EMPLOYER STATUS DETERMINATION
Tacoma Eastern Railway Company

OCT 19 1999

This is the determination of the Railroad Retirement Board concerning the continued status of Tacoma Eastern Railway Company (TERC), B.A. No. 3668, 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. AB-548, decided July 7, 1998, the City of Tacoma, Washington (Tacoma) requested that the STB grant Tacoma's application permitting the discontinuance of operations of its line by TERC. The 131.5 miles of Tacoma's rail line in Pierce, Thurston, and Lewis Counties, Washington include: (1) between milepost 2192.0, at Tacoma, and milepost 17.7, at Chehalis; and (2) between milepost 2192.0, at Tacoma, and milepost 64.2, at Morton. Tacoma advised the STB that it terminated its contract with TERC because TERC was not satisfactorily performing its obligations pursuant to the contract agreement. The STB granted Tacoma's application on October 14, 1998. In a separate decision, STB Finance Docket No. 33666, decided November 2, 1998, Belt Line Division of Tacoma Public Utilities (Belt Line) (B.A. No. 5618) filed a verified notice of exemption to operate the 131.5 miles of Tacoma's rail line.

Information regarding TERC was provided by Mr. Edward M. Bernstein, President of TERC. TERC's quarterly tax records indicate that TERC last compensated its employees on December 31, 1998. On April 30, 1999, Mr. Bernstein advised the RRB that no wages were paid to TERC's employees during the quarter ending March 31, 1999. The records further indicate that TERC last filed its annual tax return for calendar year 1997. According to the Board's records, TERC reported compensation and service information for calendar year 1997; however, TERC did not submit its annual report for calendar year 1998.

Section 202.11 of the Board's regulations (20 CFR §202.11) states:

> 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.

The evidence of record establishes that TERC no longer possesses the characteristics of an operating railroad company covered by both Acts. Therefore,

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the Board finds that effective with the close of business on December 31, 1998, Tacoma Eastern Railway Company ceased being a covered employer under the RRA and the RUIA.

Cherryl T. Thomas

V. M. Speakman, Jr.

Jerome F. Kever