

EMPLOYER STATUS DETERMINATION**East Penn Railways, Inc.**

This is the determination of the Railroad Retirement Board concerning the continuing status of East Penn Railways, Inc. (EPR) (B.A. No. 2363) as an employer under the Railroad Retirement Act (45 U.S.C. (45 U.S.C. § 231, et seq.) (RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351, et seq.) (RUIA). EPR has been an employer under the RRA and RUIA with service creditable from July 1, 1995.

On August 27, 2007 EPR and Penn Eastern Rail Lines, Inc. (PERL) (B.A. No. 2378) merged into the consolidated corporation, East Penn Railroad LLC (ESPN). Surface Transportation Board (STB) authority for this merger is set forth in STB Finance Docket No. 35056, decided July 3, 2007. See also B.C.D. No. 08-8, decided February 11, 2008, wherein ESPN was ruled to be an employer under the RRA and RUIA effective August 28, 2007, the date on which ESPN was sold to Regional Rail, LLC, a non-carrier. All EPR and PERL employees were hired by ESPN to continue the same rail operations. As a result of the August 27, 2007 merger, EPR lost its status as a corporate entity and became non-existent.

Section 202.11 of the Board's regulations provides that:

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.

Based on the information set forth above, it is the determination of the Railroad Retirement Board that East Penn Railways, Inc. ceased being an employer under the RRA and RUIA on August 27, 2007, the date on which it lost its status as a legal entity and became non-existent as a result of corporate merger.

Original signed by:

FOR THE BOARD
Beatrice Ezerski
Secretary to the Board