

Pension Benefit Guaranty Corporation

75-110

July 15, 1975

REFERENCE:

[\*1] 3(35) Definitions. Defined Benefit Plan  
4007(a). Payment of Premiums. Due Dates  
4021(b)(1). Plans covered. Individual Account Plans  
4021(b)(12) Plans Covered. Partial Individual Account Plans

OPINION:

This is in response to your request for a ruling from the Pension Benefit Guaranty Corporation as to whether the  
\* \* \*

\* \* \* Pension Plan, a Taft-Hartley, collectively-bargained pension plan represented by you, is covered by Title IV of the Employee Retirement Income Security Act of 1974 (the "Act"). On the basis of information supplied in your letter of request, and additional documents submitted at the request of Mr. \* \* \* of our staff, it appears to us that the \* \* \* plan is subject to Title IV of the Act.

As a general rule, tax qualified, defined benefit pension plans not specifically excluded under Section 4021(b) of the Act are covered by Title IV of the Act. Act, Section 4021(a). Individual account plans, however, are excluded from coverage under Section 4021(b)(1) of the Act. An individual account plan is defined in Section 3(34) of the Act as, ". . . [A] pension plan which provides for an individual account for each participant and for benefits based solely upon the amount [\*2] contributed to the participant's account, and any income, expenses, gains and losses, and forfeitures of accounts of other participants which may be allocated to such participant's accounts." (Emphasis added) Where a plan provides both a defined benefit and a defined contribution, individual account benefit, only the defined benefit portion is covered, § 4021(b) (12), 3(35) (B).

Under the \* \* \* Plan, benefits that accrued prior to April 1, 1969, were based on a defined benefit formula; benefits that accrued after April 1, 1969, were based on an individual account, defined contribution formula. Section 8.2 of the Plan. Since the benefit is partially computed under a defined benefit formula, it is not "based solely upon the amount contributed to the participant's account." Accordingly, the plan is not an individual account plan and is not excluded from coverage under Section 4021 of Title IV of the Act. However, the plan will be excluded from coverage to the extent its benefit is not a defined benefit.

The consequence of the bifurcated plan benefit is that the individual account portion of the benefit would not be guaranteed by this Corporation, if upon the plan's termination, [\*3] the plan was unable to pay basic benefits when due. Participants in the plan whose benefit is based solely on the defined contribution formula should not be included in the total of participants when computing the premium to be paid to the PBGC under Section 4007 of the Act.

I hope this information is helpful.

Henry Rose  
General Counsel