

United States Senate

WASHINGTON, DC 20510-4802

June 16, 2011

The Honorable Mary Schapiro
United States Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Dear Chairman Schapiro,

I am writing to bring a matter to your attention that greatly impacts my home state of West Virginia. Over the past year and a half, I have been deeply concerned about decisions by Century Aluminum to eliminate health insurance for hundreds of retirees and their spouses in West Virginia.

The company first announced in October 2009 that it was eliminating supplemental coverage for Medicare-eligible retirees and requiring early retirees who are not eligible for Medicare to make out-of-pocket payments for premiums, co-pays, and deductibles. Then, it announced in November 2010 that it was eliminating coverage altogether for its early retirees who are not yet eligible for Medicare.

It is important to note that these decisions single out West Virginia retirees for no apparent reason, leaving untouched for now the health care coverage for retirees of Century Aluminum's other facilities. These decisions have caused unimaginable hardship for these retirees and their families, which is why I have been looking for ways to help them keep their coverage.

This issue touches your agency because I have reviewed Century Aluminum's financial disclosure forms, and was startled to learn that almost the entirety of its 2010 book profits and a large portion of its first quarter 2011 profits appear to come from the savings the company is claiming due to eliminating retiree health care in West Virginia.

Last year, the company's 10-K filing recorded net income of \$59.9 million, but states that its "[n]et income includes an after tax benefit of \$56.7 million for changes to the Century of West Virginia retiree medical benefits program..." It appears to me that, in 2010, this was not a profitable company, and that these health care cuts were targeted to boost Century Aluminum's bottom line and protect its stock price.

Similarly, in the first quarter of 2011, the company announced a net income of \$25 million, and stated that elimination of retiree health care in West Virginia "increased quarterly results by \$9.4 million with an associated discrete tax benefit of \$2.1 million." Looking at its 2010 and first quarter 2011 filings together, it appears that one of the most profitable actions the company has taken was eliminating retiree health care benefits for my constituents, which had nothing to do with producing aluminum.

Chairman Mary Schapiro

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Century Aluminum is currently challenging its obligation to provide future retiree health care benefits in federal court, and as part of that case, estimated that its yearly health care costs for all retirees in West Virginia were approximately \$4.1 million in 2009. This means that, in its SEC filings, Century Aluminum is claiming savings associated with the elimination of those benefits for several years into the future, even as the question of legal liability for those benefits is still pending in federal court.

It is also shocking to know that the company is claiming savings from cutting future benefits in its filings with the SEC on the one hand, while at the same time arguing in federal court that it was never obligated to provide these future benefits in the first place. Companies should not be able to have it both ways.

While these practices may not violate any of your regulations, I do have several questions for you.

1. Under what legal mechanism can a company claim income from eliminating future retiree health coverage on its SEC filings, while at the same time denying in a pending federal court case that it was ever obligated to provide those benefits in the first place?
2. Does the company acknowledge future retiree health coverage as a potential liability anywhere in its SEC filings?
3. Is the practice of cutting retiree benefits to boost profits a common occurrence?
4. If so, are you considering any regulatory action that could deter this practice, such as excluding gains from the profits a company may report on its 10-K, or expanded reporting requirements for actions that accrue cash gains on the backs of retirees?
5. Do you have any suggestions for action that legislators could take to prevent these abuses of retirees?

Not only am I hopeful that benefits can still be saved for Century Aluminum's employees in my state, but I am also hopeful that by working together, we can prevent this unscrupulous practice from harming additional retirees elsewhere. Thank you for your prompt attention to this matter. I look forward to your reply.

Sincerely,



John D. Rockefeller IV