

B.C.D. 16-15

June 28, 2016

EMPLOYER STATUS DETERMINATION

West Belt Railway, LLC (WBRL)

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

WBRL is solely owned by SR Transportation Holdings, LLC. The Chief Executive Officer is David C. Eyermann, President and CEO. The information on WBRL's operation and structure was provided by WBRL's legal counsel, Thomas McFarland. Mr. McFarland provided information in a response dated December 4, 2015 to an Audit and Compliance questionnaire and provided a copy of the Surface Transportation Board (STB) decisions regarding WBRL's operations as an enclosure. Mr. McFarland stated that WBRL began rail operations and first compensated its nine employees on December 1, 2015. He stated that WBRL provides freight transportation and engineering services for customers located on its leased rail line, including switching railcars to and from the Terminal Railroad Association of St. Louis (TRRA) (B.A. No. 4819) customers and any customer-specific switching. WBRL also offers storage, repair, and cleaning of railcars and engineering services. WBRL expects to transport approximately 5,500 carloads per year.

In decisions issued on November 6, 2015 and December 1, 2015 (Finance Docket 35972), the Surface Transportation Board approved WBRL's verified notice of exemption to operate, pursuant to a Lease agreement dated October 14, 2015, approximately 9.66 miles of rail line from the Terminal Railroad Association of St. Louis. The rail line consists of two segments: the West Belt Industry Lead (WBIL) from milepost 1.07 at Adelaide Avenue to the end of the track at milepost 9.54 and the Central Belt Industrial Lead from the point of connection with the WBIL at milepost 9.54 to the end of the track, all located in the city of St. Louis, Missouri. The projected revenues of WBRL will not exceed those that would qualify it as a Class III rail carrier. WBRL has nine employees who began to be compensated December 1, 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 WBRL is a rail carrier operating in interstate commerce. Accordingly, it is determined that West Belt Railway, 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 December 1, 2015, the date WBRL began rail operations and first compensated its employees. See, 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