

EMPLOYER STATUS DETERMINATION

Hartwell Railroad Company

This is the determination of the Railroad Retirement Board concerning the status of Hartwell Railroad Company (HRC) 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).

HRC filed concurrently two notices of exemption with the Interstate Commerce Commission (ICC). In ICC Finance Docket No. 32675, decided March 24, 1995, HRC filed a notice of exemption to acquire and operate approximately 48.3 miles of rail line, the Toccoa Line, owned by Norfolk Southern Railway Company (BA No.1525). The line extends from milepost P 0.5 near Toccoa, to milepost P 48.80, near Elberton, in Elbert, Franklin, Hart, and Stephens Counties, Georgia. HRC asserted to the ICC that it would not be prepared to provide immediate service to the line's shippers, and filed a concurrent notice of exemption, in Finance Docket No. 32676, wherein HRC agreed to grant local and bridge trackage rights over the Toccoa Line to Great Walton Railroad Company, Inc. d/b/a Hartwell Railroad Company (BA No.5514) (GWRC). A footnote to the ICC decision in Finance Docket No. 32675 indicated that GWRC is not affiliated with HRC.

According to Mr. B.R. Anderson, President of GWRC, HRC has no employees. Mr. Anderson indicated that GWRC operates HRC's rail line, and pays all railroad retirement taxes and other payroll taxes on employees who operate the railroad on the line.

The information summarized above indicates that HRC has never operated a line of railroad and that it is not currently possible for HRC to operate its railroad line. In addition, GWRC, a covered employer under the RRA and the RUIA, operates the line of railroad acquired by HRC and pays railroad retirement taxes for the employees who operate the railroad over the line in question. A majority of the Board therefore finds that Hartwell Railroad Company is not an employer under the RRA and the RUIA.

Glen L. Bower

V. M. Speakman, Jr. (Dissenting)

Jerome F. Kever

CCCook:SABartholow:MPDadabo:mpd:ik
HART2376.cov C. 2376-95