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OPINION OF TRUSTEES

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In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 84-202 - October 5, 1987

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee; William B. Jordan, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee.

Pursuant to Article IX of the United Mine Workers of America ("UMWA") 1950 Benefit Plan and Trust, and under the authority of an exemption granted by the United States Department of Labor, the Trustees have reviewed the facts and circumstances of this dispute concerning the provision of health benefits coverage under the terms of the Employer Benefit Plan.

Background Facts

The Complainant was employed in a classified position by Metco Mining Corporation, the Respondent, from November 1977 until September 30, 1985. The Complainant was awarded an Age 55 retirement pension under the 1974 Pension Plan, effective October 1, 1985. The Respondent is signatory to the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1984.

The Complainant has indicated that the Respondent contracted with an Employer association to provide health benefits coverage to its Employees, the Complainant included, from March 1985 through October 1985. The Complainant has stated that the Respondent provided his health benefits coverage as a Pensioner through a different insurance carrier from October 1, 1985 until January 1985, when the Respondent ceased operations. On March 17, 1986, the Employer association filed a Petition for Relief under Chapter 11 of the Bankruptcy Code and ceased paying health benefits claims. The Complainant has unpaid bills for medical services incurred between March and October 1985, and after January 1986.

On May 5, 1986, Benafuels Processing, Inc., a newly formed corporation, was appointed by the Bankruptcy Administrator for Metco Mining to operate the mine and generate funds needed to honor Metco's liabilities. The representative for the Complainant has indicated that at that time Benafuels took the position that it was not responsible for the health benefits obligations due or owing the Employees and Pensioners of Metco. The representative contends that Benafuels is operating for Metco and is therefore essentially under the same obligations. The representative has stated that Benafuels has hired the same Employees and uses the same equipment and management personnel formerly used by Metco Mining. The representative does not know whether Benafuels and Metco are owned by the same individuals and he is unaware of any court

order stipulating that Benafuels is obligated to assume the liabilities of Metco Mining under the Wage Agreement.

Following negotiations with the UMWA, Benafuels signed the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1984 on October 16, 1986. At that time, a Memorandum of Understanding was executed wherein Benafuels agreed to provide health benefits coverage for Employees of Metco Mining during their individual periods of eligibility, and for Pensioners of Metco during the six-month period from November 1, 1986 until May 1, 1987. The representative for the Complainant has stated that Benafuels did not provide health benefits coverage for the Complainant as agreed until January 1, 1987. The Complainant has unpaid bills for medical services incurred between November 1, 1986 and January 1, 1987. Benafuels terminated the Complainant's health benefits coverage on May 1, 1987.

The Memorandum of Understanding between the UMWA and Benafuels also provides that the successorship issue shall be submitted to arbitration for final determination. The representative for the Complainant has stated that the issue has not been arbitrated because Benafuels Processing has refused to comply with the arbitration process.

### Dispute

Whether the Respondent is responsible for payment of the medical charges incurred by the Complainant as an Employee during the period from March 1985 to October 1985, and whether the Respondent, or Benafuels Processing, or the 1974 Benefit Plan and Trust is responsible for providing the Complainant's health benefits coverage as a Pensioner.

### Positions of the Parties

Position of the Complainant: The Complainant asks whether the Respondent is responsible for the payment of medical charges incurred by him during his employment and whether Metco Mining, Benafuels Processing or the 1974 Benefit Plan and Trust is responsible for providing his health benefits as a Pensioner.

Position of the Respondent: The Respondent has not responded to repeated correspondence from funds staff regarding its position in this dispute.

### Pertinent Provisions

Article XX (c)(3)(i) of the 1984 Wage Agreement provides in pertinent part:

#### Article XX - Health and Retirement Benefits

#### Section (c) 1974 Plans and Trusts

(3)(i) Each signatory Employer shall establish and maintain an Employee benefit plan to provide, implemented through an insurance carrier(s), health and other non-pension benefits for its Employees covered by this Agreement as well as pensioners, under the 1974 Pension Plan and Trust, whose last signatory classified employment was with such Employer. The benefits provided by the Employer to its eligible Participants pursuant to such plans shall be guaranteed during the term of this Agreement by that Employer at levels set forth in such plans.

Article I (1), (2), (4) and (5) of the Employer Benefit Plan provide:

#### Article I - Definitions

The following terms shall have the meanings herein set forth:

- (1) "Employer" means (Employer's Name).
- (2) "Wage Agreement" means the National Bituminous Coal Wage Agreement of 1984, as amended from time to time and any successor agreement.
- (4) "Employee" shall mean a person working in a classified job for the Employer, eligible to receive benefits hereunder.
- (5) "Pensioner" shall mean any person who is receiving a pension, other than (i) a deferred vested pension based on less than 20 years of credited service, or (ii) a pension based in whole or in part on years of service credited under the terms of Article II 0 of the 1974 Pension Plan, or any corresponding paragraph of any successor thereto, under the 1974 Pension Plan (or any successor thereto), whose last classified signatory employment was with the Employer, subject to the provisions of Article II B of this Plan.

Article II A. (1) and B. (1) of the Employer Benefit Plan provide:

#### Article II - Eligibility

The persons eligible to receive the health benefits pursuant to Article III are as follows:

A. Active Employees

Benefits under Article III shall be provided to any Employee who:

- (1) is actively at work\* for the Employer on the effective date of the Wage Agreement; ...

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\* Actively at work includes an Employee of the Employer who was actively at work on September 30, 1984, and who returns to active work with the Employer two weeks after the effective date of the Wage Agreement.

B. Pensioners

Health benefits and life insurance under Article III hereof shall be provided to Pensioners as follows:

- (1) Any Pensioner who is not again employed in classified signatory employment subsequent to
  - (a) such Pensioner's initial date of retirement under the 1974 Pension Plan, and
  - (b) October 1, 1984, shall be eligible for coverage as a Pensioner under, and subject to all other provisions of this Plan. Notwithstanding (i) and (ii) of the definition of Pensioner in Article I (5) of this Plan, any such Pensioner who was eligible for benefits under the 1974 Benefit Plan as a Pensioner on December 5, 1977, shall be eligible for such benefits, subject to all other provisions of this Plan.

Discussion

Article XX Section (c)(3)(i) of the 1984 Wage Agreement requires each signatory Employer to establish and maintain an Employer Benefit Plan to provide health and other non-pension benefits for its Employees, as well as Pensioners whose last classified employment was with such Employer. The Wage Agreement stipulates that benefits provided by the Employer pursuant to such Plan shall be guaranteed during the term of the Agreement by that Employer at levels set forth in such Plan.

Article II A. of the Employer Benefit Plan provides health benefits for an Employee working in a classified job for a signatory Employer. Inasmuch as the Complainant was an active Employee until October 1, 1985, the Respondent is responsible for providing health benefits coverage for the Complainant throughout his period of active employment. Although the Respondent had implemented its Employer Benefit Plan through an Employer association which subsequently filed bankruptcy, such event does not relieve the Respondent of its primary obligation to provide benefits pursuant to the Wage Agreement.

Article II B. of the Employer Benefit Plan provides health benefits coverage for a Pensioner receiving a 1974 Pension Plan pension, other than a deferred vested pension based on less than

20 years of credited service or a pension based in whole or in part on years of service credited under the terms of Article II C. of the 1974 Pension Plan. Inasmuch as the Complainant last worked in classified employment for the Respondent and is receiving a 1974 Pension Plan Age 55 retirement pension, the Respondent is responsible for providing health benefits coverage for the Complainant as a Pensioner, effective October 1, 1985.

Because the Respondent terminated the Complainant's coverage and has filed bankruptcy, the representative for the Complainant has asked whether Benafuels Processing, Inc. might be responsible for providing the Complainant's health benefits coverage as a successor to Metco. Under corporate and labor law principles, a successor employer is not necessarily responsible for the provision of health benefits to a retiree who last worked for its predecessor, unless the new employer expressly assumes the liabilities of the predecessor or a labor arbitrator or a federal court has determined that the health benefits provisions of the predecessor's contract are binding upon the successor. Although the parties to the Memorandum of Understanding agreed to arbitrate the successorship issue, information provided to the Funds indicates they have not done so. Absent evidence of any arbitration or court decision that Benafuels is bound by the terms of Metco Mining's contract with the UMWA, Benafuels' responsibility for providing the Complainant's coverage is limited to the period November 1, 1986 until May 1, 1987, pursuant to the express provisions of the October 16, 1986 Memorandum of Understanding.

The Complainant has also asked in the alternative whether coverage might be provided under the 1974 Benefit Plan and Trust. Under that Plan, a beneficiary is entitled to coverage only if it is determined that the beneficiary's last Employer is "no longer in business." Such determination is made by the Trustees under established procedures separate from the ROD procedure.

#### Opinion of the Trustees

The Respondent is responsible for the payment of covered medical expenses incurred by the Complainant during his period of eligibility as an Employee under the terms of the Employer Benefit Plan. The Respondent is responsible for providing health benefits coverage for the Complainant as a Pensioner effective October 1, 1985, excluding the period from November 1, 1986 until May 1, 1987, when Benafuels Processing, Inc. expressly assumed responsibility for such coverage. Benafuels Processing, Inc. is responsible for payment of covered medical expenses incurred by the Complainant from November 1, 1986 until May 1, 1987.