B.C.D. 05-23

EMPLOYER STATUS DETERMINATION
Alabama & Tennessee River Railway, LLC

JUN 0 2 2005

This is the determination of the Railroad Retirement Board concerning the status of Alabama & Tennessee River Railway, LLC (ATN) 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).

Mr. Mike Ogborn, Manager, ATN, advised that ATN is owned by Mr. Patrick Broe, who directly controls Omni Trax, Inc., a non-carrier company which controls 15 class III railroads and also controls ATN. ATN began operations on December 31, 2004 on approximately 122 miles of track in Alabama which ATN leases under a long term lease from CSX Transportation, Inc., an employer covered under the RRA and RUIA. ATN connects with CSX and Norfolk Southern Railway Company, another covered employer. ATN has 43 employees. The earliest date from which ATN employees where first compensated was December 3, 2004. Surface Transportation Board authority for ATN's lease and operation is set forth in Finance Docket No. 34611, decided December 9, 2004.

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).

Based on the information summarized above, it is determined that ATN became an employer covered under the Railroad Retirement Act and the Railroad Unemployment Insurance Act on December 3, 2004, the date on which it first compensated employees.

Michael S. Schwartz

V. M. Speakman, Jr.

Jerome F. Kever