

EMPLOYEE STATUS DETERMINATION
Bee Line Railroad, Inc.

This is the determination of the Railroad Retirement Board concerning the status of the Bee Line Railroad, Inc. (BLR) 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).

BLR owns a rail line of approximately 10.76 miles. The BLR was authorized to own and operate this line by the Interstate Commerce Commission (ICC). BLR serves one terminal approximately one mile from its southern end. The BLR interchanges with the Kankakee, Beaverville and Southern Railroad (KBSR) in Hardy, Indiana. BLR has no employees and all operations are conducted by the KBSR. KBSR is an employer covered under the Acts, having been assigned BA number 2337.

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

(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 * * *. [45 U.S.C. §231(a)(1)(i) and (ii)].

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

In cases such as this where an entity has authority to operate a rail line, but does not actually operate the line in question, the Board looks to the identity of the entity operating the line and the nature of the relationship of that entity to the ICC or the Surface Transportation Board certified carrier to determine the status of the certified carrier under the RRA and RUIA. If the operating entity is itself a carrier employer covered under the Acts administered by the Board, or if that entity has been recognized by the ICC or the Surface Transportation Board as the


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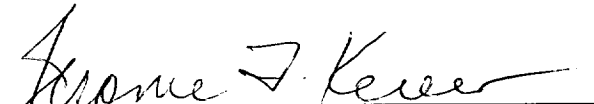
operator of the line in question, which will result in that entity being found to be a covered employer with respect to the operation of the line it has undertaken, and if the certified entity has no involvement in the actual operation of the rail line, the Board will find the certified entity not to be a covered employer under the RRA and the RUIA. If, however, the operating entity is neither a covered employer nor an entity that has been recognized by the ICC or the Surface Transportation Board as the operator of the line, the Board will find the certified entity to be a covered employer and persons operating that line to be employees of the covered employer.

BLR has no employees and operations are conducted by the employees of another railroad carrier, which is an employer under the Acts. That employer reports the employee service rendered to operate HRS's rail line to the Board. Consistent with above-described analysis of cases such as this, a majority of the Board finds that the Bee Line Railroad, Inc. is not an employer subject to the Railroad Retirement and Railroad Unemployment Insurance Acts.

The Bee Line Railroad, Inc. is instructed to inform the Board of any change in the operation of the rail line in this case.


Glen L. Bower


V. M. Speakman, Jr. (Dissenting)


Jerome F. Kever