



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

PRICE DANIEL  
ATTORNEY GENERAL

April 28, 1948

Hon. A. F. Mitchell, Chairman  
Board of Registration for  
Professional Engineers  
Austin, Texas

Opinion No. V-557

Attn.: Hon. Carl L. Svenson

Re: The applicability of  
the designation "em-  
ployees of the Govern-  
ment of the United  
States" to employees  
of Navarro County  
Rural Electrification  
Authority.

Dear Sir:

Reference is made to your recent request  
which is as follows:

"Our Board would appreciate your  
advising us as to your opinion on the  
following matter:

"Are the employees of the Navarro  
County Rural Electrification Authority  
Federal employees or not?"

Subsequently you informed us that your ques-  
tion was asked for the purpose of determining whether  
said employees were exempt from the provisions of sub-  
division (d) of Section 20 of Article 3271a, V. C. S.,  
which provides, in part, as follows:

"Sec. 20. The following persons  
shall be exempt from the provisions of  
this Act, to-wit: . . .

"(d) Officers and employees of the  
Government of the United States while en-  
gaged within this State in the practice  
of the profession of engineering for said  
Government."

We assume that by the term Navarro County Rural Electrification Authority you mean Navarro County Electric Cooperative, Inc., since the records in the Secretary of State's office reflect that there is a corporation by this name and incorporated under Article 1528b, V. C. S. Said Act is known as the Electric Cooperative Corporation Act and provides that corporations may be organized for the purpose of engaging in rural electrification and may furnish electric energy to persons in rural areas who are not receiving central station service. Said Act also authorizes such corporations, among other things, to borrow money and to do those other things necessary in order to carry into effect the purposes for which they were incorporated.

The Rural Electrification Act of 1936 of the Congress of the United States, as amended, 7 U.S.C. 901-915, authorizes loans to be made to persons, corporations, states, territories, and subdivisions and agencies thereof, municipalities, peoples, utility districts, and cooperatives, non-profit or limited - dividend associations, organized under laws of any state or territory of the United States for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines or systems for the furnishing of electric energy to persons in rural areas who are not receiving central station service and provides for appropriations, etc.

In the case of *Traders & General Ins. Co. v. Wood, et al.*, 148 S.W.(2d) 975, by the Court of Civil Appeals (writ dismissed) the court in determining whether one was an employee under the Workmen's Compensation Act said:

"It is held by our courts that in order to be an employee the relation of master and servant must exist in the sense that one party has the right of ultimate control over the other."

In 30 C. J. S. 227, we find:

". . . but it has been said that the test to determine if one person is another's employee is whether or not he is subject to the control of such other person."

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Here we have a private corporation organized under State law and which is authorized to borrow money from the Federal Government under the Acts of Congress and the laws of this State. The employees of such corporation are not under the control of the Federal Government but are under direct control and supervision of the Navarro County Electric Cooperative, Inc. Applying the standard set out in the above quoted case and 30 C. J. S., supra, you are respectfully advised that it is the opinion of this department that the employees of the Navarro County Electric Cooperative, Inc. are not Federal employees within the meaning of Section 20 of Article 3271a, V. C. S.

SUMMARY

The employees of the Navarro County Electric Cooperative Inc., are not Federal employees within the meaning of Section 20 of Art. 3271a, V. C. S.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By   
Bruce Allen  
Assistant

BA:HW

APPROVED:

  
FIRST ASSISTANT <sup>1063</sup>  
ATTORNEY GENERAL