B.C.D. 04-44

SEP 10 2004

Employer Status Determination
Georgia Midland Railroad, Inc.

This is the determination of the Railroad Retirement Board concerning the status of Georgia Midland Railroad, Inc. (GMR) 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). GMR has not heretofore been ruled to be an employer under the RRA and RUIA.

On February 21, 2004, GMR took over rail operations of the Ogeechee Railway Company (BA. No. 5525) pursuant to a lease agreement wherein GMR leases from Ogeechee all track and equipment with an option to buy. GMR is wholly owned by Atlantic Western Transportation, Inc., a non-carrier. GMR first compensated employees on February 21, 2004. Surface Transportation Board (STB) authority for this operation is set forth in STB Finance Docket No. 34466, decided March 4, 2004.

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 Georgia Midland Railroad, Inc. became an employer covered under the Railroad Retirement Act and the Railroad Unemployment Insurance Act on February 21, 2004, the date it began operations and first compensated employees.

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