

EMPLOYER STATUS DETERMINATION
Southern Railway Services, Inc.

This is the determination of the Railroad Retirement Board concerning the status of Southern Railway Services, Inc. (SRS), 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.).

Information regarding SRS was provided by Richard Vardaman, Vice President, Rail Administration. According to Mr. Vardaman, SRS employees were first compensated September 15, 1996, and SRS began doing business September 19, 1996. Ron Finkbeiner is the chief executive officer of SRS. SRS reports that as of October 2, 1996, it had 21 employees.

SRS performs railcar repair for the South Carolina Central Railroad, an employer under the Acts (B.A. No. 2858), and switching services and railcar repair for East Texas Central Railroad, also an employer under the Acts (B.A. No. 4865). Four employees of SRS perform on-site railcar repair service for South Carolina Railroad. East Texas Central Railroad is a wholly-owned subsidiary of SRS which performs freight railroad operations. East Texas Central Railroad is operated by employees of SRS. Seventy-one percent of SRS's revenue is attributable to East Texas Central Railroad and 29 percent is attributable to South Carolina Railroad. SRS reports the services of all of its employees as covered under the Acts.

Section 1(a)(1) of the Railroad Retirement Act defines the term "employer," in pertinent part, as follows:

The term "employer" shall include--

(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;

(ii) any company which is directly or indirectly owned or controlled by, or under common control with, one or more employers as defined in paragraph (i) of this subdivision, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad * * *.

The evidence of record establishes that SRS is operating a carrier, the East Texas Central Railroad, in interstate commerce.

Accordingly, it is determined that SRS is an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act (45 U.S.C. § 231a(1)(i)) and the corresponding provision of the Railroad Unemployment Insurance Act as of September 15, 1996, the date as of which it first compensated employees.

Glen L. Bower

V. M. Speakman, Jr.

Jerome F. Kever