

Pension Benefit Guaranty Corporation

76-15

February 4, 1976

REFERENCE:

[\*1] 4023 Contingent Liability Coverage

4064(b) Liability of Employers in Multiple Employer & Multiemployer Plans. Amount of Employer Liability

OPINION:

The Corporation has given considerable thought to your letter of January 8, 1976. In that letter, you ask a series of questions about the consequences of a possible termination of the \* \* \* Pension Fund. We can readily respond to the third question you asked--concerning \* \* \* "participation in" the contingent employer liability insurance program required by Section 4023 of the Act. That insurance is not yet available and under present law could not be applicable to a termination occurring prior to September 2, 1979.

You also ask whether the Corporation would exercise its discretion to guarantee benefits upon termination of the plan. That would depend upon PBGC's appraisal of all the facts and circumstances, including the hardship \* \* \* participants would suffer absent guarantees, the cost to the Corporation, the likelihood and manner of recovering all or a significant portion of the Corporation's outlay from employer liability payments, the likelihood that the plan could continue in operation until coverage becomes mandatory on January 1, [\*2] 1978, the status of our resources in light of anticipated multiemployer plan terminations (including those currently under consideration) and the like. Similarly, the facts and circumstances (including the status of our regulations) would determine whether we would apply the statutory formula provided in Section 4064(b)(1) and (2) of the Act, or adopt some "other equitable basis" in apportioning liability among \* \* \* and the other contributing employers. Should the trustees of the \* \* \* Pension Plan decide that they believe the plan is covered by Title IV and should the trustees apply for benefits upon termination of the plan, we will be happy to consider the matter further. But, absent such an application, we cannot be more specific since, as I am sure you understand, a more concrete response would require many hours of effort by our top professional and executive staffs.

I trust this answers your inquiry.

George B. Driesen  
Deputy General Counsel