

B.C.D. 13-28

September 18, 2013

**EMPLOYER STATUS DETERMINATION
Aiken Railway Company, LLC (AIKR)**

This is a determination of the Railroad Retirement Board concerning the status of Aiken Railway Company, LLC (AIKR) 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). The status of AIKR under the Acts has not previously been considered.

Information about AIKR was provided by Mr. J. Marshall Lawson, Counsel for AIKR. In a letter dated November 26, 2012, Mr. Lawson stated that AIKR is owned by Western Carolina Railway Services Corporation, which also owns Greenville & Western Railway Company, LLC (BA 5403); Letchworth Properties, LLC; and Western Carolina Railway Consulting Services, LLC. Mr. Lawson also stated that AIKR began operations on December 1, 2012, and will operate Monday through Friday, serving customers as needed. Freight volume is expected to total approximately 1,200 car-loadings per year. AIKR does not plan to hire any employees at this time; Greenville & Western Railway Company, LLC (an employer covered under the Acts) anticipates hiring two full-time employees to serve AIKR's operational needs.

In Surface Transportation Board (STB) Docket No. FD 35665, decided November 13, 2012, AIKR filed a verified notice of exemption under 49 C.F.R. §1150.31 to lease and operate two segments of rail line from Norfolk Southern Railway Company (NSR). AIKR will interchange with NSR, and 100% of its total business time will be spent doing business with NSR.

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 (45 U.S.C. § 351) contains essentially the same definition, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

The evidence of record establishes that AIKR is a rail carrier operating in interstate commerce. Accordingly, it is determined that Aiken Railway Company, LLC

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 December 1, 2012, the date on which AIKR began operations.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board