

**EMPLOYER STATUS DETERMINATION
Hilton and Albany Railroad, Inc (HAL)**

This is a determination of the Railroad Retirement Board concerning the status of Hilton and Albany Railroad, Inc (HAL) 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 HAL under the Acts has not previously been considered.

HAL is a privately held corporation that is a wholly owned subsidiary of Genessee & Wyoming, Inc. (GWI), a non-carrier. Mr. Eric M. Hocky, the attorney for HAL, supplied information regarding the formation and start of operations for HAL. A letter dated January 25, 2012 represented that HAL began operations on January 1, 2012. The first employees were compensated beginning January 2, 2012.

In Surface Transportation Board (STB) Finance Docket No. 35567, decided November 25, 2011, HAL filed a verified notice of exemption to lease from Norfolk Southern Railway Company and to operate approximately 55.5 miles of railroad line extending between milepost J 302.3 near Albany West, Georgia and milepost J 357.8 near Hilton, Georgia. This transaction is related to a concurrently filed petition for exemption in STB Finance Docket No. 35568 in which Genessee & Wyoming Inc., a non-carrier, seeks STB approval to continue in control of HAL upon HAL's becoming a Class III carrier. HAL will provide freight rail service over the line and connect with interchange traffic with Norfolk Southern at Albany Yard. The line will connect between Norfolk Southern and four short lines controlled by GWI.

According to documents provided, the exemptions filed with the STB became effective on December 18, 2011. HAL began operations on January 1, 2012 and will handle freight with revenues that will not result in HAL's becoming a Class I or Class II rail carrier. HAL estimates that it will handle an annual volume that will not result in revenue exceeding \$5 million annually.

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 HAL is a rail carrier operating in interstate commerce. Accordingly, it is determined that Hilton and Albany Railroad, Inc (HAL), 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 1, 2012, the date on which HAL began operations.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board