

OPINION OF TRUSTEES

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In Re

Complainant: Employees  
Respondent: Employer  
ROD Case No: 81-345 - April 30, 1984

Board of Trustees: Harrison Combs, Chairman; John J. O'Connell, Trustee;  
Paul R. Dean, 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 whether the Employer is responsible for the provision of continuation of coverage for its laid-off Employees under the terms of the Employer's Benefit Plan. The Trustees hereby render their opinion on the matter.

Background Facts

The Respondent, Switchback Coal Company, Inc. ("Switchback"), was a member of an association of coal companies using the facilities of the Hite Preparation Company ("HITE"), which prepared and sold the coal produced by them.

Hite signed the National Bituminous Coal Wage Agreement of 1981 ("Wage Agreement") for the association, forwarded dues to the UMWA, submitted royalties to the Funds, and provided a master insurance program for the association members. In June 1982, Hite notified Switchback that its coal would no longer be needed and that their affiliation was ended as of July 12, 1982. Switchback was signatory to the Wage Agreement, by virtue of its membership in the association, through July 12, 1982. Switchback, however, had a market for its coal so it signed the Wage Agreement, in its own right, on July 20, 1982.

During the period August 1982 through March 27, 1983, Switchback's labor force was reduced from 27 to 9 Employees. On March 28, 1983, it laid off 5 Employees and during June 1983 it laid off the remaining 4 Employees. Switchback provided benefits coverage for its laid-off Employees through July 1983. Switchback claims that this was the maximum coverage required based on their hours worked.

A review of the hours reported by Hite and Switchback for Switchback's Employees commencing July 20, 1982, indicates that, of the twenty-one (21) Employees on whose behalf this Request was filed, fifteen (15) of the Employees had worked more than 2,000 hours for Switchback during the 24 consecutive calendar month period immediately prior to their dates last

worked. Four of the remaining Employees had worked more than 500, but less than 2,000 hours, while the remaining two worked less than 500 hours total for Hite and Switchback.

### Dispute

Is Switchback responsible for the provision of continuation of coverage for its eligible laid-off Employees?

### Positions of the Parties

Position of the Complainants: The Complainants ask whether the Respondent or the 1974 Benefit Plan and Trust is responsible for the provision of benefits coverage for them and their dependents.

Position of the Respondent: It has provided continuation of coverage for the Complainants during their periods of eligibility.

### Pertinent Provisions

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

#### Article I - Definitions

The following terms shall have the meanings herein set forth:

- (1) "Employer" means (coal company).
- (2) "Wage Agreement" means the National Bituminous Coal Agreement of 1978, 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.

Article II A. (1) of the Employer's Benefit Plan provides:

#### 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.

Article III D. (1) (a) of the Employer's Benefit Plan provides:

Article III - Benefits

D. General Provisions

(1) Continuation of Coverage

(a) Layoff

If an Employee ceases work because of layoff, continuation of health, life and accidental death and dismemberment insurance coverage is as follows:

<u>Number of Hours Worked for the Employer in the 24 Con- secutive Calendar Month Period Immediately Prior to the Employee's Date Last Worked</u>	<u>Period of Coverage Continuation from the Date Last Worked</u>
2,000 or more hours	Balance of month plus 12 months
500 or more but less than 2,000 hours	Balance of month plus 6 months
Less than 500 hours	30 days

Discussion

Under Article III D. (1) of the Employer's Benefit Plan an Employer must provide continued benefits coverage to its laid-off Employees based on their hours worked for it during the 24 consecutive calendar month period prior to their dates last worked. Because the Complainants were laid off by Switchback, it is required to provide them with continued benefits coverage as provided under Article III D. (1), subject to any other applicable limitations set forth in Article III D. of the Employer's Benefit Plan.

Opinion of the Trustees

Switchback Coal Company, Inc. is responsible for the provision of benefits coverage for its laid-off Employees, based on their hours worked.