

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No. 12-12900 (SCC)

Jointly Administered

**FINAL ORDER AUTHORIZING DEBTORS TO
CONTINUE AND RENEW SURETY BOND PROGRAM**

Upon the motion (the “**Motion**”)² of Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”) for an interim order (the “**Interim Order**”) and final order (this “**Order**”) authorizing the Debtors to maintain, continue and renew, in the exercise of their reasonable business judgment, their Surety Bond Program on an uninterrupted basis and in accordance with the same practices and procedures as were in effect before the Petition Date pursuant to sections 363 and 364 of the Bankruptcy Code, as more fully described in the Motion; and upon consideration of the Declaration of Mark N. Schroeder, Patriot Coal Corporation’s Senior Vice President and Chief Financial Officer, filed in support of the Debtors’ first-day pleadings; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and Standing Order M-61 Referring to Bankruptcy Judges for the Southern District of New York Any

¹ The Debtors are the entities listed on Schedule 1 attached to the Motion. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors’ chapter 11 petitions.

² Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to such term in the Motion.

and All Proceedings Under Title 11, dated July 10, 1984 (Ward, Acting C.J.) as amended by Standing Order M-431, dated February 1, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding the Bankruptcy Court can determine pursuant to 28 U.S.C. § 157(b); and the Court having entered the Interim Order on July 16, 2012; and due and proper notice of the Motion and the Final Hearing (as defined below) having been provided to (a) the Office of the United States Trustee for the Southern District of New York, (b) those creditors holding the five largest secured claims against the Debtors' estates on a consolidated basis, (c) those creditors holding the 50 largest unsecured claims against the Debtors' estates on a consolidated basis, (d) attorneys for the administrative agents (the "**DIP Agents**") for the Debtors' postpetition lenders, (e) the Internal Revenue Service, (f) the Securities and Exchange Commission, (g) the United States Environmental Protection Agency, (h) the United States Attorney's Office for the Southern District of New York and (i) the Issuers and Obligees set forth on Exhibit B to the Motion; and it appearing that no other or further notice need be provided; and the relief requested in the Motion being in the best interests of the Debtors and their estates and creditors; and the Court having reviewed the Motion and having held an interim hearing on July 16, 2012 (the "**Interim Hearing**") and a final hearing on August 2, 2012 (the "**Final Hearing**", and together with the Interim Hearing, the "**Hearings**"), with appearances of parties in interest noted in the transcripts thereof; and the Court having determined that the legal and factual bases set forth in the Motion, the Declaration and at the Hearings establish just cause for the final relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that, pursuant to sections 363 and 364 of the Bankruptcy Code, the final relief requested in the Motion is hereby granted *nunc pro tunc* to the Petition Date as set forth herein; and it is further

ORDERED that the Debtors' are, in the exercise of their reasonable business judgment, authorized and empowered to maintain their Surety Bond Program on an uninterrupted basis, and in accordance with the same practices and procedures as were in effect prior to the Petition Date; and it is further

ORDERED that the Debtors are hereby authorized, but not required, to honor each of the Indemnity Agreements; and it is further

ORDERED that the Debtors are, in the exercise of their reasonable business judgment, authorized, but not required, to pay all amounts arising under the Surety Bond Program, renew existing surety bonds, increase or decrease the size of any such surety bonds and obtain new surety bonds, and execute any other agreements in connection with Surety Bond Program and all related instruments, documents and papers, and to take all actions reasonably appropriate with respect thereto (including to post, renew or secure letters of credit as and to the extent permitted under the Debtors' debtor in possession financing facilities), in each case in accordance with the applicable documents governing the Debtors' Surety Bond Program; *provided* that, notwithstanding any of the foregoing, the Debtors will (i) obtain the consent of the official committee of unsecured creditors and consult with the DIP Agents or (ii) obtain a further order of the Court prior to paying any amount or making any material modification to the Surety Bond Program that, in either case, is outside of the ordinary course of the Debtors' business and not consistent with the Debtors' past or industry practices; and it is further

ORDERED that the failure to specifically describe or include any particular feature of the Surety Bond Program in this Order shall not diminish or impair the effectiveness of such feature, it being the intent of this Court that the Surety Bond Program be approved in its entirety consistent with the terms of the Order; and it is further

ORDERED that nothing contained herein shall (i) convert the priority of any claim from a prepetition claim into an administrative expense claim, (ii) create or enhance any rights or status of any claim held by any person or entity or (iii) acknowledge, grant or otherwise permit any right of offset or recoupment by a non-debtor with respect to any claim asserted against the Debtors; and it is further

ORDERED that nothing in this Order or the Motion shall be construed as prejudicing the rights of the Debtors or any other parties in interest to dispute or contest the amount of or basis for any claims against the Debtors in connection with or relating to the Surety Bond Program; and it is further

ORDERED that nothing in this Order determines whether or not any surety bond or related agreement is an executory contract within the meaning of section 365 of the Bankruptcy Code; and it is further

ORDERED that neither this Order nor any payments made in accordance with this Order shall constitute the assumption or post-petition re-affirmation of any surety bond or any related agreement executed pre-petition pursuant to section 365 of the Bankruptcy Code or otherwise; and it is further

ORDERED that nothing in this Order is intended to decide or otherwise adjudicate whether or not (1) the bonds outstanding under the Surety Bond Program are

property of the Debtors' estate; (2) the Debtors may reject any pre-petition contract of indemnity with any Issuer of the Debtors' surety bonds; (3) this Order modifies the terms or obligations of any pre-petition contract of indemnity with any Issuer of the Debtors' surety bonds; or (4) the Debtors are required by applicable law to honor the Indemnity Agreements or to pay amounts arising under the Surety Bond Program, due and payable after the Petition Date; and it is further

ORDERED that nothing in this Order shall affect the rights of any Issuer of the Debtors' surety bonds under applicable non-bankruptcy law; and it is further

ORDERED that to the extent that there may be any inconsistency between the terms of the interim or final order (collectively, the "**DIP Orders**") approving the DIP Facility, and this Order, the provisions of the DIP Orders shall govern; and it is further

ORDERED that the contents of the Motion and the notice procedures set forth therein are good and sufficient notice and satisfy Bankruptcy Rules 4001 and 9014 by providing parties with notice and an opportunity to object and be heard at a hearing; and it is further

ORDERED that notwithstanding Bankruptcy Rules 6003 and 4001(c), and the possible applicability of Bankruptcy Rule 6004, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

Dated: August 2, 2012
New York, New York

/s/ Shelley C. Chapman
HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE