

B.C.D. 11-78
EMPLOYER STATUS DETERMINATION
YCR Corporation

August 8, 2011

This is the determination of the Railroad Retirement Board concerning the status of YCR Corporation (YCR) 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 YCR under the Acts has not previously been considered.

Information about YCR was provided by Mr. Paul Didelius¹, President of YCR. According to Mr. Didelius, YCR was incorporated on December 8, 2009, and is owned by Mr. Didelius and Mr. Stan Patterson, the Vice President of YCR. YCR began operations on December 22, 2009, and has one employee who was first compensated in January 2010. Mr. Patterson is also President of W&I Railway. YCR "handles movement of freight by rail car for customers located on YCR line", and will spend approximately 50% of its total business time with BNSF, with "90%+" of its revenue coming from BNSF.

In Surface Transportation Board (STB) Finance Docket No. 35336, YCR filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150, to lease and operate a total of 22.19 miles of rail line which was authorized for abandonment by the STB's predecessor agency, the Interstate Commerce Commission (ICC). Although authorized for abandonment, the line was subsequently acquired by the State of Washington pursuant to an offer of financial assistance. The line was previously operated by other carriers: the Yakima Valley Rail and Steam Museum d/b/a Toppenish, Simcoe & Western Railroad² (YVR), and the Central Washington Railroad Company (B.A. No. 2669) in conjunction with the Columbia Basin Railroad Company, Inc. (B.A. No. 2644) (CWA/CBRC). YVR's lease with the County was terminated on December 31, 2005, and CWA/CBRC's lease with the County was terminated on December 20, 2009. YCR became the operator of the line on December 21, 2009.

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 * * *.

¹ Mr. Didelius also owns LRY LLC, d/b/a Lake Railway, which was found to be an employer covered by the Acts in Board Coverage Decision 10-12.

² The Yakima Valley Rail and Steam Museum d/b/a Toppenish Simcoe & Western Railroad (B.A. No. 2645) was covered as an employer under the Acts from October 18, 1993 through April 1, 2002.

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 YCR is a class III rail carrier operating in interstate commerce. Accordingly, it is determined that YCR Corporation 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 December 22, 2009, the date it began operations.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board