

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ALABAMA**

In Re:)
)
GREENLEAF BULK CARRIERS, INC.,) Case No. 17-02668-JCO
) Chapter 11
Debtor.)

**INTERIM ORDER ON MOTION AUTHORIZING THE USE OF
CASH COLLATERAL PURSUANT TO SECTIONS 105, 361, 362
AND 363 OF THE BANKRUPTCY CODE AND FEDERAL RULE
OF BANKRUPTCY PROCEDURE 4001(b)**

THIS CAUSE came before the Court on Tuesday August 15, 2017 at 10:30 p.m. (the “**Preliminary Hearing**”), to consider the Motion to Prohibit Debtor’s Use of Cash Collateral and Request for Adequate Protection Order and for Emergency Hearing filed by People’s United Equipment Finance Corp. (“**PUEFC**”) on August 9, 2017 (the “**Objection**”) [Docket No. 17], and the oral Motion of Greenleaf Bulk Carriers, Inc. (“**Debtor**”) to Use Cash Collateral (“**Motion**”) pursuant to sections 105, 361, 362, 363 and 507(b) of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 2002, 4001, and 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), seeking the entry of an order granting, *inter alia*, the following relief:

1. Authorization under section 363 of the Bankruptcy Code and Bankruptcy Rules 4001(b) and 6004 for the Debtor to use “**Cash Collateral**” (as defined in Section 363(a) of the Bankruptcy Code) for: (i) general working capital purposes and general corporate purposes relating to the postpetition operations; and (ii) payment of the costs and expenses associated with these chapter 11 case (the “**Case**”), all in accordance with the terms of the Debtor’s proposed budget (the “**Budget**”), a copy of which is annexed hereto as **Exhibit A**;

2. Authorization for the Debtor to perform such other acts as may be necessary

pursuant to the provisions of this Interim Order and any final order granting the foregoing relief and such other relief as provided herein and in such final order (the “**Final Order**”; and together with the Interim Order, the “**Cash Collateral Orders**”);

3. Authorization for the Debtor to continue to use the Cash Collateral of PUEFC in accordance with the provisions of this Interim Order;

4. Authorization for the Debtor to provide adequate protection to PUEFC pursuant to the terms of this Interim Order based upon the use of its cash collateral, separate and apart from any adequate protection payments authorized with regard to equipment financed pursuant to agreements with PUEFC;

5. To vacate and modify the automatic stay imposed by section 362 of the Bankruptcy Code solely to the extent necessary to implement and effectuate the terms of this Interim Order;

6. The limitation of the Debtor’s right to surcharge against collateral pursuant to section 506(c) of the Bankruptcy Code; and

7. To waive any applicable stay as provided in the Bankruptcy Code or the Bankruptcy Rules and provide for the immediate effectiveness of this Interim Order.

8. The Debtor having requested that pending a final hearing on the Motion (the “**Final Hearing**”), and the granting of adequate protection to PUEFC on an interim basis; and upon finding that notice of the Preliminary Hearing was given, where possible, to: (a) United States Bankruptcy Administrator; (b) the Debtor’s material prepetition and post-petition secured lender or any agent therefore; (c) the holders of the 20 largest unsecured claims on a consolidated basis; (d) state and local taxing and regulatory authorities; (e) the Internal Revenue Service; (f) all parties known by the Debtor claiming to have liens on or security interests in any of the

Debtor's property; and (h) all parties in interest who have requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "**Notice Parties**"), in accordance with Bankruptcy Rules 2002, and 4001(b), (c) and (d); and upon finding that this Court has jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 157(b) and 1334; and upon finding that venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and the Preliminary Hearing to consider the Motion on an interim basis having been held and concluded; and all objections, if any, to the relief requested in the Motion having been resolved by the Court; and it appearing to the Court that granting the relief is fair and reasonable and in the best interest of the Debtor, its estate, and its creditors and equity holders, and is essential for the continued operation of the Debtor's business; and after due deliberation and consideration, and good and sufficient cause appearing therefore, it is hereby found:

A. Petition Date. On July 19, 2017 (the "**Petition Date**"), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Alabama (the "**Court**"), thereby commencing this Case.

B. Debtor In Possession. The Debtor is continuing in the management and operation of its business and properties as debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code, and no trustee or examiner has been appointed in this Case.

C. Personal Property. As of the Petition Date, the Debtor represents it has equipment financed by PUEFC with an estimated value of approximately \$1,262,500.00, accounts receivable of approximately \$43,472.58, and other additional assets. The Debtor is generating approximately \$50,842.15 per week in cash revenue from its

logistics and trucking operations.

D. Committee. An official committee of unsecured creditors (the “Committee”) has not been appointed.

E. Jurisdiction. This Court has core jurisdiction over this Case, this Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334.

F. Notice. Notice of the Motion, the relief requested in the Motion, and the Preliminary Hearing was served by the Debtor on the Notice Parties. The interim relief granted herein is necessary to avoid immediate and irreparable harm to the Debtor and its estates pending the Final Hearing. Under the circumstances, the notice given by the Debtor of the Motion, the relief requested in the Motion, and the Preliminary Hearing: (i) was, in the Debtor’s good faith belief, the best available under the circumstances; (ii) constitutes due and sufficient notice thereof; and (iii) complies with Bankruptcy Rules 4001(b) and 4001(c). No further notice of the relief sought at the Preliminary Hearing is necessary or required.

G. Prepetition Secured Debt Owed to PUEFC. The Debtor acknowledges and admits it owes, without defense, offset or counterclaim, the following prepetition secured obligations to PUEFC through the Petition Date:

i.	PUEFC Note – 76572	\$147,609.21
ii.	PUEFC Note – 76613	\$ 1,414.35
iii.	PUEFC Note – 76709	\$260,035.37
iv.	PUEFC Note – 77199	\$ 51,577.03
v.	PUEFC Note – 77950	\$ 76,862.82
vi.	PUEFC Note – 82823	\$491,035.23

vii. PUEFC Note – 87468 \$131,022.48

(collectively, the “PUEFC Notes”).

H. Obligations of the Debtor to PUEFC are secured by the following:

i. First priority security interest in and against numerous tractors, trailers and equipment more particularly described as:

<u>YEAR</u>	<u>MAKE</u>	<u>MODEL</u>	<u>DESCRIPTION</u>	<u>SERIAL#</u>
2006	Volvo	VNL64T630	Tractor With Sleeper	4V4NC9TJ36N417067
1997	Mack	MR	Spotter Truck	1M1K194Y8VM009250
2001	Mack	CX600	Tractor with Sleeper	1M1AE06YX1W009760
2001	International	9400	Tractor with Sleeper, Pump and Compressor	2HSCNASRX1C000184
2003	Freightliner	FL112	Day Cab Tractor with a Compressor	1FUJBGAS93HK52965
2003	International	9900ix	Tractor with Sleeper	3HSCAPR53N056021
2007	Peterbilt	379	Tractor with Sleeper	1XP5DB9X27N742403
2014	Mack	CXU613	Tractor with Sleeper	1M1AW07Y6EM041862
2014	Mack	CXU613	Tractor with Sleeper	1M1AW07Y8EM041863
2014	Mack	CXU613	Tractor with Sleeper	1M1AW07YXEM041864
2007	Vanguard	VIP4000	53' Van Trailer	5V8VA53297M702217
2004	Lufkin		53' Van Trailer	1L01A532X41154499
2004	Lufkin		53' Van Trailer	1L01A532841154503
2004	Lufkin		53' Van Trailer	1L01A532341154506
2014	Mack	CXU613	Tractor with Sleeper	1M1AW07Y9EM038230
2014	Mack	CXU613	Tractor with Sleeper	1M1AW07Y0EM038231
2014	Mack	CXU613	Tractor with Sleeper	1M1AW07Y2EM038232
2014	Mack	CXU613	Tractor with Sleeper	1M1AW07Y4EM038233
2014	Mack	CXU613	Tractor with Sleeper	1M1AW07Y6EM038234
2014	Mack	CHU613	Day Cab Tractor	1M1AN07Y6EM017757
2015	Mack	CHU613	Tractor with Sleeper	1M1AN07Y2FM018289
2016	Mack	CXU613	Tractor with Sleeper	1M1AW21Y1GM058060
2016	Mack	CXU613	Tractor with Sleeper	1M1AW21Y3GM058061
2016	Mack	CXU613	Tractor with Sleeper	1M1AW21Y5GM058062
2016	Mack	CXU613	Tractor with Sleeper	1M1AW21Y7GM058063
2016	Mack	CXU613	Tractor with Sleeper	1M1AW21Y9GM058064
2009	Utility		48' Aluminum Drop Deck Trailer	1UYFS24809A578401
2009	Gaylean		8,400 Gallon Tank Trailer	1G9DC40129H017122
2009	Gaylean		8,400 Gallon Tank Trailer	1G9DC40229H017128
2009	Gaylean		8,400 Gallon Tank Trailer	1G9DC40209H017127
2008	Heil		8,400 Gallon Tank Trailer	5HTDL452X85G22922
2016	Ford	F-350 Super Duty	Truck with a Freedom 9.5' Rodeo Truck Body	1FDRF3G67GEB45398

Including all attachments, accessions and accessories to, and all proceeds of, all of the foregoing, including, without limitation, all insurance proceeds and all rental

proceeds, accounts and chattel paper arising out of or related to the sale, lease, rental or other disposition thereof (the “**PUEFC Vehicles**”).

ii. First priority blanket security interest in and against all assets of the Debtor, including, without limitation, the following:

All goods, inventory, equipment, accounts, accounts receivable, documents, instruments, chattel paper, contract rights, general intangibles, investment property, securities entitlements, deposit accounts, fixtures and other property wherever located, now or hereafter belonging to Debtor or in which Debtor has any interest and in all proceeds, insurance proceeds, substitutions, replacement parts, additions and accessions of and/or to all of the foregoing.

(the “**Blanket Collateral**” together with PUEFC Vehicles, referred to as “**PUEFC Prepetition Collateral**”).

I. To secure its obligations to PUEFC under the Notes and corresponding security agreements and other documents (collectively, the “**Loan Documents**”), Debtor granted PUEFC a first priority security interest in and against the PUEFC Prepetition Collateral.

J. As of the Petition Date, the Debtor was indebted to PUEFC under the Loan Documents in the aggregate amount of \$1,159,556.49, plus continuing interest, costs and fees, including, without limitation, reasonable attorneys’ fees and expenses (the “**PUEFC Indebtedness**”):

Findings Regarding the Use of the Cash Collateral

9. *Good Cause.* Good cause has been shown for the entry of this Interim Order.

10. *Immediate Need.* The Debtor requires the immediate use of Cash Collateral to operate its business and maximize its prospects for a successful reorganization. The access of

the Debtor to sufficient working capital and liquidity through the use of the Cash Collateral is vital to the preservation and maintenance of the going concern value of the Debtor.

11. *Necessary for Effective Reorganization.* Absent the use of the Cash Collateral, the Debtor will not have sufficient sources of working capital to continue to operate its business. The ability of the Debtor to pay its employees, maintain its trucking operations, maintain business relationships with vendors and suppliers, create new accounts receivable and inventory, and otherwise finance its operations is essential to the Debtor's continued viability. Unless the Debtor is authorized to use Cash Collateral as provided in this Interim Order pending a final hearing on the Motion, the Debtor and its estates will suffer immediate and irreparable harm.

12. *Fair and Reasonable Terms.* The terms of the use of the Cash Collateral are fair and reasonable, reflect the Debtor's exercise of prudent business judgment consistent with their fiduciary duties and constitute reasonably equivalent value and fair consideration.

13. *Irreparable Harm.* The Debtor has requested entry of this Interim Order pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2). Absent granting the relief set forth in this Interim Order, the Debtors' estates will be immediately and irreparably harmed. The Debtor asserts that it is in the best interest of its bankruptcy estate and its creditors that the Debtor be permitted to use Cash Collateral in the manner provided for herein.

Findings Regarding the Need for Adequate Protection.

14. The Debtor acknowledges the PUEFC Notes are in default.

15. The Debtor has requested the use of PUEFC's Cash Collateral. PUEFC does not consent to the use of their Cash Collateral except upon the terms and conditions of this Interim Order.

16. The Debtor wishes to provide adequate protection of the liens and security

interests of PUEFC as set forth in this Interim Order.

17. The Debtor acknowledges and agrees that: (i) the Loan Documents and the Indebtedness are valid, binding and allowed claims against the Debtor's estate; (ii) the Loan Documents and the Indebtedness are secured by valid, enforceable, duly perfected, first priority liens on and security interests in the PUEFC Prepetition Collateral, without defense, offset or counterclaim; (iii) neither the Loan Documents nor the liens or security interests securing the Indebtedness are subject to avoidance or equitable subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law; and (iv) the Loan Documents and the Indebtedness are a fully secured claim within the meaning of section 506(b) of the Bankruptcy Code.

Based upon the foregoing findings and conclusions, the Motion and the record before the Court with respect to the Motion, and good and sufficient cause appearing therefore,

IT IS HEREBY ORDERED, as follows:

1. *Objections Overruled.* Any objections to the entry of this Interim Order are hereby overruled to the extent they have not otherwise been resolved or withdrawn.

2. *Debtor's Stipulations.* The Debtor admits, stipulates and agrees that:

a. As of the Petition Date, the Debtor was unconditionally indebted and liable to PUEFC, without defense, counterclaim or offset of any kind to the PUEFC Notes and PUEFC Prepetition Collateral, and the monies due thereunder ("Prepetition Obligations").

b. The Prepetition Obligations are (i) in default and (ii) constitute legal, valid, binding, non-avoidable obligations of the Debtor.

c. (i) No portion of the Prepetition Obligations, and the transactions contemplated thereby is subject to contest, attack, objection, recoupment, defense, setoff,

counterclaim, avoidance, recharacterization, reclassification, reduction, disallowance, recovery, disgorgement, attachment, “claim” (as defined in the Bankruptcy Code), impairment, subordination or other challenge pursuant to the Bankruptcy Code or applicable non-bankruptcy law; (ii) the Debtor irrevocably waives, any right to challenge or contest in any way the perfection, validity, priority and enforceability of the Prepetition Obligations. Any order entered by the Court in relation to the establishment of a bar date for any claims (including, without limitation, administrative expense claims) in this case or any successor case shall not apply to PUEFC; (iii) the Prepetition Obligations, interests, rights, priorities and protections granted to, or in favor of PUEFC, as set forth in this Interim Order shall be deemed a timely proof of claim on behalf of PUEFC in this case, and PUEFC shall not be required to file a proof claim with respect thereto.

d. As of the Petition Date, the Debtor has not brought and is not aware of any claims, objections, challenges, causes of action, including without limitation, avoidance claims under chapter 5 of the Bankruptcy Code against PUEFC arising out of or related to the Prepetition Obligations.

3. *Authorization to Use of Cash Collateral.* Subject to the terms and conditions contained herein, the Debtor is authorized to use Cash Collateral through the earlier of (i) October 31, 2017, (ii) the occurrence of a Cash Collateral Termination Event (as defined below), and (iii) the entry of a final order authorizing the use of Cash Collateral (the “**Usage Period**”); provided, however, that such use of Cash Collateral shall only be authorized for the actual and necessary expenses of operating the Debtor’s business in the ordinary course of its business as set forth in the Budget, which Budget shall be in form and substance acceptable to and approved

by PUEFC in its sole discretion and shall only be amended or modified with prior written consent of PUEFC.

4. *Spending Restrictions.* Unless otherwise authorized by the Court:

a. the amount of Cash Collateral which the Debtor may use during any given week, as set forth in the Budget (the “Usage Period”), shall not exceed in aggregate 120% of each major cost category, and 115% of total expenditures, set forth in the Budget; provided, however, that in addition to items set forth in the Budget, the Debtor shall be permitted to pay the actual expenses incurred for fees of the Office of the United States Bankruptcy Administrator (the “**BA Fees**”). In the event the Usage Period terminates in the middle of a week, the amount budgeted for that week shall be prorated accordingly.

b. Cash collections may not fall below 80% of the collections projected in the Budget, on a cumulative basis, for any 2 consecutive Usage Periods.

c. Cumulative Disbursements may not exceed 115% in any category and or 115% overall.

d. Any expenditures made for the repair of equipment or other tangible property shall require the prior written consent of PUEFC if such repairs exceed \$5,000 on any such item of equipment or other tangible property of the Debtor.

e. Debtor shall have the following reporting obligations to PUEFC:

i. Weekly budget to actual report on the cash budget showing budgeted and actual amounts by detailed line item (not group summary)

for the week ended and cumulative since the Petition Date, (2) all reports to be received on each Tuesday for the prior week ended.

ii. Notwithstanding anything in this Interim Order to the contrary, Cash Collateral shall not include: (i) proceeds of any use, lease, sublease, license or sale outside the ordinary course of business of any of the Debtor's assets (together, the "**Extraordinary Proceeds**"). Nothing in this Interim Order or any subsequent order concerning the extension of debtor in possession financing to the Debtors shall entitle the Debtor to use any portion of the PUEFC Prepetition Collateral, and no lien or other interest may be granted in the PUEFC Prepetition Collateral to any third party, including, but not limited to, any debtor in possession lender.

5. *Adequate Protection Provided to PUEFC.* PUEFC is entitled to receive adequate protection on account of its interests in the PUEFC Prepetition Collateral pursuant to sections 361 and 363 of the Bankruptcy Code.

6. *Adequate Protection Payments.* In consideration for the use of the Cash Collateral and the PUEFC Vehicles in addition to the other protections provided in the Cash Collateral Orders, the Debtor agrees to pay PUEFC the sum of \$30,000.00 per month due on the 1st day of September, October and November 2017, respectively; and resumption of full monthly payments under the Notes each following month until the Indebtedness and all Obligations under the Loan Documents are fully paid. Any plan of reorganization advanced by the Debtor shall adopt these payment terms and other provisions in this order. Debtor's right to use the PUEFC Prepetition Collateral shall terminate at the option of PUEFC upon the occurrence of any of the following events: (i) the Debtor fails to perform any duty or obligation in this order; (ii) the

Debtor at any time discontinues or is ordered to discontinue the conduct of business in the ordinary course; (iii) the Debtor's case is converted to chapter 7 case under the Bankruptcy Code; (iv) the Debtor fails to make monthly adequate protection payments to PUEFC as described in this paragraph; or (v) the automatic stay provided in 11 U.S.C. § 362(a) shall be terminated, annulled, modified or conditioned in favor of any other creditor with respect to the Debtor's inventory and receivables upon which PUEFC claims a lien. This order shall be binding upon the Debtor and its respective successors and assigns, including any trustee appointed in this case or any case under chapter 7 or any subsequent case commenced after dismissal hereof.

7. *Replacement Lien.* In consideration for the use of the Cash Collateral by the Debtor on and after the Petition Date, PUEFC is hereby granted a valid, perfected and enforceable continuing replacement lien and security interest (the "**Replacement Lien**"), equivalent to a lien granted under section 364(c) of the Bankruptcy Code, in and upon all assets of the Debtor existing on or after the Petition Date of the same nature and type as the collateral securing the PUEFC Claims, including, without limitation, all of the Debtor's accounts receivable, inventory, and equipment and such other collateral in which PUEFC had an interest prior to the initiation of this Case whether such property was owned on the Petition Date or thereafter created, acquired or arising, and improvements, additions and extensions thereto, all replacements thereof, all books and records with respect thereto and all products and proceeds of the foregoing, specifically including any proceeds of the foregoing deposited in bank accounts opened prepetition by the Debtor, the accounts opened by the Debtor after the Petition Date and the accounts themselves, subject and junior only to the BA Fees, Professional Fees of the Debtor for legal and accounting services, up to Budgeted amounts to the same extent, validity,

perfection, enforceability and priority of the liens and security interests of PUEFC in such collateral as of the Petition Date. Notwithstanding anything to the contrary herein, the Supplemental Lien shall not extend to the proceeds of any avoidance actions received by the Debtor or the estate pursuant to sections 544, 547, 548, 549 or 550 of the Bankruptcy Code (“**Avoidance Actions**”). (“Professional Fees” shall include the Debtor’s legal fees and accounting fees awarded by this Court under 11 U.S.C. Sections 327, 328, 330, and 331.

8. *Supplemental Lien.* As additional adequate protection, and solely to the extent of any diminution in the aggregate value of the Debtor’s use of PUEFC’s Cash Collateral, PUEFC is hereby granted a valid, perfected and enforceable continuing supplemental lien and security interest (the “**Supplemental Lien**”) in all of the assets of the Debtor of any kind or nature whatsoever within the meaning of section 541 of the Bankruptcy Code, whether acquired or arising prepetition or postpetition, together with all proceeds, rents, products, and profits thereof inclusive of all causes of action of any kind or nature. Notwithstanding anything to the contrary herein, the Supplemental Lien shall not extend to the proceeds of any avoidance actions received by the Debtor or the estate pursuant to Sections 544, 547, 548, 549 or 550 of the Bankruptcy Code.

9. *Treatment of the Adequate Protection Lien.* Each of the Replacement Lien and Supplemental Lien (together, the “**Adequate Protection Liens**”) shall be valid and enforceable against any trustee or other estate representative appointed in the Cases or any Successor Cases, upon the conversion of any of the Cases to a case under chapter 7 of the Bankruptcy Code (or in any other Successor Case), and/or upon the dismissal of any of the Cases or Successor Cases. The Adequate Protection Liens shall not be subject to Sections 506(c), 510, 549, or 550 of the Bankruptcy Code.

10. *Additional Liens.* The assets subject to the Adequate Protection Liens (the “**Post-Petition Collateral**”) shall be in addition to all other rights of PUEFC under the Loan Documents, including its liens and security interests in the PUEFC Prepetition Collateral. The Adequate Protection Liens shall not be: (A) subject or subordinate to (1) any lien or security interest that is avoided and preserved for the benefit of the Debtor and its estate under section 551 of the Bankruptcy Code, (2) any liens arising after the Petition Date including, without limitation, any liens or security interests in favor of any federal, state, municipal or other government unit, commission, board or court for any tax liability of the Debtor, whether secured or unsecured, including property taxes for which liability is *in rem*, *in personam*, or both, except a tax of a kind specified in section 507(a)(8) of the Bankruptcy Code, or (3) any intercompany or affiliate liens of the Debtors; or (B) subordinated to or made *pari passu* with any other lien or security interest under sections 363 or 364 of the Bankruptcy Code or otherwise.

11. *Superpriority Claims.* As additional adequate protection and in consideration for the use of the Cash Collateral by the Debtor, PUEFC shall have a super-priority administrative expense claim pursuant to section 507(b) of the Bankruptcy Code against all assets of the estates, except for (a) the causes of action and proceeds there from of Debtor or its estate under sections 544, 545, 547, 548, 549, 550 and 724(e) of the Bankruptcy Code and (b) the Debtor’s rights, choses in action, or claims of any kind whatsoever, choate or inchoate, present or residual which for any reason cannot not be made the subject of the Post-Petition Collateral, with priority over any and all administrative expenses, diminution claims and all other claims against the Debtors now existing or hereafter arising, of any kind whatsoever (the “**Superpriority Claims**”), including, without limitation, all other administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all administrative expenses or other

claims arising under sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 546, 726, 1113 or 1114 of the Bankruptcy Code, and shall at all times be senior to the rights of Debtor, any successor trustee or any creditor, in this Case or any Successor Cases, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed claims shall be payable from and have recourse to all pre- and post-petition property of Debtor and all proceeds thereof; provided, however, the Superpriority Claims shall be subordinate only to the BA Fees and Professional Fees.

12. *Avoidance Action.* Notwithstanding anything to the contrary herein, PUEFC may seek to extend its Supplemental Liens and Superpriority Claims to the Avoidance Actions.

13. *Financial Information.* As additional adequate protection of PUEFC's security interests in the Cash Collateral, the Debtor shall allow PUEFC, (including its agents, contractors, appraisers, and financial advisors) reasonable access during normal business hours to the premises, officers, employees, auditors, appraisers and financial advisors of the Debtor in order to conduct appraisals, analyses and/or audits of the Prepetition Collateral and the Post-Petition Collateral, and shall otherwise reasonably cooperate in providing any other financial information requested by PUEFC. The Debtor shall furnish such other reports and information as may be reasonably requested from time to time by PUEFC, all such reports to be certified by the Debtor's chief financial officer or chief executive officer. From and after the entry of this Interim Order, the Debtor shall provide to PUEFC on Tuesday of each week, a weekly report certified by the Debtor's chief financial officer and in the same form as the Budget indicating all receipts received and disbursements made by the Debtor in the week ending the prior Friday compared to the Budget and detailing any variances of more than 10 % and at least \$10,000 from the expenditures and receipts in the Budget.

14. *Deposits of Cash Collateral.* All Cash Collateral shall be deposited in Debtor's Debtor-in-Possession account(s) to be established in accordance with the Court's Operating Order and/or the BA's guidelines, unless otherwise ordered by the Court.

15. *Accounting.* The Debtor shall at all times (a) sequester, segregate and account for all Cash Collateral that comes into their possession, custody or control, (b) keep and provide upon request records reasonably sufficient for PUEFC to determine the status of Cash Collateral collections and expenditures, and (c) shall provide to PUEFC copies of the monthly operating reports filed with this Court and with the Office of the BA.

16. *Deemed Request for Stay Relief.* This Interim Order shall be deemed to constitute a request by PUEFC for relief from the automatic stay with respect to the PUEFC Prepetition Collateral and for adequate protection for the use of the Cash Collateral as of the Petition Date. Notwithstanding the foregoing, the Debtor and PUEFC may enter into separate adequate protection agreements with respect to the PUEFC Vehicles.

17. *Modification of Automatic Stay.* The automatic stay imposed under section 362(a) of the Bankruptcy Code is hereby modified as necessary to effectuate all of the terms and provisions of this Interim Order, including, without limitation, to: (a) permit the Debtor to grant the Adequate Protection Liens and the Superpriority Claims; (b) permit the Debtor to perform such other acts as are necessary to effectuate the terms of this Interim Order; and (c) permit the exercise of remedies by PUEFC to the extent permitted by this Interim Order.

18. *Perfection of Adequate Protection Liens.* This Interim Order shall be sufficient and conclusive evidence of the validity, perfection, and priority of the Adequate Protection Liens without the necessity of filing or recording any financing statement, mortgage, notice of lien, notations on certificates of title, or other instrument or document which may otherwise be

required under the law or regulation of any jurisdiction or the taking of any other action (including, for the avoidance of doubt, entering into any deposit account control agreement) to validate or perfect (in accordance with applicable non-bankruptcy law) the Adequate Protection Liens, or to entitle PUEFC to the priorities granted herein. Notwithstanding the foregoing, PUEFC is authorized to file, as they deem necessary in their sole discretion, such financing statements, mortgages, notices of liens, title or lien applications and other similar documents to perfect in accordance with applicable non-bankruptcy law or to otherwise evidence the applicable Adequate Protection Liens, and all such financing statements, mortgages, notices and other documents shall be deemed to have been filed or recorded as of the Petition Date; provided, however, that no such filing or recordation shall be necessary or required in order to create or perfect the Adequate Protection Liens. The Debtor is authorized and directed to execute and deliver promptly upon demand to PUEFC all such financing statements, mortgages, notices and other documents as PUEFC may reasonably request. PUEFC, in its discretion, may file a photocopy of this Interim Order as a financing statement with any filing or recording office or with any registry of deeds or similar office, in addition to or in lieu of such financing statements, notices of lien or similar instrument. No obligation, payment, transfer or grant of security under this Interim Order shall be stayed, restrained, voidable, avoidable or recoverable under the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act (or similar statute or common law) or subject to any defense reduction, setoff, recoupment or counterclaim.

19. *Insurance.* Debtor shall insure its property and the Post-Petition Collateral against all risks to which it is exposed, including loss, damage, fire, theft and all other such risks, in an amount not less than the fair market value of such collateral, with such companies, under

such policies and in such form as is appropriate for a business of a type similar to the Debtor using sound business judgment, and shall name PUEFC as loss payee on such policies.

20. *Failure of Adequate Protection.* The terms and conditions of this Interim Order are intended to provide PUEFC with adequate protection for their interests in property of the Debtor. Nothing herein shall be construed as an admission by PUEFC that its interest in property of the Debtor, including Cash Collateral, is adequately protected. It is contemplated that the Debtor will seek adequate protection agreements with respect to the PUEFC obligations, and nothing in this Interim Order shall be deemed to affect such adequate protection agreements, nor shall any rights or remedies of Debtor or PUEFC that existed pre-petition with respect to such obligations, be prejudiced or impaired in any way.

21. *Termination of Use of Cash Collateral.* The Debtor's authority to use Cash Collateral pursuant to the terms of this Interim Order will terminate without any further action by the Bankruptcy Court seven (7) days after written notification sent by PUEFC to the Debtor, the Committee, if any, and BA of the occurrence of any of the following (each a "**Cash Collateral Termination Event**"):

- a. the incurrence by the Debtor of administrative expenses of a type not set forth in the Budget or in an amount, or variance, not allowed under the Budget or otherwise approved by PUEFC;
- b. payment of claims or amounts or at the times not set forth in the Budget or in an amount, or variance, not allowed under the Budget or otherwise approved by PUEFC;
- c. the failure of the Debtors to timely pay all BA Fees;
- d. the Case is dismissed or converted to a proceeding under chapter 7 of the

Bankruptcy Code;

e. the earlier of (a) the date of the entry of an order of this Court appointing a chapter 11 trustee or an examiner with enlarged powers (beyond those set forth in sections 1104(c) and 1106(a)(3) and (4) of the Bankruptcy Code); or (b) the date the Debtors file a motion, application or other pleading consenting to or acquiescing in any such appointment;

f. the closing of a sale of all or substantially all of the Debtor's assets;

g. the Court suspends the Case under section 305 of the Bankruptcy Code;

h. the Debtor fails to comply with, keep, observe or perform any of their agreements or undertakings under this Interim Order, including making timely adequate protection payments;

i. entry of an order confirming a plan in the Case;

j. this Interim Order becomes stayed, reversed, vacated, amended, suspended or otherwise modified in any respect without the prior written consent of PUEFC;

k. an adversary proceeding or contested matter is commenced by the Debtor, challenging the validity, extent, enforceability, priority or extent of the PUEFC's liens or claims; and

l. imposition of orders, penalties or fines by any governmental agency or unit which does or could, if not cured promptly, result in the cessation of operations of the Debtor.

22. *Rights Upon Cash Collateral Termination Event.* Upon the expiration of such seven (7) day period, the automatic stay shall be lifted with respect to the Post-Petition Collateral and the Prepetition Collateral for the benefit of PUEFC to allow PUEFC each to exercise all of

its available rights and remedies against the Prepetition Collateral and Post-Petition Collateral under the Financing Documents and applicable law.

23. *Termination Without Notice and Right of Temporary Use of Cash Collateral.* In the event a final order authorizing the use of the Cash Collateral has not entered on or before October 31, 2017, in form and substance acceptable to PUEFC, the Debtor's authority to use the Cash Collateral shall automatically terminate without notice or rights of the Debtor for temporary use thereof.

24. *Unauthorized Use of Cash Collateral.* Notwithstanding anything herein to the contrary, no proceeds of Cash Collateral or proceeds of PUEFC Prepetition or Post-Petition Collateral shall be used for the purpose of: (a) objecting to, or contesting in any manner, or raising any defenses to, the validity, amount, extent, perfection, priority, or enforceability of the Prepetition Collateral, the Post-Petition Collateral, the Loan Documents, the Indebtedness, or any liens or security interests with respect thereto, or any other rights or interests of PUEFC therein; (b) asserting any claims, defenses or causes of action, including, without limitation, any actions under chapter 5 of the Bankruptcy Code, against PUEFC, including with respect to payments made pursuant to the Financing Documents; (c) asserting any other claims, defenses or causes of action against PUEFC or its respective agents, affiliates, subsidiaries, directors, office, representatives, attorneys or advisors; (d) preventing, hindering or otherwise delaying PUEFC's assertion, enforcement or realization on the PUEFC Prepetition Collateral or Post-Petition Collateral; (e) seeking to modify any of the rights granted to PUEFC hereunder; (f) paying any amounts not otherwise provided for in the Budget; (g) invalidating, setting aside, avoiding or subordinating, in whole or part, any of PUEFC's liens on any PUEFC Prepetition Collateral or Post-Petition Collateral; or (h) modifying PUEFC's rights hereunder. Should the Debtor use

Cash Collateral for any purpose not authorized herein, it shall constitute a Cash Collateral Termination Event, and the security interests and liens of PUEFC granted hereunder shall automatically attach to any assets acquired with such Cash Collateral.

25. *No Third Party Rights.* Except as explicitly provided for herein, this Interim Order does not create any rights for the benefit of any third party, creditor, equity holder or any direct, indirect, or incidental beneficiary.

26. *No Deemed Control.* PUEFC shall not be deemed to be in control of the operations of the Debtor or to be acting as a “responsible person,” “managing agent” or “owner or operator” (as such terms or any similar terms are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, as amended, or any similar Federal or state statute) with respect to the operation or management of Debtor, notwithstanding its consent to this Interim Order and extending financial accommodations of any type, kind or nature under this Interim Order.

27. Section 506(c) Claims and Waiver.

a. All rights to surcharge any PUEFC Prepetition Collateral or Post-Petition Collateral under sections 105 or 506(c) of the Bankruptcy Code shall be and hereby are finally and irrevocably waived by the Debtors, and such waiver shall be binding upon the Debtor.

b. The approval of this Interim Order by the Court shall be a conclusive and binding determination on the Debtor: (i) of the amount of the Indebtedness; and (ii) that PUEFC’s security interests in the PUEFC Prepetition Collateral, including, without limitation, the Cash Collateral, have been duly perfected and are in all respects valid and enforceable first priority security interests and liens and not subject to any claim under

section 552(b) of the Bankruptcy Code or otherwise.

28. *Rights Preserved.* Other than as expressly set forth in this Interim Order, any other rights, claims or privileges (whether legal, equitable or otherwise) of the Debtor, any Committee appointed by this Court, and PUEFC are preserved.

29. *No Waiver by Failure to Seek Relief.* The failure of PUEFC to seek relief or otherwise exercise its rights and remedies under this Interim Order, applicable prepetition claims or applicable law, as the case may be, shall not constitute a waiver of any of the rights hereunder, thereunder, or otherwise of PUEFC, including PUEFC's right to assert at some later time that its liens and security interests in the PUEFC Prepetition Collateral are not being adequately protected within the meaning of section 361 of the Bankruptcy Code.

30. *Binding Effect of Interim Order.* Immediately upon entry by this Court (notwithstanding any applicable law or rule to the contrary), the terms and provisions of this Interim Order shall become valid and binding upon and inure to the benefit of the Debtor and PUEFC, all other creditors of any of the Debtor or any Committee appointed by this Court in the Case, and all other parties in interest and their respective successors and assigns, including any trustee or other fiduciary hereafter appointed in this Case, any Successor Case, or upon dismissal of any Case or Successor Case.

31. *No Competing Liens.* Except as set forth in this Interim Order, the Debtor shall not grant liens on, or security interests in the PUEFC Prepetition Collateral or the Post-Petition Collateral to any other party, pursuant to section 364 of the Bankruptcy Code or otherwise, that are senior to or *pari passu* with PUEFC without PUEFC's prior written consent.

32. *Restriction on Borrowing or Sale.* Unless otherwise authorized by order of the Court following notice to PUEFC and such other parties as may be required by the Bankruptcy

Code or the Court, Debtor shall not obtain any post-petition financing or sell or lease any of their assets, except in the ordinary course of business.

33. *Survival.* The provisions of this Interim Order and any actions taken pursuant hereto shall survive entry of any order: (a) confirming any plan of reorganization in any case; (b) converting any case to a case under chapter 7 of the Bankruptcy Code; (c) to the extent authorized by law, dismissing any case or any successor case; or (d) pursuant to which this Court abstains from hearing any case or successor case. The terms and provisions of this Interim Order, including the claims, liens, security interests and other protections granted to PUEFC pursuant to this Interim Order, notwithstanding the entry of any such order, shall continue in the case, in any successor case, or following dismissal of the case or any successor case, and shall maintain their priority as provided by this Interim Order. If any provision of this Interim Order is hereafter modified, vacated or stayed, such modification, vacation or stay shall not affect the validity or authority of the Debtor's use of Cash Collateral under this Interim Order prior to such time, nor shall it affect the validity, priority or enforceability of the security interests and liens granted to PUEFC for such use, prior to the effective date of such modification, vacation or stay.

34. *Enforceability.* The Clerk of the Court is hereby directed to forthwith enter this Interim Order on the docket of this Court maintained in regard to the Case. This Interim Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be enforceable *nunc pro tunc* to the Petition Date immediately upon execution hereof. To the extent necessary, findings of fact shall be deemed conclusions of law, and conclusions of law shall be deemed findings of fact.

35. *Final Hearing; Notice of Final Hearing.* Upon execution of this Interim Order and pursuant to Bankruptcy Rule 4001(d), the Debtor shall serve a copy of this Interim Order by

first class mail on all creditors on the Notice Parties and all other interested parties requesting notice. All interested parties are hereby given notice by service of this Interim Order of the effective date of this Interim Order. The Final Hearing on the Motion and any timely filed objections to this Interim Order will be held before the Court on the _____ day of _____, 2017 at _____, in Courtroom 1, 201 St. Louis Street, Mobile, Alabama 36602.

36. *Waiver of Any Applicable Stay.* Any applicable stay (including, without limitation, any stay under Bankruptcy Rule 6004(h)) is hereby waived and shall not apply to this Interim Order.

37. *Headings.* The headings of this Interim Order are for purposes of reference only and shall not limit or otherwise affect the meaning of this Interim Order.

38. *Notices.* All notices, requests, demands, waivers and other communications required or permitted to be given under this Interim Order shall be in writing and shall be deemed to have been duly given if (a) delivered personally, (b) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid, or (c) sent by next-day or overnight mail or delivery or (d) sent by facsimile.

i. If to the Debtor to:

Robert M. Galloway
GALLOWAY WETTERMARK EVEREST & RUTENS LLP
Post Office Box 16629
Mobile, AL 36616
bgalloway@gallowayllp.com

J. Willis Garrett
3263 Cottage Hill Road
Mobile, AL 36606
wgarrett@gallowayllp.com

ii. If to People's United Equipment Finance Corp.:

Jesse S. Vogtle, Jr.
BALCH & BINGHAM, LLP
1901 6th Ave North, Suite 1500
Birmingham, AL 35203
jvogtle@balch.com

39. *Retention of Jurisdiction.* The Court has and will retain jurisdiction to enforce this Interim Order according to its terms.

Dated: August 21, 2017



JERRY C. OLDSHUE, JR.
U.S. BANKRUPTCY JUDGE

Order Prepared by:
Jesse S. Vogtle, Jr.
BALCH & BINGHAM, LLP
1901 6th Ave North, Suite 1500
Birmingham, AL 35203
jvogtle@balch.com

EXHIBIT "A"
Proposed Estimated Monthly Budget *

Revenue		\$220,316.02
Expenses		
	AFLAC	\$143.14
	Alabama DOR	\$599.14
	Alabama Power – Bellingrath	\$979.48
	Aquiana Springs Water	\$32.78
	Aramark – Boutte	\$138.72
	AT&T – Boutte	\$809.67
	AT&T – Cells	\$293.30
	AT&T (Theodore U-verse)	\$60.66
	AT&T U-verse – Boutte	\$64.00
	AT&T U-verse – Theodore	\$117.88
	ATA Workers' Comp Fund	\$3,880.00
	Bayou Fleet Partnership	\$7,000.00
	BIS	\$397.00
	Blue Cross/Blue Shield of Alabama	\$25,533.57
	Butler, George	\$931.78
	Duhe Tires	\$927.09
	Entergy 14247 Paradis, LA	\$832.80
	Entergy 14263 Paradis, LA	\$420.79
	Goodyear Commercial Tire	\$2,742.91
	Harris Business Machines, Inc.	\$32.18
	Jack OIsta Co.	\$2,150.00
	LCTA Workers' Comp	\$3,171.95
	Mack Financial Services	\$11,826.34
	Mark Davis	\$950.00
	Mobile County Water	\$25.05
	NTTA	\$32.16
	Penske Truck Leasing	\$1,859.45
	People's United Financial	\$30,000.00
	PrePass	\$312.40
	Prudential Cooper	\$2,350.00
	QuickBooks Payroll Service	\$145.00
	Rivers, D	\$5,284.62
	Rush Truck Center (Peterbilt)	\$83.89
	St. Charles Water (3504)	\$38.81
	St. Charles Water (2504)	\$52.07
	Truck Pro	\$795.57
	Waste Management – Theodore	\$362.23
	Waste Management – Boutte	\$414.50
	Weaver Trucking	\$4,430.68
	TOTAL EXPENSES	\$110,221.61
Payroll Expenses		
	Net Pay	\$92,738.38
	Employer Taxes and Contributions	\$9,778.04
	TOTAL PAYROLL EXPENSES	\$102,516.42
	TOTAL PROFIT	\$7,577.99

* This budget is broadly estimated based upon averages of the business with a strong focus on July 2017.