

ORIGINAL

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

TAYLOR-WHARTON  
INTERNATIONAL LLC<sup>1</sup>, *et al.*,

Debtors.

Chapter 11

Case No. 09-14089 (BLS)  
(Jointly Administered)

Re: Docket Nos. 10 and 40

**FINAL ORDER PURSUANT TO 11 U.S.C. §§ 105(a) AND 366  
FINDING UTILITIES ADEQUATELY ASSURED OF PAYMENT  
AND ESTABLISHING FURTHER PROCEDURES**

Upon consideration of the Motion of Debtors Pursuant to 11 U.S.C. §§ 105(a) and 366 for an Order Finding Utilities Adequately Assured of Payment and Establishing Further Procedures (the "Motion"),<sup>2</sup> the Court finds that: (i) it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2); (iii) venue of these Cases and the Motion are proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; (iv) notice of the Motion and the hearing were sufficient under the circumstances; (v) the requirements of Bankruptcy Rule 6003 have been satisfied; and (vi) upon the Declaration of Leonard York in Support of the First Day Motions (the "York Declaration") and the record herein, and after due deliberation, good and sufficient cause exists for the relief requested. Accordingly, it is hereby,

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number are: Taylor-Wharton International LLC (1577); TWI-Holding LLC (8154); Taylor-Wharton Intermediate Holdings LLC (6890); Alpha One Inc. (1392); Beta Two Inc. (1408); Gamma Three Inc. (1367); Delta Four Inc. (1320); Epsilon Five Inc. (1344); TW Cryogenics LLC (1713); TW Cylinders LLC (1665); Sherwood Valve LLC (1781); American Welding & Tank LLC (1945); and TW Express LLC (6414).

<sup>2</sup> Capitalized terms not defined herein shall have the same meaning that has been ascribed to them in the Motion.

**ORDERED, ADJUDGED AND DECREED THAT,**

1. The Motion is GRANTED as set forth herein.
2. Each of the Utility Providers identified on Exhibit A attached hereto is adequately assured of payment pursuant to Section 366(c)(1)(A)(i) of the Bankruptcy Code due to: (i) the Debtors' available cash, together with the Debtors' DIP Financing, (ii) the Debtors' adequate assurance prepayments of the Deposit in an amount up to \$1.2 million, but in any event not less than \$700,000.00; and (iii) all such additional assurances, if any, that the Debtors have agreed, or may agree, to provide to any Utility Provider.
3. The Utility Providers are prohibited from altering, refusing, discontinuing or terminating services for lack of adequate assurance of post-petition payment, on the basis of the Debtors' commencement of their bankruptcy cases, or on the basis of a debt owed by the Debtors for service rendered prior to the Petition Date that was not paid when due.
4. To the extent that any Utility Provider believes that the measures provided in this Utility Order do not provide adequate assurance of payment and absent a default in payment for postpetition services, such Utility Provider shall have thirty (30) days from the date of this Utility Order to request additional assurance by serving a written request for such additional assurance (a "Request") upon counsel for the Debtors, after which the Debtors may enter into agreements with such Utility Provider regarding the provision of adequate assurance of payment without further order of this Court. To the extent that the Debtors and such Utility Provider are unable to reach an agreement regarding the Request, the Court, upon application of either party, shall schedule a hearing to determine the appropriate amount, if any, of additional adequate assurance to which such Utility Provider is entitled. Any Utility Provider filing a Request shall be deemed to be adequately assured of payment for post-petition services until entry of an order resolving

such a dispute in favor of the Utility Provider.

5. Upon the discovery of any Additional Utility Provider who is currently not on the Utility Service List, the Debtors shall provide notice to such Additional Utility Provider of this Utility Order and, contemporaneously with service of the notice, the Debtors shall file with the Court a corresponding supplement to the Utility Service List.

6. Absent a default in the payment for postpetition services, additional Utility Providers shall have twenty (20) day from the date of service of the Utility Order to request additional assurance, if any, from the Debtors by serving a Request for such additional assurance upon counsel for the Debtors. If an Additional Utility Provider timely serves a Request and the Debtors and such Additional Utility Provider are unable to resolve the dispute, the Court, upon application of either party, shall schedule a hearing to determine the appropriate amount, if any, of additional adequate assurance to which such Additional Utility Provider is entitled. Any Additional Utility Provider filing a Request shall be deemed to be adequately assured of payment for post-petition services until entry of an order resolving such a dispute in favor of the Additional Utility Provider.


7. The inclusion or exclusion of any entity on or from Exhibit A or on or from any amended Exhibit A shall not constitute an admission that such entity is or is not a utility company within the meaning of 11 U.S.C. § 366. This Order specifically reserves the rights of the Debtors to argue that (a) any of the entities now or hereafter listed on Exhibit A are not “utilities” within the meaning of section 366 of the Bankruptcy Code, and (b) any such entity is compelled by contractual obligation, state or local law, or otherwise, to continue to furnish services to the Debtors notwithstanding the Debtors filing for relief under Chapter 11 of the Bankruptcy Code.

8. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order.

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

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

Dated: January 6, 2010  
Wilmington, Delaware



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The Honorable Brendan L. Shannon