EMPLOYER STATUS DETERMINATION
Indiana & Ohio Railroad (BA # 3333)
The Indiana & Ohio Railway Company (BA # 3365)
The Cincinnati Terminal Railway Company (BA # 2360)
The Indiana & Ohio Central Railroad, Inc. (BA # 3363)
The Indiana & Ohio Central Railroad, Inc. (Preassigned BA #2381)
The Indiana & Ohio Railway Company (Preassigned BA # 2382)

AUG 1 2 1999

This is the determination of the Railroad Retirement Board concerning the continued status of the following companies as employers 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): (1) Indiana & Ohio Railroad (BA No. 3333); (2) The Indiana & Ohio Railway Company (BA No. 3365); (3) The Cincinnati Terminal Railway Company (BA No. 2360) and (4) The Indiana & Ohio Central Railroad, Inc. (BA No. 3363). This is also a determination of the Railroad Retirement Board concerning the status of the following companies as employers under the RRA and the RUIA: (1) The Indiana & Ohio Central Railroad, Inc. (preassigned BA No. 2381) and (2) The Indiana & Ohio Railway Company (preassigned BA No. 2382).

Background

RailTex, Inc., the parent corporation of the companies listed above and a non-carrier (see B.C.D. No. 95-25, issued March 16, 1995), in December 1997, directly controlled 17 Class III railroads operating in 21 states and three rail carriers that operate in Canada. See, Surface Transportation Board Finance Docket No. 33530, decided December 31, 1997. RailTex, Inc. also controls the Indiana & Ohio Rail Corporation, a non - carrier, which in December 1997, controlled The Cincinnati Terminal Railway Company, Indiana & Ohio Railroad, The Indiana & Ohio Railway Company, and The Indiana & Ohio Central Railroad, Inc. Id. On December 31, 1997, RailTex, Inc. simplified its corporate family structure and merged several of its railroad subsidiaries into two Delaware corporations. According to the STB decision in Finance Docket No. 33530, the purpose of the mergers was to eliminate costs associated with separate accounting, tax, bookkeeping and reporting functions. Ms. Julie Herbort, assistant controller for RailTex, Inc., provided information pertaining to the mergers and the status of the companies under consideration, including copies of Certificates of Mergers and merger agreements.

The information provided explains that the following covered companies were merged into The Indiana & Ohio Railway Company, a Delaware corporation ("new IORY"), effective December 31, 1997:

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The Indiana & Ohio Railway Company (Preassigned BA # 2382)

(1) BA No. 3365, The Indiana & Ohio Railway Company, an Ohio corporation;

(2) BA No. 2360, The Cincinnati Terminal Railway Company; and

(3) BA No. 3333, Indiana & Ohio Railroad.

On January 1, 1998, the new IORY began railroad operations over 324 miles of rail line from Flat Rock, Michigan to Cincinnati, Ohio. The new IORY also first paid employees as of January 1, 1998, including all of the former employees of the Ohio corporation, The Indiana & Ohio Railway Company (BA No. 3365).

In addition, on December 31, 1997, the following covered companies were merged into The Indiana & Ohio Central Railroad, Inc., a Delaware corporation ("new IOCR"):

(1) BA No. 3363, The Indiana & Ohio Central Railroad, Inc., an Ohio corporation; and

(2) BA No. 3366, The Indiana & Ohio Eastern Railroad, Inc., an Ohio corporation, whose coverage under the RRA and the RUIA was terminated December 30, 1993 in B.C.D. No. 94-105.3.

On January 1, 1998, the new IOCR began to provide railroad freight transportation over 166.2 miles of track. The new IOCR interchanges with CSXT, Norfolk Southern, Conrail, and the new IORY.

Based upon the information provided, the Board finds that The Indiana & Ohio Railway Company, a Delaware corporation which has been preassigned BA No. 2382, and The Indiana & Ohio Central Railroad, Inc., a Delaware corporation which has been preassigned BA No. 2381, became rail carrier employers under the RRA and the RUIA effective January 1, 1998, the date that they began

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railroad operations. The Board finds further that effective December 31, 1997, the following companies ceased to be employers under the Acts due to their merger into the Delaware corporations identified above: Indiana & Ohio Railroad (BA No. 3333), The Indiana & Ohio Railway Company (BA No. 3365), The Cincinnati Terminal Railway Company (BA No. 2360), and The Indiana & Ohio Central Railroad, Inc. (BA No. 3363).

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