B.C.D. 04-42

SEP 10 2004

EMPLOYER STATUS DETERMINATION
Riceboro Southern Railway, LLC

This is the determination of the Railroad Retirement Board concerning the status of Riceboro Southern Railway, LLC (RSR) 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). RSR has not heretofore been ruled to be an employer under the RRA and RUIA.

Ms. Ann Sellers, Accounting Manager for RSR, stated that RSR purchased 18.8 miles of track from CSX Transportation, Inc. (CSXT) (B.A. No. 1524) and leases approximately 14 additional miles of track from CSXT. The freight operation runs between Ogeechee, Georgia and Riceboro, Georgia and between Ogeechee and CSXT's Southover Yard at Savannah, Georgia. RSR is controlled by K. E. Durden (Durden), Rail Management Corporation (RMC) and Rail Partners, L.P. (Partners). Durden, RMC and Partners are non-carriers that control other carriers. On August 8, 2004, RSR filed a verified notice of exemption with the Surface Transportation Board (STB), designated as Finance Docket No. 34524, for acquisition and operation. Simultaneously with this filing, Durden, RMC and Partners filed a verified notice of exemption with the STB, designated as Finance Docket No. 34525, for its continuance in control of RSR. On August 9, 2004 three employees began working for RSR. Actual rail operations began on August 25, 2004.

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 [45 U.S.C. § 231(a)(1)(i)].

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).

Based on the information summarized above, it is determined that Riceboro Southern Railway, LLC became an employer covered under the Railroad Retirement Act and the Railroad Unemployment Insurance Act on August 9, 2004, the date as of which employees began work and were first compensated.

Original signed by:

Michael S. Schwartz

V. M. Speakman, Jr.

Jerome F. Kever