be in the form of a cash deposit, letter of credit, certificate of deposit, surety bond, prepayment of utility consumption, or another form of security that is mutually agreed upon by the utility and the debtor. 11 U.S.C. § 366(c)(1)(A).

15. The Utility Deposit constitutes sufficient Adequate Assurance to the Utility Companies. However, should any Utility Company disagree, the Debtors propose to establish the following Assurance Procedures under which a Utility Company may request additional Adequate Assurance. If a Utility Company contends that additional Adequate Assurance is required, it may request such additional assurance pursuant to the procedures set forth herein. The proposed Assurance Procedures are as follows:

- (a) If a Utility Company is not satisfied with the assurance of future payment provided by the Debtors, the Utility Company must serve a written request (a “Request”) upon (x) counsel to the Debtors, Paul, Weiss, Rifkind, Wharton & Garrison, LLP, 1285 Avenue of the Americas, New York, New York, 10019, Attention: Michael Rudnick (email: mrudnick@paulweiss.com), Ann Young (email: ayoung@paulweiss.com), and Claudia Tobler (ctobler@paulweiss.com) and Bradley Arant Boult Cummings LLP, One Federal Place, 1819 Fifth Avenue North, Birmingham, Alabama 35203, Attention: Jay Bender (email: jbender@babco.com); or James Bailey (email: jbailey@babco.com); and (y) counsel to the Steering Committee, Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, New York 10036, Attention: Ira Dizengoff (email: idizengoff@akingump.com), Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Ave, N.W., Washington, DC 20036, Attention: James Savin (email: jsavin@akingump.com) and Burr Forman, 420 North 20th Street, Suite 3400, Birmingham, Alabama 35203, Attention: Michael L. Hall (email: mhall@burr.com) and D. Christopher Carson (email: ccarson@burr.com) (i) setting forth the location(s) for which Utility Services are provided, the account number(s) for such location(s), and the outstanding balance for each account, (ii) providing a report on and certifying the Debtors’ payment history on each account for the previous twelve (12) months, (iii) disclosing any existing security deposit, and (iv) providing an explanation of why the Utility Deposit is not Adequate Assurance of payment.
- (b) Without further order of the Court, the Debtors may enter into agreements granting additional Adequate Assurance to a Utility Company or extending the Debtors’ time to file a Determination Motion (as defined below); provided, however, that the Debtors shall consult with the advisors of the Steering Committee with respect to any proposed Adequate Assurance of \$500,000 or more for any individual Utility in excess of the Utility Deposit.
- (c) If the Debtors believe a Request is unreasonable, then they shall, within thirty (30) days after receipt of a Request (or such later date agreed to by

the Debtors and the requesting Utility Company), file a motion (the “Determination Motion”) pursuant to section 366(c)(3) of the Bankruptcy Code seeking a determination from the Court that the Utility Deposit, plus any additional consideration offered by the Debtors, constitutes Adequate Assurance of payment. Pending notice and a hearing on the Determination Motion, the Utility Company that is the subject of the unresolved Request may not alter, refuse, or discontinue services to the Debtors.

- (d) The Utility Deposit shall be deemed Adequate Assurance of payment for any Utility Company that fails to make a Request within fourteen (14) days of entry of the Final Order.
- (e) Pending resolution of any such Determination Motion, the Utility Company serving such Request shall be prohibited from altering, refusing, or discontinuing service to the Debtors on account of the commencement of the Chapter 11 Cases, unpaid charges for prepetition services, or on account of any objections to the Debtors’ proposed Adequate Assurance.
- (f) Should the Debtors identify additional Utility Companies (each, an “Additional Utility Company”), the Debtors will amend the Utility Services List and file a notice of the amendment. The Debtors will serve copies of the notice of the amendment, this Motion, the Interim Order (if and when entered), and the Final Order (if and when entered) on each Additional Utility Company and counsel to the Steering Committee.
- (g) Upon any amendment to the Utility Service List, the Debtors will increase the amount of the Utility Deposit by an amount equal to 50% of the Debtors’ average monthly payment for Utility Services provided by such Additional Utility Company. Any increase to the Utility Deposit will be based on the Debtors’ average expenses for Utility Service provided by any Additional Utility Company over the twelve (12) months preceding the amendment to the Utility Service List.
- (h) Any Additional Utility Company served with notice of an amendment to the Utility Services List may serve a Request in compliance with these Assurance Procedures within 21 days of filing and service of the applicable amendment to the Utility Services List. Upon receipt of any Request by an Additional Utility Company, the Debtors may file a Determination Motion pursuant to paragraph (c) above, and pending resolution of such Determination Motion, the Additional Utility Company shall be subject to paragraph (d) and (e) above.
- (i) The Utility Deposit, as increased pursuant to paragraph (g) above, shall be deemed Adequate Assurance of payment for any Additional Utility Company that fails to serve a Request within 21 days of filing and service

of the applicable amendment to the Utility Services List pursuant to these Assurance Procedures.

16. The Debtors request that entry of the Interim Order and Final Order be binding on all Utility Companies providing Utility Services to the Debtors, regardless of when each Utility Company is added to the Utility Services List.

17. The Debtors request a final hearing on this Motion to be held within twenty-five (25) days of the Petition Date. The final hearing will ensure that, if a Utility Company argues it can unilaterally refuse service to the Debtors on the thirty-first (31st) day after the Petition Date, the Debtors will have the opportunity, to the extent necessary, to request that the Court modify the Assurance Procedures in time to avoid any termination of Utility Services.

18. On a monthly basis, the Debtors receive numerous individual invoices for Utility Services from the Utility Companies, with whom the Debtors may have multiple utility accounts. To the best of the Debtors' knowledge, there are no material defaults or arrearages with respect to undisputed Utility Service invoices, other than payment interruptions that may be caused by commencement of these Chapter 11 Cases.

19. The Debtors' proposed method of furnishing adequate assurance of payment for postpetition Utility Service is not prejudicial to the rights of any Utility Company, and is in the best interest of the Debtors' estates. This Court has granted similar relief to that requested herein. See, e.g., In re Bill Heard Ents., Inc., Case No. 08-83029-JAC-11 (Bankr. N.D. Ala. Sept. 30, 2008); In re Citation Corp., Case No. 07-1153-TOM-11 (Bankr. N.D. Ala. Mar. 15, 2007). Similar relief has been granted by courts in other jurisdictions. See, e.g., In re THQ Inc., Case No. 12-13398 (MFW) (Bankr. D. Del. Dec. 21, 2012); In re A123 Systems, Inc., Case No. 12-12859 (KJC) (Bankr. D. Del. Oct. 18, 2012); In re Bicent Holdings LLC, Case No. 12-11304 (KG) (Bankr. D. Del. April 24, 2012).

20. Uninterrupted Utility Services are vital to the continued operation of the Debtors' businesses and, consequently, to the success of their Chapter 11 Cases. The relief requested herein is necessary and in the best interests of the Debtors' estates and their creditors. Such relief will ensure that the Debtors' business operations will not be disrupted, and provide Utility Companies and the Debtors with an orderly, fair procedure for determining Adequate Assurance.

21. Accordingly, for all of the foregoing reasons, cause exists for granting the relief requested herein.

**SATISFACTION OF BANKRUPTCY RULE 6003
AND WAIVER OF BANKRUPTCY RULE 6004**

22. The Debtors seek immediate authorization for the relief contemplated by this Motion notwithstanding Bankruptcy Rules 6003 and 6004. Specifically, Bankruptcy Rule 6003(b) provides that the Court shall not, within twenty-one (21) days after filing a petition, grant "a motion to use, sell, lease or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition" unless the relief is "necessary to avoid immediate and irreparable harm." Fed. R. Bankr. P. 6003(b). Likewise, Bankruptcy Rule 6004(h) provides that "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise."

23. Uninterrupted Utility Service is necessary to avoid immediate and potentially irreparable harm to the estates. As set forth above, the termination or cessation (even if only temporary) of Utility Services because of payment defaults related to prepetition Utility Services would result in a significant disruption to the Debtors' business operations. Accordingly, the requirements of Bankruptcy Rule 6003(b) are met and ample cause exists to justify a waiver of the fourteen (14) day stay imposed by Bankruptcy Rule 6004(h).

NOTICE

24. Notice of this Motion will be provided to: (i) the Office of the Bankruptcy Administrator for the Northern District of Alabama; (ii) counsel to the administrative agent for the Debtors' prepetition secured credit facility; (iii) the indenture trustee for each of the Debtors' outstanding bond issuances; (iv) counsel to the steering committee of first lien debt holders; (v) the Internal Revenue Service; (vi) the Securities and Exchange Commission; (vii) the U.S. Environmental Protection Agency; (viii) the U.S. Attorney for the Northern District of Alabama; (ix) counsel to the UMWA; (x) the USW; (xi) the holders of the fifty (50) largest unsecured claims against the Debtors, on a consolidated basis; (xii) the Utility Companies; and (xiii) all persons and entities that have filed a request for service of filings in these Chapter 11 Cases pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, no other or further notice is necessary.

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WHEREFORE, the Debtors respectfully request that the Court enter the Interim Order, substantially in the form attached hereto as Exhibit A, and the Final Order, substantially in the form attached hereto as Exhibit B, granting the requested relief and such other and further relief as it deems just and proper.

Dated: July 15, 2015
Birmingham, Alabama

BRADLEY ARANT BOULT CUMMINGS LLP

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*Proposed Counsel to the Debtors and
Debtors-in-Possession*

EXHIBIT A

PROPOSED INTERIM ORDER

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

In re: WALTER ENERGY, INC., <i>et al.</i> , ¹ Debtors.	Chapter 11 Case No. 15-____(____) Joint Administration Requested
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INTERIM ORDER (A) (I) PROHIBITING UTILITY COMPANIES FROM ALTERING, REFUSING OR DISCONTINUING UTILITY SERVICES, (II) DEEMING UTILITY COMPANIES ADEQUATELY ASSURED OF FUTURE PERFORMANCE, (III) SETTING A FINAL HEARING RELATED THERETO; AND (B) GRANTING RELATED RELIEF

Upon consideration of the motion (the “Motion”)² of Walter Energy, Inc. and its affiliated debtors and debtors-in-possession in the above captioned cases (each a “Debtor” and collectively, the “Debtors”), requesting entry of interim and final orders pursuant to section 366 of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004: (i) prohibiting Utility Companies from altering, refusing, or discontinuing Utility Services, (ii) deeming Utility Companies adequately assured of future performance, (iii) establishing procedures for determining adequate assurance of payment, and (iv) setting a final hearing related thereto, all as described more fully in the Motion; and it appearing that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of these

¹ Walter Energy, Inc. (9953); Atlantic Development and Capital, LLC (8121); Atlantic Leaseco, LLC (5308); Blue Creek Coal Sales, Inc. (6986); Blue Creek Energy, Inc. (0986); J.W. Walter, Inc. (0648); Jefferson Warrior Railroad Company, Inc. (3200); Jim Walter Homes, LLC (4589); Jim Walter Resources, Inc. (1186); Maple Coal Co., LLC (6791); Sloss-Sheffield Steel & Iron Company (4884); SP Machine, Inc. (9945); Taft Coal Sales & Associates, Inc. (8731); Tuscaloosa Resources, Inc. (4869); V Manufacturing Company (9790); Walter Black Warrior Basin LLC (5973); Walter Coke, Inc. (9791); Walter Energy Holdings, LLC (1596); Walter Exploration & Production LLC (5786); Walter Home Improvement, Inc. (1633); Walter Land Company (7709); Walter Minerals, Inc. (9714); and Walter Natural Gas, LLC (1198). The location of the Debtors’ corporate headquarters is 3000 Riverchase Galleria, Suite 1700, Birmingham, Alabama 35244-2359.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

cases 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 it appearing that adequate and proper notice of the Motion has been given and that no other or further notice need be given; and a hearing having been held to consider the relief requested in the Motion; and upon the record of the hearing and all of the proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates, their creditors, and all other parties in interest; and the legal and factual bases set forth in the Motion having established just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor; it is hereby ORDERED that:

1. The Motion is GRANTED on an INTERIM BASIS to the extent provided herein.
2. The Debtors are authorized, but not directed, to pay on a timely basis and in accordance with their prepetition practices all undisputed invoices for postpetition Utility Services provided by the Utility Companies to the Debtors.
3. The Debtors shall, on or before twenty-one (21) days after the Petition Date, deposit a sum of approximately \$1.8 million, an amount equal to 50% worth of the Debtors' average monthly cost of the Utility Services, based on the past twelve months of service (the "Utility Deposit"), into a newly created segregated bank account (the "Utility Deposit Account," which shall constitute adequate assurance of payment for each Utility Company for postpetition Utility Services provided to the Debtors. The Utility Deposit Account may be either interest-bearing or non-interest-bearing, at the Debtors' election.
4. The Utility Deposit Account shall be maintained with a minimum balance of \$1.8 million, an amount equal to 50% of the Debtors' average monthly cost of the Utility Services, based on the past twelve months of service, which may be adjusted by the Debtors: (i) to account

for the termination of Utility Services by the Debtors regardless of any Requests (as defined in the Motion) or agreements with Utility Companies; (ii) in accordance with the terms of any agreement between the Debtors and the affected Utility Company; and (iii) the inclusion of Adequate Assurance for Additional Utilities.

5. Pending entry of the Final Order, the Utility Companies are prohibited from: (i) altering, refusing or discontinuing Utility Services on the basis of the commencement of the Chapter 11 Cases, on account of any unpaid invoice for Utility Services provided before the Petition Date, or on account of any objections to the Debtors' proposed adequate assurance; or (ii) demanding or requiring the Debtors to furnish any additional deposit or other security to the Utility Companies for the continued provision of Utility Services.

6. The Debtors' proposed Assurance Procedures are approved, on an interim basis and pending entry of a final order, as follows:

- (a) If a Utility Company is not satisfied with the assurance of future payment provided by the Debtors, the Utility Company must serve a written request (a "Request") upon (x) counsel to the Debtors, Paul, Weiss, Rifkind, Wharton & Garrison, LLP, 1285 Avenue of the Americas, New York, New York, 10019, Attention: Michael Rudnick (email: mrudnick@paulweiss.com), Ann Young (email: ayoung@paulweiss.com), and Claudia Tobler (ctobler@paulweiss.com) and Bradley Arant Boult Cummings LLP, One Federal Place, 1819 Fifth Avenue North, Birmingham, Alabama 35203, Attention: Jay Bender (email: jrbender@babc.com); or James Bailey (email: jbailey@babc.com); and (y) counsel to the Steering Committee, Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, New York 10036, Attention: Ira Dizengoff (email: idizengoff@akingump.com), Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Ave, N.W., Washington, DC 20036, Attention: James Savin (email: jsavin@akingump.com) and Burr Forman, 420 North 20th Street, Suite 3400, Birmingham, Alabama 35203, Attention: Michael L. Hall (email: mhall@burr.com) and D. Christopher Carson (email: ccarson@burr.com) (i) setting forth the location(s) for which Utility Services are provided, the account number(s) for such location(s), and the outstanding balance for each account, (ii) providing a report on and certifying the Debtors' payment history on each account for the previous twelve (12) months, (iii) disclosing any existing security

deposit, and (iv) providing an explanation of why the Utility Deposit is not Adequate Assurance of payment.

- (b) Without further order of the Court, the Debtors may enter into agreements granting additional Adequate Assurance to a Utility Company or extending the Debtors' time to file a Determination Motion (as defined below); provided, however, that the Debtors shall consult with the advisors of the Steering Committee with respect to any proposed Adequate Assurance of \$500,000 or more for any individual Utility in excess of the Utility Deposit.
- (c) If the Debtors believe a Request is unreasonable, then they shall, within thirty (30) days after receipt of a Request (or such later date agreed to by the Debtors and the requesting Utility Company), file a motion (the "Determination Motion") pursuant to section 366(c)(3) of the Bankruptcy Code seeking a determination from the Court that the Utility Deposit, plus any additional consideration offered by the Debtors, constitutes Adequate Assurance of payment. Pending notice and a hearing on the Determination Motion, the Utility Company that is the subject of the unresolved Request may not alter, refuse, or discontinue services to the Debtors.
- (d) The Utility Deposit shall be deemed Adequate Assurance of payment for any Utility Company that fails to make a Request within fourteen (14) days of entry of the Final Order.
- (e) Pending resolution of any such Determination Motion, the Utility Company serving such Request shall be prohibited from altering, refusing, or discontinuing service to the Debtors on account of the commencement of the Chapter 11 Cases, unpaid charges for prepetition services, or on account of any objections to the Debtors' proposed Adequate Assurance.
- (f) Should the Debtors identify additional Utility Companies (each, an "Additional Utility Company"), the Debtors will amend the Utility Services List and file a notice of the amendment. The Debtors will serve copies of the notice of the amendment, this Motion, the Interim Order (if and when entered), and the Final Order (if and when entered) on each Additional Utility Company and counsel to the Steering Committee.
- (g) Upon any amendment to the Utility Service List, the Debtors will increase the amount of the Utility Deposit by an amount equal to 50% of the Debtors' average monthly payment for Utility Services provided by such Additional Utility Company. Any increase to the Utility Deposit will be based on the Debtors' average expenses for Utility Service provided by any Additional Utility Company over the twelve (12) months preceding the amendment to the Utility Service List.

- (h) Any Additional Utility Company served with notice of an amendment to the Utility Services List may serve a Request in compliance with these Assurance Procedures within 21 days of filing and service of the applicable amendment to the Utility Services List. Upon receipt of any Request by an Additional Utility Company, the Debtors may file a Determination Motion pursuant to paragraph (c) above, and pending resolution of such Determination Motion, the Additional Utility Company shall be subject to paragraph (d) and (e) above.
- (i) The Utility Deposit, as increased pursuant to paragraph (g) above, shall be deemed Adequate Assurance of payment for any Additional Utility Company that fails to serve a Request within 21 days of filing and service of the applicable amendment to the Utility Services List pursuant to the Assurance Procedures.

7. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in the Motion or this Interim Order or any payment made pursuant to this Interim Order shall constitute, nor is it intended to constitute, an admission as to the validity or priority of any claim or lien against the Debtors, a waiver of the Debtors' rights to subsequently dispute such claim or lien, or the assumption or adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

8. Any payment made or to be made under this Order, and any authorization contained in this Order, shall be subject to the terms of the Interim Cash Collateral Order and related final order.

9. Any objection to the entry of the Final Order must be filed with the Court and served on the following parties: (i) counsel to the Debtors, Paul, Weiss, Rifkind, Wharton & Garrison, LLP, 1285 Avenue of the Americas, New York, New York, 10019, Attention: Kelley Cornish (email: kcornish@paulweiss.com) and Claudia Tobler (email: ctobler@paulweiss.com) and Bradley Arant Boult Cummings LLP, One Federal Place, 1819 Fifth Avenue North, Birmingham, Alabama 35203, Attention: Jay Bender (email: jbender@babco.com) and James Bailey (email: jbailey@babco.com); (ii) the Office of the Bankruptcy Administrator for the

Northern District of Alabama, 1800 Fifth Avenue North, Birmingham, Alabama 35203, Attention: Jon Dudeck (email: jon_dudeck@alnb.uscourts.gov); (iii) counsel to the Steering Committee, Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, New York 10036, Attention: Ira Dizengoff (email: idizengoff@akingump.com), Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Ave, N.W., Washington, DC 20036, Attention: James Savin (email: jsavin@akingump.com) and Burr Forman, 420 North 20th Street, Suite 3400, Birmingham, Alabama 35203, Attention: Michael L. Hall (email: mhall@burr.com) and D. Christopher Carson (email: ccarson@burr.com); (iv) counsel to the administrative agent for the Debtors' prepetition secured credit facility; (v) counsel to any statutory committee appointed in these cases; and (vi) any party that has requested notice pursuant to Bankruptcy Rule 2002, in each case to allow actual receipt by no later than 4:00 p.m. (CDT) on _____, 2015 (the "Objection Deadline").

10. The Debtors may file an omnibus reply to any objection with the Court and serve such reply via email on or before 12:00 p.m. (Central Daylight Time) on the day that is at least two business days before the date of the final hearing on the Motion.

11. If timely objections are received by the Objection Deadline there shall be a hearing on _____, 2015, at _____ (Central Daylight Time) to consider such timely objections to the Motion and the Debtors' omnibus reply.

12. If no objections are timely filed and served by the Objection Deadline as set forth herein, the Debtors shall, on or after the Objection Deadline, submit to the Court a final order substantially in the form of the Final Order annexed to the Motion, which order shall be submitted and may be entered with no further notice or opportunity to be heard afforded any party and the Motion shall be approved *nunc pro tunc* to the Petition Date.

13. Within two (2) days after the date of entry of this Interim Order, the Debtors will serve a copy of this Interim Order on the Utility Companies listed in Exhibit C to the Motion via facsimile, email or first-class mail.

14. Notwithstanding Bankruptcy Rule 6003, this Order shall be effective and enforceable upon entry hereof.

15. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry.

16. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Interim Order.

Dated: July [], 2015

UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

PROPOSED FINAL ORDER

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

In re:

WALTER ENERGY, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 15-____(____)

Joint Administration Requested

FINAL ORDER (A) (I) PROHIBITING UTILITY COMPANIES FROM ALTERING, REFUSING OR DISCONTINUING UTILITY SERVICES; (II) DEEMING UTILITY COMPANIES ADEQUATELY ASSURED OF FUTURE PERFORMANCE; AND (III) ESTABLISHING PROCEDURES FOR DETERMINING ADEQUATE ASSURANCE OF PAYMENT; (B) AUTHORIZING AND DIRECTING APPLICABLE BANKS AND OTHER FINANCIAL INSTITUTIONS TO PROCESS AND PAY ALL CHECKS PRESENTED FOR PAYMENT AND TO HONOR ALL FUNDS TRANSFER REQUESTS MADE BY THE DEBTORS RELATING TO THE FOREGOING AND (C) GRANTING RELATED RELIEF

Upon consideration of the motion (the “Motion”)² of Walter Energy, Inc. and its affiliated debtors and debtors-in-possession in the above-captioned cases (each a “Debtor” and collectively, the “Debtors”), requesting entry of interim and final orders pursuant to section 366 of the Bankruptcy Code and Bankruptcy Rule 6004: (a) (i) prohibiting Utility Companies from altering, refusing or discontinuing Utility Services, (ii) deeming Utility Companies adequately assured of future performance, (iii) establishing procedures for determining adequate assurance of payment, (b) authorizing and directing all applicable banks and other

¹ Walter Energy, Inc. (9953); Atlantic Development and Capital, LLC (8121); Atlantic Leaseco, LLC (5308); Blue Creek Coal Sales, Inc. (6986); Blue Creek Energy, Inc. (0986); J.W. Walter, Inc. (0648); Jefferson Warrior Railroad Company, Inc. (3200); Jim Walter Homes, LLC (4589); Jim Walter Resources, Inc. (1186); Maple Coal Co., LLC (6791); Sloss-Sheffield Steel & Iron Company (4884); SP Machine, Inc. (9945); Taft Coal Sales & Associates, Inc. (8731); Tuscaloosa Resources, Inc. (4869); V Manufacturing Company (9790); Walter Black Warrior Basin LLC (5973); Walter Coke, Inc. (9791); Walter Energy Holdings, LLC (1596); Walter Exploration & Production LLC (5786); Walter Home Improvement, Inc. (1633); Walter Land Company (7709); Walter Minerals, Inc. (9714); and Walter Natural Gas, LLC (1198). The location of the Debtors’ corporate headquarters is 3000 Riverchase Galleria, Suite 1700, Birmingham, Alabama 35244-2359.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

financial institutions to process and pay all checks presented for payment and to honor all funds transfer requests made by the Debtors relating to the foregoing; and (c) granting related relief, all as described more fully in the Motion; and it appearing that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of these cases 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 it appearing that adequate and proper notice of the Motion has been given and that no other or further notice need be given; and a hearing having been held to consider the relief requested in the Motion; and upon the record of the hearing and all of the proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates, their creditors, and all other parties in interest; and the legal and factual bases set forth in the Motion having established just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor; it is hereby ORDERED that:

1. The Motion is GRANTED on a FINAL BASIS to the extent provided herein.
2. The Debtors are authorized, but not directed, to pay on a timely basis and in accordance with their prepetition practices all undisputed invoices for postpetition Utility Services provided by the Utility Companies to the Debtors.
3. To the extent not already deposited, the Debtors shall, on or before twenty-one (21) days after the Petition Date, deposit a sum of approximately \$1.8 million, an amount equal to 50% of the Debtors' average monthly cost of the Utility Services, based on the past twelve months of service (the "Utility Deposit"), into a newly created segregated bank account, which shall constitute Adequate Assurance of payment for each Utility Company for postpetition

Utility Services provided to the Debtors. The Utility Deposit may be either interest-bearing or non-interest-bearing at the Debtors' election.

4. The Utility Deposit Account shall be maintained with a minimum balance of approximately \$1.8 million, an amount equal to 50% of the Debtors' average monthly cost of the Utility Services, based on the past twelve months of service, which may be adjusted by the Debtors: (i) to account for the termination of Utility Services by the Debtors regardless of any Requests (as defined in the Motion) or agreements with Utility Companies; (ii) in accordance with the terms of any agreement between the Debtors and the affected Utility Company; and (iii) the inclusion of Adequate Assurance for Additional Utilities. Upon the effective date of any plan of reorganization for the Debtors or dismissal of the Chapter 11 Cases, the Debtors may close the Utility Deposit account without further notice or hearing.

5. Absent further order of the Court, the Utility Companies are prohibited from: (i) altering, refusing, or discontinuing Utility Services on the basis of the commencement of the Chapter 11 Cases, on account of any unpaid invoice for Utility Services provided before the Petition Date, or on account of any objections to the Debtors' proposed adequate assurance; or (ii) demanding or requiring the Debtors to furnish any additional deposit or other security to the Utility Companies for the continued provision of Utility Services.

6. The Debtors' proposed Assurance Procedures are approved, as follows:

- (a) If a Utility Company is not satisfied with the assurance of future payment provided by the Debtors, the Utility Company must serve a written request (a "Request") upon (x) counsel to the Debtors, Paul, Weiss, Rifkind, Wharton & Garrison, LLP, 1285 Avenue of the Americas, New York, New York, 10019, Attention: Michael Rudnick (email: mrudnick@paulweiss.com), Ann Young (email: ayoung@paulweiss.com), and Claudia Tobler (ctobler@paulweiss.com) and Bradley Arant Boult Cummings LLP, One Federal Place, 1819 Fifth Avenue North, Birmingham, Alabama 35203, Attention: Jay Bender (email: jbender@babco.com); or James Bailey (email: jbailey@babco.com); and (y)

counsel to the Steering Committee, Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, New York 10036, Attention: Ira Dizengoff (email: idizengoff@akingump.com), Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Ave, N.W., Washington, DC 20036, Attention: James Savin (email: jsavin@akingump.com) and Burr Forman, 420 North 20th Street, Suite 3400, Birmingham, Alabama 35203, Attention: Michael L. Hall (email: mhall@burr.com) and D. Christopher Carson (email: ccarson@burr.com) (i) setting forth the location(s) for which Utility Services are provided, the account number(s) for such location(s), and the outstanding balance for each account, (ii) providing a report on and certifying the Debtors' payment history on each account for the previous twelve (12) months, (iii) disclosing any existing security deposit, and (iv) providing an explanation of why the Utility Deposit is not Adequate Assurance of payment.

- (b) Without further order of the Court, the Debtors may enter into agreements granting additional Adequate Assurance to a Utility Company or extending the Debtors' time to file a Determination Motion (as defined below); provided, however, that the Debtors shall consult with the advisors of the Steering Committee with respect to any proposed Adequate Assurance of \$500,000 or more for any individual Utility in excess of the Utility Deposit .
- (c) If the Debtors believe a Request is unreasonable, then they shall, within thirty (30) days after receipt of a Request (or such later date agreed to by the Debtors and the requesting Utility Company), file a motion (the "Determination Motion") pursuant to section 366(c)(3) of the Bankruptcy Code seeking a determination from the Court that the Utility Deposit, plus any additional consideration offered by the Debtors, constitutes Adequate Assurance of payment. Pending notice and a hearing on the Determination Motion, the Utility Company that is the subject of the unresolved Request may not alter, refuse, or discontinue services to the Debtors.
- (d) The Utility Deposit shall be deemed Adequate Assurance of payment for any Utility Company that fails to make a Request within fourteen (14) days of entry of the Final Order.
- (e) Pending resolution of any such Determination Motion, the Utility Company serving such Request shall be prohibited from altering, refusing, or discontinuing service to the Debtors on account of the commencement of the Chapter 11 Cases, unpaid charges for prepetition services, or on account of any objections to the Debtors' proposed Adequate Assurance.
- (f) Should the Debtors identify additional Utility Companies (each, an "Additional Utility Company"), the Debtors will amend the Utility Services List and file a notice of the amendment. The Debtors will serve

copies of the notice of the amendment, this Motion, the Interim Order (if and when entered), and the Final Order (if and when entered) on each Additional Utility Company and counsel to the Steering Committee.

- (g) Upon any amendment to the Utility Service List, the Debtors will increase the amount of the Utility Deposit by an amount equal to 50% of the Debtors' average monthly payment for Utility Services provided by such Additional Utility Company. Any increase to the Utility Deposit will be based on the Debtors' average expenses for Utility Service provided by any Additional Utility Company over the twelve (12) months preceding the amendment to the Utility Service List.
- (h) Any Additional Utility Company served with notice of an amendment to the Utility Services List may serve a Request in compliance with these Assurance Procedures within 21 days of filing and service of the applicable amendment to the Utility Services List. Upon receipt of any Request by an Additional Utility Company, the Debtors may file a Determination Motion pursuant to paragraph (c) above, and pending resolution of such Determination Motion, the Additional Utility Company shall be subject to paragraph (d) and (e) above.
- (i) The Utility Deposit, as increased pursuant to paragraph (g) above, shall be deemed Adequate Assurance of payment for any Additional Utility Company that fails to serve a Request within 21 days of filing and service of the applicable amendment to the Utility Services List pursuant to the Assurance Procedures.

7. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in the Motion or this Final Order or any payment made pursuant to this Final Order shall constitute, nor is it intended to constitute, an admission as to the validity or priority of any claim or lien against the Debtors, a waiver of the Debtors' rights to subsequently dispute such claim or lien, or the assumption or adoption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

8. Any payment made or to be made under this Order, and any authorization contained in this Order, shall be subject to the terms of the Interim Cash Collateral Order and related final order.

9. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Final Order shall be immediately effective and enforceable upon its entry

10. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this Final Order.

Dated: August [], 2015

UNITED STATES BANKRUPTCY JUDGE

EXHIBIT C

UTILITY SERVICE LIST

Utility Company	Service Provided	Locations Served
Advance Disposal	Sewer/Trash	Walter Minerals
Alabama Gas Corporation	Gas	Walter Coke
Alabama Power Company	Electric	Taft Coal Sales & Assoc.; Walter Coke; Walter Energy, Inc.; Tuscaloosa Resources; Walter Black Warrior Basin; Jim Walter Resources; Walter Minerals
Appalachian Power	Electric	Maple Coal
Armstrong Public Service District	Water	Maple Coal
AT&T	Phone/Fax/Data	Taft Coal Sales & Assoc.; Walter Coke; Walter Energy, Inc.; Tuscaloosa Resources; Walter Black Warrior Basin; Jim Walter Resources; Walter Minerals
AT&T Communication Systems Southeast	Phone/Fax/Data	Walter Energy, Inc.
Berry Water Works	Water	Jim Walter Resources
Birmingham Water Works	Water	Walter Coke
Capstone Utilities	Water/Sewer/Trash	Tuscaloosa Resources; Jim Walter Resources
Carroll's Creek Water Authority	Water	Jim Walter Resources
Centurylink	Phone/Fax/Data	Jim Walter Resources; Cedar Creek; Walter Energy, Inc.
Charter Communications	Phone/Fax/Data	Jim Walter Resources; Walter Energy, Inc.
Citizen's Water Service Inc.	Water	Tuscaloosa Resources; Jim Walter Resources; Walter Minerals
City of Tuscaloosa	Water	Walter Black Warrior Basin

Utility Company	Service Provided	Locations Served
City of Tuscaloosa Water & Sewer Department	Water	Walter Black Warrior Basin
Consolidated Waterworks District No. 1	Water	Walter Land; Walter Energy, Inc.
Crosier's Inc.	Sewer/Trash	Atlantic Leaseco; Maple Coal
Fayette Gas Board	Gas	Jim Walter Resources
Frontier	Phone/Fax/Data	Atlantic Leaseco; Maple Coal; Walter Energy, Inc.
Jasper Waterworks & Sewer Board	Water	Taft Coal Sales & Assoc.
Lumos Networks	Phone/Fax/Data	Atlantic Development Company; Walter Energy, Inc.
Lusk Disposal Services	Sewer/Trash	Atlantic Leaseco; Maple Coal
Monpower	Electric	Atlantic Leaseco
Moore Coal Company Inc.	Sewer/Trash	Taft Coal Sales & Assoc.
Mountaineer Gas	Gas	Maple Coal
Oakmam Water Works	Water	Walter Black Warrior Basin
Oswalt Sewage Co. Inc.	Sewer/Trash	Taft Coal Sales & Assoc.
Pea River Electric Cooperative	Electric	Walter Coke
Republic Services, Inc., DBA AWS Birmingham	Sewer/Trash	Taft Coal Sales & Assoc.
Rumsey Environmental	Sewer/Trash	Walter Black Warrior Basin
Rumsey Sanitation, LLC	Sewer/Trash	Walter Black Warrior Basin
South Louisiana Electric Cooperative Association	Electric	Walter Land
Suburban Propane, LP	Gas	Jim Walter Resources
Suddenlink	Phone/Fax/Data	Maple Coal; Walter Energy, Inc.

Utility Company	Service Provided	Locations Served
Summersville Water Works	Water	Atlantic Leaseco
TDS Telecom	Phone/Fax/Data	Walter Energy, Inc.
The Water Works Board, AKA Parrish Water Works	Water	Taft Coal Sales & Assoc.
TW Telecom Holdings, Inc.	Phone/Fax/Data	Taft Coal Sales & Assoc.; Walter Coke; Walter Energy, Inc.; Tuscaloosa Resources; Walter Black Warrior Basin; Jim Walter Resources; Walter Minerals
Verizon	Phone/Fax/Data	Taft Coal Sales & Assoc.; Walter Coke; Walter Energy, Inc.; Tuscaloosa Resources; Walter Black Warrior Basin; Jim Walter Resources; Walter Minerals
Verizon Business	Phone/Fax/Data	Walter Energy, Inc.
Verizon Conferencing	Phone/Fax/Data	Jim Walter Resources; Walter Energy, Inc.
Walker Company Solid Waste Department	Sewer/Trash	Taft Coal Sales & Assoc.
Warrior River Water	Water	Jim Walter Resources
Waste Management of West Virginia	Sewer/Trash	Atlantic Leaseco; Maple Coal
Windstream Corporation	Phone/Fax/Data	Taft Coal Sales & Assoc.; Walter Coke; Walter Energy, Inc.; Tuscaloosa Resources; Walter Black Warrior Basin; Jim Walter Resources; Walter Minerals