EMPLOYER STATUS DETERMINATION
St. Lawrence & Atlantic Railroad (Quebec) Inc.

FEB 2 4 1999

This is the determination of the Railroad Retirement Board concerning the status of St. Lawrence & Atlantic Railroad (Quebec) Inc. (SLQ) 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). Information about SLQ was provided by Ann Wileczek, Vice President — Human Resources of Emons Transportation Group, Inc.[1] (ETG).

SLQ was incorporated on September 8, 1998 in the Province of Quebec, Canada. SLQ is a 94-mile rail line in Quebec, Canada. SLQ runs from Ste. Rosalie, Quebec to the Quebec/Vermont border, and has its main terminal in Richmond, Quebec. SLQ's line connects with Canadian National Railway Company's Halifax-to-Montreal main line at Ste. Rosalie, Quebec and with St. Lawrence & Atlantic Railroad Company's (SLR) (BA No. 2125) mainline at the Quebec/Vermont border.

In Surface Transportation Board (STB) Finance Docket No. 33677, decided November 12, 1998 (63 F.R. 64314), SLQ obtained authority for overhead trackage rights between the United States/Canada border and Island Pond, Vermont, a distance of 15.83 miles. Island Pond, Vermont is the interchange for SLR and SLQ. In STB Finance Docket No. 33678, decided November 13, 1998, wherein the STB granted ETG and Emons Railroad Group, Inc. an exemption to allow them to continue to control SLQ, the STB stated that SLQ planned to handle traffic originating at points in Canada and destined to points south of Island Pond, as well as traffic originating at points in the United States and destined to points north of the border.

The first day of compensation for training classes for some employees was November 23, 1998. The actual beginning date of railroad operations was December 1, 1998.

Section 1 of the RRA defines an employer to include:

> (i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under part A of subtitle IV of Title 49. [45 U.S.C. §231(a)(1)(i)].

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[1]All of the stock of SLQ is owned by Emons Railroad Group, Inc. (BA No. 9346), which is wholly owned by Emons Transportation Group, Inc., a publicly held non-carrier.

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

The information provided indicates that SLQ is subject to STB jurisdiction by virtue of its operation over the 15.83 miles of track from the United States/Canada border to Island Point, Vermont. Because SLQ falls within the definition of employer under section 1 of the RRA, the Board finds that SLQ became a rail carrier employer effective November 23, 1998, the first date of compensation for its employees who took training classes. Cf. Rev. Rul. 82-100 1982-1 C.B. 155 (a company becomes an employer under the RRTA the date it hires employees to perform functions directly related to its carrier operations).

However, because SLQ is a Canadian company which has the majority of its railroad operation in Canada, section 1(d)(2)(i) of the RRA limits the service which is creditable. That section provides in pertinent part that:

> (i) an individual shall be deemed to be in the service of an employer . . . not conducting the principal part of its business in the United States only when he is rendering service to it in the United States. [45 U.S.C. §231(d)(2)(i)].

Pursuant to the limitation set out in section 1(d)(2)(i), the Board finds further that only service provided to SLQ on that portion of its railroad operation within the United States is creditable under the RRA and the RUIA.

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