Regional News at a Glance

Coal Crunch
Massive Mining Layoffs Hit WV

During the summer of 2014, three major coal mining companies announced plans to lay off a total of 1,800 employees in West Virginia.

The largest announcements came from Bristol, Va.-based Alpha Natural Resources. In late July and early August, the company put 1,129 employees on notice at various subsidiaries in the southern half of the state, where mine productivity is low compared with other U.S. coal-producing regions.

The company cited several reasons for reducing its West Virginia operations, including persistently weak demand for coal, competition from lower-cost operators in other regions, competition from natural gas as an alternative to coal for power generation, and new regulations from the Environmental Protection Agency.

(For more on the prospects for West Virginia coal, see “The Future of Coal,” Econ Focus, Fourth Quarter 2013.)

“EPA’s new MATS (mercury and air toxics standards) air emissions rule alone is expected to take more coal-fired power generation offline next year than in the previous three years combined,” the company predicted. “Much of that is in markets historically supplied by Central Appalachian mines.”

Other major layoff announcements during the summer came from Cliffs Natural Resources of Cleveland (397 employees) and Coal River Energy of Alum Creek, W.Va. (280 workers). Coal River Energy blamed its pending layoffs on “weak coal demand and government regulations,” while Cliffs Natural Resources cited poor market conditions for metallurgical coal (coal used to make steel).

The summer’s total number of announced layoffs represents 9.5 percent of the state’s jobs in coal mining and coal mining support, but the industry’s employment will not decline 9.5 percent because hiring will offset some of the layoffs. The net loss of jobs during the past two years, however, has accelerated a downward trend that began in 2012. Coal mining employment in West Virginia, including support positions, has plummeted from an 18-year high of 24,928 jobs in 2011 to a 10-year low of 19,040 jobs in the first quarter of 2014. The most recent wave of layoff announcements suggests that the number will continue to decline rapidly for at least the rest of the year.

—Karl Rhodes

In for a Dollar
Discount stores engage in a high-price bidding war

The Charlotte area-based retailer Family Dollar has been targeted for takeover by two of its competitors. In July, the company announced it was being acquired by Dollar Tree, which is headquartered in Chesapeake, Va., for $8.5 billion, or $74.50 per share. In August, rival Dollar General offered to pay $78.50 per share, an offer that Family Dollar’s board of directors rejected on the grounds that the Federal Trade Commission (FTC) would be unlikely to approve the deal. Dollar General upped its bid to $80 per share, or $81 billion, but Family Dollar spurned that offer as well. On Sept. 10, five days after being rebuffed the second time, Dollar General launched a hostile take-over bid. Family Dollar’s board is recommending that shareholders reject Dollar General’s tender offer. The shareholder vote is scheduled for December 11.

The three chains are the major players in the “super discount” retail sector, which grew significantly during the Great Recession and has continued to expand. Dollar General is the largest of the three, with more than 11,000 stores in 40 states. Family Dollar has about 8,000 locations, and Dollar Tree has about 5,000 locations in the United States and Canada. By comparison, Wal-Mart has around 4,200 U.S. locations.

Despite the moniker “dollar store,” both Family Dollar and Dollar General sell goods at a range of...
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courts are statewide and some are limited to metro areas,
such as Pittsburgh and Chicago; and the criteria for qualify-
ing for business court is different in every location.
Despite this wide variety, each state with a business
court system generally creates it with the goal of improv-
ing efficiency and predictability in business litigation.

The new North Carolina law was spearheaded by
Republican state senators Tamara Barringer and Bob
Rucho, who told the Charlotte News & Observer in June
that their goal was to enhance the existing court and
“make the state more attractive to businesses, including
out-of-state companies looking to relocate.”

One of the ways that North Carolina hopes the law
will help it to compete is through new rules on holding
company reorganizations — that is, when a new cor-
poration becomes the sole shareholder of an existing
corporation through a merger. In a page taken from
Delaware's playbook, an entirely new section was added
that permits holding companies to reorganize without
shareholder approval as long as certain requirements are
met. Once the merger is complete, the shareholders will
maintain the same rights in the new holding company.

Other sections in the law deal directly with the oper-
ation of the business court. Business court appeals will
now go directly to the state Supreme Court, rather than
through the Court of Appeals. The law also creates a
category of mandatory complex business cases that are
required to be tried in business court: Cases valued at
more than $5 million involving corporate law, intellectual
property law, and certain other areas fall under this desig-
nation, as do business contract disputes worth more than
$1 million when all parties consent to the designation.

While the law does not create any new judgeships,
the 2014 Appropriations Act does call for two new
business court judges in 2015, bringing the total to five.
The updated law applies only to cases brought to the
court after Oct. 1, 2014, and most provisions of the new
law went into effect on this date.

It’s All Business
NC expands the role of its business court with new law

North Carolina’s business court has been in exis-
tence since 1995, but it recently got quite the facelift. On Aug. 6, Gov. Pat McCrory signed into law
an act aimed at modernizing and streamlining the state’s
specialized business court. Proponents believe these
changes will make the state more business-friendly by
establishing clear precedents and definitive case law.

Business courts are specialized courts that hear only
designated business cases. They currently exist in varying
forms in 20 states, with Delaware’s Court of Chancery
being the longest-running and most prestigious.

But the makeup of business courts differs greatly
from state to state in several respects. For instance,
North Carolina and Delaware have specialized business
courts, while some other states only have business divi-
sions within their existing general courts; some business
courts are statewide and some are limited to metro areas,
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Family Dollar's shareholders, the deal will come under
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—Jessie Romero

prices, and Family Dollar says that proximity to a
Dollar General is a major factor in its pricing decisions.
According to Family Dollar’s board of directors, it’s
thus likely the FTC would block the deal on antitrust
grounds, or at the very least require a protracted review
process. “The government wants to prevent mergers
that transform the structure of a market in a way that
raises prices and thus injures consumers in that mar-
ket,” says Alan Meese, an antitrust expert at William &
Mary Law School and former antitrust litigator.

Invoking antitrust concerns is a common tactic for
companies that don’t want to be bought, according to
Meese. “Raising antitrust concerns to thwart a more
generous bid can raise suspicions about the motives
of the target’s board.” Still, the Dollar Tree deal may be
more likely to pass muster with the FTC; Dollar Tree
caps its prices at $1 and has promised to divest itself of
as many stores as necessary to win regulatory approval.
Dollar General has agreed to sell up to 1,500 stores, but
so far it is unwilling to promise more. “In this context
Family Dollar’s directors have a fiduciary duty to obtain
the best deal for shareholders,” says Meese. “If they
have a well-informed good faith belief that the FTC
will block the more lucrative transaction, they should
recommend shareholders approve the sure thing.”

Just how much monopoly power a combined Dollar
General-Family Dollar would actually be able to exer-
cise depends on how the relevant market is defined.
The dollar stores’ $48 billion market is only a tiny slice
of the total market for fast-moving consumer goods,
such as groceries and toiletries; Walmart’s U.S. sales
alone were more than $279 billion in fiscal year 2014.
And an analysis of shopping data for about 80,000
households by the company InfoScout suggests that
consumers have plenty of other options. In any given
month, nearly 93 percent of households also shopped
at a supercenter such as Walmart or Target, and
when asked, 81 percent of Family Dollar shoppers said
Walmart was a good substitute for Family Dollar.

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—Lisa Kenney