IN THE UNITED STATES BANKRUPTCY COURT

FOR THE

SOUTHERN DISTRICT OF GEORGIA
Augusta Division

IN RE:	)	Chapter 13 Case
	)	Number 97-11530
DONNIE WATSON	)	
CONNIE WATSON	)	
	)	FILED
Debtors	)	at 11 O'clock & 45 min. A.M.
	)	Date: 7-2-97
	)	
DONNIE WATSON	)	
CONNIE WATSON	)	
	)	
Movants	)	
	)	
vs.	)	
	)	
PLANTERS ELECTRIC MEMBERSHIP	)	
CORPORATION	)	
	)	
Respondent	)	

ORDER

Donnie Watson and Connie Watson (hereinafter referred to as "Debtors") move to compel the Planters Electric Membership Corporation (hereinafter "Planters") to furnish electric service to their home pursuant to 11 U.S.C. §366[1]. The motion is denied.

[1]11 U.S.C. §366 provides:
(a) Except as provided in subsection (b) of this section, a utility may not alter, refuse, or discontinue service to, or discriminate against, the trustee or the debtor solely on the basis of the

The Debtors filed the instant Chapter 13 case on June 18, 1997. Subsequent to the case filing, the Debtors relocated their mobile home from Augusta, Georgia to McBean, Georgia. After relocating the home, the Debtors sought to establish electric service through Planters, the local electric cooperative. Without disclosing to Planters their bankruptcy status, the Debtors applied for service, which application Planters denied because the Debtors could not furnish a required $150.00 security deposit and $10.00 membership fee. Planters routinely requires this deposit and fee of every new cooperative member. In lieu of making the deposit prior to service connection, the Debtors seek to compel Planters to provide service immediately with adequate assurance of payment to be provided within twenty days under §366(b).

The Debtors' view of §366(b) as separate and isolated from §366(a) is incorrect. Subsection (b) is merely an exception to the general rule stated in subsection (a)and must be considered together. In enacting §366, Congress sought to protect debtors from

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commencement of a case under this title or that a debt owed by the debtor to such utility for service rendered before the order for relief was not paid when due.
(b) Such utility may 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, in the form of a deposit or other security, for service after such date. On request of a party in interest and after notice and a hearing, the court may order reasonable modification of the amount of the deposit or other security necessary to provide adequate assurance of payment.

service termination because of the filing of a bankruptcy case or because a pre-petition account balance is dischargeable in bankruptcy. H. Rept. No. 95-595 to accompany H.R. 8200, 95th Cong., 1st Sess. (1977) p.350. Subsection (a) prevents service alteration, refusal or disconnection due to the filing of a bankruptcy petition or due to the existence of a pre-petition account balance except in situations described in subsection (b) and subject to the limitations contained therein.

Section 366 simply does not apply where, as here, a debtor did not maintain pre-petition services with the utility and the utility's refusal to furnish services does not stem from the debtor's bankruptcy petition. In this case, Planters is not refusing to extend service to the Debtors because of their bankruptcy filing. Instead, Planters seeks to impose the ordinary requirements of new account service. Therefore, §366 has no application to this case. Accord, Matthews v. Philadelphia Gas Works (In re Matthews), 24 B.R. 545 (E.D. Pa. 1982) (Debtor could not compel utility to resume service to home under §366 where pre-petition service was provided to the debtor's wife, a non-debtor, and which services were terminated pre-petition for non-payment.)

It is therefore ORDERED that the Debtors' motion is DENIED.

JOHN S. DALIS
CHIEF UNITED STATES BANKRUPTCY JUDGE

Dated at Augusta, Georgia

this 2nd day of July, 1997.