

November 19, 2019

VIA EMAIL: reg.comments@pbgc.com

Regulatory Affairs Division
Office of the General Counsel, Pension Benefit Guaranty Corporation
1200 K Street NW
Washington, DC 20005-4026.

PBGC PROPOSED RULE ON LUMP SUM
PAYMENT ASSUMPTIONS, RIN 1212-AB4
(Federal Register, Sept. 30, 2019)

Dear Sir or Madam:

This letter is the formal submission of comments by CONSOL Energy, Inc. ("Company") on the above referenced proposed rule. These comments are being submitted in direct response to the PBGC's statement that it has incomplete information on private-sector retirement plan use of its legacy interest rates, and whether setting the legacy interest rates at a 120-month average would cause any undue burden. ***It is the Company's opinion that an undue burden would result and request that the proposed rule be withdrawn.***

The Company sponsors a defined benefit pension plan. The Plan has a lump sum distribution option for benefits which accrued before January 1, 2006. As the PBGC is no doubt aware, this lump sum option is a protected benefit under ERISA and the Internal Revenue Code which must be preserved. The Plan uses these legacy interest rates to determine lump sums. The Proposed Rule reflects the consideration of whether to continue calculating and publishing these legacy interest rates in appendix C for use by private-sector plans. The Company strongly encourages the continuation of the calculation and publicity of the rates.

Under the Company's Plan, the lump sum distribution option was frozen for benefits accrued before January 1, 2006. As can be easily seen, the lump sum option is available mainly to the Company's longer service employees, which consists primarily of coal miners. The

Company's employees are well aware of the effect of interest rates on how the lump sum is calculated. It is the Company's opinion that retirements have been timed in in the past in relation to interest rates in order to maximize the lump sum. Employees are well aware of the effect of relatively small changes in the interest rate assumptions on the value of the lump sum. It will not escape the retirement eligible population that a change in the rate from 0.25% to 1.50% (as stated in the proposed rule) would decrease the value of the lump sum by approximately 15%.

The Company is most concerned, and is in fact convinced, that the proposed action will cause an unnecessary and artificial rash of early retirements. This problem will occur only, and solely, because of the proposed rule. A large separation from employment from the Company's most seasoned employee group will cause (i) a loss of a large number of employees; (ii) a loss of our most experienced group of employees, which is a concern in a safety-conscious company such as CONSOL; (iii) an unanticipated loss of plan assets; and, (iv) a negative effect on the workforce. More detail on these burdens is as follows:

1. Loss of Employees. The Company currently has a policy against rehiring employees before a certain lapse of time occurs (generally a year). This policy is designed to comply with IRS directives that a termination of employment that permits a retirement plan distribution must be a bona fide termination. The Company is not at liberty to allow retirements, pay lump sums and then rehire its workforce. The point is that separations of a large number of employees from employment will not be easily rectified, as the most logical person to fill the need will be by definition and by policy unavailable.

2. Seasoned Employees. It bears repeating that the employee population which would be affected by the proposed rule, and which will react to the proposed rule, is the Company's longer service employees. Many or all of such employees are currently eligible for a lump sum now, as

they meet the Plan's eligibility rules for Early Retirement (Age 50 plus 10 years of service). Again, the point is that the group has the ability to take the lump sum before the proposed rule was to change the rate. Not only will these be a loss of workforce, but it will be the loss of its most knowledgeable experienced group. The loss of institutional knowledge is irreplaceable, and the fact that there will not be any sort of transition planning makes the burden more severe. This burden is exacerbated particularly in a safety-conscious industry such as coal mining.

3. Plan Asset Loss. It does not require extended discussion to state that there will be an unanticipated loss in Plan assets. The PBGC understands what this means and the detriment it will cause.

4. Effect on Workforce. This rash of separations will not be helpful to the workforce when considered apart from the Company. The Company cannot state that there is a great deal of alternate employment available to the workforce at similar pay rates and benefits. Action on this proposed rule will force these employees from choosing between the premature loss of employment and the loss of 15% of the pension lump sum to which they are currently entitled.

In sum, these consequences are severe. As this result will almost certainly happen, we must request the rule be withdrawn.

Very truly yours,
CONSOL Energy, Inc.

By: *Doreen Jackson*