EMPLOYER STATUS DETERMINATION
New Orleans & Gulf Coast Railway Company

AUG 1 8 1999

This is a determination of the Railroad Retirement Board concerning the status of the New Orleans & Gulf Coast Railway Company (NOGC) 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 Finance Docket No. 33736, decided April 20, 1999, NOGC filed a verified notice of exemption to acquire from New Orleans Lower Coast Railroad Company, Inc., (NOLR) (BA No. 3881) 23.688 miles of rail line currently owned and operated by NOLR, between milepost 0.312 at Gouldsboro Yard, Louisiana, and milepost 24.0 at Myrtle Grove, Louisiana. The decision noted that the transaction was scheduled to be consummated on or shortly after April 15, 1999.

In response to an inquiry to Ms. Maria Torres, Accounting Assistant with NOGC, the Board received the following information via facsimile. NOGC is owned by the Rio Grande Pacific Corporation. (In Surface Transportation Board (STB) Finance Docket No. 33737, decided April 20, 1999, Rio Grande Pacific Corporation, a non-carrier, filed a verified notice of exemption to continue in control of NOGC upon its becoming a Class III rail carrier). NOGC has nine employees who were first compensated on April 24, 1999, the date NOGC began operations. NOGC's operations are described as switching operations in Louisiana, with an estimated annual traffic of 6,000 cars. One hundred percent of its business time is spent doing business with the Union Pacific Railroad.

Section 1(a)(1) of the Railroad Retirement Act (45 U.S.C. §231(a)(1)), insofar as is 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.

Sections 1(a) and (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).

The information provided indicates that NOGC is subject to STB jurisdiction by virtue of its operation over the 23.688 miles of rail line between Gouldsboro Yard, Louisiana, and Myrtle Grove, Louisiana. Because NOGC falls within the

definition of employer under section 1(a)(1)(i) of the RRA (45 U.S.C. § 231(a)(1)(i)) and the corresponding provision of the RUIA, the Board finds that NOGC became a rail carrier employer effective April 24, 1999, the date on which it commenced operations.

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