

B.C.D. 11-83
EMPLOYER STATUS DETERMINATION
Maine Northern Railway Company

August 8, 2011

This is the determination of the Railroad Retirement Board concerning the status of Maine Northern Railway Company (MNRC) as an employer under the Railroad Retirement Act (45 U.S.C. § 231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.). The status of MNRC under the Acts has not previously been considered.

Information about MNRC was provided by Ms. Barb Lamont, Payroll Manager for the MNRC. According to Ms. Lamont, MNRC is owned by the Eastern Maine Railway Company (B.A. No. 2128), was incorporated May 19, 2011, and began operations on June 15, 2011. MNRC has 25 employees who were first compensated from that date. According to Ms. Lamont, MNRC will operate as a haulage carrier with three partner railways, with expected annual volume of 5,000 to 6,000 car loads.

In Surface Transportation Board (STB) Finance Docket No. 35521, MNRC filed a Notice for a Modified Certificate of Public Convenience and Necessity to lease and operate approximately 233 miles of rail line in Aroostook and Penobscot Counties in Maine. The line in question was originally owned by the Montreal, Maine & Atlantic Railway (MMA)¹ (B.A. No. 2135), and was acquired by the State of Maine from the MMA on January 14, 2011. MNRC in turn is leasing the railroad from the State of Maine, and has an Agreement with the State of Maine to provide operations of the line for an initial term of ten years. MNRC may extend the Agreement for one or two additional terms of ten years.

According to Ms. Lamont, MNRC will hire ten former employees of the MMA. MNRC will interchange with the MMA, Eastern Maine Railway (EMR) (B.A. No. 2128), and Canadian National Railway (CN) (B.A. No. 1103). All of MNRC's business as a haulage carrier will be with these three carriers, as well as Pan Am Railways, Inc. (B.A. No. 9115).

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, United States Code;
- (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 or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad * * *.

¹ MMA was providing service on the line pursuant to a Modified Certificate (STB Finance Docket No. 35463, decision served January 26, 2011), and agreed to provide service "until the new operator can begin operations". See, STB Finance Docket No. 35521.

Sections 1(a) and 1(b) of the Railroad Unemployment Insurance Act (45 U.S.C. §§ 351(a) and (b)) contain substantially similar definitions, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

The evidence of record establishes that MNRC is a class III rail carrier operating in interstate commerce. Accordingly, it is determined that Maine Northern Railway Company is an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)(i)) and the corresponding provision of the Railroad Unemployment Insurance Act as of June 15, 2011, the date it began operations and as of which it first compensated employees.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board