

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

In re: § Chapter 11  
PARALLEL ENERGY LP, *et al.*<sup>1</sup> §  
Debtors. § Case No. 15-12263 (KG)  
§ (Jointly Administered)  
§ Objection Deadline: June 15, 2016 at 4:00 PM  
§ Hearing Date: June 27, 2016 at 11:00 AM

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**MOTION FOR ENTRY OF AN ORDER PURSUANT TO  
SECTIONS 105(A), 363(B) AND 554 OF THE BANKRUPTCY  
CODE AND BANKRUPTCY RULE 6007 AUTHORIZING AND  
APPROVING THE DEBTORS' SELLING OR, ALTERNATIVELY,  
ABANDONING MISCELLANEOUS ASSETS, INCLUDING LOW  
PRODUCING WELL CREDIT REFUNDS**

Parallel Energy LP and Parallel Energy GP LLC, as debtors and debtors-in-possession (collectively, the “Debtors” or “Parallel”), file this *Motion for Entry of an Order Pursuant to Sections 105(a), 363(b) and 554 of the Bankruptcy Code and Bankruptcy Rule 6007 Authorizing and Approving the Debtors’ Selling or Alternatively, Abandoning Miscellaneous Assets, Including Low Producing Well Credit Refunds* (the “Motion”).<sup>2</sup>

**RELIEF REQUESTED**

1. By this Motion, the Debtors respectfully request the entry of an order substantially in the form attached as **Exhibit A** (a) authorizing the Debtors to sell or, in the alternative, abandon miscellaneous assets of the Debtors in order to finalize the winding down and closing of their estates; (b) approving the assignment and sale of the

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<sup>1</sup> The Debtors in this case and the last four digits of each Debtor’s taxpayer identification number are as follows: Parallel Energy LP (9322); and Parallel Energy GP LLC (9321). The Debtors’ principal offices are located at 1323 E. 71st Street, Suite 200, Tulsa, OK 74136.

<sup>2</sup> Capitalized terms not herein defined shall have the meanings ascribed to them in the *Motion of the Debtors for Entry of an Order Pursuant to Sections 105(a), 305(a) and 1112(b) of the Bankruptcy Code and Bankruptcy Rule 1017 Authorizing Dismissal of the Debtors Cases Under Certification of Counsel* [D.I. 210] (the “Structured Dismissal Motion”).

Low Producing Well Credits as detailed below; and (c) providing any additional relief required in order to effectuate the foregoing.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

3. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

4. Pursuant to Local Rule 9013-1(f), the Debtors consent to the entry of a final judgment or order with respect to this 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.

5. The statutory predicate for the relief requested in this Motion are sections 105(a), 363(b) and 554 of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 6007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

**RELEVANT FACTUAL AND PROCEDURAL BACKGROUND**

6. On November 9, 2015 (the “Petition Date”), the Debtors each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) thereby commencing their bankruptcy cases (collectively, the “Cases” or the “Bankruptcy Case”).

7. Since the Petition Date, the Debtors have continued to operate and manage their businesses as debtors-in-possession pursuant to Bankruptcy Code §§ 1107 and 1108.

8. The Office of the United States Trustee (the “U.S. Trustee”) has not appointed an official committee of unsecured creditors in these Cases.

9. Parallel Energy LP and Parallel Energy GP LLC were oil and gas businesses engaged in acquiring, owning, developing and operating long-life oil and natural gas properties in Texas and Oklahoma.

10. The Debtors were established under the laws of Delaware and their corporate offices are in Tulsa, Oklahoma.

11. Additional information regarding the Debtors’ business and the events leading to the filing of these Bankruptcy Cases is contained in the *Declaration of Richard N. Miller in Support of Voluntary Petitions and First Day Motions*.<sup>3</sup>

12. On the Petition Date, the Debtors filed the Sale Motion,<sup>4</sup> seeking this Court’s approval to sell substantially all of the Debtors’ assets (the “Sale”) to Scout Energy Group II, LP, (“Scout”).

13. On January 12, 2016, the Court, entered an Order approving the Sale Motion (the “Sale Order”) [D.I. 181], and on January 28, 2016 (“Closing Date”), the Sale to Scout closed.

14. Following the Closing Date, the Debtors’ operations have ceased. The Debtors and their professionals have shifted their focus from the Sale and a closing thereon to the final wind-down and disposition of all remaining assets of the Debtors.

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<sup>3</sup> D.I. 15.

<sup>4</sup> See Motion Pursuant to 11 U.S.C. §§ 105, 363, 365, 503 and 507 and Bankruptcy Rules 2002, 6004 and 6006 for (I) Entry of an Order (a) Establishing Bid and Auction Procedures Related to the Sale of Substantially All of the Debtors Assets; (b) Approving Related Bid Protections; (c) Scheduling an Auction and Sale hearing; (d) Establishing Certain Notice Procedures for Determining Cure Amounts for Executory Contracts and Unexpired Leases to be Assumed and Assigned; and (e) Granting Related Relief; and (II) Entry of an Order (a) Approving the Sale of Substantially All of the Debtors’ Assets Free and Clear of All Liens, Claims, Encumbrances and Interests; and (b) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases [D.I. 12] (the “Sale Motion”).

15. To that end, on March 18, 2016, the Debtors sought and obtained entry of an order (the “Dismissal Procedures Order”) [D.I. 241] (a) authorizing dismissal of these Cases by submission of the form of Dismissal Order under Certification of Counsel after the Debtors distribute the Sale proceeds and satisfy, resolve, or otherwise settle all allowed, known, and valid administrative expenses, including allowed professional fees, and (b) authorizing each Debtor to take all reasonably necessary steps to dissolve under applicable law.

### **THE DEBTORS’ MISCELLANEOUS ASSETS**

16. Pursuant to the Sale, the Debtors retained ownership rights to certain miscellaneous assets which include, among other things, general tangible and intangible assets (the “Miscellaneous Assets”). These Miscellaneous Assets are unrelated to the assets purchased by Scout. The Miscellaneous Assets are not necessary for the final wind-down of the Debtors’ estates, therefore, their sale or abandonment as provided herein is justified and appropriate.

17. The Debtors intend to sell any Miscellaneous Asset generating \$50,000 or less in proceeds in the reasonable exercise of their business judgment to ensure such sales are in the best interests of the estates and their creditors. Any such sales would be (a) consummated without further notice and order of this Court; and (b) free and clear of all liens, claims and encumbrances, as defined in Section 101(37) of the Bankruptcy Code (the “Liens”) with any such Liens attaching only to the sale proceeds with the same validity, extent and priority as had attached to the Miscellaneous Asset(s) immediately before such sale.

18. The Debtors do not believe that any Miscellaneous Asset would generate more than \$50,000 in proceeds. To the extent such a Miscellaneous Asset is identified and can be sold, the Debtors propose the following:

(i) The Debtors shall give written notice of each such sale (the “Sale Notice”) to (a) the U.S. Trustee; (b) counsel to Scout; (c) the Debtors’ twenty-five (25) largest unsecured creditors; (d) the Debtors’ pre-petition and post-petition lenders; and (e) those parties requesting notice pursuant to Bankruptcy Rule 2002, in accordance with Local Rule 2002 (collectively, the “Notice Parties”) at least seven (7) business days prior to the closing of such sale;

(ii) The Sale Notice shall identify (a) the Miscellaneous Asset(s) being sold, (b) the purchaser of the asset(s), (c) the purchase price, and (d) the significant terms of the sale agreement;

(iii) If no written objections from any of the Notice Parties are filed within seven (7) business days after the date of receipt of such Sale Notice, then the Debtors are authorized to immediately consummate such sale free and clear of all Liens, with any such Liens attaching only to the sale proceeds with the same validity, extent and priority as had attached to the Miscellaneous Asset(s) immediately prior to such sale; and

(iv) If any Notice Party files a written objection to any such sale with the Court within seven (7) business days after receipt of such Sale Notice, then the relevant Miscellaneous Asset(s) shall only be sold upon either the consensual resolution of the objection by the parties in question or further order of the Court after notice and a hearing.

19. The Debtors are mindful of their duty to maximize the value of their estates and will use commercially reasonable efforts to obtain the highest consideration for the Miscellaneous Assets.

20. To the extent such Miscellaneous Assets cannot be sold at a price greater than the cost of liquidating such assets, the Debtors seek authority to abandon such Miscellaneous Assets in the exercise of their reasonable business judgment.

**ASSIGNMENT AND SALE OF LOW PRODUCING WELL CREDITS**

21. As operators of oil and gas leases in Texas, the Debtors are entitled to receive refunds based on low producing wells. In Texas, taxpayers whose gas leases qualify as low producing are entitled to a tax credit (the “Low Producing Well Credits” or “LPWC”). The Debtors receive LPWC refunds from the State of Texas on their own behalf and on account of other mineral interest owners (the “LPWC Parties”). Upon receipt of the LPWC refunds, the Debtors remit payment to the LPWC Parties based on their allocable share.

22. Pursuant to an order<sup>5</sup> entered on December 29, 2015, the Debtors retained Clayton & Clayton P.C. (“Clayton”) as an ordinary course professional to continue preparing refund claims for overpaid State of Texas natural gas severance taxes on low producing gas wells.

23. Recently, Clayton discovered that the Debtors can apply for and receive LPWC refunds for June 2013 through November 2015 (the “LPWC Asset”). The Debtors, however, are not in a position to apply for and administer the LPWC Asset given the cessation of their operations, limited manpower and projected July 2016 Case dismissal.

24. The Debtors received two offers for the LPWC Asset and accepted Clayton’s offer, subject to this Courts’ approval. Upon entry of the Order, the Debtors would assign and sell the LPWC Asset to Clayton as follows:

- (a) The Debtors would assign the LPWC Asset to Clayton pursuant to the form of Assignment attached hereto as **Exhibit B**;

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<sup>5</sup> D.I. 167

- (b) The sale of the LPWC Asset to Clayton would be free and clear of all Liens, with any such Liens attaching only to the sale proceeds with the same validity, extent and priority as had attached to the LPWC Asset immediately prior to such sale;
- (c) The sale of the LPWC Asset to Clayton would be deemed (i) an arm's-length transaction entitled to the protections of section 363(m) of the Bankruptcy Code; (ii) an exercise of the Debtors' reasonable business judgment; and (iii) in the best interest of the Debtors' estates and their creditors;
- (d) The Debtors would provide Clayton with an electronic file with the addresses and tax identification numbers of the LPWC Parties. Clayton would use that information to pay the LPWC Parties for their share of the LPWC Asset allocable for the period of June 2013 through November 2015 and issue corresponding IRS-1099 forms; and
- (e) Clayton would pay the Debtors \$40,000 in cash for their share of the LPWC Asset within five days of the entry of the Order.

25. The Debtors, in the exercise of their reasonable judgment, believe that the Clayton offer for the LPWC Asset is fair and in the best interests of their estates and their creditors, therefore, should be approved.

#### **BASIS FOR RELIEF REQUESTED**

##### **A. Private Sale of the LPWC Asset is Appropriate Under Bankruptcy Rule 6004.**

26. Bankruptcy Rule 6004(f) permits a debtor to conduct a private sale pursuant to section 363. Specifically, Bankruptcy Rule 6004(f) provides that “[a]ll sales not in the ordinary course of business may be by private sale or by public auction.” Fed. R. Bankr. P. 6004(f)(1); *see In re Alisa P’ship*, 15 B.R. 802, 802 (Bankr. D. Del. 1981) (holding that manner of sale is within the debtor’s discretion).

27. Accordingly, in light of Bankruptcy Rule 6004(f) and case law regarding section 363 sales, a debtor may conduct a private sale if a good business reason exists. Indeed, courts in this and other districts have approved private sales of estate property

pursuant to section 363(b)(1) when a valid business reason justifies not conducting an auction. *See, e.g., Buffets Holdings, Inc.*, No. 08-10141 (MFW) (Bankr. D. Del. Feb. 3, 2009) (approving the private sale of real property for approximately \$2.4 million); *In re W.R. Grace & Co.*, No. 01-01139 (JKF) (Bankr. D. Del. Dec. 18, 2008) (approving the private sale of real property for approximately \$3.8 million); *In re Solutia, Inc.*, No. 03-17949 (SCC) (Bankr S.D.N.Y. Dec. 28, 2006) (approving private sale of real property for approximately \$7.1 million).

28. In light of the facts and circumstances of these Cases, the Debtors submit that the proposed private sale of the LPWC Asset to Clayton is an appropriate exercise of their business judgment and appropriate.

29. No readily available market for the LPWC Asset exists. As a result, the transaction with Clayton allows the Debtors to maximize the value of the LPWC Asset and provides a significant benefit to the Debtors' estates. Because a private sale is specifically authorized under Bankruptcy Rule 6004 and the Debtors believe that Clayton's offer is the highest and best offer for the LPWC Asset (indeed, the Debtors only received one other offer), the Debtors request that the Court approve the proposed private sale of the LPWC Asset to Clayton as provided herein.

**B. Selling the Miscellaneous Assets and the LPWC Asset is Appropriate Under Section 363(b) of the Bankruptcy Code.**

30. Section 363(b)(1) of the Bankruptcy Code provides that the "trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Bankruptcy courts should generally approve a non-ordinary course transaction under section 363 if the proposed use of estate assets is within the debtors' reasonable business judgment. *See, e.g., Myers v. Martin (In*

*re Martin*), 91 F.3d 389, 395 (3d Cir. 1996) (stating that the court generally defers to the trustee's judgment so long as a legitimate business justification exists); *The Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp. (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 153 (D. Del. 1999) (noting that courts have applied the "sound business purpose" test in considering motions under section 363(b)).

31. Section 554(a) of the Bankruptcy Code provides that "[a]fter notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." 11 U.S.C. § 554(b); *see also* Fed. R. Bankr. P. 6007(a). As one bankruptcy court has noted, "if a trustee feels an asset is of inconsequential value and benefit to the estate or that it is 'burdensome to the estate,' he may abandon it." *Reich v. Burke (In re Reich)*, 54 B.R. 995, 1003-04 (Bankr. E.D. Mich. 1985).

32. The sale or abandonment of the Miscellaneous Assets and the sale of LPWC Asset as requested herein is in the best interest of the Debtors' estates and their creditors. As described above, the Miscellaneous Assets and LPWC Asset are not necessary to the final administration of these Cases and serve no useful business purpose. Therefore, the Debtors submit that ample business justification exists to sell or abandon the Miscellaneous Assets and to sell the LPWC Asset.

33. The Debtors have determined that sale or abandonment of the Miscellaneous Assets and the sale of the LPWC Asset to Clayton will further their efforts to effectuate the orderly wind-down of these Cases by eliminating unnecessary assets of the Debtors. Accordingly, the Debtors respectfully request this Court's approval to sell

or abandon the Miscellaneous Assets as the Debtors deem appropriate and to sell the LPWC Asset as requested herein.

**C. The Proposed Sale Procedures Are Appropriate Under Section 363(b) of the Bankruptcy Code.**

34. In light of the demonstrable benefits to the Debtors' estate of the disposition of the Miscellaneous Assets, courts in this and other districts have approved similar streamlined procedures in other chapter 11 cases. *See, e.g., In re Friendly Ice Cream Corporation, et al.*, No. 11-13167 (Bankr. D. Del. Oct. 24, 2011) (asset sale procedures authorized for sales of up to \$500,000 and abandonment procedures); *In re Visteon Corp.*, No. 09-11786 (Bankr. D. Del. July 16, 2009) (asset sale procedures authorized for sales of up to \$10,000,000 and abandonment procedures); *In re Flying J, Inc.*, No. 08-13384 (Bankr. D. Del. Feb. 19, 2009) (asset sale procedures authorized for sales of up to \$5,000,000); *In re Leiner Health Prods. Inc.*, No. 08-10446 (Bankr. D. Del. Apr. 4, 2008) (same for sales of up to \$500,000 and abandonment procedures); *In re Dura Auto. Sys., Inc.*, No. 06-11202 (Bankr. D. Del. Apr. 25, 2007) (same for sales of up to \$2,500,000 and abandonment procedures); *In re Fleming Cos.*, No. 03-10945 (Bankr. D. Del. May 21, 2003) (same for sales of less than \$6,500,000 and abandonment procedures authorized).

35. Moreover, the disposition of the Miscellaneous Assets provides the Debtors with necessary flexibility for the wind down of their Cases and affords parties with an interest in the Miscellaneous Assets the opportunity to object and be heard. Accordingly, the sale or abandonment of the Miscellaneous Assets in accordance with the procedures detailed hereinabove is appropriate and in the best interests of these estates and their creditors.

**D. The Sale Procedures Are Appropriate Under Section 363(f) of the Bankruptcy Code.**

36. Section 363(f) of the Bankruptcy Code permits a debtor to sell property free and clear of another party's interest in the property if: (a) applicable nonbankruptcy law permits such a "free and clear" sale; (b) the holder of the interest consents; (c) the interest is a lien and the sales price of the property exceeds the value of all liens on the property; (d) the interest is in bona fide dispute; or (e) the holder of the interest could be compelled in a legal or equitable proceeding to accept a monetary satisfaction of its interest.

37. The Debtors propose to sell any Miscellaneous Assets in a commercially reasonable manner in an effort to obtain the highest consideration for such assets, and expect that the value of the proceeds from such sales will fairly reflect the value of the property sold. The Debtors further propose that any party with a lien on any of the Miscellaneous Assets or the LPWC Asset sold pursuant to this Motion shall have a corresponding security interest in the proceeds of such sale. Moreover, the Debtors propose that the failure to object to the entry of the order approving this Motion along with failure to file a timely objection to any sale notice, shall be deemed "consent" to any sales within the meaning of section 363(f)(2) of the Bankruptcy Code. As such, the requirements of section 363(f) of the Bankruptcy Code would be satisfied for any proposed sales free and clear of liens, encumbrances, and other interests.

**E. The Proposed Abandonment Is Appropriate Under Section 554(a) of the Bankruptcy Code.**

38. Section 554(a) of the Bankruptcy Code provides that "[a]fter notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." 11 U.S.C. § 554(a).

The Debtors expect to take all reasonable steps to sell or abandon the Miscellaneous Assets. The costs associated with selling certain Miscellaneous Assets may exceed any possible proceeds. The inability to consummate a commercially reasonable sale of the Miscellaneous Assets would indicate that these assets have no meaningful monetary value to the Debtors' estates. Keeping any Miscellaneous Assets is not a viable alternative given the wind down of these Cases and an economic burden that these Debtors cannot afford. Accordingly, the Debtors contend that, in the absence of a commercially reasonable sale, the abandonment of the Miscellaneous Assets is in the best interest of the Debtors' estates.

#### **NOTICE**

39. Notice of this Motion has been provided to: (a) the U.S. Trustee; (b) counsel to Scout; (c) the Debtors' twenty-five (25) largest unsecured creditors; (d) the Debtors' pre-petition and post-petition lenders; and (e) those parties requesting notice pursuant to Bankruptcy Rule 2002, in accordance with Local Rule 2002. The Debtors respectfully submit that no further notice of this Motion is required.

#### **CONCLUSION**

**WHEREFORE**, the Debtors respectfully request that this Court (a) enter an order substantially in the form attached as **Exhibit A**, granting the relief requested herein, and (b) grant such other and further relief as this Court deems just and proper, both at law and in equity.

Dated: June 1, 2016  
Wilmington, DE

BAYARD, P.A.

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