

**EMPLOYER STATUS DETERMINATION  
Twin State Railroad Company (TSRC)**

This is a determination of the Railroad Retirement Board concerning the status of Twin State Railroad Company (TSRC) 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.).

TSRC (BA No. 3115) has been an employer under the Railroad Retirement Act and Railroad Unemployment Insurance Act since June 1, 1984, the first day of the month in which TSRC commenced operations, as found in Board Notice 86-17 on March 17, 1986.

TSRC formerly leased and operated a line of railroad approximately 28.15 miles in length between St. Johnsbury, Vermont and Whitefield, New Hampshire. This lease was originally approved by Interstate Commerce Commission Finance Docket No. 29720 (Sub-No. 1) (ICC served May 22, 1984). Clyde S. Forbes, an officer of TSRC, indicated in a letter on August 8, 2006 that TSRC operations ceased on October 1, 1999, and that TSRC employees had last been compensated on October 31, 2001. Although Mr. Forbes' letter stated TSRC had not formally been dissolved, records from the New Hampshire Secretary of State show that TSRC's corporate status has been in administrative suspension since December 16, 2003 for failure to file annual reports.

Subsequent to the administrative suspension, TSRC filed a notice of exemption with the Surface Transportation Board (STB) to abandon the line, which was conditionally granted in STB Docket No. AB-862X on October 12, 2004. However, the Maine Central Railroad Company and State of New Hampshire as lessors to TSRC had previously filed an adverse application for discontinuance of TSRC operations over the leased line on December 10, 2002 (STB Finance Docket No. AB-848). Consistent with Mr. Forbes' statements, this adverse application stated that TSRC had not provided service on the line since October 1999. On November 17, 2005, in connection with civil litigation in the United States District Court for the District of Massachusetts, the Surface Transportation Board granted TSRC authority to discontinue operations over the line, effective November 18, 2005.

Railroad Retirement Board regulations at 20 CFR §202.11 state that:

The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

Board regulations at 20 CFR §202.12(b) indicate that "...stoppage of business or operations; ... the effective date of a certificate permitting abandonment; ... [and] discharge of last employee..." are included among the types of evidence to be considered when determining whether cessation of an essential characteristic has occurred. However, 20 CFR §202.12(a) states that "consideration will be given only to those events or actions which evidence a final or complete cessation."

The evidence of record establishes that TSRC no longer possesses the characteristics of an operating railroad company. However, the evidence does not establish that TSRC intended a permanent cessation of operations as of October 1999. Instead, TSRC continued to pay employees for two more years, compensating its last employee on October 31, 2001. Moreover, TSRC was not granted final authority to discontinue operations by the Surface Transportation Board until November 18, 2005. Therefore, the Board finds that effective November 18, 2005, the date TSRC was granted authority by the Surface Transportation Board to discontinue operations, TSRC ceased being a covered employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

Original signed by:

FOR THE BOARD  
Martha P. Rico  
Secretary to the Board