

## EMPLOYER STATUS DETERMINATION

Georgia Midland Railroad, Inc.

This is the decision of the Railroad Retirement Board regarding the continued status of Georgia Midland Railroad, Inc. (GMR) (B.A. No. 5593) 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 Board Coverage Decision (B.C.D.) 04-44 we found GMR to be an employer under the Acts as of February 21, 2004, the first day of the month in which it commenced operations and first compensated employees. According to information provided at the time, GMR took over rail operations of the Ogeechee Railway Company (BA. No. 5525) on February 21, 2004, pursuant to a lease agreement wherein GMC leases from Ogeechee all track and equipment with an option to buy. GMR was wholly owned by Atlantic Western Transportation, Inc., a non-carrier. Surface Transportation Board (STB) authority for this operation was set forth in STB Finance Docket No. 34466, decided March 4, 2004.

In B.C.D. 04-44 we found that the evidence of record showed that GMR was a rail carrier operating in interstate commerce. Accordingly, it was determined that Georgia Midland Railroad, Inc. 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 February 21, 2004, the date on which GMR began operations and first compensated employees.

Review of the documentation in file indicates that in response to the March 29, 2012 request for the annual report of the creditable service and compensation of employees who performed compensated service in 2011, a facsimile was received by the agency stating that we no longer own Georgia Midland Railroad, we sold it in 2010 & the only payroll for that year was in 1<sup>st</sup> quarter. We do not have anything to report for 2011.

The agency also received a copy of the “Agreement for Assignment of Leases and Related Transactions”, signed November 12, 2009, which states, in pertinent part, that GMR agrees to sell its assets to Georgia Southern Railway Co. (GASR) (B.A. No. 5409) and assigns to GASR any and all rights related to the Perry Rail Line, the Roberta Rail, Line, and the Metter Rail Line, including any and all trackage rights, haulage rights, interchange agreements, easements, licenses, industry track

agreements, operating rights, leasehold interests, car storage agreements, and any other rights associated with the rail lines.

The evidence of record establishes that GMR no longer possesses the characteristics of a railroad employer. The Board therefore finds that effective December 16, 2009, the date of the closing of the Agreement, Georgia Midland Railroad, 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