

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:

Westmoreland Coal Company, et al.,¹

Debtors.

Chapter 11

Case No. 18-35672 (DRJ)

Jointly Administered

**PACIFICORP'S OBJECTION TO DEBTORS' EMERGENCY MOTION
FOR ENTRY OF AN ORDER AUTHORIZING AND APPROVING
INTERCOMPANY SETTLEMENT TERM SHEET**

[Relates to Docket No. 1367]

PacifiCorp, an Oregon corporation ("***PacifiCorp***") hereby objects, through undersigned counsel, to the *Debtors' Emergency Motion for Entry of an Order Authorizing and Approving Intercompany Settlement Term Sheet* (the "***Settlement Motion***") [Dkt. No. 1367], and in support, respectfully represents as follows:

1. PacifiCorp incorporates by reference its *Objection To Expedited Motion Of Westmoreland Resource Partners, LP And Its Subsidiaries For Entry Of (I) An Order (A) Establishing Bidding Procedures With Respect To The Sale Of The Kemmerer Mine And Substantially All Assets Related Thereto, (B) Authorizing The Entry Into A Stalking Horse Agreement And The Provision Of Stalking Horse Protections, (C) Scheduling An Auction And Sale Hearing And Approving The Form And Manner Of Notice Thereof And (D) Granting Related Relief; And (II) An Order Approving The Sale Of Such Assets And Granting Related*

¹ Due to the large number of debtors in these chapter 11 cases, for which joint administration has been requested, 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 Debtors' proposed 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.

Relief (“**Sale Objection**”).² [Dkt. No. 1437]

2. In its Sale Objection, PacifiCorp raised three issues in the Sale Motion: **first**, the Sale Motion does not address the WMLP Debtors’ treatment of, and Successful Bidder’s³ intentions with respect to, the 2017 CSA between WKLLC and PacifiCorp; **second**, PacifiCorp objected to the WMLP Debtors’ Cure Schedule, which listed the cure costs for the 2017 CSA at \$0.00; and **third**, adequate assurance of future performance by the Successful Bidder of the terms and conditions of the 2017 CSA has not been provided.

3. Moreover, PacifiCorp’s Sale Objection requested that the WLB Debtors and the WMLP Debtors provide adequate assurance that, after the WLB Plan goes effective, WKLLC will have sufficient liquidity to operate the Kemmerer Mine in the ordinary course and in compliance with the 2017 CSA during the period between the Effective Date of the WLB Plan and the date on which the Kemmerer Assets are sold.

4. PacifiCorp objects to the Settlement Motion to the extent it impairs PacifiCorp’s rights under the 2017 CSA and WCC Guaranty. Based on the terms disclosed in the Settlement Motion, PacifiCorp is unable to determine how its rights will be affected. Absent more meaningful disclosure, PacifiCorp cannot support the Settlement Motion and reserves all its rights under its agreements with WKLLC and WCC and under applicable law. The lack of disclosure is particularly troubling in light of a provision in the Amended WLB Plan filed on February 22, 2019 that, in the event of any inconsistency between the Plan, the RSA, the Disclosure Statement, the Plan Supplement, the Sale Transaction Documentation, and/or the Confirmation Order, on the one hand, and the Intercompany Settlement Term Sheet and the

² The *Expedited Motion Of Westmoreland Resource Partners, LP And Its Subsidiaries For Entry Of (I) An Order (A) Establishing Bidding Procedures With Respect To The Sale Of The Kemmerer Mine And Substantially All Assets Related Thereto, (B) Authorizing The Entry Into A Stalking Horse Agreement And The Provision Of Stalking Horse Protections, (C) Scheduling An Auction And Sale Hearing And Approving The Form And Manner Of Notice Thereof And (D) Granting Related Relief; And (II) An Order Approving The Sale Of Such Assets And Granting Related Relief* [Dkt. No. 1101] is referred to herein as the “**Sale Motion**.”

³ Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in PacifiCorp’s Sale Objection. [Dkt. No. 1437]

Intercompany Settlement Term Sheet Order, on the other hand, the Intercompany Settlement Term Sheet and the Intercompany Settlement Term Sheet Order shall control. [Dkt. No. 1459, Art. 1.F]

DATED: February 23, 2019
Portland, Oregon

Respectfully submitted,

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