

EMPLOYER STATUS DETERMINATION
BCD 21-06
Eastern Illinois Railroad Company (EIRC)
B.A. No. 3380

December 10, 2020

This is a determination of the Railroad Retirement Board (RRB) concerning the continuing status of Eastern Illinois Railroad Company (EIRC) (B.A. No. 3380)¹ as an employer under the Railroad Retirement Act (RRA), 45 U.S.C. § 231 *et seq.*, and the Railroad Unemployment Insurance Act (RUIA), 45 U.S.C. § 351 *et seq.*

In Surface Transportation Board (STB) Finance Docket No. 36364, decided December 2, 2019, Decatur & Eastern Illinois Railroad, L.L.C. (DEIR) (B.A. No. 5346), a Class III rail carrier, filed a verified notice of exemption for it to (1) acquire from NRG, Inc. (NRG)², an approximately 53-mile line of railroad extending between milepost 286.0 near Metcalf, Illinois, to approximately milepost 338.95 (east of Oak Avenue) in Neoga, Illinois, (the Line) and (2) replace NRG's corporate subsidiary, EIRC, as operator on the Line. The verified notice stated that DEIR, NRG, and EIRC were in the process of completing terms of an Agreement of Sale and Purchase of Business Assets (the Agreement). Pursuant to the Agreement, ownership of the Line would transfer from NRG to DEIR, and DEIR would replace EIRC as the operator on the Line. DEIR stated that EIRC, as party to the Agreement, had consented to the proposed change in operators.

On January 30, 2020, Mr. Brett W. Batty, Senior Counsel for Archer-Daniels-Midland Company (ADM), provided information about EIRC. Mr. Batty reported that EIRC is owned by NRG, of which ADM is a majority shareholder, and at that time still had two employees. According to Mr. Batty, EIRC stopped providing rail switching and terminal services on December 30, 2019 and was to be dissolved in the near future. Mr. Batty stated that EIRC did not own any equipment or facilities; all assets were sold in accordance with the Agreement for Sale and Purchase of Business Assets entered into on November 25, 2019 between EIRC, NRG, and DEIR; and EIRC had no relationships with the railroad industry or non-railroad operations as of December 30, 2019. By email communication dated November 5, 2020, another representative of ADM confirmed that the last day EIRC had any employees was February 29, 2020.

Section 202.11 of the RRB's regulations states that "[t]he 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." 20 C.F.R. § 202.11. Evidence of such termination includes: stoppage of business or operations; the sale, transfer, or lease of property, equipment or machinery essential to the continuance of an employer function; and discharge of last employee. 20 C.F.R. § 202.12(b).

The evidence of record establishes that EIRC no longer possesses the characteristics of an operating railroad company. The Board, therefore, finds that effective March 1, 2020, the day it

¹ On August 20, 1991, the RRB determined that EIRC was a covered rail carrier employer effective April 1, 1991.

² NRG, Inc. was determined not to be a covered rail carrier employer in Legal Opinion L-90-72 (May 11, 1990).

no longer had employees, Eastern Illinois Railroad Company ceased being a covered employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

FOR THE BOARD
Stephanie Hillyard
Secretary to the Board