

May 31, 1983

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

Re: Opinion of Trustees  
Resolution of Dispute  
Case No. 81-83

Pursuant to Article IX of the United Mine Workers of America 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 whether Employer A or Employer B is responsible for providing benefits coverage for a Pensioner. Under Article II. B. of the Employer B Benefit Plan, signatory Employers are required to provide benefits coverage for "Pensioners." Article I. (5) of the Employer B Benefit Plan defines "Pensioner" as "any person who is receiving a pension ... under the 1974 Pension Plan whose last classified signatory employment was with the Employer...."

Employer A was signatory to the National Bituminous Coal Wage Agreement ("Wage Agreement") of 1978, signatory to the 1981 Wage Agreement, and is still in business. Employer A was a contract miner for Employer B until March 1981, when it terminated its contract with Employer B and ceased mining on Employer B's property. Employer B subsequently began mining the property previously contracted to Employer A. The Pensioner last worked in classified employment for Employer A in February 1981 and is receiving a 1974 Plan pension. The agreement by which Employer A terminated its contract with Employer B did not require Employer B to provide benefits coverage for any of Employer A's Employees or Pensioners.

Employer B claims that Employer A is responsible for providing benefits coverage to the Pensioner because the Pensioner last worked for Employer A. Employer A, however, states that Employer B is responsible for providing such coverage, because Employer B is a successor to Employer A.

The Trustees find that it is unnecessary to determine whether Employer B is Employer A's successor, because, even assuming that Employer B is Employer A's successor, there is no evidence that Employer B agreed to provide benefits coverage to Employer A's Pensioners. Under Article XX (c)(3)(i) of the 1981 Wage Agreement and Article II. B. of the Employer's Benefit Plan, a signatory Employer is required to provide benefits coverage to Pensioners whose last classified signatory employment was with the Employer. Therefore, as the Pensioner's last signatory Employer, Employer A would be required to provide benefits coverage to the Pensioner and his dependents.

Sincerely,

Harrison Combs, Chairman,  
John J. O'Connell, Trustee  
Paul R. Dean, Trustee