December 17, 1997
L-97-51

TO : John L. Thoresdale
Director of Policy and Systems

FROM : Steven A. Bartholow
Deputy General Counsel
Through: Catherine C. Cook
General Counsel

SUBJECT : The Cedar Rapids and Iowa City Railway Company Pension Plans:
IES Pension Plan
IES Retirement Plan

This is in response to your memorandum dated October 6, 1997, requesting an opinion as to whether the above-referenced pension plans are supplemental pension plans within the meaning of section 2(h)(2) of the Railroad Retirement Act. Both plans, which are maintained by IES Industries, Inc., cover employees of Cedar Rapids and Iowa City Railway Company (CRICR), and other participating employees of other companies.[1] A brief description of the plans is set out below:

IES Pension Plan

The IES Pension Plan (Pension Plan) covers eligible non-bargaining employees of Cedar Rapids and Iowa City Railway Company. The Pension Plan is a defined benefit plan. A full-time employee=s participation begins after one year of service. A part-time employee=s participation begins on January 1 or July 1 following the end of a twelve month period in which the employee completes at least 1,000 hours of service. The Pension Plan also has definite provisions pertaining to contributions, creditable service, vesting, retirement age, and benefits. The Pension Plan is funded by employer contributions that are paid to the trustee of the Pension Plan and deposited in the trust fund established for the Pension Plan. Payments from the Pension Plan are made in the form of a monthly annuity unless the future value of the pension payable is less than $3,500, in which case a lump sum is the form of payment. On March 25, 1996, the Internal Revenue Service determined that the Pension Plan is a qualified plan pursuant to section 401 of the Internal Revenue Code.

[1] The IES Pension Plan, in addition to covering eligible employees of CRICR, covers eligible non-bargaining unit employees of IES Industries, Inc. and IES Utilities, Inc. The IES Retirement Plan, in addition to covering eligible employees of CRICR, covers eligible bargaining unit employees of IES Utilities, Inc.

IES Retirement Plan

The IES Retirement Plan (Retirement Plan) covers eligible bargaining unit employees of Cedar Rapids and Iowa City Railway Company. The Retirement Plan, like the IES Pension Plan, is a defined benefit plan with definite provisions concerning participation, contributions, creditable service, vesting, retirement age, and benefits. Article nine (9) of the Retirement Plan states that the Retirement Plan is funded by employer contributions that are paid to the trustee of the Retirement Plan and deposited in the trust fund established for the Retirement Plan. Prior to August 1995, employees were required to make contributions to the Retirement Plan. Payments from the Retirement Plan are made in the form of a monthly annuity unless the future value of the pension payable is less than $3,500, in which case a lump sum is the form of payment. On August 29, 1996, the Retirement Plan was determined to be a qualified plan by the Internal Revenue Service.

Section 216.42(a) of the Board=s regulations defines a supplemental pension plan as follows:

> (a) <u>What is a private railroad pension</u>. * * * A private pension for the purpose of this subpart is a plan that:
>
>> (1) Is a written plan or arrangement which is communicated to the employees to whom it applies:
>>
>> (2) Is established and maintained by an employer for a defined group of employees; and
>>
>> (3) Provides for the payment of definitely determinable benefits to employees over a period of years, usually for life, after retirement or disability. Such a plan is sometimes referred to as a defined benefit plan.

It is our opinion that the IES Pension Plan and the IES Retirement Plan are both defined benefit plans that meet the requirements of section 216.42 of the regulations and are, therefore, supplemental pension plans within the meaning of section 2(h)(2) of the Act. Benefits under both plans will reduce the supplemental annuity to the extent benefits are based upon employer contributions.