

104992323-EEF9-1126-9



Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

OCT 31 2002



Re: Appeal Retirement Plan for Employees of P*I*E Nationwide, Inc.
("Nationwide Plan")

Dear

The Appeals Board has reviewed your appeal of PBGC's October 26, 1998 determination that you are not entitled to a benefit from the Nationwide Plan because you did not earn enough credited service to be vested. Your December 9, 1998 appeal said that you are entitled to a Nationwide Plan benefit. To support your position, you included a P*I*E Nationwide *Pension Plan Statement of Deferred Vested Benefit*, dated May 17, 1990, stating that you are vested under that Plan, and two documents relating to P*I*E's Stock Investment Plan that show you were participating in that plan (which PBGC does *not* insure) during 1988. For the reasons described below, the Board changed your Credited Service Start Date to December 2, 1982, and found that, as a result of the change, you are vested under the Nationwide Plan.

Plan History

P*I*E adopted the Nationwide Plan on June 10, 1986, and made it effective on January 1, 1986. The Nationwide Plan covered both hourly and salaried employees, with different benefit formulas for each group. PBGC's files show that P*I*E adopted amendments to the Nationwide Plan on March 13, 1990, and made them effective January 1, 1989. These amendments increased benefits for some P*I*E participants and decreased benefits for others (when compared to the amount a participant would have been entitled to upon leaving employment had the Plan not changed).

The Nationwide Plan terminated, effective March 11, 1991, and PBGC subsequently became trustee. PBGC's files show that the Plan did not have sufficient assets when it terminated to provide all benefits PBGC guarantees under Title IV of the Employee Retirement Income Security Act.

Before adopting the Nationwide Plan, P*I*E and its affiliates, including Ryder Truck, sponsored separate plans for hourly and salaried employees. These prior Ryder/P*I*E Plans terminated, effective August 16, 1985, with sufficient assets to provide all plan benefits. The

**Best Copy
Available
PBGC - DMC**

Plan Administrator purchased annuities from the Executive Life Insurance Company for each participant for his or her Ryder/P*I*E benefit accrued as of August 16, 1985. The Aurora National Life Assurance Company, which took over Executive Life, is responsible for paying this benefit according to the terms of Group Annuity Contract CQ-108.

The Nationwide Plan (section 4.5) has three different formulas for computing an annual benefit amount for salaried employees (the "Regular", the "Alternate" and the "Minimum"), payable at age 65 for life with no survivor benefits. The Nationwide benefit is then equal to the largest of the three annual benefits, *minus* any Prior Plan annuities payable at age 65.

Background

Company records PBGC's auditors obtained when the Nationwide Plan terminated include copies of various P*I*E employment forms that show the following employment history for you:

Date hired	August 2, 1982
Your employment terminated	June 14, 1985
Prior Plan terminated	August 16, 1985
Date rehired	September 10, 1987
Your employment terminated	May 6, 1989
Nationwide Plan terminated	March 11, 1991

Although PBGC's October 26, 1998 letter did not indicate the basis for its determination, PBGC took into account only your second period of employment in determining that you were not vested in a Nationwide Plan benefit.

The former Plan Administrator's list of the annuities purchased from Executive Life show that you are entitled to an annual benefit of \$1,528.20 from the Prior Plan. This benefit amount is consistent with your first period of employment shown above. PBGC's files also include a copy of a P*I*E Form 4327, "Employee Information for New Employees," which was signed and dated in September, 1987. This form indicates that you were a former employee, lists both the first and second hire dates shown above, and includes the notation "CSD 12/2/82." Also, the Plan Statement you included with your appeal shows you as vested.

In response to my call asking whether you had worked for P*I*E between June 14, 1985 and September 10, 1987, [redacted] explained that you were "laid off" for about 4-6 weeks beginning on June 14, 1985. P*I*E then brought you back as a part-time or casual employee, although you actually averaged about 40 hours per week (48 hours one week and 32 hours the

next). [redacted] said this arrangement continued until September 9, 1987, when you again became a full-time employee.

With your permission, we reviewed your earnings history from the Social Security Administration for the years 1985-1991. You had earnings from P*I*E in each of the years 1985 through 1989, which are consistent with your having worked at least 1,000 hours in each year.

Credited Service Start Date

Section 2.1 of the Nationwide Plan provides that each Employee (any person employed on a regular, full-time basis) who was a Participant under a prior Ryder/P*I*E Plan in effect on August 16, 1985 shall become a participant in the Nationwide Plan ". . . on the Effective Date [January 1, 1986], provided he is still an Employee on such date." Under section 2.2, an Employee who is not covered under section 2.1 becomes a Participant "on the first day of the month coinciding with or next following his completion of one year of Vesting Service and the attainment of age 21."

Although you were a participant in the prior Ryder/P*I*E Plan, it appears that P*I*E did not initially consider you a participant under the Nationwide Plan while you were a casual employee. The Nationwide Plan's practice was to adjust the Credited Service Start Date to reflect previous employment and the former Plan Administrator's records show that they did so in your case. Thus, the Appeals Board found that, consistent with Nationwide Plan practice, your first Date of Hire should have been reinstated and your Credited Service Start Date adjusted to reflect the gap in your employment with P*I*E. Further, the "CSD" of December 2, 1982 shown on your P*I*E Form 4327 is consistent with this adjustment. Accordingly, the Board changed your Credited Service Start Date under the Nationwide Plan to December 2, 1982, the same date used by the previous Plan Administrator.

Vesting

Effective January 1, 1989, the Nationwide Plan required that a participant have five years of Vesting Service to be entitled to a benefit. Plan section 1.32 defines Vesting Service as "any year in which an Employee performs 1,000 Hours of Service . . ." The Appeals Board further found that you are vested under the Nationwide Plan. *However, because the offset for your Ryder/P*I*E benefit (from Executive Life/Aurora) accounts for a portion of your total service, the Board's change to your Nationwide Plan Credited Service Start Date may result in little or no additional benefit.*

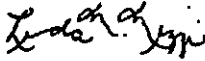
Decision

Having applied the law, the provisions of the Plan and PBGC regulations and policies to the facts in this case, the Appeals Board found that your Credited Service Start Date is December 2, 1982, and that you are vested under the Nationwide Plan. This is the Agency's

final decision on these issues. The Board will forward a copy of this letter to PBGC's Insurance Operations Department, who will issue you a new benefit determination using the correct Credited Service Start Date. The new determination will give you a new 45-day appeal right for any other issues.

Meanwhile, if you have any questions, please call PBGC's Customer Service Center at 1-800-400-7242.

Sincerely,



Linda M. Mizzi
Member, Appeals Board