

**EMPLOYER STATUS DETERMINATION
Inland Lakes Railway**

This is the determination of the Railroad Retirement Board as to the employer status of Inland Lakes Railway (ILR) 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).

Information about ILR was provided by Mr. Neil W. Bagaus, General Manager of ILR. According to Mr. Bagaus, ILR, a Florida corporation owned by the Railstar Corporation, entered into a lease agreement¹ with Florida Central Railroad Company (FCRC), a covered employer under the Acts (B.A. No.2582) whereby ILR leases, on a non-exclusive basis, a portion of FCRC's rail line for the transportation of passenger traffic² as a tourist railroad. Surface Transportation Board (STB) approval for ILC's lease of the line was not sought, and there is no STB decision permitting ILR to operate. The leased portion of line runs from Eustis/Mount Dora, Florida, to Orlando, Florida.

According to Mr. Bagaus, Railstar owns all of ILC's equipment, except for four coaches which ILC leases from the Southwest Georgia Railroad Excursion Authority (d/b/a SAM Shortline). Of the eighteen employees³ ILR has, three were former employees of FCRC. ILC has obtained an Employer Identification Number (EIN) from the Internal Revenue Service. ILC began operations on October 22, 2005. ILC will interchange with no railroads, and does no business with any railroad carrier. Mr. Bagaus describes ILC as operating "excursion service year round. This includes dinner/lunch trains, excursions and charters". These excursions are detailed in

¹ The lease agreement submitted by Mr. Bagaus is undated, and only signed by ILC.

² The agreement between ILC and FCRC specifically does not include any freight transportation rights.

³ Seventeen of these employees are part-time; only one employee is full-time.

the brochures which Mr. Bagaus submitted, as well as on ILC's website. As of November 2007, ILC also offered train service from Eustis to Orlando for select Orlando Magic games.

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 [45 U.S.C. § 231 (a)(1)(i)].

Sections 1(a) and 1(b) of the Railroad Unemployment Insurance Act (45 U.S.C. §§ 351(a) and (b)) contain substantially the same definition, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

Part A of subchapter IV of Title 49 sets forth the provisions governing the jurisdiction of the Surface Transportation Board (STB) over rail transportation. It provides in pertinent part that the STB has jurisdiction over transportation by rail carrier to the extent that the transportation is in the United States and is between a place in a State and a place in the same or another State as part of the interstate rail network (49 U.S.C. §10501 (a)(2) (A)).

In this case, ILR is a carrier by rail, since it operates a passenger railway. However, ILR does not transport passengers from a place in one State to a place in the same or another State as part of the interstate rail network. Rather, it provides excursion service between two points entirely within one State. ILR does not interchange with any railroad, and does not "through-ticket" any passengers or freight onto any other rail carrier. Accordingly, it is the opinion of the Board

that ILR's operation of its tourist railroad is thus not subject to STB jurisdiction. Based upon the evidence of record, we find that ILR is not an employer under the RRA and the RUJA.

Original signed by:

Michael S. Schwartz

V. M. Speakman, Jr.

Jerome F. Kever