

EMPLOYER STATUS DETERMINATION

Clarkdale Arizona Central Railroad, L.C.

This is the determination of the Railroad Retirement Board regarding the status of Clarkdale Arizona Central Railroad, L.C. (CACR) 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). CACR has not previously been determined to be an employer under the RRA and the RUIA.

Information about CACR was furnished by C. Alan Sessions, Financial Vice President of CACR. Although CACR began as a non-carrier, upon its acquisition and operation of 38.74 miles of rail line owned by Arizona Central Railroad, Inc. (AZCR) it became a class III carrier. See Surface Transportation Board (STB) Finance Docket No. 33353. According to information provided by Mr. Sessions, CACR began operations on February 10, 1997, and has nine employees. These employees are, according to Mr. Sessions, currently being reported to the Board as employees of AZCR, a covered railroad employer (BA No. 3772). Following a ruling by the Board that CACR is a covered employer under the Acts, these employees will be transferred to CACR. Mr. Sessions has stated that the line in question interchanges with BNSF. CACR handles local traffic between Clarkdale and Drake, Arizona, with average annual car loadings of 932. CACR is owned by AZCR (99%) and David L. Durbano, the Chief Executive Officer (1%).

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, United States Code;

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

The evidence establishes that CACR is a class III carrier. Accordingly, it is determined that Clarkdale Arizona Central Railroad, L.C. became a rail carrier employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective February 10, 1997, the date on which it began operations.

Glen L. Bower

V. M. Speakman, Jr.

Jerome F. Kever