

**B.C.D. 11-54**  
**EMPLOYER STATUS DETERMINATION**  
**Madison Terminal Railway, LLC**

**June 24, 2011**

This is the determination of the Railroad Retirement Board concerning the status of Madison Terminal Railway, LLC (MTR), 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.).

Information regarding MTR was provided by Steven M. Yoder who its President and Chief Executive Officer. According to Mr. Yoder, MTR is a Class III railroad common carrier which began operations on April 25, 2011. It will provide inbound and outbound transload service and will interchange with the Wisconsin & Southern Railroad which is a covered railroad employer. Currently, MTR has one employee, Mr. Yoder, who began employment on August 31, 2010. MTR is engaged in startup activities and expects to have 34 employees by the end of 2011. Mr. Yoder reports that 100% of the employees will work in positions related to business connected with rail carriers. MTR is owned by The Hooper Corporation, a noncarrier corporation, and Mr. Yoder, an individual.

In Surface Transportation Board Finance Docket No. FD 35433, MTR filed a notice of exemption to lease from LN Real Estate, LLC, a noncarrier, and operate an existing 0.3-mile industrial spur. The industrial spur originates at the connection with the Union Pacific Railroad Company's (UP), Cottage Grove Industrial Lead at Milepost 78.02 in Madison, Wisconsin and is located entirely within the property of ProBuild Holdings, LLC, which currently leases the line. UP is a covered railroad employer (BA No. 1713). UP's Cottage Grove Industrial Lead is currently operated by the Wisconsin & Southern Railroad Company (WSOR) which is also a covered railroad employer (BA No. 3635). MTR expects to enter into sublease with ProBuild Holdings to revive railroad services on the unused existing industrial spur and an interchange agreement with WSOR to provide inbound and outbound rail freight transportation to MTR's transload facility. MTR will become a Class III carrier of an existing industrial spur that will be converted to a common carrier line of railroad that connects with UP's existing line.

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;

Sections 1(a) and 1(b) of the Railroad Unemployment Insurance Act (45 U.S.C. §§ 351(a) and (b)) contain substantially similar definitions, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

The evidence of record establishes that MTR is a carrier operating in interstate commerce. Accordingly, it is determined that MTR 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 April 25, 2011, the date as of which it first began operations.

Original signed by:

Michael S. Schwartz

V. M. Speakman, Jr.

Jerome F. Kever