

EMPLOYER STATUS DETERMINATION
Algers, Winslow and Western Railway Company

This is the determination of the Railroad Retirement Board concerning the continuing status of Algers, Winslow and Western Railway Company (Algers) 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). Algers (B.A. No. 2301), identified in the Board's records as a subsidiary of Norfolk Southern Corporation (B.A. No. 9408), has been an employer under the Acts, with service creditable from September 7, 1927.

Information about Algers was furnished by Scott F. Wilkinson, Assistant General Tax Attorney for Norfolk Southern Corporation. In a letter dated March 5, 2007, to the Board's Audit and Compliance Division, Mr. Wilkinson advised that at that time Algers was owned 50% by Norfolk Southern Railway Company (B.A. No. 1522) (NS) and 50% by American Metals and Coal International, Inc. (AMCI). Mr. Wilkinson also advised that NS had received an exemption from the Surface Transportation Board for NS to buy AMCI's ownership interest in Algers, with closing expected to occur March 23, 2007.

Subsequent to that letter, Mr. Wilkinson furnished a copy of an Agreement and Plan of Merger made between NS and Algers. The Agreement dated April 4, 2007, provided that Algers, an Indiana corporation, would merge into NS, a Virginia corporation. The Agreement provided in pertinent part that the merger would be effective the later of the date that articles of merger were filed with the Secretary of State of Indiana or the date that the State Corporation Commission of the State of Virginia issued a "document copy" of the articles of merger pursuant to Virginia law. The merger became effective April 20, 2007, the date on which a Certificate of Merger was issued by the State Corporation Commission of the Commonwealth of Virginia.

Section 202.11 (20 CFR § 202.11) of the Board's regulations provides that:

The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

The evidence of record establishes that Algers no longer possesses the characteristics of a railroad carrier employer, since Algers no longer exists as a corporation. The Board therefore finds that effective April 20, 2007, the date that the merger of Algers into NS became effective, Algers ceased to be a covered employer under the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

Original signed by:

FOR THE BOARD
Beatrice Ezerski
Secretary to the Board