EMPLOYER STATUS DETERMINATION
Fulton County Railroad, Inc. (FCRR)

JAN 7 1999

This is a determination of the Railroad Retirement Board concerning the status of the Fulton County Railroad, Inc. (FCRR) 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 33477, decided October 21, 1997, FCRR filed a verified notice of exemption to acquire from the Norfolk and Western Railway Company and to operate the Rochester Line (Line), consisting of approximately 13 miles of rail line, from Rochester, Indiana (milepost I. - 95.6) to Argos, Indiana (milepost I. - 108.6). In addition, the STB decision stated that FCRR would acquire incidental overhead trackage rights from milepost I. - 108.6 to the Argos Yard, a distance of 1.1 miles.

Information regarding FCRR was furnished by Mr. Tom Wilson, Chief Executive Officer of FCRR. Mr. Wilson stated that FCRR is owned by himself and Wilson Fertilizer and Grain, Inc.. According to Mr. Wilson, FCRR began operations on April 1, 1998. Mr. Wilson stated that FCRR "moves about 1000 cars of agriculture commodities" and that FCRR interchanges with Norfolk Southern Railway Company (NS) (BA No. 1525). He further stated that one hundred percent of FCRR's business is conducted with NS and that three to five percent of FCRR's revenue is derived from NS.

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.

The evidence of record establishes that FCRR is a rail carrier operating in interstate commerce. Accordingly, it is determined that FCRR 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 April 1, 1998, the date as of which it commenced operations.

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