

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION  
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*In re:*

COMPREHENSIVE CLINICAL  
DEVELOPMENT, INC.,

CASE NO.: 13-17273-JKO

COMPREHENSIVE CLINICAL  
DEVELOPMENT NW, INC.,

CASE NO.: 13-17282-JKO

Debtors. \_\_\_\_\_ /

Chapter 11 (Jointly administered under  
Case No. 13-17273-JKO)

**DEBTORS' EMERGENCY MOTION PURSUANT TO  
RULE 9006(B) TO ENLARGE THE PROTECTIVE TIME PERIODS  
PROVIDED IN 11 U.S.C. § 366 THROUGH AND INCLUDING MAY 31, 2013**

***(EXPEDITED HEARING REQUESTED ON MAY 9, 2013 AT 9:30 A.M.)***

**Basis for Expedited Relief**

In an abundance of caution, and to ensure that all utility providers are provided adequate due process without prejudicing the Debtors or their creditors, the Debtors seek to enlarge the protective periods contained in Sections 366(b) and 366(c)(2) of the Bankruptcy Code to enable the Debtors to re-serve all utility providers with the *Debtors' Emergency Motion for an Order Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Service and Setting Procedures for Determining Debtors' Adequate Assurance of Future Payment Pursuant to Section 366 of the Bankruptcy Code* [ECF# 46]. The Debtors request that this Motion be heard on an expedited basis as the relief requested herein is critical to the Debtors' continued operations. Further, the Debtors also respectfully request that the Court waive the provisions of Local Rule 9075-1(B), which require an affirmative statement that the Debtors made a *bona fide* effort to resolve the issues raised in this Motion, as the relief requested herein is urgent in nature and does not lend itself to advance resolution.

Comprehensive Clinical Development, Inc. ("CCD"), and Comprehensive Clinical Development NW, Inc. ("CCD NW") (collectively, the "Debtors") by and through undersigned counsel, pursuant to Sections 105(a) and 366 of Title 11 of the United States Code (the "Bankruptcy Code"), Rule 9006(b) of the Federal Rules of Bankruptcy Procedure (the "Rules"), and Rule 9075-1 of the Local Rules for the United States Bankruptcy Court, Southern District of Florida (the "Local

Rules”) move for the entry of an Order enlarging the protective periods contained in Sections 366(b) and 366(c)(2) of the Bankruptcy Code through and including May 31, 2013 (the “Enlargement”) to enable the Debtors to re-serve the *Debtors’ Emergency Motion for an Order Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Service and Setting Procedures for Determining Debtors’ Adequate Assurance of Future Payment Pursuant to Section 366 of the Bankruptcy Code* (the “Utility Motion”) [ECF# 46] in an abundance of caution to ensure that all of the Debtors’ utility providers have received adequate due process in these Chapter 11 cases. In support of the Motion, the Debtors state as follows:

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper under 28 U.S.C. §§ 1408 and 1409.

2. This is a core proceeding as defined by 28 U.S.C. § 157(b)(2). The statutory predicates in support of the relief requested herein are 11 U.S.C. §§ 105(a) and 366.

### **BACKGROUND**

3. On March 29, 2013 (the “Petition Date”), the Debtors commenced these cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their business and managing their affairs as debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

4. No trustee, examiner, or statutory committee has been appointed in these cases.

5. For a more thorough account of the Debtors’ organizational background, business operations, and the events precipitating this chapter 11 filing, the Debtors respectfully refer the Court to the *Declaration of James D. Utterback in Support of Debtors’ Early Day Pleadings* [ECF #9], which is incorporated herein by reference.

6. In connection with the operation of the Debtors’ business, the Debtors use gas, water,

electric, telephone, fuel, sewer, telecommunications, internet, cellular phone, and other services (collectively, the “Utility Services”) provided by numerous utility companies and other providers (each a “Utility Provider” and collectively, the “Utility Providers”), including those contained in the list attached to the Utility Motion as **Exhibit A**.

7. In the Utility Motion, the Debtors sought entry of an order prohibiting utility providers from altering, refusing, or discontinuing utility service and determining that Debtors have provided adequate assurance of future payment.

### **RELIEF REQUESTED AND BASIS THEREFOR**

8. The Debtors request the entry of an Order enlarging the protective periods contained in Sections 366(b) and 366(c)(2) of the Bankruptcy Code to enable the Debtors to re-serve the Utility Motion in an abundance of caution to ensure that the Utility Providers have received adequate due process without prejudice the Debtors, their estates, and their creditors.

9. “Bankruptcy Rule 9006(b) limits a bankruptcy court's ability to extend statutory time periods in certain situations.” *In re Great Atl. & Pac. Tea Co., Inc.*, 2011 WL 5546954, at \*7 (S.D.N.Y. 2011). Since “Section 366 is not specified under Rule 9006(b)(2) as a section for which enlargement is not permitted, however, this “court may enlarge the 30-day and 20-day protective time periods under Sections 366(c)(2) and 366(b), respectively, if a party can show good cause.” *Id.* at \*7.

10. The Debtors filed the Utility Motion on April 5, 2013, and the Court entered the *Notice of Hearing* (the “NOH”) [ECF#54] scheduling the Utility Motion for hearing on April 9, 2013 (the “Hearing”).

11. The Debtors believe that all Utility Providers were served via U.S. mail with the Utility Motion on April 5, 2013, or shortly thereafter. The Debtors’ *Omnibus Certificate of Service* [ECF#56], however, indicates that the Utility Motion and the NOH was only served on the Master

Service List established in the case pursuant to Local Rule 2002-1(H).

12. The Court granted the Utility Motion at the Hearing and entered the *Final Order Prohibiting Utility Providers From Altering, Refusing, or Discontinuing Service and Determining Debtors' Adequate Assurance of Further Payment Pursuant to Section 366 of the Bankruptcy Code* (the "Utility Order") on April 16, 2013. [ECF# 76].

13. Although the Debtors believe that the Utility Motion was served upon the Utility Providers, in an abundance of caution, the Debtors wish to re-serve the Utility Motion and Utility Order in order to ensure that the Utility Providers are provided sufficient notice of the relief requested in the Utility Motion and afforded the opportunity to object to the Debtors' proposed assurance of future payment in accordance with the procedures established in the Utility Order.

14. The Utility Order established (i) April 23, 2013 as the deadline for Utility Providers to request additional assurances of future payment from the Debtors (the "Request Deadline"), and (ii) various related deadlines premised upon the Request Deadline.

15. To address the situation and ensure that the Utility Providers have received due process in these cases, the Debtors propose uploading an amended, final utility Order that provides identical relief as granted in the Utility Order, but establishes May 24, 2013 as the new deadline for Utility Providers to request additional adequate assurance of payment from the Debtors (the "Amended Utility Order").

16. The Debtors' entire business operation depends, in part, upon uninterrupted service in order to continue operations and preserve the value of its assets. Accordingly, uninterrupted utility services are essential to ongoing operations and, therefore, to the success of this case. Should the Utility Providers refuse or discontinue service, even for a brief period, the Debtors' business operations would be severely disrupted. The impact on the Debtors' business operations, marketing efforts, revenue and cash flow would be extremely harmful and would jeopardize the Debtors'

restructuring efforts. It is therefore critical that utility services continue uninterrupted.

17. Accordingly, the Debtors submit sufficient cause exists under Rule 9006(b) for the Enlargement to ensure the Debtors' continued operations without any interruptions to their utility services.

18. The Debtors will serve upon all Utility Providers this Motion, the Utility Motion, the Utility Order, and the notice of hearing that the Court enters scheduling this Motion for hearing.

**WHEREFORE**, the Debtors respectfully request that the Court enter an order: (i) granting this Motion; (ii) enlarging the protective periods contained in Sections 366(b) and 366(c)(2) of the Bankruptcy Code through and including May 31, 2013; (iii) instructing the Debtors to upload an amended order that provides identical relief as granted in the Utility Order, but establishes May 24, 2013 as the new deadline for Utility Providers to request additional adequate assurance of payment from the Debtors; (iv) instructing the Debtors to promptly serve the Utility Motion, the Amended Utility Order, and the order granting this Motion upon all Utility Providers; and (v) granting such other and further relief and this Court deems necessary.

***I HEREBY CERTIFY** that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am qualified to practice in this Court as set forth in Local Rule 2090-1(A).*

Dated: May 3, 2013

Respectfully submitted by:

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# **Exhibit “A”**

<u>Debtor</u>	<u>Utility Provider</u>	<u>Address</u>
CCD	AmeriGas	2700 SW 2nd Ave. Ft. Lauderdale, FL 33315-3318
CCD	AT Conference	AT Conference PO Box 2939 Southampton, NY 11969
CCD	AT&T	PO Box 105262 Atlanta, GA 30348-5262
CCD	Bay Area Medical Exchange	8222 118th Ave N Suite 620 Largo, FL 33773
CCD	City of Miramar	Finance Department 2300 Civic Center Place Miramar, FL 33025
CCD	Florida Power & Light Company	700 Universe Blvd., Juno Beach, FL 33408
CCD	Hosted Solutions Holdings, LLC	PO Box 601834 Charlotte, NC 28260-1834
CCD	MedconnectUSA	PO Box 500006 San Diego, CA 92150-0006
CCD	MegaPath Inc.	Department 0324 PO Box 120324 Dallas, TX 75312-2358
CCD	Megawattage, LLC	2750 North 29th Avenue , Suite, 209, Hollywood, FL 3302
CCD	PAETEC/Windstream	PO Box 1283 Buffalo, NY 14240-1283
CCD	Progress Energy	1200 South Pine Island Road, Plantation, FL 33324
CCD	Southern California Edison	2244 Walnut Grove Ave, Rosemead, CA
CCD	Sunbeam Development Corp.	1401 79th Street Causeway Miami Beach, FL 33141
CCD	The Gas Company	PO Box C Monterey CA 91756-5111
CCD	Verizon	PO BOX 920041 Dallas, Tx 75392-0041
CCD	Con Edison	Cooper Station, P.O. Box 138, New York, NY 10276-0138
CCDNW	City of Tacoma - Utility 100411844	PO Box 11010 Tacoma, WA 98411-1010
CCDNW	Integra Telecom	PO Box 2966 Milwaukee, WI 53201-2966
CCDNW	Puget Sound Energy	PO Box 97034, Bellevue, WA 98009-9734
CCDNW	Stericycle, Inc	PO Box 6578 Carol Stream IL 60197-6578