

EMPLOYER STATUS DETERMINATION**Central Columbiana & Pennsylvania Railway, Inc. (CCPR)**

This is a determination of the Railroad Retirement Board concerning the continuing status of Central Columbiana & Pennsylvania Railway, Inc. (CCPR) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.) (collectively, the “Acts”).

CCPR (B.A. # 2275) has been an employer under the Railroad Retirement Act and Railroad Unemployment Insurance Act since March 1, 2001, the date on which CCPR began rail operations.

The latest coverage information in the file for CCPR indicates that Attorney Richard L. Cox was the Chapter 11 Trustee for the CCPR bankruptcy estate. He served a letter dated February 5, 2009 on the Board informing the Board that the Chapter 11 bankruptcy proceeding was being converted to a Chapter 7 liquidation. He also enclosed documents indicating the sale of CCPR’s bankruptcy estate property to Eastern States Railroad (ESR). ESR was determined not to be covered under the “Acts” in B.C.D. 08-14 issued March 13, 2008. According to information from Mr. Cox’s office, ESR disputed the sale. The Board’s Audit and Compliance Division recently obtained information that the bankruptcy proceedings finally closed on August 3, 2011. The Board was able to obtain docket entries from the United States Bankruptcy Court for the Eastern District of Arkansas Little Rock Division. These docket entries provided proof of the sale of property to ESR, the conversion of the case from a Chapter 11 to a Chapter 7 Bankruptcy, and the date of entry of the Trustee’s Final Report on December 1, 2010. The Final Report contains exhibits which demonstrate that all assets of CCPR have been distributed. The Board finds that these docket entries demonstrate that CCPR no longer possesses the assets necessary to function as a railroad employer.

Section 202.11 (20 CFR 202.11) of the Board’s regulations states that:

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.

Information in our coverage files indicates that CCPR was formed to operate a railroad and leased 35.7 miles of track from the Columbiana Port Authority (CCPA) and began operations March 1, 2001. CCPR entered into Chapter 7 liquidation bankruptcy in which all assets of the corporation were sold to ESR. CCPR was found to be covered under the Acts in B.C.D. 01-52. The evidence of record establishes that CCPR has not operated as a railroad carrier and does not retain the ability to do so since the Chapter 7 liquidation bankruptcy was final on August 3, 2011 (with a Trustee's Final Report filed December 1, 2010). CCPR has not functioned as a rail carrier since that date and no longer possesses the characteristics of a railroad carrier employer.

The Board therefore finds that effective August 3, 2011, the date that CCPR was dissolved through bankruptcy, Central Columbiana and Pennsylvania Railway, Inc. ceased being a covered employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board