

Pension Benefit Guaranty Corporation

76-44

March 25, 1976

REFERENCE:

[*1] 4041(a) Termination by Plan Administrator. Filing of Notice of Intent to Terminate

OPINION:

We have received from you a copy of your letter of March 19, 1976 to * * * who constitute the Pension Committee of the Pension Plan of the * * * (hereinafter the "Plan"). Your letter indicates that * * * as trustee of the trust established under the Plan, intends to discontinue monthly benefit payments commencing with the payment due on April 1, 1976 unless * * * is otherwise advised. I am writing to you in order to clarify the position of the Pension Benefit Guaranty Corporation (hereinafter "PBGC") with respect to the Plan.

PBGC first became involved in the affairs of the Plan in January, 1976 when counsel for the plan administrator, * * * contacted PBGC to discuss the status of the Plan. At our request, * * * furnished to us information concerning * * * and the Plan. Based on that information, it appears to us that the Plan is a tax qualified, defined benefit plan covered by § 4021(a) of the Employee Retirement Income Security Act of 1974 (hereinafter "ERISA"). * * * through its counsel, * * * indicated that it wished to terminate the Plan as part of its efforts to reorganize * * * affairs [*2] under Chapter XI of the Bankruptcy Act. Consequently, we have invited * * * to submit a Notice of Intent to Terminate the Plan under § 4041(a) of ERISA and 29 C.F.R. Part 2604. On March 23, 1976, * * * informed us that such a Notice had been mailed the previous day.

The filing of a Notice of Intent to terminate will not deprive * * *, as plan administrator, or the Pension Committee established by the Plan of the power to continue the normal operation of the Plan, including the pay-of monthly benefits to retirees already in pay status and the placing of eligible participants who retire in pay status. The filing of such a Notice does, however, impose the restrictions that the plan administrator may pay no amount pursuant to the termination procedure provided in the Plan for a period of 90 days following the proposed date to termination specified in the Notice, unless PBGC issues a notice of sufficiency. ERISA, § 4041(a). Consequently, we see no obstacle to the continuance of the normal operation of the Plan until such time as the Plan is terminated.

I trust that the foregoing has been of assistance to you. If you have any questions concerning this matter, please feel free to [*3] contact * * * of this Office at (202) 254-4873.

Henry Rose
General Counsel