

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE: §
RAAM GLOBAL ENERGY COMPANY, § CASE NO. 15-35615
et al. § (Chapter 11)
DEBTORS. § JOINTLY ADMINISTERED

APPLICATION TO EMPLOY BMC GROUP, INC. AS
DEBTORS' CLAIMS, NOTICING, AND BALLOTING AGENT
NUNC PRO TUNC TO THE PETITION DATE

A HEARING WILL BE CONDUCTED ON THIS MATTER ON MONDAY,
DECEMBER 7, 2015 AT 10:00 A.M. IN COURTROOM 404, 515 RUSK
STREET, HOUSTON, TEXAS 77002.

IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST
RESPOND IN WRITING, SPECIFICALLY ANSWERING EACH
PARAGRAPH OF THIS PLEADING. UNLESS OTHERWISE DIRECTED
BY THE COURT, YOU MUST FILE YOUR RESPONSE WITH THE
CLERK OF THE BANKRUPTCY COURT WITHIN TWENTY-THREE
DAYS FROM THE DATE YOU WERE SERVED WITH THIS
PLEADING. YOU MUST SERVE A COPY OF YOUR RESPONSE ON
THE PERSON WHO SENT YOU THE NOTICE; OTHERWISE, THE
COURT MAY TREAT THE PLEADING AS UNOPPOSED AND
GRANTED THE RELIEF REQUESTED.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

The above-captioned debtors and debtors in possession (collectively, the "Debtors"), file this *Application to Employ BMC Group, Inc. as Debtors' Claims, Noticing, and Balloting Agent Nunc Pro Tunc to the Petition Date* (the "Application"). In support of this Application, the Debtors submit the Declaration of Tinamarie Feil, attached hereto as Exhibit A (the "Feil Declaration"), and respectfully state as follows:

JURISDICTION AND PROCEDURAL BACKGROUND

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157. This Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).
2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
3. On October 26, 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 the Cases.
4. Since the Petition Date, the Debtors have continued to operate and manage their businesses as debtors in possession pursuant to Bankruptcy Code §§ 1107(a) and 1108.
5. On November 9, 2015, an official joint committee of unsecured creditors was appointed in the Cases.

RELIEF REQUESTED

6. In connection with the performance of their duties and obligations as debtors in possession, pursuant to 28 U.S.C. § 156(c), Bankruptcy Code §§ 105(a), 327, and 1107, and Rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), the Debtors seek to employ BMC Group, Inc. ("BMC") to serve as their official claims, noticing, and balloting solicitation and tabulation agent ("Claims and Noticing Agent") in the Cases, pursuant to the terms and conditions of that certain *Agreement for Services* between the Debtors and BMC dated July 15, 2015, a true and correct copy of which is attached hereto as **Exhibit B** (the "Agreement").
7. The Debtors received and reviewed engagement proposals from two claims and noticing agents to ensure selection through a competitive process. The Debtors submit, based on the engagement proposals received and reviewed, that BMC's rates are competitive and

reasonable given BMC's quality of services and expertise, which is described in more detail in the Feil Declaration. Accordingly, the Debtors submit that authorization to employ BMC as their Claims and Noticing Agent is appropriate under the circumstances and is in the best interests of the Debtors, their estates and creditors, and all parties in interest.

BASIS FOR REQUESTED RELIEF

8. This Application pertains to work to be performed by BMC under Bankruptcy Code § 327(a) and under the Clerk's delegation of duties permitted by 28 U.S.C. § 156(c).

9. Bankruptcy Code § 327(a) provides, in relevant part, that a debtor in possession, "with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the [debtor in possession] in carrying out the [debtor in possession's] duties under this title." 11 U.S.C. § 327(a).

10. Court staffing and expenses is governed by 28 U.S.C. § 156(c), which provides that "[a]ny court may utilize facilities or services . . . which pertain to the provision of notices, dockets, calendars and other administrative information to parties [in chapter 11 cases] where the costs of such facilities or services are paid out of the assets of the estate and are not charged to the United States." 28 U.S.C. § 156(c).

11. Although the Debtors have not yet filed their schedules of assets and liabilities, the Debtors anticipate there will be thousands of parties to be noticed and that many of these parties will file claims in the Cases. In view of the number of anticipated claimants and the complexity of the Debtors' businesses, the Debtors submit that the appointment of BMC as their Claims and Noticing Agent: (a) will provide the most effective and efficient means, and relieve the Debtors and the Clerk's Office, of the administrative burden of noticing, administering

claims, and soliciting and balloting votes; and (b) is in the best interests of the Debtors, their estates and creditors, and all parties in interest.

A. Services to be Provided by BMC

12. Under the Agreement, subject to the Court's approval, BMC has agreed to provide, *inter alia*, the following services in the Cases:

- a. Maintain the creditor matrix;
- b. Prepare and serve required notices in the Cases pursuant to Bankruptcy Rule 2002, which requires notice to all creditors and parties in interest, including, without limitation, (i) the Bankruptcy Code § 341 notice; (ii) notice of the claims bar date; (iii) notice of hearings on a disclosure statement and confirmation of a plan of reorganization; and (iv) other miscellaneous notices to any entities, as the Debtors or the Court may deem necessary or appropriate for an orderly administration of the Cases;
- c. Within five (5) business days after the mailing of a particular notice, file with the Clerk's office a declaration of service that includes a copy of the notice involved, an alphabetical list of persons to whom the notice was served, and the date and manner of service;
- d. Maintain an official copy of the Debtors' schedules of assets and liabilities and statements of financial affairs (collectively, the "Schedules");
- e. Notify all potential creditors of the existence and amount of their respective claims as evidenced by the Debtors' books and records set forth in the Schedules;
- f. Furnish a form for the filing of a proof of claim;
- g. Docket all claims received, maintain the official claims registers (the "Claims Registers") for each Debtor on behalf of the Clerk, maintain copies of all proofs of claim filed, and provide the Clerk with certified duplicate unofficial Claims Registers on a weekly basis, unless otherwise directed;
- h. Specify in the applicable Claims Register the following information for each claim docketed: (i) the claim number assigned, (ii) the date received, (iii) the name and address of the claimant and its agent, if applicable, who filed the claim, (iv) the classification of the claim (*e.g.*, secured, unsecured, priority, etc.), (v) the asserted amount of the claim; and (vi) the applicable Debtor against which the claim is filed;

- i. Implement necessary security measures to ensure the completeness and integrity of the Claims Registers;
- j. Record all transfers of claims and provide any notices of such transfers required by Bankruptcy Rule 3001;
- k. Make any and all changes to the Claims Registers in accordance with Orders of the Court;
- l. Upon completion of the docketing process for all claims received by the Clerk, turn over to the Clerk copies of the Claims Registers for the Clerk's review;
- m. Maintain the official mailing list for each Debtor of all entities that have filed proofs of claim, which list shall be available free of charge upon request by a party in interest on the Official Service List or the Clerk, and available at the expense of any other party in interest upon the request of such party, and compliance with all requests for mailing labels duplicated from the mailing list (unless otherwise excused by Court order);
- n. Provide access to the public for examination of copies of the proofs of claim without charge during regular business hours;
- o. Promptly comply with such further conditions and requirements as the Clerk's Office or Court may at any time prescribe;
- p. Provide such other claims processing, noticing, and related administrative services as may be requested from time to time by the Debtors;
- q. Provide recommendations to the Debtors regarding all aspects of the voting and ballot tabulation process, including the disclosure statement, ballots, master ballots, voting instructions and issues arising in connection with the vote solicitation and tabulation process;
- r. Respond to inquiries of solicited parties regarding the disclosure statement and the plan voting procedures;
- s. Tabulate all ballots and master ballots in accordance with established procedures;
- t. Prepare an appropriate ballot certification;
- u. Prior to the close of the Cases, assist the Debtors in submitting a proposed order terminating the role of BMC as claims, noticing, and balloting agent, upon the completion of its duties and responsibilities; and

- v. At the close of the Cases, box and transport all original documents in proper format, as provided by the Clerk's Office, to the Federal Records Center.

B. Professional Compensation

13. The Debtors request authority to compensate and reimburse BMC in accordance with the payment terms of the Agreement for all services rendered and expenses incurred in connection with the Cases. The Debtors believe that such compensation rates are reasonable and appropriate for services of this nature and are comparable to those charged by other providers of similar services. In an effort to reduce administrative expenses related to BMC's retention, the Debtors seek authorization to pay BMC's fees and expenses in accordance with the provisions of the Agreement, without the necessity of filing formal fee applications.

14. Prior to the Petition Date, the Debtors provided BMC an advance payment retainer in the amount of \$20,000 (the "Retainer"). The Agreement authorizes BMC to apply the Retainer to invoiced amounts, which BMC has done twice pre-petition. Within the year prior to the Petition Date, the Debtors have paid BMC approximately \$45,000 (including the Retainer) for services rendered in accordance with the Agreement. As of the Petition Date, the balance of the Retainer is \$10,358.68. The Debtors desire that BMC hold the remaining Retainer during the Cases as a security for the payment of fees and expenses incurred by BMC under the Agreement. BMC seeks to have the remaining Retainer applied to BMC's final bill for services rendered and expenses incurred under the Agreement.

15. As more specifically set forth in the Agreement, the Debtors have agreed to indemnify, defend, and hold harmless BMC and its officers, employees, and agents under certain circumstances specified in the Agreement, except in circumstances resulting from BMC's breach

of certain confidentiality requirements therein or resulting from BMC's negligence or willful or wanton conduct.

16. BMC acknowledges that it will maintain records of all services showing dates, categories of services, fees charged, and expenses incurred, and to serve monthly invoices on the Debtors, the Office of the United States Trustee, counsel of the Debtors, counsel for any official committee monitoring the expenses of the Debtors, and any party in interest who specifically requests service of the monthly invoices. If any dispute arises relating to the Agreement or monthly invoices, the parties shall meet and confer in an attempt to resolve the dispute; if resolution is not achieved, the parties make seek resolution of the matter from the Court.

17. BMC acknowledges that it will perform its duties pursuant to the Agreement if it is retained the Cases regardless of payment, and to the extent that BMC requires redress, it will seek appropriate relief from the Court. Furthermore, in the event BMC's services are terminated, BMC acknowledges that it will perform its duties until the occurrence of a complete transaction with the Clerk's office or any successor claims, noticing, and balloting agent.

C. Disinterestedness

18. To the best of the Debtors' knowledge, information, and belief, and except as may otherwise be stated in the Feil Declaration, BMC has represented that it neither holds nor represents any interest materially adverse to the Debtors' estates in connection with any matter on which it is to be employed in the Cases.

19. To the best of the Debtors' knowledge, BMC is a "disinterested person" as that term is defined in Bankruptcy Code § 101(14), as modified by Bankruptcy Code § 1107(b), as BMC represents in the Feil Declaration, among other things, that BMC's members and

employees are not and were not, within two years before the Petition Date, creditors, equity security holders, insiders, or employees of the Debtors.

20. In addition, as set forth in the Feil Declaration:
 - a. BMC will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as Claims and Noticing Agent;
 - b. By accepting employment in the Cases, BMC waives any rights to receive compensation from the United States government for its work in the Cases;
 - c. In its capacity as Claims and Noticing Agent, BMC will not be an agent of the United States and will not act on behalf of the United States;
 - d. BMC will not employ any past or present employees of the Debtors in connection with its work as Claims and Noticing Agent; and
 - e. BMC is not a creditor of the Debtors' estates.

BMC will supplement its disclosure to the Court if any facts or circumstances are discovered that would require such additional disclosure.

21. For the reasons set forth herein, the Debtors respectfully submit that the retention of BMC pursuant to the terms of the Agreement is in the best interest of their estates and all parties in interest, as such retention will expedite the noticing and claims docketing, reconciliation, and ballot solicitation and tabulation processes, and it will enable the Cases to be conducted in a cost-effective and efficient manner. The Debtors further submit that the relief requested in this Application is consistent with the Bankruptcy Rules, the Bankruptcy Local Rules, and the Complex Chapter 11 Rules, and is in the best interest of their estates and parties in interest.

PRAYER

The Debtors respectfully requests that the Court enter an Order: (a) authorizing and approving the employment of BMC from and after the Petition Date; and (b) granting such other and further relief as may be just and proper.

Dated: November 13, 2015

Respectfully submitted,

By: /s/ James R. Latimer, III
James R. Latimer, III
Chief Restructuring Officer for the Debtors

CERTIFICATE OF SERVICE

I certify that on November 13, 2015 a copy of the foregoing document was served by (i) the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas which gives notice to all counsel of record.

/s/ Reese A. O'Connor
One of Counsel