



PEABODY ENERGY

701 Market Street
St. Louis, Missouri 63101-1826
314.342.3400

April 10, 2006

Ms. Nancy M. Morris
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-9303

RE: File Number S7-03-06

Dear Ms. Morris:

This letter is submitted on behalf of Peabody Energy Corporation ("Peabody") in response to the Securities and Exchange Commission's ("Commission") request for comments to Release No. 33-8655 (issued January 27, 2006 and referred to herein as the "Release") regarding proposed amendments to the rules governing the disclosure of information about the compensation of executive officers and directors in proxy and registration statements.

Peabody Supports the SEC's Efforts to Improve Compensation Disclosure

Peabody supports improvements in executive compensation disclosure and in fact, attempted to comply with many of the proposed rules in its 2006 Proxy Statement. Shareholders are entitled to receive clear, comprehensive, and understandable information about a company's executive and director compensation programs in order to assess whether a company is properly using its resources to achieve its desired business objectives.

While we believe that while trying to comply in this year's proxy, overall, the proposed revisions improve the quality of disclosure and enhance the transparency of the compensation-setting process, they also raise several complex compliance issues some of which we encountered while trying to comply. Therefore, we are offering comments on and suggesting changes to several aspects of the proposals in order to further the Commission's stated objectives.

Peabody Energy Recommends Several Enhancements to the Proposed Rules

While we generally support the Commission's proposed rules on executive compensation, we respectfully suggest that the SEC consider the following modifications:

Remove the compensation disclosure of up to three non-officer employees

We recommend that the Commission drop this proposal. Unlike the named executive officers ("NEOs"), the three non-officer employees are generally not individuals who have the ultimate authority over the company's strategic objectives or broad business activities. Furthermore, these three individuals may change each year depending on their total compensation figures. The lack of continuous and consistent disclosure further dilutes the need for this information. Moreover, we believe that such disclosure is inconsistent with the purpose for the disclosure of executive compensation information, will cause friction internally and will provide competitors with potentially significant sensitive and confidential business information.

Further, while the names of these employees would not need to be disclosed, in many instances their title or job description may be sufficient to effectively identify them in our company, resulting in an unwarranted invasion of their privacy.

Modify the definition of "total compensation" for determining Named Executive Officers

We recommend that "total compensation" be modified to refer to total compensation for the last completed fiscal year, but exclude amounts disclosed in the All Other Compensation column of the Summary Compensation Table. In other words, the determination of a company's most highly compensated executive officers (other than the principal executive officer and the principal financial officer) would be based on the amounts disclosed in the Salary, Bonus, Stock Awards, Option Awards, and Non-Stock Incentive Plan Compensation columns of the Summary Compensation Table.

We believe there is value in promoting consistency in identifying NEOs from year to year. By requiring that NEO status be determined on the basis of total compensation, the current proposals would make it more difficult to predict and, at the same time, make it considerably more onerous, to determine who will be one of the company's three most highly-compensated executive officers (other than the principal executive officer and the principal financial officer) and, thus, an NEO in any given year.

We believe that these problems stem primarily from the proposed revisions to the All Other Compensation column in the Summary Compensation Table. As proposed, this column would include all earnings on compensation that is deferred on a basis that is not tax-qualified. The inclusion of these specific items in All Other Compensation column can result in anomalies in the total compensation of an individual executive officer in a given fiscal year and, accordingly, lead to significant volatility in who is considered an NEO from year to year.

Retain the Compensation Discussion and Analysis as a committee report.

We recommend that the Commission retain the current requirement that the Compensation Discussion and Analysis (CD&A) be made over the name of each member of the company's compensation committee. The compensation committee charter for Peabody Energy expressly provides that the compensation committee has direct responsibility to produce a compensation committee report on executive officer compensation as required by the Commission to be included in the listed company's annual proxy statement or annual report on Form 10-K. In addition, the corporate governance standards of The New York Stock Exchange require that each listed company maintain a charter for its compensation committee that makes similar requirements.

In addition, the proposals appear to put a company's management in charge of the preparation of the CD&A. We believe that this creates the appearance of a conflict of interest. A typical CD&A will discuss a company's compensation philosophy, rationale, and outcomes, as well as the compensation committee's decision-making process. Thus, we do not see how the proposed approach will lead to improved disclosure or benefit investors. It is important to ensure that both management and the board of directors are familiar with and support the disclosure in the CD&A, however, this should not be achieved at the expense of the compensation committee's ownership of the discussion.

We also believe that the CD&A should not be considered part of a company's annual report for purposes of the certification requirements of Exchange Act Rules 13a-14 and 15d-14. In our view, a company's principal executive officer and principal financial officer will not be able to certify as to the portions of the CD&A that involve their own compensation. The degree of involvement of these executive officers in the compensation setting-process that would be required to make these determinations would run counter to corporate governance best practices. In fact, virtually all other regulations governing executive compensation provide for independence of the compensation committee in making compensation decisions for senior executives.

Modify presentation of Total Compensation in the Summary Compensation Table

We understand investors' desire for an annualized total compensation figure. However, as proposed, the current formulation of the Summary Compensation Table combines several compensation elements measured at different times that are not equivalent and result in investor confusion, difficult and potentially inaccurate comparisons between companies, and possible "double-counting" of compensation.

The proposed rules would require disclosure of (i) the dollar value of base salary (cash and non-cash) *earned* during the fiscal year covered, (ii) the dollar value of bonus (cash and non-cash) *earned* during the fiscal year covered, (iii) the aggregate *grant date* fair value of stock awards (including restricted stock, restricted stock units, phantom stock, phantom stock units, common stock equivalent units, and other similar instruments that do not have option-like features), (iv) the aggregate *grant date* fair value of stock option awards, (v) the dollar value of all earnings pursuant to awards under non-stock incentive plans (even though not paid out until a subsequent year), and (vi) amounts accrued under defined benefit pension plans and nonqualified deferred compensation plans (whether vested or unvested).

Thus, under the Proposals, the Summary Compensation Table would mix *earned* compensation (such as salary and bonus) that is actually received during a covered fiscal year with *awarded* compensation (such as restricted stock and stock options) that may or may not eventually be realized. In addition, while in some instances non-stock incentive plans awards would be reported when earned and paid out (for example, in the case of a plan with a single year performance period), in other instances these amounts would be reported when the relevant performance measure was satisfied even though not payable until a later date and subject to further contingencies. We are concerned that combining each of these compensation categories into a single total compensation figure would distort and potentially misrepresent the compensation actually earned and received.

Consequently, we recommend that, at a minimum, the Commission should conform the columns in the Summary Compensation Table so that they report the various compensation elements on a consistent basis. As illustrated on Peabody's 2006 Proxy Statement, we have attempted to clarify "total compensation" with 2 additional tables that follow the Summary Compensation Table; the first table details the estimated fair value of 2005 total compensation (by type) and the second table illustrates total compensation in 2005 received in cash. We believe this type of disclosure provides greater understanding and transparency to NEOs' compensation.

Remove the disclosure requirement for deferred compensation

We oppose disclosure of the amounts electively deferred by a named executive officer in a footnote to the appropriate column of the Summary Compensation Table. As long as the full amount of the compensation is properly reflected in the table, the decision to defer all or a portion of his or her pay is a personal matter that has no bearing on an investor's understanding of a company's executive compensation program. We do support, however, full disclosure of the company's contributions to any such arrangements. Peabody does not provide any company contributions to deferred compensation accounts.

Require tabular disclosure of All Other Compensation

Because most companies are likely to report several different types of compensation in the All Other Compensation column of the Summary Compensation Table, we believe that this disclosure would be clearer if companies are required to supplement the amount reflected in this column with a table. Again, Peabody Energy's 2006 Proxy Statement reflects All Other Compensation in a table.

Modify disclosures related to investment earnings on Non Qualified Deferred Compensation

We do not agree with the Commission's proposal to disclose all investment earnings on nonqualified deferred compensation and non-qualified defined contribution plans in the All Other Compensation column of the Summary Compensation Table. This item represents wealth creation earned by an NEO over his or her entire career and is not appropriately disclosed as current earned income. Consequently, we recommend that the Commission delete this proposed disclosure from the Summary Compensation Table.

If, however, the Commission decides to retain the disclosure of this item in the Summary Compensation Table, then we believe that the disclosure requirements should distinguish between earnings on elective deferrals and on company contributions. Elective deferrals reflect a personal investment decision of the NEO. Since he or she could have received the compensation and invested it privately without incurring a disclosure obligation, requiring the disclosure of these amounts in the Summary Compensation Table (and, correspondingly, in the determination of the NEO group) results in disparate treatment of two otherwise similarly situated executive officers. Consequently, we believe that disclosure should only be required in the case of elective deferrals to the extent that investment earnings are paid at "above-market" or "preferential" rates or such earnings are based on notional investments that are not generally available to a company's employees under its tax-qualified defined contribution plan.

Disclosure regarding severance and change-in-control payments

We recommend that the Commission delete, or at a minimum provide additional guidance with respect to, the additional disclosure that would be required regarding severance and change-in-control payments. The value of the payments and benefits is predicated almost entirely on future events and circumstances that will be unknown (and likely unknowable) by a company at the time that it is preparing the disclosure. Thus, without further guidance as to the assumptions that should be used to calculate these values, we will encounter significant challenges in developing assumptions, which will impose an undue administrative burden and expense on compliance. Guidance is also necessary to ensure comparability of the information between companies, who otherwise may use widely different assumptions to calculate the disclosable amounts for their NEOs. This is likely to be detrimental for investors, who may need expert assistance to compare different arrangements for different companies.

We are also concerned about the volume of information that would be required to comply. Where a company has severance and change-in-control arrangements in place with its senior executives that provide for different payout formulas depending on the nature of the termination of employment, companies may need to provide multiple disclosure scenarios (accompanied by explanatory narrative disclosure) for each NEO. Consequently, the potential amount of information that would have to be provided could be overwhelming.

We appreciate the opportunity to comment on the Proposals, and would be pleased to discuss any questions the Commission may have with respect to this letter. Any questions about this letter may be directed to Richard A. Navarre, Executive Vice President & Chief Financial Officer or Sharon D. Fiehler, Executive Vice President – Human Resources & Administration at (314) 342-3400.

Respectfully submitted,



Sharon D. Fiehler
EVP- Human Resources & Administration