

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

FULCRUM BIOENERGY, INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 24-12008 (TMH)

(Jointly Administered)

Requested Hearing Date:

N/A

Objection Deadline:

N/A

Re: D.I. 415

**MOTION TO SHORTEN NOTICE OF DISCLOSURE STATEMENT FOR JOINT
CHAPTER 11 PLAN OF LIQUIDATION**

Fulcrum BioEnergy, Inc. and certain of its affiliates (collectively, the “Debtors”), each of which is a debtor and debtor in possession in the above-captioned chapter 11 cases (the “Chapter 11 Cases”), hereby submits this motion (the “Motion”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), shortening notice of the *Disclosure Statement for Joint Chapter 11 Plan of Liquidation* [D.I. 415] (as it may be modified from time to time, the “Disclosure Statement”).² In support of this Motion, the Debtors respectfully state as follows:

¹ The Debtors and Debtors in possession in these chapter 11 cases, along with each debtor’s federal tax identification numbers are: Fulcrum BioEnergy, Inc. (3733); Fulcrum Sierra BioFuels, LLC (1833); Fulcrum Sierra Finance Company, LLC (4287); and Fulcrum Sierra Holdings, LLC (8498). The location of the Debtors’ service address is Fulcrum BioEnergy Inc., P.O. Box 220 Pleasanton, CA 94566. All Court filings can be accessed at: <https://www.veritaglobal.net/Fulcrum>.

² Capitalized terms not defined herein are used as defined in the Disclosure Statement.



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RELIEF REQUESTED

1. The Debtors seek entry of an order (i) shortening notice with respect to the Disclosure Statement hearing on March 10, 2025 at 11:00 a.m. (ET) and (ii) granting such other relief as the Court deems just and proper under the circumstances.

JURISDICTION

2. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and the Motion is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The Debtors consent pursuant to rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

4. The statutory predicates for the relief requested herein are sections 102 and 105 of title 11 of the United States Code (as amended, the “Bankruptcy Code”), as supplemented by Rule 9006(c) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Rule 9006-1(e).

BACKGROUND

5. On September 9, 2024 (the “Petition Date”), the Debtors filed voluntary petitions under chapter 11 of the Bankruptcy Code in this Court. The Debtors continue to manage their businesses as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these Chapter 11 Cases. On September 19, 2024, the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) appointed an Official Committee of Unsecured Creditors (the “Committee”). No trustee or examiner has been appointed in these chapter 11 cases.

6. On February 3, 2025, the Debtors filed the Disclosure Statement. The Debtors will soon be filing a *Notice of Disclosure Statement Hearing* (the “Notice”) setting a hearing on the Disclosure Statement for March 10, 2025, at 11:00 a.m. (ET) and an objection deadline of March 4, 2025, at 4:00 p.m. (ET).

BASIS FOR RELIEF

7. Local Rule 3017-1 requires that a plan proponent “must provide at least 35 days’ notice of the disclosure statement hearing and at least 28 days’ notice of the deadline to object to approval of the disclosure statement.” Del. Bankr. L.R. 3017-1(a).

8. Section 102(1) of the Bankruptcy Code provides that the phrase “after notice and a hearing” requires only such notice and opportunity for a hearing as may be appropriate under the circumstances. 11 U.S.C. § 102(1). Section 105(a) of the Bankruptcy Code provides that the Court “may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions” of the Bankruptcy Code. 11 U.S.C. § 105(a).

9. Under Bankruptcy Rule 9006(c), “when an act is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of

court, the court for cause shown may in its discretion with or without motion or notice order the period reduced.” Fed. R. Bankr. P. 9006(c)(1). In exercising its discretion, the court should “consider the prejudice to parties entitled to notice and weigh this against the reasons for hearing the motion on an expedited basis.” *In re Philadelphia Newspapers, LLC*, 690 F.3d 161, 172 (3d Cir. 2012) (noting the common filing of such motions “given the accelerated time frame of bankruptcy proceedings”). Local Rule 9006-1(e) likewise provides for shortened notice “by order of the Court, on written motion . . . specifying the exigencies justifying shortened notice.” Del. Bankr. L.R. 9006-1(e).

10. Cause exists to shorten notice of the Disclosure Statement hearing. As provided for in the Notice, the Debtors have set an objection deadline for the Disclosure Statement for March 4, 2025 at 4:00 p.m. (ET), which complies with the related notice requirements in Local Rule 3017-1; however, Local Rule 3017-1 also requires the Debtors to provide “at least 35 days’ notice of the disclosure statement hearing.” Del. Bankr. L.R. 3017-1(a). Pursuant to this Motion, the Debtors seek to shorten notice of the March 10, 2025 hearing on the Disclosure Statement by one (1) day, from thirty-five (35) days to thirty-four (34) days.

11. Shortening notice of the hearing on approval of the Disclosure Statement is in the best interest of the Debtors, their creditors, and other interested parties. First, the Debtors filed the Disclosure Statement thirty-five (35) days prior to the hearing on March 10, 2025. Second, in advance of filing the Disclosure Statement, the Debtors worked to incorporate the comments of the (i) Committee; (ii) PCL Administration LLC, as administrative and collateral agent for certain of the Debtors’ secured lenders; and (iii) UMB BANK, N.A., as successor trustee and collateral agent for the Debtors’ secured bondholders into the Disclosure Statement. Those comments included the proposed timeline set forth in the Disclosure Statement in which the Debtors will seek

to confirm a chapter 11 plan. That timeline has been heavily negotiated and agreed upon by all parties to those discussions. Under the proposed timeline, the Debtors' creditors will have ample time to review the contents set forth in the Disclosure Statement. Under these circumstances, no party will be prejudiced by a one (1) day shortening of the notice period under Local Rule 3017-1(a).

12. For the foregoing reasons, cause exists to shorten notice of the Disclosure Statement hearing from thirty-five (35) days to thirty-four (34) days.

AVERTMENT PURSUANT TO LOCAL RULE 9006-1(e)

13. Pursuant to Local Rule 9006-1(e), the Debtors conferred with the U.S. Trustee, counsel to the Committee, counsel to PCL Administration LLC, and counsel to UMB Bank, N.A. prior to the filing of this Motion and the Notice. Counsel to the Committee, PCL Administration, and UMB Bank, N.A. support the relief sought in this Motion, and the U.S. Trustee does not take a position on the relief sought in this Motion.

NOTICE

14. The Debtors will provide notice of this Motion to the following parties or their respective counsel: (a) the U.S. Trustee; (b) counsel to the Committee; (c) counsel to PCL Administration LLC; (d) counsel to UMB Bank, N.A.; (e) the United States Attorney's Office for the District of Delaware; (f) the Internal Revenue Service; and (g) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court (i) enter the Proposed Order, substantially in the form attached hereto as **Exhibit A**, granting the relief

requested in this Motion, and (ii) granting such other and further relief as the Court may deem appropriate.

Dated: February 4, 2025
Wilmington, Delaware

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Exhibit A

Proposed Order

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

In re:

FULCRUM BIOENERGY, INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 24-12008 (TMH)

(Jointly Administered)

Re: D.I.

**ORDER SHORTENING NOTICE OF DISCLOSURE STATEMENT
FOR JOINT CHAPTER 11 PLAN OF LIQUIDATION**

Upon the Debtors' motion (the "Motion")² for entry of an order shortening notice with respect to the hearing to consider the *Disclosure Statement for Joint Chapter 11 Plan of Liquidation* [D.I. 415] (as it may be modified from time to time, the "Disclosure Statement"); and the Court having reviewed the Motion; and the Court having found that the relief requested in the Motion is justified under the circumstances,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth in this Order.
2. The notice requirement with respect to the Disclosure Statement hearing on March 10, 2025 at 11:00 a.m. (ET) is shortened from thirty-five (35) days to thirty-four (34) days.
3. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

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