

EMPLOYER STATUS DETERMINATION
Illinois RailNet, Inc.

This is the determination of the Railroad Retirement Board concerning the status of Illinois RailNet, Inc. (IRI) (Pre-assigned B.A. No. 2373) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.).

In Surface Transportation Board (STB) Finance Docket No. 33516, decided December 16, 1997, IRI filed a verified notice of exemption to acquire from the Burlington Northern and Santa Fe Railway Company (B.A. No. 1621) (BNSF) and operate approximately 56.67 miles of rail line. The 56.67 mile rail line is between milepost 40.73, near Montgomery, Illinois, and milepost 97.40 at Streator, in Kendall and LaSalle Counties, Illinois. In addition, IRI acquired for a 99-year period, incidental overhead trackage rights from BNSF. The 7.33 miles of IRI's trackage rights include milepost 40.73, near Montgomery, and milepost 33.4 near Eola, including operations over tracks 1, 2, and 3 in the Sheep Yard near milepost 40.0 and over all tracks in the Eola rail yard.

Information regarding IRI was provided by Mr. William E. Glavin, executive vice president of IRI. According to Mr. Glavin, IRI is a wholly-owned subsidiary of North American RailNet, Inc, a non-covered carrier. The chief executive officer of IRI is Mr. Robert F. McKenney. Mr. Glavin stated that the first day of operations was December 13, 1997, and the first employee was hired on October 22, 1997. Mr. Glavin stated that the number of employees he expects that IRI will hire is eight. He further stated that IRI expects to handle more than 8,000 carloads of freight. IRI interchanges with BNSF and CSX Transportation (B.A. No. 1524).

The evidence of record establishes that IRI is a rail carrier operating in interstate commerce. Accordingly, it is determined that Illinois RailNet, Inc. became an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act (45 U.S.C. §231(a)(1)(i)) and the corresponding provision of the Railroad Unemployment Insurance Act effective October 22, 1997, the date as of which its employee was first compensated. [Cf. Rev. Rul. 82-100, 1982-1 C.B. 155, wherein the IRS held that a company became an employer under the Railroad Retirement Tax Act on the date it hired employees to perform functions directly related to its carrier operations.]

V. M. Speakman, Jr.

Jerome F. Keever