

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE:	:	
	:	
ENERGY FUTURE HOLDINGS CORP.,	:	Bankruptcy Case No. 14-10979 (CSS)
et al.,	:	
	:	
Debtor.	:	
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SHIRLEY FENICLE, et al.,	:	
	:	
Appellants,	:	
	:	
v.	:	Civil Action No. 16-888-RGA
	:	BAP No. 16-47
ENERGY FUTURE HOLDINGS CORP.,	:	
et al.,	:	
	:	
Appellees.	:	

IN RE:	:	
	:	
ENERGY FUTURE HOLDINGS CORP.,	:	Bankruptcy Case No. 14-10979 (CSS)
et al.,	:	
	:	
Debtor.	:	
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SHIRLEY FENICLE, et al.,	:	
	:	
Appellants,	:	
	:	
v.	:	Civil Action No. 17-9-RGA
	:	BAP No. 17-1
ENERGY FUTURE HOLDINGS CORP.,	:	
et al.,	:	
	:	
Appellees.	:	

MEMORANDUM ORDER

In 16-888, Appellees have filed a motion to dismiss the appeal. (D.I. 18). In 17-9, Appellees claim to have eleven issues on appeal. (D.I. 4). Nevertheless, the parties and their attorneys are the same as in 16-888, and, notwithstanding the Hydra-like proliferation of issues, I think the core concern is the same as in 16-888. The confirmation hearing, I am told, is set to begin in a week. (No. 16-888, D.I. 21, ¶ 1). I would not want to bet against another appeal if the Bankruptcy Court confirms a plan. And, of course, there has already been an earlier appeal, which I dismissed for lack of jurisdiction. 2016 WL 5402186 (D.Del. Sept. 26, 2016).

The current approach seems inefficient, as there are not going to be any decisions in the pending appeals before the Bankruptcy Court rules on confirmation. It would seem to me to make more sense to consolidate Nos. 16-888, 17-9, and the likely third appeal, for briefing and argument.

The parties are directed to meet-and-confer, and, no later than February 13, advise of their positions on consolidation. Ideally, the parties could also agree on a briefing schedule, with Appellants' opening brief tied to the Bankruptcy Court's confirmation order, if there is one.

IT IS SO ORDERED this 7 day of February 2017.


United States District Judge