

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:

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

Chapter 11

Case No. 12-51502-659

(Jointly Administered)

**PATRIOT COAL CORPORATION and
HERITAGE COAL COMPANY LLC,**

**Plaintiffs/Counterclaim-
Defendants,**

v.

**PEABODY HOLDING COMPANY, LLC
and
PEABODY ENERGY CORPORATION,**

**Defendants/Counterclaim-
Plaintiffs,**

v.

**INTERNATIONAL UNION, UNITED MINE
WORKERS OF AMERICA,**

Counterclaim-Defendant.

Adversary Proceeding No. 13-04067

DEFENDANTS/COUNTERCLAIM-PLAINTIFFS' ANSWER AND COUNTERCLAIM

ANSWER

For their answer to the complaint [Docket Entry ("D.E.") 1] of plaintiffs Patriot Coal Corporation ("Patriot") and Heritage Coal Company LLC ("Heritage"), defendants Peabody Holding Company, LLC ("PHC") and Peabody Energy Corporation ("PEC" and, together with PHC, "Peabody") state as follows:

FIRST DEFENSE

1. Admit that Patriot, as debtor-in-possession, purports to seek a declaration regarding the operation of Section 1(d) of the NBCWA Individual Employer Plan Liabilities Assumption Agreement, dated October 22, 2007 (the "NBCWA Liabilities Assumption Agreement"), entered into by Patriot, Heritage (then known as Peabody Coal Company, LLC ("PCC")), PHC and PEC; further admit that on March 14, 2013, Patriot and its affiliated debtors in the above-captioned chapter 11 case (the "Debtors") filed a Motion to Reject Collective Bargaining Agreements and to Modify Retiree Benefits Pursuant to 11 U.S.C. §§ 1113, 1114 of the Bankruptcy Code [D.E. 3214, Bankr. No. 12-51502] ("1113/1114 Motion"); refer to the 1113/1114 Motion for a fair and accurate portrayal of its contents; admit that PEC reported \$8.0775 billion in total revenues in its Form 10-K for fiscal year ended December 31, 2012; deny that under any circumstances Peabody would have a windfall or escape its proper retiree healthcare obligations; and except as so admitted, referred and denied, deny each and every allegation in paragraph 1.

2. Refer to the NBCWA Liabilities Assumption Agreement for a fair and accurate portrayal of its contents; and except as so referred, deny each and every allegation of paragraph 2.

3. Refer to the NBCWA Liabilities Assumption Agreement for a fair and accurate portrayal of its contents; and except as so referred, deny each and every allegation of paragraph 3.

4. Refer to the 1113/1114 Motion for a fair and accurate portrayal of its contents; deny for lack of knowledge what "any resolution negotiated with the United Mine Workers of America" would do to the healthcare benefits of retirees of debtor Eastern Associated Coal, LLC ("EACC"); and except as so referred and denied, deny each and every allegation in paragraph 4.

5. Admit that there is a disagreement between Patriot and Heritage, on the one hand, and Peabody, on the other hand, as to the subject identified in paragraph 5; and except as so admitted, deny each and every allegation of paragraph 5.

6. Deny the allegations of the first sentence of paragraph 6; deny for lack of knowledge whether Patriot cannot afford to pay for the healthcare benefits of certain Heritage retirees identified on Attachment A of the NBCWA Liabilities Assumption Agreement and their dependents (the "Attachment A Retirees"); refer to the 1113/1114 Motion for a fair and accurate portrayal of its contents; and except as so admitted, denied, and referred, deny each and every allegation in paragraph 6.

7. Admit that Patriot purports to request the Court to enter an order as described in paragraph 7; deny that any such order would be appropriate or consistent with governing contractual documents, including but not limited to the NBCWA Liabilities Assumption Agreement; and except as so admitted and denied, deny each and every allegation of paragraph 7.

8. Admit.

9. Admit.

10. Admit.

11. Admit.

12. Admit and aver that this Court has jurisdiction of this action under 28 U.S.C. § 1334(b); admit that this is a proceeding related to a case under Title 11; deny that this is a core proceeding under 28 U.S.C. § 157 or otherwise but aver that Peabody consents to the entry of final orders or judgment by the Bankruptcy Court in this matter; deny for lack of knowledge that the case will have a significant impact on Patriot's and Heritage's estates; and except as so admitted, averred, and denied, deny each and every allegation in paragraph 12.

13. Admit that venue is proper in this district pursuant to 28 U.S.C. § 1409(a); and except as so admitted, deny each and every allegation of paragraph 13.

14. Admit that Patriot and Heritage purport to initiate this proceeding under Federal Rule of Bankruptcy Procedure 7001(7) and (9), and 22 U.S.C. § 2201; and except as so admitted, deny each and every allegation of paragraph 14.

15. Admit and aver that National Bituminous Coal Wage Agreement ("NBCWA") is a name commonly used to refer to agreements periodically negotiated by the International Union, United Mine Workers of America ("UMWA") and the Bituminous Coal Operators' Association ("BCOA"); further admit and aver that the agreements referred to as NBCWAs are agreements between the UMWA and the employer members of the BCOA, governing certain conditions of employment and benefits for UMWA-represented BCOA member employees and retirees; further admit and aver that certain non-BCOA-member employers enter into agreements with the UMWA, commonly referred to as "Me Too Agreements," adopting the terms of the then-current NBCWA, which agreements govern certain

conditions of employment and benefits for UMWA-represented signatory employees and retirees; admit and aver that at the time of the complaint's filing, Heritage and certain other Debtors were parties to agreements adopting the terms of the National Bituminous Coal Wage Agreement of 2011 (the "2011 NBCWA") but presently Heritage and those Debtors no longer have obligations under those agreements due to the Debtors' subsequent entry into successor labor agreements with the UMWA; admit that Patriot is not a signatory to any NBCWA or to a Me Too Agreement but is a party to the NBCWA Liabilities Assumption Agreement; aver that the allegation regarding historical levels of benefits for which NBCWAs provided is too vague and general to permit targeted response; and except as so admitted and averred, deny each and every allegation set forth in paragraph 15.

16. Admit.

17. Admit that, in connection with the October 31, 2007 distribution of common shares of Patriot to the stockholders of PEC, Peabody, Patriot and certain other entities entered into certain agreements, including the NBCWA Liabilities Assumption Agreement; refer to the NBCWA Liabilities Assumption Agreement for a fair and accurate portrayal of its contents; admit that counsel for Peabody was involved in drafting the NBCWA Liabilities Assumption Agreement and certain other documents; aver that counsel for Patriot was likewise involved in drafting the NBCWA Liabilities Assumption Agreement and certain other documents; and except as so admitted, referred, and averred, deny each and every allegation of paragraph 17.

18. Refer to the NBCWA Liabilities Assumption Agreement for a fair and accurate portrayal of its contents; and except as so referred, deny each and every allegation of paragraph 18.

19. Refer to the NBCWA Liabilities Assumption Agreement for a fair and accurate portrayal of its contents; and except as so referred, deny each and every allegation of paragraph 19.

20. Admit and aver that on August 14, 2007, PHC and the UMWA, and in limited part Heritage, entered into an Acknowledgment and Assent (the "Acknowledgment and Assent"); refer to the Acknowledgment and Assent for a fair and accurate portrayal of its contents; and except as so admitted, averred, and referred, deny each and every allegation of paragraph 19.

21. Refer to the NBCWA Liabilities Assumption Agreement for a fair and accurate portrayal of its contents; and except as so referred, deny each and every allegation of paragraph 21.

22. Deny.

23. Refer to the NBCWA Liabilities Assumption Agreement for a fair and accurate portrayal of its contents; and except as so referred, deny each and every allegation of paragraph 23 (taking the reference to "current labor contract" to refer to Heritage's Me Too Agreement adopting the 2011 NBCWA).

24. Admit that on February 26, 2013 Patriot's counsel inquired of Peabody's counsel whether Peabody would take the position that, by virtue of the NBCWA Liabilities Assumption Agreement, PEC's obligation to fund the healthcare benefits Heritage was obligated to pay for the Attachment A Retirees would be affected by a modification, pursuant to the section 1114 process, of the benefits for retirees of EACC, and that on March 1, 2013 counsel for Peabody confirmed that as being Peabody's belief and position; deny that this contractually-based position is in any way "exploit[ive]" or would "avoid" payment of any healthcare

obligations except through exercise of Peabody's own bargained-for rights; and except as so admitted and denied, deny each and every allegation of paragraph 24.

25. Admit that on March 14, 2013, the Debtors filed the 1113/1114 Motion; refer to the 1113/1114 Motion for a fair and accurate portrayal of its contents; and except as so admitted and referred, deny each and every allegation of paragraph 25.

26. Refer to the 1113/1114 Motion for a fair and accurate portrayal of its contents; and except as so referred, deny each and every allegation of paragraph 26.

27. Aver that the allegations of paragraph 27 that address purported impacts of different potential rulings by the Court are speculative attorney argument and legal conclusions that neither require nor warrant response; deny for lack of knowledge whether Heritage alone or in combination with any other Debtor "cannot afford to pay for the healthcare of *any* retirees;" and except as so averred and denied, deny each and every allegation of paragraph 27.

28. Admit that Peabody is solvent; deny that exercise of Peabody's contractual rights under the NBCWA Liabilities Assumption Agreement would constitute an "escape" of its obligation to anyone, would create a "windfall," or be "unjust" at all, let alone "manifestly unjust;" and except as so admitted and denied, deny each and every allegation of paragraph 28.

29. Incorporate all admissions, denials, referrals and averments heretofore made as if fully restated.

30. Admit that there is a disagreement between Patriot and Heritage, on the one hand, and Peabody, on the other hand, as to the subject identified in paragraph 30; and except as so admitted, deny each and every allegation of paragraph 30.

31. Admit that Patriot and Heritage request an order in terms specified in paragraph 31; deny that Patriot or Heritage is entitled to any such order; and except as admitted and denied, deny each and every allegation of paragraph 31.

32. Deny that Patriot or Heritage is entitled to any relief sought, including the requests for relief contained in Plaintiffs' prayer for relief.

AFFIRMATIVE DEFENSES

SECOND DEFENSE

33. The complaint does not state a claim upon which relief can be granted.

THIRD DEFENSE

34. Patriot and Heritage have failed to join a party, namely the UMWA, required to be joined under Federal Rule of Bankruptcy Procedure 7019.

FOURTH DEFENSE

35. PHC's obligation under the NBCWA Liabilities Assumption Agreement to fund the Attachment A Retirees' healthcare benefits that Heritage is obligated to pay presently is defined by reference to EACC's current labor agreement with the UMWA.

WHEREFORE, Peabody prays that Patriot and Heritage take nothing by their complaint, and that all claims asserted against Peabody in the complaint be dismissed with prejudice at Patriot and Heritage's cost.

COUNTERCLAIM

For its counterclaim against counterclaim-defendants Patriot, Heritage and the UMWA, counterclaim-plaintiff Peabody alleges as follows:

NATURE OF ACTION

1. When PEC spun-off Patriot in 2007, Peabody agreed, pursuant to carefully negotiated agreements, to fund certain retiree benefit liabilities that are the responsibility of Patriot and its affiliates, in an effort to position them better for long-term viability. Included in the liabilities that Peabody agreed to fund were the obligations of Heritage (then known as PCC) under its then-existing labor agreement with the UMWA to pay healthcare benefits to the Attachment A Retirees, pursuant to an individual employer plan maintained by Heritage. That arrangement was set forth in the NBCWA Liabilities Assumption Agreement, a true and correct copy of which, exclusive of its Attachment A, is attached as Exhibit 1.

2. In the NBCWA Liabilities Assumption Agreement, the parties contemplated that changes in Heritage's future labor agreements with the UMWA might alter the amounts Heritage pays for benefits to its union retirees under its individual employer plan, and if that occurred, Peabody's obligation to fund under the NBCWA Liabilities Assumption Agreement would adjust commensurately. Further, to prevent Heritage or Patriot from agreeing with the UMWA to higher benefits for those specific employees whose benefits Peabody agreed to fund (as opposed to those employees of Heritage or other Patriot subsidiaries whose benefits Patriot or its subsidiaries funded by themselves alone), the parties agreed that, for subsequent Heritage labor agreements, Peabody's funding obligation would be defined by the benefit terms contained in the labor agreements entered into by, or offered to, another Patriot subsidiary, EACC. This provision of the NBCWA Liabilities Assumption Agreement is defined below as the Eastern Proviso.

3. On July 9, 2012, Patriot and its subsidiaries filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. In August 2013, while Patriot and its subsidiaries remained in reorganization proceedings under chapter 11, Patriot caused Heritage and EACC to enter new labor agreements with the UMWA. These new labor agreements reduce to zero the benefit levels provided by EACC to its UMWA retirees under its individual employer plan no later than January 1, 2014. At the same time, the new labor agreements attempt to maintain the prepetition benefit levels for the Attachment A Retirees (whose benefits Peabody had agreed to fund). The Eastern Proviso defines Peabody's funding obligation by reference to the benefit levels in EACC's new labor agreement, which will be zero no later than January 1, 2014. But Patriot, Heritage and the UMWA contend that circumstances in the bankruptcy cases of Patriot and its subsidiaries (including Heritage and EACC), alone or in conjunction with the new UMWA labor agreements, prevent the application of the Eastern Proviso and thereby allow Patriot and Heritage to do precisely what they agreed in the NBCWA Liabilities Assumption Agreement not to do: namely, require Peabody to fund benefits for the Attachment A Retirees that Heritage (for those of its retirees not on Attachment A) and EACC are no longer required to pay as a result of new labor agreements with the UMWA.

4. The plain language of the NBCWA Liabilities Assumption Agreement does not tolerate the Defendants' construction, and the law does not permit the agreement to be rewritten. Accordingly, Peabody seeks declaratory relief regarding the proper construction of the NBCWA Liabilities Assumption Agreement and the effect EACC's new labor agreement has upon Peabody's funding obligation thereunder. Peabody, among other things, seeks a declaration that the Eastern Proviso defines its funding obligation under the NBCWA Liabilities Assumption Agreement, by reference to the new EACC labor agreement, and consequently, Peabody's

funding obligation will be zero no later than January 1, 2014, and possibly zero or reduced even before then.

PARTIES, JURISDICTION AND VENUE

5. Counterclaim-plaintiff PHC is a Delaware limited liability company with a principal place of business at 701 Market Street, St. Louis, Missouri 63101.

6. Counterclaim-plaintiff PEC is a Delaware corporation with a principal place of business at 701 Market Street, St. Louis, Missouri 63101.

7. Counterclaim-defendant Patriot is a Delaware corporation with a principal place of business at 12312 Olive Boulevard, Suite 400, St. Louis, Missouri 63141.

8. Counterclaim-defendant Heritage is a Delaware limited liability company with a principal place of business at 12312 Olive Boulevard, Suite 400, St. Louis, Missouri 63141.

9. Patriot and Heritage and the other Debtors are debtors and debtors-in-possession in the jointly administered chapter 11 cases captioned *In re Patriot Coal Corp., et al.*, Bankr. No. 12-51502 (Bankr. E.D. Mo.).

10. Counterclaim-defendant UMWA is an unincorporated association, commonly known as a labor union, with its principal office at 18354 Quantico Gateway Drive, Suite 200, Triangle, Virginia 22172.

11. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1334(b) as it is related to the jointly administered chapter 11 cases captioned *In re Patriot Coal Corp., et al.*, Bankr. No. 12-51502 (Bankr. E.D. Mo.).

12. Venue is proper under 28 U.S.C. § 1409(a).

13. This proceeding is non-core. Peabody consents to the entry of final orders or judgment by the Bankruptcy Court in this matter.

BACKGROUND

14. Prior to the October 31, 2007 spinoff, Patriot, Heritage, EACC and certain other Debtors were affiliates of Peabody. Certain PEC subsidiaries (not PHC) are in the business of mining bituminous coal. Certain Patriot subsidiaries, including Heritage and EACC, are or were similarly in the business of mining bituminous coal. The UMWA represents certain Heritage and EACC employees with respect to conditions-of-employment bargaining and has done so for many years.

15. In December 2006, the UMWA entered into the National Bituminous Coal Wage Agreement of 2007 (the "2007 NBCWA") with the BCOA. The 2007 NBCWA is a labor agreement between the UMWA and members of the BCOA. Neither Peabody nor Patriot nor Heritage nor EACC nor any other of their pertinent affiliates was at the time, or since has been, a member of the BCOA, and thus none is or was a party to the 2007 NBCWA.

16. The UMWA bargained with Heritage and EACC apart from the BCOA. In March 2007, the UMWA entered into separate agreements with: (1) Heritage, then known as PCC, "adopt[ing] each and every term of the 2007 NBCWA" (the "Heritage 2007 Me Too NBCWA"), a true and correct copy of which is attached as Exhibit 2; and (2) EACC "adopt[ing] each and every term of the 2007 NBCWA" (the "EACC 2007 Me Too NBCWA"), a true and correct copy of which is attached as Exhibit 3. The Heritage 2007 Me Too NBCWA and the EACC 2007 Me Too NBCWA are labor agreements.

17. Peabody is not a party to the Heritage 2007 Me Too NBCWA or the EACC 2007 Me Too NBCWA.

18. Meanwhile, PEC decided to pursue a potential spin-off of Patriot and of Patriot's subsidiaries, including Heritage and EACC. Key personnel from PEC transitioned to Patriot's senior management team. In April 2007, the Patriot senior management team relocated

to a separate floor at PEC's headquarters. That team operated independently from PEC and represented Patriot's interests in connection with the spin-off negotiations. Patriot hired its own advisors, including legal counsel Davis Polk & Wardell LLP ("Davis Polk"), to represent Patriot in connection with the spin-off negotiations.

19. On October 31, 2007, pursuant to a variety of related agreements, PEC distributed to its shareholders via a stock dividend all of its equity in Patriot (the "Spin-Off"). Afterward, Peabody had no ownership interest in Patriot and its various subsidiaries and Patriot was an independent company whose shares were traded publicly on the New York Stock Exchange.

The NBCWA Liabilities Assumption Agreement

20. In connection with the Spin-Off, Patriot, Heritage (then known as PCC) and Peabody entered into the NBCWA Individual Liabilities Assumption Agreement. Davis Polk represented Patriot and Heritage in the negotiation of the NBCWA Liabilities Assumption Agreement.

21. In the NBCWA Liabilities Assumption Agreement, PHC agreed that, to the extent Heritage remained obligated by a labor agreement to pay healthcare benefits under its individual employer plan to the Attachment A Retirees—a specified group of former UMWA-represented employees of Heritage who had retired prior to 2007 and their eligible dependents—PHC would fund those payments, subject to the other terms and adjustments set forth therein.¹ PEC agreed to guarantee PHC's funding obligations under the NBCWA Liabilities Assumption Agreement, subject to a right of set off set forth in a related agreement, the Separation

¹ The Attachment A Retirees are defined in section 1(d) of the NBCWA Liabilities Assumption Agreement as "those retirees of [Heritage] identified on Attachment A hereto, and such retirees' eligible dependents, . . . provided that such retirees" had retired permanently from coal mine employment and had a right to receive the benefits as of December 31, 2006.

Agreement, Plan of Reorganization and Distribution between PEC and Patriot, also dated October 22, 2007.

22. Section 2(a) of the NBCWA Liabilities Assumption Agreement states, in full: "PHC assumes, and agrees to pay and discharge when due in accordance herewith, the NBCWA Individual Employer Plan Liabilities." Thus, the liabilities that PHC agreed to fund are "the NBCWA Individual Employer Plan Liabilities," which term is defined in section 1(d) of the agreement.

23. Section 1(d) of the NBCWA Liabilities Assumption Agreement contains two sentences. The first sentence states: "The term 'NBCWA Individual Employer Plan Liabilities' shall mean amounts [Heritage] pays for benefits to [the Attachment A Retirees] under the terms of the NBCWA Individual Employer Plan" The term "NBCWA Individual Employer Plan" is defined in section 1(c) of the NBCWA Liabilities Assumption Agreement as "a plan for the provision of healthcare benefits to retirees of [Heritage] and their eligible dependents maintained by [Heritage] pursuant to Article XX of the NBCWA." The term "NBCWA" is defined in section 1(b) of the NBCWA Liabilities Assumption Agreement as "the National Bituminous Coal Wage Agreement of 2007, as may be amended, supplemented or replaced from time to time (subject to the proviso of the definition of 'NBCWA Individual Employer Plan Liabilities')," which proviso is described below.

24. At the time the NBCWA Liabilities Assumption Agreement was entered: (1) the Heritage 2007 Me Too NBCWA defined Heritage's obligation to provide benefits under its individual employer plan to certain Heritage retirees and their eligible dependents, including the Attachment A Retirees (the "Heritage NBCWA Retirees"); and (2) the EACC 2007 Me Too NBCWA defined EACC's obligation to provide benefits under its individual employer plan to

certain EACC retirees and their eligible dependents (the "EACC NBCWA Retirees" and, together with the Heritage NBCWA Retirees, the "NBCWA Retirees"). Prior to entering into the NBCWA Liabilities Assumption Agreement, Peabody, which as noted previously is not a party to the Heritage 2007 Me Too NBCWA or the EACC 2007 Me Too NBCWA, had no contractual obligation to fund healthcare benefits for any Heritage retirees, including the Attachment A Retirees.

25. The parties to the NBCWA Liabilities Assumption Agreement contemplated that future Heritage labor agreements with the UMWA could alter the benefits Heritage would be obligated to provide under its individual employer plan to the Attachment A Retirees. Accordingly, Peabody, Patriot and Heritage agreed, as reflected in the second sentence of section 1(d) of the NBCWA Liabilities Assumption Agreement, that "[c]hanges to benefit levels . . . or other such modifications contained in [Heritage's] future UMWA labor agreements that are applicable to the [Attachment A Retirees] shall be included for the purposes of the definition of 'NBCWA Individual Employer Plan Liabilities,'"

26. That same sentence of section 1(d) of the NBCWA Liabilities Assumption Agreement then sets out a qualifying proviso (the "Eastern Proviso"): "for purposes of any successor [Heritage] labor contract, 'NBCWA Individual Employer Plan Liabilities' shall be based on benefits that are the lesser of (i) benefits provided in any future UMWA labor agreement with [EACC] or any successor of [EACC] and (ii) benefits provided in any future NBCWA labor agreement or any successor labor agreement and offered to [EACC] or any successor of [EACC], or which [EACC] or any successor of [EACC] had the opportunity to sign."

27. Prior to entering the NBCWA Liabilities Assumption Agreement, on August 14, 2007, the UMWA, PHC and, for limited purposes, Heritage (then known as PCC) entered into the Acknowledgement and Assent, a true and correct copy of which is attached as Exhibit 4. The Acknowledgement and Assent anticipated an agreement generally along the lines of what became the NBCWA Liabilities Assumption Agreement and provided in paragraph B.2 that, "the entry of the NBCWA Liabilities Assumption Agreement would not:

- a. make PHC a party to any collective bargaining agreement with the UMWA;
- b. create a labor law relationship between PHC and the UMWA; or
- c. create any right of action by the UMWA or its members or retirees against PHC for benefits under any provision of the PCC Labor Contract or any other labor agreement, including but not limited to Article XX of the 2007 NBCWA except that the UMWA and its members shall have the right to file a lawsuit against PHC in a court with jurisdiction over the parties for any benefits PHC has agreed to pay under the NBCWA Liability Assumption Agreement, or as otherwise provided under the Individual Employer Plan."

28. In paragraph C of the Acknowledgement and Assent, Heritage agreed that "nothing in this Acknowledgement and Assent is intended to be, or is evidence of, the UMWA's waiver of any right it may have to pursue a claim or action against [Heritage] in the event a [Heritage] retiree or eligible dependent is not provided benefits that the UMWA believes the retiree is eligible to receive from the [Heritage] Individual Employer Plan."

Heritage's and EACC's Future Labor Agreements

29. In June 2011, the UMWA entered into the 2011 NBCWA with the BCOA. The 2011 NBCWA is a labor agreement between the UMWA and members of the BCOA. Neither Peabody nor Patriot nor Heritage nor EACC nor any other of their respective affiliates was at the time, or since has been, a member of the BCOA, and thus none is or was a party to the 2011 NBCWA.

30. The UMWA bargained with Heritage and EACC apart from the BCOA. In September 2011, the UMWA entered into separate agreements with: (1) Heritage, "adopt[ing] each and every term of the 2011 NBCWA" (the "Heritage 2011 Me Too NBCWA"), a true and correct copy of which is attached as Exhibit 5; and (2) EACC "adopt[ing] each and every term of the 2011 NBCWA" (the "EACC 2011 Me Too NBCWA"), a true and correct copy of which is attached as Exhibit 6.

31. The Heritage 2011 Me Too NBCWA and the EACC 2011 Me Too NBCWA are labor agreements.

32. The Heritage 2011 Me Too NBCWA made changes to the benefit levels that the Heritage 2007 Me Too NBCWA required Heritage to provide under its individual employer plan to the Heritage NBCWA Retirees. The EACC 2011 Me Too NBCWA made changes to the benefit levels that the EACC 2007 Me Too NBCWA required EACC to provide under its individual employer plan to the EACC NBCWA Retirees.

33. Peabody is not a party to the Heritage 2011 Me Too NBCWA or the EACC 2011 Me Too NBCWA.

34. Nearly two years later, on or around August 12, 2013, the UMWA reached agreement with: (1) Heritage on the terms of the 2013 Coal Wage Agreement (the "Heritage 2013 Coal Wage Agreement"); and (2) EACC on the terms of the 2013 Coal Wage Agreement (the "EACC 2013 Coal Wage Agreement" and, together with the Heritage 2013 Coal Wage Agreement, the "2013 Coal Wage Agreements").

35. On August 16, 2013, Patriot issued a press release announcing "today that employees represented by the United Mine Workers of America have ratified 5-year labor agreements . . . between Patriot's signatory subsidiaries and the UMWA . . .," a true and correct

copy of which is attached as Exhibit 7. The UMWA-represented employees of Heritage and EACC ratified the 2013 Coal Wage Agreements.

36. On August 22, 2013, on Debtors' motion, this Court entered its Order Pursuant to 11 U.S.C. §§ 1113, 1114(e) and 105(a) and Fed. R. Bankr. P. 9019(a) Authorizing Entry Into New Collective Bargaining Agreements and Memorandum of Understanding with the United Mine Workers of America [D.E. 4511, Bankr. No. 12-51502], authorizing Heritage and EACC to enter into the 2013 Coal Wage Agreements.

37. Subsequently, Heritage entered into the Heritage 2013 Coal Wage Agreement and EACC entered into the EACC 2013 Coal Wage Agreement. The 2013 Coal Wage Agreements are labor agreements. Peabody is not a party to the 2013 Coal Wage Agreements.

38. The Heritage 2013 Coal Wage Agreement altered the obligation for benefits, including benefit levels and certain conditions, that the Heritage 2011 Me Too NBCWA required Heritage to provide under its individual employer plan to the Heritage NBCWA Retirees. The EACC 2013 Coal Wage Agreement altered the obligation for benefits, including benefit levels, that the EACC 2011 Me Too NBCWA required EACC to provide under its individual employer plan to the EACC NBCWA Retirees.

39. Prior to the UMWA, EACC and Heritage entering the 2013 Coal Wage Agreements, the Debtors filed the 1113/1114 Motion seeking relief regarding, among other things, the Heritage 2011 Me Too NBCWA and EACC 2011 Me Too NBCWA. Patriot and Heritage contemporaneously filed this adversary proceeding seeking a declaration that the relief the Debtors sought in the 1113/1114 Motion would not affect Peabody's funding obligation under the NBCWA Liabilities Assumption Agreement. On May 29, 2013, the Court granted the

1113/1114 Motion and separately granted summary judgment in Peabody's favor in the adversary proceeding. The Eighth Circuit Bankruptcy Appellate Panel reversed on August 21, 2013, the grant of summary judgment in Peabody's favor because it was "only concerned with the affect the grant of the § 1114 portion of Heritage's motion has on those obligations," and it found that PHC's "obligation under the liabilities assumption agreement remains undisturbed upon grant of the §§ 1113 and 1114 motion." However, the Eighth Circuit Bankruptcy Appellate Panel was "not concerned with, and express[ed] no opinion on, what effect a new labor agreement would have on Peabody Holding's obligations to the assumed retirees." Nor did it express an "opinion on what may trigger the Eastern proviso or the future potential effects that provision has on Peabody Holding's obligations." Subsequent to that decision, EACC and Heritage entered new labor agreements, the 2013 Coal Wage Agreements. The prior proceedings regarding the NBCWA Liabilities Assumption Agreement in this Court and the Eighth Circuit Bankruptcy Appellate Panel do not resolve the issues raised in this counterclaim.

The 2013 Coal Wage Agreements Eliminate EACC's Obligation To Provide Retiree Healthcare Benefits No Later Than December 31, 2013

40. Section (a)(4) of Article XX of the EACC 2013 Coal Wage Agreements requires EACC to administer and pay the retiree health care benefits for the EACC NBCWA Retirees through no later than December 31, 2013.

41. After December 31, 2013 at the latest, EACC will have no obligation to pay for the Retiree Healthcare Benefits of the EACC NBCWA Retirees. Section (a)(4)(ii) of Article XX of the EACC 2013 Coal Wage Agreement provides that, EACC "shall have no obligation to the [NBCWA Retirees] or [UMWA] with respect to the Retiree Healthcare Benefits after December 31, 2013" and that EACC "shall not be deemed to be a sponsor, fiduciary or administrator (within the meaning of or under the Employment Retirement Income Security Act

of 1974, as amended . . . , or any like term under any other applicable law) of the NBCWA Individual Employer Plans or any other plan, agreement or arrangement covering" the EACC NBCWA Retirees. Section (a)(4)(v) further provides that, "[e]ffective January 1, 2014, all of [EACC]'s obligations with respect to Retiree Healthcare Benefits for [EACC NBCWA Retirees] shall terminate."

42. The EACC 2013 Coal Wage Agreement contemplates that the EACC NBCWA Retirees will be transitioned to a voluntary employee beneficiary association (the "Patriot VEBA"), which will provide and pay for health care benefits to the EACC NBCWA Retirees, no later than January 1, 2014. Prior to then, section (a)(4)(iii) of Article XX of the EACC 2013 Coal Wage Agreement requires the Patriot VEBA to fund the retiree healthcare benefits that EACC is obligated to administer and pay through December 31, 2013. However, if the Patriot VEBA defaults on its funding obligation, section (a)(4)(iii) provides that EACC's "obligation to provide the Retiree Healthcare Benefits . . . shall immediately cease" and, the Patriot VEBA immediately will take over the obligation to provide retiree healthcare benefits to the EACC NBCWA Retirees.

43. Once the Patriot VEBA's obligation to fund the EACC-administered/paid retiree healthcare benefits accrues in September 2013, the Patriot VEBA has the unilateral right to establish the benefit levels for the EACC NBCWA Retirees, including during the immediate four-month period in which (subject to the Patriot VEBA's discharge of its funding obligation) EACC maintains the obligation to administer and pay the benefits. Section (a)(4)(iv) of Article XX of the EACC 2013 Coal Wage Agreement directs that, "[a]t any time on or after September 1, 2013 the level of the Retiree Healthcare Benefits shall be adjusted to the level of benefits directed by the trustees of the VEBA."

44. On information and belief, the Patriot VEBA, Patriot, Heritage, EACC and certain other affiliated Debtors entered into a VEBA Funding Agreement, which requires the Debtor signatories to make certain payments and transfer certain assets to the Patriot VEBA. On information and belief, the payments and asset transfers that the VEBA Funding Agreement requires those Debtors to make (the "VEBA Funding Payments") include at least a lump-sum initial contribution, a 35-38% equity stake in reorganized Patriot and ongoing royalty payments of \$0.20 per ton of coal mined by certain Patriot subsidiaries. The VEBA Funding Payments are, on information and belief, independent of the healthcare benefits levels, if any, that the Patriot VEBA will provide to any member retirees.

PHC's Funding Obligation Under The NBCWA Liabilities Assumption Agreement Is Defined By The EACC 2013 Coal Wage Agreement

45. The Heritage 2011 Me Too NBCWA was a "successor [Heritage] labor agreement" to the Heritage 2007 Me Too NBCWA and made operative the Eastern Proviso. Consequently, since the Heritage 2011 Me Too NBCWA was entered, PHC's funding obligation under the NBCWA Liabilities Assumption Agreement—the "NBCWA Individual Employer Plan Liabilities"—has been defined by the Eastern Proviso.

46. Under the Eastern Proviso, PHC is obligated to fund the retiree healthcare benefits for the Attachment A Retirees only in accordance with, and at the benefits terms and levels provided in "any future UMWA labor agreement" entered into by, or offered to, EACC.

47. The EACC 2013 Coal Wage Agreement is a "future UMWA labor agreement" under the Eastern Proviso. Consequently, PHC is obligated to fund the Attachment A Retirees at the benefit levels provided in the EACC 2013 Coal Wage Agreement.

48. No later than January 1, 2014, the retiree healthcare benefits levels provided in the EACC 2013 Coal Wage Agreement will be zero. Instead, no later than that date,

the Patriot VEBA alone will provide and pay for the retiree healthcare benefits. The VEBA Funding Payments are not amounts that EACC pays for retiree healthcare benefits to the EACC NBCWA Retirees under an individual employer plan.

49. Pursuant to the Eastern Proviso, after January 1, 2014, PHC's obligation under the NBCWA Liabilities Assumption Agreement to fund the Attachment A Retirees' healthcare benefits will be zero, because the retiree healthcare benefit levels provided in the EACC 2013 Coal Wage Agreement will be zero.

50. If EACC's obligation to administer and pay retiree healthcare benefits terminates prior to January 1, 2014, under the default mechanism in section (a)(4)(iii) of Article XX of the EACC 2013 Coal Wage Agreement, then at the time of the termination and afterward, pursuant to the Eastern Proviso, PHC's obligation under the NBCWA Liabilities Assumption Agreement to fund the Attachment A Retirees' healthcare benefits will be zero.

51. If, prior to the transition of the EACC NBCWA Retirees to the Patriot VEBA, the trustees of the Patriot VEBA direct an adjustment of the level of benefits EACC is obligated to administer and pay pursuant to Section (a)(4)(iv) of Article XX of the EACC 2013 Coal Wage Agreement, PHC's obligation under the NBCWA Liabilities Assumption Agreement to fund the Attachment A Retirees' healthcare benefits would be adjusted commensurately by the Eastern Proviso in that interim period.

52. It is the UMWA's, Patriot's and Heritage's stated position that the current circumstances of the Debtors' bankruptcy cases, including this Court's ruling on the 1113/1114 Motion and the Eighth Circuit Bankruptcy Appellate Panel's decision, alone or in conjunction with the 2013 Coal Wage Agreements, prevent the Eastern Proviso from defining Peabody's funding obligation under the NBCWA Liabilities Assumption Agreement. An actual

controversy exists between Peabody, on the one hand, and Patriot, Heritage, and the UMWA, on the other hand.

COUNT I
(FOR DECLARATORY RELIEF)

53. Peabody incorporates each of the above allegations by reference, as if fully set forth herein.

54. An actual controversy exists between Peabody, on the one hand, and Patriot, Heritage, and the UMWA, on the other hand, regarding whether the Eastern Proviso defines PHC's obligation under the NBCWA Liabilities Assumption Agreement to fund the Attachment A Retirees' healthcare benefits that Heritage is obligated to pay under the Heritage 2013 Coal Wage Agreement.

55. Consequently, Peabody seeks a declaration that the Eastern Proviso defines, by reference to the benefit levels provided in the EACC 2013 Coal Wage Agreement, PHC's obligation under the NBCWA Liabilities Assumption Agreement to fund the Attachment A Retirees' healthcare benefits that Heritage is obligated to pay under the Heritage 2013 Coal Wage Agreement.

COUNT II
(FOR DECLARATORY RELIEF)

56. Peabody incorporates each of the above allegations by reference, as if fully set forth herein.

57. An actual controversy exists between Peabody, on the one hand, and Patriot, Heritage, and the UMWA, on the other hand, regarding whether the termination of EACC's obligation to administer and pay retiree healthcare benefits under either section (a)(4)(ii) or (iii) of Article XX of the EACC 2013 Coal Wage Agreement will reduce to zero PHC's obligation under the NBCWA Liabilities Assumption Agreement to fund the Attachment A

Retirees healthcare benefits that Heritage is obligated to pay under the Heritage 2013 Coal Wage Agreement.

58. Consequently, Peabody seeks a declaration that, pursuant to the Eastern Proviso, the termination of EACC's obligation to administer and pay retiree healthcare benefits under either section (a)(4)(ii) or (iii) of Article XX of the EACC 2013 Coal Wage Agreement will reduce to zero PHC's obligation under the NBCWA Liabilities Assumption Agreement to fund the Attachment A Retirees healthcare benefits that Heritage is obligated to pay under the Heritage 2013 Coal Wage Agreement.

COUNT III
(FOR DECLARATORY RELIEF)

59. Peabody incorporates each of the above allegations by reference, as if fully set forth herein.

60. An actual controversy exists between Peabody, on the one hand, and Patriot, Heritage, and the UMWA, on the other hand, regarding whether the VEBA Funding Payments are amounts that EACC pays for retiree healthcare benefits to the EACC NBCWA Retirees under an individual employer plan.

61. Consequently, Peabody seeks a declaration that the VEBA Funding Payments are not amounts that EACC pays for retiree healthcare benefits to the EACC NBCWA Retirees under an individual employer plan and that PHC has no obligation under the NBCWA Liabilities Assumption Agreement to make payments to the Patriot VEBA commensurate with the VEBA Funding Payments that EACC makes.

COUNT IV
(FOR DECLARATORY RELIEF)

62. Peabody incorporates each of the above allegations by reference, as if fully set forth herein.

63. An actual controversy exists between Peabody, on the one hand, and Patriot and Heritage, on the other hand, regarding whether an adjustment directed by the trustees of the Patriot VEBA, prior to the transition of the EACC NBCWA Retirees to the Patriot VEBA, of the level of benefits EACC administers and pays pursuant to section (a)(4)(iv) of Article XX of the EACC 2013 Coal Wage Agreement will adjust commensurately to the same level the Attachment A Retirees' healthcare benefits that PHC is obligated under the NBCWA Liabilities Assumption Agreement to fund in the interim.

64. Consequently, Peabody seeks a declaration that an adjustment directed by the trustees of the Patriot VEBA, prior to the transition of the EACC NBCWA Retirees to the Patriot VEBA, of the level of benefits EACC administers and pays pursuant to section (a)(4)(iv) of Article XX of the EACC 2013 Coal Wage Agreement will adjust commensurately to the same level the Attachment A Retirees' healthcare benefits that PHC is obligated under the NBCWA Liabilities Assumption Agreement to fund until EACC's obligation to administer and pay those benefits is terminated, at which time, PHC's obligation to fund the Attachment A Retirees' healthcare benefits under the NBCWA Liabilities Assumption Agreement will be reduced to zero.

PRAYER FOR RELIEF

WHEREFORE, Peabody respectfully requests that the Court enter judgment:

1. Declaring that the Eastern Proviso defines, by reference to the benefit levels provided in the EACC 2013 Coal Wage Agreement, PHC's obligation under the NBCWA Liabilities Assumption Agreement to fund the Attachment A Retirees' healthcare benefits that Heritage is obligated to pay under the Heritage 2013 Coal Wage Agreement;
2. Declaring that, pursuant to the Eastern Proviso, the termination of EACC's obligation to administer and pay retiree healthcare benefits under either section (a)(4)(ii) or (iii) of Article XX of the EACC 2013 Coal Wage Agreement will reduce to zero PHC's obligation under the NBCWA Liabilities Assumption Agreement to fund the Attachment A Retirees

healthcare benefits that Heritage is obligated to pay under the Heritage 2013 Coal Wage Agreement;

3. Declaring that the VEBA Funding Payments are not amounts that EACC pays for retiree healthcare benefits to the EACC NBCWA Retirees under an individual employer plan and that PHC has no obligation under the NBCWA Liabilities Assumption Agreement to make payments to the Patriot VEBA commensurate with the VEBA Funding Payments that EACC makes;
4. Declaring that an adjustment directed by the trustees of the Patriot VEBA, prior to the transition of the EACC NBCWA Retirees to the Patriot VEBA, of the level of benefits EACC administers and pays pursuant to section (a)(4)(iv) of Article XX of the EACC 2013 Coal Wage Agreement will adjust commensurately to the same level the Attachment A Retirees' healthcare benefits that PHC is obligated under the NBCWA Liabilities Assumption Agreement to fund until EACC's obligation to administer and pay those benefits is terminated, at which time, PHC's obligation to fund the Attachment A Retirees' healthcare benefits under the NBCWA Liabilities Assumption Agreement will be reduced to zero; and
5. Awarding Peabody any and all other relief, at law or in equity, to which Peabody may be entitled, including its costs and attorney's fees.

Dated: September 13, 2013

Respectfully submitted,

/s/ Steven N. Cousins

David G. Heiman

John M. Newman, Jr.

Carl E. Black

Robert W. Hamilton

JONES DAY

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sehlers@armstrongteasdale.com

ATTORNEYS FOR
DEFENDANTS/COUNTERCLAIM-
PLAINTIFFS PEABODY ENERGY
CORPORATION and PEABODY HOLDING
COMPANY, LLC

EXHIBIT 1

EXECUTION COPY

**NBCWA INDIVIDUAL EMPLOYER PLAN
LIABILITIES ASSUMPTION AGREEMENT**

This NBCWA INDIVIDUAL EMPLOYER PLAN LIABILITIES ASSUMPTION AGREEMENT ("Agreement") is made on the 22nd day of October, 2007 by and between Peabody Holding Company, LLC ("PHC"), a Delaware limited liability company with principal offices at 701 Market Street, St. Louis, MO 63101, Patriot Coal Corporation ("Patriot"), a Delaware corporation with principal offices at 12312 Olive Boulevard, Suite 400, St. Louis, Missouri, Peabody Coal Company, LLC ("PCC"), a Delaware limited liability company with principal offices at 12312 Olive Boulevard, Suite 400, St. Louis, Missouri, and, solely with respect to its obligations under Section 7 hereof, Peabody Energy Corporation ("PEC"), a Delaware corporation with principal offices at 701 Market Street, St. Louis, MO 63101 (each of the foregoing being sometimes referred to hereinafter individually as "a party" or jointly as "the parties").

RECITALS

WHEREAS, contemporaneously herewith, all of the shares of common stock of Patriot have been distributed to the stockholders of PEC, PHC's ultimate parent company, and Patriot will indirectly own all of the capital stock of PCC; and

WHEREAS, PCC is signatory to a collective bargaining agreement with the International Union, United Mine Workers of America known as the National Bituminous Coal Wage Agreement of 2007 ("NBCWA"); and

WHEREAS, PCC has an obligation to provide retiree healthcare pursuant to its "me too" labor contract which incorporates by reference Article XX of the NBCWA; and

WHEREAS, the parties desire that PCC continue to provide the retiree healthcare required by Article XX of the NBCWA (or any successor PCC labor contract);

WHEREAS, PHC has agreed to assume the liabilities of PCC for provision of healthcare pursuant to Article XX of the NBCWA (or any successor PCC labor contract) to certain retirees and their eligible dependents to the extent expressly set forth in this Agreement; and

WHEREAS, contemporaneously herewith PHC and Patriot have entered an Administrative Service Agreement pursuant to which Patriot will take certain actions necessary and appropriate for the administration of any NBCWA Individual Employer Plans (as defined below) and delivery of benefits constituting NBCWA Individual Employer Plan Liabilities (as defined below).

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein, the parties do hereby agree as follows:

Section 1. Defined Terms.

(a) The term "Effective Date" shall mean the date first hereinabove entered.

(b) The term "NBCWA" shall mean the National Bituminous Coal Wage Agreement of 2007, as may be amended, supplemented or replaced from time to time (subject to the proviso of the definition of "NBCWA Individual Employer Plan Liabilities").

(c) The term "NBCWA Individual Employer Plan" shall mean a plan for the provision of healthcare benefits to retirees of PCC and their eligible dependents maintained by PCC pursuant to Article XX of the NBCWA.

(d) The term "NBCWA Individual Employer Plan Liabilities" shall mean amounts PCC pays for benefits to those retirees of PCC identified on Attachment A hereto, and such retirees' eligible dependents, under the terms of the NBCWA Individual Employer Plan, *provided* that such retirees had vested in a right to receive retiree health benefits under the NBCWA Individual Employer Plan as of December 31, 2006 and that such retirees were retired from coal mine employment as of December 31, 2006 and did not thereafter return to employment with any company signatory to a labor agreement which requires the employer to provide health benefits to its UMWA retirees. Changes to benefit levels, cost containment programs, plan design or other such modifications contained in PCC's future UMWA labor agreements that are applicable to the retirees and eligible dependents subject to this Agreement shall be included for the purposes of the definition of "NBCWA Individual Employer Plan Liabilities"; *provided* that, for purposes of any successor PCC labor contract, "NBCWA Individual Employer Plan Liabilities" shall be based on benefits that are the lesser of (i) benefits provided in any future UMWA labor agreement with Eastern Associated Coal, LLC or any successor of Eastern Associated Coal, LLC and (ii) benefits provided in any future NBCWA labor agreement or any successor labor agreement and offered to Eastern Associated Coal, LLC or any successor of Eastern Associated Coal, LLC, or which Eastern Associated Coal, LLC or any successor of Eastern Associated Coal, LLC had the opportunity to sign.

Section 2. PHC Assumption of Liabilities.

(a) PHC assumes, and agrees to pay and discharge when due in accordance herewith, the NBCWA Individual Employer Plan Liabilities.

(b) Patriot shall instruct each third party administrator to deliver each invoice with respect to the NBCWA Individual Employer Plan Liabilities directly to PHC in accordance with such third party administrator's normal billing cycle, and PHC shall pay each such invoice in full (solely to the extent such amounts relate to the NBCWA Individual Employer Plan Liabilities) by wire transfer in immediately available funds when due. PHC shall pay the fees of the third-party administrators of the medical and prescription drug services to the retirees identified on Attachment A, and their eligible dependents, when due. The parties hereto acknowledge that the current practice is to include such fees in the last invoice of the month related to such medical or prescription drug services.

Section 3. Mutual Cooperation. Each of PHC, Patriot and PCC will use their commercially reasonable efforts to cooperate with each other to give full effect to the transactions contemplated by this Agreement. If PHC provides written notice that any amounts

were paid under this agreement in excess of the actual NBCWA Individual Employer Plan Liabilities, Patriot and PCC will use its commercially reasonable efforts to recover such excess amounts for PHC's benefit.

Section 4. Settlement of Claims. Patriot shall immediately notify PHC when Patriot or any of its subsidiaries is sued by the UMWA or a former employee or his or her eligible dependents or when an administrative claim has been filed with the trustees under the NBCWA, in each case regarding the NBCWA Individual Employer Plan Liabilities. Patriot and PCC may not settle any such dispute without the prior written consent of PHC, not to be unreasonably withheld or delayed. If Patriot or PCC settles any such claim without the prior written consent of PHC, then PHC shall not be liable for reimbursement of any amounts paid by Patriot or PCC as a result of such un-consented settlement under this Agreement.

Section 5. PHC Right to Pursue a Claim or Defense. If PHC determines that Patriot and/or PCC is failing to pursue with reasonable diligence a claim or defense related to any NBCWA Individual Employer Plan Liabilities, it shall notify Patriot and/or PCC in writing of such failure. If Patriot and/or PCC fails or refuses to pursue such claim or defense diligently within thirty (30) days of such notice, then PHC at its option may elect to pursue such claim or defense at its cost in the name of Patriot or PCC. Any contest assumed by PHC pursuant to this provision shall be conducted by attorneys employed or retained by PHC (subject to the right of Patriot and/or PCC to participate in such prosecution or defense at Patriot's or PCC's cost) and PHC may settle or compromise the claim or defense without the consent of Patriot and/or PCC, so long as such settlement or compromise does not include any payment or other obligation of Patriot, PCC or their respective controlled affiliates. PHC, Patriot and PCC shall use their commercially reasonable efforts to cooperate with each other in the continued prosecution or defense of any such claim, including the provision of witnesses and production of documents.

Section 6. Maintenance of Books and Records; Inspection. Patriot shall, at all times during the continuance of this Agreement, maintain full and complete books of account and other records with respect to all activities under this Agreement including, but not limited to, records of all payments made in connection with, or as a result of, such activities and all contracts entered and evaluations performed with respect to payment of NBCWA Individual Employer Plan Liabilities. PHC shall, at all times during the continuance of this Agreement, have the right to inspect, copy, and/or audit all account books and other records with respect to this Agreement at Patriot's offices and during regular business hours; *provided* that (i) PHC is not entitled to inspect such books and records more than once every six months, (ii) PHC shall provide at least forty-eight (48) hours advance notification, including reasonable detail of the materials to be reviewed, and (iii) no such inspection or audit shall unreasonably interfere with the normal and regular conduct of Patriot's business.

Section 7. PEC Guarantee. PEC hereby irrevocably and unconditionally guarantees the prompt and full payment by PHC of all amounts owed by it under this Agreement, subject to its right of setoff set forth in the Separation Agreement, Plan of Reorganization and Distribution, dated as of October 22, 2007 (the "Separation Agreement") by and between PEC and Patriot. Such guaranty shall be a guaranty of payment and not merely of collection, and shall not be conditioned or contingent upon the pursuit of any remedies against PHC. The liability of PEC under this guaranty shall, to the fullest extent permitted under applicable law, be absolute,

unconditional and irrevocable. PEC hereby waives any and all notice of the creation, renewal, extension or accrual of any of the guaranteed obligations and notice of or proof of reliance by Patriot or PCC upon this guaranty or acceptance of this guaranty. The guaranteed obligations, and any of them, shall conclusively be deemed to have been created, contracted or incurred in reliance upon this guaranty. When pursuing its rights and remedies hereunder against PEC, neither Patriot nor PCC shall be under any obligation to pursue such rights and remedies it may have against PHC or any right of offset with respect thereto, and any failure by Patriot or PCC to pursue such other rights or remedies or to collect any payments from PHC or to realize upon or to exercise any such right of offset shall not relieve PEC of any liability hereunder, and shall not impair or affect the rights and remedies, whether express, implied or available as a matter of law, of Patriot or PCC. PEC irrevocably waives acceptance hereof, presentment, demand, protest, promptness, diligence, obligation to protect, secure or perfect any security interest and any notice. Neither Patriot nor PCC shall be obligated to file any claim relating to any guaranteed obligation in the event that PHC becomes subject to a bankruptcy, reorganization or similar proceeding, and the failure of Patriot or PCC to so file shall not affect PEC's obligations hereunder. In the event that any payment to Patriot or PCC in respect of any guaranteed obligation is rescinded or must otherwise be returned for any reason whatsoever, PEC shall remain liable hereunder with respect to the guaranteed obligation as if such payment had not been made, and the guaranty shall be reinstated and shall continue even if otherwise terminated.

Section 8. Indemnification. PHC agrees that it shall indemnify, defend and hold harmless each of Patriot, PCC and their respective affiliates and the successors, assigns, employees, officers, directors and agents of each, from and against any claims, actions or causes of action, damages, penalties, fines, assessments, attorney fees or other costs or expenses principally resulting from the failure of PHC to timely pay and discharge the NBCWA Individual Employer Plan Liabilities.

Section 9. Resolution of Disputes. Any party or parties to a dispute or disagreement under this Agreement ("Covered Dispute") (including but not limited to any issue as to the arbitrability of such Covered Dispute) may give the other parties to the Covered Dispute written notice of the Covered Dispute initiating the provisions hereunder. Within ten days after delivery of the notice of a Covered Dispute, the receiving parties shall submit to the other a written response. The notice and the response shall include a statement of each party's respective position and a summary of arguments supporting that position and the name and title of the executive who will represent the claimants and of any other individual who will accompany such executive in resolving the Covered Dispute. Within twenty (20) days after delivery of the first notice, such executives shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, and shall negotiate in good faith to attempt to resolve the Covered Dispute. All reasonable requests for information made by one party to the other will be honored. If the Covered Dispute has not been resolved by negotiation within thirty (30) days of the first notice of the Covered Dispute, the parties to the Covered Dispute may, by their mutual consent, submit the Covered Dispute to arbitration in St. Louis, Missouri. Arbitration of any Covered Dispute shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association in effect on the date of the first notice of the Covered Dispute. The parties agree to use 3 arbitrators for any Covered Dispute in excess of Two Million Dollars (\$2,000,000.00). Any decision of the arbitrator (or arbitrators) agreed upon or appointed and acting pursuant to this Section 9 shall be final and binding upon the parties and judgment

may be entered thereon, upon the application of any of the parties, by any court of competent jurisdiction. The arbitrator may also award reasonable attorney's fees and the costs of the arbitration to the prevailing party. This Section 9 shall not preclude any of the parties from seeking a temporary restraining order, preliminary injunction or other temporary injunctive relief necessary to enforce this Section 9 or protect rights under this Agreement. If the parties do not mutually agree to arbitrate the Covered Dispute, the Covered Dispute shall be resolved pursuant to Section 15.08 of the Separation Agreement.

Section 10. Waiver. The failure of any party to comply with any of its obligations or agreements or to fulfill any conditions contained in this Agreement may be excused only by a written waiver from the other parties. Failure by any party to exercise, or delay by any party in exercising, any right under this Agreement shall not operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder by a party preclude any other or future exercise of that right or any other right hereunder by such party.

Section 11. Notices. All notices, requests or other communications required or permitted hereunder shall be given in writing by hand delivery, registered mail, certified mail or overnight courier, return receipt requested, postage prepaid, to the party to receive the same at its respective address set forth below, or at such other address as may from time to time be designated by such party to the others in accordance with this Section 11.

If to Patriot or PCC, to:

Joseph W. Bean
Senior Vice President, General Counsel and Secretary
Patriot Coal Corporation
12312 Olive Boulevard, Suite 400
St. Louis, MO 63141
Fax: 314-342-3419

If to PCC, to:

Joseph W. Bean
Senior Vice President, General Counsel and Secretary
Patriot Coal Corporation
12312 Olive Boulevard, Suite 400
St. Louis, MO 63141
Fax: 314-342-3419

If to PHC, to:

Alexander Schoch, Esq.
Executive Vice President Law and Chief Legal Officer
Peabody Holding Company, LLC
701 Market Street
St. Louis, MO 63101
Fax: 314-342-3419

All such notices and communications hereunder shall be deemed given when received, as evidenced by the acknowledgment of receipt issued with respect thereto by the applicable postal authorities or the signed acknowledgment of receipt of the person to whom such notice or communication shall have been addressed or his or her authorized representative.

Section 12. No Third-Party Beneficiaries. Neither this Agreement nor any provision of it shall create any right in favor of or impose any obligation upon any person or entity other than the parties hereto and their respective successors and permitted assigns. Without limiting the generality of the foregoing, this Agreement is not intended to, and does not, create any rights, third party or otherwise, on behalf of the United Mine Workers of America, any retiree or dependent, or any other person or individual. No third party shall be entitled to any subrogation rights with respect to any obligation of any party under this Agreement.

Section 13. Captions and Paragraph Headings. Captions and paragraph headings are used hereinafter for convenience only and are not a part of this Agreement and shall not be used in construing it.

Section 14. Entire Agreement. The making, execution and delivery of this Agreement by the parties has been induced by no representations, statements, warranties or agreements other than those herein expressed. Notwithstanding any provisions in any other agreement, this Agreement, together with the Separation Agreement and the other agreements contemplated thereby, including without limitation the Administrative Services Agreement, dated as of October 22, 2007, by and between PHC and Patriot, embodies the entire understanding of the parties and their respective subsidiaries and affiliates relating to the matters set forth herein. This Agreement may be modified only by a written instrument executed by the parties. The parties make no representation or warranties with respect to the subject matter of this Agreement not expressly set forth in this Agreement. This Agreement supersedes and terminates all other discussions, negotiations, understandings, arrangements and agreements between or among PHC and Patriot, or any respective affiliated companies, entities or persons relating to the subject matter hereof.

Section 15. Assignability. Neither of the parties hereto may assign this Agreement without the prior written consent of the other parties, which consent will not be unreasonably withheld or delayed. Any impermissible attempted assignment of this Agreement without such prior written consent shall be void, and the party assigning or attempting to assign this Agreement shall remain bound by and obligated by this Agreement as if no assignment or attempted assignment had occurred.

Section 16. Successors and Assigns. This Agreement and the provisions hereof shall be binding upon and inure to the benefit of the respective successors and permitted assigns of the parties hereto.

Section 17. Severability. In the event one or more of the provisions of this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of any other

provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision was not a part of this Agreement.

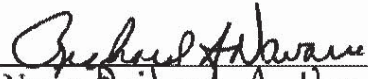
Section 18. Counterparts. This Agreement may be executed in any number of duplicate counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

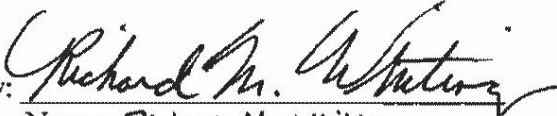
Section 19. Governing Law. The parties hereto have agreed that the validity, construction, operation and effect of any and all of the terms and provisions of this Agreement shall be determined and enforced in accordance with the laws and regulations of the State of Delaware, without giving effect to principles of conflicts of law thereunder.

IN WITNESS WHEREOF, the parties hereto have caused this NBCWA Individual Employer Plan Liabilities Assumption Agreement to be duly executed by one of their respective officers duly authorized and directed as of the date first written above.

PEABODY HOLDING COMPANY, LLC


PATRIOT COAL CORPORATION

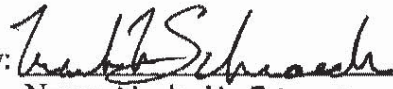
By: 
Name: Richard A. Navarre
Title: Executive Vice President

By: 
Name: Richard M. Whiting
Title: President & Chief Executive Officer

Solely for purposes of Section 7 hereof:
PEABODY ENERGY CORPORATION

PEABODY COAL COMPANY LLC

By: 
Name: Richard A. Navarre
Title: Executive Vice President

By: 
Name: Mark N. Schroeder
Title: Vice President & Treasurer

Gk06080704

EXHIBIT 2

AGREEMENT

The parties to this Agreement are Peabody Coal Company, LLC ("Employer") and the International Union, United Mine Workers of America ("UMWA"), on behalf of its members. The parties hereto agree to and adopt each and every term of the 2007 NBCWA, including all Memoranda of Understanding, as well as the negotiated Individual Employer Plan and the Memorandum of Understanding Regarding Job Opportunities. These provisions are hereby incorporated by reference and constitute the agreement between the parties.

IN WITNESS WHEREOF, each of the parties signatory hereto has caused this Agreement to be signed on the date specified herein, to be effective January 1, 2007.

[Signature]
(Authorized Signer for Employer)

President
(Title) 9LK

(Employer Identification Number)

Peabody Coal Company, LLC
701 Market Street, Suite 765
St. Louis, MO 63101

Cecil E Roberts / IMAH
(Authorized Signer for UMWA International)

International President
(Title)

Cecil E. Roberts
(Type or Print Name)

Date: 3-8-07

District: _____
Local: _____

EXHIBIT 3

AGREEMENT

The parties to this Agreement are Eastern Associated Coal, LLC ("Employer") and the International Union, United Mine Workers of America ("UMWA"), on behalf of its members. The parties hereto agree to and adopt each and every term of the 2007 NBCWA, including all Memoranda of Understanding, as well as the negotiated Individual Employer Plan and the Memorandum of Understanding Regarding Job Opportunities. These provisions are hereby incorporated by reference and constitute the agreement between the parties.

IN WITNESS WHEREOF, each of the parties signatory hereto has caused this Agreement to be signed on the date specified herein, to be effective January 1, 2007.

[Signature]
(Authorized Signer for Employer)

President
(Title) 94K

(Employer Identification Number)

Eastern Associated Coal, LLC
202 Laidley Tower
Charleston, WV 25324

Cecil E Roberts Int
(Authorized Signer for UMWA International)

International President
(Title)

Cecil E. Roberts
(Type or Print Name)

Date: 3-8-07

District: _____

Local: _____

EXHIBIT 4

ACKNOWLEDGEMENT AND ASSENT

The International Union, United Mine Workers of America ("UMWA") and Peabody Holding Company, LLC ("PHC") agree as follows:

A. The UMWA acknowledges that PHC has provided it with the following information:

1. All the shares of Peabody Coal Company, LLC ("PCC"), a signatory to a "me too" labor contract ("PCC Labor Contract") that incorporates by reference Article XX of the National Bituminous Coal Wage Agreement of 2007 ("2007 NBCWA"), will be transferred, directly or indirectly, to an ultimate parent entity, Patriot Coal Corporation ("Patriot"), that will not be related to, or affiliated with, PHC upon the completion of the spin-off of Patriot.
2. At the completion of the spin-off of Patriot, PHC will enter into an agreement ("NBCWA Liability Assumption Agreement") with PCC and/or Patriot pursuant to which PHC will agree to be primarily obligated to pay for benefits of retirees of PCC and such retirees' eligible dependents under the terms of an employee welfare plan maintained by PCC pursuant to Article XX of the PCC Labor Contract ("PCC Individual Employer Plan") or any PCC successor labor agreement, *provided* that such retirees had vested in a right to receive retiree health benefits under the PCC Individual Employer Plan as of December 31, 2006 (e.g. those who are disabled, or age 55, or who have 20 or more years of service), and that, as of December 31, 2006, such retirees were retired from coal mining employment with PCC within the meaning of the UMWA 1974 Pension Plan, and did not thereafter return to employment with any company signatory to a labor agreement with the UMWA which contains Article XX benefits under such circumstances whereby PCC would cease to be responsible for their retiree health benefits as provided under the Individual Employer Plan in effect at such date if such return to employment was with an employer other than PCC.

3. Although PHC will agree initially that Patriot or a Patriot subsidiary shall administer the PCC Individual Employer Plan and assure the delivery of benefits, the agreement will provide that, at PHC's sole discretion, PHC may elect to undertake, directly or through a contractor, the administration and delivery of benefits under the PCC Individual Employer Plan.

4. PHC and PCC will further agree that PHC's assumption of liability for retiree healthcare as described above and/or PHC's election to directly administer the PCC Individual Employer Plan, including the delivery of benefits, does not create any third party beneficiary rights in any other person, individual, or entity, including but not limited to the UMWA and its members, retirees, and their eligible dependents except as expressly provided in B.2.c. below.

B. In recognition of the benefits to UMWA retirees and their eligible dependents from an agreement between PHC and PCC through which PHC would undertake the assumption of liabilities as described above, the UMWA:

1. Assents to the entry of such an agreement between PHC and PCC (and/or Patriot) as set forth in this document in connection with the spin-off of Patriot; and
2. Agrees that the entry of the NBCWA Liability Assumption Agreement will not:
 - a. make PHC a party to any collective bargaining agreement with the UMWA;
 - b. create a labor law relationship between PHC and the UMWA; or

c. create any right of action by the UMWA or its members or retirees against PHC for benefits under any provision of the PCC Labor Contract or any other labor agreement, including but not limited to Article XX of the 2007 NBCWA except that the UMWA and its members shall have the right to file a lawsuit against PHC in a court with jurisdiction over the parties for any benefits PHC has agreed to pay under the NBCWA Liability Assumption Agreement, or as otherwise provided under the Individual Employer Plan.

C. PCC acknowledges that nothing in this Acknowledgement and Assent is intended to be, or is evidence of, the UMWA's waiver of any right it may have to pursue a claim or action against PCC in the event that a PCC retiree or eligible dependent is not provided benefits that the UMWA believes the retiree is eligible to receive from the PCC Individual Employer Plan.

To memorialize this Acknowledgement and Assent, the UMWA and Peabody Holding Company, LLC each set forth its signature on the date set forth herein.

INTERNATIONAL UNION,
UNITED MINE WORKERS OF AMERICA

PEABODY HOLDING COMPANY, LLC

By: *Cecil E. Roberts*

By: *L. Brent Starbuck*

Its: President

Its: Senior Vice President

Date: August 14, 2007

Date: August 13, 2007

AGREED AS TO PARAGRAPH C
PEABODY COAL COMPANY, LLC

By: *J. N. [Signature]*

Its: President

Date: August 13, 2007

EXHIBIT 5

011,014

AGREEMENT

DFL *BS*

The parties to this Agreement are Heritage Coal Mining Company, LLC ("Employer") and the International Union, United Mine Workers of America ("UMWA"), on behalf of its members. The parties hereto agree to and adopt each and every term of the 2011 NBCWA, including Appendix A, B, C, and D and all Side Letters and Memorandum of Understanding (as listed on Attachment A), as well as the negotiated Individual Employer Plan. These provisions are hereby incorporated by reference and constitute the Agreement between the parties.

The wage increase set forth in Article X of the 2011 NBCWA shall be retroactive and shall cover all hours worked on and after July 1, 2011. The Employer shall include all retroactive payments with the first paycheck payable after execution of this Agreement. In the event that any miner eligible for such retroactive payments is not in active status on the date of the first paycheck after execution, the Employer shall mail to the miner the applicable retroactive amount due for all hours worked on or after July 1, 2011 on the date that the first paycheck after execution is distributed to active miners.

IN WITNESS WHEREOF, both parties signatory hereto have caused this Agreement to be signed on the date specified herein, to be effective July 1, 2011.

Dale F. Lucha
(Authorized Signer for Employer)

(Title)

Dale Lucha
(Type or Print Name)

(Employer Identification Number)

Samuel J. Kane
(Authorized Signer for UMWA International)

(Title)

(Type or Print Name)

Date: *9-27-11*

EXHIBIT 6

011,013

AGREEMENT

The parties to this Agreement are Eastern Associated Coal LLC ("Employer") and the International Union, United Mine Workers of America ("UMWA"), on behalf of its members. The parties hereto agree to and adopt each and every term of the 2011 NBCWA, including Appendix A, B, C, and D and all Side Letters and Memorandum of Understanding (as listed on Attachment A), as well as the negotiated Individual Employer Plan. These provisions are hereby incorporated by reference and constitute the Agreement between the parties.

The wage increase set forth in Article X of the 2011 NBCWA shall be retroactive and shall cover all hours worked on and after July 1, 2011. The Employer shall include all retroactive payments with the first paycheck payable after execution of this Agreement. In the event that any miner eligible for such retroactive payments is not in active status on the date of the first paycheck after execution, the Employer shall mail to the miner the applicable retroactive amount due for all hours worked on or after July 1, 2011 on the date that the first paycheck after execution is distributed to active miners.

IN WITNESS WHEREOF, both parties signatory hereto have caused this Agreement to be signed on the date specified herein, to be effective July 1, 2011.

Dale F. Lucha
(Authorized Signer for Employer)

Dale Lucha
(Title and Printed Name)

Employer Identification Number:

EASTERN ASSOCIATED COAL LLC
202 Laidley Tower
Charleston, WV 25324

Daniel J. Kane
(Authorized Signer for UMWA International)

Daniel J. Kane, Secretary-Treasurer
(Title and Printed Name)

(Type or Print Name)

Date: 9/27/11

EXHIBIT 7



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Labor Agreements Ratified, Paving The Way For Patriot Coal Emergence From Bankruptcy

ST. LOUIS, Aug. 16, 2013 /PRNewswire/ -- Patriot Coal Corporation (OTC: PCXCO) announced today that employees represented by the United Mine Workers of America have ratified 5-year labor agreements. These agreements were reached between Patriot's signatory subsidiaries and the UMWA, as previously announced on August 12.






"Ratification of these agreements provides labor stability and ensures cost savings essential to Patriot's plan of reorganization," said Patriot President and Chief Executive Officer Bennett K. Hatfield. "These agreements should set Patriot on a path to emerge from bankruptcy by the end of 2013."

A motion seeking authorization to enter into these agreements has been filed with the Bankruptcy Court in St. Louis and will be heard at the August 20, 2013 Omnibus Hearing.

Note: Background of Patriot's restructuring and transformation can be found at the Company's website, www.patriotcoal.com.

About Patriot Coal

Patriot Coal Corporation is a producer and marketer of coal in the eastern United States, with 11 active mining complexes in Appalachia and the Illinois Basin. Patriot ships to domestic and international electricity generators, industrial users and metallurgical coal customers, and controls approximately 1.8 billion tons of proven and probable coal reserves.

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Forward-Looking Statements

Certain statements in this press release are forward-looking as defined in the Private Securities Litigation Reform Act of 1995. These statements involve certain risks and uncertainties that may be beyond our control and may cause our actual future results to differ materially from our current expectations both in connection with the Chapter 11 filings Patriot announced on July 9, 2012 and our business and financial prospects. No assurance can be made that these events will come to fruition. We undertake no obligation (and expressly disclaim any such obligation) to publicly update or revise any forward-looking statement, whether as a result of new information, future events or otherwise. Factors that could affect our results include, but are not limited to: (i) the ability of Patriot and its subsidiaries to continue as a going concern, (ii) the ability of Patriot and its subsidiaries to operate within the restrictions and liquidity limitations of the post-petition credit facilities authorized by the Bankruptcy Court, (iii) the ability of Patriot and its subsidiaries to obtain Bankruptcy Court approval with respect to motions in the Chapter 11 cases, (iv) the ability of Patriot and its subsidiaries to successfully complete a reorganization under Chapter 11 and emerge from bankruptcy, which is dependent upon, among other things, the ability to implement changes to wage and benefit programs and postretirement benefit obligations consensually or pursuant to Sections 1113 and 1114 of the Bankruptcy Code, to minimize liabilities upon emergence and to obtain post-bankruptcy financing, (v) the effects of the bankruptcy filing on Patriot and its subsidiaries and the interests of various creditors, equity holders and other constituents, (vi) Bankruptcy Court rulings in the Chapter 11 cases and the outcome of the cases in general, (vii) the length of time Patriot and its subsidiaries will operate under the Chapter 11 cases, (viii) risks associated with third-party motions in the Chapter 11 cases, which may interfere with the ability of Patriot and its subsidiaries to develop one or more plans of reorganization and consummate such plans once they are developed, (ix) the potential adverse effects of the Chapter 11 proceedings on Patriot's liquidity or results of operations, (x) the ability to execute Patriot's business and restructuring plans, (xi) increased legal costs related to Patriot's bankruptcy filing and other litigation, and (xii) the ability of Patriot and its subsidiaries to maintain contracts that are critical to their operation, including to obtain and maintain normal terms with their vendors, customers, landlords and service providers and to retain key executives, managers and employees. In the event that the risks disclosed in Patriot's public filings and those discussed above cause results to differ materially from those expressed in Patriot's forward-looking statements, Patriot's business, financial condition, results of operations or liquidity, and the interests of creditors, equity holders and other constituents, could be materially adversely affected. For additional information concerning factors that could cause actual results to materially differ from those projected herein, please refer to Patriot's Form 10-K and Form 10-Q reports.

SOURCE Patriot Coal Corporation

MEDIA CONTACT: Michael Freitag/Aaron Palash, Joele Frank, Wilkinson Brimmer Katcher, (212) 355-4449; INVESTOR CONTACT: Janine Orf, (314) 275-3680, jorf@patriotcoal.com

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