

EMPLOYER STATUS DETERMINATION
Hollidaysburg & Roaring Spring Railroad Company

This is the determination of the Railroad Retirement Board concerning the status of Hollidaysburg & Roaring Spring Railroad Company (HRS), 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).

Information regarding HRS was provided by A. W. Maples, President of HRS. According to Mr. Maples, HRS acquired, pursuant to ICC Finance Docket 32633, a 10.2 mile rail line in Blair County, Pennsylvania, formerly owned by Conrail. Operations began April 1, 1995. All operations of HRS are contracted to The Everett Railroad (B.A. No. 3324), an affiliate of HRS and an employer under the RRA and RUIA. HRS reports that it has no employees or payroll.

In cases such as this where an entity has authority to operate a rail line, but does not actually operate the line in question, the Board looks to the identity of the entity operating the line and the nature of the relationship of that entity to the ICC certified carrier to determine the status of the certified carrier under the RRA and RUIA. If the operating entity is itself a carrier employer covered under the Acts administered by the Board, or if that entity has been recognized by the ICC as the operator of the line in question, which will result in that entity being found to be a covered employer with respect to the operation of the line it has undertaken, and if the certified entity has no involvement in the actual operation of the rail line, the Board will find the certified entity not to be a covered employer under the RRA and the RUIA. If, however, the operating entity is neither a covered employer nor an entity that has been recognized by the ICC as the operator of the line, the Board will find the certified entity to be a covered employer and persons operating that line to be employees of the covered employer.

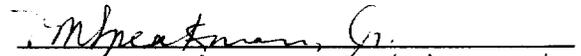
HRS has no employees and operations are conducted by the employees of another railroad carrier, which is an employer under the Acts. That employer reports the employee service rendered to operate HRS's rail line to the Board. Consistent with above-described analysis of cases such as this, a majority of the Board finds that Hollidaysburg & Roaring Spring Company is not an employer subject to the Railroad Retirement and Railroad Unemployment Insurance Acts.

Hollidaysburg & Roaring Spring Railroad Company

The Hollidaysburg & Roaring Spring Railroad Company is reminded to inform the Board of any change in the operation of the rail line in this case.



Glen L. Bower



V. M. Speakman, Jr. (Dissenting opinion attached)



Jerome F. Kever

**DISSENT OF
V. M. SPEAKMAN, JR.
ON EMPLOYER STATUS DETERMINATION OF
HOLLIDAYSBURG & ROARING SPRING RAILROAD CO.**

I take exception to the majority of the Board's decision not to cover Hollidaysburg & Roaring Spring Railroad Co. (HRS) as an employer under the Railroad Retirement Act and the Railroad Unemployment Insurance Act (the Acts). As a rail carrier under the jurisdiction of the ICC, the Acts direct the Board to find HRS covered. That HRS has no employees but rather contracts with a carrier that provides employees to conduct operations, is not relevant to this determination. Its status as a carrier subject to ICC jurisdiction is the determining factor which renders it a covered employer. See Board Coverage Decision 94-112.

To decide otherwise, as the majority has done, sets a bad precedent and conflicts with current law. For the reasons stated, I dissent.



V. M. Speakman, Jr.

JAN 2 - 1996

Date