

**B.C.D. 16-11**  
**EMPLOYER STATUS DETERMINATION**  
**Port Rail, Inc. (PTRI)**

**June 28, 2016**

This is a determination of the Railroad Retirement Board concerning the status of Port Rail, Inc. (PTRI) 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 PTRI under the Acts has not previously been considered.

PTRI is an independent corporation with no partners or outside interested parties. The Chief Executive Officer is Derek W. Midkiff, who provided information on PTRI's operations and structure. Mr. Midkiff provided information in a response dated April 22, 2015 to an Audit and Compliance questionnaire and provided a copy of the Surface Transportation Board (STB) decision regarding PTRI's operations as an enclosure. In a follow-up correspondence, Mr. Midkiff represented that PTRI commenced operations on April 27, 2015.

Records filed with the Louisiana Secretary of State show that PTRI previously used the name of Port Rail Link, Inc. and that the company name was changed to Port Rail, Inc. on February 2, 2012 through an amendment to its articles of incorporation changing its corporate name.

PTRI's corporate office and address is in Lake Charles, Louisiana. Mr. Midkiff advised that PTRI will provide manifest and unit train interchanging between facilities at the Port of Lake Charles, Lake Charles City Docks, and the Union Pacific from UP's Mallard Junction Yard.

The Surface Transportation Board (STB) in Finance Docket 35570<sup>1</sup> decided November 25, 2011 in favor of PTRI's verified notice of exemption to acquire by lease approximately 5.1 miles of rail line from the Union Pacific Railroad Company, the Lake Charles Harbor and the Terminal District (the District), the operator of the Port of Lake Charles (the Port). The acquired rail line consists of 2.3 miles of rail line leased from Union Pacific between mileposts 9.45 and 7.15 at or near Harbor Yard at Lake Charles and 2.8 miles of rail line leased from

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<sup>1</sup> The former name of Port Rail Link, Inc. was used in the STB decision because that decision was issued in 2011 before the company changed its name.

the Lake Charles Harbor and Terminal District at or near the City Docks of the Port.

The projected revenues of PTRI will not exceed those that would qualify it as a Class III rail carrier. PTRI operates the lines of track as common carrier tracks. PTRI has 6 employees who began to be compensated April 6, 2015.

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 PTRI is a rail carrier operating in interstate commerce. Accordingly, it is determined that Port Rail, Inc. 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 6, 2015, the date PTRI first compensated employees. Cf. Rev. Rul. 82-100, 1982-01 C.B. 155, wherein the IRS ruled that a company becomes an employer subject to RRTA taxes on the date the company first hires employees to perform functions directly related to its carrier operations.

Original signed by:

FOR THE BOARD  
Martha P. Rico  
Secretary to the Board