

B.C.D. 13-07

March 20, 2013

EMPLOYER STATUS DETERMINATION

Adams-Warnock Railway, Inc.

This is the determination of the Railroad Retirement Board concerning the status of Adams-Warnock Railway, Inc. (AWRY), 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 AWRY was supplied in a memo from Kimball Warnock, chief executive officer, signed by Joy Padgett. Kimball Warnock is also the owner of AWRY. Operations began on August 1, 2012 and AWRY began compensating six employees as of August 9, 2012. According to the information provided, AWRY serves as a switching service for Norfolk Southern Railway Company. It operates the Brampton Lead Track beginning just beyond milepost FL 5.5 and extending 5,684 feet. AWRY receives rail cars from Norfolk Southern daily and places cars at local industries. AWRY then pulls cars from industries and releases them back to Norfolk Southern at a set interchange point. AWRY did not acquire its line of railroad from another railroad and does not have any affiliated companies.

In Surface Transportation Board Finance Docket No. 35614, AWRY filed a notice of exemption to lease from Norfolk Southern and to operate a line of railroad referred to as the Brampton Lead, beginning just beyond the northernmost turnout switch at Norfolk Southern milepost FL 5.5 and extending approximately 5,684 feet in a (generally) northeasterly direction to the end of the track adjacent to the Savannah River in Garden City, Georgia. In the STB notice of exemption, AWRY notes that all turnouts on the line east of the Norfolk Southern milepost FL 5.5 junction and all side and storage tracks that are connected to the line will be included in the lease agreement. AWRY also points out that it will interchange traffic with Norfolk Southern at Garden City.

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 AWRY is a carrier operating in interstate commerce subject to STB jurisdiction. Accordingly, it is determined that AWRY 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 August 1, 2012, the date it began operations.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board