

EMPLOYER STATUS DETERMINATION**Unified Services, Inc.**

This is the decision of the Railroad Retirement Board regarding the continued status of Unified Services, Inc. (USI) (B.A. No. 9360) 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 Board Coverage Decision (B.C.D. 05-16) we found USI to be an employer under the Acts as of August 1, 2004, the first day of the month in which it commenced operations. According to information provided at the time, the majority shareholder in USI was CSX Transportation, Inc. (B.A. No. 1524), which also owns The Indiana Railroad Company, itself a covered employer under the Acts (B.A. No. 2341). USI performs marketing services, with 20-30% of its total business time spent providing services for The Indiana Railroad Company, and 20-30% of its revenue being derived from that company. USI began operations in August 2004 and had one employee.

In B.C.D. 05-16 we found that the evidence of record showed that CSX Transportation, Inc. is the majority shareholder in both Unified Services and The Indiana Railroad Company. Unified Services was thus found to be controlled by a covered employer and under common control with a covered carrier employer. As USI was performing a substantial percentage of its business for its rail affiliate and received approximately 20-30% of its gross revenue from its rail affiliate, we found that USI fell within the "affiliate" definition of an employer set out in section 1(a)(1)(ii) of the Railroad Retirement Act, and it was determined that USI is an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act (45 U.S.C. §231(a)(1)(i)) and the corresponding provision of the Railroad Unemployment Insurance Act as of August 1, 2004, the first day of the month in which it commenced operations¹.

Review of the documentation in file indicates that USI's Form BA-3, Annual Report of Creditable Compensation, was outstanding for 2008. In response to a delinquency notice, the agency was advised that the railroad had been closed some years ago. In response to further inquiries made to Indiana Railroad, USI's rail affiliate, Indiana Railroad indicated that it had closed several entities over the past years, including USI.

¹ We note that on May 1, 2006, a request for reconsideration of this decision was filed by Midland United Corporation, as the sole shareholder of USI. That request was subsequently withdrawn on August 1, 2006.

In response to a letter date April 3, 2009, from the agency's Audit and Compliance Division, Ms. Jacklyn Hardy, the Director of Human Resources for

Indiana RailRoad stated that USI ceased operations and last compensated employees on December 31, 2005. Ms. Hardy also stated that USI had no assets, there was no relationship between USI and the railroad industry, and USI was providing no services.

The file also contains information obtained from the State of Indiana Department of Revenue. This documentation indicates that the close of business request filed by UCI has been processed and all business activities must have ended no later than March 31, 2009. Furthermore, USI's retail sales account has been closed, and its taxpayer identification number is no longer valid. Finally, USI's registration for withholding tax has been closed. By closing a withholding account, USI has notified Indiana's Department of Revenue that it no longer has employees for which it is withholding taxes.

The evidence of record establishes that USI no longer possesses the characteristics of a railroad employer. The Board therefore finds that effective December 31, 2005, the date it ceased operations and last compensated employees, Unified Services Inc. ceased being a covered employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

Original signed by:

Michael S. Schwartz

V. M. Speakman, Jr.

Jerome F. Kever