



ENTERED
12/19/2018

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:)	Chapter 11
)	
WESTMORELAND COAL COMPANY, <i>et al.</i> , ¹)	Case No. 18-35672 (DRJ)
)	
Debtors.)	(Jointly Administered)
)	
)	Re: Docket No. 354

**ORDER (I) APPROVING THE ADEQUACY
OF THE DISCLOSURE STATEMENT, (II) APPROVING
THE SOLICITATION AND NOTICE PROCEDURES WITH
RESPECT TO CONFIRMATION OF THE JOINT CHAPTER
11 PLAN OF WESTMORELAND COAL COMPANY AND CERTAIN
OF ITS DEBTOR AFFILIATES, (III) APPROVING THE FORMS OF
BALLOTS AND NOTICES IN CONNECTION THEREWITH, AND
(IV) SCHEDULING CERTAIN DATES WITH RESPECT THERETO**

Upon the motion (the "Motion")² of Westmoreland Coal Company and its debtor affiliates, other than the WMLP Debtors, as debtors and debtors in possession (collectively, the "WLB Debtors"), for entry of an order (this "Order"), pursuant to sections 105, 363, 1125, 1126, and 1128 of the Bankruptcy Code, Bankruptcy Rules 2002, 3016, 3017, 3018, 3020, and Bankruptcy Local Rules 2002-1 and 3016-1, approving (a) the adequacy of the Disclosure Statement, (b) the Solicitation and Voting Procedures, (c) the Voting Record Date, (d) the form and manner of the

¹ Due to the large number of debtors in these chapter 11 cases, which are being jointly administered for procedural purposes, a complete list of the debtors and the last four digits of their tax identification, registration, or like numbers is not provided herein. A complete list of such information may be obtained on the website of the claims and noticing agent in these chapter 11 cases at www.donlinrecano.com/westmoreland. Westmoreland Coal Company's service address for the purposes of these chapter 11 cases is 9540 South Maroon Circle, Suite 300, Englewood, Colorado 80112.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion or the Plan. The terms "WLB Debtors" and "WMLP Debtors" shall have the meanings ascribed to them in the First Day Declaration.

Solicitation Packages and the materials contained therein, (e) the Plan Supplement Notice, (f) the Non-Voting Status Notices, (g) the form of Assumption Notices and Rejection Notices to counterparties to Executory Contracts and Unexpired Leases that will be assumed or rejected pursuant to the Plan, (h) the Voting and Tabulation Procedures, (i) the Confirmation Hearing Notice, and (j) certain dates and deadlines related thereto, all as more fully set forth in the Motion; and this Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the Amended Standing Order; and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the WLB Debtors' estates, their creditors, and other parties in interest; and this Court having found that the WLB Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted as provided herein.
2. Notwithstanding anything to the contrary herein, the entry of this Order and the relief granted hereby is without prejudice to the rights of any party to object or respond to the Sale Transaction, the Plan, the Stalking Horse Purchase Agreement, or any other document or

instrument contemplated by any of the foregoing, and all such rights are reserved and preserved in all respects.

I. Approval of the Disclosure Statement.

3. The Disclosure Statement, substantially in the form attached hereto as **Schedule 1**, is approved as providing holders of Claims entitled to vote on the Plan with adequate information to make an informed decision as to whether to vote to accept or reject the Plan in accordance with section 1125(a)(1) of the Bankruptcy Code.

4. The Disclosure Statement (including all applicable exhibits thereto) provides holders of Claims, holders of Interests, and other parties in interest with sufficient notice of the injunction, exculpation, and release provisions contained in **Article IX** of the Plan, in satisfaction of the requirements of Bankruptcy Rule 3016(c).

II. Approval of the Solicitation and Voting Procedures.

5. The WLB Debtors are authorized to solicit, receive, and tabulate votes to accept the Plan in accordance with the Solicitation and Voting Procedures, substantially in the form attached hereto as **Schedule 2**, which are hereby approved in their entirety.

III. Approval of the Materials and Timeline for Soliciting Votes and the Procedures for Confirming the Plan.

A. Approval of Certain Dates and Deadlines with Respect to the Plan and Disclosure Statement.

6. The following dates are hereby established (subject to modification as necessary, with the reasonable consent of the Required Consenting Stakeholders and subject to the RSA and

the orders approving the WLB Debtors' postpetition financing facility) with respect to solicitation of votes on the Plan and confirmation of the Plan (all times prevailing Central Time):³

Event	Date
Voting Record Date	December 13, 2018
Solicitation Deadline	Five (5) business days after entry of the Disclosure Statement Order
Publication Deadline	December 21, 2018
Voting Deadline	January 25, 2019, at 4:00 p.m.
Deadline to File Voting Report	One week prior to the Confirmation Hearing
Deadline to File Confirmation Brief and Confirmation Objection Reply/Statements in Support of Confirmation	Two (2) business days prior to the Confirmation Hearing, at 12:00 p.m.

B. Approval of the Administrative Claims Bar Date.

7. *Initial and Supplemental Administrative Claims Bar Date:* Except as otherwise provided in the Plan or by a final order entered by the Bankruptcy Court, the deadline for all requests for payment of Administrative Claims that arise on or prior to January 4, 2019 shall be the Voting Deadline (the "Initial Administrative Claims Bar Date"). With respect to any Administrative Claims that arise after January 4, 2019, the deadline to file such requests shall be 30 days after the Plan Effective Date (the "Supplemental Administrative Claims Bar Date").

8. *Professional Fee Claims Bar Date:* With respect to Professional Fee Claims, the deadline for all requests for payment of such claims is 30 days after the Plan Effective Date.

9. *Governmental Administrative Claims Bar Date:* With respect to any request for payment of Administrative Claims arising on or prior to January 4, 2019 submitted by

³ The dates established in this Order are in addition to the dates set forth in the Bidding Procedures and Scheduling Motion, as modified after discussions with creditors.

Governmental Units, the deadline for all such requests shall be February 7, 2019, subject to any requests for additional time for good cause shown.

10. *WMLP Debtors' Administrative Claims:* Notwithstanding anything to the contrary provided in the Plan or this Order, the WMLP Debtors shall not be required to file any requests for payment of Administrative Claims; *provided* that on or prior to the Initial Administrative Claims Bar Date, the WMLP Debtors shall consult with the WLB Debtors and the Required Consenting Stakeholders regarding any Administrative Claims held by the WMLP Debtors that would have otherwise been due by the Initial Administrative Claims Bar Date.

11. *MLP Secured Parties' Administrative Claims:* Notwithstanding anything to the contrary provided in this Order, the Plan or the Cash Collateral Order, the MLP Secured Parties (as defined in the Cash Collateral Order) shall not be required to file any requests for payment of Administrative Claims (if any) arising out of the MLP Secured Obligations (as defined in the Cash Collateral Order) or the Adequate Protection Obligations (as defined in the Cash Collateral Order), but for the avoidance of doubt, the MLP Secured Parties must file any requests for payment of any other Administrative Claims pursuant to the applicable provisions of the Plan.

12. *Failure to File Administrative Claims:* Holders of Administrative Claims that are required to, but do not, file and serve a request for payment of such Administrative Claims by the Initial Administrative Claims Bar Date or the Supplemental Administrative Claims Bar Date, as applicable, shall be forever barred, estopped, and enjoined from asserting such Administrative Claims against the WLB Debtors or their property, and such Administrative Claims will be deemed discharged as of the Plan Effective Date.⁴ For the avoidance of doubt, solely to the extent Cure

⁴ The Plan anticipates that Debtor Westmoreland Coal Company will continue to exist until the Post-Closing Reconciliation Date, but the remaining WLB Debtors may dissolve prior to the Post-Closing Reconciliation Date. For the avoidance of doubt, any Administrative Claim asserted against a WLB Debtor seeking payment for a

Costs are not paid on the Plan Effective Date, the counterparty to such Executory Contract and Unexpired Lease must file its Administrative Claim on or prior to the Supplemental Administrative Claims Bar Date, and such Administrative Claim shall be asserted only with respect to and in the amount of such unpaid Cure Costs.

C. Approval of the Form of and Distribution of Solicitation Packages to Parties Entitled to Vote on the Plan.

13. The forms of the following documents to be included in the Solicitation Packages are hereby approved:

- a. an appropriate form of Ballot substantially in the forms attached hereto as **Schedules 3A, 3B, 3C, and 3D**, respectively;⁵
- b. the Cover Letter substantially in the form attached hereto as **Schedule 7**;
- c. the Confirmation Hearing Notice substantially in the form attached hereto as **Schedule 8**; and
- d. a letter from the Committee (the "**Committee Letter**") setting forth the Committee's views on the Plan, substantially in the form attached hereto as **Schedule 12**.

14. The Solicitation Packages provide the holders of Claims entitled to vote on the Plan with adequate information to make informed decisions with respect to voting on the Plan in accordance with Bankruptcy Rules 2002(b) and 3017(d), the Bankruptcy Code, and the Bankruptcy Local Rules.

period after the dissolution of such WLB Debtor shall have the applicable portion of such Administrative Claim automatically disallowed and expunged without further order of the Court.

⁵ The WLB Debtors will use commercially reasonable efforts to ensure that any holder of a Claim who has filed duplicate Claims against the WLB Debtors (whether against the same or multiple WLB Debtors) that are classified under the Plan in the same Voting Class receives no more than one Solicitation Package (and, therefore, one Ballot) on account of such Claim and with respect to that Class.

15. The WLB Debtors shall distribute Solicitation Packages to all holders of Claims entitled to vote on the Plan on or before the Solicitation Deadline. Such service shall satisfy the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Local Rules.

16. The WLB Debtors are authorized, but not directed or required, to distribute the Plan, the Disclosure Statement, and this Order to holders of Claims entitled to vote on the Plan in electronic format (i.e., on a CD-ROM or flash drive). The Ballots as well as the Cover Letter, the Committee Letter, the Confirmation Hearing Notice and the Committee Letter will *only* be provided in paper form. The Committee Letter shall be placed immediately following the Cover Letter in each Solicitation Package. On or before the Solicitation Deadline, the WLB Debtors shall provide (a) complete Solicitation Packages to the U.S. Trustee and (b) the Order (in electronic format) and the Confirmation Hearing Notice to all parties on the 2002 List as of the Voting Record Date.

17. Any party that receives materials in electronic format, but would prefer to receive materials in paper format, may contact the Notice and Claims Agent and request paper copies of the corresponding materials previously received in electronic format (to be provided at the WLB Debtors' expense).

18. The Notice and Claims Agent is authorized to assist the WLB Debtors in (a) distributing the Solicitation Package, (b) receiving, tabulating, and reporting on Ballots cast to accept or reject the Plan by holders of Claims against the WLB Debtors, (c) responding to inquiries from holders of Claims and Interests and other parties in interest relating to the Disclosure Statement, the Plan, the Ballots, the Solicitation Package, and all other related documents and matters related thereto, including the procedures and requirements for voting to

accept or reject the Plan and for objecting to the Plan, (d) soliciting votes on the Plan, and (e) if necessary, contacting creditors regarding the Plan.

19. All votes to accept or reject the Plan must be cast by using the appropriate Ballot. All Ballots must be properly executed, completed, and delivered according to their applicable voting instructions by: (a) first class mail, in the return envelope provided with each Ballot, (b) overnight delivery, or (c) personal delivery, so that the Ballots are *actually received* by the Notice and Claims Agent no later than the Voting Deadline as set forth in the applicable Ballot. Beneficial Holders must properly execute, complete, and deliver Beneficial Holder Ballots to their respective Nominee in sufficient time so that the Nominees may verify, tabulate, and include such Beneficial Holder Ballots in a Master Ballot and return the Master Ballots, so that they are *actually received* by the Notice and Claims Agent no later than the Voting Deadline.

D. Approval of the Confirmation Hearing Notice.

20. The Confirmation Hearing Notice, substantially in the form attached hereto as **Schedule 8**, shall be filed by the WLB Debtors and served upon parties in interest in the chapter 11 cases within five business days after the entry of this Order, constitutes adequate and sufficient notice of the hearing to consider approval of the Plan, the manner in which a copy of the Plan could be obtained, and the time fixed for filing objections thereto, in satisfaction of the requirements of the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Local Rules. The WLB Debtors shall publish the Confirmation Hearing Notice (in a format modified for publication) one time by the Publication Deadline on **December 21, 2018** (or as soon as reasonably practicable thereafter), in the *The New York Times* (national edition) and the *Houston Chronicle*.

E. Approval of Notice of Filing of the Plan Supplement.

21. The WLB Debtors are authorized to send notice of the filing of the Plan Supplement, which will be filed and served at least seven (7) days prior to the Voting Deadline, substantially in the form attached hereto as **Schedule 9**, on the date the Plan Supplement is filed pursuant to the terms of the Plan, or as soon as practicable thereafter.

F. Approval of the Form of Notices to Non-Voting Classes.

22. Except to the extent the WLB Debtors determine otherwise, the WLB Debtors are not required to provide Solicitation Packages to holders of Claims or Interests in Non-Voting Classes, as such holders are not entitled to vote on the Plan. Instead, on or before the Solicitation Deadline, the Notice and Claims Agent shall mail (first-class postage prepaid) a Non-Voting Status Notice in lieu of Solicitation Packages, the form of each of which is hereby approved, to those parties, outlined below, who are not entitled to vote on the Plan:

Class(es)	Status	Treatment
1, 2	Unimpaired—Presumed to Accept	Will receive a Non-Voting Status Notice, substantially in the forms attached to the Order as Schedules 4, 4A, 8, and 12 , in lieu of a Solicitation Package.
7, 8	Impaired—Deemed to Reject	Will receive a Non-Voting Status Notice, substantially in the forms attached to the Order as Schedules 5, 5A, 8, and 12 in lieu of a Solicitation Package.
N/A	Disputed Claims	Holders of Claims that are subject to a pending objection by the WLB Debtors are not entitled to vote the disputed portion of their Claim. As such, holders of such Claims will receive a notice, substantially in the forms attached to the Order as Schedules 6, 6A, 8, and 12 (which notice shall be served together with such objection).

23. On or before the Solicitation Deadline, the Notice and Claims Agent shall mail (first-class postage prepaid) a Non-Voting Status Notice in lieu of Solicitation Packages, the form of each of which is hereby approved, to those parties, set forth above, who are not entitled to vote on the Plan. The WLB Debtors will not provide the holders of Class 5 (Intercompany Claims) or

Class 6 (Intercompany Interests) with a Solicitation Package or any other type of notice in connection with solicitation.

24. The WLB Debtors are not required to mail Solicitation Packages or other solicitation materials to the following: (a) holders of Claims that have already been paid in full during the chapter 11 cases or that are authorized to be paid in full in the ordinary course of business pursuant to an order previously entered by this Court, or (b) any party to whom the Disclosure Statement Hearing Notice was sent but was subsequently returned as undeliverable. Contemporaneously with the filing of the Voting Report, the WLB Debtors shall file a report listing the names of all parties to whom the Disclosure Statement Hearing Notice was sent but was subsequently returned as undeliverable.

25. Contemporaneously with the filing of the Voting Report, the WLB Debtors shall file a report (the "Release Report") listing the names of all parties who opted out of the Plan's proposed releases. To the extent there is any ambiguity with respect to whether a Holder of a Claim and/or Interest has opted out of the releases, the WLB Debtors shall make note of this ambiguity in the Release Report and the status of any resolution with respect thereto.

G. Approval of Notices to Contract and Lease Counterparties.

26. The WLB Debtors are authorized to mail a Supplemental Assumption Notice or Rejection Notice of any Executory Contracts or Unexpired Leases (and any corresponding Cure Costs), substantially in the forms attached hereto as Schedule 10 and Schedule 11, to the applicable counterparties to Executory Contracts and Unexpired Leases that will be assumed or rejected pursuant to the Plan (as the case may be), within the time periods specified in the Plan.

H. Approval of the Procedures for Filing Objections to the Plan.

27. Objections to the Plan will not be considered by the Court unless such objections are timely filed and properly served in accordance with this Order and the Bidding Procedures

Order. Additionally, all objections to confirmation of the Plan or requests for modifications to the Plan, if any, *must*: (a) be in writing, (b) conform to the Bankruptcy Rules and the Bankruptcy Local Rules, (c) state, with particularity, the legal and factual basis for the objection and, if practicable, a proposed modification to the Plan (or related materials) that would resolve such objection, and (d) be filed with the Court (contemporaneously with a proof of service) and served upon the notice parties identified in the Confirmation Hearing Notice.

IV. Miscellaneous.

28. The WLB Debtors reserve the right, subject to the reasonable consent of the Required Consenting Stakeholders, to modify the Plan without further order of the Court in accordance with Article XII of the Plan, including the right to withdraw the Plan as to an individual Debtor at any time before the Confirmation Date.

29. The rights of all parties in interest (including the Committee) to object to the releases contained in the Plan, including on the grounds that such releases are nonconsensual or were not adequately noticed, are fully reserved.

30. Nothing in this Order shall be construed as a waiver of the right of the WLB Debtors or any other party in interest, as applicable, to object to a proof of claim at any time.

31. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

32. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are satisfied by such notice.

33. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

34. The WLB Debtors and the Notice and Claims Agent are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

35. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Signed: December 18, 2018.



DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE