

EMPLOYER STATUS DETERMINATION**TransDistribution Brookfield Railroad Company (TBRC)**

This is a determination of the Railroad Retirement Board concerning the status of TransDistribution Brookfield Railroad Company (TBRC) 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.). The status of TBRC under the Acts has not previously been considered.

The counsel for TBRC, David C. Dillon, of Dillon & Nash, Ltd., provided information regarding the formation and start of operations for TBRC. TBRC is a subsidiary corporation of TransDistribution, Inc. and sister company to TransDistribution Ridgeland Railroad Company, LLC.¹ TBRC is owned and controlled by TransDistribution, Inc. a non-railroad employer under the Acts. Mr. Dillon stated that George Van Denand currently serves as the Chief Executive Officer of TBRC and TBRC began operations on January 1, 2015. Mr. Dillon further states that there are currently two employees of TBRC and they were first compensated in January of 2015. TBRC is a terminal switching carrier for inbound rail cars from Burlington Northern and Santa Fe Railroad (B.A. No. 1621) of bulk sugar product for transloading. TBRC provides 100% of its services to BNSF.

In Surface Transportation Board Finance Docket No. 35890, decided December 23, 2014, TBRC filed a Verified Notice of Exemption to acquire from Sweetener Supply Company (SSC), Inc., a noncarrier, and to operate, approximately 2,450 feet (0.46mile) of rail line referred to as the Brookfield Transloading Facility trackage in Brookfield, Illinois. There are no mileposts on the line. The filing also states that the line is currently owned by Spy Glass Illinois, Inc. and that it leases the facility and trackage to SSC for the transloading of bulk sugar products. TBRC also indicates in the filing that the line is being used to interchange with BNSF and certifies that its projected annual revenues will not exceed those that would qualify it as a Class III rail carrier and will not exceed \$5 million.

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.

¹ The determination as to whether TransDistribution Ridgeland Railroad Company, LLC is a covered employer under both Acts is currently pending before the Board.

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 TBRC is a rail carrier operating in interstate commerce. Accordingly, the Board finds that TransDistribution Brookfield Railroad Company became an employer within the meaning of section 1(a)(1) of the Railroad Retirement Act and Section 1 of the Railroad Unemployment Insurance Act effective January 1, 2015, the date on which TBRC began operations.

Original signed by:

FOR THE BOARD

Martha P. Rico

Secretary to the Board