

FEB 22 2006

EMPLOYER STATUS DETERMINATION
Evansville Western Railway, Inc.

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

Information regarding Evansville was provided by Barbara Phelps, Manager Payroll & Accounts Payable of Paducah & Louisville Railway, Inc., the parent company of Evansville and a covered employer under the Acts (B.A. No. 2580). According to information provided by Ms. Phelps, Evansville began operations December 31, 2005. Anthony V. Reck is the chief executive officer of Evansville, which is anticipated to have 22 employees.

In Surface Transportation Board Finance Docket No. 34738, Evansville filed a notice of exemption to acquire and operate approximately 124.5 miles of rail line formerly owned by CSX Transportation, Inc., and transferred to Paducah & Louisville Railway, between Evansville, Indiana, and Okawville, Illinois. It interchanges with BNSF, Union Pacific, and CSXT.

Section 1(a)(1) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)), insofar as 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, United States Code;

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

The evidence of record establishes that Evansville is a carrier operating in interstate commerce. Accordingly, it is determined that Evansville became an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)(i)) and the corresponding provisions of the Railroad Unemployment Insurance Act as of December 31, 2005, the date as of which it began operations.

Original signed by:

Beatrice Ezerski
FOR THE BOARD
Secretary to the Board