EMPLOYER STATUS DETERMINATION
East Portland Traction Company (EPTC)

AUG 1 8 1999

This is a determination of the Railroad Retirement Board concerning the continued status of East Portland Traction Company (EPTC) (BA No. 4646) 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 33570, decided May 12, 1998, the STB approved the merger of EPTC and the Molalla Western Railway (MWRL) (BA No. 2771) into the Oregon Pacific Railroad Company (OPR), a Class III rail carrier. According to the STB Finance Docket, the line acquired from EPTC extends from a connection with the Union Pacific Railroad Company's (UP) (BA No. 1713) track at UP milepost 769 at or near East Portland, Oregon to milepost 4.54 at Milwaukie, a distance of 4.28 miles and includes 2.11 miles of secondary and yard trackage, for a total trackage of 6.39 miles to be operated in Clackamas County. On April 6, 1999, the Board determined that the newly formed Oregon Pacific Railroad Company was 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 January 1, 1997.

Mr. Richard A. Samuels, sole stock owner of OPR (BA No. 2788) and former officer of EPTC, has indicated that EPTC ceased operations on December 31, 1996 and merged with MWRL on January 1, 1997 to become OPR. According to Mr. Samuels, OPR assumed all operations on January 1, 1997, and all employees of EPTC transferred to OPR on that date. These seven employees were first compensated by OPR on January 1, 1997, the date OPR's operations began.

The Railroad Retirement Board's regulations provide 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. (20 CFR §202.11). The information summarized above indicates that EPTC no longer possesses the characteristics of an operating railroad company. The

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Board therefore finds that effective with the close of business on December 31, 1996, the East Portland Traction Company ceased being a covered employer under 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.

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