

Subject

DEC 2 1944

L-44-636

The Director of Retirement Claims

The General Counsel

Bowman-Hicks Lumber Company

[REDACTED]
Service claimed as foreman at LaGrande, Oregon, from April 1922 to April 1924

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

QUESTION

Has the Bowman-Hicks Lumber Company ever been an "employer" under the Railroad Retirement Act or the Railroad Unemployment Insurance Act and is service rendered to it creditable under those Acts?

OPINION

It is my opinion that the Bowman-Hicks Lumber 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.

DISCUSSION

From information contained in various editions of Moody's Industrials it appears that the Bowman-Hicks Lumber Company was incorporated in June 1900 under the laws of Missouri and owned a lumber plant at Oakdale, Louisiana, and that it was succeeded by a company under the same title, incorporated under the laws of Delaware in September 1922. The later manuals contain the information that on October 24, 1922, the company purchased all of the assets (except cash and accounts receivable) of the George Palmer Company of LaGrande, Oregon. The name of the Bowman-Hicks Lumber Company does not appear in "Statistics of Railways in the United States," published by the Interstate Commerce Commission, and its name does not appear in List No. 3 of Corporate Names of Common Carriers Filing Tariffs, Concurrences, or Powers of Attorney with the Interstate Commerce Commission and Compiled from its Records.

Memorandum to
The Director of Retirement Claims

Information furnished by Mr. Charles R. Hicks II, President, Bowman-Hicks Lumber Company, in a letter dated November 16, 1944, is to the effect that any railroad operations conducted by the Bowman-Hicks Lumber Company were confined exclusively to the movement of the Lumber Company's own logs or other materials; that it has never performed rail transportation service for others; that it has never filed with the Interstate Commerce Commission or any other regulatory body any tariffs, concurrences, powers of attorney, annual or other reports; that it has never held itself out to the public as a common carrier by railroad; and that it has never been directly or indirectly owned or controlled by or under common control with any express company, sleeping-car company or carrier by railroad subject to Part I of the Interstate Commerce Act.

Mr. Mengas in connection with his claim has made the statement that the Lumber Company "used Union Pacific flat car at that time." In response to our request for copies of any trackage or other agreements between the Bowman-Hicks Lumber Company and the Union Pacific Railroad Company, Mr. L. A. White, Auditor of Miscellaneous Accounts, Union Pacific Railroad Company, has submitted a copy of a contract dated January 13, 1923, between the Oregon-Washington Railroad and Navigation Company and the Bowman-Hicks Lumber Company, covering the lease of certain track materials from the carrier to be laid in two spur tracks extending from the Lumber Company's "logging railroad" and a copy of a contract dated December 1, 1924, between the Lumber Company and the Oregon-Washington covering the lease from the carrier by the Lumber Company of two ballast cars.

Since it is clear from the foregoing that the Bowman-Hicks Lumber Company has never been an express company, sleeping-car company or carrier by railroad subject to Part I of the Interstate Commerce Act and since the information available indicates that it has never been owned or controlled by or under common control with any such express company, sleeping-car company or carrier by railroad, it is my opinion that the Bowman-Hicks Lumber 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.

Myles F. Gibbons
General Counsel

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