

Bankruptcy Update

Expert Analysis

Oil, Gas and Commodities Sectors Drive Increase in Filings

Following six years of gradual decline, this year has already brought a significant surge in corporate bankruptcy filings. According to data from Epiq Systems, Inc., a total of 2,802 businesses filed for bankruptcy in January 2016. This marks an almost 13 percent increase over business bankruptcies filed in January 2015. We can expect this trend to continue throughout the rest of the year with oil, gas, and commodities sectors driving the uptick. This article focuses on the recent chapter 11 filings of Arch Coal, Inc., Paragon Offshore plc, Sundevil Power Holdings, LLC, and Ryckman Creek Resources, LLC.

Coal Mining and Supply

On Jan. 11, 2016, Arch Coal, Inc. and affiliated debtors filed petitions for relief under chapter 11 in the U.S. Bankruptcy Court for the Eastern District of Missouri.

The debtors mine, prepare and supply metallurgical and thermal (or steam) coal to a variety of domestic and international customers located

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in 36 U.S. states and 20 countries throughout North America, Europe, Asia and South America. Their operations are located in Wyoming, Colorado, Illinois, West Virginia, Kentucky, Virginia and Maryland.

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The debtors attributed their restructuring needs to economic challenges in the coal industry such as a decreased demand for coal and the decline in coal prices, and a rush of low-cost natural gas availability.

The debtors believe that they have enough liquidity to continue normal business, citing more than \$600 million in cash and short-term investments.

The debtors are seeking bankruptcy court approval of a debtor-in-possession

facility that will provide post-petition financing of approximately \$275 million in the form of a delayed draw term loan facility, referring to a term loan feature that allows borrowers to withdraw predetermined amounts at specific intervals. However, the official committee of unsecured creditors vehemently opposes the debtors' proposed financing on the grounds that approval of the financing will transfer control of the bankruptcy to the debtors' prepetition secured lenders and cites to the debtors' significant available cash reserves to support its stance that DIP financing is not necessary.

Arch Coal, Inc. (Bankr. E.D. Mo. Case No. 16-40136)

Offshore Drilling Rigs

On Feb. 14, 2016, Paragon Offshore plc and its affiliates filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the U.S. Bankruptcy Court for the District of Delaware.

The debtors are international providers of offshore drilling rigs used to conduct oil and gas drilling for exploration and production. The debtors have a significant global imprint with operations located in Houston, Brazil, Canada, Europe, Africa, Mexico, the Middle East, and Asia.

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According to initial bankruptcy filings, the debtors encountered financial difficulty as a result of the global decline of oil and gas prices, the oversupply of global oil production and a highly competitive industry.

The debtors commenced their chapter 11 case with a pre-arranged chapter 11 plan embodying the compromise reached with their bondholders in a plan support agreement. Under the plan, the debtors' bondholders are set to exchange \$984 million in senior unsecured notes for \$345 million in cash plus 35 percent of equity, and existing equity holders will retain 65 percent of equity.

Although the plan has the support of creditors holding 77 percent of the debtors' senior unsecured notes and 96 percent of revolving debt, the debtors' term lenders, owed approximately \$650 million, assert that they were left out of prepetition negotiations and intend to oppose plan confirmation.

Paragon Offshore plc (Bankr. D. Del. Case No. 16-10386)

Power Generating

On Feb. 11, 2016, Sundevil Power Holdings, LLC and SPH Holdco LLC filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the U.S. Bankruptcy Court for the District of Delaware.

The debtors own and operate 550 megawatt power generating blocks in Gila Bend, Ariz. They sell energy into the Southwest electric power market, specifically in Arizona, New Mexico, and Southern Nevada.

The debtors attribute their financial difficulties to lower power demand growth, declining natural gas prices, increased distributed generation (rooftop solar), slower

than expected retirement of older, inflexible coal-fired generation and a substantial build out of utility scale renewable energy sources.

The debtors are seeking bankruptcy court approval to enter into a debtor-in-possession facility with their prepetition lenders that will provide postpetition financing in the amount of \$45 million. The DIP facility was approved on an interim basis allowing the debtors to access \$7.5 million in funding. Additionally, after unsuccessfully attempting to find a third-party equity investor or, alternatively, to sell

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their assets outside of bankruptcy, the debtors filed a motion seeking approval of bidding procedures in connection with the sale of substantially all of their assets. The proposed procedures will allow the debtors to select a stalking horse bidder to set a minimum purchase price and hopefully generate additional interest in their assets.

Sundevil Power Holdings, LLC (Bankr. D. Del. Case No. 16-10369)

Natural Gas Storage

On Feb. 2, 2016, Ryckman Creek Resources, LLC and affiliated debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the U.S. Bankruptcy Court for the District of Delaware.

The debtors were formed in 2009 to engage in the acquisition, development, marketing, and operation of an underground natural gas storage facility. The facility is a depleted crude oil and natural gas reservoir located in Uinta County, Wyo., approximately 25 miles southwest of the Opal Hub, a major collection point for gas produced in Wyoming.

According to initial filings, the debtors' financial difficulties stem from a fire that caused substantial damage to key equipment at the facility, the presence of elevated levels of a corrosive gas in the reservoir that required removal, and an arbitration panel award in favor of Troy Construction, LLC for breach of contract damages in the amount of \$19.8 million.

The debtors obtained bankruptcy court approval of a \$3 million bridge loan to be provided by ING Capital LLC. The debtors also reported that they are working with ING to come to terms for a potential \$30 million debtor-in-possession financing facility.

Ryckman Creek Resources, LLC (Bankr. D. Del. Case No. 16-10292)