B.C.D. 03-47

JUN 10 2003

EMPLOYER STATUS DETERMINATION
Sweetwater Central Switching Company

This is a determination of the Railroad Retirement Board concerning the status of Sweetwater Central Switching Company (SCSC) 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).

According to information provided by Ms. Christine Olson, Controller of the Gulf, Colorado and San Saba Railway Corporation, SCSC is a wholly owned subsidiary of the Gulf, Colorado and San Saba Railway Corporation (BA 3891). SCSC provides switching to and from the tracks of the Burlington Northern Santa Fe Railway Company (BA 1621) and the Union Pacific Railroad (BA 1713) to and from a US Gypsum plant in Sweetwater, Texas. SCSC was incorporated on July 21, 1994.

SCSC reportedly has two employees. Since its inception and through September 2002, employees of SCSC were paid by the Texas North Orient Corporation (BA 3884). Since September 2002, the employees of the SCSC have been carried on the payroll of the Gulf, Colorado and San Saba Railway Corporation, a carrier 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;

Section 1 of the RUIA contains essentially the same definition, as does section 3231 of the Railroad Retirement Tax Act.

Included in the definition of railroad subject to the jurisdiction of the Surface Transportation Board is:

(C) a switch, spur, track, terminal, terminal facility, and a freight depot, yard, and ground, used or necessary for transportation.

49 U.S.C. § 10102(6)(C).

The evidence of record establishes that SCSC is a rail carrier operating in interstate commerce. Accordingly, it is determined that SCSC became an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act and the corresponding provision of the Railroad Unemployment Insurance Act effective July 21, 1994, the date of its incorporation.

Original signed by:

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