B.C.D. 02-75

EMPLOYER STATUS DETERMINATION
The Ogden Union Railway & Depot Company

OCT 3 0 2002

This is the decision of the Railroad Retirement Board regarding the continued status of The Ogden Union Railway & Depot Company as an employer under the Railroad Retirement Act (45 U.S.C. § 231, et seq.) (RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351, et seq.) (RUIA).

The Ogden Union was on the Steam List as an employer under the Acts effective September 18, 1888, (B.A. Number 4720). The Company was jointly owned by the Union Pacific Railroad Company (UP) and the Southern Pacific Transportation Company (SP). Operations of the Company were terminated when UP and SP merged in 1996 and the former employees of the Ogden Union became employees of the merged company (UPSP).

Section 202.11 of the Board's regulations provides that:

> The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

Through the taking over of its employees and operations by UPSP, the Ogden Union has lost the characteristics essential to the existence of an employer status. Accordingly, the Board holds that the Ogden Union ceased to be an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective with the close of business on December 31, 1995, the last year for which employees were compensated by the Ogden Union. Cf. Rev. Ruling 82-99, 1982-2 C.B. 154, wherein the Internal Revenue Service ruled that a railroad ceases to be an employer subject to taxes under the Railroad Retirement Tax Act when the railroad's employees stop performing services in connection with the railroad's carrier activities.

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