January 26, 1982

(Opinion issued in letter form; name and address deleted)

Re: ROD Case No. 277

This is in reference to your request for an opinion concerning the amount of the premium charged by the Employer for continuation of insurance coverage during the recent economic work stoppage. You have asked the Trustees to determine whether the premium charged to Employees during the strike was higher than the premium normally paid by the Employer. You have also asked whether the Employer's Plan permits the Employer to charge higher premiums to Employees during a strike than those previously paid by the Employer. According to the facts you have submitted, the Employer has not yet formally responded to this issue.

Because of the prohibitions of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. 1001, et seq. (1978), the Trustees may not address issues related to the Employer Plans, unless there is an actual dispute between an Employee and The Employer and the dispute fits within the scope of the exemption granted to the Trustees by the United States Department of Labor ("ROD Exemption"). Under the ROD exemption, the Trustees are only permitted to resolve disputes involving the nature of benefits and generic and individual questions of eligibility under the terms of the Employer's Plans. See ROD Exemption, PTE 79-17 (May 11, 1979), emphasis added, copy attached.

In this case, none of the provisions of the Employer's Plan specifies the amount of the premium which the Employer may charge. Therefore, the issue is outside the scope of the ROD exemption. And, because of the prohibitions of ERISA, the Trustees may not address the issues you have raised.

Yours very truly,

Harrison Combs, Chairman

John J. O'Connell, Trustee

Paul R. Dean, Trustee

Attachment