

## **EMPLOYER STATUS DETERMINATION**

### **Sunbelt Railroad Historical Trust d/b/a Oklahoma Eastern Railway**

This is the determination of the Railroad Retirement Board concerning the status of Sunbelt Railroad Historical Trust d/b/a Oklahoma Eastern Railway (OER) 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).

OER is an excursion train operation run by Sunbelt Railroad Historical Trust, a non-profit group (Sunbelt). OER uses railcars owned or leased by Sunbelt. It operates by contract with the Osage Railroad<sup>1</sup> to use its rail line and to provide locomotives and crew. OER ran its first excursion rides on November 2, 1991 and ran on Saturdays and Sundays, as well as some Tuesdays and Thursdays through December 22, 1991. Prior to starting its excursion railroad again, OER worked on upgrading its railcars and negotiating a new operating agreement with the Osage Railroad. OER does not interchange with any railroad. The excursion has terminal points at Tulsa and Barnsdall, Oklahoma.

Section 1(a)(1) of the RRA defines an "employer" to include:

- (i) any express company, sleeping car company, and carrier by railroad, subject to subchapter I of chapter 105 of Title 49.

Section 1 of the RUIA contains essentially the same definition.

Subchapter I of chapter 105 of Title 49 is the portion of the Interstate Commerce Act which sets forth the provisions governing the jurisdiction of the Interstate Commerce Commission (ICC) over rail transportation. It provides in pertinent part that the ICC has jurisdiction over transportation by rail carrier to the extent that the transportation is in the United States and is between a place in a State and a place in another State (49 U.S.C. §10501(a)(2)(A)). That statute provides specifically in pertinent part that:

- (b) The Commission does not have jurisdiction under subsection (a) of this section over --

---

<sup>1</sup>Osage Railroad is an operating division of the Southeast Kansas Railroad (BA No.3869). Employees of Osage are reported as employees of Southeast Kansas Railroad.

**Sunbelt Railroad Historical Trust d/b/a Oklahoma Eastern Railway**

(1) the transportation of passengers or property, or the receipt, delivery, storage, or handling of property, entirely in a State (other than the District of Columbia) and not transported between a place in the United States and a place in a foreign country . .  
.. [(49 U.S.C. §10501(b)(1))]

In this case, OER is a carrier by rail, since it operates a passenger railroad. However, OER does not transport passengers from a place in one State to a place in another State. Rather, it provides excursion service between two points entirely within one State. OER does not interchange with any railroad, and does not "through-ticket" any passengers or freight onto any other rail carrier. OER's operation of its excursion railroad is not, therefore, subject to the ICC's jurisdiction.

Because it is not a carrier by rail which is subject to the Interstate Commerce Act, it is determined that Sunbelt Railroad Historical Trust d/b/a Oklahoma Eastern Railway is not an employer under the RRA and the RUIA.

---

Glen L. Bower

---

V. M. Speakman, Jr.

---

Jerome F. Kever