

B.C.D. 12-16
EMPLOYER STATUS DETERMINATION
Saginaw Bay Southern Railway Company

May 15, 2012

This is the decision of the Railroad Retirement Board regarding the continued status of the Saginaw Bay Southern Railway, (SBS) (B.A. No. 2285) 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).

In a letter dated January 6, 2012, Attorney Thomas J. Litwiler, attorney for Lake State Railway Company (LSRC), advised the agency that on January 1, 2012, SBS was merged with and into LSRC (B.A. No. 3289). Copies of the Agreement and Plan of Merger as well as the Surface Transportation Board (STB) decision of November 22, 2011 were provided.

According to the STB decision (STB Docket Finance Docket No. 35561, decided November 22, 2011), the purpose of the transaction was to simplify the corporate structure and reduce overhead costs and duplication by combining the two separate rail carrier corporations. The STB decision noted that the parties stated that the transaction would not result in adverse changes in service levels, significant operational changes, or any change in the competitive balance with carriers outside the corporate family.

Attorney Litwiler's letter states LSRC previously provided all service on the lines of SBS as a contract operator to SBS. Those contract operations on SBS's behalf ceased on December 31, 2011, SBS's last day of corporate existence. The Agreement and Plan of Merger shows that SBS merged into LSRC, with LSRC as the surviving entity. Following the merger, the separate existence of SBS ceased and LSRC assumed all of SBS's property, rights, responsibilities and obligations. The merger became effective on January 1, 2012. According to Attorney Litwiler, the merger of SBS into LSRC has resulted in no changes in operations. LSRC now operates approximately 299 miles of rail line in the State of Michigan, of which approximately 74 miles are former SBS lines. SBS did not have any employees at the time of the merger. LSRC has 67 employees and this is unchanged from prior to the SBS merger.

Section 202.11 (20 CFR §202.11) of the Board's regulations states, "The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status." The evidence of record establishes that SBS no longer possesses the characteristics of an operating railroad company covered under the RRA and the RUIA. Accordingly, it is determined that SBS ceased to be an employer under the Railroad Retirement Act and Railroad Unemployment Insurance Act effective with the close of business December 31, 2011, its last day of operation and its last day of existence prior to the effective date of the merger.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board