

EMPLOYER STATUS DETERMINATION**Erie Western Railway Company (Erie Western)**

This is a determination of the Railroad Retirement Board concerning the continuing status of Erie Western Railway Company (Erie Western) 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.).

Erie Western (B.A. # 2335) has been an employer under the Railroad Retirement Act and Railroad Unemployment Insurance Act since October 26, 1977.

The latest coverage information in the file for Erie Western indicates that the Public Service Commission of Indiana had terminated the agreement for Rail Service Continuation Assistance with Erie Western on June 24, 1979. Thomas Leach, the General Superintendent of Erie Western, first explained this information in a letter dated August 14, 1979. In follow-up correspondence, dated August 4, 1981, the trustee for Erie Western bankruptcy proceedings, Thomas Hall, explained several key pieces of information. Erie Western last compensated employees in mid-June of 1980. Erie Western did, in fact, cease its rail operations in June of 1979 pursuant to losing its operating agreement with the Indiana Public Service Commission. The letter further points out that Erie Western owned no right of way and only owned two inoperable locomotives and an office in bad repair.

In a letter dated August 19, 1981, Mr. Ralph Vicari, the Board's former Director of Data Processing and Accounts, explained that since Erie Western retained its corporate charter and some equipment, it would continue to be a covered employer under the Acts. Mr. Vicari further directed that Erie Western did not have to file reports since it had no employees. Finally, Mr. Vicari advised that Erie Western or the bankruptcy trustee should notify the Board when the corporation was dissolved. No such letter was ever sent informing the Board of a date when Erie Western was dissolved.

Recent research by the Office of General Counsel did not reveal any records for Erie Western. The agency librarian researched the Indiana Secretary of State's records and found no record of Erie Western still being an active company.

Section 202.11 (20 CFR 202.11) of the Board's regulations states that:

The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

As indicated above, information in our coverage files indicates that Erie Western was formed to operate a railroad over tracks leased from the State of Indiana from Hammond, Indiana and a point near the Indiana-Ohio border about 8.2 miles east of Decatur, Indiana, a distance of about 160.2 miles. Erie Western also operated a line of track of approximately 26.9 miles between Decatur, Indiana and Portland, Indiana. The research by the Office of General Counsel, the agency librarian, and the information contained in Erie Western's file indicate that Erie Western ceased to be an operational railroad on June 24, 1979, and did not compensate any employees beyond June of 1980. The evidence of record establishes that Erie Western no longer possesses the characteristics of a railroad carrier employer. The Board therefore finds that effective June 30, 1980, the last day of the month in which Erie Western last compensated employees, Erie Western Railway Company ceased being a covered employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

Original signed by:

FOR THE BOARD
Beatrice Ezerski
Secretary to the Board