

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re: CYNERGY DATA, LLC, <i>et al.</i> , ¹ Debtors.	Chapter 11 Case No. 09-_____ () Jointly Administered
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**DEBTORS’ MOTION FOR AN ORDER UNDER BANKRUPTCY RULES 1007(A)(5)
AND 1007(C) AND LOCAL RULE 1007-1(B) GRANTING THE DEBTORS
ADDITIONAL TIME TO FILE SCHEDULES OF ASSETS AND LIABILITIES AND
STATEMENTS OF FINANCIAL AFFAIRS**

The above-captioned debtors and debtors-in-possession herein (the “Debtors”), by this motion (the “Motion”), respectfully seek the entry of an order pursuant to Rules 1007(a)(5) and 1007(c) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 1007-1(b) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), granting the Debtors additional time to file their schedules of assets and liabilities and statements of financial affairs (collectively, the “Schedules and Statements”). In support of this Motion, the Debtors respectfully state as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and this Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

¹ The Debtors are the following entities (with the last four digits of their federal tax identification numbers in parentheses): Cynergy Data, LLC (8677); Cynergy Data Holdings, Inc. (8208); Cynergy Prosperity Plus, LLC (4265). The mailing address for the Debtors is 30-30 47th Avenue, 9th Floor, Long Island City, New York 11101.

2. The statutory predicates for the relief requested herein are sections 105 and 521 of Chapter 11 of Title 11 of the United States Code (11 U.S.C. § 101 et. seq. as amended, the “Bankruptcy Code”); Bankruptcy Rules 1007(a)(5), 1007(c), and 9006(b); and Local Rule 1007-1(b).

BACKGROUND

3. On the date hereof (the “Petition Date”), the Debtors filed their respective voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

4. The Debtors continue to manage and operate their businesses as debtors in possession under Bankruptcy Code sections 1107 and 1108.

5. No trustee, examiner or creditors’ committee has been appointed in these cases.

6. The factual background regarding the Debtors, including their business operations, their capital and debt structure, and the events leading to the filing of these bankruptcy cases, is set forth in detail in the declaration of Charles M. Moore (the “Moore Declaration”), filed concurrently herewith and fully incorporated herein by reference.² Additional facts in support of the specific relief sought in this Motion are set forth below.

RELIEF REQUESTED

7. By this Motion, the Debtors seek an order pursuant to Bankruptcy Rules 1007(a)(5) and 1007(c), and Local Rule 1007-1(b) granting the Debtors an additional thirty (30) days, beyond the date that is thirty (30) days from the Petition Date per Local Rule 1007-1(b), to file their Schedules and Statements, to October 31, 2009. Such an extension would give the Debtors a total of sixty (60) days from the Petition Date to file their Schedules and Statements.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Moore Declaration.

8. Because the Debtors have prepared a creditor matrix containing all the names and addresses of the Debtors' known creditors and other parties- in-interest in these cases as required by Bankruptcy Rule 1007(a) and have more than 200 creditors, Rule 1007(c) of the Bankruptcy Rules and Rule 1007-1(b) of the Local Rules require the Debtors to file their Schedules and Statements within 30 days after the Petition Date.

9. However, due to the complexity of these cases, the large number of creditors involved and the voluminous records that must be reviewed, the Debtors believe that it may not be possible to complete and file their Schedules and Statements by the 30th day after the Petition Date. The Debtors therefore request that this Court extend the deadline by 30 days, so that the Debtors are authorized to file their Schedules and Statements through and including October 31, 2009, the 60th day after the Petition Date.

BASIS FOR RELIEF

10. Bankruptcy Rules 1007(a)(5) and (c) and Local Rule 1007-1(b) authorize this Court to grant the Debtors additional time to file their Schedules and Statements "for cause." The "for cause" standard is a flexible one. Bryant v. Smith, 165 B.R. 176, 181 (W.D. Va. 1994). Accordingly, this Court has wide latitude to extend the 30-day timeline based on the facts and circumstances of a particular case. The Debtors respectfully submit that adequate cause exists for granting the extension requested herein.

11. Given the complexity of the Debtors' business, the Debtors must devote time and effort to determining the pertinent information for numerous accounts. The Debtors must ascertain the pertinent information, including addresses and claim amounts, for each of their accounts to complete the Schedules and Statements.

12. Although the Schedules and Statements were not filed with the Debtors' respective petitions, annexed thereto are lists containing the names and addresses of each Debtor's twenty-five (25) largest unsecured creditors. In addition, the Debtors have prepared a creditor matrix containing all the names and addresses of the universe of the Debtors' creditors and other parties-in-interest in these cases as required by Bankruptcy Rule 1007(a), which matrix is being maintained by the Debtors' claims, noticing, and balloting agent. Given the critical operational matters that the Debtors' staff of accounting and legal personnel must address in the early days of these cases, the Debtors will not be in a position to complete the Schedules and Statements within the time specified in Bankruptcy Rule 1007(c). Focusing the attention of key accounting and legal personnel on critical operational and Chapter 11 compliance issues during the early days of these Chapter 11 cases will help the Debtors make a smooth transition to Chapter 11 and, therefore, will ultimately help maximize the value of the Debtors' estates. Nevertheless, recognizing the importance of the Schedules and Statements in these Chapter 11 cases, the Debtors intend to complete the Schedules and Statements as quickly as possible under the circumstances.

13. The Debtors are currently in the process of gathering the information necessary to complete the Schedules and Statements and estimate that an extension of thirty (30) additional days (for a total of sixty (60) days) from the Petition Date, pursuant to Bankruptcy Rules 1007(a)(4) and (c) and Local Rule 1007-1(b), will provide them sufficient time to prepare and file the Schedules and Statements. Accordingly, the Debtors seek such an extension without prejudice to their right to seek further extensions from this Court, if necessary.

14. Creditors and other parties in interest will not be significantly harmed by the proposed extension of the filing deadline because, even under the proposed extended deadline,

the Schedules and Statements would be filed well in advance of any deadlines for submitting proofs of claim in these Chapter 11 cases. Additionally, the Debtors will work with the United States Trustee for the District of Delaware and any subsequently appointed creditors' committee to make available sufficient financial data and creditor information to permit at least an initial section 341 meeting to be timely held.

15. The Debtors believe these circumstances provide ample cause, if not compelling justification, to grant the requested extension.

16. This Court has express authority to grant an extension such as that requested here under FRBP 1007. See, FRBP 1007(c); FRBP 9006(b). Extensions such as the one sought by this Motion are routinely granted, and in these cases, the Motion will allow the Debtors sufficient time to ensure the accuracy of the Schedules and Statements. See e.g., In re SemCrude, L.P., Case No. 08-11525 (BLS) (Bankr. D. Del. Aug. 18, 2008) (order granting 60-day extension of time for filing schedules and statements); In re Powermate Holding Corp., Case No. 08-01498 (KG) (Bankr. D. Del. Sept. 3, 2007) (order granting 44-day extension of time for filing schedules and statements); In re American Home Mortgage Holdings, Inc., Case No. 07-11047 (CSS) (Bankr. D. Del. Apr. 14, 2008) (order granting 60-day extension of time for filing schedules and statements); In re New Century TRS Holdings, Inc., Case No. 07-10416 (KJC) (Bankr. D. Del. Apr. 24, 2007) (Docket No. 393) (granting additional 29 days for a total of 59 days from petition date); In re Pliant Corp., Case No. 06-10001 (MFW) (Bankr. D. Del. Jan. 31, 2006) (Docket No. 163) (granting additional 30 days for a total of 60 days from petition date); In re: Nutritional Sourcing Corp., Case No. 07-11038 (PJW) (Bankr. D. Del. Aug. 6, 2007) (Docket No. 43) (granting additional 30 days for a total of 60 days from petition date); In re PPI Holdings, Inc., Case No. 08-13289 (KG) (Bankr. D. Del. Dec. 15, 2008) (Docket No. 23) (granting additional 15

days for a total of 45 days from petition date). Accordingly, the Debtors' request for an additional thirty (30) day extension of time, through and including October 31, 2009, to file the Schedules and Statements is appropriate.

NOTICE

17. The Debtors have provided notice of this Motion by facsimile, electronic transmission, overnight delivery, or hand delivery to: (a) the United States Trustee for the District of Delaware; (b) the Debtors' twenty-five (25) largest unsecured creditors on a consolidated basis; (c) counsel to Comerica Bank; (d) counsel to Wells Fargo Foothill LLC; (e) counsel to Dymas Funding Company LLC; (f) counsel to Ableco Finance LLC; (g) counsel to A3 Funding LP; (h) counsel to Garrison Credit Investments; (i) counsel to Harris, N.A; and (j) all other parties required to receive notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, under the circumstances, no other or further notice is necessary.

NO PRIOR REQUEST

18. No prior request for the relief sought in this Motion has been made to this or any other court.

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CONCLUSION

WHEREFORE, the Debtors respectfully request that this Court enter an order granting (i) the Debtors additional time to file their Schedules and Statements and (ii) granting the Debtors such other relief the Court deems just and proper.

Dated: September 1, 2009
Wilmington, Delaware

Respectfully submitted,

PEPPER HAMILTON LLP

/s/ Evelyn J. Meltzer

David B. Stratton (DE No. 960)
Evelyn J. Meltzer (DE No. 4581)
John H. Schanne, II (DE No. 5260)
Hercules Plaza, Suite 5100
1313 Market Street
P.O. Box 1709
Wilmington, DE 19899-1709
Telephone: (302) 777-6500
Facsimile: (302) 421-8390

-and-

NIXON PEABODY LLP
Mark N. Berman
Dennis J. Drebsky
Lee Harrington (DE No. 4046)
437 Madison Avenue
New York, New York 10022
Telephone: (212) 940-3000
Facsimile: (212) 940-3111

*Proposed Counsel for the Debtors
and Debtors in Possession*

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**ORDER GRANTING ADDITIONAL TIME FOR FILING SCHEDULES AND
STATEMENTS, PURSUANT TO RULE 1007 OF THE FEDERAL RULES OF
BANKRUPTCY PROCEDURE**

Upon the Motion of the above-captioned debtors and debtors-in-possession herein (the “Debtors”)² for Order Under Bankruptcy Rules 1007(a)(5) and 1007(c) and Local Rule 1007-1(b) Granting the Debtors Additional Time to File Schedules of Assets and Liabilities and Statements of Financial Affairs (the “Motion”); and upon the Moore Declaration; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and venue being proper; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and the Court having determined that the relief sought in the Motion is in the best interests of the Debtors, their creditors, and all parties-in-interest; and upon the Motion and all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefore; it is hereby

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² Unless otherwise defined, capitalized terms used herein shall have the meanings ascribed to them in the Motion.

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED.
2. The Debtors are hereby granted an additional extension of thirty (30) days, for a total of sixty (60) days from the Petition Date, through and including October 31, 2009, to file their Schedules and Statements.
3. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order.
4. Such extension is without prejudice to the Debtors' right to seek further extensions of time to prepare and file their Schedules and Statements.
5. This Court shall retain jurisdiction to hear and determine all matters, claims, rights, or disputes arising from the implementation of this Order.
6. Notwithstanding any Bankruptcy Rule to the contrary, this Order shall take effect immediately upon its entry.

Dated: _____, 2009

UNITED STATES BANKRUPTCY JUDGE