

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

In re: §
§ Chapter 11
AZURE MIDSTREAM §
PARTNERS, LP, et al., § Case No. 17-[_____] (____)
§
§ Joint Administration Requested
§
Debtors.¹ § (Emergency Hearing Requested)

EMERGENCY MOTION OF DEBTORS (I) FOR APPROVAL OF DEBTORS' PROPOSED FORM OF ADEQUATE ASSURANCE OF PAYMENT TO UTILITY COMPANIES, (II) TO ESTABLISH PROCEDURES FOR RESOLVING OBJECTIONS BY UTILITY COMPANIES, AND (III) TO PROHIBIT UTILITY COMPANIES FROM ALTERING, REFUSING, OR DISCONTINUING SERVICE PURSUANT TO SECTIONS 366 AND 105(a) OF THE BANKRUPTCY CODE AND SECTION 6004 OF THE BANKRUPTCY RULES

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

EMERGENCY RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Azure Midstream Partners, LP (7595), Azure ETG, LLC. (3388), Azure Holdings GP, LLC (0537), Azure Midstream Partners GP, LLC (8089), Azure TGG, LLC (6233), Marlin G&P I, LLC (6073), Marlin Logistics, LLC (8460), Marlin Midstream Finance Corp. (0130), Marlin Midstream, LLC (2587), Murvaul Gas Gathering, LLC (0826), Talco Midstream Assets, Ltd. (7004), and Turkey Creek Pipeline, LLC (1161). The Debtors' principal offices are located at 12377 Merit Drive, Suite 300, Dallas, Texas 75251.



Azure Midstream Partners, LP, its subsidiaries, and certain affiliates in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, the “**Debtors**”), respectfully represent as follows in support of this motion (this “**Motion**”):

Relief Requested

1. Pursuant to sections 366 and 105(a) of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rule 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), the Debtors respectfully request entry of an order (i) approving the Debtors’ proposed form of adequate assurance of payment for postpetition Utility Services (as defined below); (ii) establishing procedures for resolving objections by Utility Companies (as defined below) relating to the adequacy of the proposed adequate assurance; and (iii) prohibiting Utility Companies from altering, refusing, or discontinuing service to, or discriminating against, the Debtors on the basis of the commencement of these chapter 11 cases or because a debt owed by the Debtors for Utility Services rendered before the Petition Date (as hereinafter defined) was not paid when due.

2. A proposed form of order granting the relief requested herein on a final basis is annexed hereto as **Exhibit A** (the “**Proposed Order**”).

Jurisdiction

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

Background

4. On the date hereof (the “**Petition Date**”), each of the Debtors commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to

sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

5. The Debtors are a publicly-traded master limited partnership organized for the purpose of acquiring, developing, and operating midstream energy assets relating to (i) the gathering, transport, and processing of liquid natural gas and (ii) crude oil logistics services. The Debtors consist of eight operating entities, including Azure Midstream Partners, LP (“**Azure**”) and Azure Midstream Partners GP, LLC (“**Azure General Partner**”), and four non-operating entities (collectively, with the operating entities, the “**Company**”). Azure General Partner owns the general partnership interest in Azure. Approximately 97.7% of all outstanding limited partner interests in Azure are publicly held. Non-Debtor privately-held affiliate Azure Midstream Energy, LLC (“**AME**”) owns all the general partnership interests of Azure General Partner. AME also owns midstream energy assets, independent of its interests in Azure General Partner, either directly or through its affiliates (AME and such non-Debtor affiliates, collectively, the “**Non-Debtor Affiliate Company**”).

6. Additional information regarding the circumstances leading to the commencement of these chapter 11 cases and information regarding the Debtors’ business and capital structure is set forth in the *Declaration of Ed Mosley in Support of the Debtors’ Chapter 11 Petitions and Related Requests for Relief* (the “**Mosley Declaration**”), which has been filed contemporaneously herewith.

The Utility Companies

7. To operate their businesses and manage their properties, the Debtors obtain electricity, internet, cable, waste disposal, water, gas, and other utility services (collectively, the “**Utility Services**”) from a number of utility companies (collectively, the “**Utility Companies**”). A nonexclusive list of Utility Companies that provide Utility Services to

the Debtors as of the Petition Date is set forth on **Exhibit 1** to the Proposed Order (the “**Utility Services List**”).²

8. Uninterrupted Utility Services are essential to the Debtors’ ongoing operations and the success of these chapter 11 cases. For example, the Debtors’ operations require electricity for lighting, heating, and air conditioning and the Debtors maintain a corporate office and several regional and field offices that require electricity, telecommunications, and internet services to operate in their respective locations. Should any Utility Company alter, refuse, or discontinue service, even briefly, the Debtors’ business operations could be severely disrupted. Such disruption could jeopardize the Debtors’ sale efforts by creating uncertainty and destroying asset value. As a result, it is essential that the Utility Services continue uninterrupted during the chapter 11 cases.

9. To the best of the Debtors’ knowledge, there are no material defaults or significant arrearages with respect to the undisputed invoices for prepetition Utility Services. Based on a monthly average for the twelve months prior to the Petition Date, the Debtors estimate that their aggregate cost of Utility Services for the next thirty (30) days will be approximately \$115,589.

The Proposed Adequate Assurance Deposit

10. Pursuant to section 366(c)(2) of the Bankruptcy Code, a utility may alter, refuse, or discontinue a debtor’s utility service if the utility does not receive “adequate assurance of payment” for postpetition utility services from the debtor within thirty days after the commencement of the debtor’s chapter 11 case. Section 366(c)(1) of the Bankruptcy Code defines “assurance of payment” of postpetition charges as “(i) a cash deposit; (ii) a letter of

² The inclusion of any entity in, or omission of any entity from, the Utility Services List is not an admission by the Debtors that such entity is, or is not, a utility within the meaning of section 366 of the Bankruptcy Code, and the Debtors reserve all rights and defenses with respect thereto.

credit; (iii) a certificate of deposit; (iv) a surety bond; (v) a prepayment of utility consumption; or (vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.”

11. The Debtors intend to pay all postpetition obligations owed to the Utility Companies in a timely manner and have sufficient funds to do so. To provide the Utility Companies with adequate assurance pursuant to section 366 of the Bankruptcy Code, the Debtors propose to deposit cash in an amount equal to two (2) weeks’ payment for Utility Services, calculated using the historical average for such payments during the past twelve (12) months (the “**Adequate Assurance Deposit**”) into a newly created segregated account for the benefit of the Utility Companies (the “**Utility Deposit Account**”). The Adequate Assurance Deposit may be adjusted by the Debtors if the Debtors terminate any of the Utility Services provided by a Utility Company, make other adequate assurance arrangements with a Utility Company, determine that an entity listed on the Utility Services List is not a utility company as defined by section 366 of the Bankruptcy Code, or supplement the Utility Services List to include additional Utility Companies. Subject to entry of an order granting the relief requested herein, the Debtors will deposit the Adequate Assurance Deposit into the Utility Deposit Account within 20 days after the Petition Date. The Debtors estimate that the total amount of the Adequate Assurance Deposit will be approximately \$57,795. The Adequate Assurance Deposit will be held by the Debtors in the Utility Deposit Account for the benefit of the Utility Companies on the Utility Services List during the pendency of these chapter 11 cases. No liens will encumber the Adequate Assurance Deposit or the Utility Deposit Account.

12. The Debtors further request that the Adequate Assurance Deposit automatically, without further Court order, be released to the Debtors upon the effective date of a

chapter 11 plan for the Debtors. The Debtors submit that the Adequate Assurance Deposit, in conjunction with the Debtors' ability to pay for future Utility Services in the ordinary course of business (collectively, the "**Proposed Adequate Assurance**"), constitutes sufficient adequate assurance to the Utility Companies in full satisfaction of section 366 of the Bankruptcy Code.

The Proposed Adequate Assurance Procedures

13. To balance the right of each Utility Company to evaluate the Proposed Adequate Assurance and the harm to the Debtors' businesses that would result from any interruption in services provided by the Utility Companies, the Debtors propose the following objection procedures (the "**Adequate Assurance Procedures**") if any Utility Company is not satisfied with the Proposed Adequate Assurance:

- a. Within three business days after entry of the Proposed Order, the Debtors will fax, e-mail, serve by overnight mail, or otherwise expeditiously send a copy of the Proposed Order and the Motion to the Utility Companies on the Utility Services List.
- b. Subject to entry of the Proposed Order, the Debtors will deposit the Adequate Assurance Deposit, in the aggregate amount of \$57,795, in the Utility Deposit Account within 20 days after the Petition Date.
- c. Each Utility Company shall be entitled to the funds in the Utility Deposit Account in the amount set forth for such Utility Company in the column labeled "Proposed Adequate Assurance" on the Utility Services List.
- d. If an amount relating to Utility Services provided postpetition by a Utility Company is unpaid, and remains unpaid beyond any applicable grace period, such Utility Company may request a disbursement from the Utility Deposit Account by giving notice to: (i) proposed counsel to the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: David Zubkis, Esq.); (ii) the Office of the United States Trustee, 515 Rusk Street, Suite 3516, Houston, Texas 77002; and (iii) counsel for the official committee of unsecured creditors (if any) appointed in these chapter 11 cases. The Debtors shall honor any such request within five business days after the date the request is received by the Debtors, subject to the ability of the Debtors and any such requesting Utility Company to resolve any dispute regarding such request without further order of the Court. To the extent a Utility Company receives a

disbursement from the Utility Deposit Account, the Debtors shall replenish the Utility Deposit Account in the amount so disbursed.

- e. The portion of the Adequate Assurance Deposit attributable to each Utility Company shall be returned to the Debtors on the earlier of (i) reconciliation and payment by the Debtors of the Utility Company's final invoice in accordance with applicable nonbankruptcy law following Debtors' termination of Utility Services from such Utility Company and (ii) the effective date of any chapter 11 plan confirmed in these chapter 11 cases.
- f. If a Utility Company is not satisfied with the Proposed Adequate Assurance, it must serve a written request (an "**Additional Assurance Request**") upon proposed counsel to the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: David Zubkis, Esq.). The Additional Assurance Request must set forth (i) the location(s) for which Utility Services are provided; (ii) the account number(s) for such location(s); (iii) the outstanding balance for each such account; and (iv) an explanation of why the Utility Company believes the Adequate Assurance Deposit is not adequate assurance of payment. All Additional Assurance Requests must further (x) summarize the Debtors' payment history relevant to the affected account(s), (y) certify the amount that is equal to two weeks of the Utility Services the Utility Company provides to the Debtors, calculated as a historical average over the 12-month period preceding the Petition Date, and (z) certify that the Utility Company does not already hold a deposit equal to or greater than two weeks of Utility Services provided by such Utility Company.
- g. Unless a Utility Company properly and timely files and serves an objection to this Motion or serves, and all the Notice Parties listed actually receive, an Additional Assurance Request within 20 days after entry of the order granting this Motion by the Court, such Utility Company shall be: (i) deemed to have received "satisfactory" adequate assurance of payment in compliance with section 366 of the Bankruptcy Code and (ii) forbidden from discontinuing, altering, or refusing Utility Services to, or discriminating against, the Debtors on account of any unpaid prepetition charges or requiring additional assurance of payment other than the Proposed Adequate Assurance.
- h. Upon the Debtors' receipt of any Additional Assurance Request, the Debtors shall negotiate with such Utility Company to resolve such Utility Company's Additional Assurance Request.
- i. The Debtors may, without further order from the Court, resolve any Additional Assurance Requests by mutual agreement with a Utility Company, and the Debtors may, in connection with any such agreement,

provide a Utility Company 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.

- j. If the Debtors and the Utility Company are not able to reach an alternative resolution within 30 days of receipt of the Additional Assurance Request, the Debtors shall file a motion requesting that the Court determine the adequacy of assurance of payment with respect to a particular Utility Company (the “**Determination Motion**”) pursuant to section 366(c)(3) of the Bankruptcy Code.
- k. Pending the outcome of the Determination Motion, the Utility Company filing 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.

Subsequent Modifications of Utility Services List

14. To the extent the Debtors identify new or additional Utility Companies or discontinue services from existing Utility Companies, the Debtors seek authority to add or remove parties from the Utility Services List. Although the Debtors have made an extensive and good faith effort to identify all of the Utility Companies that provide Utility Services as set forth on the Utility Services List, certain Utility Companies may not be listed therein. To the extent that the Debtors identify additional Utility Companies, the Debtors shall file amendments to the Utility Services List and serve copies of any orders granting this Motion on any newly identified Utility Companies. In addition, the Debtors will increase the amount of the Adequate Assurance Deposit to account for any newly identified Utility Companies. The Debtors request that the order granting the relief requested herein bind all Utility Companies, regardless of when the Utility Companies are added to the Utility Services List.

15. Any Utility Company subsequently added to the Utility Services List that objects to the entry of the order must file an objection in accordance with the Federal Rules of

Bankruptcy Procedure, the Bankruptcy Local Rules for the Southern District of Texas and the Adequate Assurance Procedures.

16. The Debtors request that all Utility Companies, including Utility Companies subsequently added to the Utility Service List, be prohibited from altering, refusing or discontinuing utility services to the Debtors absent further order of the Court.

The Proposed Adequate Assurance Is Sufficient and the Proposed Adequate Assurance Procedures Are Reasonable and Appropriate

17. The relief requested in this Motion will ensure the continuation of the Debtors' business at this critical juncture as the Debtors transition into chapter 11. It will also provide the Utility Companies with a fair and orderly procedure for determining requests for additional adequate assurance, without which the Debtors could be forced to address multiple requests by Utility Companies in a disorganized manner when the Debtors' efforts should be more productively focused on continuing to operate and restructure their business for the benefit of all parties in interest.

A. The Proposed Adequate Assurance Is Sufficient

18. Section 366 of the Bankruptcy Code is designed to serve the dual purposes of protecting debtors from being cut off from utility services and providing utility companies with "adequate assurance" that the debtor will be able to pay for postpetition services. *See* H.R. Rep. No. 95-595, at 350 (1978), *reprinted in* 1978 U.S.C.C.A.N 5963, 6306. As a result, during the first 30 days of a chapter 11 case, a utility company may not alter, refuse, or discontinue service to a debtor solely because of unpaid prepetition amounts but may do so thereafter if the Debtor does not provide adequate assurance of payment for postpetition services. *See* 11 U.S.C. § 366(c).

19. Section 366(c)(1) of the Bankruptcy Code provides a nonexhaustive list of forms of “assurance of payment.” 11 U.S.C. § 366(c)(1). Examples include, but are not limited to, cash deposits, letters of credit, certificates of deposit, surety bonds, and prepayment. In addition, section 366(c)(3)(B) of the Bankruptcy Code provides a list of factors that courts are *not* to consider when evaluating whether a proposed adequate assurance payment is in fact adequate: (i) the absence of security before the petition date; (ii) the debtor’s history of timely payments; and (iii) the availability of an administrative expense priority.

20. Although section 366(c) clarifies what constitutes “assurance of payment” and what can be considered in determining whether such assurance is adequate, Congress, in enacting that section, did not divest this Court of its power to determine what amount, if any, is necessary to provide adequate assurance of payment to a Utility Company. Specifically, section 366(c)(3)(A) states that, “[o]n request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment” Thus, there is nothing to prevent a court from deciding that, on the facts of the case before it, the amount required of the debtor to provide adequate assurance of payment to a utility company should be nominal or even zero. *See, e.g., In re Pac-West Telecomm., Inc.*, Ch. 11 Case No. 07-10562 (BLS) (Bankr. D. Del. May 2, 2007), (Docket No. 39) (approving adequate assurance in the form of one-time supplemental prepayment to each utility company equal to prorated amount of one week’s charges). Prior to the enactment of section 366(c), courts frequently made such rulings pursuant to section 366(b). *See, e.g., Virginia Elec. & Power Co. v. Caldor, Inc.*, 117 F.3d 646, 650 (2d Cir. 1997) (“Even assuming that ‘other security should be interpreted narrowly, we agree with the appellees that a bankruptcy court’s authority to ‘modify’ the level of the ‘deposit or other security,’ provided for under § 366(b), includes the power to require no ‘deposit or other

security’ where none is necessary to provide a utility supplier with ‘adequate assurance of payment.’”).

21. Although section 366(c)(2) of the Bankruptcy Code allows a utility to take action if the debtor fails to provide adequate assurance of payment that is “satisfactory” to the utility, it is the Court and not the utility provider that is the ultimate arbiter of what is “satisfactory” assurance after taking into consideration the relationship between the debtor and the utility. *See, e.g., In re Heard*, 84 B.R. 454, 459 (Bankr. W.D. Tex. 1987) (holding that since the utility had not had any difficulty with the debtors during 14 years of service, “the utility need[ed] no adequate assurance”). Indeed, section 366 only requires that assurance of payment be “adequate,” and courts construing section 366(b) have long recognized that adequate assurance of payment does not constitute an absolute guarantee of the debtor’s ability to pay. *See, e.g., In re Caldor, Inc.*, 199 B.R. 1, 3 (S.D.N.Y. 1996) (“Section 366(b) requires . . . ‘adequate assurance’ of payment. The statute does not require an absolute guarantee of payment.” (citation omitted)), *aff’d sub nom. Va. Elec. & Power Co. v. Caldor, Inc.*, 117 F.3d 646; *In re New Rochelle Tel. Corp.*, 397 B.R. 633, 639 (Bankr. E.D.N.Y. 2008) (“Adequate assurance, however, is not a guarantee of payment; rather, it is intended to guard against the utility assuming an unreasonable risk of non-payment.”) (citation omitted); *In re Adelphia Bus. Solutions, Inc.*, 280 B.R. 63, 80 (Bankr. S.D.N.Y. 2002) (“In determining adequate assurance, a bankruptcy court is not required to give a utility company the equivalent of a guaranty of payment . . .”).

22. Further, courts consider what is “need[ed] of the utility for assurance, and . . . require that the debtor supply *no more than that*, since the debtor almost perforce has a conflicting need to conserve scarce financial resources.” *Va. Elec. & Power Co. v. Caldor, Inc.*,

117 F.3d at 650. Indeed, “[c]ourts will approve an amount that is adequate enough to insure against unreasonable risk of nonpayment, but are not required to give the equivalent of a guaranty of payment in full.” *In re Great Atl. & Pac. Tea Co.*, No. 11-CV-1338 (CS), 2011 WL 5546954, at *5 (S.D.N.Y. Nov. 14, 2011) (citations omitted).

23. Here, Utility Companies are adequately assured against any risk of nonpayment for future services. The Adequate Assurance Deposit, and the Debtors’ ongoing ability to meet obligations as they come due in the ordinary course, provides assurance of the Debtors’ payment of their future obligations to the Utility Companies. Moreover, termination of Utility Services could result in the Debtors’ inability to operate their businesses and to devote critical managerial resources to the sale process—to the detriment of all stakeholders. *See In re Pilgrim’s Pride Corp.*, No. 08-45664 (DML), 2009 WL 7313309, at *2 (Bankr. N.D. Tex. Jan. 4, 2009) (“The consequences of an unexpected termination of utility service to [the debtors] could be catastrophic.”).

24. Courts in this District have consistently found that adequate assurance of two weeks’ estimated utility costs satisfies the requirements of section 366 of the Bankruptcy Code. *See, e.g., In re Memorial Prod. Partners LP, et al.*, No. 17-30262 (MI) (Bankr. S.D. Tex. Jan. 17, 2017) (Docket No. 57); *In re Ultra Petroleum Corp.*, No. 16-32202 (MI) (Bankr. S.D. Tex. May 3, 2016), (Docket No. 72); *In re Energy XXI Ltd*, No. 16–31928 (DRJ) (Bankr. S.D. Tex. Apr. 15, 2016), (Docket No. 59). In light of the foregoing, the Debtors submit that the Proposed Adequate Assurance is sufficient.

B. The Adequate Assurance Procedures Are Reasonable and Appropriate

25. If a Utility Company does not believe the Proposed Adequate Assurance is “satisfactory,” the Utility Company may file an objection or an Additional Assurance Request pursuant to the Adequate Assurance Procedures described above. The proposed Adequate

Assurance Procedures are reasonable because they will ensure that the Utility Services continue while providing a streamlined process for Utility Companies to challenge the adequacy of the Proposed Adequate Assurance or seek an alternative form of adequate assurance.

26. The Court has the power to approve the Adequate Assurance Procedures pursuant to section 105(a) of the Bankruptcy Code, which provides that a bankruptcy court may “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions” of the Bankruptcy Code. The Adequate Assurance Procedures are necessary and appropriate to carry out the provisions of the Bankruptcy Code, particularly section 366, and this Court has regularly approved similar procedures in other complex chapter 11 cases such as this. *See, e.g., In re Memorial Prod. Partners LP, et al.*, No. 17-30262 (MI) (Bankr. S.D. Tex. Jan. 17, 2017) (Docket No. 57) (granting two weeks); *In re Energy XXI Ltd*, No. 16–31928 (DRJ) (Bankr. S.D. Tex. Apr. 15, 2016), (Docket No. 59) (same); *In re Sherwin Alumina Co.*, No. 16–20012 (DRJ) (Bankr. S.D. Tex. Feb. 10, 2016), (Docket No. 243) (same). In light of the foregoing, the Debtors submit that the Adequate Assurance Procedures are reasonable and appropriate.

**Applicable Banks Should be Directed
to Honor and Pay Checks Issued and Make
Other Transfers to Pay for Utility Services**

27. As part of their cash management system, the Debtors maintain deposit accounts at Wells Fargo, National Association (“**Wells Fargo**”). In the ordinary course of business, the Debtors draw upon funds in these accounts to satisfy their obligations with respect to payments to the Utility Companies. The Debtors request that the Court direct Wells Fargo and any other applicable financial institutions to receive, process, honor, and pay all checks and electronic funds transfers (“**EFTs**”) used to pay for Utility Services, whether requested or presented prior to, on, or after the Petition Date. The Debtors also seek authority to issue new

postpetition checks and effect new postpetition EFTs on account of the Utility Services to replace any prepetition checks or EFTs that may be dishonored or rejected as a result of the commencement of these chapter 11 cases.

Request for Bankruptcy Rule 6004 Waivers

28. The Debtors request a waiver of the notice requirements under Bankruptcy Rule 6004(a) and any stay of the order granting the relief requested herein pursuant to Bankruptcy Rule 6004(h). As explained above and in the Mosley Declaration, the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtors. Accordingly, ample cause exists to justify the waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14-day stay imposed by Bankruptcy Rule 6004(h), to the extent such stay applies.

Reservation of Rights

29. Nothing contained herein is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute any claim, or (iii) an approval or assumption of any agreement, contract, program, policy, or lease under section 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

Notice

30. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the Southern District of Texas; (ii) the Debtors' thirty (30) largest unsecured creditors on a consolidated basis; (iii) Baker & McKenzie LLP, 452 Fifth Avenue,

New York, NY 10018 (Attn: James Donnell, Esq. and Peter S. Goodman, Esq.), counsel to Wells Fargo Bank, N.A., as administrative agent under the Credit Agreement; (iv) the Securities and Exchange Commission; (v) the Internal Revenue Service; (vi) the United States Attorney's Office for the Southern District of Texas; and (vii) the Utility Companies. The Debtors submit that no other or further notice need be provided.

No Previous Request

31. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE the Debtors respectfully request entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: January 30, 2017
Houston, Texas

/s/ Christopher M. López

Christopher M. López (24041356)
WEIL, GOTSHAL & MANGES LLP
700 Louisiana Street, Suite 1700
Houston, Texas 77002
Telephone: (713) 546-5000
Facsimile: (713) 224-9511
Email: chris.lopez@weil.com

-and-

Gary T. Holtzer (*pro hac vice* pending)
Robert J. Lemons (*pro hac vice* pending)
Charles M. Persons (*pro hac vice* pending)
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007
Email: gary.holtzer@weil.com
Email: charles.persons@weil.com

*Proposed Attorneys for the Debtors
and Debtors in Possession*

Certificate of Service

I hereby certify that on January 30, 2017, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas and will be served as set forth in the Affidavit of Service to be filed by the Debtors' proposed claims, noticing, and solicitation agent.

/s/ Christopher M. Lopez
Christopher M. López

Exhibit A

Proposed Order

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

In re:	§	
	§	Chapter 11
	§	
AZURE MIDSTREAM PARTNERS, LP, et al.,	§	Case No. 17-[_____] (____)
	§	
	§	Joint Administration Requested
	§	
Debtors.¹	§	Re: Docket No. ____

ORDER (I) APPROVING DEBTORS' PROPOSED FORM OF ADEQUATE ASSURANCE OF PAYMENT TO UTILITY COMPANIES, (II) ESTABLISHING PROCEDURES FOR RESOLVING OBJECTIONS BY UTILITY COMPANIES, AND (III) PROHIBITING UTILITY COMPANIES FROM ALTERING, REFUSING, OR DISCONTINUING SERVICE PURSUANT TO SECTIONS 366 AND 105(a) OF THE BANKRUPTCY CODE AND SECTION 6004 OF THE BANKRUPTCY RULES

Upon the motion, dated January 30, 2017 (the "**Motion**"),² of Azure Midstream Partners, LP, its subsidiaries, and certain affiliates in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, the "**Debtors**"), (i) for approval of the Debtors' proposed form of adequate assurance of payment to Utility Companies; (ii) to establish procedures for resolving objections by Utility Companies; and (iii) to prohibit Utility Companies from altering, refusing, or discontinuing Utility Services, pursuant to sections 366 and 105(a) of title 11 of the United States Code (the "**Bankruptcy Code**") and Rule 6004 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), as more fully set forth in the Motion; and upon consideration of the Mosley Declaration; and the Court having jurisdiction to consider the

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Azure Midstream Partners, LP (7595), Azure ETG, LLC. (3388), Azure Holdings GP, LLC (0537), Azure Midstream Partners GP, LLC (8089), Azure TGG, LLC (6233), Marlin G&P I, LLC (6073), Marlin Logistics, LLC (8460), Marlin Midstream Finance Corp. (0130), Marlin Midstream, LLC (2587), Murvaul Gas Gathering, LLC (0826), Talco Midstream Assets, Ltd. (7004), and Turkey Creek Pipeline, LLC (1161). The Debtors' principal offices are located at 12377 Merit Drive, Suite 300, Dallas, Texas 75251.

² All capitalized terms used, but not otherwise defined, herein shall have the meanings ascribed to such terms in the Motion.

Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it appearing that venue is allowed before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the parties listed therein, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors and their respective estates and creditors; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. Pursuant to sections 366 and 105(a) of the Bankruptcy Code and Bankruptcy Rule 6004, the Debtors' form of Proposed Adequate Assurance is approved.
3. The Adequate Assurance Deposit, together with the Debtors' ability to pay for future Utility Services in the ordinary course of business, shall constitute adequate assurance of future payment as required by section 366 of the Bankruptcy Code.
4. The Debtors shall deposit the Adequate Assurance Deposit in the amount of \$57,795 in a newly-created, segregated, interest-bearing account for the benefit of the Utility Companies (the "**Utility Deposit Account**"), which shall be separately allocated for, and payable to, each Utility Company in the amount set forth on **Exhibit 1** annexed hereto as to each Utility Company or as otherwise agreed within 20 days after the Petition Date.

5. All Utility Companies, including, without limitation, those listed on **Exhibit 1** annexed hereto, are prohibited from altering, refusing, or discontinuing Utility Services or otherwise discriminating against the Debtors on account of any unpaid prepetition charges or any perceived inadequacy of the Debtors' Proposed Adequate Assurance.

6. The following Additional Assurance Procedures are approved:

- a. Within three business days after entry of this Order, the Debtors will fax, e-mail, serve by overnight mail, or otherwise expeditiously send a copy of this Order and the Motion to the Utility Companies on the Utility Services List.
- b. Each Utility Company shall be entitled to the funds in the Utility Deposit Account in the amount set forth for such Utility Company in the column labeled "Proposed Adequate Assurance" on the Utility Services List.
- c. If an amount relating to Utility Services provided postpetition by a Utility Company is unpaid, and remains unpaid beyond any applicable grace period, such Utility Company may request a disbursement from the Utility Deposit Account by giving notice to: (i) proposed counsel to the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: David Zubkis, Esq.); (ii) the Office of the United States Trustee, 515 Rusk Street, Suite 3516, Houston, Texas 77002; and (iii) counsel for the official committee of unsecured creditors (if any) appointed in these chapter 11 cases. The Debtors shall honor any 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 any such requesting Utility Company to resolve any dispute regarding such request without further order of the Court. To the extent a Utility Company receives a disbursement from the Utility Deposit Account, the Debtors shall replenish the Utility Deposit Account in the amount so disbursed.
- d. The portion of the Adequate Assurance Deposit attributable to each Utility Company shall be returned to the Debtors on the earlier of (i) reconciliation and payment by the Debtors of the Utility Company's final invoice in accordance with applicable nonbankruptcy law following Debtors' termination of Utility Services from such Utility Company and (ii) the effective date of any chapter 11 plan confirmed in these chapter 11 cases.
- e. If a Utility Company is not satisfied with the Proposed Adequate Assurance, it must serve a written request (an "**Additional Assurance Request**") upon proposed counsel to the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153

(Attn: David Zubkis, Esq.), and the Additional Assurance Request must set forth (i) the location(s) for which Utility Services are provided; (ii) the account number(s) for such location(s); (iii) the outstanding balance for each such account; and (iv) an explanation of why the Utility Company believes the Adequate Assurance Deposit is not adequate assurance of payment. All Additional Assurance Requests must further (x) summarize the Debtors' payment history relevant to the affected account(s), (y) certify the amount that is equal to two weeks of the Utility Services the Utility Company provides to the Debtors, calculated as a historical average over the 12-month period preceding the Petition Date, and (z) certify that the Utility Company does not already hold a deposit equal to or greater than two weeks of Utility Services provided by such Utility Company.

- f. Unless a Utility Company properly and timely files and serves an objection to this Motion or serves, and all the Notice Parties listed actually receive, an Additional Assurance Request within 20 days after entry of the order granting this Motion by the Court, such Utility Company shall be: (i) deemed to have received "satisfactory" adequate assurance of payment in compliance with section 366 of the Bankruptcy Code and (ii) forbidden from discontinuing, altering, or refusing Utility Services to, or discriminating against, the Debtors on account of any unpaid prepetition charges or requiring additional assurance of payment other than the Proposed Adequate Assurance.
- g. Upon the Debtors' receipt of any Additional Assurance Request, the Debtors shall negotiate with such Utility Company to resolve such Utility Company's Additional Assurance Request.
- h. The Debtors may, without further order from the Court, resolve any Additional Assurance Requests by mutual agreement with a Utility Company, and the Debtors may, in connection with any such agreement, provide a Utility Company 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.
- i. If the Debtors and the Utility Company are not able to reach an alternative resolution within 30 days of receipt of the Additional Assurance Request, the Debtors shall file a Motion requesting that the Court determine the adequacy of assurance of payment with respect to a particular Utility Company (the "**Determination Motion**") pursuant to section 366(c)(3) of the Bankruptcy Code.
- j. Pending the outcome of the Determination Motion, the Utility Company filing 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.

7. The Utility Companies are prohibited from requiring or requesting additional adequate assurance of payment other than pursuant to the Adequate Assurance Procedures.

8. The Debtors are authorized in their sole discretion to add, after serving a copy of this Order upon a newly identified Utility Company, and remove any Utility Company from the Utility Services List. The Debtors shall add to or subtract from the Adequate Assurance Account an amount equal to two weeks' payment for Utility Services, calculated using the historical average for such payments during the past 12 months, for each Utility Company subsequently added or removed in this way, respectively. Any Utility Company subsequently added to the Utility Services List shall have 20 days from the date of service of this Order to make an additional Assurance Request and shall be bound by the Adequate Assurance Procedures.

9. The relief granted herein is for all Utility Companies providing Utility Services to the Debtors and is not limited to those parties or entities listed on the Utility Services List.

10. The Debtors' service of the Motion upon 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 the Debtors reserve all rights and defenses with respect thereto.

11. All applicable banks and other financial institutions are authorized and directed, to receive, process, honor, and pay all checks presented for payment by the Debtors and to honor all fund transfer requests related to such obligations to the extent that sufficient funds

are on deposit and standing in the Debtors' credit in the applicable bank accounts to cover such payments. Such applicable banks and other financial institutions are authorized to accept and honor all representations and instructions from the Debtors as to which check, ACH transfer, draft, wire, or other transfer drawn or issued by the Debtors before the Petition Date should be honored pursuant to any order of this Court. Such banks and financial institutions shall not have any liability to any party for (a) relying on this Order or the representations or instructions by the Debtors as provided for herein or any other order of this Court, or (b) honoring or not honoring any check, ACH transfer, draft, wire, or other transfer in a good-faith belief that the Court has or has not authorized the honoring of such check, ACH transfer, draft, wire, or other such transfer. Without limiting the foregoing, all banks and other financial institutions may rely on the representations of the Debtors with respect to whether any check or other payment order drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this or any other order of this Court, and such banks and financial institutions shall not have any liability to any party for relying on such representations by the Debtors as provided for herein.

12. The Debtors are further authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to any prepetition amounts that are authorized to be paid pursuant to this Order.

13. Nothing contained in this Order or any action taken by the Debtors in implementing this Order shall be deemed (i) an admission as to the validity of any claim against the Debtors; (ii) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for, or validity of any claim of any Utility Company under applicable nonbankruptcy law; (iii) a waiver of any claims or causes of action which may exist against any Utility

Company; or (iv) an assumption, adoption, or rejection of any agreement, contract, or lease between the Debtors and any third party under section 365 of the Bankruptcy Code.

14. Notwithstanding entry of this Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

15. The Debtors shall serve this Order within three business days of its entry on the Notice Parties and Utility Companies.

16. Notice of the Motion as provided herein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) are waived.

17. Notwithstanding anything in this Order to the contrary, the Debtors' authority to use or transfer cash hereunder shall be subject to the limitations and restrictions as are provided for with respect to the use or transfer of cash in any order approving the Debtors' cash collateral motion.

18. Notwithstanding the provisions of Bankruptcy Rule 6004(h), this Order shall be immediately effective and enforceable upon its entry.

19. The Debtors are authorized to take all steps necessary or appropriate to carry out this Order.

20. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: _____, 2017
Houston, Texas

UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Nonexclusive Utility Services List

Nonexclusive Utility Services List

Provider	Utility Contact Address	Service(s) Provided	Account Number(s)	Proposed Adequate Assurance Deposit⁽¹⁾
AT&T	4331 Communications Dr, FL 4W Dallas, TX 75211	Telephone	903 935-2333 886 1, 903 694-2700 138 3, 903 694-9761 241 6, 903 690-9400 125 2	\$297.88
AT&T	4331 Communications Dr, FL 4W Dallas, TX 75211	Internet	145773561	\$138.95
AT&T Mobility	4331 Communications Dr, FL 4W Dallas, TX 75211	Telephone	287256929901	\$98.77
CenterPoint Energy - Entex	1111 Louisiana St Houston, TX 77002	Commercial Gas Service	9253335-5	\$9.28
CenturyLink QCC Services	665 Lexington Ave. Mansfield, OH 44907	Telephone/Internet	85990342	\$3,540.19
City of Carthage	City Hall 321 W. Panola Street Carthage, TX 75633	Water	012-0000220-010	\$46.72
City of Waskom	450 W. Texas Avenue Waskom, TX 75692	Water	00000843	\$29.95

¹ Deposit amounts represent two weeks' spend; based on the Debtors' overall expenditure between January 1, 2016 and December 31, 2016.

Provider	Utility Contact Address	Service(s) Provided	Account Number(s)	Proposed Adequate Assurance Deposit⁽¹⁾
Comcast	1701 John F Kennedy Blvd Philadelphia, PA 19103-2838	Internet/Cable	8495 44 083 0308675	\$86.66
Deep East Texas Electric Cooperative Inc	880 Texas Hwy 21 East San Augustine, TX 75972	Electricity	1314294007, 1314294006, 1314294005, 1314294004, 1314294011, 1314294002, 1314294001, 1314294003	\$12,951.96
DirecTV Inc	2230 E Imperial Hwy El Segundo, CA 90245-3501	Television	052070624	\$89.43
Eastex Telephone Coop Inc	3675 Us Highway 79 South Henderson, TX 75654	Telephone	00621954, 3023440	\$598.75
Leigh Water Supply Corporation	2121 FM 1999 Karnack, TX 75661	Water	102141	\$58.34

Provider	Utility Contact Address	Service(s) Provided	Account Number(s)	Proposed Adequate Assurance Deposit ⁽¹⁾
Panola Harrison Electric Coop	410 East Houston Marshall, TX 75670	Electricity	99996661-013, 99996661-015, 99996661-001, 99996661-002, 99996661-003, 99996661-004, 99996661-005, 99996661-006, 99996661-009, 99996661-010, 99996661-011, 99996661-012, 99996661-014, 12818-002, 12818-003, 12818-004, 12818-006, 12818-009, 12818-010, 12818-011, 99996476-001, 99996476-002, 19298-001	\$3,177.84
Questar Gas	333 South State Street P.O. Box 45433 Salt Lake City, UT 84111	Commercial Gas Service	0231602861	\$140.00
Republic Services	6896 Industrial Loop Shreveport, LA 71129	Waste Disposal/Removal	3-0975-0000393, 3-0975-0002660, 3-0070-0033147	\$966.48
Rocky Mountain Power	1407 W North Temple Salt Lake City, UT 84116	Electricity	36448723-001 3	\$40.00

Provider	Utility Contact Address	Service(s) Provided	Account Number(s)	Proposed Adequate Assurance Deposit ⁽¹⁾
Rusk County Electric Coop Inc	3162 Hwy. 43 E Henderson, TX 75652	Electricity	32684500, 34551200, 34729000, 34967700, 34799700, 34459600, 34967900, 34462800, 34992700, 35015000, 34799500, 34506200, 34928700, 34929500, 34950400, 34335000, 34377300, 35188100,	\$25,611.00
Sam Houston Electric Coop	1157 E. Church St. Livingston, TX 77351	Electricity	2306439, 2293546, 2321750	\$957.60
Southwestern Electric Power	428 Travis St Shreveport, LA 71101	Electricity	968-239-769-0-5, 964-021-242-1-6, 960-510-667-1-8, 967-985-618-0-7, 969-850-932-1-8, 962-897-632-1-9, 964-368-187-0-0, 965-409-707-2-8, 960-202-668-1-1, 960-907-865-2-4, 969-956-688-1-9, 967-903-046-1-0, 962-626-332-1-5, 961-695-911-1-0, 962-943-953-0-4	\$656.11

Provider	Utility Contact Address	Service(s) Provided	Account Number(s)	Proposed Adequate Assurance Deposit⁽¹⁾
TXU Energy Retail Company LLC	6555 Sierra Drive Irving, TX 75039	Electricity	100033589801	\$22.07
Upshur Rural Electric Cooperative	1200 W. Tyler Street Po Box 70 Gilmer, TX 75644	Electricity	10059003, 10059004, 10059007, 10059008, 10059010, 10059002, 10059009	\$8,017.42
Vonage Business, Inc.	34232 Pacific Coast Highway Ste E Dana Point, CA 92629	Telephone	21408	\$206.63
Zoom Broadband, LLC	309 W. Houston Marshall, TX 75670	Internet	AZURE_MIDSTREAM	\$52.67