

Pension Benefit Guaranty Corporation

76-103

August 23, 1976

REFERENCE:

[\*1] 4022(a) Benefits Guaranteed. Type of Benefits Guaranteed

OPINION:

This is in response to your letter to \* \* \* of my staff concerning the extent of the guarantee by the Pension Benefit Guaranty Corporation (the "PBG") of retirement benefits under \* \* \* (the "Plan"). You explained why, in your opinion, the PBGC should interpret its Regulation on Guaranteed Benefits, 29 CFR § 2605.1 - 2605.8, (the "Regulation") to include as guaranteed benefits both the post-retirement lump-sum death benefit and the partial restoration for 30 year employees provided for under the Plan.

Section 2605.4(c) of the Regulation provides that the PBGC will not guarantee a benefit payable in a single installment upon the death of a participant "unless that benefit was substantially derived from a reduction" in the retirement benefit otherwise payable. Under the Plan, the entitlement to a survivors' annuity results in an automatic reduction of five percent from the single life annuity otherwise payable. You indicated that if true actuarial reductions were applied to each participant's benefit to fully reimburse the Plan for the cost of the survivors' annuity and the lump-sum death benefit, the average reduction [\*2] would be in the range of 15-18 percent. You also indicated that participants, through collective bargaining, sacrificed improvements in other pension benefits in return for having these two survivors' benefits together "cost" them only the five percent reduction. In your opinion, therefore, the two survivors' benefits together "are substantially derived" from a reduction in the pension benefit payable.

Although the Plan provides for a reduction in the pension benefit in return for the survivor's annuity, it does not provide for any reduction in the pension benefit in return for the lump-sum death benefit. Consequently, the lump-sum death benefit is not "substantially derived from a reduction" in the pension benefit and, thus, is not guaranteed by the PBGC pursuant to § 2605.4(c) of the Regulation. Although, in collective bargaining, participants may have given up other potential benefits in return for the lump-sum death benefit, such "implicit" reductions cannot be taken into account in determining whether the lump-sum death benefit is "substantially derived from a reduction" in the pension benefit.

Under the Plan, participants who retire before age 62 have their "basic [\*3] benefits" reduced by the early retirement reduction factors specified in the Plan. After age 65, those early retirees with 30 years or more of service who were eligible for certain supplemental benefits under the Plan have their retirement benefits recomputed, so that the "basic benefit" is reduced, not by the early retirement reduction factors of the Plan but by four percent (a less severe reduction) for each year that the participant's age at retirement preceded age 62. You refer to this recomputation as a partial restoration (to the basis level payable to participants who retired at age 62 or later) and suggest that this higher restored level should be viewed by the PBGC as the applicable reduced basic retirement benefit, rather than the lower level which results from the application of the Plan's early retirement reduction factors. We agree with this position; inasmuch as the reductions in benefit payments as of April 1, 1976 were instituted in anticipation of the final determination of guaranteed amounts, future payments will be increased accordingly and the PBGC will reimburse participants the amount of any cutbacks in excess of guaranteed amounts.

Henry Rose  
General Counsel