B.C.D. 04-51

OCT 0 6 2004

EMPLOYER STATUS DETERMINATION
Kaw River Railroad, Inc.

This is the determination of the Railroad Retirement Board concerning the status of Kaw River Railroad, Inc. (KRR) as an employer covered under the Railroad Retirement Act (45 U.S.C. § 231, et seq.) (RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. § et seq.) (RUIA). KRR has not heretofore been ruled to be an employer under the RRA and RUIA.

Mr. Craig R. Richey, General Counsel, KRR, advised that KRR is owned by Watco Transportation Services, Inc. (B.A. No. 9848), a wholly owned subsidiary of Watco Companies, Inc., a non-carrier. KRR hired 18 employees who were compensated from May 15, 2004. Actual rail operations by KRR began on June 1, 2004. KRR operates on approximately 14 miles of yard, switching and main line track, interchanging with the Union Pacific Railroad (B.A. No. 1713), Burlington Northern & Santa Fe Railway (B.A. No. 1621) and the Kansas City Southern Railway (KCS) (BA No. 1806). The KRR rail operation is conducted on track which it leases in part from KCS and sub-leases in part from the Kansas City Terminal Railway Company (B.A. No. 4812). KRR sought authority for its lease and operation in Surface Transportation Board (STB) Finance Docket No. 34509, Kaw River Railroad Inc. Acquisition and Operation Exemption.

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 [45 U.S.C. § 231(a)(1)(i)].

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).

Employer Status Determination
Kaw River Railroad, Inc.

Based on the information summarized above, it is determined that Kaw River Railroad, Inc. became an employer covered under the Railroad Retirement Act and the Railroad Unemployment Insurance Act on May 15, 2004, the first day it compensated employees. See Rev. Rul. 82-100, 1982-1 C.B. 155.

Original signed by:

Michael S. Schwartz

V. M. Speakman, Jr.

Jerome F. Kever