

Pension Benefit Guaranty Corporation

76-49

April 13, 1976

REFERENCE:

[\*1] 4004(f)(4) Temporary Authority. Waiver of Employer Liability

OPINION:

The Pension Benefit Guaranty Corporation (the "PBGC") has considered the petition submitted by \* \* \* Company (the "Company") on May 30, 1975 for a waiver of the liability imposed on it by Section 4062 of the Employee Retirement Income Security Act of 1974 (the "Act"). Pursuant to Section 4004(f)(3) of the Act, the PBGC may grant such a waiver to an employer maintaining a plan terminating during the 270-day period following September 2, 1974 upon a showing that the waiver is necessary to avoid unreasonable hardship, and that the employer was not able, as a practical matter, to continue the plan.

The Company has submitted a memorandum in support of its petition for waiver of the application of section 4062 liability which demonstrates that \* \* \* Company \* \* \* Pension Plan (the "Plan") was a plan terminating within 270 days after the enactment date of the Act and that the Company was not able, as a practical matter, to continue the Plan. However, with respect to unreasonable hardship, no contention has been made that the imposition of liability will result in extreme financial difficulty to the Company. The arguments advanced [\*2] by the Company are not pertinent to the applicable standard of unreasonable financial hardship. Therefore, we have concluded that the Company has failed to prove that the waiver is necessary to avoid unreasonable hardship.

Accordingly, we are unable to grant \* \* \* petition for a waiver of the liability imposed on it by Section 4062 of the Act.

Kenneth L. Houck  
Executive Director