

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

IN RE:	)	Chapter 11
	)	
SOUTHCROSS ENERGY PARTNERS,	)	Case No. 19-10702 (MFW)
L.P., <i>et al.</i> ,	)	
	)	(Jointly Administered)
Debtors.	)	
	)	Hearing: October 28, 2019 at 10:30 a.m.
	)	Objection Deadline: October 21, 2019
	)	Re: Docket No. 519, 520, 521

**OBJECTION OF CIGNA ENTITIES TO DISCLOSURE STATEMENT  
FOR CHAPTER 11 PLAN FOR SOUTHCROSS ENERGY PARTNERS L.P.  
AND ITS AFFILIATED DEBTORS**

Cigna Health and Life Insurance Company (“CHLIC”) and Life Insurance Company of North America (“LINA,” and jointly with CHLIC, “Cigna”), by and through their undersigned counsel, hereby object to the *Disclosure Statement for Chapter 11 Plan for Southcross Energy Partners L.P. and its Affiliated Debtors* [D.I. 520] (“Disclosure Statement”). In support of this Objection, Cigna states as follows:

**BACKGROUND**

1. CHLIC and the above-captioned Debtors (“Debtors”) are parties to Group Insurance Policy, including all amendments, riders and letter agreements thereto, effective as of January 1, 2017, Policy No. 8340257 (“Cigna Policy”). Under the Cigna Policy, CHLIC provides medical and dental insurance coverage to Debtors’ employees under the Debtors’ employee benefits plan, and Debtors fund employee healthcare claim payments.

2. CHLIC and the Debtors are also parties to a MotivateMe Service Agreement, effective as of January 1, 2017 (“Service Agreement”) pursuant to which CHLIC administers Debtors’ “Healthy Pregnancy, Healthy Babies” program under the Plan.



3. LINA and the Debtors are parties to the following four group insurance policies, as amended (collectively, “LINA Policies” and collectively with the Cigna Policy and the Service Agreement, the “Employee Benefits Agreements”), pursuant to which LINA provides life, disability and accident insurance to Debtors’ employees under the Plan:

- Accidental Death and Dismemberment Policy, effective 1/1/12, Policy No. SOK 601728
- Life Insurance Policy, effective 1/1/12. Policy No. SGM-602789
- Short Term Disability Policy, effective 1/1/12. Policy No. SGD-602695
- Long Term Disability Policy, effective 1/1/12. Policy No. SGD-602696

4. On October 4, 2019, Debtors filed the Disclosure Statement, the *Chapter 11 Plan for Southcross Energy Partners, L.P. and its Affiliated Debtors* [D.I. 519] (“Plan”) and the *Motion of Debtors for Entry of an Order (I) Approving the Disclosure Statement, (II) Establishing Procedures for the Solicitation and Tabulation of Votes to Accept or Reject the Plan, (III) Approving the Form of Ballot and Solicitation Materials, (IV) Establishing the Voting Record Date, (V) Fixing the Date, Time, and Place for the Confirmation Hearing and the Deadline for Filing Objections Thereto, and (VI) Approving Related Notice Procedures* [D.I. 521].

5. Under the Plan, the Employee Benefits Agreements, like other executory contracts, may be assumed or may be rejected. Plan, Article, 12.1. Thus, the Plan proposes that the Employee Benefits Agreements may be rejected as of the Effective Date of the Plan.

6. Should the Debtors reject the Cigna Policy, employee healthcare claims that were incurred, but not submitted, processed and paid (“Run-Out Claims”) prior to the effective date of rejection (“Termination Date”) will continue to be processed by Cigna following the Termination Date, if the Debtors pay the Supplemental Premium due under the Cigna Policy (the “Run-Out Claims Obligation”).

7. Upon information and belief, the Debtors' current and former employees who have incurred and will incur healthcare claims prior to the Termination Date expect that those healthcare claims will be funded. Further, such employees may assume that their benefits under the Employee Benefits Agreements will continue after the Termination Date. However, the Plan and Disclosure Statement do not propose a definitive disposition of the Employee Benefits Agreements.

### **OBJECTION**

8. Cigna objects to the Disclosure Statement because it fails to disclose whether the Employee Benefits Agreements will be assumed or rejected under the Plan. The Debtors must irrevocably designate each of the Employee Benefits Agreements as contracts to be assumed or rejected under the Plan prior to the dates for objections to and voting upon the Plan. Further, the Plan and Disclosure Statement fail to disclose whether, if the Cigna Policy is rejected, the Run-Out Claims Obligation will be satisfied.

9. Section 1125(b) of the Bankruptcy Code requires that a disclosure statement contain "adequate information." 11 U.S.C. § 1125(b). "The primary purpose of a disclosure statement is to give the creditors information they need to decide whether to accept the plan." *See, In re: Monnier Bros.*, 775 F.2d 1336, 1342 (8<sup>th</sup> Cir. 1985); *see also Krystal Cadillac-Oldsmobile GMC Truck, Inc. v. GMC*, 337 F.3d 314, 321 (3d Cir. 2003) (The term adequate information is that which would enable a hypothetical reasonable investor typical of holders of claims or interests of the relevant class to make an informed judgment about the Plan.). The Disclosure Statement fails to meet this requirement.

A. Notice Of Proposed Assumption or Rejection.

10. The Disclosure Statement and Plan do not list the contracts to be assumed and rejected under the Plan. Instead, the Plan and Disclosure Statement provide that the executory contracts to be assumed under the Plan will be on the Schedule of Assumed Contracts to be filed as part of the Plan Supplement. Likewise, the executory contracts to be rejected under the Plan will be on the Schedule of Rejected Contracts to be filed as part of the Plan Supplement. However, under the Plan, the Debtors can “amend, supplement or otherwise modify” these Schedules at any time prior to the Plan Confirmation Hearing. Plan, Article 1.106; Disclosure Statement, Article IV.I.1. Thus, Cigna will not know the proposed treatment of its interests under the Plan prior to the Plan Confirmation Hearing. The information in the Disclosure Statement is inadequate for purposes of 11 U.S.C. § 1125(b).<sup>1</sup>

11. The Disclosure Statement and Plan should be altered to provide that unequivocal and irrevocable notice of proposed assumption or rejection of each of the Employee Benefits Agreements will be provided to Cigna and its undersigned counsel at least five (5) business days prior to the deadlines for voting on and objecting to the Plan.

B. Run-Out Claims

12. The Plan and Disclosure Statement fail to account for the Run-Out Claims Obligation in the event that the Cigna Policy is rejected. Specifically, the Disclosure Statement fails to disclose whether the Run-Out Claims Obligation will be satisfied. If the answer is “no,” the Disclosure Statement must disclose that Run-Out Claims will not be funded, and must provide for clear notice thereof to Cigna and affected employees. If the

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<sup>1</sup> Article IV.I.5. of the Disclosure Statement specifically addresses employee benefits programs and states, *inter alia*, that “healthcare plans ... will be assumed.” However, that subsection is qualified by “[e]xcept as otherwise expressly provided hereunder.” If this subsection controls over Article IV.I.1. as to the Cigna Employee Benefits Agreements, the Disclosure Statement must so clarify.

Run-Out Claims Obligation will be satisfied, the Disclosure Statement and Plan must so state. The information in the Disclosure Statement is inadequate for purposes of 11 U.S.C. § 1125(b).

C. Protective Cure.

13. To the extent that the Debtors seek to assume the Employee Benefits Agreements, the Debtor must pay the full cure amount based upon the actual amounts that are due on the date that the Employee Benefits Agreements are assumed. *See* 11 U.S.C. § 365(b)(1). Amounts due under the Employee Benefits Agreements vary from day to day, and are subject to reconciliation based upon, among other things, eligibility reports submitted by the Debtors, and claims funding provided by the Debtors. Any cure amount must be based on the amount due as of the Effective Date.

WHEREFORE, Cigna respectfully requests that this Court enter an order that: (i) denies approval of the Disclosure Statement, except to the extent consistent with the foregoing; and (ii) grants such further relief to Cigna as this Court deems just and equitable.

Dated: October 21, 2019

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**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the 21<sup>st</sup> day of October, 2019, a copy of the **Objection of Cigna Entities to Disclosure Statement for Chapter 11 Plan for Southcross Energy Partners L.P. and Its Affiliated Debtors** was served as indicated upon the following parties.

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