

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

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In re : Chapter 11
 :
 : Case No. 09-12452 (CSS)
RathGibson, Inc., et al.,¹ :
 : Jointly Administered
 :
 Debtors. : **Objection Deadline: March 8, 2010 at 4:00 p.m. (ET)**
 : **Hearing Date: March 23, 2010 at 1:00 p.m. (ET)**
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DEBTORS' SECOND MOTION FOR ORDER EXTENDING THEIR EXCLUSIVE PERIODS TO FILE CHAPTER 11 PLAN AND SOLICIT ACCEPTANCES THERETO PURSUANT TO SECTION 1121(d) OF THE BANKRUPTCY CODE

The debtors and debtors in possession in the above-captioned cases (collectively, the “Debtors”) hereby move (the “Motion”) pursuant to section 1121(d) of title 11 of the United States Code (the “Bankruptcy Code”), Rule 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 9006-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), for entry of an order extending the Debtors’ exclusive periods to file a chapter 11 plan or plan(s) and to solicit acceptances of such plan through and including June 30, 2010 and August 30, 2010, respectively. In support of this Motion, the Debtors, by and through their undersigned counsel, respectfully represent as follows:

¹ The last four digits of the taxpayer identification numbers of the Debtors follow in parentheses: (i) Greenville Tube Company (2689); (ii) RathGibson, Inc. (3283); (iii) RG Tube Holdings LLC (4080); and (iv) RGCH Holdings Corp. (9683). The Debtors’ executive headquarters’ address is 475 Half Day Road, Suite 210, Lincolnshire, Illinois 60069.

JURISDICTION

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). The statutory and legal predicate for the relief sought herein is section 1121(d) of the Bankruptcy Code, as supplemented by Bankruptcy Rule 9006(b)(1) and Local Rule 9006-2.

BACKGROUND

General Background

2. On July 13, 2009 (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors are continuing in the possession of their respective properties and the management of their respective businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. The Debtors' chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Bankruptcy Rule 1015(b).

3. On July 23, 2009, the Office of the United States Trustee for the District of Delaware (the "U.S. Trustee") appointed a statutory committee of unsecured creditors (the "Committee") [Docket No. 79]. No trustee or examiner has been appointed in these cases.

4. The events leading up to the Petition Date are set forth in the *Declaration of Jon M. Smith in Support of Chapter 11 Petitions and First Day Pleadings* [Docket No. 3] (the "Smith Declaration").

Post-Petition Developments

5. The Debtors initially anticipated exiting chapter 11 in the fourth quarter of 2009. In that vein, Debtors RathGibson, Inc. and Greenville Tube Company (the "Initial Plan

Debtors”) filed the *Joint Chapter 11 Plan for RathGibson, Inc. and Greenville Tube Company* [Docket No. 32] and the *Disclosure Statement for Joint Chapter 11 Plan for RathGibson, Inc. and Greenville Tube Company* [Docket No. 33] with the Court on the Petition Date.

6. On August 28, 2010, the Initial Plan Debtors filed the *Disclosure Statement for First Amended Joint Chapter 11 Plan for RathGibson, Inc. and Greenville Tube Company* (the “Initial Disclosure Statement”) in connection with the *First Amended Joint Chapter 11 Plan of RathGibson, Inc. and Greenville Tube Company* (the “Initial Plan”). See Docket No. 231. At a hearing held on August 31, 2009, the Court approved the Disclosure Statement [Docket No. 242] (the “Initial DS Order”)² and the Debtors commenced solicitation of the Initial Plan thereafter in accordance with the Initial DS Order.

7. However, following the solicitation of votes in respect of the Initial Plan, the Debtors determined it was appropriate to amend the Initial Plan to, among other things, provide for the inclusion of RG Tube Holdings LLC and RGCH Holdings Corp. in the chapter 11 plan, implement a more tax efficient restructuring and settle and compromise certain potential intercompany and intercreditor disputes. Accordingly, in order to allow the Debtors sufficient time to formulate and negotiate a revised plan, on November 9, 2009, the Debtors filed the *Debtors’ Motion for Order Extending Their Exclusive Periods to File Chapter 11 Plan and Solicit Acceptances Thereto Pursuant to Section 1121(d) of the Bankruptcy Code* [Docket No. 393] (the “Initial Extension Motion”). On December 8, 2010, this Court entered an order granting the relief requested in the Initial Extension Motion, thereby extending the Debtors’

² On September 2, 2009, the Court entered an amended order approving the Plan [Docket No. 254].

Exclusive Periods (as defined below) through and including February 23, 2010 and April 28, 2010, respectively [Docket No. 442].

8. Since prior to the filing of the Initial Extension Motion, the Debtors have been working with their key constituencies to enter into a global settlement of open issues and anticipate filing an amended chapter 11 plan (the "Plan") and related disclosure statement in the near term. The Debtors anticipate that the Plan may reflect a global settlement of: (i) various intercompany claims; (ii) the Debtors' dispute with the Ad Hoc RGCH PIK Noteholders Committee; and (iii) issues raised by the Committee regarding various matters. The Debtors are in the process of finalizing the Plan and related disclosure statement and anticipate filing a motion seeking approval of the disclosure statement, including, among other things, related solicitation procedures shortly. However, as the Debtors' current exclusivity and solicitation periods expire on February 23, 2010 and April 28, 2010, respectively, the Debtors, are seeking an additional extension of those periods as set forth herein.

RELIEF REQUESTED

9. By this Motion, the Debtors respectfully request, pursuant to section 1121(d) of the Bankruptcy Code, that: (a) the period in which the Debtors have the exclusive right to file a chapter 11 plan or plans be extended through and including June 30, 2010; and (b) the period in which the Debtors have the exclusive right to solicit acceptances of such plan(s) be extended through and including August 30, 2010. This is the Debtors' second request for an extension of these deadlines. The Debtors also request that such extensions be without prejudice to their rights to request further extensions or to seek other appropriate relief.

BASIS FOR RELIEF REQUESTED

10. Section 1121(b) of the Bankruptcy Code provides for an initial period of 120 days after the commencement of a chapter 11 case during which a debtor has the exclusive right to file a plan (the “Exclusive Filing Period”). Section 1121(c)(3) of the Bankruptcy Code provides that, if a debtor files a plan within the Exclusive Filing Period, then it has an initial period of 180 days after the commencement of its chapter 11 case to solicit acceptances of such plan (the “Exclusive Solicitation Period” and, together with the Exclusive Filing Period, the “Exclusive Periods”).

11. As noted above, the Debtors’ initially extended Exclusive Periods expire on February 23, 2010 and April 28, 2010, respectively.³ Section 1121(d) permits the Court to extend the Exclusive Periods for “cause.” For the reasons set forth herein, the Debtors believe that “cause” exists to further extend the Exclusive Periods.

A. Section 1121(d) of the Bankruptcy Code Permits the Court to Extend the Exclusive Periods for “Cause”

12. The Exclusive Periods under section 1121(b) of the Bankruptcy Code are intended to afford the Debtors the opportunity to propose a chapter 11 plan or plans and to solicit acceptances of such plan(s) without the deterioration and disruption to the Debtors’ business operations that might be caused by the filing of competing plans by non-debtor parties. Section 1121(d) of the Bankruptcy Code allows the Court to extend the Debtors’ Exclusive Periods for “cause.” Specifically, section 1121(d) of the Bankruptcy Code provides:

- (1) Subject to paragraph (2), on request of a party in interest made within the respective periods specified in subsections (b) and (c) of this section and after notice and a

³ Pursuant to Local Rule 9006-2, the Debtors’ Exclusive Filing Period “shall automatically be extended until the Court acts on the motion, without the necessity for the entry of a bridge order.” Del. Bankr. LR 9006-2.

hearing, the court may for cause reduce or increase the 120-day period or the 180-day period referred to in this section.

- (2) (A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.
- (B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.

11 U.S.C. § 1121(d).

13. It is well established that the decision to extend the Exclusive Periods is left to the sound discretion of the bankruptcy court and should be based upon the facts and circumstances of a particular case.⁴ See 203 N. LaSalle Street P'ship v. Bank of America, N.A., 1999 U.S. Dist. LEXIS 19425, at *12 (N.D. Ill. 1999); First American Bank of New York v. Southwest Gloves and Safety Equip., Inc., 64 B.R. 963, 965 (D. Del. 1986); In re Mid-State Raceway, Inc., 323 B.R. 63, 68 (Bankr. N.D.N.Y. 2005); In re Reetz, 61 B.R. 412, 414 (Bankr. W.D. Wis. 1986). Although the Bankruptcy Code does not define "cause" for the purpose of an extension of the Exclusive Periods, courts have looked to the legislative history of section 1121(d) of the Bankruptcy Code for guidance. See In re Gibson & Cushman Dredging Corp., 101 B.R. 405, 409 (E.D.N.Y. 1989); In re Amko Plastics, Inc., 197 B.R. 74, 77 (Bankr. S.D. Ohio 1996). In doing so, courts have found that Congress did not intend that the 120- and 180-day periods be a hard and fast rule. See Amko Plastics, 197 B.R. at 77 (noting that Congress intended courts to have flexibility in dealing with extensions of exclusivity); Gaines v. Perkins (In re Perkins), 71 B.R. 294, 297 (W.D. Tenn. 1987) ("The hallmark of ... [section 1121(d)] is

⁴ Although the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA") amended section 1121(d) by prohibiting extensions of the Exclusive Filing Period and Exclusive Solicitation Period beyond 18 and 20 months, respectively, of the Petition Date, there was no revision to the standards for obtaining interim extensions. Accordingly, pre-BAPCPA case law continues to apply and should be examined in the context of the instant cases.

flexibility”). Rather, Congress intended that the Exclusive Periods be of an adequate length, given the circumstances, for a debtor to formulate, negotiate and draft a viable plan, which by definition means one supported by some or all of a debtor’s key constituents, without the disruption to its business that would occur with the filing of competing plans. See Geriatrics Nursing Home v. First Fidelity Bank, N.A., 187 B.R. 128, 133 (D.N.J. 1995) (“The opportunity to negotiate its plan unimpaired by competition, the court held, is meant to allow the debtor time to satisfy all creditors and win support for its restructuring scheme and thus ensure its survival as a business.”). Indeed, Congress recognized that often a 120-day exclusivity period will not afford a debtor sufficient time to formulate and negotiate a plan:

The court is given the power, though, to increase . . . the 120-day period depending on the circumstances of the case. [T]he bill allows the flexibility for individual cases that is not available today. For example, if an unusually large company were to seek reorganization under chapter 11, the Court would probably need to extend the time in order to allow the debtor to reach an agreement.

H.R. Rep. No. 95-595, 95th Cong. 1st Sess. 232 (1977) (footnotes omitted).

14. When determining whether cause exists for an extension of the Exclusive Periods, courts have relied on a variety of factors, each of which may provide sufficient grounds for extending the periods. Factors considered by the courts in making such a determination have included: (a) the size and complexity of the case; (b) the necessity of sufficient time to negotiate and prepare adequate information; (c) the existence of good faith progress toward reorganization; (d) whether the debtor is paying its debts as they come due; (e) whether the debtor has demonstrated reasonable prospects for filing a viable plan; (f) whether the debtor has made progress in negotiating with creditors; (g) the length of time the case has been pending; (h) whether the debtor is seeking the extension to pressure creditors; and (i) whether unresolved contingencies exist. See, e.g., Continental Casualty Co. v. Burns & Roe Enters., Inc., 2005 U.S.

Dist. LEXIS 26247, at *11-12 (D.N.J. 2005); In re Gibson & Cushman Dredging Corp., 101 B.R. 405, 409-10 (E.D.N.Y. 1989); In re R.G. Pharmacy, Inc., 374 B.R. 484, 487 (Bankr. D. Conn. 2007); In re Adelpia Communs. Corp., 352 B.R. 578, 587 (Bankr. S.D.N.Y. 2006); In re Central Jersey Airport Servs., LLC, 282 B.R. 176, 184 (Bankr. D.N.J. 2002). Not all factors are relevant to every case, and courts have relied on subsets of the above factors to hold that cause exists. See, e.g., In re Pine Run Trust, Inc., 67 B.R. 432, 435 (Bankr. E.D. Pa. 1986) (finding cause existed based on two factors). The application of the relevant factors to the facts and circumstances of these cases demonstrates that the requested extensions are both appropriate and necessary.

B. Cause Exists for an Extension of the Debtors' Exclusive Periods

15. The Debtors submit that the factors listed above favor an additional extension of the Exclusive Periods in the instant cases. First, the size and complexity of these cases warrant a further extension of the Exclusive Periods. In addition, since soliciting the Initial Plan, the Debtors determined that it would be in the best interests of their estates if they, among other things, amended the Initial Plan to include all four Debtors and to otherwise effect a more tax efficient restructuring. The Debtors also have been working with their key creditor constituencies and stakeholders in an attempt to settle significant outstanding issues that could adversely affect an expedient plan confirmation.

16. The Debtors are close to finalizing the Plan and related disclosure statement and seek an extension of the Exclusive Periods for the purpose of allowing the Debtors sufficient time to finalize the Plan, solicit acceptances thereof, and facilitate the consummation the Plan.

17. Moreover, the Debtors have moved forward diligently in these cases with the goal of exiting chapter 11 as quickly as possible. To that end, since the Petition Date, the Debtors have filed their schedules of assets and liabilities and statements of financial affairs, established a bar date, and have undertaken the process of reconciling claims filed against their estates and have filed four omnibus objections to claims.

18. Finally, the Debtors have timely paid their undisputed postpetition obligations. Thus, under the relevant facts and circumstances, the requested extension of the Exclusive Periods will not prejudice the legitimate interests of creditors. On the other hand, termination of the Debtors' Exclusive Periods would adversely impact the interests of the Debtors' estates and the progress of these cases at this crucial time. If this Court were to deny the Debtors' request for an extension of the Exclusive Periods, any party in interest then would be free to propose a plan for the Debtors. If that were to occur, the Debtors could be forced to turn its attention from the Plan at this critical juncture in the process.

19. Based upon the foregoing, the Debtors respectfully submit that cause exists to extend the Debtors' Exclusive Periods pursuant to section 1121(d) of the Bankruptcy Code.

NOTICE

20. Notice of this Motion has been provided to: (a) the U.S. Trustee; (b) counsel to the indenture trustee under the Senior Notes; (c) counsel to the agent for RGCH Holdings Corp.'s prepetition unsecured lenders; (d) counsel to the agent for the Debtors' postpetition secured lenders and the ad hoc committee of the holders of the Senior Notes; (e) counsel to the Committee; and (f) those parties entitled to receive notices under Bankruptcy Rule 2002. The Debtors submit that, under the circumstances, no other or further notice is required.

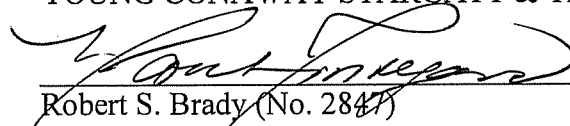
21. Except with respect to the Initial Extension Motion, no previous motion for the relief sought herein has been made to this or any other court.

CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court enter an order, substantially in the form attached hereto as Exhibit A, granting the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: Wilmington, Delaware
February 22, 2010

YOUNG CONAWAY STARGATT & TAYLOR, LLP



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

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In re : Chapter 11
 :
 : Case No. 09-12452 (CSS)
RathGibson, Inc., et al.,¹ :
 : Jointly Administered
 :
 Debtors. : **Objection Deadline: March 8, 2010 at 4:00 p.m. (ET)**
 : **Hearing Date: March 23, 2010 at 1:00 p.m. (ET)**
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NOTICE OF MOTION AND HEARING

TO: (I) THE OFFICE OF THE UNITED STATES TRUSTEE; (II) COUNSEL TO THE INDENTURE TRUSTEE UNDER THE 11.25% SENIOR NOTES DUE 2014 ISSUED BY RATHGIBSON, INC.; (III) COUNSEL TO THE AGENT FOR RGCH HOLDINGS CORP.'S PREPETITION UNSECURED LENDERS; (IV) COUNSEL TO THE AGENT FOR THE DEBTORS' PREPETITION AND POSTPETITION SECURED LENDERS AND THE AD HOC COMMITTEE OF CERTAIN HOLDERS OF THE SENIOR NOTES; (V) COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS; AND (VI) THOSE PARTIES ENTITLED TO RECEIVE NOTICES UNDER RULE 2002 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

PLEASE TAKE NOTICE that the above-captioned debtors and debtors in possession (the "Debtors") have today filed the attached **Debtors' Second Motion for Order Extending Their Exclusive Periods to File Chapter 11 Plan and Solicit Acceptances Thereto Pursuant to Section 1121(d) of the Bankruptcy Code** (the "Motion").

PLEASE TAKE FURTHER NOTICE that responses, if any, to the Motion must be filed with the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801 on or before **March 8, 2010 at 4:00 p.m. (prevailing Eastern Time)** (the "Objection Deadline"). At the same time, you must serve a copy of your response upon the undersigned counsel.

PLEASE TAKE FURTHER NOTICE THAT A HEARING ON THE MOTION WILL BE HELD ON March 23, 2010 at 1:00 p.m., BEFORE THE HONORABLE CHRISTOPHER S. SONTCHI, AT THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 NORTH MARKET STREET, 5TH FLOOR, COURTROOM NO. 6, WILMINGTON, DELAWARE 19801.

¹ The last four digits of the taxpayer identification numbers of the Debtors follow in parentheses: (i) Greenville Tube Company (2689); (ii) RathGibson, Inc. (3283); (iii) RG Tube Holdings LLC (4080); and (iv) RGCH Holdings Corp. (9683). The Debtors' executive headquarters' address is 475 Half Day Road, Suite 210, Lincolnshire, Illinois 60069.

**PLEASE TAKE FURTHER NOTICE THAT IF YOU FAIL TO RESPOND
IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF
REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.**

Dated: Wilmington, Delaware
February 22, 2009

YOUNG CONAWAY STARGATT & TAYLOR, LLP



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*Co-Counsel for the Debtors and
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EXHIBIT A

Proposed Order

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

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In re :
 : Chapter 11
RathGibson, Inc., et al.,⁵ : Case No. 09-12452 (CSS)
 :
 : Jointly Administered
Debtors. :
 : Re: Docket No. ____
 :
-----X

**ORDER FURTHER EXTENDING DEBTORS' EXCLUSIVE PERIODS
TO FILE CHAPTER 11 PLAN AND SOLICIT ACCEPTANCES
THERE TO PURSUANT TO SECTION 1121(d) OF THE BANKRUPTCY CODE**

Upon consideration of the motion (the "Motion") of the debtors and debtors in possession in the above-captioned cases (collectively, the "Debtors") for entry of an order, pursuant to section 1121(d) of title 11 of the United States Code (the "Bankruptcy Code"), Rule 9006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rule 9006-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), extending the Debtors' exclusive periods to file a chapter 11 plan or plans and to solicit acceptances of such plan(s); and notice of the Motion having been provided to the parties identified in the Motion; and it appearing that no other or further notice need be provided; and it appearing that the relief requested in the Motion is in the best interests of the Debtors and their respective estates and creditors; and after due deliberation and sufficient cause appearing therefor, it is hereby:

⁵ The last four digits of the taxpayer identification numbers of the Debtors follow in parentheses: (i) Greenville Tube Company (2689); (ii) RathGibson, Inc. (3283); (iii) RG Tube Holdings LLC (4080); and (iv) RGCH Holdings Corp. (9683). The Debtors' executive headquarters' address is 475 Half Day Road, Suite 210, Lincolnshire, Illinois 60069.

ORDERED, ADJUDGED, AND DECREED that:

22. The Motion is GRANTED as set forth herein.

23. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

24. The Debtors' Exclusive Filing Period shall be extended through and including June 30, 2010.

25. The Debtors' Exclusive Solicitation Period shall be extended through and including August 30, 2010.

26. The entry of this Order shall be without prejudice to the rights of the Debtors to request further extensions of the Exclusive Periods or to seek other appropriate relief.

27. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

Dated: Wilmington, Delaware
_____, 2010

THE HONORABLE CHRISTOPHER S. SONTCHI
UNITED STATES BANKRUPTCY JUDGE