

EMPLOYER STATUS DETERMINATION

Pittsburgh & Ohio Valley Railway Company

This is the determination of the Railroad Retirement Board concerning the continued status of the Pittsburgh & Ohio Valley Railway Company (POVRC) 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).

In Interstate Commerce Commission (ICC) Finance Docket No. 32325, decided November 16, 1993, POVRC and Three Rivers Railway Company (TRRY), a wholly owned rail carrier subsidiary of CSX Transportation (B.A. No. 1524), filed a petition seeking an exemption from the requirements of 49 U.S.C. 11343-44 for TRRY to acquire all of POVRC's rail lines. The rail line consists of two miles of main-line track, seven miles of yard and other trackage in Neville Township, Pennsylvania.

Information regarding POVRC was provided by Charles D. Gress, Manager of Employee Benefits for Shenango Incorporated. According to Mr. Gress, POVRC ceased all rail operations on December 13, 1993. Mr. Gress stated that the majority of POVRC's assets were sold to TRRY on December 22, 1993. He stated that all employees were terminated on or before December 13, 1993; however, the last paycheck, which included severance and vacation pay, was issued on January 7, 1994. POVRC reported to the Internal Revenue Service (IRS) that railroad retirement taxes were paid for employees through January 31, 1994. He last advised the Board that POVRC is not dissolved as a corporation; however, on July 27, 1995, POVRC filed for protection under Chapter 11 of the U.S. Bankruptcy Code, which was approved by the bankruptcy trustee on December 13, 1995.

Section 202.11 (20 CFR § 202.11) of the Board's regulations states:

The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

According to ICC Finance Docket No. 32325, POVRC sold its rail line to TRRY, a subsidiary of CSX Transportation. Mr. Gress stated that POVRC ceased operations on December 13, 1993 and last compensated its employees on January 7, 1994. He further stated that although POVRC is not dissolved as a corporation, POVRC did file for bankruptcy which was approved by the trustee on December 13, 1995. Since, POVRC no longer possesses the characteristics of an operating railroad company, POVRC is no longer a covered employer under the RRA and RUIA.

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The Board therefore finds that effective with the close of business January 31, 1994, the last month in which compensation was paid, the Pittsburgh & Ohio Valley Railway Company ceased being a covered employer under the RRA and the RUIA.

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