

99 in the Shade – Keeping the Utilities On in the Summer Heat

By John N. Skiba, Arizona Bankruptcy Attorney

www.skibalaw.com

103, 108, 109, 106. Those are the temperatures over the last four days here in Phoenix. For those of us in the Phoenix area you know that if you don't have power, you are in serious trouble. My air conditioner runs day and night this time of year, and if you are in danger of having one of your utilities shut off, such as power, water, sewer, etc., the filing of a bankruptcy can help you to keep the utility company from disconnecting service and even discharge past due amounts.

Utility companies are treated differently under the Bankruptcy Code due to the fact that in most cases they are a monopoly. While a typical unsecured creditor, such as a credit card company, can deny you a new credit card with their company, if utility companies were permitted to do that it may turn into a situation where a person who has filed for bankruptcy can no longer get service to their home.

In section 366 of the Bankruptcy Code it states that a utility company cannot disconnect, alter, or refuse you service because you have filed for bankruptcy. However, there is a time limit on this. The utility company can require that within 20 days of your bankruptcy filing that you provide them with an "adequate assurance of payment" – or in other words a deposit. This is something you and your bankruptcy attorney can work out, but generally a relatively modest deposit will enable you to keep the service connected (assuming you make the payment going forward).

If you are at risk of having your power shut off due to past due payments, give me a call and we can discuss how bankruptcy can help you avoid having your power turned off and eliminate debt. I can be reached at (480) 420-4028 or via email at john@skibalaw.com.