

MAR 11 2004

EMPLOYER STATUS DETERMINATION

Brotherhood of Locomotive Engineers and Trainmen,
a Division of the Rail Conference of the International Brotherhood of Teamsters
Brotherhood of Locomotive Engineers

This is the determination of the Railroad Retirement Board concerning the status of the Brotherhood of Locomotive Engineers and Trainmen, a Division of the Rail Conference of the International Brotherhood of Teamsters, 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.), and the continued status as an employer of the Brotherhood of Locomotive Engineers.

Information about both of these labor organizations was provided by Dr. Elaine Reese, National Reporting Officer. The Brotherhood of Locomotive Engineers has been a railway labor organization covered as an employer under the Acts (B.A. No. 8902). On January 1, 2004, it merged with the International Brotherhood of Teamsters, and became a division of that organization. The name of the division became the Brotherhood of Locomotive Engineers and Trainmen. The Brotherhood of Locomotive Engineers ceased to exist.

Section 1(a)(1)(v) of the Railroad Retirement Act of 1974 provides that the term "employer" includes any railway labor organization, national in scope, which has been or may be organized in accordance with the provisions of the Railway Labor Act. Section 1(a) of the Railroad Unemployment Insurance Act contains a substantially similar definition.

Section 202.15 of the Board's regulations establishes the criteria used in determining whether an organization is a railway labor organization which is national in scope within the terms of sections 1(a)(1)(v) and 1(a) of the Acts. Section 202.15(a) states that an organization will be presumed to be a labor organization national in scope and formed in accordance with the Railway Labor Act if that organization has a right to participate in the selection of the labor members of the National Railroad Adjustment Board. Coverage begins with the date on which a right to participate has been established. For purposes of a determination under section 202.15(a), a right of participation may be established if:

(1) It has in fact participated in the selection of labor members of the National Railroad Adjustment Board and has continued to participate in such selection; or

(2) It has been found, under section 3 "First" (f) of the Railway Labor Act, as amended [citation omitted], to be qualified to participate in the selection of labor members of the National Railroad Adjustment Board; or

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(3) It is recognized by all organizations, qualified under paragraphs (a)(1) or (2) of this section, as having the right to participate in the selection of labor members of the National Railroad Adjustment Board.

The Brotherhood of Locomotive Engineers and Trainmen will retain the bylaws of the Brotherhood of Locomotive Engineers, and accordingly will retain the right to participate in the selection of labor members of the National Railroad Adjustment Board, and will not lose any of the essential criteria formerly possessed by the Brotherhood of Locomotive Engineers which made the latter a railway labor organization under the Acts. Further, it does not appear that the International Brotherhood of Teamsters would acquire any of those characteristics as a result of the merger so as to make it subject to the Acts.

In addition, it is clear from the Merger Agreement that the Brotherhood of Locomotive Engineers and Trainmen is designated the successor to the Brotherhood of Locomotive Engineers with respect to the responsibility to negotiate and administer collective bargaining agreements for and to represent the interests of locomotive engineers, trainmen, and related operating personnel within the United States. See, e.g., sections 3.1, 3.2, 4.1 and 4.2 of the Merger Agreement. It is apparent from the terms of the Merger Agreement that the Brotherhood of Locomotive Engineers and Trainmen is a railway labor organization under the Board's regulations. See 20 CFR 202.15(b).

Accordingly, the Board holds that the Brotherhood of Locomotive Engineers and Trainmen, a division of the International Brotherhood of Teamsters, became an employer under the Acts as of January 1, 2004. Coverage of the Brotherhood of Locomotive Engineers is terminated as of that date.

The Brotherhood of Locomotive Engineers and Trainmen may retain the B.A. number, 8902, formerly used by the Brotherhood of Locomotive Engineers.

Original signed by:

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