

EMPLOYER STATUS DETERMINATION**Pecos Valley Permian Railroad, LLC (PVR)****d/b/a Pecos Valley Southern Railway Company**

This is the determination of the Railroad Retirement Board concerning the status of Pecos Valley Permian Railroad, LLC (PVR) d/b/a Pecos Valley Southern Railway Company, 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.).

Information regarding PVR was provided by Craig Richey, Executive Vice President and General Counsel to the company that owns PVR, Watco Transportation Service, LLC (BA No. 9848). Watco Transportation Service is owned by Watco Companies, LLC which in turn owns 27 other railroad companies, most of which are employers covered by the Acts. According to Mr. Richey, PVR has two employees and began compensating them as of September 1, 2012, the date that PVR began operations. PVR leases the line from Pecos Valley Southern Railroad Company (PVS) (BA No. 3836) and acquired locomotive, trucks, hi-rail and small tools from Pecos Valley Southern Railway Company. Mr. Richey states that PVR will operate 19 miles of track in Pecos, Texas and will interchange with Union Pacific Railroad. One hundred percent of the business revenue will be from providing rail freight service to Union Pacific. PVR anticipates a volume of 2080 loaded railcars per year.

There are two concurrent Surface Transportation Board decisions related to PVR. In STB Finance Docket No. 35636, PVR filed a notice of exemption to lease from PVS and operate 24 miles of rail line located between milepost 0.0 at Pecos, Texas and milepost 24.0, north of Saragosa, Texas. A result of the approval, PVR will provide common carrier rail service over the rail lines owned by PVS between Pecos and Saragosa and its projected annual revenues will not result in PVR's becoming a Class II or Class I rail carrier. In STB Finance Docket No. 35637, Watco Holdings, Inc. (Watco) filed a verified notice of exemption to continue in control of PVR¹ upon PVR's becoming a Class III rail carrier. Watco states that the purpose of the transaction is to reduce the overhead expenses, coordinate billing, maintenance, mechanical, and personnel policies and practices of its rail carrier subsidiaries and thereby improve the overall efficiency of rail service provided by the railroads in the Watco corporate family.

¹ The STB decision notes that the company is Pecos Valley Permian Railroad, LLC d/b/a Pecos Valley Southern Railway Company and that it is indirectly 100% owned by Watco Holdings, Inc.

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;

Sections 1(a) and 1(b) of the Railroad Unemployment Insurance Act (45 U.S.C. §§ 351(a) and (b)) contain substantially similar definitions, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

The evidence of record establishes that PVR is a carrier operating in interstate commerce subject to STB jurisdiction. Accordingly, it is determined that PVR is 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 as of September 1, 2012, the date it began operations.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board