

MEMORANDUM

L-44-499
M-303

August 31, 1944

TO The Director of Finance

FROM The General Counsel

SUBJECT Santa Fe Northwestern Railway Company

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

QUESTION

Has the Santa Fe Northwestern Railway Company ceased to be an "employer" under the Railroad Retirement Act and the Railroad Unemployment Insurance Act and, if so, on what date?

OPINION

It is my opinion that as of February 5, 1943, the Santa Fe Northwestern Railway Company ceased to be an "employer" under the Railroad Retirement Act and Railroad Unemployment Insurance Act and that service rendered to it subsequent to that date is not creditable under those Acts.

DISCUSSION

The Santa Fe Northwestern Railway Company abandoned in 1941 all but approximately 1.2 miles of its railroad. On January 18, 1943, it applied to the Interstate Commerce Commission for permission to abandon the remaining 1.2 miles. In a certificate dated March 12, 1943, and effective fifteen days from that date, the Commission authorized the abandonment. The company's tariffs, concurrences and powers of attorney on file with the Interstate Commerce Commission were cancelled or revoked as of February 5, 1943. The company discontinued all railroad operations for the public on March 10, 1943.

In view of the foregoing information, it is my opinion that on February 5, 1943, the date as of which the Santa Fe Northwestern

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Railway Company cancelled or revoked its tariffs, concurrences and powers of attorney on file with the Interstate Commerce Commission, it ceased to be a carrier by railroad subject to Part I of the Interstate Commerce Act, and consequently on that date ceased to be an "employer" under the Railroad Retirement Act and Railroad Unemployment Insurance Act. While the company apparently did not discontinue all operations until March 10, 1943, and while the certificate of public convenience and necessity issued by the Interstate Commerce Commission was not effective until March 27, 1943, it had as of February 5, 1943, cancelled or revoked all of its interstate tariffs, concurrences and powers of attorney and could, therefore, no longer legally engage in transportation by railroad in interstate commerce. Regulations, Section 202.12.

Joseph H. Freehill
General Counsel