EMPLOYER STATUS DETERMINATION JAN 03 2000
Mount Dora, Tavares & Eustis Railroad Company

This is the decision of the Railroad Retirement Board concerning the status of the Mount Dora, Tavares & Eustis Railroad Company (MDTER) 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).

Mr. Steve Torrico, President and General Manager of MDTER, provided information regarding the railroad. According to Mr. Torrico, MDTER is owned by himself and Mr. Christopher Welch. Mr. Torrico stated that MDTER has entered into a lease and operating agreement with the Florida Central Railroad (FCRR) (B. A. Number 2586) to operate an excursion railroad on 12 miles of track running from Tavares, Florida to Sorrento, Florida beginning at Milepost S-0 and ending at Milepost S-12. Mr. Torrico stated that MDTER began operations on December 18, 1998 and has approximately eight to ten employees.

According to its passenger schedule, MDTER operates a "one hour vintage rail excursion through scenic countryside, historic downtown Mount Dora and along the shore of Lake Dora". The passenger schedule refers to MDTER as "The Scenic Line of Central Florida," "featuring the 1920's era railway motor car, Dora Doodlebug." The passenger schedule indicates that MDTER operates up to seven one-hour excursions six days a week. MDTER interchanges with the FCRR.

Section 1(a)(1) of the RRA defines the term "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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Section 1 of the RUIA contains the same definition.

The information summarized above indicates that MDTER is a carrier by rail, since it operates a passenger railway. However, MDTER does not operate, and has never operated, as a common rail carrier in interstate commerce. Rather, it provides excursion service solely within the State of Florida. Thus, it is not within the jurisdiction of the Surface Transportation Board (STB). See, 49 U.S.C. §10501(a)(2)(A) (the STB has jurisdiction over rail carrier transportation

in the United States between a place in a State and a place in the same or another State as part of the interstate rail network).

The Board finds that since the Mount Dora, Tavares & Eustis Railroad Company does not perform service as a rail common carrier in interstate commerce, it is not an employer under the RRA and the RUIA.

Cherryl T. Thomas

V. M. Speakman, Jr.

Jerome F. Kever