B.C.D. 03-33

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EMPLOYER STATUS DETERMINATION
Bangor & Aroostock Railroad Company
Canadian American Railroad Company
Montreal, Maine & Atlantic Railway, LTD

This is the determination of the Railroad Retirement Board concerning the continuing status of Bangor & Aroostock Railroad Company (BAR) (B.A. No. 1101) and Canadian American Railroad Company (CDAC) (B.A. No. 2127) 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). BAR and CDAC have been employers under the RRA and RUIA with service creditable from February 13, 1891 (BAR) and January 1, 1995 (CDAC), respectively. This is also the determination of the Railroad Retirement Board concerning the status of Montreal, Maine & Atlantic Railway, LTD (MMA) as an employer under the RRA and RUIA. MMA has not heretofore been ruled to be an employer under the Acts.

BAR and CDAC are joint debtors in Chapter 11 proceedings before the United States Bankruptcy Court for the District of Maine. Mr. James E. Howard, Chapter 11 Trustee, has advised that as of January 8, 2003, all of the operating assets of BAR and CDAC were sold and the employees of both companies were last compensated and terminated as of that date. MMA purchased substantially all of the assets of BAR and CDAC on January 8, 2003.

Although BAR and CDAC are not yet dissolved as business organizations, it is clear that their character as railroads no longer exists inasmuch as all of their railroad assets have been liquidated.

Section 202.11 of the Board's regulations provides 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.

Based on the information set forth above, it is the determination of the Railroad Retirement Board that both Bangor & Aroostock Railroad Company and Canadian American Railroad Company ceased being employers under the RRA and RUIA on January 8, 2003, the date on which

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Canadian American Railroad Company
Montreal, Maine & Atlantic Railway, LTD

employees were last compensated and substantially all assets were sold to Montreal, Maine & Atlantic Railway, LTD.

MMA began operations and first compensated employees on January 9, 2003, pursuant to the exemption to acquire and operate certain rail lines which the Surface Transportation Board (STB) granted on September 11, 2002 in Finance Docket No. 34110. MMA operates on approximately 475 miles of track in the United States and Canada with terminal points in Vermont, Maine and the Province of Quebec. MMA interchanges with Canadian National Railway, Eastern Maine Railway, Canadian Pacific Railway, Springfield Terminal Railroad, Washington County Railroad, all in the United States, and with Quebec Central Railway in Canada.

Section 1(a)(1) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)), insofar as relevant here, defines a covered employer as:

> (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)].

Sections 1(a) and 1(b) of the Railroad Unemployment Insurance Act (45 U.S.C. §§ 351(a) and (b)) contain substantially the same definition, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

Based on the information summarized above, it is determined that Montreal, Maine & Atlantic Railway, LTD became an employer under the Railroad Retirement Act and the Railroad

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Unemployment Insurance Act on January 9, 2003, the date it began operations.

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