

EMPLOYER STATUS DETERMINATION
TELECONNECTIONS, INC.

This is the determination of the Railroad Retirement Board concerning the status of Teleconnections, Inc. (TI) 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 about TI was provided previously by Mr. Paul E. Fleury, Manager Payrolls of CSX Technology, and more recently by Mr. Scott J. Ryneerson, Tax Counsel for CSX Corporation. TI was formed June 13, 1995, and began operations October 1, 1995, with four employees. TI is a wholly owned subsidiary of CSX Technology ("Technology"), a company found not to be an employer covered by the Acts, with which TI shares one officer (corporate secretary). Technology, along with CSX Transportation, Inc. ("CSXT"), an employer under the Acts, are first tier subsidiaries of CSX Corporation. According to Mr. Ryneerson, 100% of TI's revenue is derived from sale of railroad transportation services through telephone solicitation of potential rail customers. "Accordingly, all of TI's revenue is generated from sales and marketing services rendered in connection with the transportation of property by rail." Specifically, TI telephonically solicits potential rail customers for the purchase of CSXT railroad transportation services. CSXT is the primary customer of TI and TI is paid a fee by CSXT for these services. As of June 1997, there is no written contract between TI and CSXT, but Mr. Ryneerson states that "steps have been initiated to formalize this ongoing relationship through a written agreement." TI provides no services for any other carrier.

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

The term "employer" shall include-

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(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 * * *.

Sections 1(a) and 1(b) of the Railroad Unemployment Insurance Act (45 U.S.C.

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§§ 351(a) and (b)) contain substantially similar definitions, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

TI is not a carrier by rail. It is, however, wholly owned by a company which is under common ownership with CSXT, an employer under the Acts. Therefore, the question to be answered is whether the services performed by TI constitute the performance of a service in connection with the transportation of passengers or property by railroad. If TI performs service in connection with rail transportation, it would be a covered employer. Section 202.7 of the Board's regulations provides that service is in connection with railroad transportation:

* * * if such service or operation is reasonably directly related, functionally or economically, to the performance of obligations which a company or person or companies or persons have undertaken as a common carrier by railroad, or to the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad. [20 CFR 202.7]

TI sells railroad transportation services through telemarketing techniques, which are clearly integral to the operation of its affiliate railroad. Therefore, the Board finds that TI is providing a service in connection with railroad transportation.

Accordingly, the Board concludes that Teleconnections, Inc. is an employer under the Acts.

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