

EMPLOYER STATUS DETERMINATION**Columbus & Chattahoochee Railroad, Inc. (CCR)**

This is a determination of the Railroad Retirement Board concerning the status of Columbus & Chattahoochee Railroad, Inc. (CCR) 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 CCR under the Acts has not previously been considered.

CCR is 100% owned by Genesee & Wyoming, Inc. (GWI - BA#9229). GWI has been ruled to be covered under the RRA and RUIA. Mr. Eric Hocky, the corporate counsel for CCR, provided information on CCR's operations and corporate structure. Mr. Hocky provided information in a response dated August 8, 2012 to an Audit and Compliance questionnaire and provided the Surface Transportation Board (STB) decision authorizing CCR's operations as an enclosure. Mr. Hocky represented that CCR first compensated employees June 4, 2012, and commenced operations on July 1, 2012. CCR's corporate office is in Jacksonville, Florida.

The Surface Transportation Board (STB) in Finance Docket 35620 ruled May 8, 2012 in favor of CCR's verified notice of exemption to lease and operate 25.50 miles of rail line from Norfolk Southern Railway Company (NSR). The leased rail line consists of two segments: (1) between milepost S 292.8 near Girard, Alabama and milepost S 303.9 near Nuckols, Alabama, a distance of 11.10 miles; and (2) between milepost NU 0 near Nuckols, Alabama and milepost NU 14.4 near Mahart, Alabama, a distance of 14.40 miles. CCR will provide freight rail service over the line connecting with and interchanging traffic with NSR at NSR's Columbus Yard in Columbus, Georgia. The line will indirectly connect with Georgia Southern Railroad, Inc. (GSWR) which is also owned by GWI. There are no interchange commitments to NSR as part of the lease transaction.

The projected revenues of CCR will not exceed those that would qualify it as a Class III rail carrier. CCR has 26 employees. Mr. Hocky also reported that CCR had not hired any employees of NSR. CCR will provide freight service over the line and interchange traffic with NSR .

Section 1(a)(1)(i) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)(i)), 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 CCR is a rail carrier operating in interstate commerce. Accordingly, it is determined that Columbus & Chattahoochee Railroad, Inc. 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 June 4, 2012, the date CCR first began compensating employees. Cf. Rev. Rul. 82-100, 1982-01 C.B. 155, wherein the IRS ruled that a company becomes an employer subject to RRTA taxes on the date the company first hires employees to perform functions directly related to its carrier operations.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board