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# Judge OKs slashing of union coal miners' health benefits as part of bankruptcy solution

Brian Roewe | May. 30, 2013

A St. Louis judge has ruled that Patriot Coal Corp. can rework its union contract as well as slash health benefits to retired union workers as part of its path out of bankruptcy.

U.S. Bankruptcy Court Chief Judge Kathy A. Surratt-States of Missouri's Eastern District ruled Wednesday afternoon that Patriot can reject its past collective bargaining agreements, which includes "cradle to grave" benefits for nearly 23,000 miners and their dependents.

[See "W.Va. prayer rally calls for justice for coal miners in health care limbo [1]" for *NCR*'s previous coverage of the Patriot Coal bankruptcy case.]

The decision comes as a blow to members of the United Mine Workers of America, who alleged Patriot's formation was an attempt to escape full payment of the benefits -- $1.6 billion in long-term health and retirement obligations -- by the two companies previously responsible for coverage, Peabody Energy and Arch Coal.

In a press release, UMWA president Cecil Roberts said the decision is "wrong, unfair and fails to fully recognize the coming wave of human suffering that will be experienced by thousands of people throughout the coalfields."

Roberts challenged the workings of U.S. bankruptcy law, which he said values a company's short-term interests more than "the dedication and sacrifice of the workers, who actually produce the profits that make a company successful."

He said the union will appeal the decision to the Federal District Court.

In her 102-page ruling [2], Surratt-States acknowledged she received more than 900 letters concerning the case, many of which described the physical toll of coal mining, and expressed worry of what would happen to the miners should the court rule Patriot could restructure its agreements.

Despite those concerns, she said the court's primary role was to navigate Patriot through bankruptcy, indicating that claims of it being "designed to fail" were inconsequential in charting that path.

"Was Debtor Patriot Coal Corporation created to fail? Maybe not. Maybe. Maybe the executive team involved at Debtor Patriot Coal Corporation's inception thought the liabilities were manageable and thus the reality of Debtors' bankruptcy was more attributed to unwarranted optimism about future prospects," she said, adding that the union likely bears some responsibility "for demanding benefits that the employer cannot realistically fund in perpetuity."

Patriot has estimated it requires $150 million in annual savings to avoid liquidation.

"Ideally, the UMWA would maintain its bargaining position and its membership would continue to enjoy the rights that were bargained for. Debtors [Patriot] are in bankruptcy, and bankruptcy changes everything," she wrote.

Throughout the bankruptcy process, the miners had strong support from religious leaders. Among them was Glenmary Home Missioner Fr. John Rausch, director of the Catholic Committee of Appalachia, who offered an allegory to sum up his disappointment with ruling:

> "A bunch of coal miners were traveling from Jerusalem to Jericho when they fell among greedy corporations that beat them and stripped them of their health benefits. The court system came along and took the corporations to the hospital because they cut their finger while beating the miners. Meanwhile the bloodied miners are still awaiting the Samaritan to bind up their wounds and offer them a sip of justice."

Patriot executives applauded the judge's decision.

"This ruling represents a major step forward for Patriot, allowing our company to achieve savings that are critical to our reorganization and the preservation of more than 4,000 jobs," said Bennett Hatfield, Patriot's president and chief executive officer, in a news release.

"The savings contemplated by this ruling, together with other cost reductions implemented across our company, will put Patriot on course to becoming a viable business," he said.

Hatfield said Patriot will continue "diligent negotiations with the UMWA leadership to address their concerns about our court-approved proposals." The president said a consensual resolution would still be the goal, but indicated negotiations would not continue past July 1.

Patriot has proposed to the union a revised benefits package that would transition health care to a voluntary employee beneficial association administered by the union. The company would provide an initial $15 million to fund the trust and has offered a 35 percent stake in the new company and profit-sharing up to $300 million as additional funding.

The miners' union thus far has rejected the proposal, describing it as a "stopgap measure" even if funded in full.

"What that would do is allow benefits to continue being paid for a while, but not fulfill all the obligations ... to these retired members," Phil Smith, UMWA communications director, told *NCR* before Wednesday's ruling.

In its press release, the union stated the decision "makes it more important than ever" for Peabody and Arch to fulfill its obligations to the miners that Patriot inherited.

Patriot formed in 2007 as an offshoot of Peabody's eastern mines. A year later, the company merged with Magnum Coal, which acquired Arch-controlled subsidiaries in 2005.

In October, the union filed a class-action suit in West Virginia's Southern District court against Peabody and Arch, claiming the two companies violated the Employee Retirement Income Security Act by dumping its legacy benefits onto Patriot and Magnum, respectively.

Both Peabody and Arch have denied the allegations.

The next court date scheduled for Patriot's bankruptcy case is June 18; hearings are also scheduled for July and August.

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