Docket #0040 Date Filed: 4/10/2026
United States Bankruptcy Court
Southern District of Texas
ENTERED
April 10, 2026
Nathan Ochsner, Clerk

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	)	Chapter 11
ASCEND ELEMENTS, INC., *et al.*,[1]	)	Case No. 26-90440
Debtors.	)	(Jointly Administered)

ORDER (I) APPROVING THE DEBTORS' PROPOSED ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES, (II) APPROVING ADEQUATE ASSURANCE PROCEDURES, (III) PROHIBITING UTILITY PROVIDERS FROM ALTERING, REFUSING, OR DISCONTINUING SERVICE, AND (IV) GRANTING RELATED RELIEF

Upon the emergency motion (the "Motion")[2] of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for the entry of an order (this "Order"), (a) approving the Debtors' proposed adequate assurance of payment for future utility services, (b) approving the Adequate Assurance Procedures, (c) prohibiting utility providers from altering, refusing, or discontinuing services, and (d) granting related relief, all as more fully set forth in the Motion and the First Day Declaration; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the *Order of Reference to Bankruptcy Judges* from the United States District Court for the Southern District of Texas, entered May 24, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Ascend Elements, Inc. (2893) and Ascend Elements US, LLC (8309). The location of the Debtors' service address is: 133 Flanders Road, Westborough, MA 01581.

[2] Capitalized terms used but not defined herein have the meanings ascribed to them in the Motion.

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pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court, if any (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT**:

1. The Adequate Assurance Deposit and Adequate Assurance Procedures, as further described in the Motion and in this Order, are hereby approved and are deemed adequate assurance of future payment as required by section 366 of the Bankruptcy Code.

2. The $20,316 to be deposited by the Debtors (the "Adequate Assurance Deposit") into a segregated account (the "Adequate Assurance Account") within ten business days of the date hereafter or as soon as reasonably practicable, together with the Debtors' ability to pay for future Utility Services in the ordinary course of business, subject to the Adequate Assurance Procedures, shall constitute adequate assurance of future payment as required by section 366 of the Bankruptcy Code.

3. The Debtors shall cause a copy of the Motion and this Order to be served on each Utility Provider listed on the Utility Services List no later than three business days after the date this Order is entered.

4. 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 Providers to the Debtors. The Utility Providers are hereby prohibited from unilaterally applying any such postpetition payments to any amounts due on account of prepetition Utility Services, including, without limitation, any penalties or interest.

5. The Debtors are authorized to cause the Adequate Assurance Deposit to be held in a segregated Adequate Assurance Account during the pendency of these chapter 11 cases, subject to the Adequate Assurance Procedures.

6. The Debtors shall deposit funds in the Adequate Assurance Account in the amount set forth for each Utility Provider in the column labeled "Proposed Adequate Assurance" on the Utility Services List attached hereto.

7. If an amount relating to Utility Services provided postpetition by a Utility Provider is unpaid, and remains unpaid beyond any applicable grace period, such Utility Provider may request a disbursement from the Adequate Assurance Account by giving notice to: (a) the Debtors; (b) proposed counsel to the Debtors, Norton Rose Fulbright US LLP, 1550 Lamar Street, Suite 2000, Houston, TX 77010, Attn: Ryan Manns (ryan.manns@nortonrosefulbright.com) and Jason Blanchard (jason.blanchard@nortonrosefulbright.com); (c) the Office of the United States Trustee, Southern District of Texas, Region 7, 515 Rusk Street, Suite 3516, Houston, Texas 77002, Attn: Ha Nguyen (ha.nguyen@usdoj.gov) and Vianey Garza (vianey.garza@usdoj.gov); and (d) (d) counsel to Certain Senior Secured Noteholders, Weil, Gotshal & Manges LLP, 700 Louisiana Street, Suite 3700, Houston, Texas 77002, Attn: Stephanie N. Morrison (stephanie.morrison@weil.com) and Emma Wheeler (emma.wheeler@weil.com); and (e) any official committee appointed in these chapter 11 cases (collectively, the "Notice Parties"). The

Debtors shall honor such request within five (5) business days after the date the request is received by the Debtors, subject to the ability of the Debtors and the applicable Utility Provider to resolve any dispute regarding such request without further order of the Court. To the extent a Utility Provider receives a disbursement from the Adequate Assurance Account, the Debtors shall replenish the Adequate Assurance Account in the amount disbursed.

8. The portion of the Adequate Assurance Deposit attributable to each Utility Provider shall be removed from the Adequate Assurance Account by the Debtors and returned to the Debtors on the earlier of (a) without further order of the Court, reconciliation and payment by the Debtors of the Utility Provider's final invoice in accordance with applicable non-bankruptcy law following the Debtors' termination of Utility Services from such Utility Provider, (b) the effective date of any chapter 11 plan confirmed in these chapter 11 cases, (c) the dismissal of these chapter 11 cases, (d) the consummation of a sale, pursuant to section 363 of the Bankruptcy Code, of all or substantially all assets of the Debtors, or (e) as provided pursuant to, or consistent with, any further order of this Court.

9. The following "Adequate Assurance Procedures" are hereby approved:

a. Subject to paragraphs (b)-(f) hereof, the Debtors will deposit the Adequate Assurance Deposit in the aggregate amount of $20,316 into the Adequate Assurance Account within ten business days of entry of this Order.

b. Any Utility Provider desiring additional assurance of payment in the form of deposits, prepayments, or otherwise must serve a request for additional assurance (an "Additional Assurance Request") on the Notice Parties within fourteen days after entry of this Order by the Court granting the Motion (or for any Subsequently Identified Utility Provider, within fourteen days after receipt of a copy of this Order).

c. Any Additional Assurance Request must (i) be in writing, (ii) identify the location(s) for which the Utility Services are provided, the account number(s) for such location(s), and the outstanding balance for each such account, (iii) summarize the Debtors' payment history relevant to the affected account(s), including any security deposits, and (iv) explain why the Utility

Provider believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment.

d. Upon the Debtors' receipt of any Additional Assurance Request, the Debtors shall promptly negotiate with such Utility Provider to resolve such Utility Provider's Additional Assurance Request.

e. The Debtors may, without further order from the Court, resolve any Additional Assurance Request by mutual agreement with a Utility Provider, and the Debtors may, in connection with any such agreement, provide a Utility Provider with additional adequate assurance of payment, including, but not limited to, cash deposits, prepayments, or other forms of security if the Debtors believe that such adequate assurance is reasonable, subject to the Approved Budget; *provided*, *however*, that the Debtors shall maintain a summary record of such agreements and their respective terms, and such summary record and agreements shall be available for inspection by any official committee appointed in these chapter 11 cases and the U.S. Trustee, in each case, upon request.

f. If the Debtors and the applicable Utility Provider are not able to reach an alternative resolution within 21 days of receipt of an Additional Assurance Request (the "Resolution Period"), the Debtors or the Utility Provider may request an emergency hearing before the Court to occur within 7 days of the end of the Resolution Period to determine the adequacy of assurance of payment with respect to such Utility Provider (the "Determination Hearing") pursuant to section 366(c)(3) of the Bankruptcy Code.

g. Pending resolution of any such Determination Hearing, the Utility Provider submitting such Additional Assurance Request shall be prohibited from altering, refusing, or discontinuing Utility Services to the Debtors on account of unpaid charges for prepetition services or on account of any objections to the Proposed Adequate Assurance.

10. The Utility Providers are prohibited from requiring additional adequate assurance of payment other than pursuant to the Adequate Assurance Procedures.

11. Any Utility Provider that does not timely file and serve an Additional Assurance Request in accordance with the Adequate Assurance Procedures shall be: (a) deemed to have received adequate assurance of payment "satisfactory" to such Utility Provider in compliance with section 366 of the Bankruptcy Code; and (b) forbidden from (i) discontinuing, altering, or refusing services to, or discriminating against, the Debtors on account of any unpaid prepetition charges,

the commencement of these chapter 11 cases, or any perceived inadequacy of the Proposed Adequate Assurance, or (ii) requiring additional assurance of payment other than the Proposed Adequate Assurance.

12. The Debtors are authorized, following the giving of fourteen days' notice to the affected Utility Provider, and the Debtors having received no objection from any such Utility Provider, to remove any Utility Provider from the Utility Services List, and the Debtors shall subtract from the Adequate Assurance Deposit an amount equal to one-half of the Debtors' average monthly cost for each removed Utility Provider as soon as practicable, as calculated based on utility payments made during the past year less the amount of Prepetition Deposits for certain Utility Providers. If an objection is timely received and the Debtors and the affected Utility Provider are not able to resolve such dispute by mutual agreement, the Debtors shall request a hearing before the Court at such date as the Debtors and the Utility Provider may agree, subject to the Court's availability. The Debtors shall only deduct from the Adequate Assurance Deposit the amount set aside for any Utility Provider that the Debtors seek to remove from the Utility Services List, if (a) the seven-day notice period has passed and the Debtors have not received any objection to removal of the applicable Utility Provider by such Utility Provider, or (b) any such objection has been resolved consensually or by order of the Court.

13. Notwithstanding anything in this Order to the contrary, upon a timely motion filed and served on the Notice Parties by any Utility Provider, the Court shall conduct a hearing on or before the date that is thirty (30) days following the Petition Date to resolve any disputes between the Debtors and such Utility Provider regarding the Adequate Assurance Procedures or the Proposed Adequate Assurance.

14. For Subsequently Identified Utility Providers that are added to the Utility Services List within 30 days of the Petition Date, the Debtors will cause a copy of this Order, including the Adequate Assurance Procedures, to be served on such Subsequently Identified Utility Provider no later than three business days after the Utility Provider is added. Any Subsequently Identified Utility Provider added to the Utility Services List shall be bound by the Adequate Assurance Procedures. In addition, the Debtors will augment the Adequate Assurance Deposit to include an amount the Debtors estimate in good faith to equal one-half of the Debtors' average monthly cost for each Subsequently Identified Utility Provider, as calculated based on utility payments made during the past year less the amount of Prepetition Deposits for certain Utility Providers.

15. The Adequate Assurance Procedures set forth herein are for all Utility Providers providing Utility Services to the Debtors and are not limited to those parties or entities listed on the Utility Services List.

16. The Debtors' service of the Motion upon the parties or entities listed on the Utility Services List shall not constitute an admission or concession that any such entity is a "utility" within the meaning of section 366 of the Bankruptcy Code and is not intended, nor should it be construed, to impair the Debtors' rights to contest the assessment or the amount, basis, or validity of any Utility Services that may be alleged to be due, and the Debtors expressly reserve all rights and defenses with respect thereto.

17. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

18. Notwithstanding the relief granted herein and any actions taken pursuant to such relief, and subject to the administrative status afforded pursuant to this Order, nothing in this Order shall be deemed: (a) an admission by the Debtors as to the amount of, basis for, or validity of any

claim against a Debtor entity under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or any order granting the relief requested by the Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission by the Debtors as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; (g) a waiver or limitation of the Debtors' or any other party in interest's, rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

19. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(a).

20. The Debtors shall maintain a matrix/schedule of payments made pursuant to this Order, including the following information: (a) the names of the payee; (b) the nature, date, and amount of the payment; (c) the category or type of payment, as further described and classified in the Motion; and (d) the Debtor or Debtors that made the payment. On the last business day of each month, the Debtors shall provide a copy of such matrix/schedule to the U.S. Trustee, counsel to certain of the Senior Secured Noteholders, and any statutory committee appointed in these chapter 11 cases every thirty days beginning upon entry of this Order and ending upon entry of an order confirming a plan or dismissing or converting these chapter 11 cases.

21. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are satisfied by such notice.

22. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

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

24. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Signed: April 10, 2026

Christopher Lopez
United States Bankruptcy Judge