

## **EMPLOYER STATUS DETERMINATION**

### **Northern Ohio & Western Railway, L.L.C.**

This is the determination of the Railroad Retirement Board regarding the status of Northern Ohio & Western Railway, L.L.C. (NOWRR) 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). NOWRR has not previously been determined to be an employer under the RRA and the RUIA.

Information about NOWRR was furnished by Mr. James A. Mogen, Controller of NOWRR. NOWRR is a class III carrier. It operates over approximately 26 miles of track in Northwestern Ohio. It interchanges with the Conrail, CSX and Norfolk & Southern. See Interstate Commerce Commission (ICC) Finance Docket No. 32696, decided May 31, 1995. According to information provided by Mr. Mogen, NOWRR began operations on May 16, 1995 and its 4 employees have been compensated from that date. NOWRR does not own any equipment at this time.

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 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 (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)].

Section 1(a) of the RUIA (45 U.S.C. § 351(a)) contains essentially the same definition.

The evidence establishes that NOWRR is a class III rail carrier, which is subject to subchapter I and chapter 105 of Title 49 of the United States Code. Accordingly, it is determined that Northern

Ohio & Western Railway, L.L.C. became a rail carrier employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective May 16, 1995, the date on which it began operations as a rail carrier.

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Glen L. Bower

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V. M. Speakman, Jr.

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Jerome F. Kever

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**TO** : The Board

**FROM** : Catherine C. Cook  
General Counsel

**SUBJECT:** Coverage Determination  
Northern Ohio & Western Railway, L.L.C.

Attached is a proposed coverage ruling for Board approval.

Attachment