B.C.D. 05-32

EMPLOYER STATUS DECISION JUL 11 2005
Mississippi Southern Railroad, Inc.

This is the determination of the Railroad Retirement Board concerning the status of Mississippi Southern Railroad, Inc. (MSR) as a covered 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)).

MSR began operations on April 13, 2005 under the authority of Surface Transportation Board (STB) Finance Docket No. 34684, dated March 28, 2005. MSR operates along 26.5 miles of rail line located between milepost 133.0 near Bay Springs, MS and milepost 159.5 near Newton, MS which it leases from the Kansas City Southern Railway Company (BA. No. 1806). MSR employees were first compensated on March 29, 2005. MSR is a wholly owned subsidiary of Watco Companies, Inc., a non-carrier. Watco concurrently filed a verified notice of continuance in control of MSR in STB Finance Docket No. 34683.

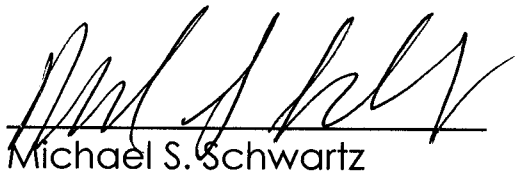
Section 1(a)(1) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)), insofar as relevant here, defines a covered employer as:

> (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 (RRTA) (26 U.S.C. § 3231).

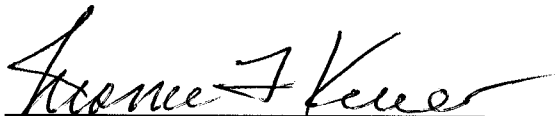
Based on the information summarized above, it is determined that Mississippi Southern Railroad, Inc. became an employer covered under the Railroad Retirement Act and the Railroad Unemployment Insurance Act on March 29, 2005, the date on

which employees were first compensated. Cf. Rev. Rul. 82-100, wherein the Internal Revenue Service held that a company becomes an employer subject to RRTA taxes on the date the company first hires employees to perform functions directly related to its carrier operations. 1982-1 C.B. 155.



Michael S. Schwartz

V. M. Speakman, Jr.



Jerome F. Kever