B.C.D. 03-7

JAN 2 4 2003

EMPLOYER STATUS DETERMINATION
Apalachicola Northern Railroad Company

This is the determination of the Railroad Retirement Board concerning the continuing status of the Apalachicola Northern Railroad Company (ANRR) (B.A. No. 2503) 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). ANRR was ruled to be an employer under the RRA and RUIA effective May 9, 1903.

According to information supplied by ANRR in response to a questionnaire in connection with its employer status, AN Railway, LLC (ANR), B.A. No. 5586, purchased all ANRR assets on August 31, 2002 and took over ANRR operations of its Port St. Joe–Chattahoochee line by lease thereof. ANRR operations ceased on August 31, 2002 and employees of ANRR were last compensated on September 30, 2002. ANRR is owned by the St. Joe Company, a non-carrier, and ANRR has no connection with ANR. Surface Transportation Board (STB) authority for the aforesaid transactions between ANRR and ANR is set forth in STB Finance Docket Number 34247, decided September 11, 2002. By selling off all of its assets, except for the trackage it owns and leases to ANR, ANRR no longer is capable of operating as a railroad covered under the RRA and RUIA.

In a case where an entity that has STB authority to operate a rail line leases or contracts with another to operate the line in question, the Board will consider whether the lessor entity is covered under the RRA and the RUIA as a carrier, applying a test enunciated in B.C.D. No. 00-47, Railroad Ventures, Inc. In this case, however, although ANRR has leased its rail line to another entity, the evidence indicates that ANRR no longer has STB authority to operate the rail line now operated by ANR. Specifically, ANR was expressly recognized by the STB as the authorized operator of the rail line in its decision in Finance Docket No. 34247 (in Note 1). Since ANRR no longer has STB authority to operate the rail line, the Board will not examine its coverage status under the test set out in the Railroad Ventures decision.

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

> 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.

The evidence in this case shows that ANRR sold all of its equipment and rolling stock, that ANR obtained STB authority to operate over the line formerly operated by ANRR and has been recognized by the STB as the authorized operator of that line, and that ANRR last compensated its employees September 30, 2002. The Board finds that ANRR has lost the characteristics essential to the existence of an employer status.

Based on the information set forth above, it is the determination of the Railroad Retirement Board that Apalachicola Northern Railroad Company ceased being an employer covered under the RRA and RUIA on September 30, 2002, the date on which its employees were last compensated after it ceased operations.

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