B.C.D. 03-55

EMPLOYER STATUS DETERMINATION JUN 11 2003

Pennsylvania Southwestern Railroad, Inc.

This is a determination of the Railroad Retirement Board concerning the status of Pennsylvania Southwestern Railroad, Inc. (PSR) 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).

In Surface Transportation Board (STB) Finance Docket No. 34328, PSR filed a notice of exemption to lease from J&L Specialty Steel, LLC the 10.5 mile rail line located in J&L's steel plant in Midland, Pennsylvania. In STB Finance Docket No. 34329, Watco Companies, the parent of PSR, filed a notice of exemption to continue to control PSR upon its becoming a class III carrier. According to information provided in a letter dated May 6, 2003, from Mr. Craig Richey, General Counsel of Watco Companies, Inc, PSR is a wholly owned subsidiary of Watco. Watco also owns several other carriers, Eastern Idaho Railroad, Inc. (BA 2768), Stillwater Central Railroad, Inc. (BA 2878), South Kansas & Oklahoma Railroad, Inc. (BA 3880), Kansas & Oklahoma Railroad, Inc. (BA 2797), Palouse River and Coulee City Railroad, Inc. (BA 2643), and Timber Rock Railroad, Inc. (BA 2877).

PSR currently operates a switching railroad on the property of J&L Specialty Steel, LLC. It interchanges with the Norfolk Southern Corporation (BA 9408). PSR was incorporated on March 18, 2003, and hired its first employees on March 31, 2003. PSR currently has 23 employees.

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, as does section 3231 of the Railroad Retirement Tax Act.

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The evidence of record establishes that Pennsylvania Southwestern Railroad Company is a rail carrier subject to STB jurisdiction. Accordingly, it is determined that Pennsylvania Southwestern Railroad 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 with its date of incorporation, March 18, 2003.

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