

EMPLOYER STATUS DETERMINATION
U.S. Rail Corporation of New Jersey (US RCNJ)

This is a determination of the Railroad Retirement Board concerning the status of U.S. Rail Corporation of New Jersey (US RCNJ) 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 US RCNJ under the Acts has not previously been considered.

US RCNJ is a privately held corporation which is 70% owned by U.S. Rail Corporation of Ohio (formerly the Great Miami Scioto Railway, BA No. 5329). This name change of the parent company was effective July 3, 2007 as referenced in Board Coverage Decision 09-47, dated October 15, 2009. Ms. Lisa Boyd, the Chief Financial Officer for US RCNJ, supplied information regarding the formation and start of operations for US RCNJ. Mr. Gabriel Hall is the CEO of US RCNJ. Ms. Boyd represented that US RCNJ began operations on December 20, 2009. US RCNJ has two employees who were first compensated on or about December 31, 2009.

In Surface Transportation Board (STB) Finance Docket No. 35317, filed November 12, 2009, US RCNJ filed a verified notice of exemption to acquire by operation of a lease from the County of Salem, New Jersey, the operating and lease rights over approximately 17.24 route miles of railroad line owned by the County of Salem, New Jersey. US RCNJ will acquire rights to operate lines of track between the municipality of Salem, New Jersey to an interchange point with Norfolk Southern and CSX lines near the municipality of Swedesboro, New Jersey. US RCNJ will contract with U.S. Rail Corporation of Ohio to perform the operations on and over the rail line with US RCNJ retaining residual common carrier obligations (see STB Finance Docket No. 35318 and 35310). Ms. Boyd also submitted a copy of the Resolution of the County of Salem granting the lease rights to US RCNJ which was dated October 7, 2009.

US RCNJ will provide common carrier railroad services to include interchange of railcars. Ms. Boyd reports that US RCNJ will perform 100% of its work with Conrail and derive 100% of revenue from the interchange service with Conrail. US RCNJ lists only locomotives and the leased track as their corporate assets. Ms. Boyd further reports that Gabriel Hall and Danielle Hall are officers of US RCNJ and are officers or directors of US Rail Corporation of Ohio, the parent company of US RCNJ.

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;

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 US RCNJ is a rail carrier operating in interstate commerce. Accordingly, it is determined that U.S. Rail Corporation of New Jersey 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 December 20, 2009, the date on which US RCNJ began operations.

Original signed by:

FOR THE BOARD
Beatrice Ezerski
Secretary to the Board