

EMPLOYER STATUS DETERMINATION
Mississippi-Alabama Railroad Authority

This is the determination of the Railroad Retirement Board concerning the status of Mississippi-Alabama Railroad Authority (MARA) 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 regarding MARA was provided by Mr. William Jackson, Jr., attorney for MARA. According to Mr. Jackson, MARA was created pursuant to a compact agreement entered into by the states of Mississippi and Alabama in December 1994. The purpose of the agreement is to preserve rail service in northwest Alabama and northeast Mississippi. Mr. Jackson stated that the terms of the agreement were established by legislation enacted by the state legislatures of Mississippi and Alabama. See Miss. Code Ann. §77-9-531 (Supp 1994) and Ala. Code §37-11A-1 (1992).

In Interstate Commerce Commission (ICC) Finance Docket 32615, MARA filed an amended notice of exemption to acquire approximately 41.5 miles of rail line owned by Norfolk Southern Railway Company (NS) (BA No. 1525). The 41.5 mile rail line is located between milepost IC-529.5 at Corinth, Mississippi and milepost IC-571.0 at Red Bay, Alabama. Simultaneously, Redmont Railway Company, Inc. (RRC) (BA No. 5558), filed a notice of exemption to acquire by lease and to operate MARA's rail line. See, ICC Finance Docket 32616. According to Mr. Jackson, MARA entered into a lease and operating agreement with RRC on February 10, 1995.

Section 1(a)(1) of the RRA (45 U.S.C. §231(a)(1)) defines the term "employer" to include as follows:

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

- (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 operations of equipment or facilities) in connection with the transportation of passengers or property by railroad.....

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Section 1 of the RUIA (45 U.S.C. §351) contains essentially the same definition.

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The information summarized above indicates that MARA has not operated as a common carrier and has no intention of doing so. Rather, as reflected in ICC Finance Docket No. 32615, MARA sought and obtained authority only to acquire the rail line in question, while RRC acquired the obligation to operate that line. As noted above, MARA is a public entity, which was formed solely for the purpose of acquiring a rail line. Further there is no evidence that MARA provides any service in connection with the interstate transportation of freight or passengers by rail within the meaning of section 1(a)(1)(ii) of the Act.

Accordingly, it is the determination of the Board that the Mississippi-Alabama Railroad Authority is not an employer under the RRA and the RUIA.

Glen L. Bower

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MARA.COV

TO : The Board

FROM : Catherine C. Cook
General Counsel

SUBJECT: Coverage Determination
Mississippi-Alabama Railroad Authority

Attached is a proposed coverage ruling for Board approval.

Attachment