

EMPLOYER STATUS DETERMINATION Cen-Tex Rail Link, Ltd.

This is the determination of the Railroad Retirement Board concerning the status of Cen-Tex Rail Link, Ltd. (Cen-Tex) 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 Finance Docket No. 32507, decided June 3, 1994, Cen-Tex filed a notice of exemption to acquire and operate approximately 151 miles of rail line owned by The Atchison, Topeka and Santa Fe Railway Company (ATSF) as follows: between Fort Worth, Texas (approximately milepost 1 + 1,541 feet on ATSF's Dublin Subdivision) and Ricker, Texas (approximately 134 + 2,171 feet on ATSF's Dublin Subdivision), and between a point on the foregoing segment near Cresson, Texas (approximately milepost 18 + 133 feet on ATSF's Cresson Subdivision), and Cleburne, Texas (approximately milepost 0 + 1,167.1 feet on ATSF's Cresson Subdivision). The Finance Docket also described certain incidental overhead trackage rights that Cen-Tex would obtain. A footnote in the ICC decision stated that shortly after consummation, Cen-Tex would sell the subject rail lines, but not the incidental trackage rights and other assets to the Centex Rural Rail Transportation District (CRRTD). The ICC noted further that Cen-Tex would retain all of its common carrier operating rights on the lines under a permanent freight railroad operations easement.

According to Mr. James R. Craig of Cen-Tex, Cen-Tex began operations on May 20, 1994. Cen-Tex interchanges with South Orient Railroad Company, ATSF (BA No.1702), Union Pacific (BA No.1715), Burlington Northern (BA No.1621), and Southern Pacific (BA No.1713). Mr. Craig stated that Cen-Tex is a class III carrier, which operates approximately two trains a day and projects moving approximately 3500 to 4000 cars in calendar year 1995. Cen-Tex has contracted with Texas Train Management Company (BA No.5818) to provide all employees. Cen-Tex owns various track materials and supplies acquired when the rail line was purchased from ATSF. Cen-Tex leases locomotives and owns no rolling stock. Mr. Craig stated that CRRTD purchased the real estate right-of-way from Cen-Tex and then granted Cen-Tex a permanent easement on the right-of-way. CRRTD does not operate and has no authority to provide rail service of any kind.

Section 1 of the RRA defines the term "employer" to include:

- (i) any express company, sleeping car company, and

carrier by railroad, subject to subchapter I of
chapter 105 of Title 49.

Cen-Tex Rail Link, Ltd.

Section 1 of the RUIA contains essentially the same definition.

The information summarized above indicates that Cen-Tex acquired the right and the obligation to operate as a common carrier railroad in Finance Docket No. 32507. The Board therefore finds that Cen-Tex Rail Link, Inc. became a rail carrier employer under the RRA and the RUIA effective May 20, 1994, the date on which it began railroad operations.

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