

B.C.D. 13-19

July 19, 2013

**EMPLOYER STATUS DETERMINATION
Heart of Texas Railroad, LP (HTR)**

This is a determination of the Railroad Retirement Board concerning the status of Heart of Texas Railroad, LP (HTR) 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.).

In Surface Transportation Board (STB) Finance Docket No. 35710, decided January 2, 2013, HTR filed a verified notice of exemption to acquire from Gulf Colorado & San Saba Railway Company (GCSR)(BA No. 3891) and to operate approximately 67.5 miles of rail line between milepost 0.0 at Lometa, Texas and milepost 67.5 at Brady, in Lampasas, Mills, San Saba and McCulloch Counties, Texas.

Information regarding HTR was furnished by Mr. Bruce L. James, attorney for HTR. In a letter dated February 6, 2013, Mr. James stated that the general partner of HTR is a Texas limited liability company, Heart of Texas Railroad Services, LLC (HTRS). Mr. James stated that HTR has no Chief Executive Officer designation. Mr. James stated that the Chairman of the LLC serving as general partner is Mr. Gerald C. Nobles, Jr., the President is Mr. Jason Jacoby, and the Vice-President is Mr. James himself. Mr. James identified the limited partners of HTRS as Mr. Nobles, Mr. Jacoby, Mr. James and Mr. J. Riley King. According to Mr. James, HTR was organized on December 10, 2012 and began railroad operations on January 29, 2013 after acquiring the assets of a bankrupt entity. HTR has approximately 69 miles of track. The terminal point is in Brady, Texas, and HTR interchanges in Lometa, Texas, which is a Burlington Northern Santa Fe Railroad Company (BNSF) (BA No. 1621) terminal in which HTR has operating rights. Mr. James stated that HTR has four full time employees who were first compensated on January 29, 2013. As stated previously, HTR interchanges with BNSF. Mr. James stated that HTR is a short line railroad with freight traffic only. Mr. James indicated that HTR is expected to move approximately 4000 to 5000 rail cars mostly containing fracking sand products.

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.

Section 1 of the RUIA contains essentially the same definition. (45 U.S.C. § 351).

The evidence of record establishes that HTR is a rail carrier operating in interstate commerce. Accordingly, it is determined that the Heart of Texas Railroad, LP (HTR) 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 January 29, 2013, the date as of which it commenced operations and its four employees were first compensated.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board