

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re

PATRIOT COAL CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No. 12-51502-659
(Jointly Administered)

Re: Docket No. 3501

ORDER AUTHORIZING THE EXPANSION OF THE SCOPE
OF EMPLOYMENT AND RETENTION OF ERNST & YOUNG LLP
AS INDEPENDENT AUDITOR TO THE DEBTORS
NUNC PRO TUNC TO MARCH 18, 2013

Upon the second supplemental application (the “**Second Supplemental Application**”)² of Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”), pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code, Bankruptcy Rule 2014 and Local Rule 2014-1, for authorization to expand the scope of employment and retention of Ernst & Young LLP (“**EY LLP**”) to provide the Retirement Plan Audit Services as defined in the Second Supplemental Application; and upon the declarations of Michael W. Hickenbotham, a partner of EY LLP, submitted in support of the Original Application, the First Supplemental Application, and the Second Supplemental Application (collectively, the “**Declarations**”); and the Court being satisfied, based on the representations made in the Declarations, that EY LLP continues to be a “disinterested person”

¹ The Debtors are the entities listed on Schedule 1 attached to the Second Supplemental Application. 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, all capitalized terms shall have the meaning ascribed to them in the Second Supplemental Application.

as defined in Section 101(14) of the Bankruptcy Code, as modified by Section 1107(b) of the Bankruptcy Code, and, as required by Section 327(a) and referenced by Section 328(c) of the Bankruptcy Code, neither holds nor represents any interest adverse to the Debtors and their estates, and otherwise meets the standards for employment under the Bankruptcy Code; and the Court having jurisdiction to consider the Second Supplemental Application and the relief requested therein pursuant to 28 U.S.C. § 1334; and consideration of the Second Supplemental Application and the requested relief being a core proceeding the Bankruptcy Court can determine pursuant to 28 U.S.C. § 157(b)(2); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Second Supplemental Application has been provided, and it appearing that no other or further notice need be provided; and the relief requested in the Second Supplemental Application being in the best interests of the Debtors and their estates and creditors; and the Court having reviewed the Second Supplemental Application; and the Court having determined that the legal and factual bases set forth in the Second Supplemental Application establish just cause for the relief granted herein; and there being no objections to the Second Supplemental Application and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Second Supplemental Application is approved as set forth herein; and it is further

ORDERED that the Debtors are hereby authorized to expand their employment and retention of EY LLP in the Debtors' Chapter 11 cases, *nunc pro tunc*, to March 18, 2013, on the terms provided in the Additional Engagement Letter, which is hereby approved as modified herein; and it is further

ORDERED that the Retirement Plan Audit Services to be provided by EY LLP are as follows:

- (a) Auditing and reporting on the financial statements and supplemental schedules of the Patriot Coal Corporation 401(k) Retirement Plan (the “**Plan**”) for the year ended December 31, 2012, which are to be included in the Plan’s Form 5500 filing with the Employee Benefits Security Administration of the Department of Labor (the “**Plan Audit Services**”); and
- (b) Any special audit-related projects that are integral to and necessary for the performance of the Plan Audit Services, such as research and/or consultation on special Plan business or financial issues (i.e., plan amendments, plan suspensions, etc.) (the “**Special Plan Audit-Related Services**”); and it is further

ORDERED that EY LLP shall continue to be compensated in accordance with, and will file interim and final fee applications for the allowance of compensation for services rendered and reimbursement of expenses incurred in accordance with, sections 330 and 331 of the Bankruptcy Code, applicable Bankruptcy Rules, Local Rules, the United States Trustee Guidelines (collectively, the “**Fee Guidelines**”), the Order Establishing Procedures for Interim Monthly Compensation and Reimbursement of Expenses of Professionals entered on August 2, 2012 [ECF No. 262] (the “original Order”), the Order Authorizing the Expansion of the Scope of Employment and Retention of Ernst & Young LLP entered on March 15, 2013 (the “First Expansion Order”) and any applicable orders of this Court; and it is further

ORDERED that, notwithstanding the prior paragraph, the Fee payable to EY LLP pursuant to the Additional Engagement Letter for the Plan Audit Services is hereby approved as reasonable and shall be subject to review only pursuant to the standards set forth in Section

328(a) of the Bankruptcy Code and shall not be subject to the standard of review set forth in Section 330 of the Bankruptcy Code; and it is further

ORDERED that, notwithstanding anything to the contrary contained herein, the U.S. Trustee retains all rights to respond or object to EY LLP's interim and final applications for compensation and reimbursement of expenses on the grounds of reasonableness under section 330 of the Bankruptcy Code; and, in the event the U.S. Trustee objects, the Court retains the right to review the interim and final applications pursuant to Section 330 of the Bankruptcy Code; and it is further

ORDERED that EY LLP is hereby authorized and directed to keep reasonably detailed time records in one-tenth of an hour increments and will submit, with any interim or final fee application, together with the time records, a narrative summary, by project category, of services rendered and will identify each professional rendering services, the category of services rendered and the amount of compensation requested; and it is further

ORDERED that, prior to any increases in rates, EY LLP shall file a supplemental affidavit with the Court and give ten business days' notice to the Debtors, the United States Trustee and any official committee, which supplemental affidavit shall explain the basis for the requested rate increases in accordance with Section 330(a)(3)(F) of the Bankruptcy Code and indicate whether the client has received notice of and approved the proposed rate increase; and it is further

ORDERED that, subject to EY LLP's compliance with the applicable professional standards in its performance of audit services for the Debtors, EY LLP shall use reasonable efforts to comply with clear and reasonable instructions of the Debtors in avoiding duplication of

services provided by the Debtors' other retained professionals in these Chapter 11 cases; and it is further

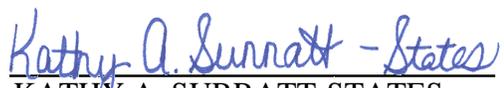
ORDERED that to the extent that there may be any inconsistency between the terms of the Second Supplemental Application, the Supplemental Application, the First Expansion Order, the Original Order, and this Order, the terms of this Order shall govern; and it is further

ORDERED that the Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order; and it is further

ORDERED that the terms and conditions of this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that this Court shall retain jurisdiction for all matters arising from or related to the implementation of this Order; and it is further

ORDERED that proper, timely, adequate and sufficient notice of the Second Supplemental Application has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, and no other or further notice of the Second Supplemental Application or the entry of this Order shall be required.


KATHY A. SURRATT-STATES
Chief United States Bankruptcy Judge

DATED: April 22, 2013
St. Louis, Missouri
jjh

Order prepared by:
Marshall S. Huebner
Damian S. Schaible
Brian M. Resnick
Michelle M. McGreal
DAVIS POLK & WARDWELL LLP
450 Lexington Avenue
New York, New York 10017