

**EMPLOYER STATUS DETERMINATION
CSX Professional Services Group, Inc.**

This is the determination of the Railroad Retirement Board concerning the status of CSX Professional Services Group, Inc. (PSG), 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 PSG was obtained through a compliance audit of CSX Transportation Company. PSG was formed as part of the April 1995 reorganization of CSX Technology, Inc. and its subsidiaries. PSG was formed to perform computer programming projects for non-rail customers not affiliated with CSX Corporation, primarily in the Baltimore, Maryland area.

PSG is a subsidiary of CSX Technology, Inc., which in turn is a subsidiary of CSX Corporation. CSX Corporation is also the parent company of CSX Transportation ("CSXT"), a Class I rail carrier covered by the RRA and RUIA (B.A. No. 1524). PSG was incorporated on March 10, 1995, and began operations on April 1, 1995. It performs software development, maintenance, enhancement, and training for non-rail customers. Computer programming projects for unrelated non-rail business entities were previously performed by two other subsidiaries of CSX Technology, Chessie Computer Services, Inc. (B.A. No. 9345) and Cybernetics & Services, Inc. (B.A. No. 9523), both of which are covered employers under the RRA and RUIA. PSG also performs services, primarily contract programming work, which it characterizes as temporary and is currently ten percent of PSG's business, for Chessie Computer Services, Inc.

PSG indicated that it performs no services for any railroad companies and that none of its business has been associated with CSXT at any time. PSG's clients include PHH Corporation, T. Rowe Price, Maryland National Mortgage Corporation, Maryland Eye Care, Maryland Hospital Association, Wyatt & Company, Alex Brown & Company, Black & Decker, CES, Group 1 Software, Mercantile Safe Deposit & Trust Company, and USF & G.

Section 1(a)(1) of the Railroad Retirement Act defines the term "employer," in pertinent part, as follows:

The term "employer" shall include--

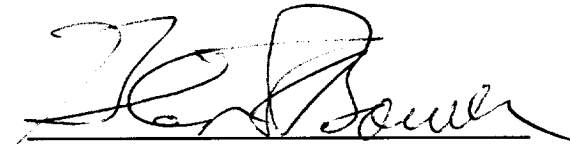
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(i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under Part A of subtitle IV of title 49, United States Code;

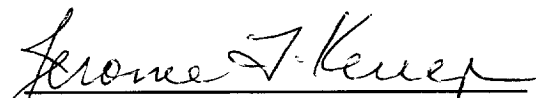
(ii) any company which is directly or indirectly owned or controlled by, or under common control with, one or more employers as defined in paragraph (i) of this subdivision, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation 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 * * *.

PSG is not a carrier by rail. It is, however, under common control with CSXT, an employer under the Acts. Therefore, the question to be answered in regard to this company is whether the services performed constitute the performance of a service in connection with the transportation of passengers or property by railroad.

A majority of the Board finds the performance by PSG of its computer-related services for non-railroad-related companies is not performed in connection with rail transportation, and that the performance of services by PSG for Chessie Computer Services, Inc., constitutes casual service as defined in section 202.6 of the Board's regulations. Since it does not fall within the statutory definition of "employer," PSG is not an employer under the RRA and RUIA.


 Glen L. Bower


 V. M. Speakman, Jr. (Dissenting)


 Jerome F. Kever