

**Objection Deadline: October 1, 2012 at 4:00 p.m. (prevailing Eastern Time)**  
**Hearing Date (if necessary): October 11, 2012 at 10:00 a.m. (prevailing Eastern Time)**

DAVIS POLK & WARDWELL LLP  
450 Lexington Avenue  
New York, New York 10017  
Telephone: (212) 450-4000  
Facsimile: (212) 607-7983  
Marshall S. Huebner  
Amelia T.R. Starr  
Brian M. Resnick  
Jonathan D. Martin

*Counsel to the Debtors  
and Debtors in Possession*

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

**In re:**

**PATRIOT COAL CORPORATION, *et al.*,**

**Debtors.<sup>1</sup>**

**Chapter 11**

**Case No. 12-12900 (SCC)**

**(Jointly Administered)**

**DEBTORS' MOTION FOR AN ORDER APPROVING  
THE REJECTION OF CERTAIN AGREEMENTS**

Patriot Coal Corporation (“**Patriot**”) and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”) respectfully represent:

**Relief Requested**

1. By this motion (the “**Motion**”), the Debtors seek an order in the form attached hereto as Exhibit A (the “**Order**”) approving the rejection, pursuant to section 365(a) of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rule 6006 of the Federal Rules

---

<sup>1</sup> The Debtors are the entities listed on Schedule 1 attached hereto. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors’ chapter 11 petitions.

of Bankruptcy Procedure (the “**Bankruptcy Rules**”), of (i) the Arch Master Coal Sales and Services Agreement (the “**Arch MSA**”) and a related letter agreement (the “**Arch MSA Letter Agreement**”) (collectively, the “**Arch MSA Agreements**”) and (ii) a November 9, 2006 letter agreement (the “**Arch Notification Letter**”) to the extent that any Debtor is obligated to perform under the Arch Notification Letter (each as defined below and as listed in the schedule attached hereto as Exhibit B) (collectively, the “**Agreements**”), in each case as of September 20, 2012 (the “**Effective Date**”).

### **Jurisdiction**

2. On July 9, 2012 (the “**Petition Date**”), each Debtor commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code. The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. The Debtors’ cases are being jointly administered pursuant to Bankruptcy Rule 1015(b) and the Court’s Joint Administration Order entered on July 10, 2012 [ECF No. 30].

4. Additional information about the Debtors’ businesses and the events leading up to the Petition Date can be found in the Declaration of Mark N. Schroeder, Patriot’s Senior Vice President and Chief Financial Officer [ECF No. 4], which is incorporated herein by reference.

5. The Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b) and may be determined by the Bankruptcy Court. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

### Background

6. Magnum Coal Company (“**Magnum**”), a predecessor to Magnum Coal Company LLC, a Debtor in these chapter 11 cases, acquired coal mining operations from Arch Coal, Inc. (“**Arch**”) pursuant to a purchase and sale agreement executed on December 31, 2005 (the “**Purchase and Sale Agreement**”).

7. Also on December 31, 2005, Magnum and Arch separately entered into the Arch MSA pursuant to which Magnum agreed to sell, and Arch Coal Sales Company, Inc. (“**Arch Sales**”) agreed to buy, the coal required to satisfy Arch Sales’ independent obligations under enumerated agreements with third parties, including the April 8, 2003 coal supply agreement between Cardinal Operating Company (“**Cardinal**”) and Arch Sales (the “**Cardinal CSA**”). None of the Debtors is a party to the Cardinal CSA and no Debtor has any direct obligations under the Cardinal CSA. As such, no party to the Cardinal CSA is a creditor of these estates with respect to the direct obligations under the Cardinal CSA.<sup>2</sup>

### Agreements to be Rejected

8. By this Motion, the Debtors hereby seek to reject the following agreements.<sup>3</sup>

---

<sup>2</sup> Because the Cardinal CSA is an agreement between wholly non-debtor parties, the Debtors are not seeking to reject this agreement. However, in the event that any party was to assert that any of the Debtors is a party or has obligations under the Cardinal CSA directly, the applicable Debtors reserve the right to reject the Cardinal CSA consistent with the relief sought in this Motion.

<sup>3</sup> There are various other agreements between one or more of the Debtors and Arch and its affiliates, including without limitation, the prepetition Purchase and Sale Agreement. For example, pursuant to the Purchase and Sale Agreement and a separate surety agreement dated March 27, 2008, as amended on February 5, 2009 and April 1, 2011 (the “**Surety Agreement**”), Magnum agreed to use commercially reasonable efforts to release Arch from guarantees that Arch provides with respect to payments under specified coal mining leases, coal supply agreements, and bonds that secure mining permits (the “**Arch Guarantees**”). In July of 2008, Patriot acquired Magnum, and on April 1, 2011, Patriot guaranteed Magnum’s obligations under the Surety Agreement. Patriot is currently posting a \$16,107,955 letter of credit in favor of Arch pursuant to the terms of the Surety Agreement. These various separate agreements are not part of the relief sought in this Motion and the applicable Debtors reserve their rights to assume or reject such agreements in the future.

9. **The Arch MSA Agreements.** The Arch MSA, executed on December 31, 2005 by and between Arch Sales and Magnum, together with the Arch MSA Letter Agreement, executed on March 27, 2012 by and between Arch Sales and Magnum, provide that Magnum will sell coal (or make payments in lieu of selling coal) to Arch Sales in amounts sufficient to allow Arch to perform its obligations under the separate Cardinal CSA. The Debtors have determined, in the sound exercise of their business judgment, that the Arch MSA Agreements provide no ongoing benefit to the Debtors' estates and that rejecting the Arch MSA Agreements would benefit the Debtors' estates by terminating uneconomic ongoing obligations under the Arch MSA Agreements. Although the actual savings to the Debtors' estates from rejecting the Arch MSA Agreements will ultimately depend on, among other things, changes in the price of coal over time, the Debtors believe that such savings will be tens of millions of dollars and a net benefit.

10. **The Arch Notification Letter.** In order to assist Arch in fulfilling its obligations under the separate Cardinal CSA, Arch Sales, Magnum, and American Electric Power Services Corporation (as agent for Cardinal) entered into the Arch Notification Letter, executed on November 9, 2006. Because the obligations under this letter relate solely to the Arch MSA Agreements being rejected,<sup>4</sup> the Debtors have determined, in the sound exercise of their business judgment, that the Arch Notification Letter similarly provides no ongoing benefit to the Debtors' estates. Rejection of the Arch Notification Letter, to the extent any Debtor is obligated to perform under the Arch Notification Letter, benefits the Debtors' estates by clarifying that the Debtors have no further ongoing obligations – indirectly through the Arch Notification Letter – under the Arch MSA Agreements. The same economic savings to be

---

<sup>4</sup> To the extent Magnum representatives signed amendments to the Cardinal CSA pursuant to Magnum's authority under the Arch Notification Letter, Magnum signed solely as agent of Arch Sales and is not a party to the Cardinal CSA or any of its amendments.

obtained from rejection of the Arch MSA Agreements directly are protected through rejection of the Arch Notification Letter (and any argument that any of the Debtors is separately obligated to perform the services of the Arch MSA Agreements through the Arch Notification Letter).

**Filing Proofs of Claim**

11. The Debtors propose that any claims arising out of the rejections discussed herein must timely be filed in accordance with any order pursuant to Bankruptcy Rule 3003(c) establishing a deadline by which claims arising before the Petition Date must be filed (the “**Bar Date**”), on or before the later of (i) the Bar Date and (ii) 30 days after entry of the order authorizing the rejection to which the claim relates, and that absent a timely filing, such claim will be irrevocably barred.

**Rejection of the Agreements  
Is Supported by the Debtors’ Business Judgment  
and Should Be Approved by the Court**

12. Section 365(a) of the Bankruptcy Code provides, in pertinent part, that a debtor in possession, “subject to the court’s approval, may assume or reject any executory contract or unexpired lease of the debtor.” 11 U.S.C. § 365(a); *see also NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 521 (1984); *In re Lavigne*, 114 F.3d 379, 386 (2d Cir. 1997). “[T]he purpose behind allowing the assumption or rejection of executory contracts is to permit the trustee or debtor-in-possession to use valuable property of the estate and to ‘renounce title to and abandon burdensome property.’” *In re Orion Pictures Corp.*, 4 F.3d 1095, 1098 (2d Cir. 1993).

13. Courts defer to a debtor’s business judgment in rejecting an executory contract or unexpired lease and, upon finding that a debtor has exercised its sound business judgment, regularly approve the rejection under section 365(a) of the Bankruptcy Code. *See Bildisco & Bildisco*, 465 U.S. at 523 (recognizing the “business judgment” standard used to

approve rejection of executory contracts); *In re Penn Traffic Co.*, 524 F.3d 373, 383 (2d Cir. 2008) (same); *In re Klein Sleep Products, Inc.*, 78 F.3d 18, 25 (2d Cir. 1996) (same); *In re Minges*, 602 F.2d 38, 42–43 (2d Cir. 1979) (same); *In re Old Carco LLC*, 406 B.R. 180, 188 (Bankr. S.D.N.Y. 2009) (same); *In re Balco Equities Ltd.*, 323 B.R. 85, 98–99 (Bankr. S.D.N.Y. 2005) (same); *In re G Survivor Corp.*, 171 B.R. 755, 757 (Bankr. S.D.N.Y. 1994) (approving rejection of license by debtor because such rejection satisfied the “business judgment” test); *In re Child World, Inc.*, 142 B.R. 87, 89 (Bankr. S.D.N.Y. 1992) (stating that a debtor may assume or reject an unexpired lease under § 365(a) in the exercise of its “business judgment”).

14. The Agreements provide no ongoing net benefit to the Debtors’ estates. Rejecting the Agreements will save the Debtors millions of dollars and, for all the reasons set forth herein, is beneficial to the Debtors’ estates and creditors and well-within the Debtors’ reasonable business judgment to reject. In light of the foregoing, the Debtors respectfully request that the Court approve rejection of the Agreements pursuant to section 365(a) of the Bankruptcy Code in the manner requested herein as a sound exercise of the Debtors’ business judgment.

15. The Debtors submit that the notice procedures set forth herein satisfy Bankruptcy Rules 6006 and 9014 and Local Bankruptcy Rule 6006-1, by providing the counterparties with a notice and an opportunity to object and be heard at a hearing. *See, e.g., In re Drexel Burnham Lambert*, 160 B.R. 729 (S.D.N.Y. 1993) (granting interested parties an opportunity to present objections satisfies due process); *In re Colorado Mountain Cellars, Inc.*, 226 B.R. 244, 246 (D. Colo. 1998) (noting that a hearing is not required to satisfy Bankruptcy Rule 9014). Furthermore, the notice procedures described herein protect the due process rights

of the parties in interest without unnecessarily exposing the Debtors' estates to unwarranted administrative expenses.

**Notice**

16. Consistent with the procedures described in the Order Establishing Certain Notice, Case Management and Administrative Procedures entered by the Court on July 16, 2012 [ECF No. 84] (the "**Case Management Order**"), the Debtors will serve notice of this Motion on (a) the Core Parties, (b) the Non-ECF Service Parties (as those terms are defined in the Case Management Order), and (c) the counterparties to the Agreements as set forth on Exhibit B (the "**Counterparties**") and any other parties requiring notice under the terms of the respective Agreements. All parties who have requested electronic notice of filings in these cases through the Court's ECF system will automatically receive notice of this motion through the ECF system no later than the day after its filing with the Court. A copy of this motion and any order approving it will also be made available on the Debtors' Case Information Website (located at [www.PatriotCaseInfo.com](http://www.PatriotCaseInfo.com)). In light of the relief requested, the Debtors submit that no further notice is necessary. Pursuant to paragraph 21 of the Case Management Order, if no objections are timely filed and served in accordance therewith, an order granting the relief requested herein may be entered without a hearing.

**No Previous Request**

17. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as is just and proper.

Dated: New York, New York  
September 20, 2012

By: /s/ Amelia T.R. Starr

Marshall S. Huebner

Amelia T.R. Starr

Brian M. Resnick

Jonathan D. Martin

DAVIS POLK & WARDWELL LLP

450 Lexington Avenue

New York, New York 10017

Telephone: (212) 450-4000

Facsimile: (212) 607-7983

*Counsel to the Debtors  
and Debtors in Possession*



**SCHEDULE 1**  
(Debtor Entities)

1. Affinity Mining Company
2. Apogee Coal Company, LLC
3. Appalachia Mine Services, LLC
4. Beaver Dam Coal Company, LLC
5. Big Eagle, LLC
6. Big Eagle Rail, LLC
7. Black Stallion Coal Company, LLC
8. Black Walnut Coal Company
9. Bluegrass Mine Services, LLC
10. Brook Trout Coal, LLC
11. Catenary Coal Company, LLC
12. Central States Coal Reserves of Kentucky, LLC
13. Charles Coal Company, LLC
14. Cleaton Coal Company
15. Coal Clean LLC
16. Coal Properties, LLC
17. Coal Reserve Holding Limited Liability Company No. 2
18. Colony Bay Coal Company
19. Cook Mountain Coal Company, LLC
20. Corydon Resources LLC
21. Coventry Mining Services, LLC
22. Coyote Coal Company LLC
23. Cub Branch Coal Company LLC
24. Dakota LLC
25. Day LLC
26. Dixon Mining Company, LLC
27. Dodge Hill Holding JV, LLC
28. Dodge Hill Mining Company, LLC
29. Dodge Hill of Kentucky, LLC
30. EACC Camps, Inc.
31. Eastern Associated Coal, LLC
32. Eastern Coal Company, LLC
33. Eastern Royalty, LLC
34. Emerald Processing, L.L.C.
35. Gateway Eagle Coal Company, LLC
36. Grand Eagle Mining, LLC
37. Heritage Coal Company LLC
38. Highland Mining Company, LLC
39. Hillside Mining Company
40. Hobet Mining, LLC
41. Indian Hill Company LLC
42. Infinity Coal Sales, LLC
43. Interior Holdings, LLC
44. IO Coal LLC
45. Jarrell's Branch Coal Company
46. Jupiter Holdings LLC
47. Kanawha Eagle Coal, LLC
48. Kanawha River Ventures I, LLC
49. Kanawha River Ventures II, LLC
50. Kanawha River Ventures III, LLC
51. KE Ventures, LLC
52. Little Creek LLC
53. Logan Fork Coal Company
54. Magnum Coal Company LLC
55. Magnum Coal Sales LLC
56. Martinka Coal Company, LLC
57. Midland Trail Energy LLC
58. Midwest Coal Resources II, LLC
59. Mountain View Coal Company, LLC
60. New Trout Coal Holdings II, LLC
61. Newtown Energy, Inc.
62. North Page Coal Corp.
63. Ohio County Coal Company, LLC
64. Panther LLC
65. Patriot Beaver Dam Holdings, LLC
66. Patriot Coal Company, L.P.
67. Patriot Coal Corporation
68. Patriot Coal Sales LLC
69. Patriot Coal Services LLC
70. Patriot Leasing Company LLC
71. Patriot Midwest Holdings, LLC
72. Patriot Reserve Holdings, LLC
73. Patriot Trading LLC
74. PCX Enterprises, Inc.
75. Pine Ridge Coal Company, LLC
76. Pond Creek Land Resources, LLC
77. Pond Fork Processing LLC
78. Remington Holdings LLC
79. Remington II LLC
80. Remington LLC
81. Rivers Edge Mining, Inc.
82. Robin Land Company, LLC
83. Sentry Mining, LLC
84. Snowberry Land Company
85. Speed Mining LLC
86. Sterling Smokeless Coal Company, LLC
87. TC Sales Company, LLC
88. The Presidents Energy Company LLC
89. Thunderhill Coal LLC
90. Trout Coal Holdings, LLC
91. Union County Coal Co., LLC
92. Viper LLC
93. Weatherby Processing LLC
94. Wildcat Energy LLC
95. Wildcat, LLC
96. Will Scarlet Properties LLC
97. Winchester LLC
98. Winifrede Dock Limited Liability Company
99. Yankeetown Dock, LLC

**Exhibit A**

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

**In re:**

**PATRIOT COAL CORPORATION, *et al.*,**

**Debtors.<sup>1</sup>**

**Chapter 11**

**Case No. 12-12900 (SCC)**

**(Jointly Administered)**

**ORDER APPROVING  
THE REJECTION OF CERTAIN AGREEMENTS**

Upon the motion (the “**Motion**”)<sup>2</sup> of Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”) for an order pursuant to section 365(a) of the Bankruptcy Code and Bankruptcy Rules 6006 and 9014, approving the rejection of the Agreements as more fully described in the Motion; 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 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 due and proper notice of the Motion having been provided in accordance with the Case Management Order; 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 respective estates and creditors; and rejecting the Agreements

<sup>1</sup> The Debtors are the entities listed on Schedule 1 attached hereto. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors’ chapter 11 petitions.

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

representing a prudent exercise of the Debtors' business judgment; and the Debtors having articulated good, sufficient and sound business justifications and compelling circumstances for rejecting the Agreements; and the Court having reviewed the Motion [and having held a hearing with appearances of parties in interest noted in the transcript thereof (the "**Hearing**")]; and the 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 the Court and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED that the relief requested in the Motion is hereby granted as set forth herein; and it is further

ORDERED that pursuant to section 365(a) of the Bankruptcy Code and Bankruptcy Rule 6006 and Local Rule 6006-1, the Debtors' rejection of the Agreements is hereby approved and shall be effective as of the Effective Date; and it is further

ORDERED that claims arising out of any rejections effected pursuant to this Order must timely be filed against the applicable Debtor(s) and in accordance with any order pursuant to Bankruptcy Rule 3003(c) establishing a deadline by which claims arising before the Petition Date must be filed (the "**Bar Date**"), on or before the later of (i) the Bar Date and (ii) 30 days after the date hereof, and that absent a timely filing, such claim will be irrevocably barred; and it is further

ORDERED that notice of the Motion and the relief requested therein satisfy Bankruptcy Rule 6006 and Local Bankruptcy Rule 6006-1; and it is further

ORDERED that the notice procedures set forth in the Motion are good and sufficient notice and satisfy Bankruptcy Rule 9014 by providing the Counterparties with notice and an opportunity to object and be heard at a hearing; and is further

ORDERED that the Counterparties to the Agreements are prohibited from setting off or otherwise utilizing any monies deposited by the Debtors with such Counterparty as a security deposit or pursuant to another similar arrangement; and it is further

ORDERED that the Debtors shall be authorized to execute and deliver all instruments and documents, and take such other actions as may be necessary or appropriate to implement and effectuate this Order; and it is further

ORDERED that, except with respect to the Agreements and as set forth herein, nothing in this Order shall affect the Debtors' rights to assume or reject other agreements among the Debtors and the Counterparties or their affiliates, including the Purchase and Sale Agreement and the Surety Agreement; and it is further

ORDERED that none of the Debtors is a party to the Cardinal CSA, none has any obligations under it, and no party to the Cardinal CSA is a creditor of any of the Debtors with respect to the Cardinal CSA; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: New York, New York

\_\_\_\_\_, 2012

---

THE HONORABLE SHELLEY C. CHAPMAN  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit B**

**Schedule**

| <b>AGREEMENTS</b>  |   |  |   |                                     |
|--|---|--|---|-------------------------------------|
| <b>COUNTERPARTY/<br/>COUNTERPARTIES</b>  | <b>DEBTOR</b>                                     | <b>TYPE</b>  | <b>DATE OF<br/>CONTRACT</b>                             | <b>REJECTION<br/>EFFECTIVE DATE</b> |
| Arch Coal Sales Company, Inc.<br>One CityPlace Drive, Suite 300<br>St. Louis, MO 63141<br>Attn: Dave Warnecke  | MAGNUM COAL COMPANY LLC f/k/a MAGNUM COAL COMPANY | Coal Sales and Services Agreement and related Letter Agreement | December 31, 2005 and March 27, 2012 (Letter Agreement) | September 20, 2012                  |
| Arch Coal Sales Company, Inc.<br>One CityPlace Drive, Suite 300<br>St. Louis, MO 63141<br>Attn: VP of Contract Administration<br><br>Cardinal Operating Company<br>C/O AEP Energy Services, Inc.<br>155 West Nationwide Boulevard<br>Columbus, OH 43215<br>Attn: Contract Administration | MAGNUM COAL COMPANY LLC f/k/a MAGNUM COAL COMPANY | Notice Letter  | November 9, 2006  | September 20, 2012                  |