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EMPLOYER STATUS DETERMINATIONS
Chesapeake & Albermarle Railroad Company, Inc. (CARC)
North Carolina & Virginia Railroad Company, Inc. (NCVA-VA)
North Carolina & Virginia Railroad Company, Inc. (NCVA-DEL)

This is the determination of the Railroad Retirement Board concerning the continued status of Chesapeake & Albermarle Railroad Company, Inc. (CARC) (B.A. No. 5531) and North Carolina & Virginia Railroad Company, Inc. (NCVA-VA) (B. A. No. 5507), and the current status of North Carolina & Virginia Railroad Company, Inc. (NCVA-DEL) as employers 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).

CARC was previously found to be a covered rail carrier employer under the RRA and RUIA effective April 2, 1990, the date that it first compensated employees. Additionally, in Board Notice 88-15, NCVA-VA was found to be a covered rail carrier employer under the Acts effective from November 1, 1987.

In Surface Transportation Board (STB) Finance Docket Number 33809, service date October 29, 1999, RailTex, Inc. (RailTex) (B. A. No. 6803), North Carolina & Virginia Railroad Company, Inc. (NCVA) (B. A. No. 5507), Chesapeake and Albermarle Railroad Company, Inc. (CARC) (B. A. No. 5531), Dallas, Garland & Northeastern Railroad, Inc. (DGNO) (B. A. No. 3890), Mid-Michigan Railroad, Inc. (MMRR) (B. A. No. 4268), and Indiana Southern Railroad, Inc. (ISRR)(B.A. No. 3382) filed a verified notice of exemption to achieve a proposed corporate restructuring. According to the STB decision, as part of the corporate restructuring: (1) the assets of DGNO and MMRR, including assets of the Texas Northeastern Division, a division of MMRR, would be merged into Dallas, Garland & Northeastern Railroad, Inc., a Delaware Division (DGNO Delaware), with DGNO Delaware as the surviving entity; (2) the assets of NCVA and CARC would be merged into North Carolina & Virginia Railroad Company, Inc., a Delaware corporation (NCVA Delaware), with NCVA Delaware as the surviving entity; and (3) ISRR would be reincorporated in the State of Delaware. According to the STB decision, the purpose of the transaction was to simplify RailTex's corporate structure and eliminate costs associated with separate accounting, tax, bookkeeping and reporting functions, as well as to allow for the reincorporation of additional RailTex subsidiaries in the State of Delaware thereby simplifying RailTex's corporate governance. The result of the restructuring was that RailTex would control 16 Class III railroads in the United States.

Information regarding CARC, NCVA-VA, and NCVA-DEL was furnished by Ms. Kay Acuff, Payroll Supervisor for RailAmerica. According to that information, CARC and NCVA-VA merged into NCVA-DEL. A certificate of merger was filed with the Secretary of the State of Virginia on November 2, 1999.

Section 202.11 (20 CFR 202.11) of the Board's regulations states 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.

Also, section 1(a)(1) of the RRA defines the term "employer" to include:

> (i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under Part A of subtitle IV of Title 49 [45 U.S.C. §231(a)(1)(i)].

* * * * *

Section 1 of the RUIA contains the same definition.

The information summarized above indicates that due to the merger of CARC and NCVA-VA into NCVA-DEL, neither CARC nor NCVA-VA any longer possesses the characteristics of an operating railroad employer. The Board therefore finds that effective November 2, 1999, the date on which the certificate of merger was filed with the Secretary of the State of Virginia, CARC and NCVA-VA ceased to be employers under the RRA and the RUIA and that NCVA-DEL became a rail carrier employer under those Acts.

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