

EMPLOYEE TRUSTEES CHARLES A. WHOBREY GEORGE J. WESTLEY MARVIN KROPP WILLIAM D. LICHTENWALD

EMPLOYER TRUSTEES ARTHUR H. BUNTE, JR. GARY F. CALDWELL RONALD DESTEFANO GREG R. MAY

EXECUTIVE DIRECTOR THOMAS C. NYHAN

February 18, 2016

The Honorable Gary C. Peters
The Honorable Debbie Stabenow

#### **Dear Senators:**

Thank you for your and your colleagues' interest in the application to reduce benefits that the Board of Trustees (the "Board") of the Central States, Southeast and Southwest Areas Pension Plan ("Central States" or the "Fund") has submitted to the Department of the Treasury.

We share your concerns regarding the negative effect that the proposed pension reductions would have on retirees and their families. The Board is committed to preserving the benefits of participants in the Fund to the greatest extent possible, and we appreciate that members of Congress are engaged in the same pursuit.

We are disappointed, however, that the letter you and your colleagues sent to Treasury Special Master Ken Feinberg simply opposed the Fund's rescue plan application without providing any hint of a real solution. The Treasury Department's rejection of the benefit reduction application would result in the insolvency of the Fund with every participant losing virtually all of their benefits within the next 10 years. We are writing to instead urge you to support real solutions that will help save the Fund – and protect retiree and participant benefits.

#### **Funded Status and History**

There are no easy solutions to the problems facing Central States. Annual benefit payments currently exceed contributions by more than \$2 billion. The Fund is projected to become insolvent and unable to pay benefits in approximately 10 years, and that date could accelerate if the participants and contributing employers withdraw their support for the Fund because they do not see a viable path forward. The Fund needs \$11 billion in funding to prevent insolvency and meet its long-term obligations; nothing else will save the Fund and prevent benefit losses.

The major reasons for this funding shortfall are trucking deregulation, which was passed by Congress in 1980, and the two recent severe economic downturns. In 1980, there was one retiree or inactive employee for every four active employees in the Pension Fund. Today, that ratio has been completely reversed – now there are nearly five retirees and inactive employees for each active employee. In 1980, there were approximately 12,000 contributing employers to the Fund, but there are only approximately 1,500 today. Since then, over 10,000 employers have either liquidated or otherwise withdrawn from the Fund without paying for their share of the Fund's liabilities.

The Honorable Gary C. Peters The Honorable Debbie Stabenow February 18, 2016 Page 2

Additionally, two major recessions have torpedoed our economy since 2000, driving down the Fund's investment assets and pushing a larger number of employers into bankruptcy. Although the financial markets have rebounded from the 2008 market crash -- and the Fund's investment returns since then have been strong<sup>1</sup> -- it has not been nearly enough to make up for the huge imbalance caused by trucking deregulation and the two severe economic downturns.

## **No Magic Solutions**

The Fund's Board of Trustees, which is composed of an equal number of employer and union representatives, has spent more than a decade trying to save the Fund without reductions in accrued benefits. For the past seven years, we have been informing Congress that unless the Fund receives a large infusion of cash or substantially reduces its liabilities, it will become insolvent in the near future. In fact, the Fund's Executive Director and General Counsel, Tom Nyhan, testified to this effect before the Senate Committee on Health, Education, Labor and Pensions in May 2010<sup>2</sup> and the Subcommittee on Health, Employment, Labor and Pensions of the House Committee on Education and the Workforce in October 2013.<sup>3</sup>

Earlier this year, the Fund's Board of Trustees determined that it was absolutely necessary to use the benefit reduction tools provided by the Multiemployer Pension Reform Act of 2014 ("MPRA") to protect the largest possible number of participants to the greatest extent possible. After many months of long and careful consideration, the Board of Trustees developed a plan – the rescue plan – to implement benefit reductions under MPRA in a fair and equitable manner.

**Preserving pension benefits is a "zero sum" problem.** The only way to reduce or eliminate the benefit reductions is to provide the Fund with additional assets. Other actions might change which participants experience benefit reductions, but they will not change the total amount of reductions. Simply put, lessening the proposed reductions for one group of participants would mean that the benefits of a different group of participants would need to be subjected to greater reductions.

While painful, without additional funding the Fund's proposed rescue plan is the only realistic option to save the Fund from financial failure and help ensure it is able to continue to pay benefits to all participants and beneficiaries in the future. Under the rescue plan, each participant would receive a higher monthly benefit than he or she would receive under the PBGC guarantee formula. Moreover, the Fund's actuaries have estimated that approximately **80 percent of the participants will be better off under the rescue plan**, with both the Fund and the Pension Benefit Guaranty Corporation (PBGC) multiemployer program becoming insolvent in the absence of the rescue plan. And there is no time for a "do-over" if the rescue plan is rejected. **If the rescue plan is not approved and implemented in 2016, benefit reductions under MPRA may no longer save the Fund.** This is because each month the plan is delayed will result in larger benefit reductions until the point is reached where the Fund can no longer be salvaged.

<sup>&</sup>lt;sup>1</sup> In the 7-year period following the 2008 market crash, the Fund's average annual rate of return was 11.5%.

<sup>&</sup>lt;sup>2</sup> http://www.help.senate.gov/hearings/building-a-secure-future-for-multiemployer-pension-plans

http://edworkforce.house.gov/uploadedfiles/final\_format\_nyhan\_testimony.pdf

The Honorable Gary C. Peters The Honorable Debbie Stabenow February 18, 2016 Page 3

# The PBGC Does Not Provide Real Coverage to Central States Participants

The PBGC reports that its multiemployer insurance program is currently underfunded by approximately \$52 billion -- a figure that understates the true problem because it only includes plans that are expected to begin receiving assistance within the next ten years. In January 2016, the Congressional Budget Office released projections showing that it expects the PBGC multiemployer program to be insolvent by 2024. And the Fund currently pays approximately \$2.8 billion in benefits per year, while the PBGC only receives \$250 million in premiums per year.

Despite the fact that Central States has been paying insurance premiums to the PBGC for more than 40 years, the PBGC lacks the resources to pay virtually any portion of the guaranteed benefits to our participants. This means that the more than 400,000 hardworking Americans covered by Central States face the following stark and tragic reality: if and when both Central States and the PBGC become insolvent, **their benefits will be reduced almost to zero**.

# **Additional Funding is the Only Alternative Solution**

The only way to lessen or obviate the need for benefit reductions is to provide additional funding to Central States. The Fund's actuary has estimated that in lieu of any benefit reductions, approximately \$11 billion of additional funding is necessary to prevent the Fund from becoming insolvent. If members of Congress are serious about helping Central States participants, then they must pass legislation that provides some or all of this funding.

Congress could also protect Fund participants by passing legislation that raises the PBGC multiemployer guarantee while providing the agency with additional funding. Such legislation would ensure that the PBGC is able to support its guarantee in the future, and that the guarantee provides larger benefits than the Fund is able to pay under the rescue plan. Several pieces of legislation have been introduced that would do this in recent years, though none have received serious consideration in Congress. In the 111th Congress, Central States actively supported legislation (H.R. 3936; S. 3157; the "Create Jobs and Save Benefits Act of 2010") that would have provided funding to the PBGC and updated the PBGC's current authority to "partition" a multiemployer plan. The Keep Our Pension Promises Act (H.R. 2844; S. 1631) introduced in this Congress is another similar approach that the Fund supports.

#### **Conclusion**

The Board applauds you for making protecting retirement benefits a priority, but encourages you and other members of Congress to focus on real solutions while avoiding half-measures that, despite being well-intentioned, will only make the situation worse. Delaying the implementation of the reductions, or forcing them to be distributed differently than has been proposed in the rescue plan, will not protect participants. At best these steps will merely shift the burden from some participants onto other participants. At worst, they will lead to participants losing their retirement benefits in their entirety.

If Congress is serious about helping Central States' participants and beneficiaries, then it must provide additional funding, either directly or through the PBGC. No other course of action will protect participant benefits.

The Honorable Gary C. Peters The Honorable Debbie Stabenow February 18, 2016 Page 4

We appreciate your attention to this matter. If you have any questions, please contact Tom Nyhan at (847) 939-2400.

Sincerely,

Central States, Southeast and Southwest Areas Pension Fund Trustees

Employer Trustees Chairman

Employee Trustees Chairman

Charles A. Whobrey

CC: Signatories of February 2, 2016 Letter to Special Master Kenneth Feinberg