

The Director of Retirement Claims DEC 20 1945

L-45 824

The General Counsel

Glendale and Montrose Railway Company

Service claimed as superintendent of transportation and yardmaster at Glendale, California, from December 1923 to August 1925

Service claimed as motorman and conductor at Glendale, California, from February 1926 to January 1927

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

QUESTION

Is service to the Glendale and Montrose Railway Company creditable under the Railroad Retirement Act?

OPINION

It is my opinion that service to the Glendale and Montrose Railway Company, during the period from April 14, 1909 to May 14, 1931, is creditable under the Railroad Retirement Act.

DISCUSSION

The following information is taken from various editions of Moody's manuals, a letter dated April 30, 1941, from Mr. Garner A. Beckett, President, Riverside Cement Company (former owner of the Railway Company), and the records of the Interstate Commerce Commission:

The Glendale and Montrose Railway Company (hereinafter referred to as the "Glendale Company") was incorporated on April 14, 1909, under the laws of California as the Glendale & Eagle Rock Railway Company. Its name was changed to the Glendale and Montrose Railway Company in March 1914. It owned and operated a standard gauge electric (overhead trolley) railway, approximately 12 miles in length, connecting the communities of

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Glendale, Montrose, La Crescenta, and Eagle Rock, California. Approximately 29% of its railway was located on privately owned right-of-way and approximately 71% on public streets or highways.

Under date of January 15, 1917, the Glendale Company entered into an agreement with the Los Angeles & Salt Lake Railroad Company (hereinafter sometimes referred to as the "Los Angeles & Salt Lake"), a carrier by railroad subject to part I of the Interstate Commerce Act, under which agreement the Glendale Company was granted the privilege of connecting with and using jointly certain trackage of that carrier at or near Glendale, California. The Glendale Company was given the privilege of bonding the tracks in question and installing electric overhead conductors. In an agreement between the same companies dated December 16, 1922, certain other trackage rights were granted the Glendale Company. In addition, the Los Angeles & Salt Lake agreed to establish at or near Glendale an interchange yard with all the necessary overhead structures and the Glendale Company agreed to "switch all loaded and empty freight cars, and passenger cars, of the Salt Lake Company to and from said interchange yard and the Salt Lake Company's freight and passenger depots, team tracks and all industries located or hereafter established upon the said joint tracks and also upon the tracks of the Salt Lake Company included in the said agreement of January 15, 1917." The Glendale Company agreed also to perform certain other switching services between industries located on the jointly used trackage and otherwise "as may be requested" by the Los Angeles & Salt Lake. In an agreement dated April 16, 1926, between the same companies, certain changes were made concerning maintenance and use of the jointly used tracks. The Glendale Company discontinued operations as a common carrier on December 31, 1930, but continued to perform terminal switching and transportation service for the Los Angeles & Salt Lake until May 14, 1931, when it conveyed to the Los Angeles & Salt Lake its electric locomotive and all overhead structures which had been used in performing the services for the Los Angeles & Salt Lake.

The Glendale Company filed with the Interstate Commerce Commission annual (electric) operating reports for the years 1925 to 1930, inclusive. It filed in all 10 freight tariffs, the earliest effective date of any of these tariffs being that of its I.C.C. No. 1, April 10, 1917. These tariffs were cancelled as of January 1, 1931. It had also on file with the Commission several freight concurrences and powers of attorney and a tariff covering switching between it, the Los Angeles & Salt Lake, and the Pacific Electric at Glendale, California. The "A" file at the Commission contains a letter from the Glendale Company dated September 14, 1916, to the Interstate Commerce Commission in which it is stated that the company has never handled "interstate traffic" but "expects to engage as an interstate carrier the first of the year."

In 1930 the Railroad Commission of the State of California, after hearing, issued an order granting the application of the Glendale Company to abandon its line, but the order provided that it should not become effective

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until authority to abandon its line as to interstate commerce had been obtained. Accordingly, on July 7, 1930, the company applied to the Interstate Commerce Commission for permission to abandon its line. The application was dismissed by the Commission on the grounds that the Glendale Company was an "interurban or suburban electric railway not operated as a part of a general steam railroad system of transportation." Glendale & Montrose Railway Proposed Abandonment, 160 I.C.C. 625.

From the foregoing it is clear that the Glendale Company was a common carrier by railroad; in fact, it appears to have been, at least during several years of its existence, a carrier by railroad subject to part I of the Interstate Commerce Act. Furthermore, since the switching and terminal operations conducted by it at Glendale were taken over in 1931 by the Los Angeles & Salt Lake, a "carrier-employer" on August 29, 1935, the Glendale Company was, in my opinion, a "predecessor" of that carrier. Therefore, it is my opinion service to the Glendale Company during the period April 14, 1909, the date of its incorporation, to May 14, 1931, the date of succession, is creditable under the Railroad Retirement Act in accordance with the provisions of Sections 1(f) and 202 of the act of June 24, 1937. General Counsel's Opinion re status of Fresno Traction Company, L-45-395. While it appears that the terminal and switching operations for the Los Angeles & Salt Lake may have constituted less than half the Glendale Company's total business, available information indicates that at least some of the Glendale Company's other freight business and at least some of its passenger business was conducted over a portion of the trackage used in its switching operations and that all of its business was apparently conducted by the same carrier-by-railroad enterprise. Consequently, service in all of its operations is creditable. General Counsel's Opinion re status of Fresno Traction Company, L-45-395.

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