

**ORANGE COUNTY TRANSPORTATION AUTHORITY  
RIVERSIDE COUNTY TRANSPORTATION COMMISSION  
EMPLOYER STATUS DETERMINATION**

This is the decision of the Railroad Retirement Board regarding the status of Orange County Transportation Authority (OCTA) and Riverside County Transportation Commission (RCTC) as employers under the Railroad Retirement and Railroad Unemployment Insurance Acts.

OCTA and RCTC are government agencies which have acquired certain property from rail carriers in California. However, neither OCTA nor RCTC provides any rail transportation services nor has any employees who are engaged in the provision of rail transportation services. Both OCTA and RCTC, either directly or through a five county joint powers authority, Southern California Regional Rail Authority, have contracted with a rail carrier to provide commuter rail service lines purchased from railroad companies. This operation is entirely intrastate. The railroad companies retain rights to operate over those lines.

The definition of an employer contained in section 1(a) of the Railroad Retirement Act (45 U.S.C. § 231 (a)) reads in part as follows:

(1) The term "employer" shall include--

(i) any express company, sleeping car company, and carrier by railroad, subject to [the Interstate Commerce Act];

(ii) any company which is directly or indirectly owned or controlled by, or under common control with, one or more employers as defined in paragraph (i) of this subdivision, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad \* \* \*.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, the term "employer" shall not include--

\* \* \* \* \*

(ii) any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general diesel-railroad system of transportation, but shall not exclude any part of the general diesel-railroad system of transportation now or hereafter operated by any other motive power. \* \* \*

Section 1(a) of the Railroad Unemployment Insurance Act (45 U.S.C. § 351(a)) provides a substantially identical definition.

OCTA and RCTC are not engaged in transportation of passengers or freight in interstate commerce. Accordingly, they are not employers within the meaning of section 1(a)(1) of the RRA. Moreover, there is no evidence that either entity provides any service in connection with the interstate transportation of freight or passengers by rail within the meaning of section 1(a)(1)(ii) of the Act. Accordingly, neither entity meets the definition of employer in section 1(a)(1) of the Act.

The Board holds that OCTA and RCTC are not employers under the Railroad Retirement Act or the Railroad Unemployment Insurance Act.

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