

EMPLOYER STATUS DETERMINATION
Rail Equipment & Transportation, Inc.
d/b/a Nobles Rock Railroad Co.

This is the determination of the Railroad Retirement Board regarding the status of Rail Equipment & Transportation, Inc. d/b/a Nobles Rock Railroad Co. (RETI) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) (RRA) and Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.) (RUIA). RETI has not previously been determined to be an employer under the RRA and the RUIA, but has been pre-assigned BA No. 9623, and has submitted annual reports for calendar years 1993 and 1994.

Information about RETI was furnished by Attorney Byron D. Olsen. Mr. Olsen explained in a letter dated March 14, 1995, that the original plan was to have RETI be a holding company owning another corporate entity called Nobles Rock Railroad Company, which would operate the line involved. RETI determined, however, not to follow this plan, but rather, RETI, using the name Nobles Rock Railroad Company, has operated the railroad from its inception. RETI is the sole corporate entity involved, and is doing business as Nobles Rock Railroad Company. Mr. Olsen further stated that RETI employees began working on rehabilitation of the railroad July 1, 1993, and common carrier operations began October 8, 1994. Three employees have been employed at various times since July 1, 1993. RETI operates the 41.44 mile line of railroad between Agate and Manley, Minnesota.¹ A Notice of Exemption was issued by the Interstate Commerce Commission (ICC), service date November 1, 1993, for Nobles Rock Railroad Co. when it was thought to be a wholly owned subsidiary of RETI. See, Finance Docket No. 32368. Mr. Olsen has stated that the ICC would be notified of the "minor change in status".

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

(i) any express company, sleeping car company, and carrier by railroad, subject to subchapter I of chapter 105 of Title 49;

(ii) any company which is directly or indirectly owned or controlled by, or under common control with one or more employers as defined in paragraph (i) of this subdivision, and which operates any equipment or facility

¹ The railroad is actually owned by the Buffalo Ridge Regional Rail Authority, a public agency formed under Minnesota law.

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or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of

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passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad * * *. [45 U.S.C. §231(a)(1)(i) and (ii)].

Section 1(a) of the RUIA (45 U.S.C. § 351(a)) contains essentially the same definition.

The evidence establishes that RETI is a carrier by rail engaged in the transportation of persons or property in interstate commerce. Accordingly, it is determined that Rail Equipment & Transportation, Inc. d/b/a/ as Nobles Rock Railroad Co. became a rail carrier employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective July 1, 1993, the date from which it first compensated employees.

Glen L. Bower

V. M. Speakman, Jr.

Jerome F. Kever

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