

EMPLOYER STATUS DETERMINATION
Luzerne and Susquehanna Railway Company

This is the determination of the Railroad Retirement Board concerning the status of Luzerne and Susquehanna Railway Company (L&SR) 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).

Although L&SR began as a non-carrier, upon its lease and operation of 55 miles of rail line in Luzerne and Susquehanna Counties, Pennsylvania, from the Luzerne County Rail Corporation, it became a class III rail carrier. See Interstate Commerce Commission (ICC) Finance Docket No. 32564. Information regarding L&SR was provided in a letter dated November 10, 1994, from Steven May, President of L&SR.¹ L&SR interchanges with Conrail and CP Rail. Mr. May stated that L&SR began operations on August 26, 1994, and has four employees who began working on that date. Mr. May describes L&SR's entire operations as "freight traffic; moving 800 cars annually and performing switch delivery for Conrail and CP Rail".

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;

Section 1(a) of the Railroad Unemployment Insurance Act (RUIA) (45 U.S.C. §§ 351(a)) contains substantially similar definitions.

The evidence establishes that L&SR is a carrier by rail engaged in the transportation of persons or property in interstate commerce. Accordingly, it is determined that Luzerne and Susquehanna Railway Company became a rail carrier employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective August 26, 1994, the date it began operations.

Glen L. Bower

V. M. Speakman, Jr.

¹ Mr. May also controls three other nonconnecting class III rail carriers, Owego & Harford Railway, Inc., Lackawanna Valley Railroad Corporation, and the Lackawanna Railway, Inc.

CCCook:SABartholow:RLSimmons:rls:ik
L&SRC.COV c. 181-95

Jerome F. Kever