

MAY 10 2007

**EMPLOYER STATUS DETERMINATION**

Youngstown &amp; Southeastern Railroad Company

This is a determination of the Railroad Retirement Board concerning the status of Youngstown & Southeastern Railroad Company (YSRR) 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).

In a Surface Transportation Board (STB) decision dated December 14, 2006 (Finance Docket No. 34962), YSRR obtained authority to sublease from Eastern States Railroad, LLC<sup>1</sup>, and operate the portion of the 35.7 mile line between milepost 35.7 in Darlington, Pennsylvania and milepost 0.0 in Youngstown, Ohio. In addition, the STB decision stated that YSRR will operate as Eastern States Railroad, LLC's agent and in Eastern States Railroad, LLC's name over 3 miles of rail line.<sup>2</sup> The three miles of rail line runs east of Youngstown, Ohio which is the subject of a permanent assignment to Eastern States Railroad, LLC of Central Columbiana & Pennsylvania Railway, Inc.'s (B.A. No. 2275) and Columbiana County Port Authority's operating rights that will facilitate the interchange of traffic with Norfolk Southern Railway Company (B.A. No. 9408) and CSX Transportation, Inc (B.A. 1524).

Information regarding YSRR was provided by Mr. R. Powell Felix, President of YSRR. According to Mr. Felix, YSRR has nine employees and began rail operations on December 1, 2006. Mr. Felix stated that YSRR is a wholly owned subsidiary of Indiana Boxcar Corporation. He stated that Indiana Boxcar Corporation also owns or manages four covered employers under

---

<sup>1</sup> The Board's Bureau of Audit and Compliance is currently obtaining information needed to determine whether Eastern States Railroad, LLC is a covered employer under the Acts.

<sup>2</sup> This transaction is related to two concurrently filed verified notices of exemption: STB Finance Docket No. 34934, Eastern States Railroad, LLC-Acquisition Exemption-Central Columbiana & Pennsylvania Railway, Inc., and Columbiana County Port Authority, wherein Eastern States Railroad, LLC seeks to acquire the lease and operating rights of approximately 35.7 miles of rail line owned by CCPA, and to receive permanent assignment of CCPR's and CCPA's operating rights to approximately 3 miles of track east of milepost 0.0; and STB Finance Docket No. 34961, Indiana Boxcar Corporation-Continuance in Control Exemption-Youngstown & Southeastern Railway Company, wherein Indiana Boxcar Corporation seeks to continue in control of YSRR upon YSRR's becoming a Class III carrier.

the Railroad Retirement Act and the Railroad Unemployment Insurance Act.<sup>3</sup> Mr. Felix stated that YSRR operates approximately 35 miles of rail line from Youngstown, Ohio (Lowellville) to Darlington, Pennsylvania and 3 miles of rail line running east of Youngstown, Ohio. Mr. Felix stated that the rail lines were owned by the Columbiana County Port Authority and previously operated by the Ohio and Pennsylvania Railroad (B.A. No. 3362). Mr. Felix stated that Eastern States Railroad purchased the line from Columbiana County Port Authority. He also stated that YSRR conducts all operations on the lines and Eastern States Railroad is a passive line owner. YSRR provides approximately 6000 carloads of freight that include construction and demolition materials. Mr. Felix also stated that YSRR interchanges with and is a handling line carrier for Norfolk Southern Railroad and YSRR interchanges with and is a junction settlement carrier for CSX Transportation.

Section 1(a)(1) of the RRA defines the term "employer" to include:

- (i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under Part A of subtitle IV of Title 49;

Section 1 of the RUIA contains the same definition.

The evidence of record establishes that Youngstown & Southeastern Railroad Company is a rail carrier operating in interstate commerce. Accordingly, it is determined that Youngstown & Southeastern Railroad Company became an employer within the meaning of section 1(a)(1)(i)

---

<sup>3</sup> Indiana Boxcar Corporation owns Chesapeake and Indiana Railroad (B.A. No. 2397) and Vermilion Valley Railroad (B.A. No. 2396), has a controlling interest in Tishomingo Railroad (B.A. No. 4573), and manages Ohi-Rail Corporation (B.A. 3350). The Board's Audit and Compliance section is obtaining information needed to determine if Indiana Boxcar Corporation is a covered employer under the Acts.

of the Railroad Retirement Act and the corresponding provision of the Railroad Unemployment Insurance Act effective December 1, 2006 the date it began rail operations.

Original signed by:

Michael S. Schwartz

V. M. Speakman, Jr.

Jerome F. Kever