B.C.D. 04-1

JAN 2 6 2004

EMPLOYER STATUS DETERMINATION
Morristown & Erie Railway, Inc. d/b/a Maine Eastern Railroad

This is a determination of the Railroad Retirement Board concerning the status of Morristown & Erie Railway, Inc. d/b/a Maine Eastern Railroad (MER) as an employer 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).

In Surface Transportation Board (STB) Finance Docket No. 34403 decided October 17, 2003, MER filed a notice of exemption to lease and operate the following rail lines owned by the State of Maine: (1) the Brunswick to Augusta Branch Line between milepost 27.97 in Brunswick and milepost 55.91 in Gardiner, in Cumberland and Kennebec Counties, Maine; (2) the Brunswick to Rockland Branch Line between milepost 29.40 in Brunswick and milepost 85.55 in Rockland, in Cumberland and Knox Counties, Maine; and (3) the Atlantic Branch Line between milepost 85.55 and milepost 86.65 in Rockland, Knox County, Maine.

Information regarding MER was provided by Ms. Lucille Siebold, Comptroller of MER. According to Ms. Siebold, Wes Weiss, Gordon Fuller, Janice Friedland, and David Mandelbaum own MER. MER first began operations on November 1, 2003. MER was formed as a result of a successful bid on a request for proposals from the owner of the rail lines, the Maine Department of Transportation. MER has a ten-year contract to operate the line. The annual volume of inbound/outbound railcars is estimated to be 1700. MER interchanges with the Springfield Terminal, an employer under the Acts (BA 2112).

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;

Morristown & Erie Railway, Inc. d/b/a Maine Eastern Railroad

Section 1 of the RUIA contains essentially the same definition, as does section 3231 of the Railroad Retirement Tax Act.

The evidence of record establishes that MER is a rail carrier operating in interstate commerce. Accordingly, it is determined that Morristown & Erie Railway Inc. d/b/a Maine Eastern Railroad became an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act and the corresponding provision of the Railroad Unemployment Insurance Act effective November 1, 2003, the date it began railroad operations.

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