

**EMPLOYER STATUS DETERMINATION  
Landisville Railroad, LLC**

This is a determination of the Railroad Retirement Board concerning the status of Landisville Railroad, LLC (LRR) 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). The status of LRR under the Acts has not previously been considered.

Mr. Michael Kennedy is the CEO of LRR. LRR was formed on July 14, 2008 and began operations on September 1, 2008. The first employee was compensated on September 15, 2008.

In Surface Transportation Board (STB) Finance Docket No. 35170, decided August 8, 2008 (served August 15, 2008), LRR filed a verified notice of exemption to acquire from Landisville Railroad,<sup>1</sup> Inc. and to operate approximately 1.92 miles of railroad line between milepost 30.77(+/-) at the connection to Norfolk Southern Railway (NSR) on Amtrak's Harrisburg Line and milepost 32.69(+/-) at the end of track South of Nolt Road and North of Stony Battery Road, in West Hempfield, Lancaster County, PA. LRR will interchange with NSR as Landisville, PA and there are no existing interchange commitments with NSR as the third-party connecting carrier.

Information regarding LRR was provided by Mr. Eric M. Hocky, attorney for LRR. According to Mr. Hocky, Landisville Terminal & Transfer Company (LT&T) operated the rail line but, as a result of this transaction, LT&T will terminate its lease and assign all of its rights to LRR. The STB decision is clear that LT&T is not being acquired by LRR. Mr. Hocky stated that LRR began rail operations over its 1.92 miles of rail line on September 1, 2008. Mr. Hocky did not provide specific information of the volume of freight that would be transferred or handled by LRR over this line or railroad; however, LRR certified to the STB that its projected annual revenue as a result of the transaction will not exceed those that qualify it as a Class III rail carrier.

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:

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<sup>1</sup> B.C.D. 01-67 found that Landisville Railroad, Inc. ceased to be a covered rail carrier employer December 29, 2000, and that Landisville Terminal & Transfer Company become a covered employer effective January 1, 2001.

(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;

Section 1 of the RUIA (45 U.S.C. § 351) contains essentially the same definition, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

The evidence of record establishes that LRR is a rail carrier operating in interstate commerce. Accordingly, it is determined that Landisville Railroad, LLC, became an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act and its corresponding provision of the Railroad Unemployment Insurance Act effective September 1, 2008 the date on which LRR began operations.

Original signed by:

FOR THE BOARD  
Beatrice Ezerski  
Secretary to the Board