

EMPLOYER STATUS DETERMINATION

Caldwell County Railroad

This is the determination of the Railroad Retirement Board concerning the status of Caldwell County Railroad Company (CCRC) 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).

Information about CCRC was provided in a letter dated January 5, 1995, from Ms. C. Nadine McGrady, Secretary/Treasurer for CCRC. According to Ms. McGrady, CCRC is 22.7 miles long, running from Hickory, North Carolina to Valmead, North Carolina, and began operations on September 24, 1994, as a "short line railroad providing service to industries on the above said line", interchanging with the Norfolk Southern. In Interstate Commerce Commission (ICC) Finance Docket No. 32584, CCRC was granted an exemption to lease, operate, and possibly acquire in the future this rail line which is currently owned by the Norfolk Southern. CCRC leases one locomotive from Thermal Belt Railway¹. CCRC has two employees, first compensated on September 26, 1994. These employees are paid by Southeast Shortlines, Inc. d/b/a/ Thermal Belt Railway, and CCRC then reimburses Thermal Belt Railway for the appropriate percentage of hours worked on CCRC.

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 * * *.

Section 1(a) of the Railroad Unemployment Insurance Act (RUIA) (45

¹ Southeast Shortlines, Inc. doing business as Thermal Belt Railway, is operated by Donald J. and Carol N. McGrady, who operate CCRC.

U.S.C. §§ 351(a) contains a substantially similar definition.

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The evidence establishes that CCRC is a carrier by rail engaged in the transportation of persons or property in interstate commerce. Accordingly, it is determined that the Caldwell County Railroad Company became a rail carrier under the Railroad Retirement and Railroad Unemployment Insurance Acts effective September 24, 1994, the date it began operations.

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