B.C.D. 05-16

MAY 0 3 2005

EMPLOYER STATUS DETERMINATION
Unified Services, Inc.

This is the determination of the Railroad Retirement Board concerning the status of Unified Services, Inc., 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 Unified Services was provided by its attorney, Mr. James D. Helenhouse. The majority shareholder in Unified Services is CSX Transportation, Inc. (BA. No. 1524), which also owns The Indiana RailRoad Company, a covered employer under the Acts (B.A. number 2341). Unified Services performs marketing services. Twenty to thirty percent of its total business time is spent providing services for The Indiana RailRoad Company, and twenty to thirty percent of its revenue is derived from that company. Unified Services began operations in August 2004 and has one employee.

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;
>
> (ii) any company which is directly or indirectly owned or controlled by, or under common control with, one or more employers as defined in paragraph (i) of this subdivision, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad * * *.

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

Section 202.7 of the Board's regulations provides that service is in connection with railroad transportation:

> * * * if such service or operation is reasonably directly related, functionally or economically, to the performance of obligations which a company or person or companies or persons have undertaken as a common carrier by railroad, or to the receipt,

delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad. (20 CFR 202.7).

There is no evidence that Unified Services is a carrier employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act. Accordingly, we turn to section 1(a)(1)(ii) in order to determine whether Unified Services is an employer within the meaning of that section. The evidence of record shows that CSX Transportation, Inc. is the majority shareholder in both Unified Services and The Indiana Railroad Company. Unified Services is thus controlled by a covered employer and under common control with a covered carrier employer. In addition, Unified Services is performing a substantial percentage of its business for its rail affiliate and receives approximately 20 to 30 percent of its gross revenue from its rail affiliate. We therefore find that Unified Services falls within the "affiliate" definition of an employer set out in section 1(a)(1)(ii) of the Railroad Retirement Act.

Accordingly, it is determined that Unified Services is 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 August 1, 2004, the first day of the month in which it commenced operations.

Michael S. Schwartz

V. M. Speakman, Jr.

Jerome F. Kever