



BENJAMIN A. KAHN
UNITED STATES BANKRUPTCY JUDGE

Dated: November 29th, 2023

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION

In re:) Lead Case No. 3:19-bk-30289
)
Blackjewel L.L.C., *et al.*,¹) Chapter 11
)
Debtors.) (Jointly Administered)

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

The Court has jurisdiction over these jointly administered cases under 28 U.S.C. § 1334(a), any proceedings herein which arise under, arise in, or relate to these cases under 28 U.S.C. § 1334(b), and all property of Debtors under 28 U.S.C. § 1334(e). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A),

¹ Debtors in these chapter 11 cases and the last four digits of each Debtor's taxpayer identification number are as follows: Blackjewel, L.L.C., Case No. 19-30289 (0823); Blackjewel Holdings L.L.C., Case No. 19-30290 (4745); Revelation Energy Holdings, LLC, Case No. 19-30291 (8795); Revelation Energy, LLC, Case No. 19-30292 (4605); Revelation Management Corporation, Case No. 19-30293 (8908); Dominion Coal Corporation, Case No. 19-30323 (2957); Harold Keene Coal Co. LLC, Case No. 19-30324 (6749); Vansant Coal Corporation, Case No. 19-30325 (2785); Lone Mountain Processing, LLC, Case No. 19-30326 (0457); Powell Mountain Energy, LLC, Case No. 19-30327 (1024); and Cumberland River Coal LLC, Case No. 19-30328 (2213).

and venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. The legal and factual bases set forth on the record and herein establish cause for the entry of this order, which is appropriate to ensure that the cases are handled expeditiously and economically and is in the best interests of the Liquidating Trust, and its creditors.

On March 22, 2021, the Court confirmed Debtors' plan, ECF No. 2499 (the "Plan"). ECF No. 3147. Article 9 of the Plan created a Liquidation Trust that was vested with "all right, title and interest in all of the Liquidation Trust Assets, as well as the rights and powers of each Debtor in such Liquidation Trust Assets . . . free and clear of all Claims and Interests for the benefit of the Liquidation Trust Beneficiaries." ECF No. 2499, at 28-29, §§ 9.2.1 and 9.3.1. Virtually all assets of the estates of the Debtors were transferred into the Liquidation Trust after confirmation of the Plan. Furthermore, the post-confirmation reports demonstrate substantial administrative expenses and potentially insufficient funds to satisfy the administrative expense claims or any unsecured claims in the case. Counsel for the Liquidation Trust is not located in Charleston, West Virginia.

In these circumstances, the Court finds cause in the administration of justice to conduct most hearings in this case by videoconference. The use of video and audio technology as set forth in this order will directly assist the Court and other

judicial personnel in the performance of their official responsibilities. **Nothing in this order should be construed to permit the broadcast of any proceedings from the courtroom to the public or media by audio or video.**

The Court's prior Order Establishing Certain Notice and Case Management Procedures, ECF No. 2217 (the "Procedures Order"), and the Amended Order Establishing Certain Notice and Case Management Procedures, ECF No. 2419 (the "Amended Procedures Order"), are hereby fully replaced and superseded by this order.

NOW, THEREFORE, after due deliberation and sufficient cause appearing, **IT IS ORDERED AS FOLLOWS:**

A. Service and Notice Procedures

1. In these jointly administered cases, all requests for an order as contemplated by Bankruptcy Rule 9013 and all applications (collectively, "Requests for Relief") shall be subject to the service and notice procedures described in this Order (the "Service and Notice Procedures"), which Service and Notice Procedures are hereby implemented and approved pursuant to Sections 102(a) and 105(a) of the Bankruptcy Code and Bankruptcy Rules 2002(m) and 9007. Service and notice given in accordance with the Service and Notice Procedures shall be deemed adequate pursuant to the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules of the Court (the "Local Rules").

2. All Requests for Relief must be filed with the Court in accordance with the Local Rules. Scheduling of motions in adversary proceedings will be by the Court in accordance with Local Rule 7007-1 Note.

3. The Liquidating Trustee must maintain a master service (the "Master Service List"), which must include:

- (a) The Liquidating Trustee and his counsel;
- (b) The United States Trustee;
- (c) The Attorney General of the United States;
- (d) The Civil Process Clerk for the United States Attorney's Office for the Southern District of West Virginia;
- (e) The Attorney General for the State of West Virginia;
- (f) All counsel having entered a notice of appearance who have not subsequently filed a withdrawal or notice of disinterest, but only one copy of the filing regardless of how many creditors or parties-in-interest the counsel represents; and
- (g) Those parties that may be added to the Master Service List upon written request to the Liquidating Trustee or as ordered by the Court for good and sufficient cause.

4. Any creditor or party-in-interest that wishes to receive notice other than as required in accordance with Bankruptcy Rule

2002 must file a notice of appearance and request for service of papers (a "Request") with the Clerk of the Court to the extent that it has not already done so and serve a copy of such Request upon each of the parties set forth on the Master Service List. The Request must include such party's (i) name, (ii) address, (iii) name of client, if applicable, (iv) telephone number, (v) facsimile telephone number, and (vi) electronic mail ("email") address, unless such party files a request to be exempted from providing an email address. All requests for automatic receipt of Requests for Relief, and other documents or writings filed in the case and any related adversary proceeding from and after the date of this Order that do not comply with the foregoing requirements will be denied, and the Request will not be processed by the Liquidating Trustee.

5. Each party having filed a Request to be added to the Master Service List and each party having requested a CM/ECF password from the Court will be deemed to have consented to electronic service of papers and to have waived the right to receive notice and service conventionally (i.e., served in paper or "hard copy"). Notwithstanding the foregoing, any party that has not filed a request to be added to the Master Service List, any party that is a governmental unit or agency, or any party that has not consented to or been deemed to have consented to electronic service, must be served in paper (i.e., "hard copy") by U.S. mail or overnight delivery. Except as specifically provided in this

paragraph 5, nothing in this Order shall be construed to modify the method of service of process as required under Bankruptcy Rules 9014 and/or 7004, as applicable.

6. The Liquidating Trustee must review the Master Service List on a quarterly basis, or prior to filing any Request for Relief if the Master Service List has not been reviewed within a week prior to the applicable filing, and update it to include the names, addresses, telephone numbers, and email addresses of any party-in-interest that has made a written request for notice in the case. In the event any changes are made to the Master Service List, the Liquidating Trustee must: (i) file the updated Master Service List on the case docket; and (ii) provide the Court with a document that reflects the changes that were made to the Master Service List since the last update.

7. All Requests for Relief must be served on the Master Service List as updated by the Liquidating Trustee pursuant to this Order.

8. All Requests for Relief must be served on the entities contemplated by Bankruptcy Rule 9013 and any entity whose interests may be materially and directly affected by the relief requested.

9. All matters or proceedings must be noticed in accordance with the applicable provisions of Bankruptcy Rule 2002, unless otherwise ordered by the Court or otherwise proscribed by the Bankruptcy Code. Provided, however, that nothing in this Order

will prejudice: (i) the right of the Trust or any party-in-interest to move the Court to further limit or expand notice of such matters and proceedings upon a showing of cause, including, but not limited to, the right to file a motion seeking emergency ex parte consideration or consideration upon shortened time; or (ii) the rights of any party to seek an enlargement or reduction of a time period under Bankruptcy Rule 9006(b) or (c).

10. A "Notice of Hearing," using the format attached hereto as Exhibit A, must be affixed as a first page to all Requests for Relief, and must include the following:

- (a) The title of the Pleading;
- (b) The Parties upon whom any response or objection to the Pleading is required to be served;
- (c) The date and time of the applicable objection deadline (the "Applicable Objection Deadline");
- (d) The date of the Omnibus Hearing or other hearing date (as ordered by the Court) at which the Court will consider the Pleading (the "Applicable Hearing Date");
- (e) If so provided under the Local Rules or standing practice in this district, a statement that the relief requested in the Pleading may be granted without a hearing if no objection is timely filed

and served in accordance with the Service and Notice Procedures.

11. To be properly considered by the Court at the Applicable Hearing Date, a moving party must comply with any notice period found in the Federal Rules of Bankruptcy Procedure and the Local Rules associated with a given Pleading. Prior to filing a Notice of Hearing, a moving party must contact Courtroom Deputy Karen Champagne via email at Karen_Champagne@ncmb.uscourts.gov and request an available hearing date not less than 21 days after filing and service of the Request for Relief. Notwithstanding Bankruptcy Rule 9006(f), no additional days will be added to the notice period if the Pleading is served by U.S. mail. Nothing in these Service and Notice Procedures will prejudice the right of any party to move the Court to request an enlargement or reduction of any time period under Bankruptcy Rules 6006(b) and 9006(b)-(c).

12. If a party seeks a reduction of a time period, it must file a Motion to Expedite Hearing immediately after filing the Request for Relief. The party must notify Courtroom Deputy Karen Champagne by email at Karen_Champagne@ncmb.uscourts.gov of such a motion, and file with the Court a proposed order shortening notice of and expediting hearing on the relevant Request for Relief.

13. The Applicable Objection Deadline must be no later than: (i) the seventh (7th) calendar date before the Applicable Hearing Date; or (ii) such other date otherwise ordered by the Court. The

Applicable Objection Deadline may be extended with the consent of the movant or the applicant or by further order of the Court. An objection will not be considered timely filed unless filed with the Court and served on all parties on the Master Service List and the interested movant, on or before the Applicable Objection Deadline. All parties filing an objection must include their telephone and their email or facsimile number in the signature block on the last page of the objection.

14. Unless otherwise ordered by the Court, a reply to a response or an objection will not be considered timely unless timely filed with the Court and served in accordance with these Service and Notice Procedures on or before 12:00 p.m., Prevailing Eastern Time, on the day that is at least three (3) business days before the Applicable Hearing Date.

15. Proposed Agenda for Hearings. At or before 3:00 p.m. Prevailing Eastern Time the day prior to each hearing day, the Liquidating Trustee's counsel must file on the case docket a proposed agenda outlining: (i) the matters to be heard on such hearing day; (ii) matters for which no objection was filed and the Court has entered an order; and (iii) matters for which no objection was filed but for which no order has been entered such that the Court will consider the matter at the hearing (the "Agenda"). The Agenda may and should be updated after the initial submission if necessary. The Agenda must list disputed matters

first and will be limited to substantive papers - motions and responses - and need not include the supporting memoranda, briefs, affidavits, exhibits, or miscellaneous filings, such as notices of adjournment and affidavits of service. Service of the Agenda must be made by email on the following: (i) the Master Service List, (ii) the Court's Courtroom Deputy and law clerk at Karen_Champagne@ncmb.uscourts.gov and Kahn_Chambers@ncmb.uscourts.gov, respectively, (iii) the Clerk of Court for the United States Bankruptcy Court for the Southern District of West Virginia, and (iv) the Court's Automation Department at Video_Court@ncmb.uscourts.gov. Service of the Agenda must be made on the above parties via CM/ECF and via email (on those parties that included an email address in the Request and who are not otherwise registered for CM/ECF), and such service will constitute sufficient service.

16. Information Available on the Court's Website. The Court will maintain a link on its main website, www.wvsb.uscourts.gov, where it will post Agendas provided to the Court, list Omnibus Hearing Dates, and provide other information and notices regarding the Debtors' case.

17. Settlements. If a matter is properly noticed for hearing and the parties reach agreement on a settlement of the dispute prior to the final hearing, the parties may announce the settlement at the scheduled hearing on the hearing day. If the Court

determines that the notice of the dispute and the hearing is adequate notice of the effects of the settlement (i.e., that the terms of the settlement are not materially different from what parties-in-interest could have expected if the dispute were fully litigated), the Court may approve the settlement at the hearing without further notice of the terms of the settlement. If the Court determines that additional or supplemental notice is required, the parties must serve such notice in accordance with the procedures set forth herein and a hearing to consider such settlement will be on the next hearing day deemed appropriate by the Court.

B. Hearings and Related Procedural Matters

18. Claims Objections. The procedures for claims objections will be governed by the Court's January 12, 2023 Order. ECF No. 3705.

19. Guidelines for Setting a Hearing Date. Pleadings will not be considered by the Court unless filed and served in accordance with the Service and Notice Procedures. The Court will inform parties-in-interest when Omnibus Hearings will take place in the case via a link on its website, www.wvsb.uscourts.gov. To the extent the website does not reflect an Omnibus Hearing Date applicable to a Request for Relief which a party intends to file, the party must contact Courtroom Deputy Karen Champagne by email at Karen_Champagne@ncmb.uscourts.gov to request a hearing date.

20. Admission of Direct Evidence Through Declarations. For all contested matters and applications, and under the authority of Rule 611 of the Federal Rules of Evidence, direct evidence may be offered by declarations complying with 28 U.S.C. § 1746, to the extent the declarations contain admissible evidence from competent witnesses with personal knowledge and the declarant is made available for cross examination at the time the direct evidence is offered into the record, unless all parties present at the affected hearing consent otherwise.

21. Audio and Video Conferencing Solutions. Until further order of the Court and unless otherwise noticed by the Court, all hearings will continue to take place in open court and by video conference, with only parties and counsel permitted to attend via the telephonic and videoconferencing solutions described herein, unless otherwise noticed by the Court. Members of the public and the media may attend hearings in person in open court as provided below. The Court will utilize the AT&T Teleconferencing Service ("AT&T") (for audio purposes) and Zoom for Government ("ZFG") (for video purposes).

Effective September 21, 2023, the Judicial Conference of the United States has terminated the temporary permission to broadcast court proceedings for the purpose of public dissemination. Therefore, only parties in interest and counsel who have timely registered with the Court under the terms of this order may connect

to the courtroom using video or audio technologies. Parties in interest and counsel seeking to connect to the courtroom via AT&T and/or ZFG must follow the procedures outlined in paragraph 23 (Prior Notice of Intent to Use ZFG and/or AT&T) below. Any person who connects to the courtroom via AT&T and/or ZFG without seeking prior approval under the procedures outlined in paragraphs 22 and 23 below will be promptly disconnected by the courtroom deputy and will be deemed to have waived the right to attend the hearing.

As stated above, members of the public may no longer connect to the courtroom via AT&T or ZFG. Except as provided in paragraph 22, members of the public may attend the proceedings in-person in open court at either of the following addresses:

United States Bankruptcy Court for the
Southern District of West Virginia
Robert C. Byrd U.S. Courthouse
300 Virginia St E
Bankruptcy Courtroom, Room 6200, 6th Floor
Charleston, WV 25301

United States Bankruptcy Court for the
Middle District of North Carolina
Courtroom 1
101 S Edgeworth St
Greensboro, NC 27401

22. Live Testimony. Except with respect to direct testimony offered by declaration as permitted under this order, any witness testimony, including cross examination of any declarant, will be taken live and in open court unless otherwise ordered by the Court prior to the hearing. If any party wishes to offer testimony in

open court by contemporaneous transmission from a different location, the party must first confer with all parties in interest to the affected proceeding in which the party will offer testimony to determine whether each consents to remote testimony. After conferral, the offering party must file a motion requesting such authority under Fed. R. Bankr. P. 9017 and Fed. R. Civ. P. 43(a) at least fourteen (14) days prior to the hearing. Any such motion must indicate whether all parties in interest to the proceeding consent to remote testimony by contemporaneous transmission from a different location. The motion further must contain the following information: (a) the name and address of each proposed Remote Witness from whom the sponsoring party may offer testimony; (b) the matter on which the Remote Witness will provide testimony; (c) the location of the Remote Witness (city, state, country); and (d) the place from which the Remo Witness will testify (e.g., home, office - ***no addresses are required***). **If the Court denies any motion for remote testimony, the Court will conduct all hearings**

scheduled for that day live at:

United States Bankruptcy Court for the
Southern District of West Virginia
Robert C. Byrd U.S. Courthouse
300 Virginia St E
Bankruptcy Courtroom, Room 6200, 6th Floor
Charleston, WV 25301

In such an event, no attendance by video conference will be permitted, the courtroom in Greensboro, North Carolina will not be

open or available, remote attendance by counsel shall be permitted only by telephone, and any counsel choosing to appear by telephone may only be heard on argument and may not offer evidence, object to the admission of any evidence, or examine any witness.

(a) Audio. Parties in interest and counsel must provide prior notice to the Court as outlined in paragraph 23 below of the intent to participate in the hearing other than in person. Such persons will then be provided with the phone number and access code, with which they may access the AT&T Teleconference.

(b) Video. All participants using ZFG must use AT&T audio and disable the ZFG audio feature. The ZFG link and any password shall be provided to those Parties who have submitted a notice of intent to participate via ZFG to the Court in accordance with Paragraph 23 below. All parties in interest, counsel, and any approved Remote Witness must conduct a pre-hearing test of Zoom and telephone using the same equipment that they will be using during the hearing.

23. Prior Notice of Intent to Use ZFG and/or AT&T. Except as provided in paragraph 22 above, parties in interest who are not testifying may attend the hearing for the affected proceeding in person in either courtroom listed above if they choose to do so.

All parties in interest and counsel wishing to attend the hearing via ZFG or wishing to offer a Remote Witnesses as approved by the Court under paragraph 22 above must provide notice to karen_champagne@ncmb.uscourts.gov and Video_Court@ncmb.uscourts.gov via email no later than 5:00 p.m. prevailing Eastern Time two business days prior to the scheduled hearing. The notice must identify each matter on which the Party intends to attend via ZFG. The Court will circulate the ZFG link to all such Parties prior to the hearing. Parties who have been granted authority to offer testimony by contemporaneous transmission from a different location must circulate such information to any Remote Witness they intend to sponsor.

24. Remote Witness Testimony. Any approved Remote Witness will be subject to the following terms and conditions:

- (a) All Remote Witnesses must be affirmed and their testimony will have the same effect and be binding on the Remote Witness in the same manner as if such Remote Witness was affirmed and testified in open court.
- (b) Each Remote Witness must provide his or her testimony from a quiet room and must situate himself or herself in such a manner as to be able to both view the video feed and be seen by the Court.

- (c) While the Remote Witness is affirmed and testifying:
- (i) no person may be present in the room from which the Remote Witness is testifying;
 - (ii) the Remote Witness may not have in the room any documents except the exhibits submitted by the parties pursuant to paragraph 25 below, and any declaration submitted in lieu of direct testimony; and
 - (iii) may not communicate with any other person regarding the subject of the testimony, by electronic means or otherwise. If the Remote Witness or counsel seek to communicate with one another, either must openly request a recess for such purpose. If such request is granted by the Court, the Remote Witness and counsel may privately confer "offline," i.e., by telephonic means that are not transmitted to the other parties.

25. Submission of Exhibits to Court. Notwithstanding Local Rule 5005-1, parties intending to offer exhibits and demonstratives at a hearing must file all such exhibits and demonstratives on the docket in bookmarked .pdf format no later than **5:00 p.m. prevailing Eastern Time two business days prior to any scheduled hearing**, and must contemporaneously serve the filed exhibits by email on counsel for each of the parties who has made an appearance on the relevant Pending Matter and the U.S. Trustee.

All exhibits must be separately labeled. Filing of any exhibit will not require the exhibit to be offered into evidence at the hearing, nor will any proposed exhibit be considered as evidence unless offered and admitted at the hearing. Notwithstanding the foregoing, any demonstrative exhibit or any exhibit that will be used solely for rebuttal or impeachment ("Demonstrative or Rebuttal Exhibit") may be separately password protected, which password must be provided at the hearing in the event the offering party determines to use such exhibit.

26. Responsibility for Remote Witnesses. The Party sponsoring any Remote Witness will be responsible for ensuring that the AT&T dial-in, and ZFG link are supplied to the Remote Witness prior to the hearing and that the Remote Witness has access to AT&T and ZFG, as applicable. **The Party sponsoring a Remote Witness must ensure that the witness has printed copies of all exhibits filed with the Court by all counsel prior to the start of the hearing. In addition, any party sponsoring a Remote Witness must ensure that the witness has the ability to access all any password protected Demonstrative or Rebuttal Exhibits during the hearing on a device separate from the device used to connect to the hearing. In lieu of printed copies, a witness may have electronic copies that will be readily accessible and reviewable by the witness during testimony on a device separate from the device used to connect to the hearing.**

27. Courtroom Formalities. Although conducted using telephonic and videoconferencing technologies, these evidentiary hearings constitute court proceedings. No person may record— from any location or by any means—the audio or video of the hearing. The audio recording created and maintained by the Court shall constitute the official record of the hearing. Further, the formalities of a courtroom will be observed. Counsel and Remote Witnesses must dress appropriately, exercise civility, and otherwise conduct themselves in a manner consistent with the dignity of the Court and its proceedings.

28. Checking in for Hearing. Due to the Court's security requirements for participating in a ZFG audio and video hearing, all persons seeking to attend the hearing via ZFG or telephone must connect to the hearing beginning fifteen (15) minutes prior to the scheduled commencement of the hearing. When parties sign into ZFG and add their names, they must type in the first and last name that will be used to identify them at the Hearing. Parties that type in only their first name, a nickname or initials will not be admitted into the Hearing. When seeking to connect for either audio or video participation in a ZFG Hearing, participants will first enter a "Waiting Room," in the order in which they seek to connect. Court personnel will admit each person to the Hearing from the Waiting Room after confirming the person's name (and

telephone number, if a telephone is used to connect) provided to the Court in accordance with this Order.

29. The Clerk will make a copy of this order available on the Court's webpage for this case. The Trust must serve a Notice of entry of this Order on the Master Service List, providing a link to the Court's webpage where a copy of this order may be obtained.

[END OF DOCUMENT]

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION

In re:) Lead Case No. 3:19-bk-30289
)
Blackjewel L.L.C., *et al.*,) Chapter 11
)
Debtors.¹) (Jointly Administered)

NOTICE OF HEARING ON _____

PLEASE TAKE NOTICE pursuant to the *Order Establishing Certain Notice and Case Management Procedures* [ECF No. ____] (the “Case Management Order”) that a hearing (the “Hearing”) to consider the _____ [ECF No.] (the “”) filed by _____ (the “Movant”) on _____, 202_ in the above captioned bankruptcy cases shall be held before the United States Bankruptcy Court for the Southern District of West Virginia (the “Bankruptcy Court”) on _____, 202_ at _____ (Prevailing Eastern Time).

PLEASE TAKE FURTHER NOTICE that the Hearing will be conducted pursuant to the procedures in the Case Management Order as may be modified by further orders of the Court from time to time. **Any party wishing to be heard must comply with the terms and provisions of the Case Management Order.**

PLEASE TAKE FURTHER NOTICE that responses or objections, if any, to the relief requested in the _____ must be in writing and conform to the Federal Rules of Bankruptcy Procedure, the Local Rules of the Bankruptcy Court, and the procedures described in the Order entered by the Bankruptcy Court on November 29, 2023 [ECF No. 3784]. Any responses or objections shall be served in an accordance with the Case Management Order on the following parties:

¹ The Debtors in these chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: Blackjewel, L.L.C. (0823); Blackjewel Holdings L.L.C. (4745); Revelation Energy Holdings, LLC (8795); Revelation Management Corporation (8908); Revelation Energy, LLC (4605); Dominion Coal Corporation (2957); Harold Keene Coal Co. LLC (6749); Vasant Coal Corporation (2785); Lone Mountain Processing, LLC (0457); Powell Mountain Energy, LLC (1024); and Cumberland River Coal LLC (2213).

Any response must be filed and served no later than on _____ (the “Objection Deadline”). If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the _____ and may enter an order granting that relief.

Respectfully submitted, this ____ day of _____.