B.C.D. 03-71

EMPLOYER STATUS DETERMINATION
San Luis & Rio Grande Railroad, Inc. (SLRG)

SEP 1 8 2003

This is a determination of the Railroad Retirement Board concerning the status of the San Luis & Rio Grande Railroad, Inc. (SLRG) (BA No. 3796) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.).

In Surface Transportation Board (STB) Finance Docket No. 34350, decided July 11, 2003, SLRG filed a verified notice of exemption to acquire and operate two rail lines of the Union Pacific Railroad Company (UP) (BA Number 1713), as follows: (1) The Alamosa Subdivision from milepost 299.30 near Derrick, Colorado, to milepost 180.0 near Walsenburg, Colorado; and (2) the Antonito Subdivision from the point where the two subdivisions connect at milepost 251.7 in Alamosa, Colorado, to milepost 281.78 in Antonito, Colorado, a total distance of 149.38 miles. In addition, UP granted SLRG approximately 5 miles of incidental trackage rights in the vicinity of Walsenburg from milepost 180.0 to milepost 175.0.

Information regarding SLRG was furnished by Mr. Gary Laakso, Vice President and Regulatory Counsel for RailAmerica, Inc. In a letter dated April 1, 2003, Mr. Laakso stated that SLRG, a Delaware corporation, would commence rail operations on May 1, 2003 and requested the Board to pre-assign a BA number. On May 2, 2003, the Board's Audit and Compliance Division pre-assigned SLRG BA Number 3796. According to information provided by Mr. Laakso, SLRG anticipated hiring 17 employees. Additional information regarding SLRG was provided in a letter dated June 25, 2003 from Mr. Laakso, in which he stated that SLRG would commence operations at midnight on June 28, 2003.

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, United States Code.

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Section 1 of the RUIA contains essentially the same definition. (45 U.S.C. § 351.

The evidence of record establishes that SLRG is a line haul rail carrier operating in interstate commerce. Accordingly, it is determined that the San Luis & Rio Grande Railroad, Inc. (SLRG) became an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act (45 U.S.C. §231(a)(1)(i)) and the corresponding provision of the Railroad Unemployment Insurance Act effective June 28, 2003, the date as of which it commenced operations.

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