

Objection Deadline: July 27, 2012 at 5:00 pm (as extended)
Hearing Date: August 2, 2012 at 2:00 pm

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	:	Chapter 11
	:	
PATRIOT COAL CORPORATION, <i>et al.</i> ,	:	Case No. 12-12900 (SCC)
	:	
Debtors.	:	Jointly Administered
	:	
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LIMITED OBJECTION OF THE STATE OF WEST VIRGINIA TO DEBTORS’
MOTION FOR APPROVAL OF PROCEDURES FOR THE REJECTION OF EXECUTORY
CONTRACTS AND LEASES AND ABANDONMENT OF PERSONAL PROPERTY

The State of West Virginia and its Department of Environmental Protection (“DEP” and
collectively “West Virginia”) respectfully represents:

Relief Requested

1. By Motion dated July 19, 2012, Patriot Coal Corporation and its affiliated debtors
and debtors in possession in these chapter 11 cases (the “Debtors”) request entry of an order
under sections 105(a), 365, and 554 of the United States Bankruptcy Code establishing

procedures for the rejection of leases and contracts and the abandonment of property relating to them.

2. In the Motion, the Debtors propose to provide notice of the proposed rejection of leases and contracts or abandonment of property with limited information and only to (a) the known counterparties to the contracts and leases to be rejected, (b) any additional parties entitled to notice pursuant to the terms of the rejected contracts and leases, (c) parties known to the Debtors as having a direct interest in property proposed to be abandoned, as well as the United States Trustee, the Debtors' postpetition bank group, and the creditors' committee.

3. As explained in more detail below, West Virginia has an undeniably significant direct and particularized interest in all property relating to the Debtors' extensive mining operations within the State of West Virginia, virtually all of which are conducted pursuant to leases and contracts.

4. Accordingly, any order establishing procedures for the rejection of leases or contracts or the abandonment of property should require that the Debtors provide notice to West Virginia of a proposed rejection or abandonment of any coal-mining related leases, contracts, or property within the State of West Virginia, with additional information as to the applicable and affected DEP permits relating to those leases, contracts, and property.

Background

5. The Debtors comprise one of the largest coal mine operators in the State of West Virginia. They operate or control hundreds of coal mines on tens of thousands of acres of land in the State of West Virginia under hundreds of permits issued by DEP.

6. The Debtors operate or control most, if not all, of these mines under leases of mineral rights and other contracts.

7. Given the current state of the market for coal as described in detail in the Debtors' declaration under Bankruptcy Rule 1007 filed in connection with their petitions, the Debtors may seek to reject some of these leases and contracts or otherwise abandon the mines it currently operates or controls.

West Virginia's Interest in Rejected Leases and Contracts and Abandoned Property

8. The Debtors' rejection or abandonment of these mining properties may substantially affect the State and people of West Virginia. The Debtors have an obligation under the laws of the State of West Virginia to reclaim mined land, triggered by the cessation of mining activities on the mined land.¹ Their failure to comply with these obligations upon the rejection of leases or contracts or the abandonment of property would threaten the health and safety of West Virginians and shift the responsibility for reclaiming the land to the State of West Virginia at an enormous cost to its taxpayers.

9. As a consequence, the State of West Virginia is a party having a substantial direct and particularized interest in the rejection of any and all executory contracts and leases and the abandonment of property relating to mining operations within the State of West Virginia, thus entitling it to actual and direct notice of the same under the Case Management Order entered in these chapter 11 cases or otherwise.

10. Notice of the proposed rejection of coal leases and contracts or the proposed abandonment of coal-mining property is, moreover, necessary to provide West Virginia an adequate opportunity to respond to the Debtors' proposed rejection or abandonment. Advance notice, with the applicable and affected DEP permits, would enable West Virginia to investigate and review the affected mines and properties and determine the Debtors' compliance with the

¹ *Midlantic National Bank v. New Jersey Department of Environmental Protection*, 474 U.S. 494, 507 (1986) ("Bankruptcy Court does not have the power to authorize an abandonment without formulating conditions that will adequately protect the public's health and safety").

laws and regulations of the State of West Virginia, a necessary step to formulating a position on any proposed rejection of a lease or contract or the abandonment of any property.

11. In contrast, adding the permit information and West Virginia as a party receiving notice as to properties only in the State of West Virginia would impose only a de minimis burden upon the Debtors.

12. As the Debtors have not moved to reject specific leases or contracts or abandon specific property, but only for an order establishing notice and objection procedures relating to future rejections and abandonments, West Virginia requests only that it receive notice under any order establishing such procedures with the additional information requested.

WHEREFORE, West Virginia respectfully requests that the entry of any order approving procedures for the rejection of leases and contracts or the abandonment of property require the Debtors to provide (a) actual and direct notice to West Virginia of the proposed rejection of any lease or contract or the proposed abandonment of property relating to the Debtors' coal-mining operations within the State of West Virginia and (b) the identity of any applicable and affected permit issued by DEP with respect to those leases, contracts, and property.

Dated: July 26, 2012

BAILEY & GLASSER, LLP

By: /s/ Kevin W. Barrett

Kevin W. Barrett

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Limited Objection of the State of West Virginia to Debtors' Motion for Approval of Procedures for the Rejection of Executory Contracts and Leases and Abandonment of Personal Property was electronically filed with this Court on July 26, 2012, and served by Federal Express next-day delivery and by email, where indicated, on the following:

- (a) The Honorable Shelly Chapman
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- (b) Davis Polk & Wardwell LLP
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Dated: July 26, 2012

/s/ Kevin W. Barrett
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