

## **Asarco sues to avoid paying copper-price bonuses**

Tucson-based Asarco LLC has filed a federal lawsuit to avoid paying some workers bonuses based on the price of copper.

Unions representing about 2,100 Asarco workers plan to fight the lawsuit.

Asarco, part of Mexico-based mining giant Grupo Mexico, alleges in federal court that an arbitrator exceeded his authority in a December ruling requiring the company to pay a copper-price bonus to union employees who are not part of the company's pension plan.

The issue affects about 550 employees and could cost Asarco upwards of \$8 million in back bonus payments, union officials say.

Asarco said the company, the United Steelworkers and other unions agreed in a labor contract that only employees covered under Asarco's pension plan would be eligible to get the quarterly price bonus. The unions drafted the language and insisted on its adoption as a precondition to entering a labor contract while Asarco was in bankruptcy in 2007, Asarco said in a lawsuit filed in U.S. District Court in Tucson.

Management and the unions agreed to contract modifications in 2011, after the company emerged from bankruptcy, including the provision that employees hired on or after July 1, 2011, are not eligible for Asarco's pension plan, Asarco said. That precluded the newer employees from getting the copper-price bonus as well, the company contended.

The unions later objected, saying they didn't understand the effect of the agreement, Asarco said. After attempts to resolve the dispute, Asarco said, the unions filed a formal grievance that led to arbitration.

Asarco said the arbitrator, Michael Rappaport, agreed that the labor contract does not require payment of the bonus to employees not covered by the pension plan, but improperly rewrote a specific provision requiring those employees to get the bonus.

"The arbitrator in this case acted outside of the authority given to him under the labor contract between Asarco and the unions," Asarco Chief Operating Officer Manuel Ramos said in a news release, adding that the arbitrator had no power to add to or change the agreement.

The United Steelworkers, Asarco's main union and bargaining agent for about a half-dozen other unions, will fight Asarco's lawsuit, said Manny Armenta, subdistrict director for the Steelworkers.

Armenta said the unions did agree to limit the pension plan to workers hired after July 1, 2011, but neither the union nor the company realized it would affect the bonus payments.

"We never agreed they wouldn't get the copper-price bonus," Armenta said, noting that the arbitrator ruled the situation was the result of a "mutual mistake."

Even so, Asarco said in its lawsuit that acknowledging a mistake was made doesn't give the arbitrator the power to alter the agreement.

The copper-price bonuses are based on the average daily settlement price of copper on the London Metals Exchange. After peaking at more than \$4.50 per pound in 2011, copper prices have slumped lately to around \$2.60 per pound.