

**B.C.D. 13-2**

**January 24, 2013**

**EMPLOYER STATUS DETERMINATION**

**Iowa Traction Railway Company**

This is the determination of the Railroad Retirement Board concerning the status of Iowa Traction Railway Company (Iowa Railway), 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.).

Information regarding Iowa Railway was provided by Doug Whiteley, Chief Financial Officer of Progressive Rail, and James Matteson, a Director of Progressive Rail. The majority interest in Iowa Railway is owned by Progressive Rail, Inc. (BA No. 4651). The president of Progressive Rail, David J. Fellon, is also the president of Iowa Railway. Iowa Railway has three employees and began operations on October 1, 2012. According to Mr. Matteson, Iowa Railway is an electrically powered interurban railway operated as part of the general freight network on a line of road (approximately 10 miles) between Clear Lake, Iowa and Mason City, Iowa. Iowa Railway purchased substantially all the assets of Iowa Traction Railroad Company (Iowa Railroad, BA No. 3655). Iowa Railway hauls primarily petroleum products, scrap metals, soybeans, and soybean products and anticipates freight traffic of 2,500 to 3,000 carloads per year. This traffic is interchanged with the Canadian Pacific Railway and Union Pacific Railroad at Rorick Park, Iowa and Clear Lake Junction, Iowa, respectively.

In Surface Transportation Board Finance Docket No. 35670, Iowa Railway filed a notice of exemption to acquire from Iowa Railroad and to operate a rail line between Milepost No. 0.0 at Mason City, and Milepost 10.4 at Clear Lake, a distance of 10.4 miles in Cerro Gordo County, Iowa. This proceeding was related to Finance Docket No. 35671 in which Progressive Rail Incorporated concurrently filed a notice of exemption for its continuance in control of Iowa Railway when Iowa Railway became a rail carrier upon consummation of the transaction with Iowa Railroad. In addition, in Finance Docket No. 35677, Iowa Railway filed a notice of exemption to change operators from Iowa Railroad to Iowa Railway over a 3-mile rail line between milepost 152.5 and milepost 155.5 at Mason City, Iowa.

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;

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 Iowa Railway is a carrier operating in interstate commerce subject to STB jurisdiction. Accordingly, it is determined that Iowa Railway 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 October 1, 2012, the date it began operations.

Original signed by:

FOR THE BOARD  
Martha P. Rico  
Secretary to the Board