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**BOX 76**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE: ) Case No. 88 B 17840  
)  
MARINA CITY ASSOCIATES, ) Chapter 7  
A Texas Limited Partnership, )  
) Thomas James,  
Debtor. ) Bankruptcy Judge

AGREED ORDER

THIS MATTER COMES BEFORE THE COURT upon the motion of Commonwealth Edison Company ("Edison") for authority to terminate electrical service to certain premises located at 300 North State Street, Chicago, Illinois, commonly known as the "Marina City Complex" and legally described as follows:

LOTS 3 AND 4 IN HARPER'S SUBDIVISION, BEING A RESUBDIVISION OF PART OF BLOCK 1 IN ORIGINAL TOWN OF CHICAGO IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, AND PART OF BLOCK 1 IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION OF THE NORTH FRACTION OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH PARTS OF CERTAIN VACATED STREETS AND ALLEYS LYING WITHIN AND ADJOINING SAID BLOCKS, ACCORDING TO THE PLAT THEREOF RECORDED WITH THE RECORDER OF DEEDS, COOK COUNTY, ILLINOIS ON DECEMBER 15, 1977, AS DOCUMENT NO. 24238690. (PIN 17-09-410-012 and 17-09-410-013)

Ilene F. Goldstein, as Trustee for Marina City Associates, Debtor ("Trustee") and Edison, each through their respective counsel, have consented to the entry of this Agreed Order and have stipulated to the following facts:

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1. The Marina City Complex is property of the estate of Marina City Associates, Debtor.
2. In order to preserve and protect the Marina City Complex while the Trustee attempts to sell the Marina City Complex, the Trustee has received prior court authority to operate the business of the Marina City Complex.
3. In order to operate the business of the Marina City Complex, the Trustee has determined that it is necessary to have continued electrical service for lighting, heating and water pumps, among other things.
4. The Trustee is presently collecting approximately \$40,000 per month in rental income from tenants at the Marina City Complex which has not been sufficient to pay all of the current operating expenses on a monthly basis.
5. At the time that Edison first presented its motion to terminate utility service to the Marina City Complex, Edison alleged that there was an arrearage for post-petition bills totaling \$82,654.80 as of October 5, 1989.
6. Since the time that Edison first presented its motion to terminate utility service to the Marina City Complex, the Trustee has paid Edison the sum of \$40,000.00 as of December 8, 1989 towards the post-

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petition arrearage; however, additional charges for current service from Edison have accrued for the months of October, November and December 1989. As of December 6, 1989, the outstanding charges for postpetition bills total \$99,000. The Trustee has tried to obtain further credit or otherwise seek financial assistance, but with the exception of Air Canada, the Trustee has not been able to obtain sufficient funds to satisfy the claim of Edison.

7. The Trustee and Edison have agreed as a condition for continued utility service to the Marina City Complex by Edison that:

(a) The Trustee will use her best efforts based on her receipt of rental income from tenants of the Marina City Complex to continue to make regular monthly payments to Edison on the arrearage and current bills, subject to the Trustee's authority to operate the Marina City Complex; provided, however, that the Trustee shall not use any rental income for any non-customary operating expenses without first paying any outstanding Edison bills.

(b) Air Canada, a tenant of the Marina City Complex, will pay to Edison upon the entry of this Order, the sum of \$10,000.00 to be applied to the arrearage of Edison. Air Canada upon proof of pay-

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ment of said sum to Edison, shall be granted an administrative claim in the amount of \$10,000.00, less any rents offset pursuant to Section 503(b)(1)(A) of the Bankruptcy Code [11 U.S.C. § 503(b)(1)(A)] to which claim the Trustee will not object as to either the amount or the need for such payment. Nothing in this subparagraph shall be deemed an admission or consent by Continental Savings that any such administrative claim constitutes a cost, expense, or other amount allowable under Section 506 (c) of the Bankruptcy Code [11 U.S.C. § 506 (c)].

(c) Edison shall be granted a lien senior to the lien of Continental Savings on the Marina City Complex in an unliquidated amount for allowed post-petition charges for electrical utility services provided to the Marina City Complex on or before March 31, 1990, pursuant to Section 364(d)(1) of the Bankruptcy Code [11 U.S.C. § 364(d)(1)].

(d) The grant of a lien to Edison which is senior to Continental Savings, as provided herein shall not be an admission or consent by Continental Savings that any post-petition utility charges constitute costs, expenses, or other amounts allowable under Section 506(c) of the Bankruptcy

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Code [11 U.S.C. § 506(c)].

(e) This Order providing for adequate assurance of future payment to Edison in exchange for Edison's agreement to continue to provide utility service to the Marina City Complex and not to terminate such service prior to at least January 31, 1990, shall be without prejudice to the right of Edison to seek an order upon notice and motion for authority to terminate utility service to the Marina City Complex after January 31, 1990 if it deems itself insecure; however, this Order shall not be deemed an admission or consent by the Trustee to an order vacating this order or to an order providing for a termination of such utility service to the Marina City Complex by Edison; provided however that the terms and conditions of this order shall expire on March 31, 1990 or unless this is extended prior to that time upon motion duly made and after notice and a hearing.

Notice of Edison's motion having been given to the debtor and other parties in interest; copies of this order containing the terms and conditions of the Trustee's agreement with Edison having been circulated to certain parties in interest; the Court having considered the statements of counsel for the Trustee, Edison, and other parties in interest in support of the entry of

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this order; Continental Savings having appeared by its counsel and having no objection to the entry of this Order; Air Canada having appeared by its counsel and having consented to the entry of this Order; and the Court being otherwise advised in the premises from the record in this proceeding, finds that cause has been shown for approving the Trustee's agreement with Edison and therefore it is hereby

ORDERED:

A. The Trustee's agreement with Edison as set forth above in Paragraph 7 is incorporated by reference and approved as if more fully set forth herein.

B. Edison is granted a lien in an unliquidated amount for its claim for its allowed post-petition charges incurred during the time in which the Trustee is authorized to operate the business of the Marina City Complex, which lien shall be a valid and perfected lien senior to the lien of Continental Savings without further act to create or perfect such lien by Edison, pursuant to Section 364 (d)(1) of the Bankruptcy Code [11 U.S.C. § 364 (d)(1)].

C. Air Canada is allowed an administrative claim in the amount of \$10,000.00 less any rent offsets pursuant to Section 503(b)(1)(A) of the Bankruptcy Code upon proof of payment of \$10,000.00 to Edison.

D. The Automatic Stay [11 U.S.C. § 362 (a)(4)] is modified for the sole purpose of allowing Edison to record a

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copy of this order with the Cook County Recorder of Deeds,  
and Edison in its sole discretion is given leave to record a  
copy of this order with the Cook County Recorder of Deeds.

DATED: January \_\_\_\_, 1990

ENTER:

*Thomas James*

Thomas James  
Bankruptcy Judge

JAN 23 1990

AGREED AS TO TERMS AND CONDITIONS  
AND CONSENT TO ENTRY OF THIS ORDER:

ILENE F. GOLDSTEIN, AS TRUSTEE FOR  
MARINA CITY ASSOCIATES, DEBTOR

BY: *Robert Alsterda*  
One of Her Attorneys

DATED: January 19, 1990

COMMONWEALTH EDISON COMPANY

BY: *Joseph P. DeStefano*  
One of Its Attorneys

DATED: January 19, 1990

ACKNOWLEDGEMENT OF TERMS AND CONDITIONS  
AND CONSENT TO ENTRY OF THIS ORDER:

DEPT-01 RECORDING \$18.00  
192222 TRAN 3241 01/31/90 10:06:00  
19879 \* B \* -90-050633  
COOK COUNTY RECORDER

CONTINENTAL SAVINGS

BY: *Edward M. Murray*  
One of Its Attorneys

DATED: January 19, 1990

AIR CANADA

BY: *Michael J. [Signature]*  
One of Its Attorneys

DATED: January 23, 1990

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This document was  
Prepared By

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