

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF KANSAS**

In re:)	In Proceedings Under Chapter 11
)	
GATEWAY ETHANOL, L.L.C.)	Case No. 08-22579-DLS
)	
Debtor.)	

**MOTION FOR ENTRY OF STANDING ORDER NO. 1 TO
ESTABLISH LIMITED NOTICE AND MOTION PROCEDURES**

COMES NOW Gateway Ethanol, L.L.C., as Debtor and Debtor in Possession (“Debtor”), and submits its Motion to Approve Standing Order No. 1 to Establish Limited Notice and Motion Procedures (the “Motion”). In support of this Motion, Debtor respectfully represents as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of this case and motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND FACTS

2. On even date with the filing of this Motion (the “Petition Date”), Debtor filed a voluntary petition in this Court for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended (the “Bankruptcy Code”). Debtor continues to operate its business and manage its properties as a debtor in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed, and no official committee of creditors or equity interest holders has yet been established.

3. Additional background facts may be found in the Affidavit of Frederick S. Loomis filed on even date with this Motion.

LIMITED NOTICE

4. Debtor asserts that in this case, the Court, creditors and parties in interest are better served by having established notice and motion procedures in place at the commencement of the proceedings. Such procedures will afford appropriate notice to those parties involved in the proceedings, yet not require that Debtor or creditors spend unnecessary costs and fees for service when making filings with the Court. The potential costs associated with copying and mailing or otherwise serving all filings on the entire creditor group would impose an undue and expensive administrative and economic burden on the Debtor's estate. By regulating service, notice and filing requirements at the outset of the case the Court will minimize any confusion on important procedural matters. These proposed procedures will ease the court's administration of the case and will dramatically reduce the economic burden on the Debtor's estate.

NOTICE PROCEDURES

5. Debtor requests that in addition to the noticing requirements set forth in the Federal Rules of Bankruptcy Procedures and the local rules, the Court order that notice in this case will be proper if pleadings are served electronically on parties which are registered with the Court's CM/ECF system, and by regular mail or electronic mail on those persons filing requests for notice pursuant to Fed. R. Bankr. P. 2002, who are not registered to receive electronic notice through the Court's CM/ECF system.

6. Debtor proposes that every pleading, notice, motion or application, and all briefs, memoranda, affidavits, declarations, or other documents filed concurrently in support thereof in this case (the "Filings"), be subject to the notice procedures described herein, unless otherwise ordered by the Court.

7. Pursuant to the notice procedures proposed herein, all parties in interest that may be affected directly by the relief sought by a particular Filing will receive notice of such Filing or adversary pleading directly from the party submitting the same to the Court.

8. In addition, the Debtor proposes that all Filings be served on the following list of parties or entities if they are not receiving electronic notice through the Court's CM/ECF system, in addition to any specific parties to a particular Filing:

- (a) Counsel to the Debtors;
- (b) The Office of the United States Trustee;
- (c) Counsel to any official committee(s) established in the Debtor's case pursuant to Section 1102 of the Bankruptcy Code;
- (d) Prior to the establishment of an official committee of unsecured creditors, the entities listed on the Debtor's list of 20 largest unsecured creditors, or their respective designated counsel;
- (e) Counsel to the secured and unsecured lenders consisting of: Dougherty Funding LLC, Noble Americas Corp. and Lurgi PSI, Inc.
- (f) Counsel to any post-petition lender to the Debtor;
- (g) The Internal Revenue Service or its designated counsel;
- (h) The Kansas Department of Revenue or its designated counsel; and
- (i) Those parties that may be added to this list upon written request to the Debtor or as ordered by the Court for good and sufficient cause.

9. Furthermore, parties should be required to serve all of the following types of Filings, for which particular notices are required by Bankruptcy Rules 2002(a)(2), (3), and (6), 4001, 6004, 6006, 6007, or 9019, in accordance with the notice procedures set forth herein, unless otherwise authorized by the Court:

- (a) Filings relating to the use, sale, lease, or abandonment of property other than in the ordinary course of business shall be served upon each entity having an interest in the property.
- (b) Filings relating to relief from, or otherwise related to, the automatic stay shall be served upon each entity having a lien or encumbrance on the affected property.
- (c) Filings relating to the use of cash collateral or obtaining credit shall be served upon each entity with an interest in the cash collateral or each

entity with a lien or other interest in property upon which a lien is proposed to be granted.

- (d) Filings relating to approval of a proposed compromise or settlement shall be served upon any entity that is a party to the compromise or settlement or that may be adversely affected thereby.
 - (e) Filings relating to rights under Section 365 of the Bankruptcy Code shall be served upon each party to the executory contract(s) or unexpired lease(s) affected thereby.
 - (f) Filings relating to applications for payment of compensation or reimbursement of expenses shall be served upon each professional person who is seeking payment of compensation or reimbursement of expenses and whose retention has been authorized by the Court in Debtor's case.
 - (g) Notice of other matters for which the Federal Rules of Bankruptcy Procedure require notice to all parties in interest shall be served upon all creditors and equity security holders of Debtor and parties-in-interest.
10. Debtor suggests that unless otherwise ordered by this Court, the noticing

procedures set forth above not apply to notices of matters or proceedings described in the following Federal Rules of Bankruptcy Procedure:

- (a) Bankruptcy Rule 2002(a)(1) (any meetings of creditors pursuant to Section 341 of the Bankruptcy Code).
- (b) Bankruptcy Rule 2002(a)(4) (a hearing on the dismissal of the case or cases, or the conversion of the case or cases to another chapter).
- (c) Bankruptcy Rule 2002(a)(5) (the time fixed to accept or reject a proposed modification of a plan of reorganization).
- (d) Bankruptcy Rule 2002(b)(1) (the time fixed for filing objections and any hearing to consider approval of a disclosure statement).
- (e) Bankruptcy Rule 2002(b)(2) (the time fixed for filing objections and any hearing to consider confirmation of a plan of reorganization).
- (f) Bankruptcy Rule 2002(d) (certain matters for which notice is to be provided to equity security holders).
- (g) Bankruptcy Rule 2002(f)(7) (the entry of an order confirming a Chapter 11 plan of reorganization).

11. Debtor suggests that all requests, whether now filed or filed in the future, for automatic receipt of copies of all Filings be denied, except as follows:

- (a) Any party represented by counsel admitted to practice in the District of Kansas, or admitted *pro hac vice*, shall enter its appearance electronically and rely on the Court's automated Electronic Case Filing system for notice, unless the Court orders notice by other means.
- (b) Any party represented by counsel not admitted to practice in the District of Kansas and not admitted *pro hac vice* shall provide an email address of counsel (in its notice of appearance or upon follow-up request by the Debtor) and receive notice by email, unless the Court orders notice by other means. Counsel shall be solely responsible for forwarding all notices to the client.
- (c) Any party not represented by counsel shall provide an email address (in its notice of appearance or upon follow-up request by the Debtor) and shall receive notice by email, unless the Court orders notice by other means.

12. Notice given in accordance with the foregoing notice procedures should be deemed adequate pursuant to the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Rules for the United States Bankruptcy Court for the District of Kansas, and the Local Rules for the United States District Court for the District of Kansas.

MOTIONS, OBJECTIONS AND HEARING DATES

13. Debtor requests that the Court set on the Court's docket one specified day and time each month for hearings on motions in this case to take place. Initially, more frequent hearing dates may be required. Debtor further requests that the Court set the following procedures:

- (a) All motions are to be served prior to or simultaneously with submission to the Court.
- (b) All motions must be accompanied with a certificate of service.
- (c) The Movant is responsible for verifying available hearing dates with the case administrator or courtroom deputy prior to noticing.
- (d) The Court shall establish a schedule of hearings and, at the conclusion of each hearing, the next regularly scheduled hearing date will be announced.

- (e) Absent exigent circumstances, any motion, application, objection or other request shall be filed and served at least twenty (20) days prior to the anticipated hearing date on the motion.
- (f) If a party wishes a hearing date other than the regularly scheduled hearing date, the party must first give written notice to and consult with Debtor's counsel and counsel for affected parties before seeking approval of the Court for a hearing date.
- (g) The Court may dispense with oral argument on motions and decide them on the papers.
- (h) An objection or memorandum contra to a motion made by parties in interest shall be filed and served within ten (10) days after service of the motion. Movant may have three days to reply to any such memorandum.
- (i) If an emergency hearing is unavoidable and essential, the Court in its discretion may hear the matter at the regularly scheduled hearing date or any other date scheduled by the Court, but only if it is demonstrated that Debtor's counsel and counsel for the affected parties have been consulted.
- (j) Briefing will be subject to a thirty (30) page limit unless otherwise ordered by the Court.

NON-RESIDENT ATTORNEYS

- (k) It is anticipated that non-resident attorneys will be representing certain creditors in this case. Debtor requests that the Court allow non-resident attorneys seeking permission to practice before the court in this case to be admitted *pro hac vice*, upon filing of the motion, payment of the filing fee and uploading of the order, without setting such motions for hearing. Upon verification of payment of the fee required by the Local Rules of the District Court, an order on such motion will be entered.

PROPOSED ORDERS

14. Proposed orders shall be uploaded to the Court's CM/ECF system pursuant to LBR 9004.1(b).

15. Agreed or stipulated orders shall not be uploaded to the CM/ECF system or entered except upon separate execution by Debtor's counsel and such other parties who may be necessary under the circumstances.

WHEREFORE, Debtor respectfully requests that the Court enter an order establishing the limited notice and motion procedures set forth above in this case, and for such other relief as the Court deems just and proper.

Respectfully submitted,

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