

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

	X	
In re:	:	
	:	
SHILOH INDUSTRIES, INC.,	:	Chapter 11
<i>et al.</i> ¹	:	
	:	Case No. 20-____ (____)
Debtors.	:	
	:	(Joint Administration Requested)
	:	
	:	
	X	

**MOTION OF THE DEBTORS FOR
INTERIM AND FINAL ORDERS (I) ESTABLISHING
ADEQUATE ASSURANCE PROCEDURES WITH RESPECT
TO THEIR UTILITY PROVIDERS AND (II) GRANTING RELATED RELIEF**

The above-captioned debtors (collectively, the "Debtors"), pursuant to sections 105(a) and 366 of title 11 of the United States Code (the "Bankruptcy Code"), hereby move (the "Motion") the Court for the entry of the proposed interim order attached hereto as Exhibit A (the "Proposed Order") (i) prohibiting utility companies currently providing, or which will provide, services to the Debtors (collectively, the "Utility Companies") from otherwise altering, refusing or discontinuing services to, or discriminating against, the Debtors; (ii) establishing procedures for determining requests for additional assurance for the Utility Companies; (iii) determining that the Utility Companies have received adequate assurance of

¹ The Debtors are the following nineteen entities (the last four digits of their respective taxpayer identification numbers, if any, follow in parentheses): Shiloh Industries, Inc. (7683), Greenfield Die & Manufacturing Corp. (8114), Jefferson Blanking Inc. (7850), Shiloh Automotive, Inc. (1339), Shiloh Corporation (5101), Shiloh Industries, Inc. Dickson Manufacturing Division (5835), Shiloh Holdings International, Inc. (1446), C & H Design Company (9432), Liverpool Coil Processing, Incorporated (0571), Medina Blanking, Inc. (0707), The Sectional Die Company (3562), VCS Properties, LLC (1094), Shiloh Die Cast LLC (5814), Shiloh Manufacturing Holdings LLC (0853), FMS Magnum Holdings LLC (6471), Sectional Stamping, Inc. (8967), Albany-Chicago Company LLC (4687), Shiloh Die Cast Midwest LLC (4114), and Shiloh Manufacturing LLC (1628). The noticing address of each of the Debtors in these chapter 11 cases is 880 Steel Drive, Valley City, Ohio 44280.

payment for future utility services and (iv) granting certain related relief.² The Debtors further request that the Proposed Order be enforceable immediately upon entry. In support of this Motion, the Debtors incorporate the statements contained in the *Declaration of Jeffrey Ficks in Support of First-Day Pleadings* (the "First Day Declaration") filed contemporaneously herewith, and further respectfully state as follows:

Background

I. The Debtors, Their Business and the Commencement of These Cases

1. On the date hereof (the "Petition Date"), each of the Debtors commenced a case under chapter 11 of the Bankruptcy Code.³ The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. By a motion filed on the Petition Date, the Debtors have requested that their chapter 11 cases be consolidated for procedural purposes only and administered jointly.

2. The Debtors are a global innovative solutions provider focusing on lightweighting technologies that provide environmental and safety benefits to the mobility market. The Debtors have a global network of manufacturing operations and technical centers in Asia, Europe and North America. The Debtors' multi-material solutions consist of a variety of alloys in aluminum, magnesium and steel grades, along with proprietary lines of noise and vibration reducing acoustic laminate products. The Debtors deliver these solutions in body

² Nothing in this Motion shall be construed as the Debtors waiving any right to challenge any claim or as conceding any claims against the Debtors. The Debtors will file a proposed final order in advance of the second day hearing.

³ This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue for this matter is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

structure, chassis and propulsion systems to original equipment manufacturers ("OEMs") and "Tier 1" suppliers in the automotive and commercial vehicle markets. For the twelve months ending October 31, 2019, the Debtors generated approximately \$1.045 billion in revenue.

3. Additional detail regarding the Debtors, their businesses and the commencement of these cases is set forth in the First Day Declaration.

II. The Utility Companies

4. The Debtors currently use electric, natural gas, heat, water, sewer, telecommunications and other services of the same general type or nature (collectively, the "Utility Services") provided by approximately 41 Utility Companies, including the Utility Companies identified on Exhibit B attached hereto (the "Utility Service List").⁴ The Debtors estimate that their average monthly obligations to the Utility Companies on account of services rendered total approximately \$1.03 million.⁵

5. Because the Utility Companies provide services essential to the Debtors' operations, any interruption in Utility Services could prove damaging. The Debtors' businesses rely upon the functioning of two technical centers and fifteen manufacturing facilities located in

⁴ The Debtors have made an extensive and good faith effort to identify all Utility Companies and include them on the Utility Service List. For each Utility Company, Exhibit B identifies, to the extent known: (i) the name and address of the Utility Company; (ii) the type of utility services provided by the Utility Company; and (iii) the account number(s), if any, under which the Utility Company provides services to the Debtors. The inclusion of any entity on, or any omission of any entity from, Exhibit B 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 their rights with respect thereto. In addition, the Debtors are requesting that this Motion apply to all of the Debtors' Utility Companies, whether or not any given Utility Company is included on the Utility Service List.

⁵ Due to the impact of the global pandemic related to the novel coronavirus (the "COVID-19 Pandemic"), the Debtors' have reduced operations at certain facilities and administrative locations. Nevertheless, restrictions related to the COVID-19 Pandemic are gradually lifting around the world. Accordingly, the amount of anticipated monthly obligations for Utility Services is based on the average cost thereof for the twelve months immediately preceding the Petition Date, including the disruptions due to the COVID-19 Pandemic. The Debtors believe this estimate is proper, as it assumes operations will continue to be negatively impacted in the near-term and will resume at full capacity at some point thereafter.

the United States, primarily in Ohio and Michigan. The Debtors would be unable to operate these service locations and facilities or serve their customers in the absence of continuous Utility Service. The temporary or permanent discontinuation of Utility Services could irreparably disrupt the Debtors' business operations and, as a result, fundamentally undermine the ability of the Debtors to maximize the value of their estates for the benefit of creditors.

6. The Debtors intend to pay any postpetition obligations to the Utility Companies in a timely fashion and in the ordinary course, as they have generally done prior to the Petition Date. The Debtors will make the payments to the Utility Companies from funds available under the Debtors' postpetition credit facilities.⁶

III. The Adequate Assurance Deposit

7. In addition to their ability to use proceeds from their postpetition financing to satisfy postpetition obligations to the Utility Companies in the ordinary course of business, the Debtors propose to deposit, as additional adequate assurance, \$509,160, into a segregated account (the "Adequate Assurance Deposit") within 20 days of the Petition Date. The Adequate Assurance Deposit equals approximately two weeks of the Debtors' estimated aggregate utility expenses, net of any prepetition deposits, letters of credit, surety bonds or other similar forms of adequate assurance of payment already provided to the Utility Companies. If any Utility Company terminates Utility Service, the Debtors may lessen the deposit by an amount equal to payment for that Utility Service, without further court order. The Debtors may also alter the Adequate Assurance Deposit based on agreements between Debtors and the Utility Companies. Any Utility Company that accepts the Adequate Assurance Deposit will be deemed to have

⁶ Concurrently with the filing of this Motion, the Debtors have filed a motion seeking approval of approximately \$23.5 million in new money debtor in possession financing from their postpetition lenders, and expect to be able to satisfy all of their postpetition obligations during the pendency of these chapter 11 cases.

agreed that the Adequate Assurance Deposit constitutes adequate assurance for the purposes of section 366 and will not request additional adequate assurance.

8. If any Utility Company believes additional assurance is required, it may request such assurance pursuant to the procedures described below.

IV. The Proposed Adequate Assurance Procedures

9. To address the right of any Utility Company under section 366(c)(2) of the Bankruptcy Code to seek additional adequate assurance satisfactory to it, the Debtors propose that the following procedures (the "Adequate Assurance Procedures") be adopted:

- (a) Any Utility Company desiring assurance of future payment for Utility Service beyond the Adequate Assurance Deposit must serve a request (an "Additional Assurance Request") on the following parties: (i) the Debtors, Shiloh Industries, Inc., 880 Steel Drive, Valley City, OH 44280 (Attn: Amy Floraday); (ii) proposed counsel to the Debtors, Jones Day, 77 West Wacker Dr., Chicago, IL 60601 (Attn: Timothy W. Hoffmann) and 901 Lakeside Avenue, North Point, Cleveland, OH 44114 (Attn: Thomas Wearsch); and (iii) proposed co-counsel to the Debtors, Richards, Layton & Finger, P.A., 920 North King St., Wilmington, DE 19801 (Attn: Zachary I. Shapiro).
- (b) Any Additional Assurance Request must (i) be made in writing; (ii) specify the amount and nature of assurance of payment that would be satisfactory to the Utility Company and the reasons why it is reasonable; (iii) set forth the location(s) for which Utility Services are provided and the relevant account number(s); (iv) describe any deposits, prepayments or other security currently held by the requesting Utility Company; (v) describe any payment delinquency or irregularity by the Debtors for the postpetition period, if any, and (vi) explain why the requesting Utility Company believes the proposed Adequate Assurance Deposit is not sufficiently adequate to assure future payment. Any Adequate Assurance Request that does not fully comply with the foregoing requirements shall be deemed invalid.
- (c) Upon the Debtors' receipt of an Additional Assurance Request at the addresses set forth above, the Debtors shall have 20 days therefrom (the "Resolution Period") to negotiate with the requesting Utility Company to resolve its Additional Assurance Request. The Debtors and the applicable Utility Company also may agree to extend the Resolution Period by agreement or approval of the Court.
- (d) The Debtors, in their discretion, may resolve any Additional Assurance Request by mutual agreement with the requesting Utility Company and without further order of the Court, and may, in connection with any such resolution, in their

discretion, provide the requesting Utility Company with additional assurance of future payment in a form satisfactory to the Utility Company, including, but not limited to, cash deposits, prepayments and/or other forms of security, if the Debtors believe such additional assurance is reasonable.

- (e) If the Debtors determine that an Additional Assurance Request is not reasonable and are not able to resolve such request, the Debtors will request a hearing before this Court to determine the adequacy of assurances of payment made to the requesting Utility Company (the "Determination Hearing"), pursuant to section 366(c)(3)(A) of the Bankruptcy Code.⁷
- (f) Pending the resolution of the Additional Assurance Request at a Determination Hearing, the Utility Company making such request shall be restrained from discontinuing, altering or refusing service to the Debtors.

V. Modifications to the Utility Service List

10. It is possible that, despite the Debtors' efforts, certain Utility Companies have not yet been identified by the Debtors or included on the Utility Service List (collectively, the "Additional Utility Companies") or that a company was improperly designated a Utility Company. Thus, the Debtors seek authority, in their discretion, to add parties to, or remove parties from, the Utility Service List. Promptly upon the discovery of an Additional Utility Company, the Debtors will (i) serve on any Additional Utility Company a copy of the Proposed Order (or any final order, as applicable), including the Adequate Assurance Procedures and this Motion; (ii) file and serve any amended Utility Service List on any Additional Utility Company that was added to the Utility Service List; and (iii) increase the Adequate Assurance Deposit by an amount equal to two weeks of the Debtors' estimated aggregate utility expense for each Additional Utility Company, net of any prepetition deposits, letters of credit, surety bonds or other similar forms of adequate assurance of payment already provided to the Additional Utility Company.

⁷ Section 366(c)(3)(A) of the Bankruptcy Code provides 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" 11 U.S.C. § 366(c)(3)(A).

11. In addition, the Debtors request that the Court provide that (i) the Additional Utility Companies are subject to the terms of the Proposed Order (and any final order), including the Adequate Assurance Procedures, regardless of when such Utility Company was added to the Utility Service List and (ii) the Resolution Period applicable to an Additional Utility Company shall be the 20-day period following the Debtors' receipt of an Additional Assurance Request from such Additional Utility Company, provided that such Resolution Period may be extended by agreement of the Debtors and the applicable Additional Utility Company or approval of the Court.

12. It is possible the Debtors may also terminate service on one or more active utility accounts during these cases. If this occurs, the Utility Company providing the discontinued account will receive notice of its removal from the Utility Service List (a "Removed Account") and the Debtors' intent to decrease the Adequate Assurance Deposit by an amount equal to two weeks of the Debtors' average cost of services, net of any prepetition deposits, letters of credit, surety bonds or other similar forms of adequate assurance of payment already provided to the Removed Account, with respect to such Removed Account. The applicable Utility Company will have seven days from the date of service of an amended Utility Service List removing such account to object to the reduction in the Adequate Assurance Deposit. Prior to removal of a Removed Account from the Utility Service List, the Debtors will make payment to such entity of any amount due and owing with respect to the Removed Account (such amount, the "Outstanding Payable"), as such amount is determined by the Debtors.

13. To the extent that an entity asserts that the Debtors' remittance of the Outstanding Payable is insufficient in any way, the Debtors request that the Court provide that (i) such assertion shall be deemed an Additional Assurance Request that is subject to the

Adequate Assurance Procedures and (ii) the Resolution Period applicable to such entity shall be the 20-day period following the Debtors' receipt of an Additional Assurance Request from such entity, provided that such Resolution Period may be extended by agreement of the Debtors and such entity or approval of the Court.

Basis for Relief Requested

14. Section 366(c)(2) of the Bankruptcy Code provides that a utility "may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of the filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility."⁸

15. The policy underlying section 366 of the Bankruptcy Code is to protect debtors from utility service cutoffs upon the filing of a bankruptcy case, while at the same time providing utility companies with adequate "assurance of payment" for postpetition utility service. See H.R. Rep. No. 95-595, at 350 (1978), reprinted in 1978 U.S.C.C.A.N. 5963, 6306. Section 366(c)(1) of the Bankruptcy Code defines "assurance of payment" to mean several enumerated forms of security (e.g., cash deposits, letters of credit, prepayment for utility service)

⁸ There is an apparent discrepancy between subsections (b) and (c) of section 366 of the Bankruptcy Code because these two subsections set forth different time periods during which a utility is prohibited from altering, refusing or discontinuing utility service. Specifically, section 366(b) of the Bankruptcy Code allows a utility to alter, refuse or discontinue service "if neither the trustee nor the debtor, within 20 days after the date of the order for relief, furnishes adequate assurance of payment," while section 366(c)(2) of the Bankruptcy Code allows a utility in "a case filed under chapter 11" to alter, refuse or discontinue service to a chapter 11 debtor "if during the 30-day period beginning on the date of the filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service" (emphases added).

Under the statutory construction canon *lex specialis derogat legi generali* (specific language controls over general), the language of section 366(c)(2) controls here because the Debtors are chapter 11 debtors. See 3 Collier on Bankruptcy ¶ 366.03[2] (16th ed. 2020) ("It is unclear how the 30-day period [in section 366(c)(2) of the Bankruptcy Code] meshes with the normal 20-day period in section 366(b). The better view is that, because section 366(c) is more specifically applicable to chapter 11 cases, the 30-day period in that subsection, rather than the 20-day period in section 366(b), should apply" in chapter 11).

while excluding from the definition certain other forms of security (e.g., administrative expense priority for a utility's claim). In addition, section 366(c)(3)(B) of the Bankruptcy Code provides that a court may not consider certain facts (e.g., a debtor's prepetition history of making timely payments to a utility) in making a determination of adequate assurance of payment.

16. While section 366(c) of the Bankruptcy Code clarifies what does and does not constitute "assurance of payment" and what can be considered in determining whether such assurance is adequate, Congress, in enacting that section, did not divest the Court of its power to determine what amount, if any, is necessary to provide adequate assurance of payment to a utility company. Indeed, section 366(c) of the Bankruptcy Code not only fails to establish a minimum amount of adequate "assurance of payment," but explicitly empowers the court to determine the appropriate level of adequate assurance required in each case and permits a party-in-interest to request modification of the amount of adequate assurance after notice and a hearing. See 11 U.S.C. § 366(c)(3)(A) ("On 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").

17. Thus, for instance, there is nothing within section 366 of the Bankruptcy Code that prevents a court from ruling that, on the facts of the case before it, the amount required to adequately assure future payment to a utility company is nominal, or even zero. See, e.g., In re Pac-West Telecomm., Inc., No. 07-10562 (BLS) (Bankr. D. Del. May 2, 2007) (approving adequate assurance in the form of a one-time supplemental prepayment to each utility company equal to the prorated amount of one week's charge). Prior to the enactment of section 366(c) of the Bankruptcy Code, courts enjoyed precisely the same discretion to make such rulings pursuant to section 366(b) of the Bankruptcy Code, and frequently did. See Va. Elec. & Power Co. v. Caldor, Inc.—N.Y., 117 F.3d 646, 650 (2d Cir. 1997) ("Even assuming that

'other security' should be interpreted narrowly, we agree ... 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.'").

18. Moreover, Congress has not changed the requirement that the assurance of payment only be "adequate." Courts construing section 366(b) of the Bankruptcy Code have long recognized that adequate assurance of payment does not constitute an absolute guarantee of the debtors' ability to pay. See, e.g., In re Caldor, Inc.– N.Y., 199 B.R. 1, 3 (S.D.N.Y. 1996) ("Section 366(b) requires [a] [b]ankruptcy [c]ourt to determine whether the circumstances are sufficient to provide a utility with 'adequate assurance' of payment. The statute does not require an 'absolute guarantee of payment.'") (citation omitted), aff'd sub nom. Va. Elec. & Power Co., 117 F.3d 646; In re Adelpia Bus. Solutions, Inc., 280 BR. 63, 80 (Bankr. S.D.N.Y. 2002) (same); see also 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."); Steinebach v. Tucson Elec. Power Co. (In re Steinebach), 303 B.R. 634, 641 (Bankr. D. Ariz. 2004) ("Adequate assurance of payment is not, however, absolute assurance all § 366(b) requires is that a utility be protected from an unreasonable risk of non-payment"); In re Penn Jersey Corp., 72 B.R. 981, 982 (Bankr. E.D. Pa. 1987) (stating that section 366(b) of the Bankruptcy Code "contemplates that a utility receive only such assurance of payment as is sufficient to protect its interests given the facts of the debtor's financial circumstances").⁹ Additionally, Courts are not bound by state or

⁹ Courts have recognized that "[i]n deciding what constitutes 'adequate assurance' in a given case, a bankruptcy court must 'focus upon the need of the utility for assurance, and to require that the debtor supply *no more than that*, since the debtor almost perforce has a conflicting need to conserve scarce financial resources.'" Caldor, 117 F.3d at 650 (emphasis in original) (quoting Penn Jersey, 72 B.R. at 985).

local regulations that set adequate assurance of payment postpetition. Begley v. Phila. Elec. Co. (In re Begley), 41 B.R. 402, 405-06 (E.D. Pa. 1984), aff'd, 760 F.2d 46 (3d Cir. 1985).

19. Therefore, despite its language allowing a utility to take adverse action against the debtor should the debtor fail to provide adequate assurance of future payment "satisfactory to the utility," section 366 of the Bankruptcy Code does not require that the assurance provided be "satisfactory" once a debtor seeks to have the Court determine the appropriate amount of adequate assurances. See Long Island Lighting Co. v. Great Atl. & Pac. Tea Co. (In re Great Atl. & Pac. Tea Co.), No. 11-CV-1338, 2011 WL 5546954, at *4 (S.D.N.Y. Nov. 14, 2011) (holding that bankruptcy courts may "modify the amount that the utility provider deems to be satisfactory"); cf. In re Penn. Cent. Transp. Co., 467 F.2d 100, 103-04 (3d Cir. 1972) (affirming the bankruptcy court's decision that no utility deposit was necessary where such deposits would "jeopardize the continuing operation of the [debtor] merely to give further security to suppliers who already [were] reasonably protected").

20. The Adequate Assurance Deposit, in conjunction with the Debtors' ability to pay for future Utility Services in the ordinary course of business (the "Proposed Adequate Assurance"), constitutes sufficient adequate assurance of future payment to the Utility Companies to satisfy the requirements of section 366 of the Bankruptcy Code. As such, the Debtors submit that, entry of the Proposed Order (and any subsequent final order) is consistent with, and fully satisfies, the requirements of section 366 of the Bankruptcy Code. Rather than offering the Utility Companies nominal (or even no) additional assurance of payment, the Debtors propose to (i) place significant cash deposits into an escrow account for the Utility Companies' benefit and (ii) establish procedures pursuant to which the Utility Companies can seek greater or different security. Such assurance of payment significantly alleviates—if not

eliminates—any concern of non-payment on the part of the Utility Companies, and is thus clearly "adequate."

21. Moreover, if a Utility Company believes the Proposed Adequate Assurance is less than adequate, the procedures proposed herein properly balance a Utility Company's right to seek additional adequate assurance and the Debtors' need to continue operations without threat of interruption that could harm their going concern value. In short, the procedures are a necessary mechanism that allow for the implementation of section 366 of the Bankruptcy Code in a fair and balanced manner.

22. Courts in this District have approved similar relief in other chapter 11 cases. See, e.g., In re Pace Indus., LLC, No. 20-10927 (MFW) (Bankr. D. Del. May 11, 2020) (approving adequate assurance and similar adequate assurance procedures); In re FTD Cos., Inc., No. 19-11240 (LSS) (Bankr. D. Del. July 1, 2019) (same); In re Catalina Mktg. Corp. (Checkout Holding Corp.), No. 18-12794 (KG) (Bankr. D. Del. Jan. 10, 2019) (same); In re Ascent Res. Marcellus Holdings, LLC, No. 18-10265 (LSS) (Bankr. D. Del. Mar. 20, 2018) (same); In re Charming Charlie Holdings Inc., No. 17-12906 (CSS) (Bankr. D. Del. Jan. 10, 2018) (same); In re M & G USA Corp., No. 17-12307 (BLS) (Bankr. D. Del. Dec. 7, 2017) (same).¹⁰

Request for Immediate Relief & Waiver of Stay

23. Pursuant to Bankruptcy Rules 6003(b) and 6004(h) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), the Debtors seek (i) immediate entry of the

¹⁰ The unreported orders cited herein are not attached to this Motion. Copies of these orders are available upon request to proposed counsel to the Debtors.

Proposed Order granting the relief sought herein on an interim basis and (ii) a waiver of any stay of the effectiveness of such an order.

24. Bankruptcy Rule 6003(b) provides, in relevant part, that "[e]xcept to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition, issue an order granting ... a motion to pay all or part of a claim that arose before the filing of the petition." 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." From this, courts have ruled that, where the failure to grant any such requested relief would result in immediate and irreparable harm to a debtor's estate, a court may allow a debtor to pay all or part of a claim that arose prepetition immediately.

25. For the reasons set forth above, the Debtors' establishment of the Adequate Assurance Deposit for the benefit of the Utility Companies is necessary to prevent immediate and irreparable damage to the Debtors' estates that would result from even a temporary discontinuation of the Utility Services. Accordingly, the Debtors submit that ample cause exists to justify (i) the immediate entry of the Proposed Order granting the interim relief sought herein pursuant to Bankruptcy Rule 6003(b) and (ii) a waiver of the 14-day stay imposed by Bankruptcy Rule 6004(h) and notice requirements of Bankruptcy Rule 6004(a), to the extent that they apply.

Consent to Jurisdiction

26. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), the Debtors consent to the entry of a final judgment or order with respect to this Motion

if it is determined that the Court would lack Article III jurisdiction to enter such final order or judgment absent consent of the parties.

Notice

27. Notice of this Motion shall be provided to: (i) the Office of the United States Trustee for the District of Delaware; (ii) the Debtors' fifty largest unsecured creditors on a consolidated basis, as identified in their chapter 11 petitions; (iii) counsel to the Debtors' proposed postpetition secured lenders; and (iv) the Utility Companies listed on the Utility Service List. As this Motion is seeking first-day relief, notice of this Motion and any order entered hereon will be served on all parties required by Local Rule 9013-1(m). Due to the urgency of the circumstances surrounding this Motion and the nature of the relief requested herein, the Debtors respectfully submit that no further notice of this Motion is required.

WHEREFORE, the Debtors respectfully request that the Court (i) enter the Proposed Order, granting the relief requested herein on an interim basis; (ii) enter a final order, granting the relief requested herein on a final basis; and (iii) grant such other and further relief to the Debtors as the Court may deem proper.

Dated: August 30, 2020
Wilmington, Delaware

Respectfully submitted,

/s/ Daniel J. DeFranceschi

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PROPOSED ATTORNEYS FOR DEBTORS

EXHIBIT A

Proposed Order

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

	x	
In re:	:	
	:	
SHILOH INDUSTRIES, INC.,	:	Chapter 11
<i>et al.</i> ¹	:	
	:	Case No. 20-____ (____)
Debtors.	:	(Joint Administration Requested)
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	:	
	x	

**INTERIM ORDER GRANTING MOTION OF THE DEBTORS
FOR INTERIM AND FINAL ORDERS (I) ESTABLISHING
ADEQUATE ASSURANCE PROCEDURES WITH RESPECT
TO THEIR UTILITY PROVIDERS AND (II) GRANTING RELATED RELIEF**

This matter coming before the Court on the *Motion of the Debtors for Interim and Final Orders (I) Establishing Adequate Assurance Procedures with Respect to their Utility Providers and (II) Granting Related Relief* (the "Motion")² filed by the above-captioned debtors and debtors in possession (collectively, the "Debtors"); the Court having reviewed the Motion and the First Day Declaration and having considered the statements of counsel and the evidence adduced with respect to the Motion at a hearing before the Court (the "Hearing"); the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the*

¹ The Debtors are the following nineteen entities (the last four digits of their respective taxpayer identification numbers, if any, follow in parentheses): Shiloh Industries, Inc. (7683), Greenfield Die & Manufacturing Corp. (8114), Jefferson Blanking Inc. (7850), Shiloh Automotive, Inc. (1339), Shiloh Corporation (5101), Shiloh Industries, Inc. Dickson Manufacturing Division (5835), Shiloh Holdings International, Inc. (1446), C & H Design Company (9432), Liverpool Coil Processing, Incorporated (0571), Medina Blanking, Inc. (0707), The Sectional Die Company (3562), VCS Properties, LLC (1094), Shiloh Die Cast LLC (5814), Shiloh Manufacturing Holdings LLC (0853), FMS Magnum Holdings LLC (6471), Sectional Stamping, Inc. (8967), Albany-Chicago Company LLC (4687), Shiloh Die Cast Midwest LLC (4114), and Shiloh Manufacturing LLC (1628). The noticing address of each of the Debtors in these chapter 11 cases is 880 Steel Drive, Valley City, Ohio 44280.

² Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion.

District of Delaware, dated as of February 21, 2012; (ii) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b); (iv) notice of the Motion and the Hearing was sufficient under the circumstances; (v) the Adequate Assurance Deposit and related procedures described in the Motion provide adequate assurance of payment to the Utility Companies; (vi) the relief requested in the Motion is necessary and appropriate to prevent immediate and irreparable harm to the Debtors' business operations and will serve to protect and preserve the Debtors' estates for the benefit of all stakeholders, and, thus, cause exists to permit such payments to be made immediately notwithstanding Bankruptcy Rule 6003; and (vii) there is good cause to waive the 14-day stay imposed by Bankruptcy Rule 6004(h) to the extent it is applicable; and the Court having determined that the legal and factual bases set forth in the Motion and the First Day Declaration and at the Hearing establish just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein on an interim basis.
2. Subject to the procedures described below, no Utility Company, including any Additional Utility Company, may (a) alter, refuse, terminate or discontinue utility services to and/or discriminate against, the Debtors on the basis of the commencement of these chapter 11 cases or on account of outstanding prepetition invoices or (b) require additional assurance of payment, other than the Proposed Adequate Assurance, as a condition to the Debtors receiving such Utility Services.
3. The Debtors shall deposit, as adequate assurance, \$509,160 into a segregated account (the "Adequate Assurance Deposit") within 20 days of the Petition Date.

4. The Adequate Assurance Procedures set forth below, 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 of future payment to the Utility Companies to satisfy the requirements of section 366 of the Bankruptcy Code in the interim period.

5. The following Adequate Assurance Procedures are approved in all respects:

- (a) Any Utility Company desiring assurance of future payment for Utility Service beyond the Proposed Adequate Assurance must serve a request (an "Additional Assurance Request") on the following parties: (i) the Debtors, Shiloh Industries, Inc., 880 Steel Drive, Valley City, OH 44280 (Attn: Amy Floraday); (ii) proposed counsel to the Debtors, Jones Day, 77 West Wacker Dr., Chicago, IL 60601 (Attn: Timothy W. Hoffmann) and 901 Lakeside Avenue, North Point, Cleveland, OH 44114 (Attn: Thomas Wearsch); and (iii) proposed co-counsel to the Debtors, Richards, Layton & Finger, P.A., 920 North King St., Wilmington, DE 19801 (Attn: Zachary I. Shapiro).
- (b) Any Additional Assurance Request must: (i) be made in writing; (ii) specify the amount and nature of assurance of payment that would be satisfactory to the Utility Company and the reasons why it is reasonable; (iii) set forth the location(s) for which Utility Services are provided and the relevant account number(s); (iv) describe any deposits, prepayments or other security currently held by the requesting Utility Company; (v) describe any payment delinquency or irregularity by the Debtors for the postpetition period, if any, and (vi) explain why the requesting Utility Company believes the Proposed Adequate Assurance is not sufficiently adequate to assure future payment. Any Adequate Assurance Request that does not fully comply with the foregoing requirements shall be deemed invalid.
- (c) Upon the Debtors' receipt of an Additional Assurance Request at the addresses set forth above, the Debtors shall have 20 days therefrom (the "Resolution Period") to negotiate with the requesting Utility Company to resolve its Additional Assurance Request. The Debtors and the applicable Utility Company also may agree to extend the Resolution Period by agreement or approval of the Court.
- (d) The Debtors, in their discretion, may resolve any Additional Assurance Request by mutual agreement with the requesting Utility Company and without further order of the Court, and may, in connection with any such resolution, in their discretion, provide the requesting Utility Company with additional assurance of future payment in a form satisfactory to the Utility Company, including, but not

limited to, cash deposits, prepayments and/or other forms of security, if the Debtors believe such additional assurance is reasonable.

- (e) If the Debtors determine that an Additional Assurance Request is not reasonable and are not able to resolve such request, the Debtors will request a hearing before this Court to determine the adequacy of assurances of payment made to the requesting Utility Company (the "Determination Hearing"), pursuant to section 366(c)(3)(A) of the Bankruptcy Code.
- (f) Pending the resolution of the Additional Assurance Request at a Determination Hearing, the Utility Company making such request shall be restrained from discontinuing, altering or refusing service to the Debtors.

6. All Utility Companies shall be prohibited from discontinuing, altering or refusing Utility Services unless and until (i) the Debtors, in their discretion, agree to an alternative assurance of payment with the Utility Company in resolution of an Additional Assurance Request or (ii) this Court enters an order at the Final Hearing (as defined herein) or any Determination Hearing requiring that additional adequate assurance of payment be provided.

7. To the extent that the procedures set forth herein are not in technical compliance with certain time periods set forth in section 366 of the Bankruptcy Code, the Debtors have demonstrated good cause for the extension of the 30 day and 20 day protective time periods under section 366(c)(2) and 366(b) of the Bankruptcy Code, respectively.

8. Nothing herein constitutes a finding that any entity is or is not a Utility Company hereunder or under section 366 of the Bankruptcy Code, whether or not such entity is listed on the Utility Service List. The Debtors have made no admissions as to any claims and have not waived the right to dispute any claims.

9. Subject to the terms of this Interim Order, the Debtors are authorized, in their discretion, to amend the Utility Service List to add or remove any Utility Company.

10. This Interim Order and the Adequate Assurance Procedures shall apply to any Additional Utility Company, regardless of when such Additional Utility Company is added

to the Utility Service List. The Debtors shall promptly file and serve any amended Utility Service List on any Additional Utility Company that was added to the Utility Service List.

11. Promptly upon their discovery of an Additional Utility Company, the Debtors shall increase the Adequate Assurance Deposit by an amount equal to two weeks of the Debtors' average cost of utility expense for the Additional Utility Company, net of any prepetition deposits, letters of credit, surety bonds or other similar forms of adequate assurance of payment already provided to the Additional Utility Company, provided, however, the Resolution Period applicable to an Additional Utility Company shall be the 20-day period following the Debtors' receipt of an Additional Assurance Request from such Additional Utility Company, provided that such Resolution Period may be extended by agreement of the Debtors and the applicable Additional Utility Company or approval of the Court.

12. Prior to removal of a Removed Account from the Utility Service List, the Debtors shall promptly (i) notify the entity at which the Removed Account is held of the intended removal and (ii) make payment to such entity of any amount due and owing with respect to the Removed Account (such amount, the "Outstanding Payable"), as such amount is determined by the Debtors.

13. To the extent that an entity asserts that the Debtors' remittance of the Outstanding Payable is insufficient in any way (an "Outstanding Payable Assertion") (i) such assertion shall be subject to the Adequate Assurance Procedures and (ii) the Resolution Period applicable to such entity shall be the 20-day period following the Debtors' receipt of an Outstanding Payable Assertion from such entity, provided that such Resolution Period may be extended by agreement of the Debtors and such entity or approval of the Court.

14. If the Utility Company to a Removed Account fails to assert an Outstanding Payable Assertion by the later of seven days from (i) receipt of notice of removal of such Removed Account and (ii) receipt of any applicable Outstanding Payable, the Debtors shall decrease the Adequate Assurance Deposit by an amount equal to two weeks of the Debtors' average cost of services with respect to such Removed Account, net of any prepetition deposits, letters of credit, surety bonds or other similar forms of adequate assurance of payment already provided to the Removed Account, provided, however, that prior to resolution of an Outstanding Payable Assertion, the Debtors shall not decrease the Adequate Assurance Deposit with respect to such Removed Account. If an Outstanding Payable Assertion is not resolved within the Resolution Period (as may be extended), the Debtors shall request a hearing before this Court. The Debtors shall promptly file and serve any amended Utility Service List on any Utility Company that was removed from the Utility Service List.

15. The Adequate Assurance Deposit shall automatically, without further Court order, be available to the Debtors upon the effective date of a chapter 11 plan of the Debtors or on the consummation of a sale, pursuant to section 363 of the Bankruptcy Code, of all or substantially all the assets of the Debtors, provided, however, that the (i) Debtors shall provide seven days' notice thereof to the Utility Companies, and (ii) the Debtors do not receive a response to such notice by such deadline.

16. This Interim Order shall be immediately effective and enforceable upon its entry. To the extent that it may be applicable, the 14-day stay imposed by Bankruptcy Rule 6004(h) and any notice requirements of Bankruptcy Rule 6004(a) are hereby waived.

17. The requirements of Bankruptcy Rule 6003(b) have been satisfied with respect to the payments authorized by this Interim Order.

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

19. This Court shall retain jurisdiction over any and all matters arising from or related to the implementation or interpretation of this Interim Order.

20. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as being approved by this Interim Order.

21. The Debtors shall serve a copy of the Motion, this Interim Order and a notice of the Final Hearing within two business days of the date this Interim Order is entered on (i) the Office of the United States Trustee for the District of Delaware, (ii) the Debtors' fifty largest unsecured creditors on a consolidated basis, as identified in their chapter 11 petitions, (iii) counsel to the Debtors' proposed postpetition secured lenders and (iv) each Utility Company listed on the Utility Service List. Debtors shall promptly serve any Additional Utility Company.

22. Notwithstanding anything to the contrary contained herein, (i) any payment made, or authorization contained, hereunder shall be subject to the requirements imposed on the Debtors under any order approving debtor-in-possession financing (a "DIP Order"), and (ii) any claim for which payment is authorized pursuant to this Order that is treated as an administrative expense of the Debtors' estates shall be and is subject and subordinate to any and all claims, liens, security interests and priorities granted to the DIP Agents (as defined in the DIP Order) in accordance with and subject to the terms of the applicable DIP Order, and

payment on any such claim shall be subject to any and all restrictions on payments in the DIP Order and any other order of the Court authorizing the Debtors' use of cash collateral.

23. A Final Hearing to resolve any objections to the relief sought in the Motion shall be conducted on _____, 2020 at _____m., (prevailing Eastern Time) and any objections or responses to the Motion shall be filed on or prior to _____, 2020 at 4:00 (ET).

EXHIBIT B

Utility Service Providers

SUMMARY OF DEBTORS' UTILITY COMPANIES			
NAME	ACCOUNT NUMBER	UTILITY COMPANY ADDRESS	SERVICE PROVIDED
ARMSTRONG CABLE	0556798-01 0552253-01	ONE ARMSTRONG PLACE BUTLER, PA 16001	Telecommunications
AT&T	831-000-7614 898 287254287185	ADDRESS 1: P.O. BOX 5080 CAROL STREAM, IL 60197-5080 ADDRESS 2: 85 ANNEX ATLANTA, GA 30385-0001 ADDRESS 3: 444 MICHIGAN AVE DETROIT, MI 48226-2517 ADDRESS 4: P.O. BOX 0099 HAMMOND, IN 46325-0099 ADDRESS 5: P.O. BOX 27-6380 KANSAS CITY, MO 64180 ADDRESS 6: P.O. BOX 5014 CAROL STREAM, IL 60197-5014	Telecommunications
ATMOS ENERGY	3006078398	P.O. BOX 740353 CINCINNATI, OH 45274-0353	Gas
CANTON TOWNSHIP WATER DEPARTMENT	1243-001	P.O. BOX 87680 CANTON, MI 48187-0680	Water & Sewer
CENTURY LINK	433051757	P.O. BOX 2961 PHOENIX, AZ 85062-2961	Telecommunications
CITY OF ALMA	003020501-002	525 E SUPERIOR ST P.O. BOX 278 ALMA, MI 48801-1943	Water & Sewer
CITY OF AUBURN	802475-004 802520-004 802520AES-001	P.O. BOX 506 AUBURN, IN 46706-0506	Electric

CITY OF ROSEVILLE WATER DEPT	724028101	P.O. BOX 290 ROSEVILLE, MI 48066	Water & Sewer
CITY OF WARREN	400100366 400100367	ONE CITY SQUARE SUITE 200 WARREN, MI 48093-2395	Water & Sewer
CLARKSVILLE DEPT OF ELECTRIC	286569-001 286569-002 286569-003 286569-004	ADDRESS 1: 2021 WILMA RUDOLPH BLVD P.O. BOX 1007 CLARKSVILLE, TN 37040-6684 ADDRESS 2: P.O. BOX 31509 CLARKSVILLE, TN 37040-0026	Electric
CLARKSVILLE GAS & WATER DEPT	007-2925.302 007-2929.302 007-2930.302 007-2927.502	P.O. BOX 31329 CLARKSVILLE, TN 37040-0023	Gas & Water
COLUMBIA GAS OF OHIO INC	12311819-001 1429872	ADDRESS 1: P.O. BOX 742510 CINCINNATI, OH 45274 ADDRESS 2: 290 W NATIONWIDE BLVD COLUMBUS, OH 43215	Gas
CONSTELLATION NEW ENERGY	BG-300080 107337 107336 BG-301068 BG-304296 133814 126760 126759	ADDRESS 1: P.O. BOX 5473 CAROL STREAM, IL 60197-5473 ADDRESS 2: P.O. BOX 6025 1716 LAWRENCE DRIVE DE PERE, WI 54115-6025 ADDRESS 3: 9960 CORPORATE CAMPUS DRIVE, SUITE 2000 LOUISVILLE, KY 40223	Gas

<p>CONSUMERS ENERGY</p>	<p>1030 1023 3569 1030 0991 7800 1030 0991 7800 1000 0691 0119 103014999314 1000 0684 9887</p>	<p>P.O. BOX 740309 CINCINNATI, OH 45274-0309</p>	<p>Gas</p>
<p>DICKSON ELECTRIC</p>	<p>238573-133881</p>	<p>P.O. BOX 627 236 COWAN ROAD DICKSON, TN 37056-0627</p>	<p>Electric</p>
<p>DTE ENERGY</p>	<p>9100-4085-6643 9100-4021-2466</p>	<p>ADDRESS 1: P.O. BOX 740786 CINCINNATI, OH 45274-0786 ADDRESS 2: P.O. BOX 630795 CINCINNATI, OH 45263-0795 ADDRESS 3: ONE ENERGY PLAZA 004 GO DETROIT, MI 48226</p>	<p>Electric</p>
<p>FIRST ENERGY SOLUTIONS CORP</p>	<p>110-048-358-219</p>	<p>ADDRESS 1: P.O. BOX 3622 AKRON, OH 44309-3622 ADDRESS 2: 341 WHITE POND AKRON, OH 44320</p>	<p>Electric</p>
<p>FRONTIER COMMUNICATIONS</p>	<p>330-225-6372-031299-5</p>	<p>ADDRESS 1: P.O. BOX 20550 ROCHESTER, NY 14602-0550 ADDRESS 2: P.O. BOX 740407 CINCINNATI, OH 45274-0407</p>	<p>Telecommunications</p>

GRANITE TELECOMMUNICATIONS LLC	04170914	ADDRESS 1: 100 NEWPORT AVE EXTENSION QUINCY, MA 02171 ADDRESS 2: P.O. BOX 983119 BOSTON, MA 02298-3319	Telecommunications
GREATER DICKSON GAS	209221-108265	605 EAST WALNUT STREET DICKSON, TN 37055	Gas
KENOSHA WATER UTILITY	07603	ADDRESS 1: 4401 GREEN BAY ROAD KENOSHA, WI 53144 ADDRESS 2: 812 56 TH ST KENOSHA, WI 53140- 3741	Water & Sewer
KOSCIUSKO COUNTY REMC	40198001	370 S 250 E WARSAW, IN 46582-9048	Electric
LEVEL 3 COMMUNICATIONS	0205229098 0	ADDRESS 1: P.O. BOX 910182 DENVER, CO 80291-0182 ADDRESS 2: ATTN: SAMATHA LEAPLEY 1025 ELDORADO BOULEVARD BROOMFIELD, CO 80021	Telecommunications
MEDIA.COM	8384 97 500 0021081	P.O. BOX 5744 CAROL STREAM, IL 60197-5744	Telecommunications
MEDINA COUNTY SANITARY ENGINEERS	613370	791 W SMITH RD P.O. BOX 542 MEDINA, OH 44258	Water & Sewer

NORTHERN INDIANA PUBLIC SERVICE	7349560051 3095560009	<p>ADDRESS 1: P.O. BOX 13007 MERRILLVILLE, IN 46411-3007</p> <p>ADDRESS 2: ATTN: MAJOR ACCOUNTS SUPPORT 801 E 86TH AVE MERRILLVILLE, IN 46410</p>	Gas
OHIO EDISON	110 048 358 219	<p>ADDRESS 1: 1910 W MARKET ST AKRON, OH 44313</p> <p>ADDRESS 2: 76 SOUTH MAIN STREET AKRON, OH 44308</p>	Electric
PLEASANT PRAIRIE UTILITIES	60085-60041	9915 39TH AVE PLEASANT PRAIRIE, WI 53158-6501	Water & Sewer
SPECTRUM BUSINESS	10303-936753301-4001 8245 12 733 0113001	<p>ADDRESS 1: P.O. BOX 1060 CAROL STREAM, IL 60132-1060</p> <p>ADDRESS 2: P.O. BOX 3019 MILWAUKEE, WI 53201- 3019</p> <p>ADDRESS 3: P.O. BOX 94188 PALATINE, IL 60094-4188</p>	Telecommunications
STAND ENERGY CORPORATION	12311819001	<p>ADDRESS 1: P.O. BOX 710240 CINCINNATI, OH 45271</p> <p>ADDRESS 2: 1077 CELESTIAL STREET SUITE #110 CINCINNATI, OH 45202</p>	Gas and Electric
TIME WARNER CABLE	10404-707921001-9001	P.O. BOX 4639 CAROL STREAM, IL 60197-4639	Telecommunications

TOWN OF PIERCETON	34980-02 34980-13 34980-24 34980-46	P.O. BOX 496 PIERCETON, IN 46562-0496	Water & Sewer
VERIZON WIRELESS	581045680-00001	ADDRESS 1: P.O. BOX 660108 DALLAS, TX 75266-0108 ADDRESS 2: P.O. BOX 15062 ALBANY, NY 12212-5062 ADDRESS 3: P.O. BOX 660748 DALLAS, TX 75266-0748	Telecommunications
VILLAGE OF WELLINGTON	64001	115 WILLARD MEMORIAL SQUARE WELLINGTON, OH 44090	Electric
WARREN COUNTY WATER SERVICE	33316	ADDRESS 1: P.O. BOX 10180 BOWLING GREEN, KY 42102-4780 ADDRESS 2: 523 US HWY 31-W BYPASS P.O. BOX 10180 BOWLING GREEN, KY 42102-4780	Water & Sewer
WARREN RURAL ELECTRIC COOP CORP	89925001	951 FAIRVIEW AVE P.O. BOX 1118 BOWLING GREEN, KY 42102	Electric
WATER AUTHORITY OF DICKSON COUNTY	053-01100-001	101 COWAN ROAD DICKSON, TN 37055	Water & Sewer
WE ENERGIES	8873-806-563 1614-694-264 3646-864-363 2895-194-173 6652-464-907 3829-067-051	P.O. BOX 90001 MILWAUKEE, WI 53290-0001	Gas and Electric

<p>WINDSTREAM</p>	<p>222 162090085 6 220 7093924</p>	<p>ADDRESS 1: 2 N MAIN ST GREENVILLE, SC 29601-4874 ADDRESS 2: P.O. BOX 9001013 LOUISVILLE, KY 40290-1013</p>	<p>Telecommunications</p>
<p>WINDSTREAM KENTUCKY EAST LLC</p>	<p>162090085</p>	<p>P.O. BOX 9001908 LOUISVILLE, KY 40290-1908</p>	<p>Telecommunications</p>
<p>XO COMMUNICATIONS</p>	<p>4000000009683</p>	<p>8851 SANDY PARKWAY SANDY, UT 84070</p>	<p>Telecommunications</p>