B.C.D. 04-61

DEC 0 3 2004

EMPLOYER STATUS DETERMINATION
Tazewell & Peoria Railroad, Inc.

This is the determination of the Railroad Retirement Board concerning the status of Tazewell & Peoria Railroad, Inc. (TPR) 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).

In Surface Transportation Board (STB) Finance Docket No. 34544[1] decided September 21, 2004, TPR filed a notice of exemption to lease and operate approximately 19.9 miles of rail line owned by Peoria & Pekin Union Railway Company (B.A. No. 4723) (PPU), a covered employer under the Acts. The rail line extends from: (1) approximately milepost 0.0(at or near Peoria, Illinois, Union Station) to approximately milepost 9.2 (at or near Pekin, Illinois, IC Junction); (2) approximately milepost 0.0 (at or near Peoria, Illinois, Union Station) to approximately milepost 3.87N (at or near Iowa Interstate Junction, Illinois); (3) approximately milepost 0.0 (at or near Peoria, Illinois, Peoria Wye) to approximately milepost 5.1W (at or near P&PU Junction, Illinois); and (4) approximately Wesley Junction, Illinois, to approximately East Peoria, Illinois (approximately 1.7 miles of track; milepost designations are not available), in Tazewell and Peoria Counties, Illinois. In addition, TPR will acquire from PPU incidential trackage rights over approximately 1.7 miles of main-line track owned by Union Pacific Railroad Company from approximately milepost 4.0 (at or near P&PU Junction) to approximately milepost 5.7 (at or near Sommer, Illinois), in Peoria County, Illinois.

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[1]This proceeding is related to STB Finance Docket No. 34545, Genesee & Wyoming, Inc.-Continuance in Control Exemption-Tazewell & Peoria Railroad, Inc, wherein Genesee & Wyoming, Inc. a noncarrier, has concurrently filed a petition for exemption to continue in control of TPR upon TPR's becoming a carrier.

Information concerning TPR was provided by Bridget Shepard, Human Resource Manager for Genesee & Wyoming. According to Ms. Shepard, TPR began rail operations on November 1, 2004.[2] She stated that TPR anticipated hiring approximately 30 employees who were scheduled to begin November 1, 2004. Ms. Shepard stated that Genesee & Wyoming, Inc. is the parent company of TPR. She stated that TPR has a leasing agreement with Peoria & Pekin Union Railway (PPU) to operate the rail line. She further stated that TPR will also lease PPU's assets, which include all railroad equipment (locomotives and rail cars) as well as all maintenance of way and track inventory and equipment. Ms. Shepard stated that TPR will interchange with Union Pacific Railroad (B.A. No. 9235), Norfolk Southern (B.A. No. 9408), Illinois Central Railroad (B.A. No. 1516), Burlington Northern Santa Fe (B.A. No. 1621), Iowa Interstate (B.A. No. 3760), Toledo, Peoria & Western (B.A. No.2346), Illinois & Midland (B.A. 2366), and Pioneer Industrial Railway (B.A. No. 2383), all covered employers under both Acts.

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, United States Code;

Section 1 of the RUIA contains essentially the same definition, as does section 3231 of the Railroad Retirement Tax Act.

The evidence of record establishes that TPR is a rail carrier operating in interstate commerce. Accordingly, it is determined that Tazewell & Peoria Railroad, Inc. became an employer within the meaning of

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[2]On November 9, 2004, Ms. Shepard, via voicemail, confirmed with the Board's Office of General Counsel that TPR did begin rail operations on November 1, 2004.

section 1(a)(1)(i) of the Railroad Retirement Act and the corresponding provision of the Railroad Unemployment Insurance Act effective November 1, 2004, the date it began rail operations.

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