B.C.D. 00-60

DEC 1 8 2000

EMPLOYER STATUS DETERMINATION
Mid-Michigan Railroad, Inc. (MMRR) (B.A. 4268)
Dallas, Garland & Northeastern Railroad, Inc. (DGNO-Texas) (B.A. 3890)
Dallas, Garland & Northeastern Railroad, Inc. (DGNO-Delaware)

This is the determination of the Railroad Retirement Board concerning the status of the above-referenced entities as employers 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).

As set forth in Surface Transportation Board Finance Docket No.33809, decided October 25, 1999, Railtex, a non-carrier, changed its corporate family structure by unifying all of its class III railroads into Delaware corporations. This involved the assignment of the assets of DGNO (Texas) and MMRR, including the assets of the Texas Northeastern Railroad, a division of MMRR, to DGNO (Delaware). According to Ms. Kay Acuff, Payroll Supervisor, RailAmerica,[1] the DGNO (Texas) and MMRR assignment of assets to DGNO (Delaware) resulted in DGNO (Texas) becoming an inactive corporation and MMRR remaining an active corporation, except that MMRR's Texas Northeastern Railroad Division no longer exists as of September 30, 1999, the effective date of the assignment. Ms. Acuff further advised that all employees of the affected entities continue to perform service except that they are paid under a different federal identification number.

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.

The evidence of record establishes that DGNO (Delaware) is a rail carrier operating in interstate commerce by virtue of its taking over the operations of DGNO (Texas), an existing rail carrier employer under the Acts administered by the Board. Accordingly, it is determined that DGNO (Delaware) became 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 effective September 30, 1999, the date the

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[1]RailAmerica acquired direct control of RailTex and indirect control of RailTex's rail carrier subsidiaries by acquisition of all of the common stock of RailTex. See STB Finance Docket 33813, decided November 3, 1999.

assignment became effective. It is also determined that DGNO (Texas) is terminated as an employer covered under the Acts of September 30, 1999, the date on which its assets were assigned to DGNO (Delaware). MMRR remains a covered employer under the Acts since its operations continue to exist.

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