

**EMPLOYER STATUS DETERMINATION**  
**Meteor Communications Corporation**

This is the determination of the Railroad Retirement Board concerning the status of Meteor Communications Corporation (MCC), 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 MCC was provided by Scott Ryneerson, Assistant General Tax Counsel for BNSF Railway. MCC was founded in 1975 and has been serving a diverse customer base to track, monitor, and control mobile and fixed assets including vehicles, locomotives, marine vessels, aircraft, and remote hydro-meteorological stations. MCC has provided equipment and service to commercial and government customers around the world.

MCC is now a global, wireless telecommunications company that provides data communications solutions and services through its packet-switched data networks. The data networks track, monitor, and control mobile and fixed assets including vehicles, locomotives, marine vessels, aircraft, etc. These networks are based on "Extended Line of Sight" and "Meteor Burst Communications" technologies. Approximately 75 percent of MCC's total sales revenue is generated from business conducted with the rail industry. Almost 80 percent of the rail industry business is derived from business with BNSF Railway.

BNSF employs MCC technologies in its "Electronic Train Management System" (ETMS). ETMS works as a safety overlay, through a train control program that passes critical train movement information, such as movement authorities, speed restrictions, and switch positions, to a digital communications network, partially comprised of MCC technologies, that displays the information on a computer screen inside the locomotive cab. The on board computer with location information provided via a Global Positioning System (GPS) will warn the crew and then automatically initiate braking action if the crew fails to respond appropriately. MCC has 38 full-time and one part-time employee, none of whom have ever worked for an employer covered under the Railroad Retirement and Railroad Unemployment Insurance Acts.

Burlington Northern Santa Fe Corporation, the parent company of BNSF Railway, acquired MCC on March 30, 2007. BNSF will continue to be the largest customer of MCC, although it is intended that MCC will more intensively market its services to other customers in the railroad industry. Eventually, it is intended that MCC will also market its services to a greater extent outside the rail industry.

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).

MCC and BNSF are under common control by reason of their being owned and controlled by the same company, Burlington Northern Santa Fe Corporation, as of and after the date of the acquisition of MCC by that company. MCC's provision of electronic rail tracking services to BNSF and other railroads constitutes services in connection with railroad transportation. Therefore, MCC is providing services in connection with railroad transportation and is under common control with a covered employer, BNSF Railway. Accordingly, the Board holds MCC to be a covered employer under the Acts effective as of March 30, 2007, the date of its acquisition by Burlington Northern Santa Fe Corporation.

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