

US miners' union reaches settlement with Patriot Coal and Peabody Energy

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The United Mine Workers (UMW) union announced last week that it had reached a “global settlement” with Patriot Coal and Peabody Energy to secure more than \$400 million towards future health care benefits for retirees. The funds will be deposited over the next four years into the new UMW Retiree Healthcare Trust set up as a result of Patriot’s bankruptcy.

Patriot filed for bankruptcy protection in July 2012, citing “exceptionally weak coal markets, coupled with increasing costs and unsustainable legacy liabilities.” In May, bankruptcy judge Kathy Surratt-States ruled in Patriot’s favor, agreeing that the company had done all it could to lower its operating costs outside of wrenching concessions from its unionized workers.

To this end, Judge Surratt-States granted Patriot the right to tear up its collective bargaining agreement with the UMW and “adjust wages, benefits and work rules for union employees to a level consistent with the regional labor market.” The ruling also permitted Patriot to cease providing health care to some 13,000 retirees and their dependents and instead form a Voluntary Employees’ Benefits Association (VEBA) to be administered by the union.

Patriot was not simply the victim of the economic crisis and the recent downturn in the US coal industry. The company was deliberately created by Peabody in 2007 to shed mounting legacy liabilities associated with its union operations east of the Mississippi. Upon its creation, the mining giant sold Patriot 13 percent of its assets, but burdened it with about 40 percent of its health care liabilities.

In 2008, Patriot bought Magnum Coal, a similar spinoff of union operations from Arch Coal created in 2005. Through the deal, Patriot acquired 12 percent of Arch’s assets, along with 97 percent of its retiree health care liabilities. As a result of both deals, Patriot has

three times as many retirees as active miners. More than 90 percent of them have never worked a day for the company.

In response to the threat the bankruptcy posed to its membership, the UMW bureaucracy did nothing outside of organizing a series of protest stunts and a “Fairness at Patriot” public relations campaign. Meanwhile, union officials carried out negotiations with Patriot leading up to the May bankruptcy ruling and after, in an effort to save the company and return it to profitability as a means of safeguarding its own narrow institutional self-interests at the expense of its members (see “The United Mine Workers and the Patriot Coal bankruptcy”).

As part of the new settlement reached last week, the UMW has agreed to “relinquish the value of virtually all of its 35 percent equity stake in [the reorganized] Patriot” that the union received as part of the May bankruptcy ruling and “halt its months-long public relations and direct action effort related to Peabody.”

In exchange, Peabody has agreed to contribute \$310 million over the next four years to the union-administered VEBA. For its part, Patriot will maintain its commitment to providing the VEBA with \$15 million next year and up to \$60 million over the following three years, in addition to certain production-based royalty payments.

In his statement on the settlement, UMW president Cecil Roberts admitted that, “as significant as it is, [the settlement] still does not provide the level of funding needed to maintain health care for these retirees forever.” Indeed, the \$400 million is one fourth the \$1.6 billion the union estimates is required for the long-term funding of retiree health care, which currently costs nearly \$7 million a month.

In a separate agreement announced by Arch last

week, the company has reached its own settlement with Patriot, agreeing to pay the company \$5 million upon its exit from bankruptcy and release a \$16 million letter of credit Patriot posted in Arch's name. In addition, Patriot will receive an additional \$16 million in exchange for certain coal reserves in West Virginia.

While announcing it had recently won a dismissal of the UMW-sponsored lawsuit seeking payment for former Arch retirees now under the VEBA, Arch claims it "remains in active discussions" with the union.

The settlements reached by Patriot with Peabody, Arch, and the UMW have facilitated an agreement between Patriot and Knighthead Capital Management to provide \$250 million in financing for "Patriot to emerge from Chapter 11 by year-end as a strong competitor in the coal industry," announced Patriot CEO Bennett Hatfield. All the settlements are expected to be approved by Judge Surratt-States in a hearing scheduled for November 6.

It is now clear that the entire "Fairness at Patriot" campaign launched by the union bureaucracy was in fact nothing more than a struggle for fairness *for* Patriot. The interests of the bureaucracy were bound up with those of the company. This is why the primary targets of the campaign from the beginning were Peabody and Arch, in an effort to pressure these mining giants into agreeing to a settlement that would save Patriot.

The rescue of Patriot also drove the bureaucracy's decision to push through a concessions contract in August, blackmailing its members with the approved bankruptcy plan on the one hand and bullying them with the specter of Patriot's liquidation on the other. The contract contained wage cuts of \$1 per hour, cutbacks in paid holidays, sick time and vacation days, and the elimination of premium overtime rates. The deal also increased out-of-pocket health care expenses and prescription drug costs, in addition to agreeing to the scrapping of retiree health care in favor of the VEBA scheme.

In September, the union offered no resistance to Patriot's decision to idle its Guyan surface mine and Fanco preparation plant in southern West Virginia's Logan County, offering only about 50 of the 250 workers there other positions with the company.

Roberts's reaction that the "announcement by Patriot

is very disappointing, though not unexpected" considering the "continued depression in the coal market" differed little from the crocodile tears shed by Patriot CEO Hatfield. "This is an unfortunate but necessary step to align Patriot's production with expected sales," Hatfield claimed in making the announcement. "We still have to contend with the industry-wide challenge of coal prices that have fallen well below production costs at many central Appalachian mines."

As part of its deal with Arch, Patriot claimed that "certain expiring coal leases in Patriot's Logan County mining complex will be extended," but it remains unclear what effect this will have on the plans to idle the mine.



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