

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION - BAY CITY

IN RE:

Case No. 20-21215-dob

BOYCE HYDRO POWER, LLC,

Chapter 11 Proceeding

Debtor.

Hon. Daniel S. Opperman

**ORDER FOR INITIAL SCHEDULING CONFERENCE
IN THE CASE OF A SMALL BUSINESS DEBTOR WHO HAS ELECTED
TO HAVE SUBCHAPTER V OF CHAPTER 11 APPLY**

The Debtor filed this Chapter 11 case on July 31, 2020. In the bankruptcy petition, the Debtor stated that it is a small business debtor and that the Debtor elects to have subchapter V of Chapter 11 apply. *See* Interim Rule 1020(a).¹ Accordingly, the Court enters this Order.

IT IS ORDERED that the Court will hold an initial scheduling conference on *Tuesday, September 1, 2020 at 11:00 a.m. by phone and the parties should call (888) 557-8511 and use Access Code: 1287364*. The Debtor and the attorney for the Debtor must appear. The subchapter V Trustee serving in this case, the United States Trustee, and creditors are invited, but not required to attend.

At this conference, the following matters, among others, will be addressed:

- (1) The appointment and fees of professionals.
- (2) The obligations of the debtor-in-possession under Chapter 11.
- (3) Case deadlines.
- (4) The issues in the case.
- (5) Whether and when motions or adversary proceedings might be filed.
- (6) Cash collateral matters.
- (7) A copy of a proposed "Order Establishing Deadlines and Procedures" is attached.

¹ In this Order, the citation to "Interim Rule ___" is to one of rules in the "Interim Amendments to the Federal Rules of Bankruptcy Procedure" that were adopted by this Court in Administrative Order No. 2020-01, filed February 3, 2020. A copy of that administrative order, the Interim Rules and other subsequent items may be found on this Court's website.

The Debtor's attorney must be prepared to address the dates for inclusion in the attached proposed order.

This conference is convened under 11 U.S.C. § 105(d).

The Debtor's attorney must immediately serve a copy of this Order, without attachment, on the 20 largest creditors, all secured creditors, the subchapter V Trustee, and the United States Trustee's Office. The Debtor's attorney must file a proof of service. The failure of the Debtor to comply with terms of this Order may result in dismissal of this bankruptcy case.

Signed on: August 4, 2020



/s/ **Daniel S. Opperman**

Daniel S. Opperman
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION - BAY CITY

IN RE:

Case No. 20-

Chapter 11 Proceeding

Debtor.

Hon. Daniel S. Opperman

**PROPOSED ORDER ESTABLISHING DEADLINES AND PROCEDURES
IN THE CASE OF A SMALL BUSINESS DEBTOR WHO HAS ELECTED
TO HAVE SUBCHAPTER V OF CHAPTER 11 APPLY**

After reviewing the schedules and statement of financial affairs and consulting with the Debtor and the other parties who appeared at the initial status conference, the Court concludes that this case is appropriate for the procedures set forth in this Order, and establishes the following deadlines, hearing dates and procedures. The purpose of this order is to expedite the Debtor's reorganization and to secure "the just, speedy, and inexpensive determination of [this] case" Fed. R. Bankr. P. 1001.

1. Deadlines and Hearing Dates. The following deadlines and hearing dates are established:

- a. The deadline for the Debtor to file motions under ¶ 4 below is _____, **2020**. This is also the deadline to file all unfiled overdue tax returns. The case will not be delayed due to unfiled tax returns.
- b. The Court will hold the status conference required under 11 U.S.C. § 1188(a) on _____, **2020 at __:00 a.m./p.m.**, in the Courtroom of the United States Bankruptcy Court, 111 First Street, Bay City, Michigan 48708. The Debtor, the attorney for the Debtor, and the Trustee must appear at the status conference. The United States Trustee and creditors are invited, but not required to attend.
- c. **No later than _____, 2020**, the Debtor must file with the Court, and serve on the Trustee and all parties in interest, the report required by 11 U.S.C. § 1188©.
- d. Under 11 U.S.C. § 1189(b), the deadline for the Debtor to file a plan (see ¶ 2 below) is _____, **2020**. Immediately after filing the plan, the Debtor must serve the plan, a ballot as appropriate, and this Order on the Trustee, the United States Trustee, all creditors, all

equity security holders, and all other parties who have requested service, and the Debtor must promptly file proof of such service.

e. The deadline to return ballots on the plan, as well as to file objections to confirmation of the plan, is _____, **2020**. Under Interim Rule 3017.2(d),¹ this is also the deadline for holders of claims and interests to accept or reject the plan. Under Interim Rule 3017.2(b), this is also the date on which an equity security holder or creditor whose claim is based on a security must be the holder of record of the security in order to be eligible to accept or reject the plan. The completed ballot form must be returned by mail to the Debtor's attorney: [name and address].

f. Under Interim Rule 3014, the Court fixes _____, **2020** as the deadline for any creditor to make an election of application of 11 U.S.C. § 1111(b)(2).

g. **No later than** _____, **2020**, the Debtor must file a signed ballot summary indicating the ballot count under 11 U.S.C. § 1126© & (d). A copy of all ballots must be attached to this summary.

h. The hearing on confirmation of the plan will be held on Wednesday, _____, **2020 at 11:00 a.m.**, in the Courtroom of the United States Bankruptcy Court, 111 First Street, Bay City, Michigan 48708.

i. The deadline for all professionals to file final fee applications (see ¶ 5 below) is 30 days after the confirmation order is entered.

j. The deadline to file objections to this Order (see ¶ 6 below) is 21 days after this Order is entered.

k. The deadline for the Debtor to file a motion to extend the deadline to file a plan (see ¶ 8 below) is _____, **2020**.

l. The deadline to file a motion to extend the time to file a motion to assume or reject a lease under 11 U.S.C. § 365(d)(4) is _____, **2020**. Counsel for the Debtor must consult with the courtroom deputy to assure that such a motion is set for hearing before _____, **2020**.

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m. These dates and deadlines are subject to change upon notice if the Debtor files a plan before the deadline in paragraph d above.

2. The Plan. The Debtor must begin to negotiate the terms of a plan of reorganization as soon as practicable. By the deadline established in paragraph 1d, the Debtor must file a plan of reorganization. If the Debtor fails to meet this deadline, the case may be dismissed or converted to Chapter 7 pursuant to 11 U.S.C. §1112(b)(4).

3. The Confirmation Hearing. Parties may file objections to confirmation of the plan by the deadline established in paragraph 1e above. Objections must be served on the attorney for the Debtor, the Trustee, and the United States Trustee. A proof of such service must be filed with the objections. Objections which are not timely filed and served will be deemed waived.

4. Expediting Debtor's Reorganization. If necessary to file a plan by the deadline established in this Order, the Debtor must file any motions or requests to value security pursuant to L.B.R. 9014-1 by the deadline established in paragraph 1a above.

5. Fee Applications. Unless the Court orders otherwise, each professional may file one and only one final fee application. Such applications must be filed under L.B.R. 2016-1 and L.B.R. 9014-1 by the deadline set forth in paragraph 1i, above.

6. Deadline to File Objections to this Order. Any objection to this Order must be filed by the deadline set forth in paragraph 1j, above. Objections not timely filed are waived.

7. Motions to Allow Administrative Expense. Taxing authorities may file a request for payment of an administrative expense at any time under 11 U.S.C. § 503(a). Any request for an order allowing any such administrative expense, under 11 U.S.C. § 503(b), must be made under L.B.R. 9014-1.

8. Motions to Extend the Deadline to File a Plan. Any motion to extend the deadline to file a plan must be filed by the deadline in paragraph 1k. The motion must demonstrate by affidavit or otherwise that the deadline extension is needed, and that the need for the deadline extension is attributable to circumstances for which the Debtor should not justly be held accountable. *See* 11 U.S.C. § 1189(b). The Court may schedule a hearing. Counsel for the Debtor must serve the motion and any notice of the hearing on the Trustee, the United States Trustee, all secured creditors, and the 20 largest unsecured creditors, and must file a proof of service.