

Digest

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DEC 27 1945

The Director of Retirement Claims

L-45 816

The General Counsel

Southern Michigan Transportation Company

[REDACTED]

Service claimed as purchasing agent and freight claim agent at Jackson, Michigan, from June 1925 to September 1935

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

QUESTION

Was the Southern Michigan Transportation Company an "employer" under the Railroad Retirement Act and is service to it creditable under that Act?

OPINION

It is my opinion that the Southern Michigan Transportation Company was not an "employer" under the Railroad Retirement Act at least after April 30, 1929. In view of this opinion and the lack of claims requiring an opinion as to any earlier period, none is here expressed with regard to any earlier period.

DISCUSSION

Information in various editions of Poor's and Moody's manuals is that the Southern Michigan Transportation Company was incorporated in 1925 and was authorized by the Michigan Public Utilities Commission to establish motor bus lines between Jackson and Battle Creek and Kalamazoo, Michigan and between Jackson, Lansing and East Lansing, Michigan; and that it was controlled by the Michigan Electric Railway Company* prior to

*Michigan Electric Railway Company, which operated a system of electric railways in Michigan, has been held to have been an "employer" under the Railroad Retirement Act from December 1, 1923 to April 30, 1929.

Memorandum to
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April 30, 1929; that thereafter it was controlled by the Michigan Electric Shares Corporation, which had acquired and scrapped the interurban electric railway properties of Michigan Electric Railway Company. In the manual for 1933 it is stated that the Southern Michigan Transportation Company was in receivership and in process of liquidation, and that it was not expected that sufficient funds would be realized to pay the creditors in full. It is not definitely stated in the manuals when the Southern Michigan Transportation Company was liquidated but it appears the parent company was finally liquidated in 1933.

In a letter dated December 11, 1945, Mr. Sanderson (the applicant) states that the Southern Michigan Transportation Company "was incorporated about the year 1925 for the express purpose of carrying on the business of The Michigan Railroad Company, as it was apparent at this time the railroad could not continue operating profitably, and it obtained its authority to incorporate on the strength of the Public Necessity of carrying on the Railroad business of transportation, and the railroad's tariffs and regulations were authorized, adopted and used. This Company was operated by the same staff of employes and officers and was a continuation of the General Railroad Transportation. We were in the employ of this Company from about Jan. 1925 to Sept. 1935 in operation and liquidating its assets. The Company ceased its operation in 1935."

It appears from the foregoing that while the Southern Michigan Transportation Company may have been organized to conduct the transportation formerly carried on by the Michigan Electric Railway Company, it obviously was nothing more than a bus and trucking concern, and was not an express company, or sleeping-car company or carrier by railroad. Therefore and since there is no showing that after April 30, 1929, at the latest, it was owned or controlled by or under common control with any such company or carrier, it is my opinion that at least subsequent to April 30, 1929, the Southern Michigan Transportation Company was not an "employer" under the Railroad Retirement Act.

Myles F. Gibbons
General Counsel

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