

EMPLOYER STATUS DETERMINATION

Piedmont & Northern Railway, LLC (P & N)

This is a determination of the Railroad Retirement Board concerning the status of Piedmont & Northern Railway, LLC (P & N) 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 P & N under the Acts has not previously been considered.

P & N is a privately held company that is a subsidiary of Tennessee Southern Railroad Company, Inc. Tennessee Southern Railroad Company is a subsidiary of Patriot Rail Corp. P & N was converted to a Delaware Limited Liability Company on September 21, 2010. Mr. Robert Schellig, Jr., the Vice President for Law for Patriot Rail Corp., supplied information regarding the formation and start of operations for P & N. In electronic correspondence dated January 23, 2012, Mr. Schellig represented that P & N was going to begin operations on March 1, 2012 with three compensated employees.

In Surface Transportation Board (STB) Finance Docket No. 35402, service date September 3, 2010, P & N filed a verified notice of exemption to operate over approximately 13.04 miles of rail lines owned by the North Carolina Department of Transportation (NCDOT), a non-carrier. The line is entirely within the state of North Carolina. The line will be between Mt. Holly (milepost SFC 11.39) and Gastonia (milepost SFC 23.0), including the Belmont spur between Mt. Holly (milepost SFC 13.6/SFF 0.13) and Belmont (milepost SFF 1.56), in Gaston County, North Carolina. P & N will provide common freight rail service over the line and will interchange with CSX and Norfolk Southern Railway.

According to documents provided, the exemptions filed with the STB became effective on September 3, 2010. P & N began operations on March 1, 2012. It plans to handle freight with revenues that will not result in P & N's becoming a Class I or Class II rail carrier. P & N estimates that it will handle an annual volume that will not result in revenue exceeding \$5 million annually. P & N does not now intend to provide any rail passenger service.

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 P & N is a rail carrier operating in interstate commerce. Accordingly, it is determined that Piedmont and Northern Railway, 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 March 1, 2012, the date on which P & N began operations.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board