

**EMPLOYER STATUS DETERMINATION**  
**Eastern Maine Railway Company**

This is the determination of the Railroad Retirement Board regarding the status of Eastern Maine Railway Company (EMRC) 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). EMRC has not previously been determined to be an employer under the RRA and the RUIA.

Information about EMRC was furnished by Warren Jones of Irving Forest Services Limited.<sup>1</sup> Although EMRC began as a non-carrier, upon its acquisition and operation of almost 100 miles of rail line from Canadian Pacific Limited (CP),<sup>2</sup> it became a class III carrier. See Interstate Commerce Commission (ICC) Finance Docket No. 32650, decided December 29, 1994 and Finance Docket No. 32651, decided December 30, 1994. According to information provided by Mr. Jones, EMRC began operations on April 3, 1995 and has 16 permanent employees who were compensated from April 10, 1995, and 5 seasonal employees first compensated May 29, 1995. Mr. Jones stated that the line in question interchanges with the New Brunswick Southern Railway Company Limited (NBSR), Canadian American Railway Company (CARC), and Springfield Terminal Railway Company (STRC). EMRC is described by Mr. Jones as a haulage carrier bridging traffic between these three lines. Traffic volume "is considered light density with an average of 12,000 - 16,000 car loads annually".

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

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<sup>1</sup> EMRC is a wholly owned subsidiary of New Brunswick Railway Company (NBR) a company which is operated under lease by Canadian Pacific Railway Company (CPR), an employer under the Acts (in the United States only). NBR is controlled by J.D. Irving Limited (Irving) (See Interstate Commerce Commission Finance Docket No. 32650, decided December 29, 1994).

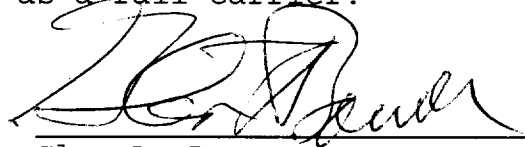
<sup>2</sup> CP has been found to be an employer covered by the Acts. B.A. No. 1104.

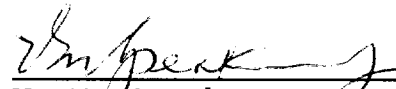
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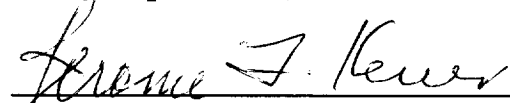
receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad \* \* \*. [45 U.S.C. §231(a)(1)(i) and (ii)].

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

The evidence establishes that EMRC is a class III rail carrier. Accordingly, it is determined that Eastern Maine Railway Company became a rail carrier employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective April 3, 1995, the date on which it began operations as a rail carrier.

  
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