

B.C.D. 16-21

September 12, 2016

EMPLOYER STATUS DETERMINATION

The Great Lake Port Corporation, d/b/a Grand River Railway (GRR)

This is a determination of the Railroad Retirement Board concerning the status of The Great Lake Port Corporation, d/b/a Grand River Railway (GRR) 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 GRR under the Acts has not previously been considered.

David Kelsch, the Secretary-Treasurer and one of the three owners of GRR provided information regarding the formation and start of operations for GRR. In a letter dated July 12, 2015, Mr. Kelsch stated that GRR began operations on June 18, 2015, although the three owners were the only personnel performing service at the time operations began and GRR had not begun compensating any employees. Mr. Kelsch estimated that GRR's annual freight volume would be 750 carloads in 2015, 1,800 carloads in 2016, 2,800 carloads in 2017, and 3,000 carloads in 2018. GRR interchanges with CSX Transportation Incorporated (CSXT) (BA# 1524).

In Surface Transportation Board Finance Docket No. 35888, GRR filed a Verified Notice of Exemption on December 8, 2014 to acquire from CSXT and operate along approximately 2.56 miles of track between former B&O Valuation Station 2535+40 in Painesville, Ohio and former Conrail Valuation Station 45+01 at Grand River in Lake County, Ohio. This line was abandoned by CSXT in 2004. GRR indicated in its filing that its projected annual revenues would not exceed \$5 million. GRR also filed a petition to waive the provision of 49 CFR §1150.32(b) that an exemption becomes effective 30 days after the filing of the verified notice. In an initial decision dated December 17, 2014, the Surface Transportation Board granted GRR's request for exemption effective January 7, 2015. Subsequently, in a separate decision issued on December 23, 2014, the Surface Transportation Board approved GRR's petition for waiver and allowed GRR's exemption to become effective on December 26, 2014.

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.

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 GRR is a rail carrier operating in interstate commerce. Accordingly, the Board finds that The Great Lake Port Corporation, d/b/a/ Grand River Railway, 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 June 18, 2015, the date GRR began operations.

Original signed by:

FOR THE BOARD

Martha P. Rico

Secretary to the Board