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April 19, 1938

Mr. M. M. Schene, Vice President
Pittsburg County Railway Company
McAlester, Oklahoma

Dear Sir:

Reference is made to your letter of March 9, 1938, and to the attached reply to our questionnaire relative to the status under the Railroad Retirement Act of the Pittsburgh County Railway Company.

From the information furnished by you, it appears that the Pittsburg County Railway Company was incorporated on June 24, 1916, under the laws of Oklahoma; that the company is a successor to the Indian Territory Traction Company and to the Choctaw Railway & Lighting Company; that the company's road extends 21.87 miles from McAlester to Hartshorne, Oklahoma, 62 per cent of its track being located on a privately owned right-of-way; that the company operates by means of electric power transmitted by overhead trolley; that interchange connections have been maintained continuously with the Missouri-Kansas-Texas Railroad Company at North McAlester and with the Chicago, Rock Island & Pacific Railway Company at Alderson, approximately 1200 cars having been interchanged with these carriers annually; that its freight revenues from 1933 to 1937 have been substantially greater than its passenger revenues; that the company has published three interstate freight tariffs, has been a party to 287 interstate freight tariffs published by other carriers, has filed with the Interstate Commerce Commission 68 interstate freight concurrences and 106 interstate freight powers of attorney, also annual reports, monthly accident reports, locomotive inspection reports, and hours of service reports; and that the company has been a member of the American Short Line Railroad Association since 1921.

Upon the basis of the foregoing facts, it is my opinion that the Pittsburg County Railway Company is a commercial electric railway and that it does not fall within the terms of the proviso in the Railroad Retirement Act exempting street, interurban, or suburban electric railways not operating as a part of a general steam railroad system of transportation, and therefore, that the company is an "employer" subject to the Act.

Very truly yours,

Lester P. Schoene
General Counsel

LPS:DBS:JJD:ep
April 5, 1938