

**EMPLOYER STATUS DETERMINATION
Piedmont Railway, LLC (PRL)**

This is a determination of the Railroad Retirement Board concerning the status of Piedmont Railway, LLC 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 Acts”). The status of Piedmont Railway, LLC under the Acts has not previously been considered.

David Michaud, General Counsel for Iowa Pacific Holdings, LLC provided information regarding the formation and start of operations for Piedmont Railway, LLC (PRL). Mr. Michaud represented that PRL is 100% owned by San Luis & Rio Grande Railroad, L.L.C. (SLRG).¹ PRL began operations on March 22, 2016, and currently has 2 employees who were first compensated on September 1, 2015. The Chief Executive Officer of PRL is Edwin E. Ellis.

In Surface Transportation Board Finance Docket No. 35936 decided July 13, 2015, PRL filed a verified notice of exemption under 49 CFR §1150.31 to lease from the North Carolina Department of Transportation, a non-carrier, and operate approximately 13 miles of rail line in Gaston County, North Carolina consisting of the following two segments: (1) Between milepost SFC 11.39 at Mt. Holly, North Carolina and milepost SFC 23.0 at Gastonia, North Carolina; and (2) the Belmont Branch, between milepost SFC 13.6/SFF 0.13 and milepost SFF 1.56, including all sidings, industrial tracks, yard, and storage tracks, pursuant to a lease and operating agreement dated May 13, 2015. In a concurrently filed verified notice of exemption, Surface Transportation Board Finance Docket No. 35937 decided July 13, 2015, Iowa Pacific Holdings LLC (IPH) and its wholly owned subsidiary, Permian Basin Railways (PBR), sought exemption to continue in control of PRL upon PRL becoming a Class III rail carrier. PBR is a covered employer under the Acts.²

According to the documents provided, the parties intended to consummate the proposed transactions on August 1, 2015. According to PRL, it would replace the existing rail carrier, Piedmont and Northern Railway, LLC³, and would be the sole provider of common carrier rail service on the 13-mile line pursuant to the “change

¹ SLRG is a covered employer under the Acts since June 28, 2003, BA No. 3796, Board Coverage Decision 03-71 dated September 18, 2003.

² Board Coverage Decision 12-45 dated November 27, 2012.

³ Board Coverage Decision 12-12 dated April 9, 2012.

in operators” provision of section 1150.31(a)(3). PRL certified in Surface Transportation Board Finance Docket No. 35936 that its projected annual revenues as the result of the transaction would not result in its becoming a Class I or Class II rail carrier, and would not exceed five million dollars.

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 (RRTA) (26 U.S.C. § 3231).

The evidence of record establishes that PRL is a rail carrier operating in interstate commerce. Accordingly, the Board finds that Piedmont Railway, LLC became an employer within the meaning of section 1(a)(1) of the RRA and Section 1 of the RUIA effective September 1, 2015, the date on which it first paid employees. Cf. Rev. Rul. 82-100, 1982-1 C.B. 155, wherein the Internal Revenue Service 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