

DOCKET NUMBER: 00-14351, 00-14633, 00-14753, 00-14898

ADV. NUMBER: None

JUDGE: M. A. Mahoney, W. S. Shulman

PARTIES: Eddie Wells, Jr., Belinda J. Lewis, Ricky A. Walker, Ernestine L. Walker, William C. Sanders, Jesseca L. Sanders, Christine Oliver, Alabama Power Company

CHAPTER: 13

ATTORNEYS: D. S. Clark, E. J. Peterson, III

DATE: 3/10/01

KEY WORDS:

PUBLISHED:

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ALABAMA

In Re

EDDIE WELLS, JR.
BELINDA J. LEWIS

Case No. 00-14351-MAM-13

Debtors

RICKY A. WALKER
ERNESTINE L. WALKER

Case No. 00-14633-MAM-13

Debtors

WILLIAM C. SANDERS
JESSECA L. SANDERS

Case No. 00-14753-MAM-13

Debtors

CHRISTINE OLIVER

Case No. 00-14898-MAM-13

Debtor

**ORDER GRANTING DEBTOR'S MOTION TO WAIVE ALABAMA
POWER COMPANY POSTPETITION DEPOSIT REQUIREMENT AND
ALLOWING DEBTOR TO ENTER INTO AN AGREEMENT IN WHICH
THE AUTOMATIC STAY WOULD NOT APPLY TO ALABAMA POWER
AND THE DEBTORS WOULD CONTINUE THEIR PREPETITION ARRANGEMENT
WITH ALABAMA POWER COMPANY**

David S. Clark, Attorney for the Debtors, Selma, AL
Edward J. Peterson III, Balch & Bingham LLP, Birmingham, AL, Attorney for Alabama
Power Company

These cases are before the Court on the Motions of the Debtors to waive the Alabama
Power Company postpetition deposit requirement in exchange for the following agreement that
would be incorporated in the Debtors' chapter 13 plans:

The debtor agrees to continue paying prepetition and postpetition electrical service
bills directly to Alabama Power company in the ordinary course of business as
adequate assurance of future payment under Section 366 of the United States

Bankruptcy Code. The debtor further agrees that the automatic stay does not apply to Alabama Power Company's efforts to collect electrical service debt.

The Court has reviewed the proposed language and the case law cited by the parties that establishes that Alabama Power Company would have a right to request a deposit postpetition but for the agreement. *See, e.g., In re Smith, Richardson & Conroy*, 50 B.R. 5 (Bankr. S.D. Fla. 1985); *In re Epling*, 255 B.R. 549 (Bankr. E.D. Ohio 2000); *Hanratty v. Philadelphia Electric Company (In re Hanratty)*, 107 B.R. 55 (E.D. Pa. 1989). The agreement allows the debtor to continue to receive electrical power without a deposit, but requires the lifting of the stay as to any enforcement or termination proceedings in the future. The Court concludes that the agreement is reasonable, not prejudicial to other creditors, and is a fair bargain considering the law.

THEREFORE IT IS ORDERED that the Motions of the Debtors to waive Alabama Power Company's postpetition deposit requirement, or, in the alternative, to determine whether the postpetition deposit requirement is allowable under the automatic stay is GRANTED to the extent that the Debtors are authorized to enter into the agreement stated above and have the agreement's language incorporated into their plans.

Dated: March 16, 2001

MARGARET A. MAHONEY
CHIEF BANKRUPTCY JUDGE

WILLIAM S. SHULMAN
BANKRUPTCY JUDGE