

Pension Benefit Guaranty Corporation

78-12

June 26, 1978

REFERENCE:

[*1] 4041 Termination by Plan Administrator

OPINION:

This is in response to your letter to the Pension Benefit Guaranty Corporation (the "PBGC") on behalf of the * * * Company * * * requesting a determination as to whether * * * failure to make a contribution to the * * * Company Pension Plan for Hourly-Paid Employees (the "Plan") for the plan year ending October 31, 1976, in an amount sufficient to prevent the Plan's unfunded past service cost from increasing in comparison to prior plan years, resulted in a termination of the Plan for purposes of Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1301 et seq. (Supp. V 1975).

Generally, the employer-sponsor's failure to make a contribution to a pension plan does not result, in itself, in a termination of that plan for purposes of Title IV of ERISA. In this case, you indicated that * * * failure to make a larger contribution to the Plan resulted from temporary economic conditions and did not evidence an intent on the part of * * * to terminate the Plan. You also indicated that participants currently are accruing and vesting in additional benefits under the terms of the Plan and receiving benefit payments [*2] as due, and that * * * intends to make contributions to the Plan sufficient to satisfy ERISA's minimum funding standard. If the circumstances are as represented, * * * 's failure to make a larger contribution to the Plan for the plan year ending October 31, 1976, did not result in a termination for purposes of Title IV of ERISA.

Henry Rose
General Counsel