

EMPLOYER STATUS DETERMINATION
Railroad Services, Inc.

This is the determination of the Railroad Retirement Board concerning the status of Railroad Services, Inc. (RSI) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) (RRA) and the Railroad Unemployment Insurance Act (RUIA) (45 U.S.C. §351 et seq.) (RUIA).

Information about RSI was furnished by its Controller, Gerald A. Sattora. RSI was incorporated on December 28, 1992, and began operations on January 1, 1993. RSI has 34 employees, who were first compensated as of January 1, 1993. RSI provides administrative, marketing, human resources, accounting, safety and other services to the following railroad corporations:

Allegheny & Eastern Railroad, Inc. (BA No.2254)
Buffalo & Pittsburgh Railroad, Inc. (BA No.2249)
Dansville & Mount Morris Railroad, Inc. (BA No.3207)
Genesee & Wyoming Railroad Company (BA No.2209)
Louisiana & Delta Railroad, Inc. (BA No.3868)
Rochester & Southern Railroad, Inc. (BA No.2247)

RSI and each of the six railroads listed above are all wholly-owned subsidiaries of Genesee & Wyoming Industries, Inc.

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

- (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 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.

Section 1 of the RUIA contains essentially the same definition.

Section 202.5 of the Board's regulations provides in pertinent part that:

A company or person is under common control with a carrier, whenever the control . . . of such company or

person is in the same person, persons, or company as that by which such carrier is controlled. (20 CFR 202.5).

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Since RSI is a wholly-owned subsidiary of the same company which also owns all the outstanding common stock of six rail carrier employers, RSI is under common control with those six railroads. Additionally, since RSI's business consists entirely of providing various services to its six sister railroad corporations, it is clear that RSI provides service in connection with railroad transportation.

It is therefore determined that Railroad Services, Inc. became an employer under the RRA and the RUIA effective January 1, 1993, the date on which it began operations.

Glen L. Bower

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