

## **Soft Drink Industry–Local Union No. 744 Pension Fund**

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### **Notice of Plan Status**

April 30, 2010

To all Participants, Beneficiaries, Participating Unions and Contributing Employers:

The Pension Protection Act (PPA or Act), signed into law in 2006, is intended to improve the financial condition of pension plans. Many of the Act's provisions relate to funding, which, in simplest terms, refers to how much money a pension plan has coming in, going out, and in reserve (or "in the bank") for the future. The Act's provisions are intended to create more discipline to prevent and correct avoidable funding problems.

Starting with the 2008 plan year, the Act requires that pension plans be tested annually to determine how well they are funded. Benchmarks for measuring a plan's funding, with formal labels, were established. Plans that are in the yellow ("seriously endangered" or "endangered") or red ("critical") zones must notify all plan participants, beneficiaries, unions, and contributing employers of the plan's status, and must take corrective action to improve the plan's funding.

In recent years, steps have been taken to bring this Pension Plan's benefit liabilities into balance with its assets. This has been done through a combination of benefit changes and increases in contributions from contributing employers. While these actions are expected to improve the financial situation over time, there is currently a shortfall that must be resolved for the Plan to comply with the Act's requirements.

#### **Plan's Status – Red Zone**

On March 31, 2010, the Pension Fund's actuary certified that the Defined Benefit Plan of the Soft Drink Industry – Local Union No. 744 Pension Fund is in the red "critical" zone for the Plan Year beginning January 1, 2010. (This notice and this certification do not apply to the Individual Account Plan of the Soft Drink Industry – Local Union No. 744 Pension Fund.) This red zone certification is based on the actuary's determination that the Pension Plan is projected to have a funding deficiency in plan years beginning on and after January 1, 2010. This means that contributions are not expected to be high enough to meet government standards for funding both past and future benefits. This does not mean that the Fund will have a problem paying benefits to current pensioners and beneficiaries in the near future. It means that, if corrective action is not taken, the Fund may have a problem paying benefits years in the future. The Trustees have already taken some corrective action, as explained below.

#### **Rehabilitation Plan**

The Act requires a plan in the red "critical" zone to adopt a Rehabilitation Plan that will enable the plan to improve its funded position to meet statutory funding requirements over time. The Trustees of the Plan have already adopted a Rehabilitation Plan, which has been in effect since

January 1, 2009. A notice regarding the Rehabilitation Plan was sent to all participants, beneficiaries, employers and participating unions on November 26, 2008. The Act allows a Rehabilitation Plan to eliminate or change “adjustable benefits.” The notice previously sent explains the provisions of the Rehabilitation Plan that have reduced and/or eliminated some of the adjustable benefits. These include 36-month guarantees, disability benefits and subsidized early retirement benefits. These reductions apply only to participants and beneficiaries whose benefit commencement date is after April 24, 2008. Benefits for pensioners and beneficiaries already in pay status on April 24, 2008, are not affected.

### **Employer Surcharge**

The Act requires that all contributing employers pay a contribution surcharge to the Plan to help correct the Plan’s financial situation. For contributions due beginning January 1, 2010, the contribution surcharge is 10% of the negotiated contribution rate. The contribution surcharge ends when an employer begins contributing under a collective bargaining agreement that implements the Rehabilitation Plan. Some employers have already approved such collective bargaining agreements and are now paying increased contribution amounts under the Rehabilitation Plan, in place of the contribution surcharge. Other employers will address the Rehabilitation Plan when they next negotiate a new collective bargaining agreement.

### **What’s Next**

We understand that legally required notices like this one can create concern about the Plan’s future. While the red “critical” zone label is required to be used by law, the fact is that we are working with our actuaries and consultants to monitor the Plan’s condition and address Plan issues. We will take the actions necessary to improve the Fund’s financial condition. However, since the Pension Plan is influenced by economic and financial variables beyond our control (such as stock market volatility and changes in participation and/or the number of contributing employers), unexpected developments can affect the Plan’s status and any future corrective actions needed.

The Trustees are required to review the progress of the Rehabilitation Plan annually and update the Rehabilitation Plan when necessary. If the Rehabilitation Plan is updated, the new Rehabilitation Plan and any benefit, contribution, or other Plan changes will be communicated to all affected individuals and parties before the changes are implemented. However, any reduction in adjustable benefits will not reduce the level of a participant’s accrued benefit payable at normal retirement age, and no future reduction will apply to participants and beneficiaries whose pension commencement date was prior to April 24, 2008.

For more information about this notice or the Pension Plan in general, contact the Pension Fund office at the address or phone number shown at the top of this notice.

The Board of Trustees

*Federal law requires that you receive this notice. Also as required by law, this notice is being provided to the Pension Benefit Guaranty Corporation (PBGC) and the Department of Labor.*