B.C.D. 03-25

MAR 06 2003

EMPLOYER STATUS DETERMINATION
Airlake Terminal Railway Company

This is the determination of the Railroad Retirement Board concerning the status of Airlake Terminal Railway Company 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.).

Airlake is a Minnesota limited liability corporation with Progressive Rail, Inc., a covered employer under the Acts (B.A. No. 4651) as its only member.[1] Airlake was organized on December 16, 2002. In Surface Transportation Board Finance Docket No. 34295, Airlake filed a notice of exemption to lease and operate approximately 2.35 miles of rail line owned by Progressive Rail in the Airlake Industrial Park. Airlake is operated by employees of Progressive Rail which, as mentioned above, is a covered employer under the Acts.

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;

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).

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[1] "Member" with respect to a limited liability corporation refers to an owner, analogous to a partner.

The evidence of record establishes that Airlake is a carrier operating in interstate commerce. Accordingly, it is determined that Airlake is 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 as of December 16, 2002, the date as of which it was formed.

Original signed by:

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