

M E M O R A N D U M

June 20, 1944

TO The Director of Retirement Claims

FROM The General Counsel

SUBJECT Toledo Stone and Glass Sand Company

[REDACTED]
Service claimed as fireman and engineer at Toledo,
Ohio, from May 1907 to December 1921

In response to your request, I herewith submit my opinion
on the following:

QUESTION

Has the Toledo Stone and Glass Sand Company ever
been an "employer" under the Railroad Retirement
Act or Railroad Unemployment Insurance Act and is
service rendered to it creditable under those Acts?

OPINION

It is my opinion that the Toledo Stone and Glass
Sand Company has never been an "employer" under
the Railroad Retirement Act or Railroad Unemploy-
ment Insurance Act and that service rendered to
it is not creditable under those Acts.

DISCUSSION

The Toledo Stone and Glass Sand Company does not appear in
Poor's or Moody's Industrials.

Information contained in the valuation report of the Inter-
state Commerce Commission on The Toledo, Angola & Western Railway
Company (114 V.R. 646) is that the carrier at date of valuation
(June 30, 1917) was controlled by the same interests which controlled
the Toledo Stone and Glass Sand Company. In Poor's Railroads for the
year 1922 it is said that control of the carrier was sold in May 1922
to the Sandusky Cement Company.

Information furnished by Mr. W. Ohlemacher, Auditor, The
Toledo, Angola & Western Railway Company, in a letter dated April 3,

Memorandum to
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1944, is that the Glass Company was incorporated as early as 1902 under the laws of the State of Ohio, and that it was "reincorporated" on January 30, 1924; that the railroad operations conducted by the Glass Company were confined to the movement of its own products from the quarry to the crusher; that it did not perform rail transportation service for others; that it did not file with the Interstate Commerce Commission, or any other regulatory body, any tariffs, concurrences, powers of attorney, annual or other reports; that it did not hold itself out to the public as a common carrier by railroad; that the records available do not indicate that the Glass Company supplied the carrier with any products used in rail transportation, "but it is presumed that at sometime or other they probably did furnish the Railway Company with stone ballast, etc., but we are unable to say on what basis they were supplied, or the approximate percentage of total revenues of the Glass Company for products so supplied"; and that available records do not indicate whether or not the Glass Company performed any services for the carrier.

It is clear from the foregoing that the Toledo Stone and Glass Sand Company was not an express company, sleeping-car company or carrier by railroad subject to Part I of the Interstate Commerce Act, and while it appears that prior to May 1922, it was under common control with a carrier by railroad subject to Part I of the Interstate Commerce Act, no information is available to show that it performed any services in connection with the transportation of passengers or property by railroad within the meaning of the Railroad Retirement Act or the Railroad Unemployment Insurance Act. Therefore, it is my opinion that the Toledo Stone and Glass Sand Company has never been an "employer" under the Railroad Retirement Act or the Railroad Unemployment Insurance Act and that service rendered to it is not creditable under those Acts. Of course, any service (compensation is not involved) which can be properly verified as having been rendered to The Toledo, Angola & Western Railway Company is creditable.

Joseph H. Freehill
General Counsel