



Pension Benefit Guaranty Corporation

1200 K Street, N.W., Washington, D.C. 20005-4026

www.pbgc.gov

April 29, 2005

Re: Case Number 196153
McCook Metals, LLC Pension Plan for Hourly Employees
(the "McCook Plan")

Dear

The Appeals Board has reviewed your appeal of PBGC's February 16, 2005 determination of your guaranteed Plan benefit. As explained below, we are changing your benefit to 70/80 Retirement. Therefore, we are increasing your guaranteed benefit to \$354.75 per month through April 1, 2009 (age 62), and \$337.01 per month thereafter.

Benefit Determination and Appeal

PBGC determined your guaranteed benefit is \$88.18 per month under the Plan's 30-year Retirement. PBGC found you are not entitled to the 70/80 Retirement benefit¹ you have been receiving. Your benefit is a Joint and 50% Survivor Pop-Up Annuity. PBGC explained the \$88.18 benefit will be temporarily reduced 10% until your overpayments have been repaid. You will not be charged interest on your overpayments.

In your March 12, 2005 appeal:

- You asked PBGC to reinstate your 70/80 Retirement benefit.

As explained below, the Appeals Board granted your request and reinstated your 70/80 Retirement benefit. However, your 70/80 benefit is still subject to legal limits on PBGC's guarantee.

- You questioned the Reynolds Plan² offset PBGC is using to calculate your McCook Plan benefit.

Our research indicates the Reynolds Plan began paying you a \$1,097.25 {\$1,155.00 x .95 annuity form factor} per month

¹ named "Special Early Retirement" in the McCook Plan document, and described elsewhere as the "70-80 Special Pension"

² The Reynolds Metals Company Pension Plan for Hourly Employees

Joint and Survivor annuity effective on your April 1, 2002 McCook Plan retirement date. Below in this letter we use your actual Reynolds Plan benefit to calculate your McCook Plan benefit.

Discussion

You Qualified for 70/80 Retirement

The McCook Plan provides 70/80 Retirement to a participant such as you:

- (1) who has at least 40 quarters of service,
- (2) who is below age 62,
- (3) whose age plus service totals at least 80 years, and
- (4) who "on or after June 16, 1998 has been absent from work for a period less than two years by reason of a displacement resulting from a permanent shutdown of a plant, department or substantial portion thereof."³

Your last day of work was March 18, 2002, the same day McCook declared a shutdown. PBGC found "the company had declared a shutdown, and terminated substantially all employees by March 31, 2002."⁴ You were age 54 years 10 months on March 18, 2002, and PBGC determined you earned 31.75 years of service. See Enclosure 2. Thus, you plainly met all of the McCook Plan document's conditions (1) - (4) for a 70/80 Retirement.

Why PBGC Denied You 70/80 Retirement

PBGC denied the McCook Plan's 70/80 Retirement benefit to certain participants, such as, who are you eligible for a Reynolds Plan 30 Year Retirement. PBGC found participants such as you may already be receiving shutdown benefits from the Reynolds Plan. PBGC concluded that in these circumstances the McCook Plan could not have been intended to pay 70/80 Retirement shutdown benefits too.

The Appeals Board decided PBGC must apply the McCook Plan's plain reading regardless of whether you are receiving a Reynolds Plan shutdown benefit. Further:

³ See Enclosure 1, Section III (7), page 5.

⁴ PBGC's Agreement for Appointment of Trustee and Termination of Plan, signed and date August 22, 2002, page 2, Section G.

- The Board noted the Reynolds Plan 30-Year Retirement's graded minimum supplement is payable only to age 62. The McCook's 70/80 Retirement provides a permanent Pension Factor supplement. See the McCook Plan benefit calculations below. The Reynolds Plan paying any such temporary supplement under 30-Year Retirement should not prevent the McCook Plan from paying a permanent supplement under 70/80 Retirement.
- The Appeals Board's research indicates the Reynolds Plan is not paying you any shutdown benefits.

For these reasons, the Appeals Board decided you are entitled to 70/80 Retirement.

70/80 Retirement Benefit Calculation

70/80 Lifetime Annuity Reduced by Reynolds Plan Benefit

The 70/80 Special Early Retirement provides a lifetime annuity, including a "Pension Factor" permanent supplement, plus a \$400.00 per month temporary supplement until age 62. The Pension Factor supplement applies to full-time employees such as you in the International Brotherhood of Electrical Workers (Local 134) bargaining unit.⁵

Your total lifetime annuity is reduced by the benefit you had accrued under the Reynolds Plan on June 16, 1998. See Enclosure 1 page 8. Your Reynolds Plan 30-Year benefit is unreduced for starting early on April 1, 2002. See Enclosure 3 Scenario 2.

Combined McCook Plan and Reynolds Plan Lifetime Annuity

Your combined McCook-Reynolds lifetime annuity if paid as a Straight Life Annuity, before reducing for your Reynolds Plan Accrued Benefit, is **\$1,746.25** {31.75 years total service x (\$41.25 accrual rate⁶ + \$13.75 Pension Factor permanent supplement⁷ under 70/80 Special Early)}. Your total combined lifetime annuity in your Joint and 50% Pop-up Survivor Annuity form is **\$1,658.94** {\$1,746.25 x .95 annuity form factor} per month.

McCook Plan Lifetime Annuity Reduced for Reynolds Plan Benefit

Your \$1,658.94 per month total lifetime annuity must be reduced by your Reynolds Plan Accrued Benefit which:

⁵ See Enclosure 1 page 15

⁶ See Enclosure 1 page 8 paragraph (1)

⁷ See Enclosure 1 page 15 paragraph (11), second subparagraph

(i) is **\$1,155.00** { $\$41.25$ accrual rate x **28** years of service} if paid as a Straight Life Annuity,⁸

(ii) omits the $\$13.75$ Pension Factor permanent supplement accrual rate used to calculate your $\$1,595.00$ combined McCook-Reynolds benefit, thus increasing your PBGC-payable McCook Plan benefit, and

(iii) is **\$1,097.25** { $\$1,155.00$ x $.95$ annuity form factor} per month if paid in the Joint and 50% Pop-up Survivor Annuity form you chose under the McCook Plan.

Thus, your McCook Plan 70/80 Retirement lifetime annuity is **\$561.69** { $\$1,658.94 - \$1,097.25$ } per month.

Total McCook Plan 70/80 Retirement Benefit

Your 70/80 Retirement benefit includes a $\$400.00$ per month temporary supplement payable until age 62, as noted above. Please see Enclosure 1 pages 11-12 paragraph (9). Therefore, your total McCook Plan 70/80 Retirement benefit is **\$961.69** { $\$561.69 + \400.00 } per month before age 62, and **\$561.69** per month after reaching age 62. The McCook Plan was paying you the same $\$961.69$ per month amount when PBGC became the McCook Plan's trustee.

Limits on PBGC's Guarantee

The law requires PBGC to apply two limits to your guaranteed benefit, because the McCook Plan was not sufficiently funded for PBGC to pay all benefits:

(i) PBGC may not guarantee any portion of your benefit beyond the dollar amount of your Normal Retirement Benefit payable as a Straight Life Annuity.⁹ Therefore, only **\$591.25** { $\$1,746.25 - \$1,155.00$ } of your $\$961.69$ pre-age 62 benefit is guaranteeable.

(ii) The McCook Plan was effective January 1, 1999, between 3 and 4 years before the McCook Plan's March 31, 2002

⁸ As noted above, your current $\$1,097.25$ { $\$1,155.00$ x $.95$ annuity form factor} Reynolds Plan is based on the same $\$1,155.00$ Accrued Benefit we calculate in this letter.

⁹ See 29 Code of Federal Regulations ("CFR") §4022.21(a). Regulation §4022.21(a) has certain exceptions which do not apply to you.

termination date. Under the law's "phase-in" rules,¹⁰ PBGC may guarantee only \$354.75 { \$591.25 x 60% } of your guaranteeable pre-age 62 benefit, and \$337.01 { \$561.69 x 60% } of your age-62 benefit.¹¹

Recoupment

PBGC reduced your benefit from \$961.69 to \$354.75 shortly after the McCook Plan's March 31, 2002 termination. Therefore, you have been overpaid less than the \$15,098.98 total PBGC determined. PBGC's Authorized Representative will recompute your overpayment total and contact you about temporarily reducing your guaranteed benefit to repay your overpayments.

Decision

Having applied plan provisions and the law to the facts in your case, we are granting your appeal. Your guaranteed benefit is \$354.75 per month through April 1, 2009, and \$337.01 per month beginning April 1, 2009.

This letter concludes your administrative remedies with respect to PBGC's February 4, 2005 determination. You may, if you wish, seek court review of PBGC's determination with respect to the issues you raised. Thank you for your patience while we carefully reviewed your appeal.

Sincerely,



William D. Ellis
Appeals Board Member

Enclosures:

- (1) Excerpts from McCook Plan document (19 pages)
- (2) Benefit Statement enclosed with PBGC's February 16, 2005 determination (3 pages)
- (3) Reynolds Metal Company September 15, 1998 letter explaining division of benefits between Reynolds Plan and McCook Plan (6 pages)

¹⁰ The "phase-in" rules apply if a plan terminates less than 5 years after either its effective date or its adopted date. See section 4022(b)(7) of the Employee Retirement Income Act of 1974 as amended ("ERISA"), and 29 CFR §4022.24 and §4022.25.

¹¹ Your \$354.75 pre-age 62 benefit includes \$337.01 (\$561.69 x 60%) of your \$561.69 McCook Plan permanent lifetime annuity and \$17.74 { \$354.75 - \$337.01 } of your \$400.00 pre-age 62 supplement.