L-41-306

July 3, 1941

Mr. [redacted], President
Little Schuylkill Navigation Railroad
and Coal Company
[redacted]

Dear Sir:

There has been presented for my consideration the question whether the Little Schuylkill Navigation Railroad and Coal Company is an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

It appears from information submitted by Mr. [redacted], secretary-treasurer of your company, and from information secured from other sources, that the Little Schuylkill Navigation Railroad and Coal Company was incorporated September 14, 1829, under an act of the Commonwealth of Pennsylvania, for the purpose of making a lock navigation on the East Branch of the Schuylkill River. By special act of April 23, 1831, and supplementary acts, however, the company was authorized to build and operate a railroad instead of a canal. It constructed a railroad, as authorized, and opened it for operation on November 18, 1831. The road was operated directly by the company from that date to April 1, 1863, when the entire road was leased by the company to the Philadelphia and Reading Railroad Company. On December 1, 1896, this lease was terminated and the property was as of that date leased to the Philadelphia and Reading Railway Company, successor to the Philadelphia and Reading Railroad Company, for a period of 999 years. On January 1, 1924, the lease was assumed by the Reading Company, successor to the Philadelphia and Reading Railway Company, and the Reading Company has continued since that date to operate the line of railroad of the Little Schuylkill Navigation Railroad and Coal Company in interstate commerce, as lessee under that lease.

The Little Schuylkill Navigation Railroad and Coal Company has continued throughout the period that its road has been operated under lease to maintain its corporate organization, and to perform the following active duties:

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Mr. [redacted], President

(1) To receive the annual rental as provided for under the terms of the lease and distribute a portion of it in the form of dividends to its stockholders;

(2) To disburse a remaining portion of the rental for State and Federal taxes and for organization expenses;

(3) To make transfers of stock;

(4) To receive dividend income from its investment in the capital stock of the East Mahaney Railroad Company, a railroad corporation, whose entire property is leased to Reading Company;

(5) To hold stockholders annual meetings and elections;

(6) To hold stated meetings of the Board of Managers; and

(7) To prepare and file reports with State and Federal Governmental Agencies, including an annual report to the Interstate Commerce Commission which it is required to file under Section 20 of Part 1 of the Interstate Commerce Act.

In its decision on the employer status of the Central Vermont Transportation Company under the Railroad Retirement Acts of 1935 and 1937, dated January 11, 1941, B.O. 41-10, the Board had occasion to consider the carrier status of the New London Northern Railroad Company, which, like the Little Schuylkill Navigation Railroad and Coal Company, is a charterd common carrier by railroad, whose road is being operated in interstate commerce under lease by the Central Vermont Railway, Inc. After an exhaustive legal analysis of the status of lessor carriers, the Board concluded in that decision that the New London Northern Railroad Company is a carrier by railroad subject to Part I of the Interstate Commerce Act. A copy of such decision is enclosed for your information.

In view of the conclusion reached by the Board in that decision with respect to the carrier status of the New London Northern Railroad Company, it is my opinion, for the reasons stated therein, that the Little Schuylkill Navigation Railroad and Coal Company is now, and at least since August 28, 1935, has been, a carrier by railroad subject to Part I of the Interstate Commerce Act, and for that reason is an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

Mr. [redacted], President

Under the provisions of Section 1(f) of the Railroad Retirement Act of 1937, service rendered to the Little Schuylkill Navigation Railroad and Coal Company is therefore creditable toward annuities under the Retirement Act from September 14, 1829, the date of its incorporation, to date.

In due course, you will receive instructions from the appropriate officer of the Railroad Retirement Board concerning the filing of reports and supplying of information required under the Retirement and Unemployment Insurance Acts.

Very truly yours,

[redacted]
General Counsel

Enclosure