B.C.D. 05-15

EMPLOYER STATUS DETERMINATION
Peoria & Pekin Union Railway Company (P&PU)

MAY 0 3 2005

This is the determination of the Railroad Retirement Board concerning the continued status of Peoria & Pekin Union Railway 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.).

Peoria & Pekin is a covered employer under the Acts (B.A. No. 4723). Information submitted indicated that Peoria & Pekin last paid its employees on December 15, 2004, and was going out of business. However, the corporation is not dissolved and continues to own all of its rail assets, which it has leased to another carrier.

Under Railroad Ventures, Inc. (B.C.D. 00-47), an entity that leases a line to another company or contracts with another company to operate the line, is a carrier under the Railroad Retirement Act unless the Board finds that all three of the following factors exist: 1) the entity does not have as a primary business purpose to profit from railroad activities; 2) the entity does not operate or retain the capacity to operate the rail line; and 3) the operator of the rail line is already covered or would be found to be covered under the Acts administered by the Board.

In this case, it appears that Peoria & Pekin does have a primary business purpose to profit from operation of the rail line (through its lease of the rail equipment) and that it retains the capacity to operate the rail line (in that it retains ownership of the rail equipment). Therefore, even though Peoria & Pekin last paid employees on December 15, 2004, there does not appear to be a basis for terminating coverage of that company. The Board finds that Peoria & Pekin remains an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

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