

B.C.D. 16-08

March 7, 2016

EMPLOYER STATUS DETERMINATION

Wisconsin Central Limited (WCL)

Elgin, Joliet and Eastern Railway Company (EJ&E)

Wisconsin Central Transportation Corporation (WCTC)

This is a determination of the Railroad Retirement Board concerning the continued status of the Wisconsin Central Limited (WCL) and Elgin, Joliet and Eastern Railway Company (EJ&E), as employers 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). Previously, both railroads have been determined to be covered under the Acts. This decision will also address the coverage status of Wisconsin Central Transportation Corporation, which has not previously been held covered under the Acts.

WCL was ruled to be a covered entity in BCD 87-59 decided November 30, 1987. WCL was assigned BA # 2633 and was found to be covered starting October 11, 1987, which was the date operations began and employees were first compensated.

EJ&E was ruled to be a covered entity in BCD 09-74 decided December 3, 2009. EJ&E was assigned BA # 3397 and was found to be covered starting February 1, 2009, which was the date operations began¹.

Wisconsin Central Limited and Elgin, Joliet and Eastern Railway Merger

Mr. Thomas J. Healey, Counsel to Canadian National, provided the latest coverage information in the file for both WCL and EJ&E. The information indicates that in STB Finance Docket Number 35630, the Surface Transportation Board (STB) approved a merger for WCL and EJ&E to merge into one entity. The STB decision is dated September 5, 2012. WCL and EJ&E merged into one corporate entity which was named Wisconsin Central Transportation Corporation (WCTC).

WCL was a direct subsidiary of WCTC, and WCTC is a direct subsidiary of Grand Trunk Corporation. EJ&E was a direct subsidiary of Grand Trunk Corporation. Grand Trunk Corporation is itself a direct subsidiary of Canadian National Railway Company (CNR, BA#1103). The merger was effective January 1, 2013 and upon the merger the surviving entity was Wisconsin Central Ltd. The name remained as Wisconsin Central Ltd.

Common carrier operations for EJ&E ceased on December 31, 2012. Mr. Healey reports that the new WCL took over operations for EJ&E on January 1, 2013. EJ&E was a covered railroad from its inception date to the date the merger with the new WCL was effective, January 1, 2013.

Wisconsin Central Limited and Wisconsin Central Transportation Corp. Merger

Mr. Healey provided information on the merger between Wisconsin Central Limited and Wisconsin Central Transportation Corporation. Mr. Healey reports that no separate Surface Transportation Board authority was required for this merger and that the merger was also addressed by STB Finance Docket 35630, dated September 5, 2012. Wisconsin Central Limited was a wholly-owned subsidiary of Wisconsin Central Transportation Corporation. Upon completion of the merger, effective April 1, 2013, WCL was merged into WCTC, its parent corporation and, at the conclusion of the merger, the surviving entity previously named WCTC would change its name to Wisconsin Central Ltd., but retain the tax ID number of WCTC. Upon the date of merger, WCTC (now known as WCL) assumed all responsibility for debts, obligations, and duties of the former WCL and former EJ&E.

Common carrier operations for the old WCL ceased on March 31, 2013. Further, the new WCL took over operations for the old WCL on April 1, 2013. Information in the coverage files indicates that WCL served as a covered railroad from its date of inception to the date the merger into the new WCL was effective, April 1, 2013.

Section 202.11 (20 CFR 202.11) of the Board's regulations states 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.

Elgin, Joliet and Eastern Railway Status

The evidence of record establishes that EJ&E has not functioned as a rail carrier since the date of the merger and no longer possesses the characteristics of a railroad carrier employer. The Board also finds that effective January 1, 2013, the Elgin, Joliet & Eastern Railway Company ceased operations and ceased being a

covered employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

Wisconsin Central Limited Status

The evidence of record establishes that the old WCL has not functioned as a rail carrier since the date of the merger and no longer possesses the characteristics of a railroad carrier employer. The Board therefore finds that effective April 1, 2013 Wisconsin Central Ltd. ceased operations and ceased being a covered employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

Wisconsin Central Transportation Corporation Status

Finally, the Board finds that as of April 1, 2013, the Wisconsin Central Transportation Company (now known as the “new” Wisconsin Central Limited) assumed all operations previously conducted by the “old” Wisconsin Central Limited including common carrier service between points in Wisconsin, Michigan, Indiana, Illinois, and Minnesota. As of July 1, 2013, Mr. Healey reports that the new WCL has approximately 1,830 employees. Mr. Healey further reports that the new WCL acquired all of the old WCL’s assets. In STB Finance Docket 35630, dated September 5, 2012, the new WCL verified to the STB that the new WCL would inherit the obligations of EJ&E upon completion of the intra-corporate merger.

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 in taking over the covered railroad operations of EJ&E and the old WCL, the new Wisconsin Central Ltd. is a rail carrier operating in interstate commerce. Accordingly, it is determined that the new Wisconsin Central Ltd. 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 April 1, 2013, the date Wisconsin Central Ltd. assumed the operations and obligations of the old WCL and the EJ&E that was merged into the old WCL.

Original signed by:

Walter A. Barrows

Steven J. Anthony

ⁱ EJ&E has been a railroad entity covered under the Acts since 1881 using BA#1309. The majority of the “old” EJ&E assets were sold to Canadian National Railway Company (CNR, BA#1103) in a transaction approved by the Surface Transportation Board in FD No.35087 decided December 24, 2008. The current transaction only involves the remaining EJ&E assets and operations not previously transferred to CNR.