B.C.D. 03-57

JUN 25 2003

EMPLOYER STATUS DETERMINATION
Short Line Services, Inc.

This is the determination of the Railroad Retirement Board concerning the status of Short Line Services, Inc. (SLS), 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.).

Information regarding SLS was provided by H. Devone Shaw, Steptoe & Johnson, counsel for SLS. SLS was incorporated March 8,2002. Mr. Shaw advised that SLS is to begin doing business upon issuance of a ruling by the Board. Pursuant to a contract with Big Eagle Rail, LLC, a covered employer under the Acts (B.A. No. 2414), SLS will operate a short line railroad transporting approximately 700,000 tons of coal per month from the point of mining to the loading facilities along a six mile track. That operation is currently being performed by Appalachian Railcar Services (B.A. No. 9410), a covered employer under the Acts to the extent it performs services for Big Eagle, and an affiliate of SLS. Appalachian Railcar Services[1] will transfer the two employees who perform services for Big Eagle Rail to SLS when SLS begins operations. SLS will also maintain and repair coal cars belonging to Big Eagle.

In Surface Transportation Board Finance Docket No. 33920, Big Eagle filed a verified notice of exemption to lease and operate a rail line which interchanges with CSX Transportation. Big Eagle began operations August 20, 2000, and was held to be an employer by the Board as of that date.

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;

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

The evidence of record establishes that SLS will conduct railroad operations over the rail line of Big Eagle, which is subject to STB jurisdiction and is a carrier employer under the RRA and the RUIA. Because SLS will be conducting rail operations over Big Eagle's rail

[1] The Board's Audit and Compliance Section will review Appalachian Railcar Services with a view to determining whether its coverage under the Acts should be terminated.

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line, it is determined that SLS will become 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 the date of this decision[2].

V. M. Speakman, Jr.

Jerome F. Kever

[2] The Board does not ordinarily issue coverage decisions prior to the beginning date of operations. However, in this case it appears that SLS is depending on the Board's decision in order to begin operations.