

**EMPLOYER STATUS DETERMINATION
GATEWAY EASTERN RAILWAY COMPANY**

This is the determination of the Railroad Retirement Board regarding the status of Gateway Eastern Railway Company (GERC) 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). GERC has not previously been determined to be an employer under the RRA and the RUIA.

Information about GERC was furnished by Peggy Walsh, the General Accounting Manager of Gateway Western Railway, a covered employer under the Acts which wholly owns GERC. GERC began as a non-carrier, but upon acquisition and operation of rail lines from Conrail, it became a carrier. See Interstate Commerce Commission (ICC) Finance Docket No. 32454, footnote 2. According to ICC Finance Docket No. 32454, the trackage rights of GERC were to become effective on or after January 28, 1994. According to information provided by Ms. Walsh, GERC began operations on January 31, 1994, and has eight employees who were compensated from that date. Ms. Walsh stated that the line in question is 14.79 miles in length, and its terminal point is Willows, Illinois. GERC interchanges with Conrail, Gateway Western Railway Company (GWRW) and SPCSL Corp. (SP). Ms. Walsh described GERC as "a short line railroad. It will operate one crew per day five days per week. We expect it to handle 1900 loads per year." GERC only owns one hyrail vehicle (a truck fitted with metal wheels which can go from street to rail), all other equipment is leased. GERC has been pre-assigned BA No. 5328 upon request of the railroad.

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

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 GERC is a carrier by rail and is engaged in interstate commerce. Based upon the information summarized above, it is determined that Gateway Eastern Railway Company became a rail carrier employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective January 31, 1994, the date on which it began operations.

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