

appeals arising from its bankruptcy. Specifically, this reply responds to the response filed by Appellees Platte River Midstream, LLC and DJ South Gathering, LLC (Platte River/DJ South).

As Extraction’s motion explains, consolidation is warranted because all eight appeals—including the two appeals filed by Platte River/DJ South—concern the same ultimate issue: whether the Bankruptcy Court properly authorized the rejection of the Transportation Service Agreements (TSAs) in dispute.² Platte River/DJ South agrees that its adversary-proceeding appeal and its contract-rejection appeals warrant consolidation. *See* Opp.2. It also does not dispute that the remaining six appeals are “similar.” *See* Opp.4 (conceding that the six other appeals are “similar”). It nevertheless insists, however, that “global consolidation is inappropriate for at least five reasons.” Opp.4. Those reasons are uniformly meritless.

1. The first three reasons all reference purportedly “unique” arguments that Platte River/DJ South intends to make to support the assertion that Bankruptcy Court erred in authorizing the rejection of its TSAs. *See* Opp.4 (referencing the “specific evidence demonstrating that the Platte River TSAs create covenants running with the land under Colorado law”); Opp.5 (referencing the “unique evidence and testimony in opposition to Extraction’s rejection of the Platte River

² Platte River/DJ South filed yet another appeal on December 21, 2020. Extraction is still considering whether to seek consolidation of that appeal with the eight others discussed here and reserves all rights to seek such relief.

TSAAs”); Opp.6 (referencing the “unique dedication language of the Platte River TSAAs”). In Platte River/DJ South’s view, it should have the opportunity to press these arguments “separately” and “on their own.” Opp.5-6. But those “unique” arguments all go to the the same ultimate issue that is presented in the remaining six appeals—namely, the propriety of contract rejection. They accordingly provide no basis to sever Platte River/DJ South’s appeals from all the others.

2. That is especially true considering that Platte River/DJ South agrees that all eight appeals should proceed under a “global briefing schedule,” under which each party would submit a “separate brief[.]” Opp.8. Thus, with global consolidation, nothing prevents Platte River/DJ South from pressing all the “unique” arguments that it references. Although Platte River/DJ South claims that bifurcating its appeals is equally “efficient” as global consolidation, Opp.8, it overlooks that the order under review in its adversary-proceeding appeal is largely identical to the order under review in Grand Mesa’s adversary-proceeding appeal, and that the order under review in its contract-rejection appeal is the *same* order under review in the Grand Mesa/FERC contract-rejection appeals. And it overlooks the obvious increased burdens on Extraction (which would have to prepare two largely overlapping response briefs) and on this Court (which would have to separately adjudicate two largely overlapping cases). Segregating Platte River/DJ South’s appeals from the other appeals thus is the very opposite of “efficient.”

3. Platte River/DJ South's fourth reason is that it "anticipates that the Grand River/FERC Appeals will center on whether the Bankruptcy Court should have applied a more rigorous standard applicable to FERC-regulated pipelines" and on "whether the Bankruptcy Court erred in refusing to lift the automatic stay and allow Grand Mesa to file a proceeding before FERC." Opp.7. But as Platte River/DJ South acknowledges, it intends to address the applicable standard "as well." Opp.7. Furthermore, one of the issues in Platte River/DJ South's contract-rejection appeal is "[w]hether the bankruptcy court erred in authorizing rejection of a FERC-jurisdictional contract under the Bankruptcy Code without a separate proceeding for FERC to review that rejection, determine whether abrogation or modification of the contract is warranted, or issue findings regarding FERC's view of the public interest." D.I.1190 at 7. But whether the Bankruptcy Court had to permit that "separate proceeding" lies at the core of the Grand Mesa/FERC lift-stay appeals. *See, e.g.*, D.I.770 at 2 ("Grand Mesa's request for stay relief seeks to institute a proceeding [before FERC] that is completely irrelevant to the issues before this Court.").

4. Platte River/DJ South's fifth and final reason is that Grand Mesa and FERC have asked this Court certify their five appeals for immediate review in the Third Circuit, and so it "makes no sense to consolidate all the parties' appeals if they will subsequently make their arguments to different courts." Opp.7-8. But as

Extraction explained today in opposition to that request, it is rife with defects and vehicle problems—including that the Platte River/DJ South’s appeals are not included in the request, and that the request fails to grapple with the reality that the Bankruptcy Court recently approved a settlement agreement between Grand Mesa and Extraction that obviates Grand Mesa’s appeals.³ Thus, it is unlikely that this Court will approve Grand Mesa/FERC’s joint request for immediate review by the Third Circuit, and even more unlikely that the Third Circuit would authorize that review, as required by statute. *See* 28 U.S.C. §158(d)(2).

5. In sum, Platte River/DJ South provides no good reason why its two appeals should proceed separately from the six appeals filed by Grand Mesa and FERC. Because all eight of those appeals concern the propriety of contract rejection, the Court should consolidate all eight.

WHEREFORE, Extraction respectfully requests that this Court enter an order consolidating the appeals in Civil Action Nos. 20-cv-01411, 20-cv-01412, 20-cv-01457, 20-cv-01458, 20-cv-01506, 20-cv-01521, 20-cv-01532, and 20-cv-01564, and instructing the parties to propose a single briefing schedule.

³ Extraction anticipates that Grand Mesa will soon terminate its three pending appeals in this Court. Until that occurs, however, the Court should consolidate Grand Mesa’s appeals with the remaining five discussed here.

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