

Pension Benefit Guaranty Corporation

76-86

June 25, 1976

REFERENCE:

[\*1] 4021(b)(1). Plans covered. Individual Account Plans

OPINION:

This is in response to your letter of May 13, 1976 seeking a determination of the coverage status of the above-referenced Plans under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act"). Specifically, you ask whether the Plans are defined benefit plans or individual account plans, the latter being excluded from Title IV coverage.

Each Plan provides in Article V that a participant is entitled at normal retirement age to a monthly retirement benefit equal to a specific dollar amount multiplied by his years of credited service. This is a defined benefit. You refer to three provisions in each Plan which you indicate "restrict" the amount of benefit entitlement and which you interpret to have the effect of classifying the Plans as individual account plans. These provisions are in (1) Article IX(1), which provides that the employer's contributions (which are a specified number of cents per hour worked) "shall be in complete discharge of the Company's obligation under the Plan," (2) Article IV(7), which provides that "the Plan can be fulfilled only to the extent that the Pension Fund Trust Fund has assets available [\*2] . . . .", and (3) Article IX(5) and (6), which limit the insurance carrier's guarantee and liability.

The classification of a plan as defined benefit is determined by the benefit promised to participants by the plan, not by the plan's provisions relating to the obligation of an employer to the plan. Here, benefits are not based solely on the amounts contributed to individual accounts and their experience (gains and losses), the requisite of an individual account plan [See Act, Section 3(34)]. Plans other than individual account plans constitute defined benefit plans [See Act, Section 3(35)].

Assuming that the Plans are tax-qualified, they are covered under Title IV of the Act, absent the applicability of one of the exemptions prescribed in Sections 4021(b)(2)-(13) of the Act.

We will be happy to meet with you to discuss this ruling. If you have any further questions, you may telephone \* \* \* of this office at (202) 254-4873.

Henry Rose  
General Counsel