B.C.D. 05-11

EMPLOYER STATUS DETERMINATION MAR 23 2005
Central Washington Railroad Company

This is the determination of the Railroad Retirement Board concerning the status of Central Washington Railroad Company as an employer under the Railroad Retirement Act (45 U.S.C. § 231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.).

Information about Central Washington was furnished by Todd Leinbach, its controller. In Surface Transportation Board Finance Dockets No. 34640 and 34641, Central Washington filed a notice of exemption to lease from Burlington Northern Santa Fe Railroad Company (BNSF) approximately 41.57 miles of rail line. Central Washington will also operate an additional 18.65 miles pursuant to trackage rights agreements. It interchanges with BNSF. It began training employees on December 6, 2004, and began operations on December 30, 2004. Mr. Leinbach advised that Central Washington is operating a short line freight railroad over approximately 60 miles of track in Yakima County, Washington.

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 * * * .

Sections 1(a) and 1(b) of the Railroad Unemployment Insurance Act (45 U.S.C. §§ 351(a) and (b)) contain a substantially similar definition, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

The evidence of record establishes that Central Washington is a carrier operating in interstate commerce. Accordingly, it is

determined that Central Washington became an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)(i)) and the corresponding provision of the Railroad Unemployment Insurance Act as of December 6, 2004, the date as of which it began training employees. Cf. Rev. Ruling 82-100, 1982-1 C.B. 155, wherein the Internal Revenue Service ruled that a company becomes an employer under the Railroad Retirement Tax Act on the date it hires employees to perform functions directly related to its commencement of railroad carrier operations.

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