

EMPLOYER STATUS DETERMINATION**Columbia & Reading Railway Company, LLC**

This is the determination of the Railroad Retirement Board concerning the status of Columbia & Reading Railway Company, LLC (CORY) 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 CORY under the Acts has not previously been considered.

Information about CORY was provided by Mr. Tim Nelson, Business Manager of Freedom Rail Management, LLC (Freedom Rail). Freedom Rail, a single member LLC owned 100% by Mr. Christopher D. Freed, owns 51% of CORY. Freedom Rail is described by Mr. Nelson as a holding company without any employees, and it also controls the Claremont Concord Railroad Corp. (CCRR), a class III rail carrier and an employer covered by the Acts (B.A. No. 4113). Rail Management Inc. (RMI), another non-carrier, owns the remaining 49% of CORY. According to Mr. Nelson, CORY was incorporated on June 10, 2004, and began operations on January 20, 2010. While CORY had no employees at the time of Mr. Nelson's submission, CORY expects "future business development on this line in the future", and "once hired, the employees will be working 100% in relation to business connected with rail carriers". The first employees CORY intends to hire are an engineer and a conductor, and as CORY grows,

our next role would be a General Manager to oversee operations and we would require that the GM also have an engineer's license since they will also have a large role in participating in train service due to being a small operation.

In Surface Transportation Board (STB) Finance Docket No. 35335, decided December 18, 2009, Freedom Rail filed a verified notice of exemption to acquire control of CORY, described by the STB as a class III rail carrier¹. CORY owns a diesel locomotive as well as the 2.5 miles of rail line in Lancaster County, Pennsylvania. CORY interchanges with Norfolk Southern, and 100% of its time will be spent doing business with rail carriers and 100% of its revenues will be received from rail carriers. Mr. Freed, the owner of Freedom Rail, is the President of CORY, as well as the President of CCRR.

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).

¹ Previously, RMI held 100% ownership interest in CORY.

The evidence of record establishes that CORY is a rail carrier operating in interstate commerce². Accordingly, it is determined that Columbia & Reading Railway Company, LLC, 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 January 20, 2010, the date on which it began operations.

Original signed by:

FOR THE BOARD
Beatrice Ezerski
Secretary to the Board

² It is noted that Freedom Rail has a majority ownership interest in CORY, as well as control of CCRR, a covered employer under the Acts. Therefore, CORY is under common control with a covered rail carrier. However, since CORY is covered under the Acts by reason of its being a carrier, not by reason of its ownership, discussion of the issue of common control is not necessary.