

November 22, 1939

Mr. F. L. McCaffery, General Auditor  
Southern Pacific Equipment Company  
65 Market Street  
San Francisco, California

Dear Sir:

It is sincerely regretted that the press of business has delayed this formal expression of opinion on the status of the Southern Pacific Equipment Company under the Railroad Unemployment Insurance Act and the Railroad Retirement Act. My ruling, made and communicated to you in July, that the Equipment Company is an employer under the identical, applicable coverage provisions of the two Acts, is based upon the information supplied by you.

Since its organization on May 15, 1920, the Equipment Company has been wholly owned and controlled by the Southern Pacific Company. All officers and directors of the Equipment Company are officers of the Southern Pacific.

The Equipment Company was organized by Southern Pacific to construct, purchase, or otherwise acquire railroad rolling stock and equipment for the Southern Pacific system. And during its entire existence, it has been engaged solely in the performance of that function. Operations of the Equipment Company have been intermittent according to the needs of the Southern Pacific system for equipment. During the periods of Equipment Company's operations, employees of Southern Pacific are transferred to the Equipment Company. Upon cessation of operations such transferred employees are returned to Southern Pacific employ.

Upon the foregoing facts, considered in the light of established administrative precedents, I concur in your opinion that the Southern Equipment Company, at least during its periods of active operations, is an employer under the Railroad Retirement Act and the Railroad Unemployment Insurance Act as a company wholly owned and controlled by the Southern Pacific Company and performing a service in connection with transportation by railroad. See Matter of Lenoir Car Works, R.R.B., Jurisdictional Docket No. I, B. O. 39-291; Merchant's Despatch Transportation Company, General Counsel's Opinion No. 1939 R.R. 54, approved B. O. 39-429; Beaver Creek Water Company,

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General Counsel's Opinion dated August 15, 1938, approved by the Board August 20, 1938; Kern Trading and Oil Company, General Counsel's Opinion dated May 6, 1939. Service to the Equipment Company at least during periods of active operations is creditable under the Railroad Retirement Act from May 15, 1920 to date.

If the necessity for determining the status of the Equipment Company during periods of inactivity ever arises, further opinion will be rendered.

For the present, it will suffice if you will advise me to what extent the Equipment Company has been engaged in active operations from August 28, 1935 to date, and specifically whether the Equipment Company was engaged in active operations on August 29, 1935.

On the assumption of no change in the situation of the Equipment Company, you need not answer our questionnaire of April 3, 1939.

It is requested that you inform the Bureau of Wage and Service Records of the appropriate officer of your company to be addressed in connection with reports of compensation paid employees, and such other reports as may be required by the Board in the administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

Thank you for your cooperation.

Very truly yours,

Lester P. Schoene  
General Counsel

*answered  
see Supplement  
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