Internal Revenue Service

Significant Index No. 0412.01-00

Department of the Treasury

Washington, DC 20224

Contact Person:

Telephone Number:

In Reference to:

T:EP:RA:T:A2

Date:

MAR 14 2001

In re:

This letter constitutes notice that § 412(f)(1) of the Internal Revenue Code (Code) and § 304(b)(l) of the Employee-Retirement Income Security Act of 1974, as amended (ERISA) do not apply to the amendment described below with respect to the above-named defined benefit pension plan. This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Internal Revenue Code provides that it may not be used or cited by others as precedent.

Section 412(f)(l) of the Code and § 304(b)(l) of ERISA provide that if an extension of time under § 412(e) of the Code and § 304(a) of ERISA is in effect with respect to a plan that is amended to increase the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable, such extension shall not apply to any plan year ending on or after the date on which such amendment is adopted. Section 412(f)(2)(A) of the Code and § 304(b)(2)(A) of ERISA provide that § 412(f)(l) of the Code and § 304(b)(l) of ERISA shall not apply to any plan amendment which the Secretary of the Treasury determines to be reasonable and which provides only de minimis increases in the liabilities of the plan.

Extensions of the amortization periods for amortizing the unfunded liabilities of the plan were granted by a letter ruling dated May 16, 1996, in accordance with § 412(e) of the Code and § 304(a) of ERISA effective for the plan year beginning January 1, 1994. A ruling letter dated April 10, 1997, found that § 412(f)(l) of the Code and § 304(b)(l) of ERISA did not apply to a plan amendment adopted by the plan trustees that recognized a reciprocity agreement with another plan.

The plan is a defined benefit plan that is also a multiemployer plan as defined under § 414(f) of the Code. Effective January 1, 1994, the was merged into the plan. The covered all participants represented by which are located in the area. Collectively, the employers that were required under various collective bargaining

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agreements to contribute to the are referred to as the employers". Employees of the employers receive benefits based on Schedule B of the plan (reproduced below). All employees other than those working for employers receive benefits based on Schedule A of the plan. Under the plan's benefit formula, a participant under Schedule B employers) currently earns approximately 1/3 of the pension as a participant under Schedule A (all other participants). Benefit Schedules A and B under the Plan are described in the following table.

Amount of Hourly Contribution Rate	**Schedule A** Unit Benefit per Year of Benefit Service	**Schedule B** Unit Benefit per Year of Benefit Service
Below 5¢	$2.00	$1.00
5¢ - 9¢	$5.00	$2.00
10¢ - 14¢	$8.00	$3.00
15¢ - 19¢	$12.00	$4.00
20¢ - 24¢	$16.00	$5.00
25¢ - 29¢	$20.00	$6.00
30¢ - 34¢	$24.00	$7.00
35¢ -39¢	$27.00	$8.00
40¢ - 44¢	$30.00	$9.00
45¢ - 49¢	$33.00	$10.00
50¢ -54¢	$36.00	$11.00
55¢ - 59¢	$39.00	$12.00
60¢ and above	+$3.00 for each 5¢ interval	+$1.00 for each 5¢ interval

In an effort to create a sufficient benefit to maintain the participation of employers in the plan and to encourage participation of additional employers, the plan trustees have proposed a plan amendment, to be effective as of January 1, 2001 (or as soon thereafter as possible), which would increase the future benefit service accruals of employers by prospectively eliminating benefit accruals under Schedule B and by providing future benefit accruals under Schedule **A** to all participants in the plan.

The plan trustees believe that the disparity in benefit accruals between Schedule A and Schedule B is a deterrent to both current and prospective participation by the employers. Benefits under Schedule B are too low to be an incentive for employment under collective bargaining, making it difficult to attract and retain employers. Moreover. participants would like to receive similar benefit accruals as their counterparts in other parts of the country. In order to sustain the participation and promote the growth of the plan, a plan amendment that provides parity in benefit accruals for participants is reasonable.

Amending the plan to provide for parity in benefit accruals is reasonable at this time because the financial strength of the plan has improved on the basis of better investment advice, increased employer contribution rates, and close monitoring of the plan's financial position by the trustee's Funding Review Group. Specifically, the credit balance in the funding standard account has increased from $34 million in 1994 to $73.5 million in 1998; the plan's unfunded vested liabilities have decreased from $118 million to $86.2 million over this same period; and the implementation of a Pension Benefit Guaranty Corporation-approved withdrawal liability formula (which reduces the potential liability of newer employers from pre-1995 unfunded liabilities) has attracted new employers to maintain the plan. Calculations by the plan's enrolled actuary show that the amendment would only increase the entry age actuarial accrued liability by 1.58% (from $417.1 million to $423.7 million) and would increase the present value of accrued liabilities by only 2.8% (from $462.1 million to $474 million).

Based on the information submitted, the proposed amendment to the plan is reasonable and provides only a de minimis increase in plan liabilities.

A copy of this letter is being sent to the Area Office in

A copy of this letter should also be furnished to the enrolled actuary for the plan. If you have any questions concerning this ruling, please contact the at the telephone number listed above.

Sincerely yours,

Ken Yednock

Ken Yednock, Manager
Employee Plans Technical
Tax Exempt & Government Entities
Division

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