

**B.C.D. 11-60**  
**EMPLOYER STATUS DETERMINATION**  
**Lancaster & Chester Railroad, LLC**

**July 6, 2011**

This is the determination of the Railroad Retirement Board concerning the status of Lancaster & Chester Railroad, LLC (L & C Railroad) 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.). The status of L & C Railroad under the Acts has not previously been considered.

Information about L & C Railroad was provided by Ms. Ellen Oblow, CFO of the Gulf & Ohio Railway, Inc., on behalf of L & C Railroad. In Surface Transportation Board Finance Docket No. FD 35413, L & C Railroad filed a notice of exemption to acquire and operate 62 miles of rail line owned by Lancaster & Chester Railway Company (LCR), an employer under the Acts, including related rail property and trackage. In a letter dated November 30, 2010, Mr. Ronald T. Seegars, Vice President of LCR, advised the agency that on November 30, 2010, LCR was sold to the Gulf & Ohio Railways, Inc., and effective December 1, 2010, the Gulf & Ohio Railways, Inc. would begin a new company called Lancaster & Chester Railroad, LLC to handle the railroad business. Ms. Oblow confirmed that the beginning date of operations for the L & C Railroad was December 1, 2010. Ms. Oblow further stated that L & C Railroad has 24 employees who were first compensated on that date<sup>1</sup>, and it interchanges with the Norfolk Southern and CSX.

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;
- (ii) any company which is directly or indirectly owned or controlled by, or under common control with, one or more employers as defined in paragraph (i) of this subdivision, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad \* \* \*.

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 L & C Railroad is a class III rail carrier operating in interstate commerce. Accordingly, it is determined that L & C Railroad 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

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<sup>1</sup> L & C Railroad hired all of the employees of LCR.

Insurance Act as of December 1, 2010, the date as of which it began operations and first compensated employees.

Original signed by:

FOR THE BOARD  
Martha P. Rico  
Secretary to the Board