

AUG 16 2000

EMPLOYER STATUS DETERMINATION
Heart of Georgia Railroad, Inc. (HOG)

This is a determination of the Railroad Retirement Board concerning the status of the Heart of Georgia Railroad, Inc. (HOG) 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 Finance Docket No. 33867, decided April 27, 2000, HOG filed a verified notice of exemption to acquire and operate four contiguous sections of rail line totaling 177.76 miles between Vidalia, Georgia, and Mahrt, Alabama, owned by the State of Georgia and the Georgia Southwestern Railroad, Inc. (BA No. 5560). The decision noted that the transaction was expected to be consummated shortly after April 26, 2000.

In response to an inquiry from the Chief of the Board's Audit and Compliance Section, the Board received the following information from Brad Lefevers, HOG's President and CEO. HOG's stock is owned by Brad Lefevers, Brett Coleman and Tracy Coleman. HOG anticipated hiring 8 employees and beginning operations on April 1, 2000. (In a telephone conversation on June 23, 2000 with a staff member from the Office of the General Counsel of the Board, Mr. Lefevers indicated that HOG hired two employees on March 29, 2000 for start-up operations; three additional employees were hired in April and four more employees were hired in May, 2000.) HOG is a short line railroad, and its operations are described as delivering rail cars to and from its customers. HOG interchanges with the Norfolk Southern Railroad (BA No. 1525), CSXT (BA NO. 1524), the Georgia Central Railway (BA No. 5545) and the Georgia Southwestern Railroad (BA No. 5560). Annual traffic is estimated at 6000 cars of traffic from various shippers.

Section 1(a)(1) of the RRA (45 U.S.C. § 231(a)(1)), insofar as is relevant here, defines a covered employer as:

(i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under part A of subtitle IV of Title 49 [45 U.S.C. §231(a)(1)(i)].

Sections 1(a) and (b) of the RUIA (45 U.S.C. §§ 351(a) and (b)) contain substantially the same definition, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

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The information provided indicates that HOG is subject to STB jurisdiction by virtue of its operation over the 177.76 miles of rail line between Vidalia, Georgia, and Mahrt, Alabama. Because HOG falls within the definition of employer under section 1(a)(1)(i) of the RRA (45 U.S.C. § 231(a)(1)(i)) and the corresponding provision of the RUIA, the Board finds that HOG became a rail carrier employer effective March 29, 2000, the date on which it began start-up operations. Cf Rev. Rul. 82-100, 1982-1 C.B. 155.

Original signed by:

Cherryl T. Thomas

V. M. Speakman, Jr.

Jerome F. Kever