

EMPLOYER DETERMINATION

The Coopersville & Marne Railway Company

This is a determination of the Railroad Retirement Board concerning the status of the Coopersville & Marne Railway Company (CMRC) 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).

In Surface Transportation Board (STB) Finance Docket No. 32942, decided May 14, 1996, CMRC filed a verified notice of exemption to acquire and operate certain railroad lines of Central Michigan Railway Company, (B.A. No. 3270). The 14.28 miles of rail line include: (1) milepost 1.16 at Marne, to milepost 8.5 at Coopersville, a distance of 7.34 miles; and (2) milepost 1.1.6 (old 166.44) at Marne, to milepost 159.5 at Walker, a distance of 6.94 miles, in Kent and Ottawa counties, Michigan. The transaction was consummated in May 1996.

Mr. Byle, vice president of CMRC ,provided additional information regarding CMRC. According to Mr. Byle, CMRC purchased the 14.28 miles of rail line for operating excursion trains using volunteers to operate the trains and to allow rail carriers to provide freight operations. He stated that pursuant to an agreement between CMRC and Grand Rapids Eastern Railroad (GRER) (B.A. No. 4270), GRER began freight operations in June 1996. Employees of GRER conduct the freight operations.

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

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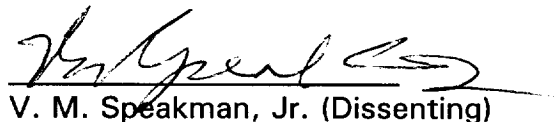
Section 1 of the RUIA contains the same definition.

The information summarized above indicates that Coopersville & Marne Railway Company does not operate, and has never operated, as a rail common carrier. Rather, CMRC acquired a rail line on which Grand Rapids Eastern Railroad, a covered employer, provides freight operations.

A majority of the Board finds that since Coopersville & Marne Railway Company does not perform service as a rail common carrier, it is not an employer under the RRA and the RUIA.



Glen L. Bower



V. M. Speakman, Jr. (Dissenting)



Jerome F. Kever