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Good afternoon members of the ERISA Advisory Council. My name is Jack Cohen. I currently hold the position of Executive Vice President of the Association of BellTel Retirees and am here today on behalf of myself and the **128,000** retirees who comprise our Association. In this testimony it is my intention to convey to this Council the sense of urgency and crisis that has resulted from the “de-risking” of pensions among retirees. During my entire career, I had been assured by what is now known as Verizon, that my family’s health benefits and pension were and would be secure – two factors that were critical in helping me make my decision to take retirement at such a young age. The major appeal of employment with a utility is obviously not the enticement of high salaries. The trade-off is the security of “guaranteed lifetime benefits”.

I joined the Association of BellTel Retirees in 2008, when it became apparent to me that there was a national corporate trend dedicated to eroding and eliminating employer-provided benefits to retirees *after they retired, during a time of major vulnerability!* There are 41,000 retirees of Verizon Communications who will be directly impacted by Verizon’s recent decision to transfer part of its pension liabilities to Prudential in a secretive de-risking transaction that gutted all of the federal protections intended by Congress under ERISA.

I have a long history with Verizon. I was employed by what was then known as NY Telephone in 1968, and held positions in Sales, the Business Office and the Plant Department. I retired from Verizon as a Staff Manager on the Staff of the Vice President of Manhattan Operations – in 1994, after 26 years of service at age 51. Part of the incentive for such an early

retirement was assurances that both my employer-provided health benefits and my pension were secure and would remain part of my retirement foundation for as long as I live. After my retirement in mid-1995, I was brought back by Verizon as an outside contractor in the position of Expense Budget Staff Manager. My duties included training future budget personnel and I authored a training manual on developing and executing departmental expense budgets that is still being used by Verizon today, almost fourteen years after I ceased being a contractor.

Today there is a four-pronged assault on the fixed incomes of this nation's senior citizens. What we have been witnessing over the last two decades is a coordinated effort resulting in a massive assault being inflicted upon seniors from four major directions, the last of which is the de-risking of pensions. The financial assault on seniors today includes: (a) reductions to the COLA of Social Security benefits; (b) increased contributions by Medicare beneficiaries; (c) losses of employer-provided healthcare to retirees; and the newest salvo (d) de-risking of pensions. De-risking is the most recent example of discrimination targeting unsuspecting seniors.

I am one of the 41,000 managers who had his pension that was once fully protected by ERISA moved to a Prudential group annuity contract. Never in a million years did any the Association's members think that we had to worry about our pensions. All 41,000 of us were completely blind-sided by the Prudential transfer. None of us had any input into Verizon's decision to de-risk nor were we given the option of opting out. We were told in late October that by mid December our benefits would be paid by Prudential and that we were to look to state law to determine coverage amounts should Prudential falter because the PBGC was no longer our backstop. This arbitrary and cruel decision was made without giving any of the 41,000 retirees the right to provide input into what was being done with our years of hard-earned money which we had been counting on to sustain us in the years that we are the most vulnerable. The protections provided by ERISA and the Pension Benefit Guaranty Corporation (PBGC) are gone forever and so goes our peace of mind.

So, why are retirees so incensed over the “de-risking” of their pensions? Why all the fuss? We are told that Prudential is in good shape and highly rated by the rating agencies. That may be true today but 2008 should have taught us all that no one is “too big to fail”. Some of our most critical concerns are set forth below:

- Risks unique to group annuity contracts are not well understood and the size of recent transactions raises questions about the adequacy of state law protections for retirees who receive benefits in the form of insurance annuities.
- Our former pensions are now subject to the provisions of a group annuity contract that we did not choose. We are not parties to this group annuity contract; it is owned by our former employer. Rather than the uniform protections afforded by ERISA our rights are to be determined in accordance with a patchwork of non-uniform state laws.
- State guaranty association coverage for annuity contracts varies from \$100,000 to \$500,000 per person per lifetime as opposed to the annual coverage provided by the PBGC of approximately \$56,000 per year.
- Retirees who are subject to a pension de-risking transaction should be entitled to reasonably equivalent protections to those protections that were available under ERISA prior to the transfer.
- Plan sponsors should be required to secure supplemental protections in the form of a third party guarantee or reinsurance contract so as to equal the scope of coverage offered by the Pension Benefit Guaranty Corporation (“PBGC”) after an annuity provider insolvency and subsequent determination of any shortfalls that might arise after state guaranty association contributions are determined so select retirees within a plan are not unfairly discriminated against.
- Not all states protect annuity proceeds from creditors. Annuity proceeds replacing pension benefits under a pension de-risking transaction should be uniformly protected

from creditors and bankruptcy trustees and retirees should be informed about how relocating can impact their pension protections.

- It is predatory and unfair to divest retirees of ERISA protections without giving them fair notice and an opportunity to choose for themselves.
- Retirees should be entitled to uniform and regular disclosures about the funded status of any separate account or accounts that secure their future annuity payments.
- Retirees should also be entitled to regular reporting by the annuity issuer or substitute benefit provider as to its financial strength and investment performance.
- Retirees should be informed as to any changes in their rights resulting from a pension de-risking transaction, including (1) loss of PBGC coverage and ERISA fiduciary standards and protections; and (2) amounts and conditions for coverage under the State Life and Health Insurance Guaranty Association (if such entities exist within the states) in the event of an annuity issuer insolvency.
- Employers like Verizon should not be allowed to exploit a loophole in the law by amending a plan to avoid fiduciary duties to a select group of retirees. The independent fiduciary reviewing de-risking transactions should owe a duty to retirees, not Verizon.
- Retirees should be entitled to reasonable notice and an opportunity to opt-out prior to the transfer of their pension assets to a third party.
- Penalties and damages should be recoverable by retirees in the event of non-compliance.

Members of the Council, the corporate community is awaiting the decision of the litigation currently being funded by the Association of BellTel Retirees in the Federal Courts, like sharks smelling blood before a feeding frenzy. The corporate interest relating to de-risking has great leverage especially in an environment where low interest rates exacerbate the funding

gaps for retiree pensions. Apparently forgotten in de-risking transactions is the ultimate potential harm done to a major segment of our population...the senior retiree.

In 1974, ERISA came into existence to counter the pension abuses of the past. We are now witnessing corporate initiatives designed to circumvent and ultimately dismantle those ERISA protections to pensions. For years now the eradication of what has been called: "Legacy Costs," has been high on the agenda of many corporate boards. Our pensions are not "entitlements." These retirement benefits were earned through decades of hard work and loyalty with the trade-off of higher salaries and other forms of compensation.

Every time a corporation "de-risks" its pension obligations by purchasing a group annuity contract there will be less funding available for the Pension Benefit Guaranty Corporation, a pension "safety valve" which was a product of the 1974 legislation. The Verizon transaction alone is expected to result in an annual loss to the PBGC. of \$1,722,000 in obligations. Unless action is taken to curtail the inevitable stampede of de-risking pensions, what we will witness is the destruction of the PBGC due to lack of funding and anti-selection - the better funded plans will de-risk by buying group annuities, the underfunded plans will collapse and we will be right back in the pre-ERISA era.

Prudential has taken on more than \$34 Billion in liabilities to retirees of Verizon and General Motors alone and they continue to aggressively promote their pension solutions to corporate America. No one knows how Prudential will fare over the next few decades and since insurance is regulated at the state level it seems inevitable that some retirees will fare better than others. We didn't bargain for this when we accepted our benefit packages. We weren't told about this when lump sums were available options at retirement. Had we known that Verizon would do an end run around ERISA and kick 41,000 of us to the curb we might have done something about it when we had other options available.

Pension de-risking using a group annuity contract may reduce risk for the Pension Plan but it clearly creates risk for unsuspecting retirees. Retirees lose all of the comprehensive protections intended by Congress under ERISA, including the financial safety net provided by the PBGC, fiduciary duty standards, minimum funding thresholds and regular disclosure requirements. Retirees should not be subject to discrimination to further corporate greed.

I urge you to take action to ensure that retirees get the protection that Congress intended under ERISA.