

B.C.D. 12-23

July 27, 2012

EMPLOYER STATUS DETERMINATION

Wisconsin Northern Railroad Company, LLC (WNRC) d/b/a Progressive Rail, Inc. (PGR)

This is a determination of the Railroad Retirement Board concerning the status of Wisconsin Northern Railroad Company, LLC (WNRC), d/b/a Progressive Rail, Inc. (PGR) (B.A. No. 4651), 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.).

In Surface Transportation Board (STB) Finance Docket No. 34596, decided October 21, 2004, WNRC filed a verified notice of exemption to lease from Wisconsin Central, Ltd. (WCL) (B.A. No. 2633) and to operate (a) the Almena-Cameron Branch that extends between milepost 80.88 at or near Almena and milepost 97.80 at or near Cameron, a distance of 16.92 miles in Barron County, Wisconsin; and (b) the Rice Lake-Cameron Branch that extends between milepost 49.0 at or near Cameron and milepost 56.05 at or near Rice Lake, a distance of 7.05 miles in Barron County, Wisconsin. According to the STB decision, the rail lines totaling 23.97 miles will be leased from WCL and operated by WNRC.

Information regarding WNRC was furnished by Mr. Tony Haider, Manager, Accounts Payable, for PGR. Mr. Haider stated that the Chief Executive Officer of WNRC is Mr. Lon Van Genert. WNRC is owned by Mr. Dave Fellon, President of WNRC. Mr. Haider stated that WNRC began operations on November 28, 2004. Mr. Haider stated that the rail line consists of 37.3 miles of track between Norma, Wisconsin and Cameron, Wisconsin. Mr. Haider stated that WNRC has four employees and that they were first compensated on December 1, 2004. Mr. Haider stated that WNRC's operations consist of freight traffic and that WNRC handles approximately 1600-1700 rail cars per year. According to Mr. Haider, WNRC interchanges with Union Pacific Railroad Company (UP) (B.A. No. 1713).

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.

Section 1 of the RUIA contains essentially the same definition. (45 U.S.C. § 351, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

The evidence of record establishes that WNRC is a rail carrier operating in interstate commerce. Accordingly, it is determined that Wisconsin Northern Railroad Company, LLC, d/b/a/ Progressive Rail, Inc., became 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 effective November 28, 2004, the date it began operations.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board