

EMPLOYER STATUS DETERMINATION
Eastern Washington Gateway Railroad Company

This is a determination of the Railroad Retirement Board concerning the status of Eastern Washington Gateway Railroad Company (EWGR) 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).

On May 15, 2007, EWGR filed a Verified Notice of Exemption with the Surface Transportation Board (Finance Docket No. 35029). Specifically, EWGR filed a notice of exemption to lease and operate Washington State Department of Transportation's rail line (WSDOT). The 107.8 miles of rail line extends from a connection with Burlington Northern Santa Fe (BNSF) (B.A. No. 1621) at milepost 1.0 near Cheney, Washington to the end of track at milepost 108.8 in Coulee City, Washington.

Information regarding EWGR was provided by Tammy Weart, treasurer for EWGR. According to Ms. Weart, U.S. Rail Partners, Ltd¹ is the owner of EWGR and Blackwell Northern Gateway Railroad (BNGR), EWGR's sister company. ² Ms. Weart stated that EWGR began operations on June 4, 2007 and its four employees were first compensated on June 29, 2007³. Ms. Weart explained that EWGR is a short-line railroad that transports agricultural products such as wheat, other grains, and soybean oil. Ms. Weart further stated that EWGR will handle approximately 1700 freight cars in 2007 and expects to handle approximately 3600 freight cars in 2008. Ms. Weart further advised that EWGR interchanges with BNSF (B.A. No.1621).

Section 1(a) (1) of the RRA defines the term "employer" to include:

- (i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under Part A of subtitle IV of Title 49;

¹ In STB Finance Docket 35030, US Rail Partners Ltd (USRP) filed a "Continuance in Control Exemption of Eastern Washington Gateway Railroad Company." Specifically, USRP sought to continue to control EWGR, upon EWGR's becoming a Class III rail carrier.

² BNGR was held to be a covered rail carrier employer under the RRA and RUIA effective January 2, 2006 in B.C.D. No. 06-10, issued March 15, 2006.

³ However, in response to a separate question, Ms. Weart stated that EWGR hired three employees from a former operator of a rail line. Specifically, Ms. Weart stated that the first day of compensated service was June 4, 2007.

Section 1 of the RUIA contains essentially the same definition.

The evidence of record establishes that Eastern Washington Gateway Railroad Company is a rail carrier operating in interstate commerce. Accordingly, it is determined that Eastern Washington Gateway Railroad Company became an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act and its corresponding provision of the Railroad Unemployment Insurance Act effective June 4, 2007, the date it began rail operations.

Original signed by:

Michael S. Schwartz

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