

EMPLOYER STATUS DETERMINATION
J. & J. Railroad, Inc.

This is the determination of the Railroad Retirement Board concerning the status of J. & J. Railroad, Inc. (J&J), 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.).

J&J was previously held to be an employer as of January 1, 1984. On or about October 1, 1993, Hardin Southern Railroad, Inc. acquired by lease the rail assets of J&J. Hardin was subsequently held to not be an employer under the Acts because it provided rail service for only one company.

J&J no longer has the ability to operate the line in question, operation of which, in any case, has been determined to not be covered under the Acts. Accordingly, the Board concludes that J&J is no longer an employer within the meaning of RRA and the RUIA.

Glen L. Bower

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TO : The Board

FROM : Catherine C. Cook
General Counsel

SUBJECT: Coverage Determination
J & J Railroad, Inc.

Attached is a proposed coverage ruling for Board approval.

Attachment

In cases such as this where an entity has authority to operate a rail line, but does not actually operate the line in question, the Board looks to the identity of the entity operating the line and the nature of the relationship of that entity to the carrier to determine the status of the certified carrier under the RRA and RUIA. If the operating entity is itself a carrier employer covered under the Acts administered by the Board, or if that entity has been recognized by the Surface Transportation Board as the operator of the line in question, which will result in that entity being found to be a covered employer with respect to the operation of the line it has undertaken, and if the certified entity has no involvement in the actual operation of the rail line, the Board will find the certified entity not to be a covered employer under the RRA and the RUIA. If, however, the operating entity is neither a covered employer nor an entity that has been recognized by the Surface Transportation Board as the operator of the line, the Board will find the certified entity to be a covered employer and persons operating that line to be employees of the covered employer.

Hardin, the company leasing and operating the line, has been held by the Board to not be an employer under the Acts because it is a private carrier, providing service to only one company. Although it filed a notice of exemption with the ICC, it is the opinion of the Board that that filing does not constitute recognition by the ICC or its successor, the Surface Transportation Board, as the operator of the line.

