

B.C.D. 13-45

December 13, 2013

**EMPLOYER STATUS DETERMINATION
Cleveland Harbor Belt Railroad, LLC (CHB)**

This is a determination of the Railroad Retirement Board concerning the status of Cleveland Harbor Belt Railroad, LLC (CHB) 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 CHB under the Acts has not previously been considered.

CHB is 100% owned by Cleveland Commercial Rail Lines, LLC (CCRL - BA#4281) which has been ruled to be covered under the RRA and RUIA. Mr. William D. Brown, the Chief Financial Officer for both CHB and CCRL, provided information on CHB's operations and corporate structure. Mr. Brown provided information in responses dated July 9, 2012 and May 11, 2013 to an Audit and Compliance questionnaire and provided the Surface Transportation Board (STB) decision regarding CHB's operations as an enclosure. Mr. Brown represented that CHB commenced operations on August 1, 2012. CHB's corporate office is in Glenwillow, Ohio.

Authority for CHB's Operations is found in Surface Transportation Board (STB) Finance Docket 35624 decided May 21, 2012. Therein, CHB file a verified notice of exemption to operate approximately 1.0 mile of terminal railroad trackage currently owned by Cleveland-Cuyahoga County Port Authority and operated as exempt private trackage by CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway (NS). CHB replaced service previously provided by both NS and CSXT. CHB operates as part of an expanded port facility. This transaction was filed jointly with STB Finance Docket 35623 in which CCRL sought to continue in control of CHB upon CHB's becoming a Class III rail carrier. There are no mileposts on the line and the line terminates at the gate of the port.

CHB provides freight rail service for customers as a switching line at the Port of Cleveland and interchanges with CSX and NS. Expected traffic for the first year of operation will be hard to quantify due to the brand new nature of the expanded Port at Cleveland; however CHB certified to the STB in Finance Docket No. 35624 that projected annual revenue and carloads as a result for this transaction will not result in CHB becoming a class I or Class II carrier.

Section 1(a)(1)(i) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)(i)), 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 CHB is a rail carrier operating in interstate commerce. Accordingly, it is determined that Cleveland Harbor Belt Railroad, LLC 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 August 1, 2012, the date CHB first began operations.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board