B.C.D. 01-67

AUG 1 5 2001

EMPLOYER DETERMINATION
Landisville Terminal & Transfer Company
The Landisville Railroad, Inc.

This is a determination of the Railroad Retirement Board concerning the continued status of The Landisville Railroad, Inc. (LRI), B.A. No. 4393, 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) and the status of Landisville Terminal & Transfer Company (LTTC) as an employer under the RRA and the RUIA.

THE LANDISVILLE RAILROAD, INC.

Information regarding LRI was provided by Mr. Robert A. Hamstead, Treasurer of LRI. According to Mr. Hamstead, LRI ceased rail operations on December 29, 2000. Mr. Hamstead stated that LRI's part-time employees were last compensated on December 29, 2000. Mr. Hamstead further stated that LRI's assets have been offered for sale as well as the railroad repair shop assets of Amherst Industries of Pennsylvania, LRI's parent company. Mr. Hamstead also stated that effective January 1, 2001, LRI leased its assets to Landisville Terminal & Transfer Company to operate its rail line. Mr. Hamstead last stated that LRI has not abandoned its railroad operations.

Section 202.11 (20 CFR 202.11) of the Board's regulations states:

> 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.

Based upon the information above, The Landisville Railroad, Inc. no longer possesses the characteristics of an operating rail carrier covered under the RRA and the RUIA. Therefore, effective December 29, 2000, the last date of operations and the last date LRI compensated its employees, The Landisville Railroad, Inc. ceased being covered under the RRA and the RUIA.

LANDISVILLE TERMINAL & TRANSFER COMPANY

In Surface Transportation Board Finance Docket No. 33983, decided December 28, 2000, LTTC filed a notice of exemption to lease and operate less than two miles of rail line owned by LRI in Lancaster County, Pennsylvania. The rail line extends between its connection to Norfolk Southern Railway Company (B.A. No. 1525) on Amtrak's[1] (B.A. No. 8301) Harrisburg Line and the end of track south of Nolt Road and north of Stony Battery Road. The STB decision further stated that LTTC would lease all of LRI's assets and would continue to provide common carrier railroad service formerly provided by LRI.

Information regarding LTTC was provided by Mr. Douglas Golden, President and Chief Executive Officer of LTTC. According to Mr. Golden, he and Eyal Shapira are the owners of LTTC. Mr. Golden stated that Amherst Industries, the parent company of LRI, leased the 1.5 miles of rail line to LTTC to provide common carrier services. Mr. Golden stated that LTTC began rail operations on January 1, 2001, but reported that LTTC currently does not have any employees. Mr. Golden stated that New York & Ogdensburg Railway[2] (NYOG) (B.A. No. 2272), on a contract basis, provides employees to LTTC and that if business develops, LTTC will hire its own employees. East Penn Railway (B.A. No. 2363), also on a contract basis, will provide services to LTTC on an as needed basis. Mr. Golden further stated that LTTC provides common carrier freight service and expects to handle approximately 100-150 carloads of freight annually. He also stated that LTTC interchanges with Norfolk Southern.

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 Transpiration Board under Part A of subtitle IV of title 49, United States Code;

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1 Amtrak a/k/a National Railroad Passenger Corporation.

2 Mr. Golden stated that the majority owner of LTTC is a minority owner in NYOG. Mr. Golden further stated that the majority owner of NYOG is a minority owner in LTTC.

Section 1 of the RUIA contains essentially the same definition, as does section 3231 of the Railroad Retirement Tax Act.

The evidence of record establishes that LTTC is a rail carrier operating in interstate commerce. Accordingly, it is determined that Landisville Terminal & Transfer Company became an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act and the corresponding provision of the Railroad Unemployment Insurance Act effective January 1, 2001, the date on which it commenced railroad operations.

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