

EMPLOYER STATUS DETERMINATION

Akron Barberton Cluster Railway Company

This is the determination of the Railroad Retirement Board regarding the status of Akron Barberton Cluster Railway Company, (ABCR) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) (RRA) and Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.) (RUIA). ABCR has not previously been determined to be an employer under the RRA and the RUIA.

Information about ABCR was furnished by Michele A. Mountford, Secretary/Treasurer of ABCR. Although ABCR began as a non-carrier, upon its acquisition and operation of 52 miles of rail line from Consolidated Rail Corporation (Conrail) and its affiliate, the Akron and Barberton Belt Railroad Company (A&BB)¹, it became a class III carrier. See Interstate Commerce Commission (ICC) Finance Docket No. 32537. According to information provided by Ms. Mountford, ABCR began operations on July 21, 1994, and has four employees who were compensated from July 21, 1994. Ms. Mountford stated that the line in question interchanges with Wheeling & Lake Erie Railway Company and CSX Transportation. ABCR is expected to be a switching railroad with expected annual revenues of \$1.2 million according to Ms. Mountford, and has three locomotives.

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 [the Interstate Commerce Act];

(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

¹Conrail and A&BB are employers covered under the Acts, BA Nos. 1321 and 4201, respectively.

handling of property transported by railroad
* * *. [45 U.S.C. §231(a)(1)(i) and (ii)].

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Section 1(a) of the RUIA (45 U.S.C. § 351(a)) contains essentially the same definition.

The evidence establishes that ABCR is a class III carrier. Accordingly, it is determined that ABCR Railroad, Inc. became a rail carrier employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective July 21, 1994, the date on which it first compensated employees.

Glen L. Bower

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