

**EMPLOYER STATUS DETERMINATION**  
**Danbury Terminal Railroad Company**  
**Maybrook Properties Incorporated**

This is the determination of the Railroad Retirement Board concerning the status of Danbury Terminal Railroad Company (DTR) and Maybrook Properties Incorporated (MPI) as employers 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 Interstate Commerce Commission (ICC) Finance Docket No. 32180 (Sub-No. 1), decided December 21, 1992, DTR and MPI modified a previously filed notice of exemption to acquire and operate approximately 157.15 miles of certain rail lines in Connecticut and New York owned or operated by Consolidated Rail Corporation (Conrail) (BA No.1321). The ICC decision stated that DTR would acquire from Conrail: (1) operating rights in Danbury Yard (owned by State of Connecticut); (2) operating and freight rights over the Harlem line between milepost 22.0 in White Plains, New York, and milepost 81.6 in Wassaic, New York (leased by Metropolitan Transportation Authority and controlled by Metro North Commuter Railroad between milepost 22.0 and milepost 76.6, and owned by New York and Harlem Railroad and leased to Penn Central Corporation between milepost 76.6 and milepost 81.6); and (3) incidental trackage rights over the Waterbury Branch (owned by the State of Connecticut and controlled by Metro North Commuter Railroad) between milepost 0.0 in Devon, Connecticut, and milepost 8.9 in Derby, Connecticut.

The ICC decision stated that MPI would acquire from Conrail and DTR would operate: (1) The Danbury Secondary Track (a) between milepost 0.0 in Beacon, New York, and milepost 12.8 in Hopewell Junction, New York, and (b) between milepost 42.9 in Hopewell Junction, and milepost 104.8 in Derby, Connecticut; (2) The Stepney Branch in Botsford (Newtown), Connecticut between milepost 14.2 and milepost 14.6; and (3) The New Milford Secondary Track between milepost 0.0 in Berkshire Junction, Connecticut, and milepost 13.65 in New Milford, Connecticut. The ICC decision stated that MPI would not conduct operations and would continue to be a noncarrier after its acquisition of the properties.

In a letter dated January 8, 1993, addressed to Mr. Wayne J. Scharnak, the Board's Chief of Compensation and Certification, Mr. Edward J. Rodriguez stated that DTR began operations on January 2, 1993, and that it has two employees. Mr. Rodriguez stated that DTR pays MPI a fee for the operating rights over the portion of track owned by MPI. DTR interchanges with Housatonic Railroad Company, Inc. (BA No.2124) at New Milford, Connecticut, and with Conrail at Pittsfield, Massachusetts.

Based upon the information provided, it is determined that Danbury Terminal Railroad Company became a rail carrier employer under the

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RRA and the RUIA effective January 2, 1993, the date on which it began rail operations. It is further determined that Maybrook Properties Incorporated is not a rail carrier employer under the Acts, since it does not conduct rail operations and simply owns a portion of track over which DTR operates. (Cf. Board Order 89-74, Appeal of the Board of Trustees of Galveston Wharves.)

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