

## EMPLOYER STATUS DETERMINATION

### Rio Valley Switching Company

This is the determination of the Railroad Retirement Board concerning the status of Rio Valley Switching Company (RVSC) 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 letters dated July 1, and August 23, 1994, Ms. Karen Brown, Accountant for the Rio Valley Railroad, Inc. (RVRI) as well as RVSC advised the Board that operations for the RVSC officially began on July 1, 1994, when it became the operating company under a lease agreement between RVRI and the Union Pacific Railroad. At that time, RVSC had seventeen employees. The line is 49.12 miles long, and RVSC will switch with the Union Pacific Railroad. Ms. Brown described RVSC as a "short line freight service provider [that] it will be switching approximately 1,600 loaded cars per year." RVSC will be leasing its equipment. RVSC has been pre-assigned BA No. 2869.

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

(i) any express company, sleeping-car company, and carrier by railroad, subject to subchapter I of chapter 105 of Title 49;

(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 (other than trucking service, casual service, and the casual operation of equipment and facilities) in connection with the transportation of passengers or property by railroad \* \* \*.

Sections 1(a) and 1(b) of the Railroad Unemployment Insurance Act (RUIA) (45 U.S.C. §§ 351(a) and (b)) contain substantially similar definitions.

The evidence establishes that RVSC is a carrier by rail engaged in the transportation of persons or property in interstate commerce.

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Accordingly, it is determined that the Rio Valley Switching Company became a rail carrier under the Railroad Retirement and Railroad Unemployment Insurance Acts effective July 1, 1994, the date it began operations.

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as well as the RVSC, RVRI ceased operations on June 30, 1994, the date employees last performed compensated service for RVRI. All employees of RVRI are now employees of RVSC and payroll and earnings reports for these employees are now being prepared by RVSC. According to Ms. Brown, all of the financial activity of RVRI, except an operating lease, have been transferred to RVSC. In an earlier letter, dated July 22, 1994, Ms. Brown