



**NATIONAL MEDIATION BOARD**  
WASHINGTON, DC 20572

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In the Matter of the  
Application of the  
  
AMERICAN TRAIN DISPATCHERS  
ASSOCIATION

alleging a representation dispute  
pursuant to Section 2, Ninth, of  
the Railway Labor Act, as  
amended

involving employees of  
  
SOUTHERN CALIFORNIA  
REGIONAL RAIL AUTHORITY

43 NMB No. 16

Case No. R-7453  
(File No. CR-7142)

DETERMINATION OF  
JURISDICTION --  
DISMISSAL

February 23, 2016

This determination addresses the application of the American Train Dispatchers Association (ATDA or Organization) alleging a representation dispute pursuant to the Railway Labor Act,<sup>1</sup> 45 U.S.C. § 152, Ninth, (Section 2, Ninth) among Train Dispatchers at Southern California Regional Rail Authority (SCRRA). At the time this application was filed, these employees were not represented by any organization or individual.

For the reasons set forth below, the National Mediation Board (NMB or Board) finds that SCRRA and its employees are not subject to the RLA. Therefore, the Board dismisses the application.

PROCEDURAL BACKGROUND

On August 3, 2015, ATDA filed an application alleging a representation dispute among SCRRA's Train Dispatchers. The application was assigned NMB

<sup>1</sup> 45 U.S.C. § 151, *et seq.*

File No. CR-7142 in order to conduct a pre-docketing investigation, and Cristina Bonaca was assigned as the Investigator. SCRRA filed a brief position statement on August 14, 2015. ATDA requested an extension and filed its position statement on September 4, 2015. SCRRA filed a supplemental statement on October 20, 2015. ATDA filed its supplemental statement on November 2, 2015.

### ISSUE

Is SCRRA a “carrier” for purposes of the RLA?

### CONTENTIONS

#### SCRRA

SCRRA is a California joint powers authority and public agency that administers and manages intrastate commuter rail service. SCRRA asserts it is not a company, nor is it a carrier by railroad subject to the Interstate Commerce Act (ICA) (49 U.S.C. § 1 *et seq.*) or the jurisdiction of the Surface Transportation Board (STB) (49 U.S.C. § 10501(a)(2)). *See* 29 C.F.R. § 1201.1. Rather, SCRRA states that it falls within the exclusion in the RLA for “street, interurban or suburban electric railways.” *See* 45 U.S.C. § 151. As such, SCRRA is excluded from the definition of a “carrier” under the RLA, and therefore is not subject to its jurisdiction.

#### ATDA

ATDA contends that SCRRA is a carrier subject to the RLA in addition to being a public agency. ATDA argues that “there is no question that Amtrak and the freight carriers for whom SCRRA provides train dispatching service are railroads subject to the jurisdiction of the Surface Transportation Board.” Further, it is clear that SCRRA’s Train Dispatchers are performing duties traditionally performed by railroad employees. In addition, SCRRA, through its interline operations with Amtrak, is providing transportation “in the United States between a place in- (A) a State and a place in the same or another State as part of the interstate rail network” making it a carrier for purposes of the ICA. *See* 49 U.S.C. § 10501(a)(2).

In addition, ATDA argues that SCRRA’s Train Dispatchers are governed by the same rules as their counterparts employed by freight carriers. Specifically, the Railroad Retirement Board (RRB) ruled that these employees are covered by the Railroad Retirement Act (RRA) and the Railroad Unemployment Insurance Act (RUIA). SCRRA’s Train Dispatchers are also

subject to the Hours of Service Act, and possibly the Federal Employees Liability Act (FELA).<sup>2</sup> For all the above reasons, ATDA argues that the Board should find SCRRRA's Train Dispatchers are subject to the RLA.

### FINDINGS OF LAW

Determination of the issues in this case is governed by the RLA, as amended, 45 U.S.C. § 151, *et seq.* Accordingly, the Board finds as follows:

#### I.

Section 1, First of the Act provides:

The term 'carrier' includes any railroad subject to the jurisdiction of the Surface Transportation Board, any express company that would have been subject to subtitle IV of title 49, United States Code . . . and any company which is directly or indirectly owned or controlled or under common control with any carrier by railroad and which operates any equipment or facilities or performs any service (other than trucking service) in connection with the transportation . . . and handling of property transported by railroad . . . .

#### II.

ATDA is a labor organization and/or representative as provided by 45 U.S.C. §151, Sixth, and § 152, Ninth.

#### III.

45 U.S.C. § 152, Fourth, gives employees subject to its provisions "the right to organize and bargain collectively through representatives of their own choosing. The majority of any craft or class of employees shall have the right to determine who shall be the representative of the craft or class for purposes of this chapter."

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<sup>2</sup> Counsel for ATDA wrote: "While ATDA is not aware of a court ruling addressing FELA coverage for SCRRRA's train dispatchers, the fact that SCRRRA explains to its employees that they are not covered by state laws that provide benefits to injured workers necessarily means that they must rely on the Federal Employers' Liability Act, 45 U.S.C. § 51."

## IV.

45 U.S.C. § 152, Ninth, provides that the Board has the duty to investigate representation disputes and shall designate who may participate as eligible voters in the event an election is required.

STATEMENT OF FACTSSCRRA's Operations

SCRRA is a joint powers authority and public agency formed pursuant to California law. See Calif. Pub. Utilities Code § 130255 and Calif. Gov. Code §§ 6500 *et seq.* SCRRA was created in 1991 pursuant to a Joint Powers Agreement (JPA) executed by five Southern California county transportation agencies: Los Angeles County Metropolitan Transportation Authority, Orange County Transportation Authority, Riverside County Transportation Commission, San Bernardino Associated Governments, and Ventura County Transportation Commission. The JPA provides that its purpose is to administer the operation of a regional passenger line serving the counties of San Bernardino, Los Angeles, Ventura, Orange, Riverside and North San Diego. SCRRA named the regional commuter rail system "Metrolink."

SCRRA's function is to administer and manage all commuter rail service over rail lines and easements previously acquired by the county agencies from private railroads. SCRRA's Metrolink system operates over rail rights-of-way owned by SCRRA member agencies, Burlington Northern Santa Fe Railroad (BNSF), Union Pacific Railroad (UPRR), and North County Transit District (NCTD). SCRRA is also required by agreement to allow freight carriers including BNSF and UPRR, and Amtrak, to utilize the Metrolink rails at certain times for fee, dispatched by Metrolink's Dispatchers.<sup>3</sup>

Amtrak, UPRR, and BNSF have their own switching facilities and yards along the SCRRA right of way. SCRRA Train Dispatchers control movements in and out of these facilities twenty-four hours a day with no restrictions – all

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<sup>3</sup> ATDA in its November 2, 2015 reply acknowledges that agreements were set into place which now require SCRRA to perform dispatching functions for the freight trains and Amtrak that run on the shared rail lines. ATDA states that "[t]he only other way any of the freight carriers could operate on this trackage would be to dispatch their own trains themselves, which they don't have to do because the counties who acquired the lines for Metrolink operations agreed that they, through SCRRA, would do it as a condition of their acquiring the trackage in the first place."

movements of the freight or Amtrak trains are interspersed with or held for SCRRA commuter trains.<sup>4</sup>

In SCRRA's fiscal year 2015-16 proposed budget, it described its dispatching functions:

SCRRA dispatches and maintains over 70% of the territory over which it operates. Daily, SCRRA will dispatch 173 Metrolink trains, up to 29 Amtrak trains and up to 60 freight trains. SCRRA is also responsible for the maintenance of right-of-ways owned by SCRRA Member Agencies that extends over 368 track miles....

SCRRA customers can connect to Amtrak service directly at several points on the Metrolink system. The "Rail 2 Rail" program, <http://www.metrolinktrains.com/ticketspricing/page/title/rail2rail>, provides:

The Rail 2 Rail® program allows Metrolink Monthly Pass holders along the Orange and Ventura County corridors to travel on Amtrak Pacific Surfliner trains within the station pairs of their pass at no additional charge, including Saturday and Sunday. Metrolink Monthly Pass holders who travel outside of station pairs identified on their pass are required to purchase an Amtrak ticket for the portion of the trip not within the Monthly Pass station pairs.... Amtrak Pacific Surfliner Monthly Pass holders may ride any Metrolink train within the station pairs on their pass at no additional charge.... All Metrolink ticket types are accepted on Amtrak trains that operate between Burbank-Bob Hope Airport and Los Angeles Union Station.

Section 9 of the JPA provides that funding for SCRRA is the responsibility of five regional member agencies, not the federal government. There is no discussion in the JPA of federal funding in regards to SCRRA's operation, construction or improvement efforts.

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<sup>4</sup> Metrolink's Timetable No. 9 from 2013, provides that: "Prior to occupying Metrolink main track, freight trains must provide the train dispatchers with the following information: Loads ...; location of any intermediate work ...; hazardous material ....; Weekdays from 5:00 AM until 9:00 AM...Through freight trains moving in the predominate direction of Metrolink commuter service must have sufficient motive power...to assure no delay to scheduled Metrolink trains. Only scheduled through freight trains moving in the predominate direction are allowed in the hours of the Peak Commuter Periods; Prior to entering or during movement on SCRRA subdivisions, other railroad crews must immediately inform the train dispatcher of any anticipated delay that would prevent their train from maintaining designated timetable freight train speed."

SCRRA's Train Dispatchers

Since its creation, SCRRA has contracted out commuter train operations, including train crews.<sup>5</sup> Although SCRRA initially contracted out to Amtrak for train dispatch services, in 2001, SCRRA began directly employing 25 Train Dispatchers, Supervisors, and a Dispatching Manager. Since 2001, SCRRA has controlled the manner and means of the Train Dispatchers and their work.

On February 12, 2002, the RRB issued a decision finding that SCRRA's Dispatchers are covered by the RRA, 45 U.S.C. §231 *et seq.*, and the RRIA, 45 U.S.C. §351 *et seq.*<sup>6</sup> *See S. Cal. Reg'l R. Auth., Segregation of Dispatching Dep't, B.C.D. 02-12* (served Feb. 12, 2002). Specifically, SCRRA had requested an opinion from the RRB on the status of Train Dispatcher employees who had worked for Amtrak and were to be hired as employees of SCRRA effective October 1, 2002. The decision stated the following:

The dispatchers will be responsible for dispatching all traffic on SCRRA's lines, which consist of: (1) Metrolink intrastate commuter lines; 2) the "Coaster" intrastate commuter train administered by public transit agencies in San Diego County; (3) AMTRAK interstate and intercity passenger trains and (4) Burlington Northern Santa Fe and Union Pacific interstate freight trains....

...SCRRA's principal business is not as a rail carrier employer under the RRA and the RUIA, but rather, SCRRA is a public entity charged with the provision of commuter rail service in Southern California....

[The RRB found that the information] provided regarding SCRRA, demonstrates clearly that SCRRA is not principally engaged in the railroad business.... The number of employees employed in the Dispatching Department will be less than 14% of SCRRA's total employees. The Dispatching Department will be an identifiable and separate enterprise....

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<sup>5</sup> SCRRA contracts out to Connex Railroad, LLC for its operating crews including Locomotive Engineers. *See BLET v. SCRRA*, 2010 WL 2923286 (C.D. Cal. 2010).

<sup>6</sup> Previously, on December 14, 1994, the RRB found that SCRRA was not an employer under the RRA and RRIA because SCRRA was "a government entity that is charged with administration of commuter rails in Southern California. SCRAA operates no trains but contracts that function to AMTRAK." *See B.C. D. 94-116* (served Dec. 14, 1994).

In summary, the Board finds that the evidence of record overwhelmingly demonstrates that the principle business of SCRRA is not rail service. The Dispatching Department, however, will be performing rail related duties...and is a covered employer under the RRA and RUIA effective October 1, 2002....

*Id.*

According to SCRRA, its labor relations are governed by the Meyers Milias Brown Act (MMBA) which governs labor relations between California public agencies and public employees, and includes joint powers authorities. See Calif. Gov. Code § § 3500. In regards to the Train Dispatchers, SCRRA controls the manner and means of their work. Specifically, the Train Dispatchers report to and are supervised by SCRRA supervisors and managers. SCRRA has the right to discharge the Train Dispatchers, control their duties, and pay their salary.

SCRRA's Train Dispatchers are covered by the federal Hours of Service Act which limits the hours on which a Train Dispatcher may be on duty. 49 U.S.C. §§ 21101(2) and 21105.<sup>7</sup>

## DISCUSSION

### I.

#### Applicable Legal Standard

The RLA defines a "carrier by railroad" under Section 1, First of the RLA, to include any railroad subject to the jurisdiction of the Surface Transportation Board (STB) and is defined as "an entity that holds itself out to the public to provide rail transportation service for compensation." See Interstate Commerce Commission Termination Act (ICCTA), 49 U.S.C. §10102(5). However, rail operations engaged solely in intrastate transportation are excluded from coverage, unless the transportation is a link in the interstate passage of goods and passengers. *UTDC Transit Servs., Inc.*, 17 NMB 343, 358 (1990); *Staten Island Rapid Transit Operating Auth. (SIRTOA) V. ICC*, 718 F.2d 533 (2d Cir. 1983).

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<sup>7</sup> ATDA contends that SCRRA "may automatically" be a carrier because it is operated over rail lines constructed or improved with PRIIA funds (Passenger Rail Investment and Improvement Act of 2008). SCRRA responded to the PRIIA issue by stating that: "Funding for SCRRA is the responsibility of five regional member agencies, not the federal government. There is no discussion in the JPA of federal funding in regards to SCRRA's operation, construction or improvement efforts." ATDA also argued that SCRRA's Train Dispatchers are covered by FELA but this claim was not supported by evidence.

Excluded from the RLA's definition of carrier is "any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power." 45 U.S.C. §151, First.

This particular exclusion is limited to an electrified railroad line, if the line is not otherwise used directly or indirectly in the movement of freight and passengers associated with a general system of [interstate] transportation subject to the ICCTA. See *Bombardier Transit Sys.*, 32 NMB 131 (2005) (JFK AirTrain fell within exclusion from RLA coverage for interurban electric railways). Where a line connects with a general rail system and is used to connect with service over that system, then the proviso would not apply. See *SIRTOA*, *above*.

In the *SIRTOA* cases, the ICC and later the Court, considered a number of factors in concluding that *SIRTOA* was not exempted by the electric railway proviso and was a carrier under the RLA. *SIRTOA*, *above*, at 539-40. These factors included whether there was freight on the line in question, whether the line connected with a railroad that was a carrier under the ICCTA, whether *SIRTOA* had an obligation to maintain the line to freight standards, the regular use by *SIRTOA* for movement of interstate freight, the physical connection of the line to an interstate systems of transportation, and the contractual understandings of the parties. *Id.*; cf. *Railway Labor Execs.' Ass'n v. ICC*, 859 F.2d 996 (1998) (Court upheld the ICC's finding that *SIRTOA*'s past participation in the interstate system did not render it a carrier for purposes of the RLA where it no longer had a legal right or obligation to allow passage of interstate freight on its line).

SCRRA argues that it is not a carrier under the RLA because it falls under the exclusion to RLA coverage for "any street, interurban, or suburban electric railway..." ATDA does not agree that SCRRA qualifies for the electric railway exception to RLA coverage. SCRRA's argument is inapposite because the rail line is used in the interstate movement of freight via BNSF and UPRR, and passengers via Amtrak, movement that is dispatched by SCRRA's Train Dispatchers. Cf. *Bombardier*, *above* at 144 (JFK AirTrain fell within the electric railway exclusion, because among other things, it did not carry freight or allow the passage of freight over its tracks.) SCRRA's Metrolink ticket holders can travel on certain Amtrak trains through the Rail 2 Rail program, and freight is transported on SCRRA's Metrolink lines through agreements negotiated by the state transportation agencies. Amtrak, BNSF and UPRR are all carriers under the ICCTA; SCRRA has an obligation to maintain the line to freight standards; and SCRRA's Metrolink is physically connected to an interstate system of



transportation through its connection with BNSF, UPRR, and Amtrak. As such, SCRRA's Metrolink does not fall within the electric railway exclusion in the RLA.

## II.

### State of Maine Doctrine

A railroad owned by a state or other governmental authority that provides freight transportation service meets the definition of rail carrier in the ICCTA and, therefore, is a carrier for purposes of the RLA. *See, e.g., Garcia v. San Antonio Metro. Transit Auth.*, 469 US 528, 535 (1985); *United Transportation Union v. Long Island RR*, 455 US 678 (1982). However, the ICC<sup>8</sup> developed the *State of Maine* doctrine to exempt such entities from becoming a rail carrier when the acquiring entity is a state agency. *See State of Maine Department of Transportation-Acquisition and Operation Exemption-Maine Central R.R. Co.*, 8 I.C.C. 2d 835 (1991). Under this doctrine, the state agency will not be considered a rail carrier if the freight rail carrier from which the line is acquired continues to have the common carrier obligation to provide rail freight transportation over the line, the state agency does not provide any freight service over the line, and the state cannot interfere with the freight carrier's ability to provide common carrier freight service over the line. In these circumstances, because the state is acquiring only the physical assets and not the operating authority to provide common carrier freight service, the state has not acquired a "railroad line" within the meaning of 49 U.S.C. §10901.

To qualify for the *State of Maine* doctrine, the rail line must be used jointly to provide freight service and commuter service. The freight carrier retains a permanent easement or other operating rights to continue to provide the rail freight service on the line. The state often provides commuter rail passenger service through a contract operator. In the present case, SCRRA uses its rail lines to provide commuter operations through Metrolink. In addition, interstate freight service (through UPRR and BNSF) and interstate passenger service (through Amtrak) are carried out on SCRRA's Metrolink lines through operating agreements. SCRRA contracts out its Metrolink operations to Amtrak and Connex, with the exception of the Train Dispatchers who are direct employees of SCRRA.

The *State of Maine* doctrine has been used by states to acquire active rail lines from freight carriers to establish rail commuter passenger service. *See, e.g., Florida Dept. of Transp. - Acquisition Exemption*, STB Finance Docket No,

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<sup>8</sup> The ICC is the predecessor to the STB.

35110 (served Dec. 15, 2010); *see also Bhd. of RR Signalmen*, 638 F.3d 807 (2011) (Court upheld decision of STB finding that Massachusetts Department of Transportation's purchase of railroad track and rail assets from CSX Transportation for the purpose of expanding its commuter rail system, which reserved a permanent, exclusive freight easement over the track, was not the acquisition of a "railroad line" under the ICCTA.)

On August 28, 2003, the STB granted an exemption for the acquisition of a rail line from BNSF for extension of light rail commuter operations, consistent with the *State of Maine* doctrine. The STB held that an acquisition by the Los Angeles to Pasadena Metro Construction Authority (Authority) to acquire a rail line from Los Angeles County Metropolitan Transportation Authority (Metro) was exempt from the STB's jurisdiction because the Authority would not become a common carrier as a result of the transaction. *See Los Angeles to Pasadena Blue Line Construction Authority / Acquisition Exemption*, STB Finance Docket No. 34076 (Aug. 28, 2003). The acquired rail line was 20 miles of the Pasadena Subdivision of BNSF. The Authority was only acquiring the physical assets of the rail line, including the real property assets and track structures, and the purpose was to extend the light rail line between Los Angeles Union Station to Pasadena. *Id.* at 1-2. The Authority stated that it would not acquire any rights or obligations to conduct or provide freight or commuter rail operations on the line; BNSF would conduct freight common operations and SCRRA or Metrolink would conduct commuter operations. *Id.* at 2.

The STB stated:

The acquisition of an active rail line and the common carrier obligation that goes with it ordinarily requires Board approval ... if the acquiring entity is a noncarrier, including a state.... The Board's authorization is not required, however, when the common carrier rights and obligations that attach to the line will not be transferred. *See State of Maine*, 8 I.C.C. 2d 835, 836-37 (1991).

The record shows that [Metro] is not transferring common carrier rights to Authority and Authority will not hold itself out as a common carrier performing freight rail operations.... BNSF will continue to have the same rights to provide rail freight service, and SCRRA or Metrolink, pursuant to contract with [Metro], will continue to provide commuter rail operations on the line.

*Id.* at 2-3.

While SCRRA is an entity which holds itself out to the public to provide intrastate rail commuter service for compensation and is a link in the interstate passage of freight and passengers, through its agreements with BNSF, UPRR, and Amtrak, it is exempted from RLA coverage through application of the *State of Maine* doctrine. See 49 U.S.C. §10102(5); *UTDC Transit Servs., Inc.*, 17 NMB 343, 358 (1990); *Staten Island Rapid Transit Operating Auth. (SIRTOA) V. ICC*, 718 F.2d 533 (2d Cir. 1983); *State of Maine, above*.

### III.

#### Is SCRRA a Non-Carrier Subject to the Jurisdiction of the RLA?

When an employer is not a rail or air carrier engaged in the transportation of freight or passengers, the Board applies a two-part test in determining whether the employer and its employees are subject to the RLA. See, e.g., *Airway Cleaners*, 41 NMB 262 (2014); *Aero Port Services, Inc.*, 40 NMB 139 (2013); *Talgo, Inc.*, 37 NMB 253 (2010). First, the Board determines whether the nature of the work is that traditionally performed by employees of rail or air carriers. Second, the Board determines whether the employer is directly or indirectly owned or controlled by, or under common control with, a carrier or carriers. Both parts of the test must be satisfied for the Board to assert jurisdiction. *Id.*

The train dispatching work performed by SCRRA's employees is work traditionally performed by employees of rail carriers. Therefore, to determine whether SCRRA is subject to the RLA, the Board must consider whether SCRRA is directly or indirectly owned or controlled by, or under common control with, a carrier or carriers.

To determine whether there is carrier control over a company, the Board looks to several factors, including the extent of the carrier's control over the manner in which the company conducts its business; access to the company's operations and records; role in personnel decisions, including hiring, firing, and discipline; degree of supervision of the company's employees; and control over employee training. See, *Bags Inc.*, 40 NMB 165 (2013); *Air Serv. Corp.*, 39 NMB 450 (2012).

The evidence in this matter reveals that SCRRA is a California public agency created to establish and maintain a commuter rail service in Southern California. SCRRA is entirely funded and controlled by five Southern California county transportation agencies, none of which are carriers or controlled by carriers. SCRRA controls entirely the work of its Train Dispatchers. Train Dispatchers report to and are supervised by SCRRA supervisors and managers. SCRRA has the complete authority to discharge the Train Dispatchers,

control their duties, and pay their salary.

Therefore, based on the above discussion, SCRRA is neither directly owned nor controlled by a carrier.

#### IV.

##### Coverage of SCRRA's Train Dispatchers by the RRA and RRIA

ATDA argues that because the RRB found SCRRA's Train Dispatchers able to be segregated from the rest of its employees, and covered by the RRA and RRIA, then accordingly, this Board should find SCRRA a carrier under the RLA.

The NMB has found companies were not subject to its jurisdiction, even when certain employees of the considered entities did have coverage under the RRA and RRIA. This argument was considered by the Board in *Southern Region Motor Transport, Inc.*, 5 NMB 298 (1975). In that case, the Board considered whether it had jurisdiction over Southern Region Motor Transport (SRMT), a wholly owned subsidiary of Central of Georgia Railroad, which had been issued a certification as a motor carrier under the Interstate Commerce Act. The NMB wrote:

The Board views SRMT's certification as a motor carrier under Part II of the Interstate Commerce Act as decisionally significant. *The Board does not view the fact that SRMT is treated as a carrier under other Acts of Congress related to the railroad industry as compelling a different result. Although the definitions of an employer for purposes of the Railroad Retirement Act, the Railroad Unemployment Insurance Act and the Railroad Retirement Tax Act are close in wording to the definition of a carrier in Section 1, First, of the Railway Labor Act, they are not synonymous.* Thus, in the past the Railroad Retirement Board, which administers the Railroad Retirement Act and the Railroad Unemployment Insurance Act, has asserted jurisdiction over St. Andrews Bay Transportation Company, Reading Transportation Company and Missouri Pacific Transportation Company, companies over which this Board has declined jurisdiction. Similarly the Internal Revenue Service ruled in August 1974 that the Santa Fe Trail Transportation Company, a company over which the NLRB [National Labor Relations Board] has repeatedly asserted jurisdiction, is an employer within the meaning of the Railroad Retirement Tax Act. Furthermore, assuming, arguendo, that the four Acts have a common definition of the term carrier-employer, our reading of the legislative history of the other three Acts forces us to conclude that

Congress intended for this Board's determination to be paramount. Thus, to allow SRMT's coverage under the other three Acts to determine that SRMT is a carrier for purposes of the Railway Labor Act would allow the tail to wag the dog.

*Id.* at 300-301 (Emphasis added).

Accordingly, the fact that SCRRA's Train Dispatchers are eligible to receive benefits under the RRA and RRIA is not sufficient to find SCRRA a carrier under the RLA.

### CONCLUSION

The Board finds that SCRRA is not a direct or indirect carrier under the RLA. While SCRRA's Train Dispatchers are covered by the RRA and RRIA, this fact is not determinative. *See S. Cal. Reg'l R. Auth., Segregation of Dispatching Dep't*, B.C.D. 02-12 (served Feb. 12, 2002) ("SCRRA is a public entity charged with the provision of commuter rail service in Southern California [and] ... the evidence of record overwhelmingly demonstrates that the principal business of SCRRA is not rail service.").

Based on the record in this case and for the reasons discussed above, the Board's opinion is that SCRRA and its employees are not subject to the RLA. Therefore, the case is docketed as NMB Case No. R-7453 and ATDA's application is dismissed.

By direction of the NATIONAL MEDIATION BOARD.



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