

EMPLOYER STATUS DETERMINATION
Northeast Texas Rural Rail Transportation District (NETEX)

This is the determination of the Railroad Retirement Board regarding the status of Northeast Texas Rural Rail Transportation District (NETEX) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.)(RRA) and Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.)(RUIA).

Information provided by Paul D. Angenend, counsel for NETEX, establishes that NETEX is an unincorporated political subdivision of the State of Texas which obtained statutory authority to exercise governmental functions pursuant to resolutions adopted by Delta, Franklin, Hopkins, and Titus Counties on July 1, 1994.

According to information filed on January 26, 1996, under Surface Transportation Board Finance Docket No. 32841, NETEX obtained authority to acquire and operate 31 miles of rail line from the St. Louis Southwestern Railway Company (SLSR), BA No. 1819, extending from milepost 524.0 to milepost 555.0 in Hopkins, Delta, and Hunt Counties, TX. NETEX also obtained trackage rights from milepost 524.0 to milepost 517.0 in Sulphur Springs, TX. The funds used by NETEX to purchase rail lines from SLSR were obtained from a legislative grant administered by the Texas Department of Transportation. NETEX has no employees, and does not conduct rail operations or other business. NETEX is controlled by a Board consisting of two members appointed by each county commissioner for a term of two years each.

As a political subdivision, NETEX has authority to enter into contractual agreements with businesses in the railroad industry, but NETEX receives no percentage of revenue derived from operations over the lines of railroad described herein. According to a contract between NETEX and the East Texas Central Railroad, Inc. (ETCR), in which ETCR assumed the responsibilities of a common carrier, ETCR is responsible for providing all personnel, equipment, and support services necessary for freight transportation over the line owned by NETEX. NETEX owns the track structure and either owns or has an easement for the right of way over which operations are conducted by ETCR.

Information in the record establishes that NETEX does not actually conduct rail operations, and that it does not have plans to operate in the future as a carrier.

Accordingly, a majority of the Board finds that NETEX is not a covered employer under the RRA and the RUIA.

Glen L. Bower

V. M. Speakman, Jr. (Dissenting)

Jerome F. Kever

CCCook:SABartholow:ALChaney:alc;ik NETE2358.COV