

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

----- X
In re: : Chapter 11
: :
EMERGE ENERGY SERVICES LP, : Case No. 19-11563 (KBO)
: :
Reorganized Debtor.¹ : Obj. Deadline: December 27, 2021 at 4:00 p.m. (ET)
: Hearing Date: January 26, 2022 at 2:00 p.m. (ET)
: :
----- X

**MOTION OF THE REORGANIZED DEBTOR FOR AN ORDER FURTHER
EXTENDING THE DEADLINE FOR THE REORGANIZED DEBTOR TO OBJECT TO
ADMINISTRATIVE CLAIMS AND GRANTING RELATED RELIEF**

The reorganized debtor in the above-captioned case (the “**Reorganized Debtor**”),² by and through its undersigned counsel, respectfully represents as follows:

JURISDICTION

1. This Court has jurisdiction to consider this motion (the “**Motion**”) under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding under 28 U.S.C. § 157(b)(2). Venue of the Chapter 11 Case and this Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

2. On July 15, 2019 (the “**Petition Date**”), the Debtors filed voluntary petitions in this Court commencing the Chapter 11 Case.

¹ The Reorganized Debtor in this case, along with the last four digits of the Reorganized Debtor’s federal tax identification number, is Emerge Energy Services LP (2937). The Reorganized Debtor’s address is 6500 West Freeway, Suite 800, Fort Worth, Texas 76116.

² Prior to the occurrence of the Effective Date (as defined below), the Reorganized Debtor was one of five debtors and debtors-in-possession (collectively, and prior to the Effective Date, the “**Debtors**”) in the above-captioned chapter 11 case (the “**Chapter 11 Case**”).



3. On December 18, 2019, the Court entered an order [Docket No. 721] (the “**Confirmation Order**”) confirming the *Modified Second Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code*, which was attached to the Confirmation Order as Exhibit 1 thereto (the “**Plan**”).³ The Plan became effective, and was substantially consummated, on December 20, 2019 (the “**Effective Date**”). *See* Docket No. 733.

ADMINISTRATIVE CLAIMS OBJECTION DEADLINE

4. Pursuant to the Confirmation Order and Plan, “[e]xcept as otherwise provided [in the Confirmation Order], in the Plan, or under section 503(b)(1)(D) of the Bankruptcy Code, unless previously Filed or paid, requests for payment of Administrative Claims must be Filed with this Court and served on the Reorganized Debtors . . . by no later than the Business Day which is thirty (30) days after service of notice of the Effective Date.” *See* Confirmation Order ¶ 27; *see also* Plan Article II.A.1. The Notice of Effective Date set January 20, 2020 at 5:00 p.m. (ET) as the deadline to file and serve such Administrative Claims. *See* Docket No. 733.

5. Further, pursuant to the Confirmation Order and the Plan, the deadline to object to such requests is “the later of (a) 120 days after the Effective Date and (b) 60 days after the Filing of the applicable request for payment of Administrative Claims, if applicable, as the same may be modified or extended from time to time by Final Order of the Bankruptcy Court.” *See* Confirmation Order ¶ 27; *see also* Plan Article II.A.1.⁴ Accordingly, the deadline to file

³ Capitalized terms not otherwise defined herein shall have the meanings given to them in the Confirmation Order or the Plan, as applicable.

⁴ The Plan also separately sets a deadline to object to Claims, which is “the latest of (a) one hundred eighty (180) days after the Effective Date; (b) ninety (90) days after the Filing of an applicable Proof of Claim, or (c) such other date as may be specifically fixed by Final Order of the Bankruptcy Court for objecting to such Claim.” *See* Plan Article I.C. (definition of “Claims Objection Deadline”). Pursuant

objections to Administrative Claims subject to the Administrative Claims Bar Date (the “**Administrative Claims Objection Deadline**”) was Monday, April 20, 2020.

6. On June 4, 2020, this Court entered the *Order Extending the Deadline for the Reorganized Debtors to Object to Administrative Expense Claims* [Docket No. 846] (the “**First Extension Order**”). Pursuant to the First Extension Order, the Administrative Claims Objection Deadline was extended to August 18, 2020.

7. On September 2, 2020, this Court entered the *Order Extending the Deadline for the Reorganized Debtors to Object to Administrative Expense Claims* [Docket No. 881] (the “**Second Extension Order**”). Pursuant to the Second Extension Order, the Administrative Claims Objection Deadline was extended to December 16, 2020.

8. On December 30, 2020, this Court entered the *Order Extending the Deadline for the Reorganized Debtor to Object to Administrative Expense Claims* [Docket No. 956] (the “**Third Extension Order**”). Pursuant to the Third Extension Order, the Administrative Claims Objection Deadline was extended to April 15, 2021.

9. On April 30, 2021, this Court entered the *Order Extending the Deadline for the Reorganized Debtor to Object to Administrative Expense Claims* [Docket No. 992] (the “**Fourth Extension Order**”). Pursuant to the Fourth Extension Order, the current Administrative Claims Objection Deadline is August 13, 2021.

10. On August 31, 2021, this Court entered the *Order Extending the Deadline for the Reorganized Debtor to Object to Administrative Expense Claims* [Docket No. 1029] (the

to the *Order Further Extending the Deadline for the Reorganized Debtor to Object to Claims and Old GP/LP Equity Interests* [Docket No. 1046], the Claims Objection Deadline was extended to February 9, 2022 (the “**Extended Claims Objection Deadline**”). By this Motion, the Reorganized Debtor is not seeking a further extension of the Extended Claims Objection Deadline but reserves the right to do so at a future time.

“Fifth Extension Order”). Pursuant to the Fifth Extension Order, the current Administrative Claims Objection Deadline is December 13, 2021.

RELIEF REQUESTED

11. By this Motion, the Reorganized Debtor seeks entry of an order, substantially in the form attached hereto as Exhibit A (the **“Proposed Order”**), extending the Administrative Claims Objection Deadline by approximately 120 days, from December 13, 2021, through and including April 12, 2022, without prejudice to the ability of the Reorganized Debtor to request further extensions.

BASIS FOR RELIEF

12. Section 105(a) of the Bankruptcy Code empowers the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105. *See, e.g., Adelphia Bus. Solutions, Inc. v. Abnos*, 482 F.3d 602, 609 (2d Cir. 2007) (“Section 105(a) grants broad equitable power to the bankruptcy courts to carry out the provisions of the Bankruptcy Code so long as that power is exercised within the confines of the Bankruptcy Code”). Further, the Administrative Claims Objection Deadline “may be modified or extended from time to time by Final Order of the Bankruptcy Court.” *See* Confirmation Order ¶ 27; Plan Article II.A.1. Accordingly, this Court has authority to extend the Administrative Claims Objection Deadline.

13. The Reorganized Debtor respectfully submits that the proposed extension of the Administrative Claims Objection Deadline is appropriate and reasonable under the circumstances.

14. Initially, since the Effective Date, the Reorganized Debtor has been reviewing and assessing the Administrative Claims filed in the Chapter 11 Case. Although the Reorganized Debtor has made, and continues to make, progress in the claims reconciliation

process, the requested extension is necessary to avoid the Reorganized Debtor having to file objections which could have been avoided if it was given additional time to review, analyze and consensually resolve any potentially disputed Administrative Claims. Indeed, the Reorganized Debtor submits that it would be a waste of resources to prematurely file objections to Administrative Claims at this stage. Accordingly, for that reason alone, the Motion should be granted.

15. Further, due to state-imposed “shelter-in-place” laws and “work-from-home” mandates resulting from the national and international emergency caused by the novel coronavirus, the Reorganized Debtor’s efforts to resolve and review all Claims, including Administrative Claims, have been significantly slowed. These laws and mandates, while justifiable under the circumstances, made access to the Debtor’s books and records difficult and placed significant hardship on the personnel necessary for the Reorganized Debtor to perform the required analysis of the Administrative Claims. As a result, for more than a year, the Reorganized Debtor had difficulty reviewing and reconciling Administrative Claims, which has delayed the reconciliation process. These facts further support the requested extension of the Administrative Claims Objection Deadline.

16. Accordingly, the requested extension of approximately 120 days is reasonable and will provide additional time for the Reorganized Debtor to pursue consensual resolutions of any disputed Administrative Claims and/or file objections where such resolutions cannot be reached.

CONSENT TO JURISDICTION

17. Pursuant to Local Rule 9013-1(f), the Reorganized Debtor consents to the entry of a final judgment or order with respect to the Motion if it is determined that the Court

would lack Article III jurisdiction to enter such final order or judgment absent consent of the parties.

NOTICE

18. Notice of this Motion shall be provided to (a) the U.S. Trustee; and (b) any other party entitled to notice pursuant to Bankruptcy Rule 2002 or order of the Court. The Reorganized Debtor submits that, under the circumstances, no other or further notice is required.

19. A copy of this Motion is available on (i) the Court's website: www.deb.uscourts.gov, and (ii) the website maintained by the Reorganized Debtor's Claims and Noticing Agent, Kurtzman Carson Consultants LLC, at <https://www.kccllc.net/EmergeEnergy>.

NO PRIOR REQUEST

20. No prior request for the relief sought herein has been made to this Court or any other court.

WHEREFORE, the Reorganized Debtor respectfully requests that the Court enter the Proposed Order, substantially in the form attached hereto as Exhibit A, granting the relief requested herein and such other and further relief as may be just and proper.

Dated: December 13, 2021
Wilmington, Delaware

/s/ David T. Queroli

RICHARDS, LAYTON & FINGER, P.A.

John H. Knight (No. 3848)
Paul N. Heath (No. 3704)
Zachary I. Shapiro (No. 5103)
Brett M. Haywood (No. 6166)
David T. Queroli (No. 6318)
One Rodney Square
920 North King Street
Wilmington, DE 19801
Telephone: (302) 651-7700
Facsimile: (302) 651-7701
E-mail: knight@rlf.com
heath@rlf.com
shapiro@rlf.com
haywood@rlf.com
queroli@rlf.com

- and -

LATHAM & WATKINS LLP

George A. Davis (admitted *pro hac vice*)
Keith A. Simon (admitted *pro hac vice*)
Hugh K. Murtagh (admitted *pro hac vice*)
Liza L. Burton (admitted *pro hac vice*)
1271 Avenue of the Americas
New York, New York 10020
Telephone: (212) 906-1200
Facsimile: (212) 751-4864
E-mail: george.davis@lw.com
keith.simon@lw.com
hugh.murtagh@lw.com
liza.burton@lw.com

Counsel for the Reorganized Debtor

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re: EMERGE ENERGY SERVICES LP, Reorganized Debtor. ¹	X : : : : : : : : X	Chapter 11 Case No. 19-11563 (KBO) Obj. Deadline: December 27, 2021 at 4:00 p.m. (ET) Hearing Date: January 26, 2022 at 2:00 p.m. (ET)
--	--	---

NOTICE OF MOTION AND HEARING

PLEASE TAKE NOTICE that, on December 13, 2021, the reorganized debtor in the above-captioned case (the “**Reorganized Debtor**”) filed the *Motion of the Reorganized Debtor for an Order Further Extending the Deadline for the Reorganized Debtor to Object to Administrative Claims and Granting Related Relief* (the “**Motion**”) with the United States Bankruptcy Court for the District of Delaware (the “**Court**”).

PLEASE TAKE FURTHER NOTICE that, any responses or objections to the Motion must be in writing and filed with the Clerk of the Court, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801 on or before **December 27, 2021 at 4:00 p.m. (Prevailing Eastern Time)**.

PLEASE TAKE FURTHER NOTICE that, if any objections to the Motion are received, the Motion and such objections shall be considered at a hearing before The Honorable Karen B. Owens, United States Bankruptcy Judge for the District of Delaware, at the Court, 824 North Market Street, 6th Floor, Courtroom 3, Wilmington, Delaware 19801 on **January 26, 2022 at 2:00 p.m. (prevailing Eastern Time)**.

¹ The Reorganized Debtor in this case, along with the last four digits of the Reorganized Debtor’s federal tax identification number, is Emerge Energy Services LP (2937). The Reorganized Debtor’s address is 6500 West Freeway, Suite 800, Fort Worth, Texas 76116.

PLEASE TAKE FURTHER NOTICE THAT IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED, SERVED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: December 13, 2021
Wilmington, Delaware

/s/ David T. Queroli

RICHARDS, LAYTON & FINGER, P.A.

John H. Knight (No. 3848)
Paul N. Heath (No. 3704)
Zachary I. Shapiro (No. 5103)
Brett M. Haywood (No. 6166)
David T. Queroli (No. 6318)
One Rodney Square
920 North King Street
Wilmington, DE 19801
Telephone: (302) 651-7700
Facsimile: (302) 651-7701
E-mail: knight@rlf.com
heath@rlf.com
shapiro@rlf.com
haywood@rlf.com
queroli@rlf.com

- and -

LATHAM & WATKINS LLP

George A. Davis (admitted *pro hac vice*)
Keith A. Simon (admitted *pro hac vice*)
Hugh K. Murtagh (admitted *pro hac vice*)
Liza L. Burton (admitted *pro hac vice*)
1271 Avenue of the Americas
New York, New York 10020
Telephone: (212) 906-1200
Facsimile: (212) 751-4864
E-mail: george.davis@lw.com
keith.simon@lw.com
hugh.murtagh@lw.com
liza.burton@lw.com

Counsel for the Reorganized Debtor

Exhibit A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	X	
	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP,	:	Case No. 19-11563 (KBO)
	:	
Reorganized Debtor. ¹	:	Re: Docket No. ____
	:	
	X	

**ORDER EXTENDING THE DEADLINE FOR THE REORGANIZED DEBTOR TO
OBJECT TO ADMINISTRATIVE EXPENSE CLAIMS**

Upon the motion (the “**Motion**”)² of the Reorganized Debtor for entry of an Order further extending the time by which the Reorganized Debtor may object to Administrative Claims; and the Court having reviewed the Motion and having considered the statements of counsel with respect to the Motion at a hearing (if any) before the Court; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated as of February 29, 2012; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that this Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the record herein; and after due

¹ The Reorganized Debtor in this case, along with the last four digits of the Reorganized Debtor’s federal tax identification number, is Emerge Energy Services LP (2937). The Reorganized Debtor’s address is 6500 West Freeway, Suite 800, Fort Worth, Texas 76116.

² Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion.

deliberation thereon; and the Court having determined that there is good and sufficient cause for the relief granted in this order, it is hereby

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED as set forth herein.
2. The Administrative Claims Objection Deadline is hereby extended through and including April 12, 2022.
3. This Order is without prejudice to the Reorganized Debtor's right to request additional extensions of the Administrative Claims Objection Deadline.
4. The Court shall retain exclusive jurisdiction over any and all matters arising from or related to the implementation or interpretation of this Order.