# UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF MISSOURI

| In re:                           | ) |                            |
|----------------------------------|---|----------------------------|
|                                  | ) |                            |
| PATRIOT COAL CORPORATION, ET AL. | ) | Chapter 11                 |
|                                  | ) | Case No. 12-51502-659(SCC) |
| Debtors.                         | ) | Jointly Administered       |

## RESPONSE AND PROTECTIVE OBJECTION OF UNITED CENTRAL INDUSTRIAL SUPPLY COMPANY, LLC TO 503(b)(9) REPORT AND NOTICE OF OBJECTION PROCEDURES

United Central Industrial Supply Company, LLC (hereinafter "United Central") by and through its undersigned counsel, for its Response and Protective Objection to the Debtor's 503(b)(9) Report and Notice of Objection Procedures (hereinafter the "Report") [Docket # 3006] respectfully states as follows:

- 1. United Central timely filed seventeen (17) Proof of Claims seeking administrative expense status pursuant to 11 U.S.C. § 503(b)(9) (hereinafter the "Claims") for goods that were received by the Debtors within twenty (20) days before the date of commencement of these bankruptcy cases. The Claims are listed on Exhibit A to the Report [at pages 41 and 42], which Exhibit is incorporated herein by reference.
- 2. On February 27, 2013, the Debtor filed the Report stating that the Claims have been paid as its sole grounds for disallowance of the Claims.
- 3. Pursuant to Letter Agreement dated January 30, 2013 entered into with the Debtors (the "Letter Agreement"), United Central became a participant in the Critical Vendor Payment Program established and authorized pursuant to an Order entered in this case on or about July 16, 2012. Pursuant to the Letter Agreement, the Debtors agreed to pay a negotiated balance of the Claims via twelve (12) monthly installment payments with the final installment

payment due on December 1, 2013. The Debtors have tendered three (3) such installment payments in a timely manner. However, as of this date United Central has not received payment in full of the negotiated amount of the Claims and files this response and protective objection to the Report so as to preserve the unpaid balance of the Claims in the event that the remaining installment payments called for by the Letter Agreement are not received.

WHEREFORE, United Central Industrial Supply Company, LLC respectfully requests that the Court sustain this Objection, that the Claims be preserved and allowed as filed pending the receipt by United Central of the remaining installment payments due pursuant to the Letter Agreement, and such other and further relief as is proper and just.

Respectfully submitted.

JENKINS & KLING, P.C.

By: /s/ Peter D. Kerth
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Attorneys for United Central Industrial Supply Company, LLC

## **CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the above and foregoing was served via electronic filing in the CM/ECF system of the U.S. Bankruptcy Court, Eastern District of Missouri upon all parties to this case requesting service by electronic filing and via facsimile transmission and United States Mail, postage prepaid, on the following parties on the 19<sup>th</sup> day of March, 2013.

#### **Debtors:**

Attn: Marguerite A. O'Connell, 503(b)(9) Claims Patriot Coal Corporation 12312 Olive Boulevard, Suite 400 St. Louis, Missouri 63141 Facsimile: (314) 275-3626

## **Debtor's Notice and Claims Agent:**

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### **Counsel to the Debtors:**

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Attn: Lloyd A. Palans, Esq. and Brian C. Walsh, Esq. Bryan Cave LLP 211 North Broadway, Suite 3600 St. Louis, Missouri 63102 Facsimile: (314) 259-2020

## **Counsel to Administrative Agent for Debtor's Post-Petition Lenders:**

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Attn: Margot B. Schonholtz, Esq. and Ann Alfonso, Esq. Willkie Farr & Gallagher LLP) 787 Seventh Avenue
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### **Counsel to the Committee:**

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Attn: Gregory D. Willard, Esq. and Angela L. Schisler, Esq. Carmody MacDonald PC 120 South Central Avenue St. Louis, Missouri 63105-1705 Facsimile: (314) 854-8660

#### **United States Trustee:**

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/s/ Peter D. Kerth