

B.C.D. 12-47
EMPLOYER STATUS DETERMINATION
San Antonio Central Railroad, L.L.C.

December 5, 2012

This is the determination of the Railroad Retirement Board concerning the status of San Antonio Central Railroad, L.L.C. (SACR) 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 SACR under the Acts has not previously been considered.

Information about SACR was provided by Mr. Craig R. Richey. According to Mr. Richey SACR, which is owned by Watco Transportation Services, L.L.C., began operations on September 1, 2012, and has eight employees who were first compensated that date. SACR operates over three miles of track; interchanges with the Union Pacific (UP); spends 70% of its total business time doing business with the UP, receiving 70% of its revenue from the UP; and the remaining 30% of SACR's business time is spent with BNSF, with SACR receiving 30% of its revenue from BNSF.

In Surface Transportation Board Finance Docket No. 35603, SACR filed a notice of exemption to lease and operate as a common carrier by railroad all tracks located in the East Kelly Railport, owned by the Port Authority of San Antonio. According to Mr. Richey, SACR is

a railroad that will service the Port of San Antonio's customers from a rail freight perspective. Annual freight volumes into the Port of San Antonio are initially projected to be 4500 carloads based off 2011 numbers provided by the Port of San Antonio, but we expect growth and our anticipated freight volumes will be 9058.

Mr. Richey also stated that SACR "will provide switch carrier services for both the BNSF and UP delivering and picking up freight from the customers of the Port of San Antonio".

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
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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 SACR is a class III rail carrier operating in interstate commerce. Accordingly, it is determined that SACR 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 September 1, 2012, the date as of which it first compensated employees.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board