Thousands of miners to lose health care, pensions in Patriot Coal bankruptcy

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The United Mine Workers of America (UMWA) has filed a joint suit with eight retired and active coal miners against Peabody Energy and Arch Coal. The suit is in relation to Patriot Coal's efforts to discharge its health care and pension obligations for more than 2,000 active union miners and more than 10,000 retirees.

Patriot filed for Chapter 11 bankruptcy protection on July 9, 2012 in order to "undertake a comprehensive financial restructuring" and address "substantial and unsustainable legacy costs."

In total, the union estimates that "more than 22,000 active and retired UMWA members and their dependents—most of whom live in West Virginia, Indiana, Illinois, Kentucky and Ohio—are affected by the Patriot bankruptcy."

Patriot Coal was created by mining giant Peabody Energy on October 31, 2007. The company operates 16 mining complexes—13 in West Virginia and 3 in Kentucky. Last year, Patriot produced more than 31 million tons of steam and metallurgical coal for the domestic and global markets. The company controls 1.9 billion tons of proven coal reserves valued at $2.5 billion.

The bankruptcy of Patriot is an expression of a general crisis developing in the central Appalachian—mainly Southern West Virginia and Eastern Kentucky—coal industry which has only been exacerbated by the ongoing economic crisis. The US Department of Energy's latest projections released in June predict production in the region will be cut in half by the end of the decade.

This crisis has found reflection in plunging coal industry share prices, productions slowdowns, and growing layoffs.

However, the Patriot bankruptcy is not merely the product of blind economic forces, but also the result of deliberate policies in the coal industry, first to increase profit margins at the expense of workers, and second, to shift the weight of the economic crisis onto their backs. This is a process which has been repeated throughout the US and internationally.

With the creation of Patriot in 2007, Peabody CEO Rick Navarre explained that the parent company would significantly lower its legacy liabilities as a result. Peabody would also use the opportunity to pass along its below-market contracts to the new company.

"Our retiree, health care liability and related expense will be reduced by about 40%," Navarre claimed. "Workers' compensation liability will be cut nearly 90% and asset retirement obligations will be one-third lower and the combined fund and multi-employee co-act obligations will now fully reside with Patriot. In total, our legacy liabilities, expenses and cash flows will be nearly cut in half."

Peabody retained just enough of the legacy liabilities associated with the operations acquired by Patriot to make the new company appear solvent at the time and allow its shares of the new company to be distributed to Peabody shareholders tax free. In its first quarterly report filed after the spin-off, Patriot reported $1.2 billion in assets and $1.1 billion in liabilities.

The creation of Patriot followed on the heels of a similar maneuver by St. Louis-based Arch Coal in 2006 in which the company's union operations in Appalachia were spun-off into Magnum Coal. At that time, Arch explained that the creation of Magnum would allow the company to write off approximately $530 million in legacy liabilities, including "approximately $450 million of post-retiree health care, workers' compensation and reclamations" and "$80 million related to previously unrecognized actuarial liabilities associated with post-retiree health care." In addition, the company would unload "an estimated $50 million to $60 million of below-market legacy sales contracts" to Magnum.

Patriot then acquired Magnum in 2008, further burdening it with debt and unsustainable legacy liabilities.

In its bankruptcy filing, Patriot complained that it is responsible for benefits to retirees, which outnumber active miners at its operations three to one.

The significance of these maneuvers are expressed in the fact that more than 90 percent of those positioned to lose pensions and health care in the Patriot bankruptcy never worked a day for the company, but last worked for Peabody or Arch.

According to Reuters, Patriot has had only one profitable quarter since the spin-off and is currently burdened with almost twice the legacy liabilities of Peabody, which produces nearly 10 times as much coal. In its bankruptcy filing, Patriot reported $3.57 billion in assets and $3.07 billion in debt.

Patriot laid off 1,000 of its 4,700 miners, idled some of its operations, and lowered its sales targets before seeking bankruptcy protection earlier this year.

The company now intends to use bankruptcy as a means of returning to profitability at the expense of its workforce. “The coal industry is undergoing a major transformation and Patriot’s existing capital structure prevents it from making the necessary adjustments to achieve long-term success,” said then CEO Irl F. Engelhardt in announcing the bankruptcy. “Our objective is to use the reorganization process to address important issues in an orderly way and make the company stronger and more competitive.”

The company announced in May that it was working with the notorious private-equity firm Blackstone Group “to achieve an optimal financing package” for its growing debt. Blackstone, which has close ties to the Obama administration, has made billions of dollars through parasitic corporate acquisitions and asset stripping.

While offering no opposition to the creation of Patriot at the time, the union is now charging that “Patriot is a company that was set up to fail so that two of the biggest coal operators, Peabody Energy and Arch Coal, could try to walk away from their contractual obligations.”

The union has made no attempt to mobilize the nation’s miners in defense of its members at Patriot, instead focusing on fighting Patriot’s choice of New York City as the venue for the bankruptcy proceedings. The company had set up two subsidiary companies in New York in the weeks before the filing, in order that the hearings might be held outside of the coalfields and near their creditors.

The unwillingness to mobilize the working class to defend the Patriot miners is an expression of the decline in the union itself and its transformation into an anti-working class organization dominated by a bureaucracy which does not view the coal operators with hostility but as partners. In a press release after the bankruptcy filing, UMWA President Cecil Roberts pledged that the union was “prepared to work with the company to see to it that the wages and benefits these [union] members have earned through their sweat and blood will continue to be paid.”

The UMWA bureaucracy has amassed assets of nearly $173 million in their junior partnership with the coal industry as union membership has dwindled to just under 80,000. However, any appeal made to the millions of American workers facing similar assaults on their living standards would certainly be answered enthusiastically.

Only a generation ago, such an attack on pensions and health care would have seen the union carry out industry-wide strikes and work actions in order to maintain control of its militant membership. Today the union responds to an attack on its members by pledging to “work with the company” and filing impotent lawsuits.

Indeed, as UMWA President Cecil Roberts told members at a rally, the miners may not have clear legal standing to act against Peabody. Instead, he claimed their lawsuit rests on a “great deal of moral standing.”

That the issue in the Patriot bankruptcy involves the question of health care and retirement benefits also brings the historical decline of the union into relief. These obligations have their source in the establishment of the Welfare and Retirement Fund in the aftermath of the Second World War. After a series of bitter strikes in the nation’s coalfields interrupted the nation’s coal supplies, the mines were seized by the federal government. However, the unrelenting militancy of the miners forced the federal government to settle with the union, granting health and retirement benefits to miners.