

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:

ARCH COAL, INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 16-40120-705

(Jointly Administered)

[Related to Docket No. 7]

**ORDER ESTABLISHING CERTAIN NOTICE, CASE
MANAGEMENT AND ADMINISTRATIVE PROCEDURES**

On January 11, 2016, Arch Coal, Inc. and its subsidiaries that are debtors and debtors in possession in these cases (collectively, the “**Debtors**”) filed a motion (the “**Motion**”)² for an order, pursuant to section 105(a) of the Bankruptcy Code and Bankruptcy Rule 1015(c), authorizing the Debtors to establish certain notice, case management and administrative procedures. This Court having jurisdiction to consider the matters raised in the Motion pursuant to 28 U.S.C. § 1334; and it having authority to hear the matters raised in the Motion pursuant to 28 U.S.C. § 157; and it having venue pursuant to 28 U.S.C. §§ 1408 and 1409; and the Debtors having represented that they made proper and sufficient notice; and the Court having reviewed the Motion; and the relief requested in the Motion being in the best interests of the Debtors, their estates and the creditors; and the Court having determined that the relief requested in the Motion is necessary to avoid immediate and irreparable harm; and the Court having determined that

¹ The Debtors are 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 Each capitalized term used herein but not otherwise defined herein shall have the meaning ascribed to it in the Motion.

there exists the required basis for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation; the Court **ORDERS** that:

1. The Procedures set forth herein are approved and shall govern all aspects of these chapter 11 cases, except as otherwise ordered by the Court.

2. To the extent the Procedures conflict with the Bankruptcy Rules or the Local Rules of the Bankruptcy Court for the Eastern District of Missouri (the “**Local Rules**”), the Procedures govern and supersede such rules and shall apply to these chapter 11 cases.

Filing Court Documents

3. In accordance with Local Rule 5005-A, all motions, applications and other matters requiring notice and/or a hearing (collectively, the “**Motions**”), all objections and responses to Motions (the “**Objections**”), all replies to Objections (the “**Replies**”) and all other documents filed with the Court (together with the Motions, the Objections and the Replies, the “**Court Documents**”) by parties represented by an attorney shall be filed electronically with the Court by registered users of the Court’s Electronic Case Files system (the “**ECF System**”).³

Service of Court Documents

4. Except with respect to Non-ECF Parties, Core Parties and Particularized Interest Parties (each as defined below), all parties in interest, whether or not they have filed or file after the date hereof a notice of appearance or request for service of papers under Bankruptcy Rule 2002, shall be deemed to receive electronic notice through the ECF System of each Court Document filed with the Court, effective as of the date such Court Document is posted on the Court’s ECF System, and therefore need not be separately served with such Court Document.

³ Information on the ECF System, including how to obtain a login and password, can be obtained at <http://www.moeb.uscourts.gov/cmecf.htm>.

5. Any party in interest who files a notice of appearance or a request for service of papers, in each case other than through the ECF System (each, a “**Non-ECF Party**”), shall be served each Court Document by U.S. mail or e-mail (if an e-mail address has been provided), unless the Non-ECF Party agrees that such service shall not be required.

6. Each Court Document shall separately be served (in addition to service via the ECF System) on (a) counsel to the Debtors, Davis Polk & Wardwell LLP, (b) proposed conflicts counsel to the Debtors, (c) local counsel to the Debtors, Bryan Cave LLP, (d) the Office of the United States Trustee for the Eastern District of Missouri (the “**U.S. Trustee**”), (e) counsel to any official committee of unsecured creditors then appointed in these cases (the “**Committee**”), (f) the Debtors’ authorized claims and noticing agent, Prime Clerk, LLC, (g) counsel to the administrative agent under the Debtors’ prepetition secured credit facility, (h) counsel to that certain ad hoc group of majority prepetition senior secured lenders under the Debtors’ prepetition secured credit facility and (i) counsel to the administrative agent and counsel to the lenders under the Debtors’ proposed debtor in possession secured credit facility (collectively, the “**Core Parties**”). The Debtors shall maintain a service list of all the Core Parties (the “**Core Parties List**”) which shall replace the Master Service and Master Notice List required under Local Rule 9013-3(D). The Core Parties List shall be updated monthly, filed with the Court and posted on the Case Information Website and shall include names, addresses, facsimile numbers and e-mail addresses (where available) for the Core Parties. A Court Document shall be deemed served on all the Core Parties if it is served on the parties on the most recent Core Parties List that has been filed with the Court and posted on the Case Information Website as of the day prior to the date of service.

7. Each Court Document shall separately also be served (in addition to service via the ECF System) on each person, entity and governmental agency with a particularized interest in such Court Document (each, a “**Particularized Interest Party**”). Core Parties (and no other parties) shall be authorized to serve all Court Documents by e-mail on any relevant Particularized Interest Party or counsel thereto. All other parties shall serve Court Documents on Particularized Interest Parties in accordance with judicial order, the Bankruptcy Code, the Bankruptcy Rules and the Local Rules.

8. All Court Documents served by a party by e-mail (other than through the ECF System) shall include access to an attached file or files containing the entire Court Document, including the proposed form of order and any exhibits and attachments, in PDF format or, in the case of the Debtors, a hyperlink to a copy of such Court Document on the Case Information Website. Notwithstanding the foregoing, if a Court Document cannot be annexed to an e-mail (because of size, technical difficulties or otherwise) and, in the case of the Debtors, cannot be made available on the Case Information Website, the serving party may, in its sole discretion, (a) serve the entire Court Document by U.S. mail, hand delivery, overnight delivery or facsimile, including the proposed form of order and any exhibits, attachments and other relevant materials or (b) serve by e-mail a notice stating that the Court Document cannot be attached but is available on the Court’s ECF System and will be mailed only if requested by the party receiving the notice.

9. Service of a Court Document through the ECF System shall be effective as of the date such Court Document is posted on the Court’s ECF System. Service by e-mail (other than through the ECF System) on a party shall be effective as of the date the Court Document (or a notice stating that the Court Document cannot be attached but is available on the Court’s ECF

System or the Case Information Website) is transmitted by e-mail to the address provided by such party.

10. Upon the filing of any Court Document, other than a Motion seeking emergency or expedited relief, the filing party shall file with the Court either an affidavit of service or a certificate of service (each, a “**Proof of Service**”) in accordance with the Local Rules and this Order within three business days of the filing of the related Court Document. In the case of a Motion seeking emergency or expedited relief, a Proof of Service must be filed within 24 hours of the filing of the related Motion. Proofs of Service need not be served on any party.

11. Notice and service accomplished in accordance with the provisions set forth in the Case Management Order shall be presumed to be adequate in all respects pursuant to the Bankruptcy Code, the Bankruptcy Rules and the Local Rules.

Scheduling of Hearings and Deadlines for Filing Court Documents

12. The Debtors shall be authorized to schedule, in cooperation with the Court, periodic omnibus hearings (“**Omnibus Hearings**”) at which Motions and other requests for relief shall be heard. At least two days before any Omnibus Hearing, the Debtors shall file with the Court an agenda setting forth each matter to be heard at such hearing, which may be updated or amended from time to time thereafter to the extent necessary. The matters listed on the agenda shall not include administrative filings, such as notices of appearance and Proofs of Service.

13. Unless otherwise ordered by the Court, the following guidelines shall apply to all Omnibus Hearings:

(a) Motions may not be considered by the Court unless filed and served in accordance with these Procedures at least 14 days before the next available Omnibus Hearing.

(b) Hearings in connection with claims objections and pre-trial conferences and trials related to adversary proceedings may be scheduled for dates other than the regular Omnibus Hearing dates. However, initial pre-trial conferences scheduled in connection with adversary proceedings shall be set on the next available Omnibus Hearing date that is at least 45 days after the filing of the complaint.

(c) If a Court Document purports to set a hearing date that is inconsistent with the Procedures, the hearing shall be scheduled, without the necessity of Court order, for the next available Omnibus Hearing in accordance with these Procedures, and the Debtors shall provide the movant with notice of these Procedures.

(d) Subject to Local Rules 9013-2(C) and (D), if a movant or applicant other than the Debtors intends to seek emergency or expedited relief, the movant or applicant shall be required to first contact the Debtors' attorneys by telephone to advise that the movant intends to seek consideration on an expedited basis. If the Debtors disagree with the movant or applicant's request for emergency or expedited relief, the movant or applicant may file a Motion to Expedited Setting, and thereafter the Debtors may file an objection. If the Court determines expedited setting is appropriate, the Court shall direct the requisite notice and shall set a time and date for the hearing.

14. The three-day extension for additional time after service by mail as set forth in Bankruptcy Rule 9006(f) shall not apply to parties duly served by e-mail, the ECF System or other electronic transmission.

15. Notwithstanding any Local Rule, unless otherwise ordered by the Court, the deadline for any party to file an Objection (the "**Objection Deadline**") to any Motion, other than a Motion seeking relief from the automatic stay filed by a party other than the Debtors, shall be

the date that is seven days before the date of the hearing held pursuant to a non-expedited setting. The Objection Deadline may be extended with the consent of the movant or applicant, with notice to the Court of such agreed extension. No Objection shall be considered timely unless filed with the Court before the applicable Objection Deadline, unless the Court orders that an otherwise untimely filed objection be deemed to be timely filed. All parties filing Objections shall follow Local Rule 9011 and include their telephone number and e-mail address in the signature block on the last page of the Objections.

16. A Motion may be granted without a hearing, at the discretion of the Court. After the passage of the Objection Deadline, an attorney for the entity who filed the Motion may file a declaration pursuant to 28 U.S.C. § 1746 indicating that no Objection has been filed or served in accordance with these Procedures.

17. If an Objection is filed, then unless otherwise ordered by the Court, any Reply shall be filed with the Court on the date that is one business day before the date of the applicable hearing (the “**Reply Deadline**”), or, in the case of an expedited setting, as soon as reasonably practical before the hearing.

18. If a Motion to extend the time for the Debtors to take any action is filed consistent with this Order before the expiration of the period prescribed by the Bankruptcy Code, the Bankruptcy Rules, the Local Rules or the provisions of any order entered by this Court, the deadline for taking such action shall be tolled until the Court’s ruling on such motion.

19. Unless otherwise ordered by the Court, the Procedures shall not supersede the requirements for notice of the proceedings described in Bankruptcy Rules 2002(a)(1), (a)(4)-(a)(5) and (a)(7)-(a)(8), 2002(b), 2002(d) and 2002(f).

Motions for Relief from the Automatic Stay

20. In accordance with Local Rule 4001-1(B), notwithstanding anything contained herein, unless otherwise ordered by the Court, a motion for relief from the automatic stay (a “**Stay Relief Motion**”) filed by any party other than the Debtors pursuant to section 362 of the Bankruptcy Code shall ordinarily be set for an Omnibus Hearing giving a minimum of 21 days’ notice, and the Objection Deadline for such Motion shall be seven days before the scheduled hearing.

21. Notwithstanding section 362(e) of the Bankruptcy Code, if a scheduled Stay Relief Motion with respect to a request for relief by a party other than the Debtors under section 362(d) of the Bankruptcy Code is set for a hearing to take place on a date that is more than 30 days from the date of such Stay Relief Motion, or if such Stay Relief Motion is adjourned upon the consent of the Debtors and the moving party to a date that is more than 30 days from the date of such Stay Relief Motion, the moving party shall be deemed to have consented to the continuation of the automatic stay in effect pending the conclusion of, or as a result of, a final hearing and determination under section 362(d) of the Bankruptcy Code and shall be deemed to have waived its right to assert the termination of the automatic stay under section 362(e) of the Bankruptcy Code, unless the moving party expressly does not so consent; *provided, however*, to the extent there is any inconsistency between this Order and the terms of the Court’s order approving the Debtors’ entry into a postpetition financing agreement and use of cash collateral (the “**DIP Order**”), the terms of the DIP Order shall control.

Form of Court Documents

22. Notwithstanding section 342(c) of the Bankruptcy Code and Bankruptcy Rule 2002(n), notices given by the Debtors shall not be required to contain the address and taxpayer identification numbers of the Debtors.

23. The page limitation set forth in Local Rule 9004(C) shall not apply to Court Documents filed in these cases.

24. Nothing in these Procedures shall prejudice the right of any party to move the Court to request relief under section 107(b) of the Bankruptcy Code or Bankruptcy Rule 9018 to protect any entity with respect to a trade secret or confidential research, development or commercial information or to protect a person with respect to scandalous or defamatory matter contained in a Court Document filed in these cases. If the Debtors seek approval of or authorization from the Court to assume, reject, enter into, approve, honor or assign any agreement, including contracts, leases, financing agreements, settlement agreements, consent orders and any other arrangement or instrument of any kind, or if the Debtors are otherwise required to refer to the terms or provisions of any such instrument in a Court Document, and such instrument contains confidential or proprietary information, the Debtors need not file such instrument with the Court unless requested to do so by the Court or a party in interest, and the Debtors shall be entitled at the time of such request, and before filing such instruments, to seek relief under section 107(b) of the Bankruptcy Code or Bankruptcy Rule 9018 with respect to such instrument.

Proposed Orders

25. A proposed order relating to any Court Document (a “**Proposed Order**”) may be e-mailed to archinfo@PrimeClerk.com immediately after the filing of the applicable Court Document for posting on the Debtors’ Case Information Website. The e-mail shall attach the Proposed Order and the as-filed Court Document in PDF format, and the subject line of the e-mail message shall include the title and ECF docket number of the applicable Court Document. The applicable Court Document that seeks entry of such Proposed Order shall include the following statement: “A copy of the proposed order granting the relief requested herein may be

found at <https://cases.primeclerk.com/archcoal>.” Proposed Orders that have been properly submitted in accordance herewith will be posted on the Debtors’ Case Information Website at <https://cases.primeclerk.com/archcoal>.

26. The title of any Proposed Order shall describe the Court Document to which it relates by title and shall indicate whether the order grants or denies the requested relief. The text of the Proposed Order shall (i) be sufficiently descriptive to clearly state the relief granted, including a description of any property subject to the order; and (ii) contain the name and address of the person who prepared the order. Parties shall also e-mail the final version of the Proposed Order to the Court, as provided in the Court’s Procedures Manual.⁴ Serving a Proposed Order in accordance with these Procedures will be deemed to satisfy the requirements of Local Rules 9050 and 9061(E). Final orders entered in these cases shall be served on Core Parties and Particularized Interest Parties by the party submitting the Proposed Order.

Telephonic Appearances

27. Attorneys for parties in the Debtors’ Cases may appear telephonically at hearings. If an attorney wishes to participate in a hearing by telephone, the attorney may request dial-in information from the Courtroom Deputy, Matthew Clear, at (314) 244-4815, Matthew_Clear@moeb.uscourts.gov. Non-attorneys, including pro se parties, members of the public, and members of the press, and attorneys who have not entered an appearance in the Debtors’ Cases, may not use the Court’s dial-in; *however*, all persons, whether a party or otherwise, are welcome to attend any hearing, in-person, in the courtroom. Locally located counsel may not use the Court’s dial-in unless physically outside the District at the time of the

⁴ The Court’s Procedures Manual is available at http://www.moeb.uscourts.gov/pdfs/local_rules/2015/Procedures_Manual_2015.pdf

hearing. Attorneys participating by telephone must put their phones on “mute” at all times except when speaking. Attorneys participating by telephone shall not put their telephones on “hold” under any circumstances or otherwise be “absent” from their telephonic appearance. If an attorney must exit his telephonic appearance, he must seek Court authority to leave and disconnect from the telephone call. If the telephonic appearances present any background noise, disruption or other inconvenience to the Court or the proceedings, the telephone dial-in will be disconnected, at the discretion of the Court, and the proceeding will continue without the presence of anyone previously dialed-in.

Noticing Agent and Case Information Web Site

28. The Debtors, in cooperation with Prime Clerk LLC (the “**Noticing Agent**”), are hereby authorized to create and maintain an independent Case Information Website for the posting of certain information regarding these chapter 11 cases, including, in the Debtors’ sole discretion, certain orders, decisions or other Court Documents filed in these chapter 11 cases. The Court’s website, www.moeb.uscourts.gov, may include a link to the Case Information Website.

29. The Case Information Website shall display a disclaimer substantially similar to the following:

Prime Clerk Prime Clerk LLC (“**Prime Clerk**”), is serving as custodian pro tempore of the proofs of claim filed in the chapter 11 cases of Arch Coal, Inc. and certain of its subsidiaries (collectively the “**Debtors**”) and of the Court’s official proofs of claim register. In this capacity, Prime Clerk will maintain the official proofs of claims register on behalf of the Court. Prime Clerk’s website will display the official claims register as maintained by Prime Clerk. Because the proof of claims register, as maintained and displayed by Prime Clerk, constitutes the Court’s official proofs of claims register, it may be relied upon in that capacity.

This website is created and maintained by Prime Clerk. The

information contained on this website is provided for informational purposes only and should not be construed as legal, financial or other professional advice or, unless expressly stated, as the Debtors' or Prime Clerk's official position on any subject matter. Users of this website should not take or refrain from taking any action based upon content included in the website without seeking legal counsel on the particular facts and circumstances at issue from a licensed attorney.

The Debtors and Prime Clerk do not guarantee or warrant the accuracy, completeness or currency of the information that is provided herein, and shall not be liable to you for any loss or injury arising out of, or caused in whole or in part by, the acts, errors or omissions of the Debtors or Prime Clerk, whether negligent or otherwise, in procuring, compiling, collecting, interpreting, reporting, communicating or delivering the information contained on this website. The Debtors and Prime Clerk expressly do not undertake any obligation to update, modify, revise or re-categorize the information provided herein, or to notify you or any third party, should the information be updated, modified, revised or re-categorized. In no event shall the Debtors or Prime Clerk be liable to you or any third party for any direct, indirect, incidental, consequential or special damages (including, but not limited to, damages arising from the disallowance of a potential claim against the Debtors, or damages to business reputation, lost business or lost profits), whether foreseeable or not and however caused, even if the Debtors or Prime Clerk are advised of the possibility of such damages. This website should not be relied on as a substitute for financial, legal or other professional advice.

It is your sole obligation to maintain accurate records of the documents filed in the chapter 11 cases, based on the Court's dockets relating to the Debtors' chapter 11 cases, which can be accessed through the Court's website at www.moeb.uscourts.gov (a PACER login and password are needed to view these documents and can be obtained at <http://pacer.psc.uscourts.gov>). The Debtors' website is being made available merely as a convenience to interested parties and the public.

Electronic mail or other communications through this website, or otherwise, to the Debtors, their counsel, or Prime Clerk in connection with these, or other, matters will not be treated as privileged or confidential. Transmission and receipt of the information in this website and/or communication with the Debtors or Debtors' counsel via e-mail is not intended to solicit or create, and does not create, an attorney-client relationship between Debtors'

counsel and any person or entity. The Debtors and Prime Clerk do not endorse or warrant, and are not responsible for, any third-party content that may be accessed from this website.

The Debtors and Prime Clerk make no claim to original U.S. Government works. None of the Debtors, or any of their respective directors, officers, employees, members, attorneys, consultants, advisors or agents (acting in such capacity), including Prime Clerk (collectively, the “**Exculpated Parties**”), shall have or incur any liability to any entity, (all references to “entity” herein shall be as defined in section 101(15) of the Bankruptcy Code, “**Entity**”), for any act taken or omitted to be taken in connection with the preparation, dissemination or implementation of this website; *provided however*, that the foregoing shall not affect the liability of any Exculpated Party protected pursuant to this paragraph that otherwise would result from any such act or omission to the extent that such act or omission is determined in a final, non-appealable order to have constituted a breach of fiduciary duty, gross negligence or willful misconduct, including, without limitation, fraud and criminal misconduct, or the breach of any confidential agreement or order. Without limiting the foregoing, the exculpation provided in this paragraph shall be coextensive with any Exculpated Party’s qualified immunity under applicable law.

30. The Noticing Agent shall maintain a master list containing the name and address of each creditor of the Debtors (the “**Creditor Matrix**”). The Debtors shall file with the Court the Creditor Matrix and, on a periodic basis, any amendments thereto.

Amendments and Notice of Order

31. The Debtors may seek to amend the Procedures occasionally throughout these chapter 11 cases and shall present such amendments to the Court by Motion in accordance with this Order.

32. The Debtors shall make this Order available on the Case Information Website, and, within three days after its entry, serve it by U.S. mail, hand delivery, facsimile or e-mail on the Core Parties and all parties that, prior to the date of the entry of this Order, have requested notice pursuant to Bankruptcy Rule 2002.

Time

33. Any time period prescribed or allowed by these Procedures shall be computed in accordance with Bankruptcy Rule 9006.

34. Nothing in these Procedures shall prejudice the right of any party to move the Court to request an enlargement or reduction of any time period under Bankruptcy Rules 2002(m), 9006(b) and 9006(c).

DATED: January 21, 2016
St. Louis, Missouri 63102
mtc


CHARLES E. RENDLEN, III
U.S. Bankruptcy Judge