

The Insolvency Act 1986

**2.24B****Administrator's progress report**

Name of Company Powerfuel Plc	Company number 05113279
In the High Court of Justice, Chancery Division Companies Court	Court case number 10001 of 2010

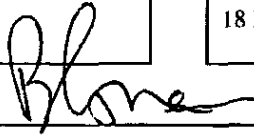
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Joint Administrators of the Company attach a progress report for the period

from	to
19 May 2012	18 November 2012

Signed

  
Joint Administrators

Dated

10 December 2012

**Contact Details:**

You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form. The contact information that you give will be visible to searchers of the public record.

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When you have completed and signed this form, please send it to the Registrar of Companies at -

Companies House, Crown Way, Cardiff CF14 3UZ

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**Powerfuel Plc in Administration**

**Progress Report  
for period from 19 May 2012 to 18  
November 2012**

KPMG LLP

10 December 2012

*This report contains 18 Pages*

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## About this Report

This progress report ("Report") has been prepared by Brian Green and Richard Dixon Fleming, the Joint Administrators ("the Administrators") of Powerfuel plc ("the Company"), solely to comply with their statutory duty under the Insolvency Act 1986 and Insolvency Rules 1986 (as amended) to provide creditors with an update on the progress of the Administration of the estate, and for no other purpose. It is not suitable to be relied upon by any other person, or for any other purpose, or in any other context.

This Report has not been prepared in contemplation of it being used, and is not suitable to be used, to inform any investment decision in relation to the debt of or any financial interest in this Company.

Any estimated outcomes for creditors included in this Report are illustrative only and cannot be relied upon as guidance as to the actual outcomes for individual creditors.


Any person that chooses to rely on this Report for any purpose or in any context other than under the Insolvency Act 1986 and Insolvency Rules 1986 (as amended) does so at their own risk. To the fullest extent permitted by law, the office holders do not assume any responsibility and will not accept any liability in respect of this Report.

Please note that unless stated otherwise, all amounts in this Report and appendices are stated net of VAT.

## 1 **Executive Summary**

- This Report covers the period from the date of the last progress report, 19 May 2012, to 18 November 2012. It has been prepared in accordance with Rule 2.47 of the Insolvency Rules 1986. It should be read in conjunction with my previous reports.
- The purpose of this Report is to provide an update on the progress of the Administration.
- Further to my previous report, the extension of the Company's Administration was granted on 18 May 2012 following a hearing at the Royal Court of Justice.
- The Administrators' Statement of Proposals ("Proposals") were approved on 14 February 2011 and have not been modified (see Section 2 - Administrators' Statement of Proposals).
- Based on the expected level of realisations and the amounts owed to the secured creditor, it is unlikely that there will be sufficient funds available to facilitate a distribution to unsecured creditors.
- Full details of the Administrators' progress are attached together with all the relevant statutory information included by way of Appendices (see Section 4 - Comments on the Appendices and the Appendices).

### 1.1 **Office Holder**



Joint Administrator – Brian Green

## **2 Administrators' Statement of Proposals / previous and further appointments**

### **2.1 Administrators' Statement of Proposals**

The Administrators' Proposals were circulated on 2 February 2011. Please refer to my previous reports for further details.

### **2.2 Previous professional relationships**

Please refer to my previous reports.

### **2.3 Further appointments**

Please refer to my previous reports.

## **3 Progress to date**

### **3.1 Initial strategy**

Please refer to my previous reports.

### **3.2 Sale of Powerfuel Power Limited**

Please refer to my previous reports.

### **3.3 Sale of PML's assets business and assets**

Please refer to my previous reports.

### **3.4 Sale of land owned by the Company**

Please refer to my previous reports.

### **3.5 Communication**

The Administrators wrote to all known creditors of the Company on 13 December 2010 advising them of their appointment.

Following this, the Administrators' Proposals were circulated to all known creditors of the Company on 2 February 2011.

On 5 July 2011, the Administrators circulated their progress report for the period 9 December 2010 to 8 June 2011.

On 1 December 2011 the Administrators circulated their progress report for the period 9 June 2011 to 1 December 2011. The purpose of this report was to provide Company's secured creditor, ING Bank N V ("ING") with the necessary information to allow them to consider the proposed resolution, to extend the period of the Administration for six months to 8 June 2012. This extension was subsequently granted.

On 21 May 2012 the Administrators circulated their progress report for the period 2 December 2011 to 18 May 2012. The purpose of this report was to provide an update to all creditors as a progress report, and was prepared to assist the Court in considering an extension of the Administration by one year to 8 June 2013. This extension was subsequently granted.

### **3.6 Company's other assets**

#### **3.6.1 HCL funds received in error**

In the period covered by this report, the Company received funds of £8,128 from HCL in error. This money has subsequently been repaid.

#### **3.6.2 Bank interest**

The Company received £2,342 and £220 in interest on funds held by the Administrators in their fixed and floating charge bank accounts respectively.

### **3.7 Liabilities**

#### **3.7.1 Secured creditors**

Based upon current information, it is certain that ING will suffer a shortfall on its facility under both fixed and floating charges.

The Administrators' solicitors at the time of their appointment, White & Case LLP ("White & Case"), have reviewed the Lenders' debentures and confirmed their validity.

#### **3.7.2 Preferential creditors**

As stated in my previous reports, the Administrators have received confirmation that preferential claims are nil.

#### **3.7.3 Unsecured creditors**

Based upon current information the Administrators do not expect there to be sufficient funds available to make a distribution to the Company's unsecured creditors under the Prescribed Part Rules once the excess funds advanced under ING's indemnity have been repaid.

The Insolvency Act 1986 (Prescribed Part) Order 2003 does apply in this case as the security held by ING was created after 15 September 2003. The Prescribed Part is calculated as a percentage of the Company's net property. The Company's net property is the net amount available to the floating charge holder after the payment of costs and preferential creditors.

The Prescribed Part is currently estimated at nil and therefore there will not be sufficient funds available, following the payment of costs of the Administration, to enable a Prescribed Part distribution.

### **3.8 Expenses for the period**

The receipts and payments for the period are set out in the attached Receipts and Payments Account (see Appendix 2).



The office holders' time costs for the period of this Report are also attached (see Appendix 3)

The statutory provisions relating to remuneration are set out in Rule 2 106 of the Insolvency Rules 1986. A creditors' guide to fees can be found at

[http://www.r3.org.uk/media/documents/publications/professional/Guide\\_to\\_Administrators\\_Fees\\_Nov2011.pdf](http://www.r3.org.uk/media/documents/publications/professional/Guide_to_Administrators_Fees_Nov2011.pdf)

However, if you are unable to access this guide and would like a copy, please contact Thomas Swiers on 0113 231 3316

Since 19 May 2012 to 18 November 2012, the Administrators have incurred time costs of £12,043 representing 37 hours at an average rate of £322 per hour. Since our appointment to 18 November 2012 the Administrators have incurred time costs of £1,831,167 representing £4,146 hours at an average rate of £442 per hour. This includes Tax, VAT, Health and Safety, Corporate Finance and Pensions advice from KPMG LLP in-house specialists.

A detailed breakdown of the charge out rates for the duration of the Administration is included in Appendix 3 to this Report.

Please note that all staff who have worked on this assignment, including cashiers and secretarial staff have charged time directly to the assignment and are included in the analysis of time spent. The cost of staff employed in central Administration functions is not charged directly to this assignment but is reflected in the general level of charge out rates.

The Administrators have incurred £51 of disbursements in the period covered by this report, none of which has been drawn in the period (see Appendix 3 for further details). Total disbursements since appointment to 18 November 2012 are £20,777.

Additional information about the expenses charged for the period is available from the office holder upon request by any secured creditor, and any other creditor or creditors owed 5% or more in value of the unsecured liabilities listed. Full details of the process to obtain more information under Rule 2 48A Insolvency Rules 1986 and to challenge the administrator's remuneration and expenses under Rule 2 109 Insolvency Rules 1986 are included in Appendix 4 should creditors wish to do so.

### **3 9 Professional Advisors**

Please see my previous report

## **4 Comments on the Appendices**

### **4 1 Statutory information**

This Section includes key information about the Company

## 4 2 Receipts and payments account for the period 19 May 2012 to 18 November 2012

### 4 2 1 Receipts

Please see Section 3 for comments on the receipts during the period

### 4 2 2 Payments

#### 4 2 2 1 *Legal fees*

Total legal fees of £13,585 have been paid in the period £5,514 of these fees have been paid in relation to historic, outstanding invoices due to White & Case These fees were in relation to the following

- advice relating to land issues, and
- general advice in the Administration

Further £8,072 has been paid to Walker Morris for their professional charges for the period to 18 November 2012 This includes the following work

- advice around the extension of the Administration,
- the drafting and submission of the Administrators witness statement for the extension of the Administration, and
- general advice in the Administration

#### 4 2 2 2 *Legal disbursements*

As above, legal disbursements of £161 and £975 have been paid to White & Case and Walker Morris respectively, bringing total disbursements paid to £1,136

#### 4 2 2 3 *Utilities/Telephone*

During the period a CRC Energy Efficiency Scheme payment of £9,204 was made, to the Department for Energy, Climate and Change This was in relation to outstanding fees for the period the Company was registered in the scheme

#### 4 2 2 4 *Payments on behalf of PML*

A charge of £1,290 has been paid from the Administration in relation to charges in respect of PML's participation in the CRC Energy Efficiency Scheme in 2010

#### 4 2 2 5 *Agents'/Valuers' fees*

Fees of £4,500 have been paid in the period to Wardell Armstrong LLP This was in relation to gathering information and the preparation of a report for the Administrators, to assist them in their statutory investigations

### 4 2 3 Storage costs

The Administrators have paid £900 in the period in relation to both the ongoing storage of the Company's books and records, and the prepayment of storage costs for the statutory period of 10 years post administration

### 4 2 4 Bank charges

Bank charges of £25 have been paid in the period

#### **4.3 Analysis of office holders' time costs**

##### **4 3 1 General Correspondence**

In the period time costs of £2,849 (10 hours) have been incurred in relation to general correspondence. This includes correspondence with the secured creditor and dealing with general queries that arise in the Administration.

##### **4 3 2 Statutory Reports**

Time costs of £2,759 (9 hours) have been incurred in relation to the drafting of statutory reports submitted to Court in order to extend the Administration of the Company.

##### **4 3 3 Strategy documents**

Time costs of £1,645 (5 hours) have been incurred in relation to strategy documents. This was in relation to the extension of the Administration including considering the most appropriate course of action.

##### **4 3 4 General Cashiering**

Time costs of £1,328 (4 hours) have been spent in relation to general cashiering, in order to ensure the accuracy of all Administration accounting records.

#### **4.4 Expenses for the period**

Expenses for the period are summarised in Appendix 4 which include the time costs as analysed in Appendix 3.

## 5 Appendix 1

### 5.1 Statutory Information

<b>Appointment</b>	
For period	19 May 2012 to 18 November 2012
Company name	Powerfuel Plc
Nature of business	Mining and agglomeration of hard coal
Court details	The Administration Order was made on 9 December 2010 in High Court of Justice, Companies Court Division number 10001 of 2010, at application by qualifying floating charge holder
Date of appointment	9 December 2010
Extension obtained	1 Year
Office holder details	<p>Richard Dixon Fleming was appointed on 9 December 2010 and is authorised to act as an insolvency practitioner by the Insolvency Practitioners Association</p> <p>Brian Green was appointed on 9 December 2010 and is authorised to act as an insolvency practitioner by the Institute of Chartered Accountants in England &amp; Wales</p>
Registered number	05113279
Previous registered office	Hatfield Colliery Waggons Way Stainforth, Doncaster DN7 5TZ
Present registered office	KPMG LLP 1 The Embankment Neville Street Leeds LS1 4DW
Basis of remuneration	Time costs
Application of EC Regulations	EC Regulations apply and these proceedings will be the Main Proceedings as defined in Article 3 of the EC Regulations

## 6 Appendix 2 – Office holders' receipts and payments account

Powerfuel Plc (In Administration) Administrators' Abstract of Receipts & Payments			
Statement of Affairs	From 19/06/2012 To 18/11/2012	From 09/12/2010 To 18/11/2012	
	<b>FIXED CHARGE ASSETS</b>		
	Funding from Lenders	NIL	4,618,235.90
	Payments from PML	NIL	512,503.03
	Intercompany Loan	NIL	NIL
14,000.00	Vehicles	NIL	NIL
30,000,000.00	Subsidiary - Powerfuel Mining Limited	NIL	NIL
30,000,000.00	Subsidiary - Powerfuel Power Limited	NIL	1.00
	HCL funds received in error	8,127.74	32,127.74
	Payments from Hatfield Colliery Limited	NIL	473,547.89
	Sundry refund	NIL	23.01
	Bank interest, gross	2,342.39	4,208.19
	Trading loan to PML	NIL	NIL
	Refund of climate change levy	NIL	77,165.07
		10,470.13	5,717,811.83
	<b>FIXED CHARGE COSTS</b>		
	Administrators' fees	NIL	1,238,025.00
	Administrators' expenses	NIL	15,905.02
	Legal fees	NIL	357,248.60
	Legal & Other Disbursements	NIL	19,521.13
	Agents'/Valuers' fees	NIL	39,368.39
	Electricity	NIL	62,365.18
	Utilities/Telephone	9,204.00	12,554.06
	Payments on behalf of Hatfield Colliery	NIL	490,648.75
	Bank charges	25.00	497.05
	Irrecoverable VAT	NIL	74,111.12
	Intercompany loan	NIL	582,347.07
	Other Fixed Charge Costs	NIL	35.00
	Payments on behalf of PML	1,290.00	1,412,843.38
	Data Site	NIL	10,521.63
	Insurance	NIL	5,117.92
	Direct Labour	NIL	213,357.26
	Employee Expenses	NIL	1,438.61
	Employee Benefits	NIL	8,845.22
	Funds received in error refunded to HCL	NIL	24,000.00
		(10,519.00)	(4,578,750.39)
	<b>FIXED CHARGE CREDITORS</b>		
(87,036,934.99)	ENG VIB	NIL	NIL
(389,161.71)	Facility Agent	NIL	NIL
		NIL	NIL
	<b>ASSET REALISATIONS</b>		
	Funds from Lenders	NIL	517,876.21
	Motor vehicles	NIL	4,750.00
	Funds received in error	NIL	548,364.53
	Subject Access Request fees	NIL	20.00
	Sundry income	NIL	40.00
365,000.00	Contract security	NIL	NIL
70,819.41	VAT refunds (pre-application)	NIL	NIL
	Cash at bank	NIL	10,455.34
		NIL	1,081,506.08

**Powerfuel Plc**  
**(In Administration)**  
**Administrators' Abstract of Receipts & Payments**

Statement of Affairs	From 19/05/2012 To 18/11/2012	From 09/12/2010 To 18/11/2012
<b>OTHER REALISATIONS</b>		
Bank interest, gross	220.00	859.04
Sundry refunds	NIL	1,653.66
Repayment of intercompany debt	NIL	268,133.00
Npower deposit refund	NIL	370,000.00
	<u>220.00</u>	<u>640,645.70</u>
<b>COST OF REALISATIONS</b>		
Administrators' fees	NIL	325,326.00
Administrators' expenses	NIL	3,305.06
Payments on behalf of PPL	NIL	124,414.72
Irrecoverable VAT	NIL	40,995.52
Npower set off	NIL	271,492.78
Agents'/Valuers' fees	4,500.00	38,441.69
Legal fees	13,585.00	166,482.40
Legal Disbursements	1,135.76	7,711.13
Funds received in error refunded to PML	NIL	548,364.53
Telephone/Telex/Fax	NIL	295.34
Storage costs	899.89	1,636.49
Re-direction of mail	NIL	27.20
Statutory advertising	NIL	772.18
Vehicle costs	NIL	4,508.41
Bank charges	NIL	625.37
	<u>(20,130.65)</u>	<u>(1,534,398.82)</u>
<b>(47,566,267.29)</b>	<b><u>(19,949.50)</u></b>	<b><u>1,326,814.40</u></b>
<b>REPRESENTED BY:</b>		
Floating ch. VAT reclaimable		115,155.37
Fixed charge current		1,088,097.30
Floating charge current		175,791.89
Fixed charge VAT reclaimable		582,623.50
Fixed charge VAT payable		(98,078.35)
Floating ch. VAT payable		(10.00)
Floating ch. VAT control		(103,057.08)
Fixed charge VAT control		(431,791.35)
Pension Contributions		(1,916.88)
		<u><b>1,326,814.40</b></u>

## 8 Appendix 3 - Analysis of office holders' time costs for the period 19 May 2012 to 18 November 2012

	Partner / Director	Manager	Administrator	Support	Total hours	Time cost (£)	Average hourly rate (£)
<b>Administration &amp; planning</b>							
Cashiering							
General (Cashiering)	1 00		2 60		3 60	1 327 50	368 75
Reconciliations (& IPS accounting reviews)			3 80		3 80	944 00	248 42
General							
Fees and WIP	0 00	1 30		0 50	1 80	777 50	431 94
Statutory and compliance							
Checklist & reviews	0 50		0 20		0 70	410 50	586 43
Reports to debenture holders			0 50		0 50	115 00	230 00
Statutory receipts and payments accounts			0 30		0 30	69 00	230 00
Strategy documents	1 20	0 20	3 25		4 65	1 644 50	353 66
Tax							
Post appointment corporation tax	0 80	0 20			1 00	592 00	592 00
Post appointment VAT	0 20	0 50	0 75		1 45	531 50	366 55
	3 70	2 20	11 40	0 50	17 80	6 411 50	360 20
<b>Creditors</b>							
Creditors and claims							
General correspondence			10 30		10 30	2 849 00	276 60
Statutory reports	0 50	0 80	7 90		9 20	2 758 50	299 84
Mail redirection			0 10		0 10	24 00	240 00
	0 50	0 80	18 30		19 60	5 631 50	287 32
<b>Total in period</b>					<b>37 40</b>	<b>12 043 00</b>	<b>322 01</b>
Brought forward time (appointment date to SIP9 period start date)					4 108 10	1 819 124 00	
SIP9 period time (SIP9 period start date to SIP9 period end date)					37 40	12 043 00	
Carry forward time (appointment date to SIP9 period end date)					4 145 50	1 831 167 00	

Notes: All staff who have worked on this assignment, including cashiers and secretarial staff, have charged time directly to the assignment and are included in the analysis as of time spent. The cost of staff employed in central administration functions is not charged directly to the assignment but is reflected in the general level of charge out rates.



Powerfuel Plc in Administration

KPMG LLP

10 December 2012

### **Administrators' charge out rates for the period**

<b>Grade</b>	<b>From 1 October 2010 £/hr</b>	<b>From 1 October 2012 £/hr</b>
<b>Partner</b>	725	765
<b>Associate Partner</b>	635	670
<b>Director</b>	635	670
<b>Senior Manager</b>	525	550
<b>Manager</b>	420	440
<b>Senior Administrator</b>	305	320
<b>Administrator</b>	230	240
<b>Support</b>	120	125

### **Administrators' disbursements during the period**

<b>Expense name</b>	<b>Expense amount (£)</b>
Printing costs	16 18
Sundry Expenses	35 00
<b>Total</b>	<b>51.18</b>



## 9 Appendix 4 - Schedule of expenses for the period

19 May 2012 to 18 November 2012

<b>Fixed charge costs</b>			
<b>Account</b>	<b>Accrued</b>	<b>Paid</b>	<b>Total</b>
Utilities/Telephone	-	9,204 00	9,204 00
Payments on behalf of PML	-	1,290 00	1,290 00
Bank Charges	-	25 00	25 00
Unpaid business rates	21,403 50	-	21,403 50
	<b>21,403.50</b>	<b>10,519.00</b>	<b>31,922.50</b>
<b>Cost of realisations</b>			
Legal Fees	2,612 00	13,585 00	16,197 00
Agents'/Valuers' fees	-	4,500 00	4,500 00
Legal Disbursements	-	1,135 76	1,135 76
Storage costs	-	899 89	899 89
	<b>2,612.00</b>	<b>20,120.65</b>	<b>22,732.65</b>
<b>TOTAL</b>	<b>24,015.50</b>	<b>30,639.65</b>	<b>54,655.15</b>

Creditors are reminded that the basis on which fees have been reported have been agreed by ING

However, to determine if the quantum of the fees to be taken is reasonable the analysis included at Appendix 3 should be reviewed and any additional information can be requested by any secured creditor or any unsecured creditor(s) with at least 5% in value of the unsecured debt in accordance with Rule 2 48A Insolvency Rules 1986 This request must be made within 21 days receipt of the Report The full text of that rule can be provided on request

In addition creditors are reminded that the quantum can be challenged by unsecured creditor(s) with at least 10% in value excluding that creditors claim by making an application to Court in accordance with Rule 2 109 Insolvency Rule 1986 The full text of this Rule can also be provided on request

## 10 Extract from the Insolvency Rules 1986

### **Insolvency Rules 1986**

#### **2 48A Creditors' request for further information**

(1) If- (a) within 21 days of receipt of a progress report under Rule 2 47-

(i) a secured creditor, or

(ii) an unsecured creditor with the concurrence of **at least 5% in value** of the unsecured creditors (including the creditor in question), or with the permission of the court upon an application made within that period of 21 days, any unsecured creditor, the administrator for further information about remuneration or expenses (other than pre-Administration costs) set out in a statement required by Rule 2 47(1)(db) or (dc), the administrator must, within 14 days of receipt of the request, comply with paragraph (2) The administrator complies with this paragraph by either—

(a) providing all of the information asked for, or

(b) so far as the administrator considers that—

(i) the time or cost of preparation of the information would be excessive, or

(ii) disclosure of the information would be prejudicial to the conduct of the Administration or might reasonably be expected to lead to violence against any person, or

(iii) the administrator is subject to an obligation of confidentiality in respect of the information,

giving reasons for not providing all of the information

(3) Any creditor, who need not be the same as the creditor who requested further information under paragraph (1), may apply to the court within 21 days of—

(a) the giving by the administrator of reasons for not providing all of the information asked for, or

(b) the expiry of the 14 days provided for in paragraph (1),

and the court may make such order as it thinks just

(4) Without prejudice to the generality of paragraph (3), the order of the court under that paragraph may extend the period of 8 weeks provided for in Rule 2 109(1B) by such further period as the court thinks just

#### **2 109 Creditors' claim that remuneration is or other expenses are excessive**

(1) Any secured creditor, or any unsecured creditor with either the concurrence of **at least 10% in value of the unsecured creditors** (including that creditor) or the permission of the court, may

apply to the court for one or more of the orders in paragraph (4)

(1A) An application may be made on the grounds that—

- (a) the remuneration charged by the administrator,
- (b) the basis fixed for the administrator's remuneration under Rule 2.106,
- (c) expenses incurred by the administrator,

is or are in all the circumstances, excessive, or in the case of an application under sub-paragraph (b), inappropriate

(1B) The application must, subject to any order of the court under Rule 2.48A(4), be made no later than 8 weeks after receipt by the applicant of the progress report which first reports the charging of the remuneration or the incurring of the expenses in question ("the relevant report")

(2) The court may, if it thinks that no sufficient cause is shown for a reduction, dismiss it without a hearing but it shall not do so without giving the applicant at least 5 business days' notice, upon receipt of which the applicant may require the court to list the application for a without notice hearing. If the application is not dismissed, the court shall fix a venue for it to be heard, and give notice to the applicant accordingly.

(3) The applicant shall, at least 14 days before the hearing, send to the administrator a notice stating the venue and accompanied by a copy of the application, and of any evidence which the applicant intends to adduce in support of it.

(4) If the court considers the application to be well-founded, it must make one or more of the following orders—

- (a) an order reducing the amount of remuneration which the administrator was entitled to charge,
- (b) an order fixing the basis of remuneration at a reduced rate or amount,
- (c) an order changing the basis of remuneration,
- (d) an order that some or all of the remuneration or expenses in question be treated as not being expenses of the Administration,
- (e) an order that the administrator or the administrator's personal representative pay to the company the amount of the excess of remuneration or expenses or such part of the excess as the court may specify,

and may make any other order that it thinks just, but an order under sub-paragraph (b) or (c) may be made only in respect of periods after the period covered by the relevant report.

(5) Unless the court orders otherwise, the costs of the application shall be paid by the applicant, and are not payable as an expense of the Administration.