

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI**

In re:

EXPRESS GRAIN TERMINALS, LLC et al.,

Debtor.

Case No. 21-11832-SDM

Chapter 11

Jointly Administered

**MOTION FOR ALLOWANCE AND
PAYMENT OF ADMINISTRATIVE EXPENSE CLAIM**

Maples Gas Company, Inc (“MGC”), by and through counsel, hereby respectfully requests allowance and payment of a § 503(b)(9) administrative expense claim in the amount of \$51,092.43, and in support thereof, respectfully represents:

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. Venue is proper before this Court under 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding under 28 U.S.C. § 157(b)(2).
2. The statutory predicates for the relief requested herein are §§ 105(a), 503(b), and 507(a) of the Bankruptcy Code.
3. The Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code on September 29, 2021 (the “Petition Date”). The Debtor continues to operate its business and manage its assets as a debtor-in-possession under §§ 1107 and 1108 of the Bankruptcy Code.
4. Before the Petition Date, MGC sold diesel fuel to the Debtor. Within 20 days before the Petition date (i.e., between September 9, 2021, and the Petition Date), the Debtor received delivery of diesel fuel on credit terms from MGC in the ordinary course of business. The total value of the deliveries is \$51,092.43. Copies of the three invoices for deliveries within 20 days of the Petition Date are attached hereto as Exhibit A.
5. MGC respectfully requests entry of an Order allowing an administrative expense claim for the full value of the diesel fuel delivered to and received by the Debtor during the 20 days before the Petition Date, pursuant to §§ 503(b)(9) and 507(a)(2) of the Bankruptcy Code.

6. Section 507(a)(2) grants priority to administrative expense claims that are allowed under § 503(b). Section 503(b)(9) provides for administrative expense status to a prepetition trade creditor for the value of goods sold to and received by the debtor in the ordinary course within 20 days of bankruptcy. The term “goods” is not defined in the Bankruptcy Code, so most courts look to the Uniform Commercial Code’s definition of “goods”: “all things . . . which are movable at the time of identification to a contract for sale.” *In re Deer*, No. 06-2460, 2007 WL 6887241 (Bankr. S.D. Miss. June 14, 2007); Miss. Code Ann. § 75-2-105(1). Diesel fuel constitutes a “good” under the U.C.C. *See Piney Woods County Life School v. Shell Oil Co.*, 726 F.2d 225, 231–232 (5th Cir. 1984) (finding sale of natural gas constitutes sale of goods within meaning of U.C.C.); *Etheridge Oil Co. v. Panciera*, 818 F. Supp. 480, 483 (D.R.I. 1993) (finding sale of fuel constitutes sale of goods within meaning of U.C.C.).

7. MGC meets the statutory requirements of § 503(b)(9). Within 20 days of the Petition Date, MGC sold and the Debtor received \$51,092.43 worth of diesel fuel in the ordinary course of the Debtor’s business.

8. MGC further requests that the Court direct the Debtor to pay MGC’s allowed administrative expense claim within seven days after entry of the Order granting this Motion, as other claimants potentially entitled to administrative priority have been paid on an ongoing basis, and the Debtor should not be allowed to single out particular administrative claims for immediate payment while deferring others.

WHEREFORE, Maples Gas Company, Inc. respectfully requests that the Court enter an order substantially in the form attached hereto as Exhibit B (i) allowing it an administrative expense claim in the amount of \$51,092.43, (ii) directing payment of the administrative expense claim within seven days following entry of the Court’s Order; and (iii) granting MGC such other and further relief this Court deems proper and just.

Dated: March 31, 2022

Respectfully submitted,

MAPLES GAS COMPANY, INC.

/s/ Andrew R. Wilson

Andrew R. Wilson (Miss. Bar #102862)

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CERTIFICATE OF SERVICE

I hereby certify that on this day the foregoing was filed through the Court's electronic document filing system and was served electronically by ECF on all parties who are registered to receive electronic service in this case.

Dated: March 31, 2022

/s/ Andrew R. Wilson _____