

EMPLOYER STATUS DETERMINATION

Kokomo Rail Co., Inc.

This is the determination of the Railroad Retirement Board concerning the status of Kokomo Rail Co., Inc. (Kokomo) 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 about Kokomo was furnished by Thomas F. McFarland, Jr., its attorney. In Interstate Commerce Commission (ICC) Finance Docket No. 32231 (Sub.1) (58 F.R. 19843, April 16, 1993), Kokomo and Central Railroad Company of Indianapolis (BA No. 3361) (Central) petitioned for exemptions under 49 U.S.C. §10505 from the prior approval requirements of 49 U.S.C. §11343 et seq. to acquire and operate, respectively, a 12.55-mile rail line from CSX Transportation, Inc. (BA No. 1524) between milepost 134.48 at Marion, Indiana and milepost 147.07 at Amboy, Indiana.

Kokomo does not own or operate railroad equipment. Kokomo owns the rail line described in ICC Finance Docket No. 32231 (Sub.1), but railroad operations are conducted by Central.

Based upon the information provided, it is determined that Kokomo Rail Co., Inc. is not a rail carrier employer under the RRA and the RUIA, since it does not operate a railroad, but simply owns the rail line over which a covered rail carrier employer conducts railroad operations. (Cf. Appeal of Board of Trustees of Galveston Wharves, B.O. 89-74, February 22, 1989.)

Glen L. Bower

V. M. Speakman, Jr. (Dissenting)

Jerome F. Kever