

EMPLOYER STATUS DETERMINATION
Georgia Southern Railway Company (GASR)

This is a determination of the Railroad Retirement Board concerning the status of Georgia Southern Railway Company (GASR) 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 GASR under the Acts has not previously been considered.

GASR is a privately held corporation owned by Pioneer Railcorp. Mr. Daniel A. LaKemper, GASR's General Counsel, supplied information regarding the formation and start of operations for GASR in a letter dated December 10, 2009. An update letter received from Mr. LaKemper on January 4, 2010 represented that GASR began operations on December 16, 2009. The first employees were compensated starting on that date.

In Surface Transportation Board (STB) Finance Docket No. 35322, decided November 24, 2009, GASR filed a verified notice of exemption to operate and lease several lines of track operated by Georgia Midland Railroad, Inc., and Heart of Georgia Railroad. The Georgia Midland Railroad track is owned by Norfolk Southern and includes lines between milepost (MP) N-219.7 near Fort Valley, Georgia and MP 232.6 near Perry, Georgia; between MP 95.5FV near Roberta, Georgia and MP 105.3FV near Fort Valley, Georgia; between MP W-57.5 near Dover, Georgia and MP W-86.7 near Metter, Georgia. In addition to these lines, GASR will perform contract services for Heart of Georgia Railroad on a line of track between MP 194.64 near Midville, Georgia and MP 152.2 near Vidalia, Georgia. In all, GASR will be operating on approximately 94.3 miles of track. GASR will interchange exclusively with Norfolk Southern on behalf of customers located along the track described above.

According to documents provided, the exemptions filed with the STB became effective on December 16, 2009. GASR began operations on December 16, 2009 and will handle freight with revenues that will not result in GASR becoming a Class I or Class II rail carrier. GASR anticipates total freight volume of 3,000 carloads. GASR does not anticipate any passenger operations.

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 GASR is a rail carrier operating in interstate commerce. Accordingly, it is determined that Georgia Southern Railway Company 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 December 16, 2009, the date on which GASR began operations.

Original signed by:

FOR THE BOARD
Beatrice Ezerski
Secretary to the Board