

MAY 7 1942

Mr. G. B. Elliott, President
South Carolina Pacific Railway Company
Wilmington, North Carolina

Dear Sir:

In a decision of the Board in the matter of the Central Vermont Transportation Company, it was held that a company chartered as a common carrier by railroad, whose railroad is operated in interstate commerce, under lease, by a carrier by railroad subject to Part I of the Interstate Commerce Act, is itself subject to Part I of that Act, and consequently is an "employer" under the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

Information contained in the valuation report of the Interstate Commerce Commission on the South Carolina Pacific Railway Company (38 V. R. 683), Moody's Steam Railroads for 1941, and various issues of "Statistics of Railways in the United States" indicates that the company was incorporated February 9, 1882, under the laws of South Carolina for the purpose of acquiring and operating railroad property within the State of South Carolina; that it owns a railroad approximately eleven miles in length; that its railroad was operated by others prior to January 1, 1915; that since that date it has been operated under lease by the Atlantic Coast Line Railroad Company; that it has filed lessor reports with the Interstate Commerce Commission since 1915.

The facts that the company was incorporated for the purpose of "acquiring and operating railroad property" and that it has filed lessor reports with the Interstate Commerce Commission for a number of years warrant the conclusion that it had the power under its charter to operate a common carrier railroad. Therefore, since it appears from the foregoing that the railroad of the South Carolina Pacific Railway Company has, at least during the period August 29, 1935, to date, been operated in interstate commerce under lease by the Atlantic Coast Line Railroad Company, a carrier by railroad subject to Part I of the Interstate Commerce Act, I am of the opinion that it was, on August 29, 1935, and has continued to be since that date, a carrier by railroad subject to Part I of the Interstate Commerce Act and consequently an "employer" under the Railroad Unemployment Insurance Act and the Railroad Retirement Act. Service to it is creditable under the latter Act from February 9, 1882, the date of its incorporation, to date.

Mr. G. B. Elliott

The Railroad Retirement Act and the Railroad Unemployment Insurance Act require "employers" to submit certain reports. It is our experience that many companies in the nonoperating class do not have and never have had compensated employees. However, while there may be no individuals engaged in physical operations, the officers of an "employer" are included as employees and the company is responsible under the Acts administered by this Board for the appropriate reports and remittances. Frequently the officers of a lessor company earn monthly compensation of \$300 or over for services rendered to another "employer" and the wage reports and contributions of such "employer" have already been made with regard to such compensation up to the \$300 maximum. If you have such cases, you may wish to adjust the books of the companies involved to reflect the proper charges and to make reports reflecting the proper amount of contributions in the future.

In order that we may give you pertinent information concerning the reports and payments which are required of the South Carolina Pacific Railway Company, I shall appreciate it if you will fill in and sign the attached questionnaire and return it to the Office Manager, Railroad Retirement Board, at your earliest convenience. This should be done even if you have already filed reports with the Board.

Very truly yours,

Lester P. Schoene
General Counsel

Enclosure

HPC:lm